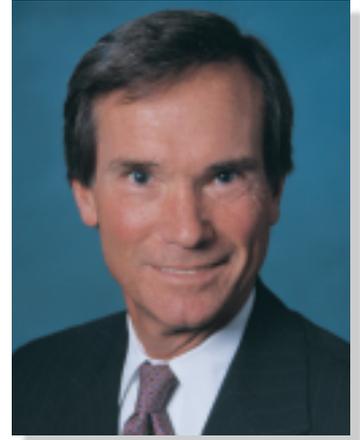


In the Spirit of Public Service



by David P. Bobzien, 2004–2005 VSB President

On November 1, 2004, I had the privilege of addressing a throng of new Virginia attorneys during the Supreme Court's Admission and Orientation Ceremony. As I outlined the mission of the state bar, I mentioned the reemphasis the state bar is placing on service to its members and observed that the provision of such service comes naturally to us attorneys inasmuch as service to our clients is what we perform on a daily basis. But the service we as lawyers perform must be broader than that which we provide to our individual clients; our service must benefit a larger clientele.

Roscoe Pound defined a "profession" as a group of people "pursuing a learned art as a common calling in the spirit of public service." But how does one practice law in "the spirit of public service"? U.S. Supreme Court Associate Justice Stephen Breyer has offered four roles a lawyer can pursue to achieve that ideal.

On September 12, 2000, at the Pierre Hotel in New York City, Justice Breyer delivered the Gauer Distinguished Lecture in Law and Public Policy. In his lecture, entitled "The Legal Profession and Public Service," he contrasted the negative image of lawyers as captured in Jess M. Brallier's "Lawyers and Other Reptiles" with the positive image of lawyers engaged in the profession as Pound defined it.

The first role Justice Breyer suggests is that of pro bono service provider. In an interesting departure from the predictable emphasis on the benefits such service provides to the individual recipient, he maintains that the real benefit is a greater one—helping the country's legal system work for everyone, thereby building public confidence in the system. At the same time, he sees the provision of pro bono service as having a beneficial humanizing effect on the attorney providing the service, especially when the attorney does not routinely engage in "people practice." The humanizing effect can also extend to his or her practice colleagues or to the law firm that accommodates, if not encourages, the pro bono work, even in the face of economic disincentives.

His second suggested public service role is that of law creator. Justice Breyer contends that American law is not so much decreed

from the top down as it rises from the bottom up and that the lawyer is the yeast in the process. To be effective in creating law, however, the lawyer must be broadly grounded in both outlook and experience, and the increasing specialization in the profession doesn't help. Broad grounding can be aided by frequent contact with other attorneys, those in other fields, and members of the community.

Justice Breyer's third public service role is that of citizen statesman. All lawyers should spend at least a few years doing publicly oriented work. As much as overspecialization in practicing law serves to impede the broad grounding that law creators need, there is a growing separation between practice settings, and the sharing of private, governmental, and public interest experience is often nonexistent. The need for interchange and a mixture of career experiences is, in his mind, greater than ever, and a stopover in the public sector is highly recommended.

The fourth public service role is that of teacher, and Justice Breyer describes it eloquently and succinctly.

The best way to teach, however, is through example. Every time we represent a client, argue in court, participate in a public or professional meeting, take on pro bono work, we set an example. With every action—and inaction—we send a message to our peers, and, more importantly to the next generation. That message can say that standards matter, that law matters, that civic life matters, that participation matters. The lawyer's role as teacher is his most important role in public service, for it encompasses all the others.

Practicing in the spirit of public service may one day disassociate us from the reptilian world. 🐍

(Correction: A sentence in the October president's message should have read: "They all seem to love life, love people, and love being lawyers." Virginia Lawyer regrets the error. —Editor)