

OPENING REMARKS[†]

RICHARD GERSHON*

Good morning and welcome to the University of Mississippi School of Law. My name is Richard Gershon and it is my honor as dean of the law school to welcome you this morning. I am really happy to be here with you this morning. I understand the importance of this conference and what it means not only to the State of Mississippi and to the university, but to all of us. The subjects discussed here today are very important.

I want to thank the American Bar Association Section of Environment, Energy, and Resources for allowing our law school to host this important conference. We cannot thank them enough. This is the perfect year for the University of Mississippi School of Law to host this conference. First of all, the law school recently moved into this beautiful, Leadership in Energy and Environmental Design certified building of which we are very proud. The university has undertaken a green initiative and is stepping up its efforts to take leadership in environment and energy, and we are proud of that. Second, our second-year law student April Hendricks Killcreas's paper won first place in the ABA-SEER Environmental Justice Student Writing Competition held in conjunction with this symposium. Additionally, I am really proud of my colleagues David Case and Stephanie Showalter who coached the law school's moot court team that won first place this year at the twenty-third annual Pace National Environmental Law Moot Court Competition in White Plains, New York. *Storm King*, the original painting, which is the traveling trophy that resides with the current champion of the Pace National Environmental Law Moot Court Competition, is now hanging proudly outside the law school's moot court room. We could not be

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prouder of what the law school's environmental moot court team accomplished this year.

It is now my pleasure to introduce Steven McKinney from Balch & Bingham in Birmingham. As you are aware, Steven is the chair of ABA-SEER, and, again, we are so grateful to the section for bringing this conference to our school today. Thank you, Steven.

STEVEN G. MCKINNEY*

Thank you. I am Steven McKinney, and I am the chair of the American Bar Association Section of Environment, Energy, and Resources. It is my distinct privilege and a matter of personal pride to welcome you to this American Bar Association Symposium on U.S. Environmental Justice and the Law.

Before we talk about the purpose of this symposium and the opportunity before us today, there are people who have committed themselves to this important event in such a way that without them it would not have happened. Chancellor Dan Jones of the University of Mississippi immediately placed his full support behind this symposium the moment it was proposed. The university community has been a committed partner in this event from the beginning. Dean Gershon of the University of Mississippi School of Law, who came to Ole Miss after we began the project, joined in this adventure with enthusiasm and has provided the full support of this great law school. And Professor David Case right here at the Ole Miss law school gave many, many hours of detailed support in the planning and the execution of those plans from the beginning, even until this morning. I want to say thank you to Ole Miss for working with us on this important conference.

Our section set out to conduct this symposium in a somewhat unique way in recognition of the somewhat unique nature of our subject. One goal from the beginning, which we have achieved, was to encourage widespread participation without cost to the participants. To do that, we needed sponsors who believed in the value of a meaningful dialogue on environmental justice and were willing to provide financial support to see it happen. On behalf of the entire American Bar Association, let me express our appreciation to the Chevron Corporation and to 3G Services, Inc. for their gracious sponsorship of this symposium. I also want to thank a number of our colleagues and their law firms who stepped up with financial support to help make this happen. They are Bergeson & Campbell; Beveridge & Diamond; Brunini, Grantham, Grower & Hewes; Crowell & Moring; Phelps Dunbar; Sidley

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Austin; Stites & Harbison; and a little firm called Balch & Bingham.

Finally, I must thank our planning committee—James McDonald, Tara Duhy, David Case, and, in particular, John Milner and Alex Dunn—who provided incredible leadership for this event. These folks did it all and have done it all since I charged them with this mission almost a year ago. Countless conference calls went into the planning of this event, and thankfully, I was not on most of them, for which I am really grateful. Alex and John, in particular, I thank you for the leadership you have shown in making this symposium a reality.

Another goal we had was to truly and actually engage with law students, and, as the dean has mentioned already, we had a writing competition on the subject of environmental justice, and after this panel, we are going to give awards to the students who won the competition. We are really excited about the involvement of students in this symposium.

So, why discuss environmental justice? Environmental justice has been a significant issue in our country for a long time, even before lawyers started talking about it. The fundamental issues are questions of fairness and equity in the quality of the environment relied upon by people of all kinds for life and happiness. Issues of such an important nature must be examined. But these issues quickly translate to questions of legal substance, legal procedure, and the application and impact of legal practices and processes long thought to be merely routine and, by nature, benign. Lawyers need to know about these issues if they are to be reliable guides in the increasingly complex system of environmental laws and regulations. And all people need to have the opportunity to talk about these issues if that system is to be regarded as worthy of respect and capable of guiding our system, our society.

So why is the Section of Environment, Energy, and Resources interested in the subject of environmental justice? Our section has a long-standing reputation for serious and even-handed examinations of legal issues in our chosen fields, even sensitive legal issues. In fact, there is no organization better suited to help produce that meaningful discussion and conduct that balanced examination on difficult issues of environmental law and policy

than this Section of Environment, Energy, and Resources in the American Bar Association. Our stated mission as a section is to be the premier forum for strategies and information for lawyers practicing environment, energy, and resources law. That mission includes a strong commitment to public service through information and dialogue on issues of law and policy. That mission cannot be accomplished without extending yourself, without investing yourself, without leadership that has the potential to be of service to the profession and to the public.

Why have this dialogue here at Ole Miss? Our purpose is to conduct a genuine and thoughtful symposium on environmental justice. ABA-SEER needed a partner committed to the importance of the subject and capable of adding substance and the gravity of earnest inquiry to the dialogue. Ole Miss is a place where the most serious issues of race and reconciliation have played out in real and lasting ways. With the law school's reputation for intensive legal scholarship and focused academic effort, Ole Miss provided the perfect place, time, and context for this dialogue. The enthusiastic support of the chancellor of the university, the dean of the law school, the faculty, and the students has made the symposium not only possible, but clearly meaningful and capable of lasting impact.

On behalf of our section, I am completely satisfied that we are right where we should be, doing exactly what we should be doing, and we are delighted and very proud that all of you have chosen to join us in this humble effort to advance our common understanding of this important issue. Thank you very much for being here. We look forward to what you have to say and to the entire discussion. Now it is my privilege to turn your attention to Susan Glisson, the director of the William Winter Institute for Racial Reconciliation here at the university.

DR. SUSAN GLISSON*

Thank you. Good morning. It is a great honor for the William Winter Institute for Racial Reconciliation, which I have the privilege of directing, to be a part of this symposium. We are incredibly grateful that you have decided to be here to engage in honest and open conversations that are necessary to making the world a better place.

I want to tell you a little bit about the Winter Institute. We actually began here in these kinds of honest and difficult conversations. In 1998, the University of Mississippi hosted the only Deep South public forum for President Clinton's Initiative on Race. We gathered together about 160 people in ten different dialogue groups who met every week for six weeks to talk about how race might intersect with business, the arts, education, housing, healthcare, and religion. The environment was also included among the topics. And I must tell you that the most contentious dialogue group that existed was the environmental group. It was an interracial group. Its members were supposed to work together to identify some issues that they would prioritize in terms of importance and then lift those up to President Clinton's advisory board that was chaired by the esteemed historian John Hope Franklin, who would come to hear the reports of these dialogue groups. The environmental group could not come to consensus. The African American members of the community were concerned about a local black neighborhood that did not have potable water, and the white members of the environmental group were concerned about the potential destruction of a forest just north of town. They could not reach agreement about that issue. And it became so contentious that the night before Dr. Franklin and Governor Winter and others on that advisory board were supposed to fly in for this major event, the African American gentleman who had been elected to represent that group decided to resign because he did not want to be a part of the panel if it could not come to consensus and include the issues that black voices had lifted up.

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It was a learning experience, a painful one, and issues like race and the environment or issues like race and any other issue that it intersects with often require more time than we typically give them. So it is important to be able to stop and take the time to examine the issues carefully, and thoughtfully, in safe spaces where we can be honest and open and truthful. We have been learning that it is important to build a bridge of trust that is strong enough to bear the weight of the truth that we have to tell. And that is what we are hoping to do at the William Winter Institute for Racial Reconciliation, and we are so glad to be in partnership with our colleagues on campus who are engaged in those kinds of conversations. So I encourage you, I applaud you for what you are doing. Please let us know how we can be of assistance as we go forward together. Thank you.

TRUDY FISHER*

Thank you Steve. Good morning. I am Trudy Fisher, director of the Mississippi Department of Environmental Quality. For our out-of-state guests, please indulge me just a moment. Dean Gershon and Steve, thank you for hosting this symposium at Ole Miss. As you might expect, in our department we have many wonderful engineers from another university in our state, Mississippi State University, but as an alumnus of Ole Miss, I want to say that it is wonderful for this symposium to showcase *The University of Mississippi*. Susan, I appreciate your comments and obviously, you and I did not talk before this morning, and as I look at my notes and your comments, you would think we had collaborated and it is obvious that we have both been through the fire.

When we were invited, and when John Milner first approached me about the participation of MDEQ in this event, I was thinking what a wonderful opportunity this symposium represented, and I hoped this event would allow an open dialogue and a safe place within which to have it. I hope this symposium will be a forum for discussion so we can talk about these issues and move forward on protecting the environment for everyone and on issues of environmental justice in Mississippi and in all states.

People do not really care what you know until they know you care. They really do not. And as lawyers, scientists, engineers, and technicians we are really great at talking about the law and we are great at communicating what the science says. The difficult part in all of this is communicating the caring part. This involves the people part, the human part of protecting the environment, and human health. Of course, ultimately, science should prevail, the data should always prevail, the law should prevail, but we have got to recognize the human element as we talk about science and law in symposiums. We can talk about the science and law all day long but we must recognize that, for this issue, science and law are resting on a huge reservoir of trust. And until we make sure that reservoir of trust is there, then the environmental justice discussion is not going to move forward and we are going to

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keep having difficult discussions. Later on in the day, we are going to have opportunities to talk about success stories, and success stories have happened where we have filled that reservoir with trust, and where it is not filled with trust, we did not make progress.

Today is an opportunity for us to build new relationships, to continue to strengthen existing relationships, and to continue to fill that reservoir with trust so that we can all talk about the science, so we can all talk about the law. Because every time that we get into discussions about environmental justice, ninety-nine percent of the time everyone at the table has the same goal. But it is how we accomplish those goals that seem to make things run askew and it really comes down to relationships and trust. One of the things that I am looking forward to today is hearing input from others on your insights on how to establish trust, how do you rebuild trust, how things work in other states, and to learn from others. We are so happy to be here and look forward to being a part of this discussion throughout the day.