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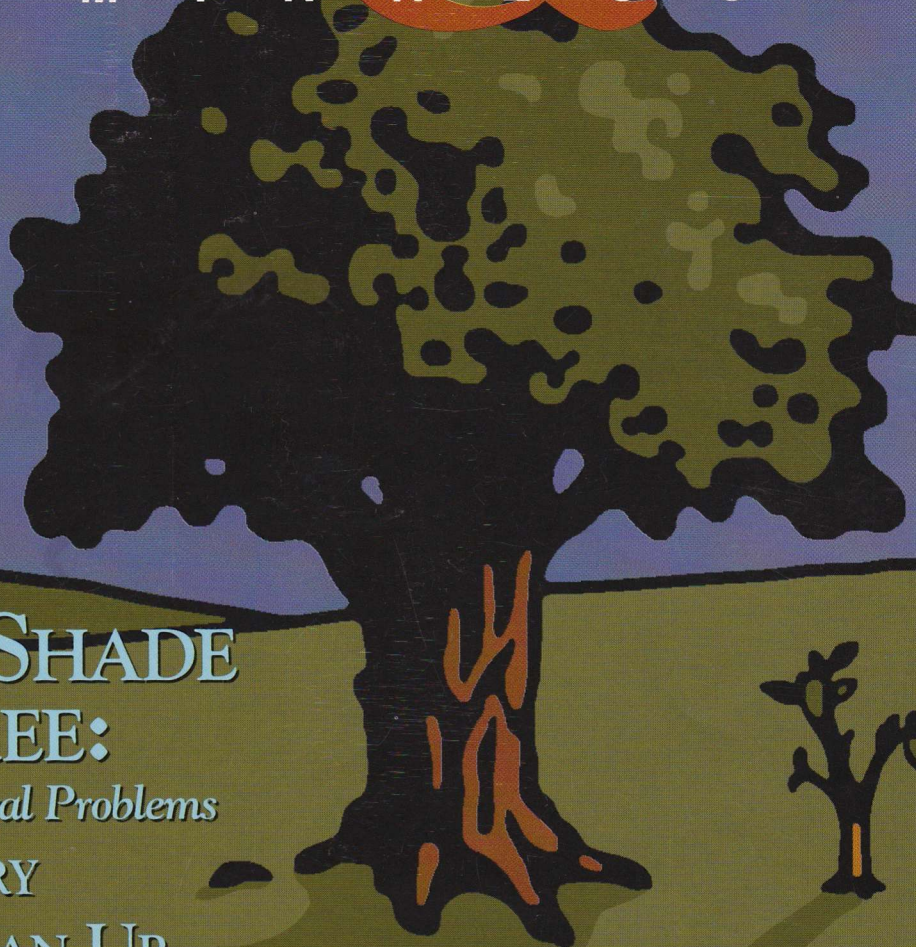
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MINNESOTA STATE BAR ASSOCIATION

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CIVIL RIGHTS III: COMMON GROUND

BY JARVIS C. JONES

"I will be as harsh as truth, and as uncompromising as justice. On this subject, I do not wish to think, or speak, or write with moderation.... I am in earnest — I will not equivocate — I will not excuse — I will not retreat a single inch — and I WILL BE HEARD."

William Lloyd Garrison, *The Liberator* (1831)

As many of you know, February was Black History Month. As the first African-American President of the Minnesota State Bar Association, I am struck by how fitting it is for us, as lawyers, to recognize the significance of this commemoration by taking an introspective look at the civil rights movement, a movement that we played a prominent role in advancing.

During the month of February, I watched with fascination and at times disbelief as I listened to radio and TV commentators and their guests discuss this country's progress in the area of civil rights for African Americans. Whether the speaker was white or African American, the discussion focused consistently on whether the proverbial water glass was half-empty or half-full. I must confess that I have always found the half-full/half-empty argument to be misguided and myopic. It has always struck me that both sides of the water glass argument are correct when you view the evolution of American society as a continuum.

Instead of focusing our attention and energy on the extremists' half-full/half-empty arguments, we could achieve more productive discourse by discussing "How do we as a society go about constructively filling an otherwise unfilled water glass for all disenfranchised members of our society?" Unfortunately, the civil rights issues and tactics utilized during the historical periods that I arbitrarily label "Civil Rights I & II" will not provide much assistance to us in answering this question today during Civil Rights III.

During Civil Rights I, from the early 1600s to late 1863 (the Emancipation Proclamation), abolitionists such as William Lloyd Garrison and Sojourner

Truth focused on eradicating the ills of slavery: its physical cruelty, its failure to give legal recognition to slave marriages, the separation of children from their parents, etc. During this period of time, abolitionists' tactics primarily consisted of moral persuasion, i.e., arguing that slavery was a sin requiring repentance and denied the "unalienable rights" with which all men are endowed under the Declaration of Independence.

During Civil Rights II, from 1863 to 1964, (The Civil Rights Act of 1964 and The Voting Rights Act of 1965), civil right leaders focused their attention and tactics more on eradicating the Jim Crow laws of the South. These laws mandated separate arrangements for whites and African Americans in areas of travel, work, eating, shopping, sleeping, and education and also denied African Americans the fundamental right to register and vote without being subjected to bodily harm. Most of us are very familiar with the tools used by civil rights leaders and others involved in protesting these ills of society. This was an era when people of all hues took to the streets in large numbers and engaged in mass protest including civil suits, sit-ins, boycotts, peaceful marches, rioting, militancy, civil disobedience, etc.

What about today? What should our focus and tactics be during Civil Rights III? Or, better yet, have we as a society reached some type of utopia or zenith where issues of violations of civil rights no longer confront us? While the civil rights movement historically focused primarily on eliminating *societally sanctioned* legal, social, and political barriers, Civil Rights III is more about providing all individuals with the "equal opportunity" to achieve social, economic and political parity. In order for us to accomplish this as a society, we must be willing to look at civil rights in a much broader societal context than during Civil Rights I & II.

During Civil Rights III, we must be willing and prepared as a society to recognize and address the finding of the National Research Council that, "If all racial discrimination were abolished today, the life prospects facing many poor blacks would still constitute major challenges for

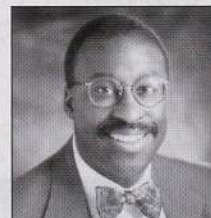
public policy." Nor can we ignore the finding that "many blacks who have not succeeded live in environments in which social conditions and individual behavioral patterns are often detrimental to self-improvement." (National Research Council. "A Common Destiny: Blacks and American Society" 1989.)

The next civil rights frontier will be about us as a people, as Americans, jointly finding "common ground" on which to address *non-societally sanctioned* barriers to equal opportunity in the areas of income and living standards, health and life expectancy, educational opportunities, occupational opportunities, and political and social participation. In addition, we may need to acknowledge and address the mental scars and legacy of Civil Rights I & II that still haunt and afflict some of our poorer minority communities across the country. And yes, during Civil Rights III we must still confront overt racism and discrimination wherever it rears its ugly head.

I am quite aware that there are some individuals and groups who have the "luxury of believing" that we live in a color-blind utopia and that, today, everyone is provided with an "equal opportunity" regardless of race, ethnicity, gender, or sexual preference. The late Robert F. Kennedy summed up quite well my thoughts on this argument:

"If anyone claims the Negro should be content ... let him say he would willingly change the color of his skin and go to live in the Negro section of a large city. Then and only then has he a right to such a claim." (1966) □

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