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February 13, 2024

University of Illinois College of Law
ATTN: Dean Jamelle G. Sharpe
Guy Raymond Jones Faculty Scholar
504 E. Pennsylvania Avenue
Champaign, Illinois 61820
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RE: **“Black Lawyers and the Black Church”**
Happy Black History Month ‘24

Dear Dean Sharpe:

Once again, congratulations on your selection and inauguration as Dean of the College of Law! As this is Black History Month, I would be remiss if I did not emphasize the significance of your historic appointment as the first African American to hold that esteemed position.

I.

Introduction

As a '94 graduate of the College of Law, and a former member of the Black Law Student's Association, I often think about the trajectory of American law, legal education, and the legal profession, since the late 19th-century, when Reconstruction collapsed and the Gilded Age commenced; and since the death of Dr. Martin Luther King, Jr. in 1968 up to our present times. I think, too, about the historical significance of the Black Church—its value system, culture, and common law—and about its great

contributions to the human and civil rights struggles throughout these historical periods.

And I also think about whether African American lawyers can be encouraged to better appreciate the legacy of the Black Church; and about how legal education and professional training can facilitate the integration of African American lawyers into the ministerial and quasi-ministerial leadership of the Black Church.

When I was a law student— as my contemporaries at the College of Law can easily verify and attest— I wrote and spoke frequently about the parallels between the Black Church/African American clergymen and African American lawyers and judges.

I was, to say the least, attracted to the Jewish law students, the Jewish law professors, and the Jewish way of looking at secular law and jurisprudence.¹ And I unwittingly had tried to interpose this “Jewish” worldview upon my fellow Black law students, without even recognizing what I was then proposing.²

My concern then was that modern-day legal education, and the capitalistic emphasis of the American legal profession, was not helpful towards Black law students and young Black attorneys realizing their constituent status as members of the Black Church and appropriately structuring their career paths and goals toward reaching their fullest potential within the profession, while simultaneously supporting the mission of the Black Church and carrying out the Great Commission (Matthew 28: 19-20).

II.

Mistrust and Deprecation of the Leadership of Black Lawyers

In his landmark essay, “The Talented Tenth,” W.E.B. Du Bois once wrote, “[h]ere is a race transplanted through the criminal foolishness of your fathers. Whether you like it or not the millions are here, and here they will remain. If you do not lift them up, they will pull you down.”³

For this reason, Dr. Du Bois concluded, “The Talented Tenth of the Negro race must be made leaders of thought and missionaries of culture among their people. No

¹ See, e.g., Rabbi Lord Jonathan Sacks, “Word of Torah: Why Are There So Many Jewish Lawyers?” *The Detroit Jewish News* (July 16, 2021), describing Deuteronomy 16:20, as stating “Justice, justice shall you pursue.” See, also, Jerod S. Auerbach, *Rabbis and Lawyers: The Journey From Torah to Constitution* (New Orleans, LA: Quid Pro Books, 2010)(stating that Judaism, and especially Reformed Judaism, found commonality and theological convergence with the Puritan theology of colonial New England).

² And after nearly three decades, my preaching to the Black bar and Bench, and my approach law and the legal profession, has not changed since my days as a member of the Black Law Students Association.

³W.E.B. Du Bois, “The Talented Tenth,” *Writings* (New York, N.Y.: The Library of America, 1986), p. 861.

others can do this work and Negro colleges must train men for it. The Negro race, like all other races, is going to be saved by its exceptional men.”⁴

But Du Bois also acknowledged that “the sole obstacles that nullified and retarded [the efforts of the Talented Tenth] were slavery and race prejudice; for what is slavery but the legalized survival of the unfit and the nullification of the work of natural internal leadership?”⁵

In other words, “slavery” made Black ignorance, Black submission, Black crime, and Black dishonest hustling far supreme and superior— within the African American community— to Black intelligence, Black courage, Black honor and integrity, and Black working toward honest and noble objectives!

This is why W.E.B. Du Bois said that “slavery [is] the legalized survival of the unfit and the nullification of the work of natural internal [African American] leadership.”⁶

When African Americans demonstrate undue hesitancy and mistrust toward educated Black leadership, while tacitly accepting the word of dishonorable White leadership, they replicate the institution of slavery all over again.

Dr. Carter G. Woodson, who was the second black person behind W.E.B. Du Bois, to earn a Ph.D. degree from Harvard University, criticized this tendency among African Americans in his landmark work, *The Miseducation of the Negro*.

And Dr. Charles Hamilton Houston, who was the first black person to become an editor of the Harvard Law Review, and who performed unsurpassed, superb work for the NAACP Legal Defense Fund, Inc., leading to numerous landmark civil rights decision, wrote in his landmark essay, “The Need for Negro Lawyers,” that black persons, within the African American community, are willingly utilized as pawns of prejudiced and powerful White persons, to thwart to work of African American lawyers/leaders.⁷

In that essay, Dr. Houston tacitly acknowledge that black “Uncle Toms” are real, that they are vicious, that they hate black progress, and that they will allow themselves to be utilized by powerful white persons in order to thwart Black progress, writing:

⁴Ibid.

⁵Ibid., p. 842.

⁶Ibid.

⁷*The Journal of Negro Education*, Vol. 4, No. 1 (Jan. 1935), pp. 49-52.

But there have been frequent instances where the white authorities have attempted to cripple the courageous efforts of the younger lawyers by working through influential Negro citizens who have been prevailed upon to work against the lawyers on the ground that the ‘fine relations between the races were being disturbed.’⁸

In the case of *NAACP v. Button*, 371 U. S. 415 (1963), the U. S. Supreme Court very thoughtfully overturned an assessment of “sanctions” against NAACP attorneys (white, Jewish, and black civil rights lawyers) seeking to assist underprivileged black citizens who could not afford lawyers. This is not a historical anomaly, but it is very much present-day custom, usage, and standard procedure throughout much of the South and perhaps all over the United States.

We also often forget that when Dr. Martin Luther King, Jr. wrote his famous “Letter from the Birmingham Jail” (1963), he was incarcerated in a local jail, while advocating for “Higher Law” constitutional principles and in favor of equity, while protesting the chilling effect that a local city ordinance had upon the First Amendment rights of black citizens.

Today we celebrate Dr. King’s courage and his eloquence—and we should—but often forget that the United States Supreme Court, relying upon its legalism, did not receive Dr. King’s arguments as we do today. See, e.g., the case of *Walker v. City of Birmingham*, 388 U. S. 307 (1967)(U. S. Supreme Court ruled against Dr. Martin Luther King, Jr. and several other pastors and protesters who demonstrated in Birmingham, leading to Dr. King’s arrest and being jailed in the Birmingham City Jail in 1963.

Both the cases of *NAACP v. Button* (1963) and *Walker v. City of Birmingham* (1967) represent the existential reality of African American attorneys, the African American community, and the Black Church.

III.

The Black Church and Social Justice

To my mind, the African American legal community has made a great miscalculation in segregating itself from the ordained clergy leadership of the Black Church.

And it was a grave and historical miscalculation of the ordained clergy within the Black Church to fail to incorporate Black lawyers into the ordained ministry. By failing to see the connection between the roles of Christian pastors and the roles of lawyers and judges, the Black Church demonstrated a sort of callous indifference towards the

⁸Ibid.

administration of justice which slavery and segregation viciously and violently imposed upon the African American people.

The Protestant Reformer Martin Luther (1483- 1546), Master of Arts and Doctor of Sacred Theology, for instance, set forth exactly what I have felt, thought, and believed, since my days as a law student, regarding the “divine and sacred” nature of law practice, and regarding the plain fact that lawyers trained in the Western legal tradition have historically been regarded as “secular ministers or secular priests,” to wit:

Open Letter to the Christian Nobility of the German Nation Concerning the Reform of the Christian Estate (1520) (stating, “**the temporal authorities are baptized with the same baptism and have the same faith and Gospel as we, we must grant that they are priests and bishops, and count their office one which has a proper and a useful place in the Christian community.**”

Temporal Authority: To What Extent it should be Obeyed (1523) (stating, “[h]ere you inquire further, whether constables, hangmen, **jurists, lawyers,** and others of similar function can also be Christians and in a state of salvation. Answer: If the governing authority and its sword are a divine service, as was proved above, then everything that is essential for the authority's **bearing of the sword must also be divine service.**”

Today, the American law schools are simply not equipped to remedy the misconception which Black clergymen and Black lawyers have of the ministerial and “Christian” nature of law practice, lawyering, and the administration of civil and criminal justice.

But there are a few exceptions, and, to that end, I hereby direct your attention to the noble work being done at Emory University:

Emory University Center for the Study of Law and Religion
310 Gambrell Hall
1301 Clifton Road N.E.
Atlanta, Georgia 30322-2770

And while this observation might fall outside of the purview of the scope of your role and authority as a Law School Dean at a great public university, I do not believe that the sacred and historical foundations of the First Amendment—that is the Christian history of the English Civil War (1641- 1651) and the Puritan foundations of colonial New England—can be lightly ignored, or that the plain fact that the history of the Black Church emphasizes the important fact that the Christian religion has helped

to lay the constitutional foundations of English and American law and jurisprudence, including civil rights jurisprudence since the end of the U. S. Civil War.

Moreover, the crisis that is rampaging the underprivileged African American community throughout the United States, where the Black Church has remained on the front lines as the “kingdom militant,” is not something that great American law schools should ignore, when considering the best interests of Black law students and the communities and the constituencies that many of them will likely serve.

CONCLUSION

This ends my congratulatory message to you, my friend, as it has been lingering in my mind for several months now, and it is long overdue!

Please do not forget the Black Church during this Black History Month!

And if there is anyway that the College of Law can facilitate Black law students and Black lawyers *with reconnecting* to the Black Church, through symposiums and through serious study of the Sacred Scriptures, Christian jurisprudence, Ecclesiastical History, the Christian connection to Human and Civil Rights, and the ordained Christian ministry within the Black community, then I would applaud such efforts and *eagerly* offer my assistance.

YOURS FAITHFULLY,



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Deuteronomy 16:20 – “Justice, Justice Shalt Thou Pursue”

CC: Various African American and Jewish Members of the Florida Bar
Various Ordained African American Clergymen