

# The Citizen/Lawyer of the Past, Present and Hopefully, the Future

by the Honorable Dennis W. Dohnal

*The following are remarks made by the Hon. Dennis W. Dohnal, Magistrate Judge, U.S. District Court for the Eastern District of Virginia, at the VSB Pro Bono award ceremony at the University of Richmond School of Law on May 12, 2005.*

The theme of my remarks is the role of the citizen/lawyer in our society—past, present, and, I hope, in the future. I confess from the outset that I will be borrowing heavily from other sources, including the remarks of Dean W. Taylor Reveley III of the Marshall-Wythe School of Law at the College of William & Mary. Please remember that ours is the only profession in which plagiarism is referred to as research.

As to the citizen/lawyer of the past, it never ceases to amaze me to consider that crazy bunch of renegades—that band of brothers—who literally invented a new order, a fundamentally different form of representative government that distinguished our society at the time, if not still in certain respects, from all others throughout time. Of course, it would have been better if they had also enlisted the help of a band of sisters, for the task probably would have been done quicker and in neater fashion. In any event, how did all that come about, culminating in the passage of the Constitution and its attendant Bill of Rights? Was it just a unique set of circumstances that converged and matured at just an opportune time? Was it just a group of unusually bright individuals who decided to train in the law and happened to make each others' acquaintance at some point?

To be sure, they were all that, and then some. Indeed, over one-half of the signers of the Declaration of Independence were lawyers. Thirty-one of the fifty-five geniuses who gathered in Philadelphia in 1787 and formulated the Constitution were trained in the law. But it wasn't just because of the specialized training that they

had received that produced such results. There was much more to the picture.

The very concept that they espoused and lived—that of the citizen/lawyer—was at the center of all that happened in those formative years. It was a concept that first emanated from near here, with George Wythe, Thomas Jefferson and “the rest of the gang.” The concept of the citizen/lawyer was the very basis of Jefferson's urging of the Board of Visitors of William & Mary when he was governor of Virginia to create a law school away from the then-traditional apprentice model of the not-so-merry old England. To quote from a lecture given recently by Dean Reveley:

Jefferson wanted law students at William & Mary to learn not simply how to be skilled practitioners of law, but also how to be leaders for the common good at the community, state and national levels; Jefferson wanted William & Mary law students imbued with a sense of responsibility to lead for the common good, recognizing the comparative advantages that lawyers have for such leadership and the importance of law in American society.

So what was this new concept of citizen/lawyer? The citizen/lawyer (or lawyer statesman, as it is sometimes called) was one who was possessed of practical wisdom and persuasive powers. He was devoted to the public good while being keenly aware of human frailties as well as political realities—what should be done, what could be done, what might be done in time. Significantly, the concept of

citizen/lawyer was nurtured and promoted by a web of reinforcing professional attitudes and expectations. It was so important to our experiment in self-government that the citizen/lawyer assumed the role of leadership for all and that continued for some time to come. Over 70 percent of our presidents, vice presidents and cabinet members have been lawyers. Ours is the only profession with its own permanent cabinet position—that of attorney general. Ours is the only profession with its own separate and equal (at least for the present) branch of government—the judiciary.

What has happened over time if the citizen/lawyer was so central to our profession and our society? Why is the legal profession so ridiculed, if not despised? What other profession has so many jokes about it (have any of you heard any good CPA jokes lately)? I don't mean to suggest that it is anything new. Even Shakespeare couldn't persuade the masses—at least the uninformed ones. Remember the phrase from the play: “First, kill the lawyers!” In fact, the Shakespearian aficionados tell us that it was a compliment meaning that the lawyers would be able to perceive the treachery first and therefore must be silenced.

Of course, there are practical reasons why we are the brunt and butt of such disdain. Consider that ours is the only profession based on conflict and adversity. If a client comes to you without a conflict or serious issue of concern, it is our job, or at least in our best interest, to create one. Remember, too, that we only see clients during what they surely think to be the worst times in

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Judge Dennis W. Dohnal delivering his remarks at the VSB Lewis F. Powell Jr. and Oliver White Hill Pro Bono award ceremony. Seated (l-r) were Linda M. Boykin, co-vice chair, VSB Access Committee; VSB President David P. Bobzien; Law Student Pro Bono Award winner Amandeep Singh Sidhu; and Powell Award winner Joseph W. Gorrell.



Ann Gorrell congratulates her husband Joseph W. "Joe" Gorrell (center) of Fredericksburg for his receipt of the 2005 Lewis F. Powell Jr. Pro Bono Award. Joining them is Donald F. Mela of Alexandria—recipient of the 1997 Powell Award. Recipients were acknowledged for their extraordinary contributions to low-income clients served by Rappahannock Legal Services and Legal Services of Northern Virginia, legal aid programs licensed by the Virginia State Bar. The award ceremony and reception were held May 12 at the University of Richmond School of Law.



At the awards ceremony were the winner of the 2005 Oliver White Hill Law Student Pro Bono Award winner Amandeep Singh Sidhu (center) and two prior Hill Award recipients, Réco A. Thomas (right) and Angela A. Cioffi.

their lives, including the business entity in the throes of some economic crisis. But this concept of the citizen/lawyer has seemingly lost its power to inspire. It had a ring to it for quite awhile, but the concept seems to have shifted, lost focus.

Sure, there are still a few around and, indeed, we are blessed with the presence of two this very day in the persons of our award recipients. But such fine examples of the best of our profession no longer appear to command the continuing attention and respect of the whole profession, let alone those outside our ranks. The emphasis appears to be on the practical, immediate reward of self-satisfaction. Ah, “self,” the common prefix—be it self-indulgence, self-aggrandizement, but certainly not self-deprecation.

Times have changed dramatically since those early years for any number of reasons, some more obvious than others. Most notably, perhaps, is that we have been accelerated into the information age, thanks, of course, to Al Gore who invented the Internet.

But, is there any room left—let alone time—to resuscitate the concept of the citizen/lawyer? To motivate others, if not refocus the profession on the values that are exemplified by our two award recipients? I say yes, and so, let me suggest the essence of the citizen/lawyer for tomorrow and beyond—the citizen/lawyer for all time, be it yesterday, today or tomorrow.

The citizen/lawyer cares about the public good and is prepared to sacrifice self-worth, at least in a sense of placing one’s private objectives behind those of others. Enough of this “me first” stuff! But there must be more—an ability to marshal the talent and ability to espouse those very ideals. It requires a talent for discovering where the public good lies or where it should be found. A citizen/lawyer, for example, does not simply prepare the way for achieving objectives that others have already set; at the very least, if the goal is worthy and appropriate, the citizen/lawyer assists the traveler in reaching a better,

fuller understanding of the objective’s worth as the best among various alternatives so that achievement is even more meaningful.

A citizen/lawyer must have the temperament to go along with the talent. Just as you seldom, if ever, see the sports official change a call or ruling in the face of a raging player or coach, so must the citizen/lawyer pick his arena and method of delivery, remembering that there should be no pride of authorship in the sense of demanding credit for a job well done as long as the goal is reached; remembering, as well, that success is more palpable and meaningful when those directly impacted have the sense of self-achievement.

Being a citizen/lawyer means that one is a devoted citizen who understands and appreciates our good fortune in being able to select our own leaders, to be judged by our peers in the most important issues of our lives and times. Being a citizen/lawyer means that although we are governed and directed by the will of the majority, where, by definition, the extreme left or right is just that—outside the mainstream—the fact of the matter is that the citizen/lawyer understands that the median is defined in part by those parameters as well. Simply put, there is room for everyone and, again, by way of example, the citizen/lawyer respects everyone’s right to worship whatever higher authority they may sincerely believe in. A citizen/lawyer does not think he or she is better than another—other than having a better opportunity by whatever circumstance to be part of a profession that has the capacity, if not the mission, to communicate the same sense of community to all regardless of their circumstance of race, religion, gender, age or national origin.

In the end, a citizen/lawyer is a person of not only impeccable character, but a virtuous one as well, an individual to be admired for those strengths that others lack, an individual whose opinion and efforts are admired and accepted more because of who he or she is as much as what they may know.

So what can one do? Should we all join a legal aid office or go into public service? I suggest not, because it isn’t so much what you do in the profession. It’s how you do it. Practice our profession with integrity and civility, mentor others by setting an aspiring example, by saying no when that is the right answer regardless of the pressures of the issue or the moment. Espouse what I call the Golden Rule of professionalism and life, the common thread of all true religions and our society—that you treat others as you would be treated yourself.

Yes, the citizen/lawyer will find time as well to donate those talents that he or she possesses to those who will reap a benefit far beyond whatever momentary satisfaction you may have achieved by using the same effort elsewhere. Above all, remember that being a lawyer in a society based on and defined by the rule of law, as is ours, is not simply something to do—it is something to do that matters, and it is therefore something worth doing well.

I began by reference to the Founding Fathers, let me conclude likewise by quoting a late citizen/lawyer, the Honorable Robert R. Merhige Jr., who opined as follows in an op-ed piece in 2000:

In this country, every day is a special day of celebration and appreciation of the dedication and brilliance of our Founders whose foresight afforded us so much. The privileges and liberties that most of us enjoy, however, are not to be taken for granted and require not only an appreciation of them, but affirmative action to protect the principles of equality and justice under the law that came about from the dedicated efforts of individuals of great vision who saw to the incorporation of those rights and privileges in our Bill of Rights. They require constant appreciation and vigilance. Though they regrettably have not come to all of our people; they are coming to near-fruit by virtue of the courage and farsightedness of men and women of brilliance and belief.

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Let's conclude by rededicating ourselves to carry on that mission—to rekindle that concept of citizen/lawyer that served our profession, our country and our fellow human beings so well for so long. ☺

## LSNV Names Carrico Award Winners

Legal Services of Northern Virginia announced the winners of its annual Harry L. Carrico Pro Bono Awards, which were presented at a reception on June 1, 2005, at the George Mason School of Law in Arlington.

The award is given to attorneys and others who have made significant contributions to the provision of pro bono legal services to area residents of limited means. Senior Justice Harry L. Carrico, former Chief Justice of the Supreme Court of Virginia, for whom the award was named, presented the awards. Johanna L. Fitzpatrick, Chief Judge of the Court of Appeals of Virginia, introduced Carrico.

This year's winners were George E. Tuttle, Jr. of Alexandria; Charles G. Flinn of Arlington; Karen A. Leiser of Fairfax; Bernadette R. O'Reilly of Loudoun; Barbara M. Stough of Prince William; and Nancy Pickover and Mario Rodriguez, both of Falls Church.

## Indigent Criminal Defense Training

The first Indigent Criminal Defense Seminar drew on leading defense attorneys in Virginia and nationally to present a program that focused on high-tech evidence such as DNA. Three hundred fifty attended at the Richmond Convention Center and another one hundred watching its live showing on screens in Abingdon.

The seminar, sponsored May 20 by the Virginia Chief Justice and the Supreme Court of Virginia, with support from the Virginia State Bar, was for experienced public defenders and criminal defense lawyers who take court-appointed cases. The lawyers were not charged for the program.

The conference grew out of Chief Justice Leroy R. Hassell Sr.'s concern over inadequate fees and resources provided to court-appointed lawyers in Virginia. He told the attendees that the United States has the best justice system in the world, "but our system remains imperfect . . . Without your participation, we would be in bigger trouble."



Above: Virginia State Bar President-elect Phillip V. Anderson (l) and Judge Elizabeth A. McClanahan, of the Virginia Court of Appeals, at the Indigent Criminal Defense Training Seminar that was concurrently shown in Abingdon, Virginia.

Right: Among the experts speaking at the Richmond Convention Center on May 20 was Stephen B. Bright, director of the Southern Center for Human Rights.





## Williams Mullen Is First Designated Sponsor of VLF Public Service Internship Program

The Virginia Law Foundation announces that Williams Mullen law firm has become the first designated sponsor of the foundation's Public Service Internship Program, by sponsoring an internship at the University of Virginia School of Law each year for the next five years. The internship will be known as the Williams Mullen VLF Public Service Internship. The 2005 recipient of the Williams Mullen VLF Public Service Internship is Clermont Lee Fraser who is working at the Legal Aid Justice Center in Charlottesville.

"Public service is a vital aspect of our profession," said Julious P. Smith, Jr.,

Chairman and CEO of Williams Mullen. "It's critical that the best and brightest students with an interest in public service be given the opportunity to be exposed to its different facets. These internships make that happen."

Founded in 1974 as the charitable arm of Virginia's legal profession, the Virginia Law Foundation provides grant support to law-related projects throughout Virginia. Since 1989, its public service internship program has enabled over 325 selected law students to work at an approved public service employer in Virginia during their summer break.

Through this process, students gain valuable insights into the challenges and rewards of pursuing a career in public service law.

For more information about sponsoring an internship at any of Virginia's seven American Bar Association-accredited law schools, please contact Sharon Tatum, Executive Director, Virginia Law Foundation, 700 East Main Street, Suite 1501, Richmond, VA 23219, or phone (804) 648-0112.

## NAACP Honors Oliver W. Hill with 90th Spingarn Medal

The National Association for the Advancement of Colored People (NAACP) Board of Directors named lawyer Oliver W. Hill as the ninetieth recipient of the Spingarn Medal, the NAACP's highest honor. Hill will receive the award during the ninety-sixth NAACP National Convention in Milwaukee, Wisconsin, in July.

Julian Bond, chair, NAACP board of directors, said: "Oliver Hill is a giant in civil rights law—for years, he was the Virginia civil rights lawyer, risking life and limb to defend civil rights in hostile circumstances. As the lawyer for the Virginia cases that became *Brown v. Board of Education*, his legal skills and dogged persistence won the landmark civil rights case of the Twentieth Century."

Hill retired from his law practice in 1998, at the age of 91. He currently resides in Richmond and continues to speak to stu-

dents and others about his legal career and history of activism.

The Spingarn Award, first presented in 1915 by NAACP Chairman Joel E. Spingarn, is designed to highlight distinguished merit and achievement among African Americans. Previous Spingarn winners include Oprah Winfrey, Vernon Jordan, Earl G. Graves Sr., former Virginia Governor L. Douglas Wilder, Dr. Martin Luther King Jr., William H. Cosby Jr., Rosa Parks, Leontyne Price, Maya Angelou, General Colin Powell, Edward "Duke" Ellington, Carl T. Rowan, Alex Haley, Jacob Lawrence, Henry "Hank" Aaron, and Myrlie Evers-Williams, chair emeritus of the NAACP Board of Directors.

### Free and Low-Cost Pro Bono Training



Visit the Pro Bono page on the VSB Web site for free and low-cost pro bono trainings and volunteer opportunities:

[www.vsb.org/probono/](http://www.vsb.org/probono/)

If you have moved or changed your address, please see the VSB Membership Department's page on the Web for an **address update form** at [www.vsb.org/membership/](http://www.vsb.org/membership/).

## Fredericksburg's William L. Botts III Wins Virginia State Bar's 2005 Legal Aid Award

William L. Botts III, executive director and chief counsel of Rappahannock Legal Services Inc. in Fredericksburg, is the 2005 recipient of the Virginia Legal Aid Award, presented by the VSB's Special Committee on Access to Legal Services.

The award recognizes innovation and creativity in advocacy, experience and excellence in service and impact beyond the winner's service area. It was presented on June 17 during the VSB's annual meeting in Virginia Beach.

Botts "has dedicated his adult life to helping those who are indigent or who have been left behind in our society," according to a nomination letter from Fredericksburg attorney Joseph W. Gorrell, who won this year's Lewis F. Powell Pro Bono Award.

Before Botts joined Rappahannock Legal Services in 1979, he was a Volunteer in

Service to America volunteer. After he graduated from George Washington University Law School in 1973, he represented farm workers in Florida and served in a law reform unit in Pennsylvania.

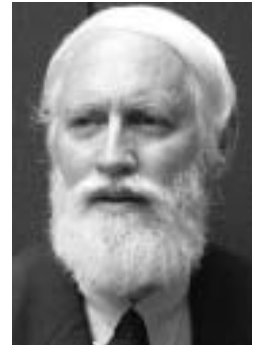
His cases in Virginia include:

- A challenge to a Fredericksburg hospital's practice of forcing indigent pregnant patients who were in labor to go to Richmond for health care.
- A \$100,000 settlement on behalf of sixty victims of a Maryland corporation that unlawfully sold defective home fire-safety products.
- Advocacy to force the federal Department of Health and Human Services to increase the "substantial gainful activity" standard in the Social Security Administration's disability programs.

Botts also took on federal, state and local governments over public benefits, transportation and housing issues.

During his vacations, Botts and his wife, Sue, have for several years taken mission trips to Central America and Western Indian reservations to help the needy.

"His tireless advocacy is rooted in his underlying faith in God and faith in the ability of the legal system to protect the disenfranchised from injustice," Gorrell wrote.



## UVA Law School Partners with Hunton & Williams To Serve Low-Income Residents in Charlottesville

The University of Virginia Law School and Hunton & Williams LLP have established a pro bono partnership between the law school and the law firm to provide free legal services to low-income Charlottesville residents. Volunteer lawyers and law school students will represent clients in the areas of immigration and domestic relations.

"Inspired by a partnership between a major Boston law firm and the Harvard Law School, we have teamed with Hunton & Williams so that our students will be able to participate with their attorneys on a pro bono basis for the representation of low-income persons referred primarily by The Legal Aid Justice Center [in Charlottesville]. We welcome this opportunity for our

students to engage in important public service under the guidance of lawyers from a firm so highly respected as Hunton & Williams," said law school Dean John Jeffries.

Through a pilot program started last September, four Hunton & Williams lawyers and eight law school students began handling cases for immigrant clients seeking asylum in this country. The law school and the law firm will represent family law clients in such areas as child custody, support, divorce and cases arising out of abusive relationships. In addition to the free legal services of the volunteer lawyers from its Richmond office, Hunton & Williams will contribute office space and employ a full-time lawyer to develop the

practice and manage the new office. The law school's assistant dean for pro bono and public interest, Kimberly Carpenter Emery, will represent clients, coordinate student volunteers and help supervise the case load in the pro bono office. Other volunteer lawyers will join the current four-lawyer team, and the law student volunteers will increase from eight to twenty.

A new and separate pro bono office will open in Charlottesville on the campus of the Legal Aid Justice Center at 1000 Preston Avenue. The partnership office will temporarily be located in the Legal Aid Justice Center offices until winter 2006 when it will be relocated permanently on the same campus in the nearby Rock House, which is being renovated.