

# President's Message

by Manuel A. Capsalis



## So Begins the Task

*We cannot deny the need for a vigilant commitment to diversity.*

IT IS TRULY A HUMBLING HONOR to assume the presidency of the Virginia State Bar.

As I look forward to the year ahead, I must begin by looking at the bar year just ended. I succeed in the presidency (but do not replace) the quintessential Virginia gentleman, Howard Martin. I first met Howard years ago during our time on the executive committee of the Conference of Local Bar Associations (CLBA). We worked together on the many projects of the CLBA, including the impressive Bar Leaders Institute that continues to be held throughout the state. Over the years, Howard and I also served on Bar Council. It was not until this past year, however, that I had the opportunity to work with Howard on a consistent, almost daily basis, as an officer of the bar.

Recently someone asked a major-league manager to describe Bobby Cox, the longtime manager of my forever favorite team, the Atlanta Braves, and a certain Hall of Famer. The manager responded simply with two words: "the standard." For me, Howard Martin proved himself to be the standard against which I and future presidents must be judged. His dedication to public service is beyond reproach. His commitment to the ideals of our noble profession is inspiring. It has been my privilege to work with this gentleman. He has done our profession and the commonwealth proud. And yes, he has raised the bar yet higher for future presidents, including yours truly.

And now for me, so begins the task. I temporarily inherit the presidency of a bar with more than twenty-seven thousand active members, as well

as thousands more associate, retired, and judicial members. I am joined in service by many. The wonderful attorneys who devote thousands of hours of volunteer service to the bar continually remind me of all that is good and just about our profession. I know of no other profession that is as committed to public service, or any that accomplish so much for the collective good.

We have a bar staff without equal, and I am privileged to work with them. Whether it be organizing the annual meeting or the many other major events, or the logistical work of a conference, committee or section, or the daily running of the bar office, our staff is outstanding. They withstand the centrifugal forces constantly at work, and somehow make it look easy. I have no idea how they do it so well; I am just glad we have them.

For the year ahead, no doubt, the pressing issues are many. I have chosen in my first president's column to devote some thoughts on two of the issues we face, each of which will require resolve and good courage. Those issues are diversity and public protection.

### **Diversity**

I BELIEVE WE MUST RENEW our commitment and focus on diversity. For our legal profession and our judiciary to be properly responsive to the needs of society, we must be more reflective of the demographics of society. We are not. Our profession has made tangible improvement in better diversifying our ranks. To suggest that our work is done, however, is wrong.

Statistics from the American Bar Association indicate that the percent-

age of law students of color in recent years has leveled off, and in many cases, actually decreased. In Virginia, there remains a paucity of attorneys of color in state and local bar leadership. There continues to be a tangible shortage of attorneys capable of offering legal services to many of our fellow citizens who do not yet adequately speak, read, or write English.

Our profession is the guardian of the Rule of Law, the essence of our system of justice and what binds together our civil society. This is a glorious burden, and one which carries with it great responsibility. I believe the preservation of the Rule of Law is inextricably linked to diversity. Simply put, the Rule of Law without diversity is, at best, an incomplete principle, and at worst, a hollow promise to many who live among us.

We cannot deny the need for a vigilant commitment to diversity. The question, it seems to me, is whether we can live up to what Abraham Lincoln described as the "better angels of our nature." Can we make our profession more responsive to all segments of society? Can we better reach out to our fellow Virginians, especially our youth who feel alienated within our society? How can we expect to be more inclusive when those we should be focusing on feel nothing but exclusion?

Admittedly, these questions extend beyond the scope of a president's column. But these are the questions that we must ask, and for which we must earnestly seek answers. As this column is being written, I am authorizing the creation of a Diversity Task Force,

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chaired by past president Joe Condo. This task force will review the current state of diversity within our profession, both state and local, and report its findings and recommendations to Bar Council for consideration. What are we doing right? Certainly examples include the Minority Pre-Law Conference, organized and presented by the Young Lawyers Conference. What are we not doing well, or simply not doing at all? For example, I believe we need a stronger commitment to pipeline projects throughout the state, focusing on youth, educating them about the Rule of Law, and allowing more of them to meet judges and attorneys who can teach them what the legal profession does, and what they are capable of achieving as dedicated citizens. I want us to better challenge our youth to join our honorable profession, and seek to make this country better for all.

In this regard, I am very pleased to tell you that the October issue of *Virginia Lawyer* will be devoted to diversity. We intend to offer an honest dialogue. Where fault is due, let the chips fall where they may. It is my hope the issue will help us better understand the realities of this subject, and allow us to explore what each of us, individually, and collectively as a profession, must seek to achieve. The need is too great to ignore.

### **Public protection**

THE OTHER ISSUE I have decided to address in this column is public protection. It has become increasingly clear that we must continue to devote primary focus on protection of the public. The recent transgressions of a handful of attorneys, apparently leading to the defalcation of more than \$10 million, reminds us of the need to always search for ways to best fulfill the core regulatory mission of the bar, namely protection of the public. I fully endorse the actions taken by Howard Martin over the course of this past year, including consideration of the issue of random audits, review of the question of mandatory malpractice insurance, and analysis of payee notifica-

tion and other strategies to eliminate or reduce lawyer defalcations.

I believe we do a commendable job in protecting the public. The question properly framed, however, is whether we can do a better job. In this regard, I realized that the bar has never brought together the different entities, including the Office of Bar Counsel, the various committees, task forces, and other groups, that all play important roles in this endeavor. I believe it is necessary and appropriate for us to do so. Accordingly, I have scheduled a Public Protection Conclave to be held on July 10, 2008, in Portsmouth, to coincide with the annual Disciplinary Conference. I foresee the conclave as an opportunity to better educate ourselves on how the bar and our profession currently fulfill our mission of public protection, to assess our respective roles and responsibilities, and to work together to formulate how we can better achieve the highest level of public protection.

I envision the conclave as the beginning of a necessary dialogue from which we can seek better ways to fulfill our mission. As the only self-regulated profession in the commonwealth, the legal profession has the unique responsibility of public protection through the governance of its members. I believe this conclave can assist us in better meeting that responsibility.

I have no desire for the conclave to be an exercise in self-admiration. I do, however, look forward to the conclave as the opportunity to provide an objective review of what we do and how we can do it better.

Whether it be diversity or public protection, or any other issue that is of concern to our profession, I welcome your thoughts and suggestions. I do not profess to have the answers to all the issues. I do intend, however, to devote my best efforts.

I welcome the challenge of serving as your president, and I look forward to the year ahead. ■