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THE HIGH MOUNTAIN OF WILLIAM HENRY HASTIE AS WITNESSED FROM  
HOWARD UNIVERSITY SCHOOL OF LAW\*

BY DR. J. CLAY SMITH, JR.  
PROFESSOR OF LAW  
HOWARD UNIVERSITY  
SCHOOL OF LAW

DEAN VORENBERG, PROFESSOR MARTIN, Ms. CHADBOURN, MEMBERS OF THE HARVARD LAW FACULTY, AND STUDENT BODY, DISTINGUISHED PANELIST,\*\*/ INVITED GUESTS, AND MEMBERS OF THE HASTIE FAMILY, I AM DELIGHTED TO PARTICIPATE IN THIS, THE FIRST, HOPEFULLY, NOT THE LAST, COMMEMORATIVE DAY. I HOPE THAT THIS IS THE FIRST OF A SERIES OF ANNUAL COMMEMORATIVES TO STUDY CONTRIBUTIONS OF THE BLACK LAWYER IN AMERICAN LAW.

IN THE TIME ALLOTTED TO ME, I WILL HIGHLIGHT THE ROLE THAT WILLIAM H. HASTIE PLAYED IN THE EVOLUTION OF BLACK LEGAL EXPERTISE DEVELOPED SO DRAMATICALLY AT HOWARD UNIVERSITY LAW SCHOOL, AND THE INFLUENCE OF HASTIE AND CHARLES HAMILTON HOUSTON ON THE DEVELOPMENT OF JURISPRUDENTIAL THOUGHT IN AMERICAN LAW. IN THESE REMARKS I WILL FOCUS MORE ON HASTIE AT HOWARD LAW SCHOOL THAN ON HOUSTON SINCE WE WILL LATER HEAR FROM HOUSTON'S BIOGRAPHER, DR. GENNA RAE McNEIL.

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\*THESE COMMENTS WERE DELIVERED AT THE WILLIAM HENRY HASTIE COMMEMORATIVE DAY AT THE HARVARD LAW SCHOOL, CAMBRIDGE, MASSACHUSETTS ON FRIDAY, NOVEMBER 16, 1984. DR. SMITH RECEIVED HIS J.D., HOWARD UNIVERSITY SCHOOL OF LAW 1967; LL.M., AND S.J.D., GEORGE WASHINGTON NATIONAL LAW CENTER, 1970, 1977.

\*\*OTHER SYMPOSIUM PARTICIPANTS INCLUDED WILLIAM T. COLEMAN, JR., DR. GILBERT WARE, THE HONORABLE COLLINS J. SEITZ, LEE H. KOZEL AND DR. GENNA RAE McNEIL.

HOUSTON AS A TEACHER

THE HOWARD LAW SCHOOL OPENED ITS DOORS IN 1869. HASTIE BEGAN HIS LEGAL TEACHING CAREER AT THE HOWARD LAW SCHOOL IN 1930. SO, WHAT KIND OF TEACHER WAS HASTIE? WHAT COURSES DID HE TEACH?

ONE GRADUATE, CURTISS TODD,<sup>1/</sup> A 1932 GRADUATE OF THE LAW SCHOOL REMEMBERS HASTIE'S FIRST DAYS AS A LAW INSTRUCTOR. HE REPORTS THAT HASTIE HAD "KNOWLEDGE OF THE SUBJECT MATTER AND AN UNUSUAL SKILL IN GETTING THE SUBJECT MATTER ACROSS. . . ." HASTIE IS DESCRIBED BY TODD AS A "QUIET, BUSINESS-LIKE, FIRM. . . YET RELAXED [PERSON WHO WAS] ALWAYS AVAILABLE, UNDERSTANDING AND HELPFUL" TO STUDENTS. HASTIE "WAS A STICKER FOR FACTS" AND ADMONISHED HIS STUDENTS TO "PREPARE, AND [TO] KNOW ALL THE FACTS OBTAINABLE ON BOTH SIDES. . . ." TODD ALSO REPORTS THAT THE STUDENTS HAD A HIGH OPINION OF HASTIE BELIEVING THAT HE WAS THE BEST TEACHER ON THE FACULTY." HE DEMANDED "EXCELLENCE FROM HIS STUDENTS."

HASTIE WAS NOT ABOVE CRITICISM, HOWEVER. TODD REPORTS THAT HASTIE WAS OFTEN CRITICIZED BY STUDENTS FOR TRYING TO "HARVARDIZE HOWARD." I MIGHT ADD THAT CHARLES HOUSTON WAS TOO. RESPONDING TO SUCH CRITICISM, TODD SAYS THAT THIS ASSERTION WAS NOT JUSTIFIED AS IT WAS HIS "IMPRESSION. . . THAT HASTIE WAS ALWAYS TRYING TO MAKE GOOD HOWARD STUDENTS AND FUTURE GOOD LAWYERS. . . ." TODD CONCLUDES THAT, "IF [HASTIE] HAD IN THE BACK OF HIS MIND A HARVARD STANDARD, I [HAD] NO FAULT TO FIND WITH THE IDEA."

TODD'S VIEWS ARE SHARED BY EUGENE ANTHONY SOLOMON, JR.,<sup>2/</sup> A 1941 GRADUATE OF HOWARD LAW SCHOOL. SOLOMON REPORTS THAT HASTIE GENERATED AN INSPIRATION FOR STUDENTS AT HOWARD TO EXCELL. HASTIE WAS "IRKED" WHEN STUDENTS CAME TO CLASS UNPREPARED. SOLOMON REPORTS ON THE PERSONAL SIDE

OF HASTIE. WHEN E. LEWIS FERRELL'S MOTHER DIED, FERRELL A LAW STUDENT WENT TO HASTIE FOR ASSISTANCE AS HE WAS WITHOUT FUNDS TO BURY HER. DEAN HASTIE IS SAID TO HAVE PAID FOR MS. FERRELL'S BURIAL. HASTIE WAS A MAN OF COMPASSION.

HASTIE WAS A VERSATILE TEACHER. HE TAUGHT COURSES SUCH AS CONFLICT OF LAWS, CONTRACTS, BILLS AND NOTES, PARTNERSHIP, AND DOMESTIC RELATIONS, WHILE A TEACHER AND AS DEAN.

HASTIE LEFT HOWARD IN 1937 TO BECOME THE FIRST AMERICAN OF AFRO-AMERICAN DESCENT TO BE APPOINTED TO A UNITED STATES DISTRICT COURT (VIRGIN ISLANDS). HE RETURNED TO HOWARD AS ITS DEAN ON JULY 1, 1939.

#### HOUSTON AS DEAN

OFFICIALLY, HOUSTON WAS DEAN OF THE HOWARD LAW SCHOOL FROM 1939 TO 1946. DEAN HASTIE HAD BARELY ARRIVED AT HOWARD AS ITS DEAN BEFORE HE "WAS COMMANDERED BY THE UNITED STATES GOVERNMENT AS CIVILIAN AIDE TO THE SECRETARY OF WAR. . . ."3/ HASTIE CONTINUED TO SERVE ON THE FACULTY ON A PART-TIME BASIS DURING THE FALL SEMESTER OF 1940. IN HIS ABSENCE, DR. LEON RANSOM (ANOTHER HARVARD S.J.D.) WAS DESIGNATED AS VICE-DEAN. HASTIE REASSUMED HIS DECANAL DUTIES IN SEPTEMBER, 1943.

AS DEAN, WHAT WERE HASTIE'S VIEWS AND HIS LONG RANGE VISIONS? DURING HASTIE'S FIRST YEAR AS DEAN, HE WROTE A CHAPTER IN THE YEAR BOOK PUBLISHED ANNUALLY BY THE JOURNAL OF NEGRO EDUCATION. PROJECTING "THE POSITION OF THE NEGRO IN THE AMERICAN SOCIAL ORDER: OUTLOOK FOR 1950" HASTIE EXPLAINED WHY SCHOLARSHIP WAS A COMPANION TO DAY-TO-DAY ADVOCACY. HE STATED,

"BECAUSE THE NEGRO FEELS THE PRESSURE AND STING OF RACIAL INJUSTICES. . . HE IS OFTEN IMPATIENT WITH THEORIZING AND INSISTENT UPON ACTION DIRECTED IN THE MOST OBVIOUS WAY AT THE MOST IMMEDIATE AND DISTRESSING OF HIS GRIEVANCES."

HE CONTINUED,

"IMMEDIATE AND CONTINUING ACTION UNDOUBTEDLY IS NECESSARY, BUT ACTION REQUIRES A CORRECTIVE IN THE FORM OF GENERAL IDEAS CONSTITUTING AN INTELLIGIBLE PATTERN OF SOCIAL AND ECONOMIC THOUGHT. THOSE IN THE THICK OF ACTION OFTEN LACK THE TIME AND THE TALENT TO PROVIDE SUCH A CORRECTIVE."4/

HASTIE'S RECOGNITION THAT BLACK LAWYERS NEEDED HELP TO FIGHT AGAINST DISCRIMINATION AND HOSTILE INTOLERANCE AGAINST HIS PEOPLE DROVE HIM, AS IT HAD DRIVEN CHARLES HOUSTON TO DEVELOP HOWARD UNIVERSITY SCHOOL OF LAW AS A FIRST RATE INSTITUTION. AS JUDGE SPOTTSWOOD W. ROBINSON, III HAS WRITTEN, IT "WAS DURING HASTIE'S TENURE AS DEAN THAT THE HOWARD LAW SCHOOL BECAME HEADQUARTERS FOR A LEGAL COLLECTIVE BRED BY A SHARED PURPOSE AND UNITED MUTUAL RESPECT."5/

AS IN CHARLES HOUSTON'S ERA, HASTIE INVOLVED THE HOWARD LAW FACULTY IN IMPORTANT CASES CONCERNING RACIAL DISCRIMINATION. IN FACT, "ANY LAWYER ANYWHERE WITH A MERITORIOUS CASE. . . COULD FIND HELP JUST FOR THE ASKING."6/ WITH ONLY 1,350 BLACK LAWYERS IN THE NATION IN 1940, AND WITH A BLACK POPULATION NUMBERING 13 MILLION, THERE WAS A RATIO IN ONE BLACK LAWYER TO 10,000 POTENTIAL CLIENTS.

HASTIE AND HIS COLLEAGUES AT HOWARD LAW SCHOOL TOUCHED AND INFLUENCED SEVERAL STUDENTS WHOSE TRAINING, STUDY AND ADVOCACY IN BOTH THE PUBLIC AND PRIVATE SECTORS ALTERED THE COURSE OF AMERICAN LAW. AMONG THEM INCLUDED THE HONORABLE THURGOOD MARSHALL HONORABLE SPOTTSWOOD W. ROBINSON, III, THE

THE HONORABLE WILLIAM BENSON BRYANT, THE HONORABLE SCOVEL RICHARDSON, THE HONORABLE JOSEPH CORNELIUS WADDY, THE HONORABLE JAMES AARON WASHINGTON, JR., FRANK D. REEVES, JOEL DUNSON BLACKWELL, HAROLD RICHARD BOULWARE, VINCENT MONROE TOWNSEND, CASSANDRA MAXWELL, JAMES HENRY RABY, AND E. LEWIS FERRELL.

DEVELOPMENT OF JURISPRUDENTIAL  
THOUGHT IN AMERICAN LAW

HASTIE AND HOUSTON, AND THE MEN AND WOMEN WHO SHARED AND WHO TODAY SHARE THEIR VIEWS THAT LAW IS A TOOL FOR SOCIAL ENGINEERING CONSTITUTES THE BOXES WITHIN THE MATRIX OF OUR AMERICAN LEGAL THOUGHT. THESE MEN KNEW THE IMPORTANCE THAT THE SCIENCE OF JURISPRUDENCE PLAYED AND WOULD CONTINUE TO PLAY IN THE PROGRESS OR THE DESTRUCTION OF THEIR PEOPLE. THEY HAD LEARNED AS MUCH AT HARVARD LAW SCHOOL. THEY BOTH SET OUT TO INVEST THEIR ENERGY AND TO DEDICATE THEIR LIVES TO THE CAUSE OF EQUAL JUSTICE UNDER LAW WHICH COINCIDENTIALLY LED TO PARALLEL CAREERS -- TEACHING, GOVERNMENT SERVICE, PRIVATE PRACTICE, AND SCHOLARSHIP. THEIR GROUP CAN SHARE IN THE OPINION OF SOME THAT FEWER LIBERTIES AND DERIVATIVE HUMAN RIGHTS WOULD EXIST IN POSITIVE LAW OR UNDER THE CONSTITUTION TODAY IF HOUSTON AND HASTIE HAD NOT PASSED THIS WAY.

CONCLUSION

I CONGRATULATE THE HARVARD LAW SCHOOL FOR SPONSORING THE WILLIAM HENRY HASTIE COMMEMORATIVE EXHIBITION, AND THIS DAY IN HIS HONOR. I AM GRATEFUL TO MS. ERIKA S. CHADBOURN, WHO, WITH AFFECTION HAS SUPERVISED THE RESTING PLACE OF JUDGE HASTIE'S PAPERS. 7/ FINALLY, MY CONGRATULATIONS TO BOTH

DR. GENNA RAE McNEIL FOR HER AWARD WINNING BIOGRAPHICAL VOLUME<sup>8/</sup> ON THE  
LIFE OF CHARLES H. HOUSTON AND TO DR. GILBERT WARE FOR HIS INDUSTRY AND  
SCHOLARSHIP, SURE TO BE REFLECTED IN THE SOON TO BE PUBLISHED BIOGRAPHICAL  
OF WILLIAM H. HASTIE.<sup>9/</sup>

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J. CLAY SMITH, JR.

HASTIE LECTURE NOTES

1. CURTISS TODD WAS A GRADUATE OF THE 1932 CLASS OF HOWARD UNIVERSITY SCHOOL OF LAW. I AM INDEBTED TO DR. ELIZABETH STONE, A MEMBER OF THE FACULTY OF HOWARD LAW SCHOOL FOR THIS INFORMATION.
2. EUGENE ANTHONY SOLOMON, JR., WAS A 1941 GRADUATE OF THE HOWARD UNIVERSITY SCHOOL OF LAW. IBID.
3. ANNUAL REPORT OF THE ACTING DEAN [DR. LEON ANDREW RANSON] FOR THE SCHOOL YEAR ENDING, JUNE 30, 1941, AT 13-14.
4. HASTIE, THE POSITION OF THE NEGRO IN THE AMERICAN SOCIAL ORDER: OUTLOOK FOR 1950, 8 J. OF NEGRO ED. 595, 595 (1939).
5. ROBINSON, WILLIAM HENRY HASTIE -- THE LAWYER, 125 U. OF PA. L. REV. 8, 9 (1976).
6. IBID.
7. SEE THE HIGH MOUNTAIN: WILLIAM HENRY HASTIE, JURIST, EDUCATOR, PUBLIC SERVANT, HUMANITARIAN (MANUSCRIPT DIVISION HARVARD LAW SCHOOL LIBRARY, CAMBRIDGE, MASSACHUSETTS 1984),
8. MCNEIL, GROUNDWORK: CHARLES HAMILTON HOUSTON AND THE STRUGGLE FOR CIVIL RIGHTS (1983).
9. WARE, VOL. I, WILLIAM HASTIE: GRACE UNDER PRESSURE (1985).