Civility in the Law, Society, Politics and Government:
Civic Virtue and the Rule of Law

by Frank Overton Brown Jr.

Virginia lawyers know and demonstrate every day in their professional practices, personal lives, and communities that principled beliefs and positions can be zealously advocated in courteous and civil ways which lead to solutions. Lawyers in the commonwealth of Virginia also understand that the word “commonwealth” derives from the word “commonweal,” which means for the public good. In order for the public good to be realized, there must be civil discourse and mutually agreed upon actions. By their examples, Virginia lawyers encourage and communicate the lawyers’ models of civility to our citizenry, and through them to our elected officials, our civic leaders, and our business, educational, charitable, and other leaders.

After the Revolutionary War, George Washington became the first American chancellor of the College of William and Mary, founded in 1693 by a charter from King William III and Queen Mary II and the second oldest college in the United States. Throughout his life, including his time as chancellor, Washington was known for his civility, and indeed, when he was young he had written Rules of Civility and Decent Behaviour in Company and Conversation. These 110 rules were common-sense guidelines for good manners and behavior, which ranged from matters of personal hygiene and decorum to more far-reaching subjects. Among these latter were: “Every action done in company ought to be with some sign of respect to those that are present”; “Use no reproachful language against anyone; neither curse nor revile”; “Let your conversation be without malice or envy, for it is a sign of tractable and commendable nature; and in all cases of passion admit reason to govern”; “Detract not from others; neither be excessive in commanding”; “When another speaks be attentive yourself and disturb not the audience; if any hesitates in his words, help him not, nor prompt without desired; interrupt him not, nor answer him till his speech be ended”; “ Undertake not what you cannot perform, but be careful to keep your promise”; “Labour to keep alive in your breast that little celestial fire called conscience.” If only these few basic, but important, rules were observed during our country’s recent national public and political debates. Were he here today, Washington would probably believe that his little book of Rules of Civility must be long out of print and not even available in libraries.

Of course Washington is not here today to remind us, but Dr. Robert M. Gates, the twenty-fourth and current chancellor of the College of William and Mary, is here and he has spoken about the destructive effects of the lack of civility in the United States. Gates, a 1965 graduate of the College of William and Mary, served as director of the Central Intelligence Agency, and most recently as Secretary of Defense under presidents George W. Bush and Barack Obama. He retired in July 2011 after forty-five years of public service. An introspective man, throughout his career, Gates has been known for his civility. The January 15, 2012, edition of the Richmond Times-Dispatch, reporting on Gates’s remarks at the Richmond Forum on January 14, 2012, stated, “The United States faces threats from extremists and unstable
As citizens and professionals, Virginia lawyers have recognized for years that civility is a foundational building block not only for the legal profession but for our society, our politics, and our governmental institutions. Virginia lawyers have worked assiduously to restore, maintain, and cultivate civility in professional, private, and public discourse and interaction. In many respects, Virginia lawyers have been working to counter a general trend toward incivility which has increased in the United States. Individual lawyers, the members of Virginia’s judiciary, the Virginia State Bar, the Virginia Bar Association, and the Senior Lawyers Conference of the Virginia State Bar have actively encouraged civility, by words and deeds. As a matter of fact, part of the mission of the Senior Lawyers Conference is to “encourage cordial discourse and interaction among the members of the Virginia State Bar.”


In addition, in 2008, the late Virginia Chief Justice Leroy Rountree Hassell Sr. wrote: “The Supreme Court of Virginia endorses the attached Principles of Professionalism for Virginia Lawyers prepared by the Virginia Bar Association Commission on Professionalism. Having been unanimously endorsed by Virginia’s statewide bar organizations, the Principles articulate standards of civility to which all Virginia lawyers should aspire...” The Principles set out aspirational standards to be followed by lawyers: “In my conduct toward everyone with whom I deal...in my conduct toward my clients...in my conduct toward courts and other institutions with which I deal... [and] in my conduct toward opposing counsel...” Two of the principles state that “I should...treat everyone as I want to be treated - with respect and courtesy...contribute my skills, knowledge and influence in the service of my community.”

Among the skills, knowledge and influence possessed by Virginia lawyers are civility and zealousness, which are not mutually exclusive characteristics but which go hand in hand to advance the commonweal — for the good of our clients, for the good of our profession, for the good of our society, for the good of our commonwealth, and for the good of our nation. Civility is an inextricable part of the rule of law, which is a hallmark of our nation and is fundamental to our nation’s well-being. In its Vision Statement regarding the rule of law, the Virginia Law Foundation recognizes this when it states: “All persons should understand, value, and adhere to the Rule of Law. The Rule of Law should be recognized as the foundation of peace, stability, and prosperity. The Rule of Law embraces all branches of government as well as all persons living and working in the Commonwealth. The components of the Rule of Law include not only written laws, their application and the judicial system but also the practice of civility in civil discourse, the use of best practices for dispute resolution, the resolution of problems without violence or other forms of lawlessness, the teaching and practice of civic virtue, the implementation of desired or necessary changes to government and laws through appropriate processes, and the role modeling of adherence to the rule of law by all in a position to do so. Equal access and treatment within the judicial system are also important components of preserving the Rule of Law.”

When Jon D. Huddleston, who was selected in 2011 as a Leader in the Law by Virginia Lawyers Weekly, served as the 2009–10 Virginia State Bar president, he emphasized the civic virtue of Virginia lawyers by his “Virginia is for Good
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Lawyers’ campaign. In his efforts, Huddleston shined the bright light of recognition and appreciation on the civic virtue of Virginia lawyers. Every year there are thousands of Virginia lawyers who consistently and unassumingly demonstrate civic virtue. Huddleston spotlighted the civic and professional virtues of some of these exemplary lawyers for their good works on many causes, including: Kamala H. and David W. Lannetti (Special Olympics, Foster Care Parenting, and Norfolk Emergency Shelter Team), Joseph E. Preston (Petersburg Library Foundation), the Honorable Angela E. Roberts (Richmond’s National Adoption Day Celebration), Michael P. Laffey (Positive Vibe Café job training opportunities for individuals with physical and cognitive challenges), the Honorable Jennifer L. McClellan (lawyer-legislator in the Virginia House of Delegates), William Schmidt (Salvation Army), Peter W. Buchbauer (Knights of Columbus Soup Kitchen), Stuart Sprin (Virginia Legacy Soccer Club for youth), the Honorable Thomas D. Horne and Rhonda Paice (Loudon Bar Association’s Leadership in the Law Summer Camp for youth), Robert B. “Chip” Delano Jr. (Boy Scouts of America), and Jay M. Weinberg (the Rule of Law and the Nuremberg Trials Courtroom Exhibit at the Virginia Holocaust Museum). These are just a few of the many Virginia lawyers who have worked for, and are working for, the “commonweal.” Weinberg remembers that when he was a child, his parents, by their example, had inculcated in their three children the virtue of civic service. To this day, Weinberg, who has been a member of the Virginia State Bar for more than fifty years, remembers that on his last day of law school, his law school dean told the students that “as lawyers we were to be experts in democracy and practitioners of humanity.” In his personal, public, and professional life, Weinberg carried out well his law school dean’s advice while being a practitioner of the greatest professional skill and integrity. In his interactions with his clients, citizens, and governmental agencies, Weinberg always demonstrated civility and respect for the rule of law.

In looking at our recent national political workings (or “not workings,” as the case may be), I am reminded of James Madison’s remarks at the Virginia Ratifying Convention for the Constitution in 1788. Madison said: “I have observed, that gentlemen suppose, that the general legislature will do every mischief they possibly can, and that they will omit to do every thing good which they are authorised to do. If this were a reasonable supposition, their objections would be good. I consider it reasonable to conclude, that they will as readily do their duty, as deviate from it: Nor do I go on the grounds mentioned by gentlemen on the other side — that we are to place unlimited confidence in them, and expect nothing but the most exalted integrity and sublime virtue. But I go on this great republican principle, that the people will have virtue and intelligence to select men of virtue and wisdom. Is there no virtue among us? If there be not, we are in a wretched situation. No theoretical checks — no form of government can render us secure. To suppose that any form of government will secure liberty or happiness without any virtue in the people, is a chimical idea. If there be sufficient virtue and intelligence in the community, it will be exercised in the selection of these men. So that we do not depend on their virtue, or put confidence in our rulers, but in the people who are to choose them.” The patterns of conduct by our national legislature, particularly in recent years, have given some credibility to those opponents referred to quite civilly by Madison as “the gentlemen on the other side,” but in sum, the virtue and intelligence of our electorate must be continuously developed, enhanced and reinforced to elect officials who possess virtue and wisdom, and who are accountable for the common good of our communities, states, and nation. Lawyers are in unique positions to help to accomplish this, and also to mitigate against “the tyranny of the majority” (as Alexis de Tocqueville called it, in his Democracy in America), whoever the majority may be from time to time.

In difficult times it is easy to become discouraged, but instead, let us encourage and be encouraged. As Virginia lawyers, let us be encouraged by our legacy of civil discourse and principled conduct in advancing zealously the causes in which we believe, and let us encourage our fellow citizens and share those with them. Let us be encouraged that each of us can continue to model civility, civic virtue and belief in the rule of law, and that we can work to instill those in this and succeeding generations. Let us encourage the continued development of virtue and intelligence in our youth, so that we have an electorate that will send to public offices elected representatives of virtue and wisdom who will be accountable to work for the public good of our nation. Let us be encouraged that we have the right and the responsibility to do these things. Let us encourage and be encouraged.