Alabama Law Scholarly Commons

Working Papers

Faculty Scholarship

12-8-2012

The Derrick Bell Reader: Introduction

Jean Stefancic
University of Alabama - School of Law, jstefancic@law.ua.edu

Richard Delgado
University of Alabama - School of Law, rdelgado@law.ua.edu

Follow this and additional works at: https://scholarship.law.ua.edu/fac_working_papers

Recommended Citation

Jean Stefancic & Richard Delgado, *The Derrick Bell Reader: Introduction*, (2012).
Available at: https://scholarship.law.ua.edu/fac_working_papers/57

This Working Paper is brought to you for free and open access by the Faculty Scholarship at Alabama Law Scholarly Commons. It has been accepted for inclusion in Working Papers by an authorized administrator of Alabama Law Scholarly Commons.

SEATTLE
UNIVERSITY
SCHOOL OF LAW

The Derrick Bell Reader: Introduction

Richard Delgado
University Professor

Jean Stefancic
Research Professor

Published by New York University Press (2005)

This paper can be downloaded without charge from
the Social Science Research Network Electronic Paper Collection

Standing for excellence. Reaching for justice.

The Derrick Bell *Reader*

Edited by
Richard Delgado and Jean Stefancic

NEW YORK UNIVERSITY PRESS
New York and London

Introduction

The bespectacled, 59-year-old law professor leaned back in his chair and looked out his office window, a pensive expression clouding his scholarly, unlined features. Outside, groups of students walked across a grassy quad framed by stately, traditional buildings. One, wearing a maroon sweatshirt with "Harvard" emblazoned on the front, gesticulated animatedly to a friend on their way to a morning class.

Viewing, almost breathing in, the bucolic scene, he smiled. He loved teaching and felt that a college campus was as close to a fountain of youth as he would ever get. And it didn't hurt that the world believed the school where he now held a named chair was the finest in the world. That young woman out there, black like him, might be in law school one day. She might excel, even aspire to be a law professor. How receptive would that world be to candidates like her?

He reached for a yellow pad and began scribbling notes for the talk he planned to give at the student rally scheduled for noon. It had been at least two weeks since he had written a letter to the dean with copies to every faculty member. Coming at the end of a full year of unsuccessful efforts by student groups, the letter announced his decision to take an unpaid leave until the school hired and tenured a woman of color. He had not made that letter public, but neither had he heard back from the dean or the faculty. Their silence, as he had learned from earlier protests, was tantamount to rejection.

A few faculty members had privately expressed concern as to how he would pay his bills. He replied quietly that at this point, he was more concerned about saving his soul. A well-meaning faculty friend came by his office, closed the door, and told him that he and his wife would pay one month of his home mortgage, insisting that Bell keep the payment confidential. Bell thanked him and promised to get in touch if he needed the help. He never did. The friend did not understand that Bell needed his

public support for his protest far more than his private financial aid. A former student, now a member of the faculty, did call and offer to join Bell in his protest. Bell responded that he appreciated his offer, but urged him to remain on the faculty, where he was developing a clinical program that the students badly needed.

Believing it might be useful to the student activists and faculty of color, he gave the letter to the leaders. One of them, Keith Boykin, negotiated an exclusive to the New York Times, *resulting in a front-page story that very morning. Keith predicted, accurately as it turned out, that the media would be out in force covering the rally.*

While styled a protest, his action turned out to be a deferred resignation. For that was what he would, in effect, be doing by taking an unpaid leave until the school hired and tenured its first female law professor of color. His colleagues, mainly confident white men, were unlikely to yield to what they would see as pressure tactics, especially from the school's first tenured African American law professor, someone who wrote provocative, counterintuitive essays on race and racism rather than more traditional law review articles loaded with footnotes about contracts, corporations, and other mainstream legal subjects.

No matter that his text on race and the law, first published in 1973 and then in its third edition, had been adopted for civil rights courses across the country. His many writings, including a trade book based on a Harvard Law Review Foreword, *were widely read, and his courses were among the most popular in the law school. None of these accomplishments would move more than a small number of the faculty to take seriously his insistence that the absence of women of color on the faculty deprived the school of unique perspectives.*

In part because of his continuing efforts, five other black men now served on the faculty, three of them tenured. Paradoxically, their long-resisted presence now served as proof to most observers that the faculty did not discriminate and would, as they promised, hire a woman of color when one surfaced who met their standards.

He stood up and began to pace. He had good friends on the faculty. If even one or two of those with prestigious reputations were to agree to join his protest, its prospects would have been much improved. His colleagues might see that many black woman lawyers, including some teaching at other schools, easily met their standards—something he could not say for some of his colleagues who had not written a thing in years but

nevertheless adamantly opposed the appointment of one black woman after another, many of whose names he had brought forward himself.

But he stood alone. A few of his liberal colleagues had told him, in private, that they were with him. But when it came time to vote, most invariably melted away, switching sides or abstaining. As a result, no black woman candidate was able to gain the requisite vote.

Despite all the battles, mostly lost, he realized that he would really miss this place, particularly the students, many of whom showed him a level of love and respect that brightened even the more difficult times. "Is it possible," he muttered to himself, "that some of my friends are right, and with almost fifteen years of service here, I can do more working from within?" He smiled, recalling that he had rejected similar advice more than thirty years earlier when he had chosen to leave the Justice Department over its ultimatum that he resign from the NAACP and that he had asserted for years that civil rights lawyers and activists need to stand ready to supplement petitions, lawsuits, and other forms of polite supplication with street protests and other forms of militancy. He turned to his computer and began writing his speech to what he expected would be a large and supportive gathering of students.

Birth of an Activist-Scholar

Derrick Bell grew up in a black neighborhood of Pittsburgh known as "The Hill." The oldest of four children, Bell credits his mother for inspiring him to work hard, succeed, and stand ready to challenge unjust authority. He cites conversations with his father for his early training in the white man's world. Both parents insisted that because of racial discrimination, black people had to be twice as good to get half as much. His father, born in Alabama, had been forced to leave as a teenager. Attending a county fair, and snapping a small toy whip, he had angered two white boys who, proclaiming that "no nigger should have a whip," whipped him with a bull whip they were carrying. He later came upon them without the whip and beat up both of them. Fearing for his safety, his family sent him north to stay with relatives in Pittsburgh. There he met Bell's future mother, whose plans for a college education were postponed permanently when the two married in early 1930. Bell was born in November.

After graduating from public high school in 1948 and Duquesne University in Pittsburgh in 1952, Bell served two years in the Air Force, including one in Korea. He returned to his home city to study law at the University of Pittsburgh, earning his degree in 1957. In addition to family support, Bell cites his experience delivering newspapers during his high school years as a key source for his interest in law. Two of his customers were lawyers and a third, the only black judge in western Pennsylvania. Bell was impressed by their lifestyle and valued the encouragement they and their wives provided.

In his class of 120 students, he was the only black, and in the school, only one of three. In those days, the school had no women students of any race. Bell was a determined student, studying long hours, speaking up in class, and earning good grades that won him a position on the school's law review. He published several pieces in his first year on the review, impressing his contemporaries enough that they selected him associate editor in chief.

As graduation loomed, the young Bell's academic credentials carried little weight in his home town, whose leading law firms did not then hire blacks. The few black practitioners were not able to take on a young, inexperienced lawyer, and he had little interest in setting up an office on his own. On the recommendation of a few of his professors, he gained a position in the Honor Graduate Recruitment Program recently established at the United States Department of Justice, where he worked for a year on appeals by men seeking exemption from the draft as conscientious objectors.

Because of his continued interest in racial issues, he obtained a transfer to the newly formed Civil Rights Division in 1958, but his tenure there proved short. After several months, his superiors learned that he was a member of the NAACP. Considering this affiliation to be a conflict of interest, and probably fearful of controversy with southern members of Congress, they demanded that he surrender his two-dollar membership. When he refused, they took him off race cases and assigned him to perform routine work, moving his desk to the hall outside his former office. He took their hint, and muttering a few choice words about *Sweatt v. Painter,* soon resigned.

Returning to Pittsburgh, he obtained a position as executive director of the local branch of the NAACP, a nonlegal position. While working there, he met Thurgood Marshall, then director of the organization's legal arm, the NAACP Legal Defense and Education Fund, when the famous

lawyer visited Pittsburgh on a speaking tour. Marshall knew about Bell's resignation from the Justice Department and, impressed with the young attorney-without-portfolio, offered him a position on his staff. Bell immediately accepted, moved to New York, and soon was working on important civil rights cases with a small but elite cadre of four attorneys: Thurgood Marshall, Constance Baker Motley, Jack Greenberg, and James Nabrit III. It was an ideal position, one he recognized he would have not obtained had he not challenged the Justice Department's conservative personnel policy.

During his years with the fund, 1960–1966, Bell litigated or supervised almost three hundred school desegregation cases throughout the South. During these dangerous and unsettled times, local police officials kept close track of his activities in their towns, and federal judges not only rejected his arguments—although they were based on settled legal principles—but would also turn their backs on him while he was arguing in open court.

Travel was risky, particularly when Bell went to meet with clients in rural areas where the roads were narrow and often unmarked. Even plane flights could be harrowing. On one occasion, a snow storm prevented his plane from landing in Jackson, Mississippi. It landed instead in Memphis and Bell took a late night train that was crowded and unheated. Cold and tired, he tried to call a local attorney to come for him. Unwittingly, he had entered a telephone booth in the whites-only waiting room. White policemen showed up and dragged the young attorney off to jail, where he spent the night.

Bell left the Legal Defense Fund in 1966 but continued his school desegregation work as deputy director of the federal Health, Education, and Welfare Department's Office for Civil Rights. By this time, he had become interested in teaching law, but inquiries to several schools led nowhere. In 1967, Bell agreed to serve as the first executive director of the newly established Western Center on Law and Poverty, a public interest and litigation center sponsored by the University of Southern California Law School in Los Angeles, California. His new position afforded him the opportunity to run a public interest law program as well as to teach civil rights as an adjunct professor at USC.

He moved his family to Los Angeles and settled in for what he thought would be a long stay. Then, the urban rebellions broke out across the country in the wake of Dr. Martin Luther King's assassination in the spring of 1968. Soon, many law schools, along with corporations and

government agencies, recognized the need to add a few blacks to their all-white professional staffs. Bell began receiving urgent expressions of interest from a half-dozen top schools. Following a personal recruitment effort by its then dean, Derek Bok, he agreed to join the Harvard Law faculty in the fall of 1969 with the understanding, as the dean put it, "that he would be the first, but not the last black" they would hire.

Finding His Voice

The next few years were filled with challenges. These included the usual ones a new professor faces. He had to come to terms with teaching and students, earn his colleagues' respect, and write enough to justify his position on the faculty. But his status as the school's first and only black professor added a special dimension. Black students flocked to him, seeking his advice and consolation. White students recognized his interest and willingness to spend time with them. His office was seldom quiet.

He also had to earn the respect of many skeptical white and some black students who wondered—even if they did not say it—if his status as an affirmative action hire meant that he was not as qualified as the other professors. Bell worked hard at his teaching, developing innovative approaches to constitutional law and race courses. Over time, his courses became among the most popular in the curriculum.

The faculty proved more resistant. He and his colleagues differed over many issues, particularly faculty hiring and promotion. They also differed in their background and experiences. Not only were they white and Bell black. Class separated them as well. Bell, unlike many on the Harvard Law faculty, had not come from a well-to-do family, attended a prestigious college and law school, and clerked for a U.S. Supreme Court justice. Few of them considered race and racism, his areas of teaching and scholarship, of significant intellectual value.

Bell's contract provided that, as a senior recruit, he would come up for tenure at the end of his second year. Although he had published a number of essays in law reviews, publication was not a consideration in the tenure decision. Rather, tenure would be based on his teaching and mentoring of students. His civil rights course had gone well, but in response to some black students' concerns about no blacks teaching in the basic curriculum, he had agreed to teach a large first-year criminal law course. Choosing to focus on what he felt were inadequacies in this course, the

chair of the appointments committee counseled him to defer the tenure decision for a year while he strengthened his teaching in that course. After consulting with his wife, Jewel, he decided to ignore this advice and go up for tenure at the agreed time. "After all," she reminded him, "Harvard needs us more than we need Harvard." His wife's grasp of the situation proved accurate. The faculty tenure vote was affirmative and Bell became the first black law professor at the Harvard Law School.

Two years later, Bell published the first edition of his text, *Race, Racism, and American Law.* Its success seemed to lessen rather than increase interest in hiring more blacks. Frustrated, Bell threatened to resign unless the school honored the "first but not last" promise the dean had made to him when he had been hired. A second black man, C. Clyde Ferguson, was appointed, but the dean made it clear that Bell's resignation threat had nothing to do with it.

Bell's activism did not come at the cost of his writing. A few years later he published two law review articles of startling originality that won him widespread attention in the law school world. The first was "Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation," published in *Yale Law Journal* in 1976. Bell had became convinced that the black community did not need—or, in many cases, want—busing, the school desegregation remedy that civil rights lawyers had been pursuing for at least a dozen years. Instead, they wanted better schools. This kind of talk was heresy within the NAACP, which at that time was staunchly committed to enforcing the mandate of *Brown v. Board of Education,* their great legal breakthrough.

Bell sounded what turned out to be one of his signature themes: the conflict of interest inherent in much public interest litigation. American law requires a flesh-and-blood plaintiff, usually an ordinary person, with "standing"—a specific, concrete grievance with a specific actor or defendant. Much public interest litigation, however, is maintained by specialized litigation centers, like the NAACP Legal Defense Fund or the National Organization of Women. These litigators must represent victims of the policies they want to change. The idea is to file a case challenging the unjust policy, determined to take it to the Supreme Court in the hope that it will announce new law.

In all this, the attorney's overarching objective is to change the law. He or she wants to bring about a great breakthrough, one that will move things in the direction the litigation center wants. For example, when feminist attorneys litigated and won the abortion decision, *Roe v. Wade,*

they were as interested in the legal principle of reproductive privacy as the fortunes of the plaintiff, Roe. And when Thurgood Marshall and his colleagues at the NAACP Legal Defense and Education Fund argued *Brown v. Board of Education,* they were as interested in establishing the principle that separate but equal schools violated the Fourteenth Amendment as they were in improving the lives of the specific parents who brought suit and of their children.

What Bell noticed was that in many school desegregation cases, what the black community wants and what the law-reform-bent lawyers want are subtly different. The clients want better schools, while the lawyer wants integrated schools. In the early years after *Brown,* these objectives coincided. Later, they did not. What if desegregating a large school district results in the loss of many jobs by black teachers and administrators? What if the district closes down the black school, which formerly served as a refuge and nerve center for the black community, and buses black school children to hostile white schools located on the other side of town? Can an attorney, in good conscience, advocate for a remedy that his or her law-reform organization believes is best but that the client community does not really want or need? Or must he or she be guided exclusively by the client's interest, and, if so, how does one go about ascertaining what that interest is?

While the legal community was considering those issues, Bell published a second article a few years later in the pages of the *Harvard Law Review.* Entitled "*Brown v. Board of Education* and the Interest Convergence Dilemma," this second article explored a further aspect of that famous case, namely, its place in history and what brought it about. Bell began by asking why the Supreme Court decided the famous case when it did. After all, Bell's old organization, the NAACP Legal Defense Fund, had been arguing school desegregation cases for decades and had been either losing or winning only narrow, incremental victories. Yet, in 1954, the Court declared that in pupil assignment cases, separate is never equal.

What caused the Court to take this audacious step just then? Most Americans, indeed most lawyers, probably thought that American society had finally achieved a moral breakthrough and realized that separation was demeaning and harmful to black school children. The Court merely followed suit. Bell's answer—that international appearances and the self-interest of elite whites dictated that blacks receive a spectacular breakthrough—provoked cries of outrage and condemnation as being too cynical.

Still, it rang true for many of his readers and constituted an early, and impressive, statement of a key critical theme—revisionist history. It also may have opened a breach between Bell and many conventional liberals in the law school world. After his first major article in *Yale Law Journal* came out, discussing the conflict of interest between lawyer and client in public interest litigation, Bell recounts how Paul Bator, a famous colleague, made a trip to his office. Bator told Bell that he had read the article and had come by to congratulate him. "This is really good," he said. Few of his colleagues reacted that way to his realist demotion of *Brown v. Board of Education,* a mainstream of liberal jurisprudence and a crown jewel of American legal thought.

A New Challenge: University Administration and Politics

Soon after publication of the Harvard article, Bell's life took a different turn. During a sabbatical year teaching at the University of Washington Law School in Seattle, he received an invitation from Eugene Scoles, a former dean at the University of Oregon Law School, to come to Eugene for a visit and perhaps put his hat in the ring for the deanship there. Bell liked Eugene and the school, and with the reluctant approval of his wife and three now teenage children, he decided to apply for and was named to the position.

Life in Eugene proved eventful and full of new challenges. Bell had to learn how to conduct faculty meetings, decide upon pay raises for the faculty, raise funds from alumni and wealthy patrons, and deal with the usual range of student complaints. He seems to have been a successful, if somewhat unconventional, dean. Despite an administrative style that featured an emphasis on teaching and increasing student and faculty diversity, he lasted five years, considerably longer than the average. In particular, he seems to have been a better fundraiser than anyone expected.

The many demands of a dean's life did, however, require putting aside his scholarship. For the first few years, he wrote little, none of it pathbreaking. Then, one day the telephone rang. It was the president of the *Harvard Law Review,* inviting him to compose the prestigious annual Foreword to the 1984 Supreme Court issue. His draft was due in a matter of months and could deal with any issue having to do with recent Supreme Court developments.

Such an honor comes rarely to a legal scholar. Bell, wondering where he would find the time, finally agreed and then began casting about for a novel approach and a focus. All the previous Forewords featured the predictable cases-and-policies format that identified various emerging or implicit models in Supreme Court jurisprudence and weighed in on the side of the author's favorite. Bell hit upon the idea of using legal storytelling, discussing legal problems and issues in the form of dialogues between himself and a fictional super-lawyer, Geneva Crenshaw, who had known Bell in their former lives when they had practiced law at the NAACP Legal Defense Fund, but whose life since that time had taken a dramatic turn. The two old friends discuss racial remedies, the search for justice, affirmative action, and many other topics—all in the pages of *Harvard Law Review.* Bell later turned the format of his fictional chronicles into a series of books, one of which, *Faces at the Bottom of the Well,* briefly made it onto the *New York Times* bestseller list.

Bell resigned his position as dean when he and his faculty found themselves in fundamental disagreement over the hiring of a young Asian American teaching candidate, whom the appointments committee had listed third in a list of over one hundred candidates for an open teaching position. When the top two candidates declined, instead of offering the position to the Asian woman, the committee convinced a majority of faculty to reopen the search. Knowing she was fully qualified and convinced that hiring the school's first Asian American law professor was the right thing to do, Bell announced his resignation effective at the end of the school year.

Paradoxically, Bell's Supreme Court Foreword had just come out, so his academic star had never shone more brightly. His wife, Jewel, who had taken a position heading a University of Oregon academic support program for minority students, wanted another year to continue her work. To accommodate her wish, Bell remained in Eugene but accepted an invitation to deliver a series of lectures at other law schools around the country. Then John Ely, a former colleague at Harvard serving as dean at Stanford Law School, invited Bell to visit and teach constitutional law there for the spring semester.

Bell had taught the subject at Harvard and was both an accomplished teacher and a well-known scholar in that field, so the assignment seemed like a good idea. His wife could wind up her work and the children could complete the school year in Eugene. Bell rented a room in the home of a

Stanford Law School administrator and commuted many weekends back to Eugene.

When school started, Bell found himself in front of a class of new students. At Stanford, Constitutional Law is a required first-year course to which students are assigned. Of three sections, two were taught by members of the regular faculty. As he had done at Harvard, he used a standard casebook but emphasized that to understand the Constitution, one had to keep in mind that the Framers were men of wealth with investments in land, slaves, manufacturing, and shipping. The document they fashioned served their primary interest in protecting vested property. When students suggested that he was being too hard on the Framers, he referred them to the classic work of Charles Beard, *The Economic Interpretation of the Constitution.* The students were unfamiliar with Beard and uncomfortable with any criticism of the country's origins, particularly from this unknown visitor from Oregon.

After a few weeks, Bell noticed that a number of students were not attending his class. Then he received an invitation from a student group inviting him to join other faculty members in a series of enrichment lectures about current constitutional issues. Asked to speak on race, Bell readily agreed, considering it an indication of his acceptance in his new community, and set about preparing his speech. His happiness turned to chagrin a little later when a delegation of black law students visited him to warn him that the lecture series was actually designed by a faculty member who, without discussing it with him, accepted student complaints that Bell was teaching them constitutional law in a strange and unconventional way. The lecture series, in short, was aimed at rectifying his own perceived weaknesses as an instructor.

The black students wanted to protest the series and Bell urged them to do so, promising to express his outrage with the dean. When at the start of the first lecture the black students condemned the series as racist, the lecturer refused to go on and the series was promptly canceled. In addition, Bell learned that in clear violation of school rules, the other two constitutional law teachers had permitted his students to sit in on their classes. The faculty member who had set up the lecture later apologized to Bell, explaining that every teacher loses a class from time to time, and he was just trying to ensure that Bell's students would not miss out on the basics of this important course.

Bell explained that every black teacher potentially loses the class when he or she walks in and students see an unfamiliar black face. The chal-

lenge is to prove that competent teaching can come in all colors, and the lecture series as well as other faculty who had allowed his students to attend their classes had interfered with Bell's effort to do just that.

Dean Ely apologized and urged Bell to forget the incident. After pondering this advice, Bell resolved instead to make an issue of it. In a long column entitled "The Price and Pain of Racial Remedies," published in *The Stanford Lawyer,* Bell described the incident and challenged the Stanford community to reflect on what it meant about themselves and the school's racial climate. In addition, with the help of a few friends teaching at other law schools, he prepared and mailed letters detailing the incident to law school deans across the country, urging that to avoid similar situations that could destroy a young, inexperienced teacher, they schedule the matter for discussion at their faculty meetings.

After responding at first defensively, Stanford took Bell's challenge to heart, holding a series of town hall meetings to discuss the institution's own receptiveness to innovative teaching, racial minorities, and diverse viewpoints. The self-searching continued well after Bell left Stanford.

Over the years of his deanship, Harvard had made it clear that he would be welcome to return there. Hoping that his academic achievements would provide him with a status that had eluded him during his earlier time at Harvard, he decided to do so.

Back at his old school, Bell resumed his teaching, writing, and advocacy on racial issues. By then, three additional black men were teaching at Harvard Law School, but no woman of color. Prompted by women students of color, Bell reluctantly came to agree with their position that a black man, like him, or a white woman, like those few on the Harvard faculty, could not fully understand the pressures women of color faced in law school and would encounter in practice. The school needed law professors who could both serve as role models for minority women and provide unique perspectives to the law school community at large.

Bell, who had championed the cause of minority hiring both at Harvard and at Oregon, began assisting a group of progressive students urging Harvard to hire its first woman professor of color. He refused to accept his faculty colleagues' usual excuses: "The pool is so small." "All the good ones have a myriad of opportunities, some paying much more than we can offer." "We may have to wait a while until really good ones come along—you don't want us to sacrifice quality, do you? How fair would that be for the students, white or black?"

Tenured professors from other law schools often received invitations to spend a semester or a year in what are referred to as "look-see" visits, trial periods during which the Harvard faculty could interact with them and see if they measured up. During the 1989–90 school year, a black woman from a top school came for one of these visits. Bell felt she had brought all the qualities that had prompted the years-long effort. The faculty disagreed. The student advocates were disappointed; Bell, disgusted. With the school year drawing to a close, he announced that he would take an unpaid leave of absence until Harvard Law School hired its first woman of color.

His decision did not come lightly. His wife, Jewel, his major support for thirty years, was seriously ill with breast cancer. She did not oppose this latest action, but wondered why he was always the one who took risks to protest what he considered racial injustices. Bell, devastated by her death three months later, remained determined to see his battle through.

For the next year, Bell supported his children and himself with lectures, book royalties, and consultancies. He then sought and obtained a second year of leave, but the school warned him about a university rule limiting tenured members of the faculty to two consecutive years of absence. During that year, John Sexton, a former student who had taken Bell's class years earlier while a Harvard law student, got in touch with Bell. Now dean at New York University Law School, Sexton offered Bell a visiting position at the school, which he accepted.

A year later, his situation still unresolved with no woman of color appointed, Bell asked Harvard for a further extension. The answer came back quickly: denied. Bell's appeals were unsuccessful. Sexton offered to request his faculty to vote Bell a tenured appointment. Bell declined, but indicated his willingness to teach on a year-to-year basis. Sexton worked out the details, referring to Bell as the Walter Alston of legal academe. (Alston had managed the Brooklyn and later the Los Angeles Dodgers for twenty years, never receiving more than a one-year contract.) Bell is now working on his fourteenth year of one-year contracts.

New York University turned out to be a good home for Bell. He continues to be popular with the students, who flock to his courses. He developed what he calls a participatory teaching method that enables students to learn by doing, as they would in a clinical course, and by teaching one another. In addition to his demanding teaching schedule and

several lectures at other schools, Bell has completed nearly a book a year in his period at NYU, an extraordinary pace for a law professor, young or old.

As a permanent visitor, Bell does not attend faculty meetings or participate in faculty governance—which, he ruefully admits, helps keep him out of trouble. When he turned sixty-five, his second wife, Janet, whom he married in 1992, raised money to establish an annual Derrick Bell Lecture. Attended by a huge and growing crowd of former students and current friends, the Bell Lecture features an invited speaker discussing Bell's work in the context of current developments in race law. He rides the subway to the law school on the days he teaches but does most of his writing at home. Now in his mid-seventies, Bell has no plans to retire and will continue teaching and writing as long as his health permits.

Major Themes in Bell's Writing

Easily among the most productive and innovative legal scholars of his generation, Bell has pioneered at least three areas of scholarship: critical race theory, narrative scholarship, and economic-determinist analysis of racial history. In the law school world, he has few peers. In the world of public affairs, he stands with Cornel West and his former students Charles Ogletree and Patricia Williams. As a teacher and innovator of classroom methods, he stands alone.

A great many young scholars view him as a model, but he himself seems to have had no academic mentor who shepherded his early career. Even William Hastie discouraged him from entering the civil rights field on the theory that *Brown v. Board of Education* had solved everything. His inspiration is W. E. B. Du Bois, a black genius who wrote prodigiously and whose views on race and American society brought rejection by black leaders and harassment by the government. Judge Robert L. Carter is a life mentor, admired for his many accomplishments in law and his willingness to recognize new developments and reassess even strongly held earlier views.

This book is divided into fifteen chapters, each corresponding to a theme or emphasis in Bell's writing. The excerpts cover a wide range of topics, from revisionist history and interest convergence to school desegregation

and black nationalism. Some are written in elegant expository prose; others, in the narrative form for which Bell is famous.

Each section opens with a short introduction by the editors, describing the material to follow and placing it in the context of Bell's thought. Most of the excerpts contain very few footnotes; the reader seeking the full versions is encouraged to consult them at any major law library or bookstore.

This volume collects works of Bell that we considered either exemplary —his best work—or illustrative. Bell has written over one hundred articles and ten books. Accordingly, we were forced to make some hard choices and left out some very good material. A bibliography at the end of the book contains a list of his works, as well as information regarding the Derrick Bell Archive at the NYU Bobst Library.

[Eds. The actual letter Bell wrote, announcing his intention to take an unpaid leave as a protest against his school's refusal to hire its first black woman law professor, appears in chapter 6, this volume.]