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FOREWORD: A PARALLEL COMMUNITY— PEOPLE OF COLOR LEGAL SCHOLARSHIP CONFERENCES AND THE ADVANCEMENT OF LEGAL EDUCATION

HARRY G. PRINCE*

The First National Meeting of the Regional People of Color Legal Scholarship Conferences presented an opportunity to exchange ideas about legal education and substantive areas of the law. The meeting was also a grand occasion for celebration. Over the last thirty years, the doors to teaching in law schools have been opened wider, and many teachers of color have entered.¹ This increased diversity makes legal education more dynamic and better prepares students to become lawyers who are more responsive to the needs of society. Without need for citation or footnote, I can say very confidently that legal education is better now because of the more diverse professoriate.

During the actual meeting, many warm and admiring references were made to the “Two Lindas.” These two key organizers were Linda R. Crane and Linda S. Greene, both of whom have made written contributions to this symposium issue. Professor Crane’s article, “Reflections from the Chair—The Road Taken: Honoring the Decade of Scholarship by Law Professors of Color in U.S. Law Schools and the People of Color Movement (1989-1999),”² reflects the great care devoted to planning the National Meeting. With Professor Crane playing a most pivotal role from the very beginning of the process, there was a

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¹ The AALS Statistical Report on Law School Faculty and Candidates for Law Faculty Positions (1998-99), prepared by Richard A. White, AALS Research Associate/Data Analyst, reported that of 7,942 persons reporting ethnicity in the AALS Directory of Law Teachers, 13.3% identified as people of color. This percentage reflects an increase from 10.8% reported minority group law teachers for the year 1991-92 in the AALS Directory of Law Teachers. For further comparison, see Richard H. Chused, *The Hiring and Retention of Minorities and Women on American Law School Faculties*, 137 U. PA. L. REV. 537, 538 (1988) (reporting that a survey of law schools reflected 5.4% minority law teachers in 1986-87 and about 3.8% in 1980-81).

² 20 B.C. THIRD WORLD L.J. 13 (2000).

consistent emphasis that the planning be thorough and inclusive of all relevant groups. Professor Crane clearly wanted to put on a first-class meeting and was willing to put in the time and effort to make it happen. In a broader sense, the dedication and ambition of the planners also reflects the qualities usually found in successful law professors of color: these teachers search to identify what it takes to be a successful in the academy and then set about with determination to cover all the bases thoroughly. As noted by Dean Rennard Strickland of the University of Oregon at a recent Association of American Law Schools (AALS) program, the reality is that teachers of color must determine what the standards are for success at a school and then meet those requirements plus some.³

In addition to chronicling the beginning and growth of the regional People of Color Legal Scholarship Conferences, Linda Greene's essay, "From Sea to Shining Sea: The Midwestern Origins of the First National Meeting of the Regional People of Color Legal Scholarship Conferences,"⁴ provides a key insight into the need for and the role played by these conferences. Professor Greene writes that "parallel educational institutions provid[e] a critical space" to develop legal theories capable of challenging dominant regimes. But these parallel institutions do more. In her essay, Professor Greene also describes the people of color meetings as providing an environment that is both "loving and critical."

At these meetings, scholars present their ideas and writings in panels and at works-in-progress sessions, expecting and desiring critical analysis. As is always the case, these can only become better by being tested by rigorous discussion. At the same time, however, presenters at the people of color meetings can rest assured that they are among friends who want to see them do well. Such a reception is not always found when a young teacher, any young teacher, presents a work-in-progress to the faculty of her or his home institution. A myriad of negative results are possible. For example, a senior teacher in that same doctrinal field may be unduly negative about a junior faculty member's innovative idea. Additionally, senior faculty who did not favor hiring the junior faculty member may hold a conscious or unconscious bias. Furthermore, senior faculty often resent the failure of junior faculty to implement suggestions made about works-in-

³ Dean Rennard Strickland, Address at the AALS Committee on Recruitment and Retention of Minority Law Teachers program, "The Road to Tenure," AALS Annual Meeting (Jan. 8, 2000).

⁴ 20 B.C. THIRD WORLD L.J. 29 (2000).

progress, and if a work-in-progress is indeed flawed in a significant way, some faculty members may fix a negative assessment of the writing that remains unaltered even if the young scholar manages to correct those deficiencies. The People of Color Legal Scholarship Conferences provide the parallel community wherein works can be presented without fear. Additionally, these conferences provide guidance on teaching and other aspects of succeeding as legal educators. Professor Greene notes that the conferences and the on-going networks which they produce also provide a supportive community for the many teachers who still find themselves as the only teacher of color at their home institutions.

Professor Greene's writing also pays tribute to past efforts by teachers of color to form these parallel institutions, going back to the organizing efforts of Derrick Bell in 1969. She notes that there had been a number of occasional national meetings between that time and the first meeting of the Midwestern Conference in 1989. Only after that first Midwestern meeting, however, did the regional system grow to encompass the country and become systematic in holding annual meetings. Deans and faculties who value diversity should applaud the existence of these parallel institutions. The availability of these fora can only make teachers of color more successful and effective at their home institutions. The regional conferences should be enthusiastically supported by all law schools. One might hope that law schools and other relevant entities in legal education might someday become sufficiently diverse that the need for parallel institutions will disappear, but Professor Leland Ware notes in his essay that progress toward such a time is not evident at the moment.⁵

The gathering of law deans of color presented further cause for celebration, as does the essay "Deans of Color Speak Out: Unique Voice in a Unique Role"⁶ by Leroy Pernell, dean of Northern Illinois University School of Law. What significance is there, one may ask, in whether a dean is a person of color or a majority faculty member? The beginning of an answer to that question is found in Dean Pernell's very personal account of being told by a liberal faculty member at the outset of his law teaching career that he was not an appropriate candidate for the Ohio State University Law School faculty because, while "affirmative action" might be good for admissions, it was not good for faculty hiring. The questioning of credentials and legitimacy are ex-

⁵ See *infra* pp. 4-5.

⁶ 20 B.C. THIRD WORLD L.J. 43 (2000).

periences not necessarily unique or universal to people of color who become deans and law teachers, but it is certainly more likely to happen to them than to majority persons. As Dean Pernell's essay points out, the molding of character that results from such experiences is likely to manifest itself in a number of ways that affect relations with students and faculty. The dean who has had such experiences is more likely to consider non-traditional evidence of quality among faculty candidates and among applicants for admission. The same dean is more likely, though certainly not guaranteed, to be more nurturing of all faculty members and students, regardless of personal characteristics or prior experiences. Such a dean is also more likely to be an advocate in the community on issues related to underrepresented groups, including the importance of diversity in the face of new legal challenges.

Dean Pernell also notes that deans of color are often viewed with "strict scrutiny" and a presumption against their ability. One may then ask whether law faculty of color would be well-advised to stick with their academic pursuits as faculty members without incurring the additional burdens and short life expectancy of a deanship. Dean Pernell also points out, however, the tremendous potential for deans to "do good" and to affect positively the lives of the faculty, students, and the broader community. Who could pass on the chance to become an heir to the work of Charles Hamilton Houston or to be a decanal mentor to the next Thurgood Marshall? Many will indeed pass on such opportunities and prefer to continue to make contributions in other arenas. I would argue that there is a need for a critical mass of deans of color, such as those who gathered in Chicago, to enrich all of legal education by bringing to bear their unique perspectives and life experiences. While not every dean of color is destined for success or longevity, the record of achievement established by deans, such as those who spoke at the National Meeting, will do wonders to disprove presumptive stereotypes and to disestablish prejudice.

While the meeting did involve a great deal of celebration, the reality of the difficulties facing law teachers of color remain. Professor Leland Ware analyzes the reasons for continuing concern in his essay "People of Color in the Academy: Patterns of Discrimination in Faculty Hiring and Retention."⁷ Professor Ware restates the basic fact that when people of color entered law teaching, they found themselves in a system reflecting a Eurocentric paradigm that dominated all of

⁷ 20 B.C. THIRD WORLD L.J. 55 (2000).

higher education. As bright and talented young lawyers, many, but not all, pushed against that dominant structure by offering race-conscious scholarship and teaching. The counter-status quo efforts predictably created tension within the legal academy. Further, Ware notes that traditional hiring criteria have restricted the number of teachers of color entering the academy. Thus, teachers of color tend to be few in number and too often are not well-accepted within their institutions.

Professor Ware proceeds to offer a very persuasive analysis of traditional law school hiring criteria as having a disparate impact on people of color, and he asserts that alternative selection methods are equally effective in identifying individuals capable of succeeding as law teachers. Professor Ware continues with an exploration of the experience of people of color who do make it into law teaching, focusing particularly on women of color. Professor Ware succinctly but effectively portrays the tremendous challenges faced by teachers of color who enter a classroom and face constituents who immediately and presumptively question their right and qualifications to lead the class. Against this backdrop, the meetings of the regional People of Color Conferences provide an invaluable support network for teachers who may find little encouragement within their home institutions.

Every regional People of Color Conference meeting that I have attended has included sessions that are designed to give fundamental advice about teaching, scholarship, and service—the typical elements that are expected of law teachers. The writing by Kevin Hopkins, “Cultivating Our Emerging Voices: The Road to Scholarship,”⁸ continues that tradition. Professor Hopkins gives a relatively junior faculty member’s perspective on key aspects of producing scholarship: selecting a topic, choosing a title, conducting research, and developing a writing style. His writing effectively notes the sometimes subtle difficulties inherent in these steps. I fully agree with Professor Hopkins that a key to a successful article is the selection of a timely, interesting topic about which the writer can offer some innovative thoughts. This process is complicated, Professor Hopkins notes, by the different constituencies that come into play: the student law review editors who select articles for publication, faculty colleagues who will later decide whether the piece is adequate to satisfy tenure standards, and colleagues in the broader profession who will effectively judge whether one is a “serious scholar” or not.

⁸ 20 B.C. THIRD WORLD L.J. 77 (2000).

The advice given by Professor Hopkins would have great value to any scholar, regardless of color or ethnicity. He adds to his discussion, however, several observations that are particularly relevant to scholars of color. None is more perplexing than the question of whether young scholars who wish to write race-conscious scholarship or in non-traditional styles should pursue those inclinations in light of the fact that the legal academy is still predominantly conservative on such matters. These discussions always remind me of my early days as a teacher when I was cautioned about writing on international law topics because the area was considered "too soft." Instead, I was encouraged to write, at least in my pre-tenure years, about contracts and commercial law which were seen as more legitimate areas of the law. Professor Hopkins gives his own views about the difficult choice of whether a young scholar should follow her or his heart to write in a non-traditional style about race-conscious topics or should defer such writing and begin with more traditional offerings. While I will not presage the details of his advice here, I find his suggestions very persuasive.

Professor Hopkins' essay is a wonderful and very fitting complement to the presentation by Sharon Hom. Professor Hom was a classmate of mine in law school, and I always take a very special interest in what she says or writes. Her presentation at the meeting in Chicago was captivating for a number of reasons. First, Professor Hom offers some very useful advice about the practical aspects of writing, based on her many years of experience. She writes about diverse topics for diverse audiences: international law, contracts, and women's issues, as well as about dreams, the importance of journals, and other interesting matters. Two things in particular stand out for me about Professor Hom's essay "Writing Through the Frame, with Reverance."⁹ First, she makes a very important observation about the fact that writing is a community endeavor, that there is a continuum of voices in which we participate. This idea is both comforting and challenging. The conviction that we are not in the process as solitary actors is reassuring. Certainly when one sees one's own writing cited and explored in the writing of others, one sees evidence of the continuum. This truth is applicable whether the subject is contracts, human rights, or critical feminist theory. The challenge is also present, however, because being part of the team means that each party must contribute

⁹ 20 B.C. THIRD WORLD L.J. 89 (2000).

and must advance the cause to some new place. The goal of all scholars, neophyte and experienced, is in fact to make that contribution.

The second aspect of Professor Hom's presentation that I found particularly interesting was the description her experience of being invited to speak to a group of law students who had read and commented upon her writings. The ultimate lack of control that we have as writers to shape what readers perceive and draw from our work is wonderfully portrayed in Professor Hom's essay. Her experience is one that I envy but would not actually seek for myself. Given that my primary area of research and writing is contract law, it is not an experience that I will ever likely have. Thus, I must satisfy myself to realize some limited measure of this event through Professor Hom's effective retelling of the event. I would also say that the experience is one that ought to be had by those whose writing lends itself to such an encounter with young readers.

Diversity within diversity is a virtue . . . and a challenge. Too often within American society and legal education, people think only of a black-white paradigm when they think about issues of race. That practice does a disservice to other people including Native Americans, Asian Americans, Latinos, and the many subgroups within those communities. Eric Yamamoto's keynote message, "Healing Our Own,"¹⁰ serves as an insightful and perfectly appropriate reminder of the complexity within the community of law teachers of color and of the fact that interests of various segments of that community are not always consistent with one another. Professor Yamamoto offers no easy remedy for this concern. Instead, he calls for the community to work and to struggle to build alliances. Ethnic groups must confront instances of intergroup grievances, devise language and methods to speak about and address those differences, and recognize the overarching common interests that compel cooperative efforts.

The intergroup alliances will be healthier and more likely to persist if there is continued sensitivity to the dissonant experiences of the various parties. Twila Perry makes this point perfectly in her essay "Thoughts on Identity, Choice and Coalition."¹¹ Professor Perry was one of several speakers on a panel questioning whether different people of color are able to work coherently. Each speaker was asked to describe himself or herself in three words. The format worked remarkably well as the speakers, and I dare say all of us in the audience,

¹⁰ 20 B.C. THIRD WORLD L.J. 101 (2000).

¹¹ 20 B.C. THIRD WORLD L.J. 111 (2000).

realized the huge difficulty of describing oneself in three words. Nevertheless, the choice of the three descriptors was revealing. Professor Perry points out that no woman described herself as a “woman of color” but instead as “Black” or “Latina.” Professor Perry attributes this fact to the reality that different women of color have different histories and have experienced race differently within this society. In addition, women, of course, have experienced and continue to experience different challenges than men, a reality especially evident in law school classrooms across the country. The race- and gender-conscious scholarship that will be produced by women of color should be expected to reflect the rich and varied backgrounds of the different communities.

Deborah Post further substantiates the fluidity and the intractability of race in her essay “Appropriation & Transculturation in the Creation of Community.”¹² There is beauty and utility in the presence of “multi- or polyvocality.” Professor Post participated in the same panel as Professor Perry, and the three descriptors that she chose—“mother,” “abuela,” and “juggler”—highlight the difficulties attendant to labeling. Professor Post’s family includes Bolivian, Hong Kong, and Native American components in addition to her self-identification as a “black woman.” How then will her family members identify themselves or be identified by society as the ethnic lines of heritage become even more diffuse in the next generation? The continued relevance of race cannot be denied, however, even though we all, I dare say, occasionally find ourselves looking at the ambiguously brown-skinned woman, as Professor Post suggests, wondering about the ethnicity of a person who could be white, black, Jewish, Latina, or something else. The very relevance of race in this reality begs for discussion by more voices, not fewer, to strive for intercultural competence and the power to move against a dominant order that denies justice to outsiders based on that assigned status.

Different communities of color will never possess the capacity to understand perfectly other experiences, but we can understand enough about common disempowerment to move together against the dominant regime. Professor Post draws on a dream involving a law school classmate to further her discussion of these issues. Similarly, I occasionally recall a conversation with a Chinese-American law school classmate about the characterization of people of color on television. After I complained about the exaggerated silliness of many black

¹² 20 B.C. THIRD WORLD L.J. 117 (2000).

characters on television, he expressed his absolute abhorrence of television advertisements for shaving products that showed Asian women draped on the arms of white male actors. In addition to this objectifying treatment of Asian women, my classmate went on to explain the desexualization of Asian males by other messages in the media. While I make no claim to understanding all of the feelings of his experience, that conversation has forever changed the way I view the representation of Asians in the media. Indeed, for me, a young man not very far removed from the political myopia of small-town Oklahoma, those years in law school working with students from other communities of color offered invaluable lessons about cross-racial cooperation. As Professor Post suggests, perfect understanding is not necessary to building effective coalitions.

Reginald Robinson, in his essay "‘Expert’ Knowledge: Introductory Comments on Race Consciousness,"¹³ offers yet another challenge: his goal is to abandon concepts of race and the destructive consequences that follow from racialization in this society. The challenge is a large one, but I leave it to other readers to assess whether the goal is attainable and whether Professor Robinson strives to create movement or discussion in a desirable direction. Within that broader discussion, Professor Robinson raises a number of issues that may be very uncomfortable for some. He recounts the experience of receiving a message from students at his historically black law school that he speaks or thinks "white" and needs to learn the local culture or ethic. Substantial evidence has been produced that there is peer pressure among high school students of some ethnic groups not to strive for academic or scholarly achievement. Is there a similar phenomenon among law students of color or, to speak blasphemously, among law teachers of color? Do past experiences of racial discrimination somehow cause law teachers to strive for less than the most rigorous scholarly goals in teaching, research, and writing?

I can recall hearing a speech by Malcolm X in which he said, in essence, that no matter what a black person accomplished in the manner of education or scientific achievement, the person would always first be viewed in this society as a black. Become a doctor, and you are a black doctor. Become a lawyer, and you are a black lawyer. Become an astronaut, and you are a black astronaut. My own life experiences offer conclusive proof for this observation by Malcolm X. I could recount any number of occasions when I have momentarily lost

¹³ 20 B.C. THIRD WORLD L.J. 145 (2000).

consciousness of my race, only to be crudely reminded by the glance of a suspicious store clerk, the whispered comment of a young child to a parent on the subway train, or even the peculiar phrasing of a question by a law student. So what is it exactly that Professor Robinson wants of me, of us, in light of this unavoidable reality? At the risk of misreading his essay, I offer with some trepidation the surmise that he wants nothing less than a transformation of reality that can only begin when we resist racialization by others and by ourselves. The role of law, law schools, and law professors is critical if this challenge is to be accepted.

I state, again, that the First National Meeting of the Regional People of Color Legal Scholarship Conferences served a number of purposes. It was occasion to celebrate gains that have been made in opening legal education to more diverse people. Increased diversity on law school faculties contributes to a better educational experience for all students. Better prepared students will lead to a more responsive bar that, hopefully, will deliver legal services to a broader range of the public with greater sensitivity to the potential injustices and inequities within our legal system. The community of law teachers of color contributes significantly to this improvement of legal education and legal services.

It is natural, I think, for teachers with common interests to create parallel communities outside of their home institutions. The community of clinical law professors is a good example. Annual conferences sponsored by the AALS draw from 300 to 400 teachers who share common experiences, learn from one another, and give an emotional lift to a group sometimes confronted by unique challenges. Likewise, the meetings of teachers of color enable them to fulfill more effectively their roles at their home institutions. Although law teachers of color serve at many different types of institutions, teach the whole spectrum of law school courses, and, as reflected by the papers, come from vastly different backgrounds, the success of the regional people of color conferences is testimony that we have been successful at finding common interests and building thriving communities. We learn so very much from one another that helps us to be better teachers.

When I consider opportunities that are now available to some of us, I often think of people that I know from an earlier generation. When I held a job as a night watchman at a chemical plant to finance my undergraduate education, I had a friend named Matt whose job was to load the very large trucks that came in to pick up material. The trucks would be driven onto a scale before being loaded and then again afterwards. Although the recorded reading for the scale ap-

peared only in my guard hut, Matt was famous for his ability to remember the numbers and make the weight calculations in his head. I soon witnessed for myself his uncanny ability with numbers. I have often wondered what sort of mathematician Matt might have become if he had the opportunity to study the subject. During the time that I knew him, however, Matt often spoke of growing up in a small town in southern New Jersey and working for fruit and vegetable canning companies at a time and in a place where merely graduating from high school was a notable accomplishment for a young black man.

The times have changed perceptibly and the battle lines have been redrawn in many ways. Still, as Professor Robinson notes in his essay, the lingering effects of slavery, Jim Crow, and formal American apartheid continue. I occasionally tell my law students that I can recall very well the time when, as a young black child, I could not enter one of the two movie theaters in my hometown and could sit only in the balcony of the other. My race determined the parameters of my life more than anything else. Having lived that experience, I must look for avenues to help others who are still economically and educationally oppressed within this society due to the lingering effects of American apartheid. In doing so, I help myself. While the community of law teachers of color encompasses people from vastly different ethnic and economic backgrounds, the success of the regional people of color legal scholarship conferences has proven that we can work together to improve ourselves, our law schools, and legal education. The parallel community of teachers of color is the place where I can find the inspiration, the support, the understanding, and the challenge to do more in my role as a teacher to address injustice in this society. I thank and congratulate those who started this movement. And I look forward, with great anticipation, to the next anniversary gathering.

