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DR. J. CLAY SMITH, JR.*/
ACTING CHAIRMAN, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
before the
THE MARION COUNTY BAR ASSOCIATION
INDIANAPOLIS, INDIANA
OCTOBER 24, 1981

THE MARION COUNTY LAWYERS' CLUB--1932: A PEEP AT THE 1980'S

I am delighted that you invited me to the great state of Indiana--a state that has had within its borders such persons as Elwood Haynes of Kokomo, Indiana, an automobile inventor; Orville Wright, of Newcastle, Indiana, who invented the air-ship; and C.F. Jenkins, of Richmond, Indiana, who invented the movie machine. I am also delighted to be in Marion County, in which the Marion County Lawyers' Club was founded around 1925.

That the Marion County Lawyers' Club now renamed the Marion County Bar Association, and its members have made a substantial contribution to Marion County, the city of Indianapolis, the state of Indiana, and of course, to the nation is not arguable. The name of the Marion County Lawyers' Club was changed to the Marion County Bar Association on October 27, 1942. I do not know the names of the 1925 founders of the Marion County Lawyers' Club. However, in 1942 six lawyers were listed as incorporators of the Marion County Bar Association; namely, Moses Wilson Beene, James Battey, E. L. Moore, Will Porter, R. B. H. Smith, and E. L. Johnson. Except for Will Porter, these gentlemen also constituted the first board of directors of the association, along with three other lawyers; namely, Howard Hooper, W. W. Hyde and Robert Lee Brokenburr.

*/ Dr. Smith received his A.B. from the Creighton University in Omaha, Nebraska, in 1964; J.D. from Howard University School of Law in 1967; LL.M in 1970 and SJD in 1977 from the George Washington National Law Center, respectively. This paper is respectfully dedicated to Henry J. Richardson, Jr., and H. Elsie Austin, who both have touched many lives in Indianapolis, our nation and the world.

This paper will not attempt to cover the long and distinguished history of the Marion County Lawyers' Club. The contents of my remarks will review the Eighth Annual Convention of the National Bar Association, hosted by the Marion County Lawyers' Club on August 4-6, 1932, here in Indianapolis, Indiana^{*/}. Hence, I have entitled this paper, "The Marion County Lawyers' Club--1932: A Peep at the 1980's."

In 1932 Indianapolis had two bar associations--the Indianapolis Bar Association and the Marion County Lawyers' Club. At that time Paul G. Davis was president of the Indianapolis Bar Association and Forrest W. Littlejohn was president of the Marion County Lawyers' Club. The Indianapolis Bar Association had 400 members; there were approximately 1000 lawyers in Indianapolis, and 1110 lawyers in the state. The Marion County Lawyers' Club had approximately 50 members; there were approximately 50 Afro-American lawyers in Indianapolis and fewer than 60 Afro-American lawyers in the state. Records reveal that the Indianapolis Bar Association did not have a race restriction membership provision in 1932. This fact is gleaned from a speech by James M. Ogden, who in 1932 was the Attorney General of Indiana. In a speech during the National Bar Association convention, Mr. Ogden stated,

*/ See Proceedings of the 1932 National Bar Association Convention in Indianapolis, Indiana.

"Some of your members [the members of the National Bar Association] are members of our organization [Indianapolis Bar Association] as well." NBA Proceedings at 61. Mr. Odgen's remarks were obviously referring to the members of the Marion County Lawyers' Club. This is an interesting fact since many volunteer bar associations denied Black lawyers admission as late as 1950. I do not know what the admission policy of the Indiana State Bar Association was or whether a state bar association existed at all.

In the 1920's and 1930's Afro-American lawyers practiced in five cities in Indiana: Gary, Michigan City, Richmond, South Bend and Indianapolis. According to a lawyers' directory published by the NBA in 1932, the following lawyers practiced law or lived in Indianapolis: (last name first)

Austin, Elsie H., 229 1/2 Indiana Ave.; Bailey, R.L., 46 Pa. Ave.; Battey, James M., 229 1/2 Indiana Ave.; Beatty, J.W., 152 1/2 E. Court St.; Beckwith, Frank R., 2232 Hovey St.; Beene, Moses W., 152 1/2 E. Court St.; Brokenburr, Robert Lee, 45 Pa. Ave.; Browder, John, 152 1/2 E. Court St.; Brown, Joseph K., Walker Bldg.; Bryant, Lawyer, 152 1/2 E. Court St.; Bryant, James A., 229 1/2 Indiana, Ave.; Grant, Marshall, 401 N. Senate St.; Grant, Wilbur H., 401 N. Senate St.; Henderson, W. E., 152 1/2 E. Court St.; Henry, W. S., 229 1/2 Indiana Ave.; Hooper, Howard, 227 1/2 E. Washington St.; Hyde, W. W., 152 1/2 E. Court St.; Jacobs, Carey, 1213 N. West St.; Johnson, E. L., 152 1/2 E. Court St.; Littlejohn, F. W., 46 N. Pa., Ave.; Longwood, Bee, 152 1/2 E. Court St.; Moore, E. Lewis, 227 1/2 E. Washington St.; Perry, H. R. 533 N. Senate Ave.; Ransom, F. B., 640 N. West St., Walker Bldg.; Richardson, Henry J. Jr., 229 1/2 Indiana Ave.; J. Wellman Smith, 229 1/2 Indiana Ave.; R. B. H. Smith, 152 1/2 E. Court St.; Terrace A.C., 226 W. Vermont St.; Thurston C. H., 229 1/2 Indiana Ave.; Williams Frank, 152 1/2 E. Court St.

Several of the members of the Marion County Lawyers' Club held important positions in the National Bar Association. For example Freeman B. Ransom was a Vice President of the NBA and was a member of the Committee on Convention, the Committee on Legislation, and the Credentials Committee. Ransom was also a consultant to Mary McLeod Bethune in her capacity as Director of the Division of Negro Affairs, National Youth Administration. He is listed as a consultant to the 1939 Second National Conference on The Problems of The Negro and Negro Youth held in Washington. He served on the Committee on Civil Liberties and Political Suffrage, along with Ms. H. Elsie Austin another Hoosier, Afro-American woman lawyer. See Proceedings of The Second National Conference on The Problems of The Negro and Negro Youth, Washington D.C., January 12-14, 1939, at p. 58.

Robert Lee Brokenburr was a member of the NBA Committee of Jurisprudence and Law Reform, the Publicity Committee and the Committee on Affiliation of Bar Associations. H. R. Wilson was a member of the NBA Credentials Committee and the Committee on Annual Bar Day. Henry J. Richardson, Jr.^{*/} was a member of the National Bar Association Legal Directory Committee. Robert L. Bailey was an NBA member of the Budget Committee serving as Vice-Chair. Mr. Bailey was also Assistant Attorney General of Indiana.

^{*/} See Richardson, Report of the Legal Aid Division of the National Bar Association, Inc., 1 National Bar Association Journal 130 (1942). At this writing Mr. Richardson is the oldest living member of the Marion County Bar Association.

The 1932 Convention was held in the Walker Casino--owned by the famous millionairess Madamn C. J. Walker, an Afro-American woman, who for a time lived in Indianapolis. February 10, 1910, was the day that Madamn Walker arrived in Indianapolis, Indiana. So impressed was she by the city's business possibilities for Blacks and the cordiality extended to her, she decided to make it her home. A home on North West Street with the factory in the rear became the first Madame C. J. Walker Manufacturing Company. Two years later, adjoining space at 644 North West Street was purchased for expansions. Two young lawyers, Freeman B. Ransom and Robert Lee Brokenburr, who roomed with Mme. Walker, gave her free legal advice. Attorney Brokenburr filed the Articles of Incorporation on September 19, 1911, with Mme. Walker as the sole owner. F. B. Ransom gave up his law practice to become General Manager of the company until his death, in 1947, while Mr. Brokenburr retained his private practice, plus served as Assistant Manager. The company's growth rate was astronomical. Outside of the U.S., Walker products were in demand. The Foreign Trade Department was opened after her 1913 trip to Panama, Cuba and the West Indies. The Walker Company gave employment to hundreds of Blacks, particularly during a time when America's economic future was bleak.

The splendid nature of the Walker Building was noted after welcoming remarks of the then Mayor of Indianapolis Reginald H. Sullivan by Perry W. Howard, a Republican National Committeeman from the State of Mississippi. Attorney Howard stated,

We are delighted to be in Indianapolis; to be in this splendid building--the handiwork of a noble woman and constructed under the management of a gentleman for whom we have the highest regard as a member of the bar--Honorable F.B. Ransom--than whom we have no finer man in the country. Id. at 59

I know that you have asked me to address the role of the black lawyer in the 1980's. With your permission, I choose to follow my own course of reviewing the mind of the Afro-American lawyer in 1932 which has a direct bearing on the issues of the 1980's. Hearing no objections--I shall proceed.

During the 1932 NBA Convention hosted by the Marion County Lawyers' Club some very profound concepts emerged from the mouths of now historic Afro-Americans. These concepts confirm my assessment of the strict confidence that Afro-American lawyers had in the judicial process and the judicial systems of America, and their total rejection of communism. For example, Perry Howard spoke about the consequence of the "lack of faith in our system of jurisprudence." Mr. Howard stated,

We have faith in our courts and faith in the institutions of our country. We have faith in the Executive of our country. We are not going to turn communist and we are not going to turn anarchist, but with faith in God and the courts and learned in the law, we are going to fight it out for justice... Id. at 60

From the very beginning of the Afro-American lawyer on this continent in 1845, the plight of the Black lawyer has been peculiar. Segregation retarded the Afro-American lawyer's growth and development to diversify his practice in specialized civil law areas, to diversify his client base, to break into corporate law firms, corporate and government legal offices and to diversify the courts of our nation at every level. Perry Howard noted this theme in his speech before the NBA in 1932 here in Indianapolis. He stated,

Our colored attorney has a fight that is peculiar. Segregation has a tendency to prevent our receiving a fair deal. Learned as they are in the law, if we ever get what is coming it will have to be through the leadership of the lawyers of this country. From everywhere we have come and met on Indiana soil; we find here the best of our group - the National Bar Association--in the City of Indianapolis. Id. at 60.

This statement is very important because it asserts a position that is jurisprudential in nature and one which explains why the Afro-American bar exists today. From this statement we learn that Afro-American lawyers are unique; that race restrictions deterred Afro-American lawyers in the profession of law; that scholarship alone is not the sole test of upward mobility; and that the legal profession as a collective body must assert itself to eradicate discrimination and its impact.

In 1932 when the Afro-American lawyers met in Indianapolis, Herbert Hoover was the president of the United States. In the Spring of 1931, the depression in Europe reached panic proportions when a banking crises struck Austria and spread rapidly into Germany. As you recall, the catastrophic crash of the Wall Street stock market in October, 1929, heralded the great depression. That depression spread to Europe. The economic conditions of Europe and its economic isolation, and a worsening of its financial and political chaos, spawned Adolf Hitler.

In 1932 large segments of the American population were suffering from unemployment, bankruptcy and strife. Afro-Americans were in a perilous state. Black lawyers from all over the nation came to Indianapolis, Indiana to stake their claim deeper into American values, and simultaneously to hold America accountable for the plight of Black people. During the Indianapolis meeting, Jesse S. Heslip, from Toledo, Ohio, the president of the National Bar Association, gave the keynote address entitled, "Straight Ahead, We Cannot Detour, We Will Not Retreat." It is within the contexts of president Heslip's address that the conditions of the world of Black America and the role of the Black lawyer in the 1930's are laid bare.

President Heslip spoke about the conditions existing in Western Europe, the British Empire, the Far East, in Africa and South America. He stated,

Practically the whole of Western Europe
is seething in misery...The British Empire
is facing the gravest future...We are fully

cognizant of the suffering in the Far East...Africa is virtually broken...South American Republics are daily engaged in civil commotion...

President Heslip then described the conditions existing in the United States, he said,

The average citizen of these United States a few months ago looked upon this panorama with a sense of security from the agitation and distress which he saw in other parts of the world. With our statesmen, editors and bankers declaring God-like fashion that "prosperity was just around the corner" this average citizen felt himself God's selected saint. The United States boasts that it is the wealthiest and most enlightened nation of the family. Yet hardly any other nation, blessed with America's facilities, could so fail and neglect to provide ways and means of relief from these economic and political burdens as miserably, miserly and ignorantly as our Federal Government.

With bank failures as common as daylight; with no sound and safe economic program proposed by either of our major parties; with farmers and urban homes staggering under unprincipled mortgage loan: with diseased parents and undernourished children uncared for: with smokeless factories, rusted machinery, and bankrupt business, and with approximately 12,000,000 unemployed, the United States offers only bread lines and soup kitchens as its relief to its distressed and tormented citizens.

Unemployment is the rule of today. And with unemployment selfishness and intolerance have increased to the point where substantial numbers of the American people are on the brink of extinction...

Along with this economic upheaval, there is an increasing racial prejudice. We find race prejudice in America greatly intensified and extending to almost every phase of our life. It is firmly believed that our economic condition, causing unparalleled unemployment, has given rise to more selfishness and more intolerance....

The Negro occupies the lowest and most unsafe position in America's economic program. We are the first wards of the public charity, as a rule, because we occupy a very insecure economic position. What can the Negro business and professional man expect in the way of economic safety and prosperity with any reasonable degree of permanency when he is primarily dependent upon Negro labor for patronage and support? All about us we see Negro homes falling under the crash of the judicial hammer at foreclosure sales; we witness Negro families scattered and broken by reason of poverty forced upon them through the inability of the chief bread winners to sustain them by decent labor; we find otherwise respectable Negro men and women seizing upon boot-legging and prostitution as means of livelihood, not by choice, but because of this most detestable and prejudicial economic scheme. The Negro church, school, and home are the background of our social life. With these institutions devastated by poverty may not the Negro business and professional men reasonably anticipate their own collapse? Id. at 66, 69.

A point for emphasis here is president Heslip's concern about the impact of the economy on the profession of the practice of law by the Afro-American lawyer, and on the Afro-American population as a whole. Heslip's declaration that the "Negro occupies the lowest and most unsafe position in America's economic program" could be argued today. Heslip asserts that the "Negro lawyer must prepare himself to meet these issues...[and] become thoroughly grounded in constitutional law." Id. at 71. Finally, and in the tradition that characterizes the Afro-American lawyer's faith in our constitutional democracy, Heslip states that the "Negro lawyer... must be ready to face the nation's highest tribunal in search of justice for ourselves...We are consecrated to the sacred task of extending to the Negro equal economic opportunity and the full indicia of peace, life and liberty." Ibid.

Other great speeches were given here in Indianapolis during the 1932 convention of the National Bar Association hosted by the Marion County Lawyers' Club. Walter White the Executive Secretary of the NAACP highlighted the need for federal intervention where state laws and state courts refused or failed to protect the constitutional rights of Blacks. White was not a lawyer, but as an official in the NAACP his presence at the convention was an important one. Mr. White stated that the NAACP's "next step will be a step further in giving federal courts the right to give redress when the state courts and the state itself do not take steps to give that redress." Id. at 74.

Several other important speeches were delivered during the 1932 meeting in Indianapolis. Mr. C. Frances Stradford [Chicago, Illinois] delivered an important paper entitled "Social Unrest and The Law," and Freeman L. Martin delivered a paper on the subject of "How To Stay In Court." Also in attendance and constantly mentioned in various speeches was Dr. Charles Hamilton Houston, Dean of the Howard University School of Law, who spoke on "The Effect of the Program Inaugurated for Lawful Enforcement of Law." And, highlighting the discrimination by the federal government, Thomas Campbell from Denver, Colorado gave a strong paper entitled, "Governmental Policy Regarding Employment at The Hoover Dam."

Women have always played a significant role in the Afro-American Bar--and so it was in Indianapolis in 1932. Two women were very influential during the convention; namely, Ms. Ollie May Cooper of Washington, D.C., the National Assistant Secretary

of the NBA,*/ and Georgia Jones Ellis, of Chicago, Illinois, who delivered a significant paper entitled, "The Necessity of Universal Suffrage." And, I believe that H. Elsie Austin, who I have previously mentioned, and Bee Longwood were two of the few Black women lawyers in Indianapolis during the 1932 Convention.

Ms. H. Elsie Austin is a unique woman who has made a significant contribution to the law and to humankind itself. In 1930 Ms. Austin was graduated from the University of Cincinnati, College of Law. She is the first black woman graduate of this law school. From 1937-1939, she served as Assistant Attorney General in the state of Ohio and is the first black woman lawyer in the history of the nation to hold this position. Also, Ms. Austin was elected as National Vice-President of the National Bar Association circa 1937. Presently, she resides in Washington, D.C. and sends her personal regards to the Marion County Bar Association.

In conclusion, you invited me to come to Indianapolis to discuss the role of the Black lawyer in the 1980's. Your role as Afro-American lawyers, your mission as Afro-American lawyers, your commitment as Afro-American lawyers, and your role as the now Marion County Bar Association is no different today than in 1932. The Marion County Bar Association must continue to assert its energy for the eradication of discrimination in the American workforce. You must take your stand on the principles undergirding

*/ See J. Clay Smith, Jr., Ollie May Cooper: "The Real Dean of Howard University School of Law," 20 How. L.J. 368 (1980); Note, Ollie Cooper, 94 Dies; Taught Law at Howard U., Washington Post, Col. 3, B5, April 17, 1981.

affirmative action. In the tradition of two of your outstanding members--Howard Hooper and Mercer M. Marice, this association must seek, find and secure justice and knock on the doors of injustice and callousness which restricts equal opportunity--whether economic or employment affecting Black Americans.

I accepted the invitation of the Marion County Bar Association because of your history in America and because of your sustained desire to rid America of race distinctions and discrimination.

The Marion County Bar Association is important to me as a citizen of the United States and as Chairman of the U.S. Equal Employment Opportunity Commission.

To my knowledge, it has been a half century since the NBA held a convention in this city. The United States is indebted to the Marion County Lawyers Club (Association) for fifty-six years of leadership in the county, the city of Indianapolis, the state of Indiana and in the nation. I am happy that I have been able to articulate themes of the 1930's that laid the foundation for your banquet theme--The Role of Black Lawyers in the 1980's.

J. Clay Smith, Jr.

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