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## An End, and Perhaps a Beginning

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# INTRODUCTIONS

## An End, and Perhaps a Beginning

Tom C. Clark\*

“In my end is my beginning,” Mary Queen of Scots is reported to have said at the time of her execution.<sup>1</sup> And, indeed, it was, for her son subsequently became the King of England. And so it may well be with the *Race Relations Law Survey*, which, after almost a score of years of indispensable service in its field, is now on the executioner’s block. It is unfortunate that financial pressures have brought this most worthy program to an end. Those who love their fellow man and are dedicated to his cause will mourn the *Survey*’s passing, not simply because of its past contributions, but because there is much left to be done.

As one who has devoted his professional lifetime, now in its fifty-first year, to the development of procedures and techniques for the improvement of the administration of justice, I say that there is no substitute for the original research furnished by the *Race Relations Law Survey* in the race relations field. It has made the most practical contribution to the improvement of race relations of any publication. One might compare this contribution to that of our law clerks here on the Court, who research and report on state and federal decisions previously made on a given topic. However, the *Survey* not only included in its coverage reported cases but also those from the trial courts that often go otherwise unreported. Hence it provided a very comprehensive and responsible service that has been the *sine qua non* of effective research. Being on a national basis, it has served as the “Bible” of legal action in race relations litigation.

During its period of activity, 1954 through March of 1972, there has been a complete about-face in the national policy on race relations. Beginning with the momentous decision in *Brown v. Board of Education*<sup>2</sup> that prohibited segregation in public education, the enlargement of rights in the race relations field has been massive, reaching and renewing every area of the law, especially criminal justice. In the latter area, the cycle has come complete from the visitation of the Bill of Rights upon the states to a complete renovation of the federal procedures themselves. In the civil area, discrimination all the way from “blockbusting” to voting has been eliminated. The role of the *Race*

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1. J. BARTLETT, *FAMILIAR QUOTATIONS* 1926 (14th ed. 1968).

2. 347 U.S. 483 (1954).

*Relations Law Survey* may be illustrated by *Love v. Pullman Co.*,<sup>3</sup> in which a black pullman porter claimed he was performing conductor service at porter wages. Although the Colorado Civil Rights Commission failed to give relief, and both the district court and court of appeals sustained the Commission on technical grounds,<sup>4</sup> the Supreme Court found the complaint sufficient, though orally made. One can quickly see the potentially far-reaching effect of this holding; practical realization of that potential, however, necessarily turns upon making disadvantaged people and the lawyers who serve them aware that redress is available. Fewer pullman porters would have heard of the redress available under *Love* were it not for the *Survey's* report of the case. Another likely instance of its effectiveness is the recent discrimination complaint of women employees of the American Telephone and Telegraph Company,<sup>5</sup> which may have well been sparked by the coverage of the *Survey*.<sup>6</sup>

It seems, therefore, fair to say that the *Race Relations Law Survey* has been a potent force in the improvement of race relations. It has seen the number of black directors of large corporations jump since 1970 from three to 64; the number of states adopting fair housing legislation from nothing to twelve states and 50 cities; the number of blacks holding national public office from virtually none to well over 500; the income of a goodly percentage of black families increase from very little to five figures; and the educational levels attained by substantial number of blacks jump from grade school to college level. But there is much more on which we need to act.

As has been said, "It is clear that in whatsoever it is our duty to act, these matters also it is our duty to study." But how can we study race relations unless we have the grist of the race relations mill—its litigation? For too many years the law in this area had been often perverted, and now that we are making progress, there is danger that we may be deprived of the light that comprehensive disclosure of that progress has cast. The only meaningful way that race relations can be improved is through the efforts of individuals. How can we expect individuals to have courage to act unless they know what their brothers are doing?

These cases teach all of us that we do not belong to the government, it belongs to us. The citizen does not exist for the State but the State

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3. 404 U.S. 522 (1972), reported in 3 RACE REL. L. SURVEY 217 (1972).

4. See 430 F.2d at 52.

5. See Wall Street J., Jan. 19, 1973, at 3, col. 1.

6. See, e.g., *Robinson v. Lorillard Corp.*, 319 F. Supp. 835 (M.D.N.C. 1970), reported in 3 RACE REL. L. SURVEY 30 (1971).

for the citizen. Our society has created in the hearts of black men and women a faculty of will that has produced as yet unrealized conceptions of "wants," of "rights and duties," and of "justice and injustice." They seek new lights by which to obtain these wants. These wants can be obtained either by creating new facts—by direct, extralegal, and perhaps violent action—or by using existing facts and new avenues opened through the developing law. It is unfortunate that the illumination cast by the *Race Relations Law Survey* upon these avenues is being extinguished.

"A State," John Stuart Mill said, "which dwarfs its men, in order that they may be more docile instruments in its hands . . . will find that with small men no great thing can really be accomplished."<sup>7</sup> Our troubled times reflect that truth and politics are not on good terms. We need to accomplish great things.

The *Race Relations Law Survey* has been of substantial value in many ways to many people. Otherwise, the distinguished scholars who contribute to this issue of the *Vanderbilt Law Review* that is in tribute to the *Survey* would not lend their names and intellects to this Symposium. There is now a void to be filled. This Symposium, therefore, is more than a tribute. It is to be hoped that it also represents a beginning, for there are great things left to be accomplished.

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7. J. MILL, ON LIBERTY 204 (1887).