

# VBA News Journal

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# Strengthening the Rule of Law

BY: G. MICHAEL PACE, JR.

What exactly is it that makes the VBA meaningfully distinguishable among the other bar associations in Virginia? Is it that The VBA is the oldest statewide organized bar association in Virginia, founded in 1888 as the Virginia State Bar Association, formulated the first Code of Legal Ethics to elevate the standard of the legal profession, caused the first bar exam to be given in 1897 as the condition precedent to obtaining a license to practice law in Virginia, facilitated the creation of the Virginia Bar of Board Examiners in 1910 and advocated for the formation of a mandatory bar that became the separate Virginia State Bar in 1938? Is it that the VBA is an independent, voluntary statewide association of lawyers with the freedom to advocate for protecting and improving the law in the public interest and for judicial independence? Is it our focus on improving collegiality in our profession and the development of leaders of the bar in Virginia? Is it the potential of our Law Practice Management Division to assist our members by providing information and techniques related to the business of running a law practice? Is it the award-winning public service work of our Young Lawyers Division? Is it the relevance of our interdisciplinary Committee on Special Issues of National and State Importance, which provides substantive programs on major is-



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issues affecting the legal system and the public? Is it all of these?

I think so, but the "specialness" of the VBA really lies in the power of our example. We are known by our actions, even more so than by our words, in supporting causes that are right or for redressing wrong. The mission of the VBA reminds us of why we became lawyers in the first place, not for profit or personal gain, but to do the right thing for the public good. We are citizen lawyers, grateful for who we are, for what we support and for the opportunity to serve as the independent voice of lawyers in Virginia.

Part of what it means to be a citizen lawyer is to educate the public about the importance of the Rule of Law and the role of lawyers in society today. The Rule of Law means we are a nation of laws, not of men. Said better by President Theodore Roosevelt, "No man is above the law, and no man is below it." It is the basis for a system by which people live where government is accountable to the law. Every

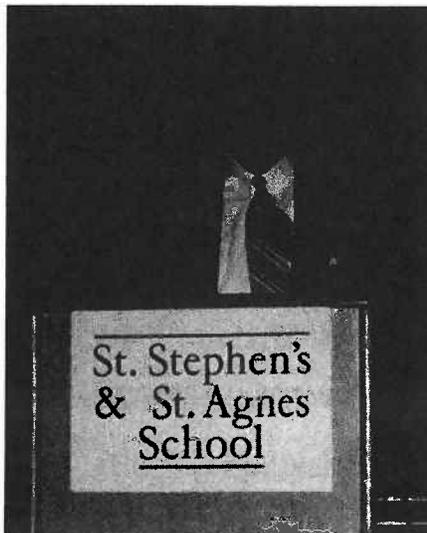
citizen's rights are protected against governmental interference by laws that ensure fairness and are equally applied to all people. The Rule of Law protects citizens against a tyrannical government or mob rule; it limits political power, protects against discrimination of all types and serves as the mediator in disputes between the executive and legislative branches of our government. It also protects the independence of members of the judiciary, who interpret and enforce the law. The Rule of Law makes our communities safe, provides a fair opportunity to everyone for economic prosperity, protects the poor and underserved and assures education, public discourse and allows blessed dissent.

The absence of the Rule of Law eliminates these safeguards, giving rise to civil disobedience, chaos and anarchy. There are examples of these throughout the world, where basic human rights are ignored and opportunities are frustrated. President John F. Kennedy said, "Strengthening the Rule of Law in our own country directly concerns every citi-

zen because it is of fundamental importance both to the nation's welfare at home and to our hopes for building an enduring structure of world peace through wider application of the Rule of Law and relations between nations."

As you may know, Nancy and I have two children, Maggi and Cate. Earlier this year, we were talking about what Cate is learning in her 7<sup>th</sup> grade civics class. She clearly explained the three branches of government, the separation of powers, the Constitution and Bill of Rights and our system of representative democracy. I asked her if she learned anything about the Rule of Law. She said yes, but not in depth, and showed her textbook to me. There was a brief reference to the Rule of Law in a small block in the lower corner of a page, with a definition but no real text. That confirmed for me that lawyers need to take the lead in teaching the Rule of Law.

I recently represented the VBA at the Richmond Multi-Disciplinary Rule of Law Conference at the Virginia Holocaust Museum in celebration of Law



Pace speaking to the students of St. Stephen's & St. Agnes School about *To Kill a Mockingbird* and Atticus Finch.

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Day, and the dedication of the recreated Nuremberg Courtroom there. It was also Oliver Hill's 101<sup>st</sup> birthday. Former ABA President Robert Grey, Richmond Mayor and former Governor Doug Wilder, First Lady Anne Holton, Chief Justice Leroy Hassell and current ABA President William Neukom kicked off the event with inspiring comments about the importance of the Rule of Law in America and the world today. Washington and Lee Law School Dean Rod Smolla led a multi-disciplinary discussion among representatives of the arts, business, clergy, education, government, health care, journalism, the judiciary, the bar, nonprofit organizations and public safety agencies about the principles and values that support the Rule of Law. Each of these groups confirmed the need for better education in our schools about the Rule of Law.

Because lawyers are uniquely positioned to teach our children about the Rule of Law as the foundation for everything we have and enjoy as citizens, the VBA will undertake a significant statewide program to do just that. The Board of Governors has approved the development of a curriculum for the VBA Rule of Law Project, to be taught by lawyers in 7<sup>th</sup> and 8<sup>th</sup> grade civics classes throughout Virginia, starting with a pilot program in the public middle schools in the cities of Roanoke and Salem and Roanoke County, to begin in February 2009. The curriculum may include a video of prominent lawyers, judges and educators talking about what the Rule of Law means, with web-based, downloadable practicums for use by teachers, a trailer of the video, the course content, and a

means by which each teacher can evaluate the class. The Rule of Law curriculum is also intended to be generally available on the internet to anyone else who wishes to use it, including other schools, civic groups, law schools, local bar associations and others to better educate the public about the Rule of Law. The course curriculum is currently being developed, and we intend to submit a grant proposal to the Virginia Law Foundation requesting funding for this project.

The purpose of the Rule of Law Project is to better educate middle school students about the importance of the Rule of Law as the basis for the freedoms we enjoy and improve the likelihood that they will become informed and active citizens of the world. Maybe, just maybe, we can change the world one student at a time.

I was recently invited to speak to the 8<sup>th</sup> grade students at St. Stephens and St. Agnes School in Alexandria by Mrs. Sherley Keith, their literature teacher. Ms. Keith is a student of *To Kill a Mockingbird*, and she had heard from my good friend and former VBA president, Ted Ellett, about my interest in the book and its characters. She had her students read the book and study it intensely for two months. Mrs. Keith asked me to share my thoughts with the students about *To Kill a Mockingbird* and what Atticus Finch means to me. When I arrived, the auditorium was filled with students, teachers and administrators. We talked about Nelle Harper Lee, the characters, the times in which they lived, life lessons and the role of lawyers in society. We also talked about the Rule of Law as

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## President's Page

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the only real protection we have to ensure all people are treated equally. These young women and men were clearly engaged and understood that Atticus Finch believed in the Rule of Law. That is why he represented Tom Robinson:

*"One more thing, gentlemen, before I quit. Thomas Jefferson once said that all men are created equal...there is a tendency...for certain people to use this phrase out of context, to satisfy all conditions...we know all men are not created equal in the sense some people would have us believe...but there is one way in this country in which all men are created equal – there is one human institution that makes a pauper the equal of a Rockefeller, the stupid man the equal of an Einstein, and the ignorant man the equal of any college president. That institution, gentlemen, is a court. It can be the Supreme Court of the United States or the humblest J.P. Court in the land, or this honorable court which you serve. Our courts have their faults, as does any human institution, but in this country, our courts are the great levelers, and in our courts all men are created equal. I am no idealist to believe firmly in the integrity of our courts and in the jury system – that is no ideal to me, it is a living, working reality. Gentlemen, a court is no better than each man of you sitting before me in this jury. A court is only as sound as its jury, and a jury is only as sound as the men who make it up. I am confident that you gentlemen will review without passion the evidence you have heard, come to a decision, and restore this defendant to his family. In the name of God, do your duty."*

Atticus had hoped the men of the jury would consider the evidence in the case and acquit Tom Robinson of a crime he did not commit. But he also knew the darkness in some people's hearts that allowed their prejudices to ignore right and do wrong. Atticus believed in the Rule of Law, and he knew that if they found Tom Robinson guilty, a higher court would overrule their decision on appeal. Unfortunately, Tom Robinson lost hope. But Atticus didn't, because he knew the greatness of our country is as a nation of laws, not of men, and that the law would ultimately protect Tom Robinson. For that, Atticus received the ultimate compliment, "Miss Jean Louise, stand up. Your father's passin'."

That is what being a citizen lawyer is all about. Making sure there is justice for all, under fair laws, equally applied to everyone regardless of race, sex, nationality or economic place. A nation of laws, not of men. Amen.