



President's Column: *The Joy Law Club*

By J. William Manuel

“What do you have when you have a lawyer up to his neck in sand? Not enough sand.” “What is the difference between a lawyer and a liar? Pronunciation”

We are all used to the common perception of lawyers as sneaky rich sharks who are slinking around the corner of every shady deal or car accident. Everybody has a family member who jokes about being embarrassed at having a lawyer as a relative. And yet, most non-lawyers will have to admit that the legal profession is a necessary cog in the machinery of today's world. Lawyers serve in our government, our corporations, and our educational system, and are seen all over our entertainment options.

The tension between the necessity of individuals schooled in the law and the inherent dislike of the profession can cause many of us lawyers to suffer an identity crisis. We claim to dread our jobs. We groan about the long hours and the constant stress. We complain about needy clients and the slow process of resolving matters. For many, “I'm so busy” has become the new status symbol—but it is rarely said with a smile.

Not all of our colleagues suffer from this, however. Judge Ball's presentation at the last CABA meeting showed us a person who

loves his job and is enthusiastic about going to work each day. Judge Ball reminded us that one of the most rewarding parts of being a lawyer is being a counselor. He smiled while talking about the long settlement conferences in which he participates. Is something wrong with him? (Of course not).

We all had our own reasons for entering the legal profession. Some liked the challenge of solving difficult problems. Others felt a pull to seek justice. Others still wanted a profession where they would be around people. When we were newer lawyers, idealism and the challenge of solving a hard matter could make us spring out of bed in the morning. Those challenges still exist—how do we get the happiness back?

I encourage each of you to take some time in the next months and remind yourself about some of the things about the law that used to make you smile. For me, it has always been the fact that I have the privilege of working with some of the smartest folks in town—both within my own office and in other firms and offices across the state. I never lack for interesting conversation, either from people on my own hallway or opposing counsel during a break in the courtroom. One of the great benefits

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September 27

CABA Fall Social
5:30–7:30pm • Fine & Dandy

October 16

CABA Membership Meeting
Noon • The Capital Club

December 6

CABA Christmas Party
5:30–7:30pm • Old Capitol Inn

CABA Fall SOCIAL

September 27, 2018 • Fine & Dandy • 5:30-7:30pm

Co-sponsored by the Litigation Section of the Mississippi Bar & Jackson Young Lawyers

of working in a smaller state is the depth of relationships we are able to build in the bar.

We need to return joy to the practice of law. Sure, there are many times that demand that we are absolutely resolute and serious. But our co-workers and opposing counsel are all

still human (so far). The interactions can be meaningful and happy.

One of the great places to try to practice joy is at our CABA events (yes, a shameless plug). At a social, you can have face to face contact with that mysterious email recipient.

At a committee meeting, you can joke around with the person on the other side of that corporate negotiation. You get the chance to remind yourself that we can be enthusiastic and happy about being lawyers. I hope that you all will take advantage of it. 🍀

CABA 2018 JUDICIAL RACES

A Large Number of Open Judgeships Increases Competition This Year

By Chris Shaw



Lawyers in the tri-county area have flooded the campaign trail in 2018 seeking to fill the open benches created by an unusually large number of judges not seeking re-election.

Three seats on the ten-member Mississippi Court of Appeals are up for grabs this November with the upcoming departures of Judges Tyree Irving (District 2), Joseph Lee (District 4), and Eugene Fair (District 5) at the end of their terms in January 2019. In the lower courts (Circuit, Chancery, and County), voters in the tri-county area will be electing at least seven new judges on November 6.

Most of the action in the lower courts will center on Hinds County, where five veteran judges are not seeking re-election. Leaving their posts at the conclusion of this term are Circuit Judge Jeff Weill (vying for a seat on the Court of Appeals), Chancery Judges William Singletary and Patricia Wise, and County Court Judge Bill Skinner. Circuit Judge William Gowan retired from the bench on March 31, 2018, prior to the end of his term. His appointed replacement until the January 2019 end of

the term, Joseph Sclafani, is one of the four lawyers seeking to fill that spot permanently.

“In my 25 years of practice, we’ve never had so many contested judicial races in the same election cycle,” said Philip Thomas, author of the popular *Mississippi Litigation Review* blog. “Normally, there are no competitive races. We’re getting 15 years’ worth of contested races in the same year.”

Thomas pointed out that what makes this election year unique—and the races more competitive—is the unusual number of judges retiring from office at the end of their terms. “Judges usually resign during a term and the Governor appoints a replacement,” said Thomas. “Mostly, that’s not what’s happening this year.”

Below is a summary of the local judicial races voters will be deciding on November 2.

Court of Appeals

Three lawyers are vying for Judge Tyree Irving’s seat in District 2, which includes areas of Hinds and Madison Counties:

- Eric Hawkins—Greenville attorney with his own practice
- Ceola James—Vicksburg attorney and former Mississippi Court of Appeals Judge
- Deborah McDonald—Natchez attorney with her own practice

The race for Judge Joseph Lee’s seat in

Court of Appeals District 4, which includes portions of Hinds County, has five local attorneys in the mix:

- Byron Carter—Byram attorney with his own practice
- Brad Clanton—Jackson attorney with his own practice
- David McCarty—Jackson attorney with his own practice
- Jeff Weill—current Hinds County Circuit Judge

Two lawyers are seeking Judge Eugene Fair’s spot on the Court of Appeals in District 5:

- Anthony Lawrence—Pascagoula attorney
- Michael McPhail—Hattiesburg attorney

No candidates qualified to challenge incumbent Court of Appeals Judges Donna Barnes (District 1) and Sean Tindell (District 5) in the November election, so both will return to their seats on the Court unopposed. On the Mississippi Supreme Court, only one Justice—David Ishee—has a term expiring on January 6, 2019. However, no candidates qualified to run against Ishee in this election. A judge’s term on the Mississippi Supreme Court and Court of Appeals is 8 years.

Circuit Court

Six candidates are running to fill the Hinds County District 1 Circuit Court judge

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seat being vacated by Judge Weill:

- Matt Allen—Jackson attorney with the Brunini firm
- Bruce Barton—Jackson attorney with his own practice
- Minor Buchanan—Jackson attorney with his own practice
- Pat McNamara—assistant Hinds County district attorney
- Bill Walker—Jackson attorney with the Walker & Walker firm
- Adreinne Wooten—Jackson attorney and state legislator

In District 4, four area lawyers are seeking to replace Circuit Judge William Gowan:

- Gerald Kucia—Jackson attorney with the Morgan & Morgan firm
- Faye Peterson—Jackson attorney and former Hinds County District Attorney
- Joseph Sclafani—Jackson attorney appointed by Gov. Phil Bryant to serve the remainder of Judge William Gowan's term
- Trent Walker—Jackson attorney with his own practice

District 2's longtime Circuit Judge Tomie Green faces Hinds County Assistant District Attorney Kimalon Campbell in the November election. Circuit Judge Winston Kidd had no opposition.

Five candidates qualified to run for retiring Madison and Rankin County Circuit Judge William Chapman's seat on the bench:

- Dewey Arthur—assistant district attorney for Madison and Rankin counties
- Dan Jones—Jackson attorney with Pepper & Odom

- Jamie McBride—assistant Hinds County District Attorney
 - Bruce McKinley—Ridgeland attorney with his own practice and Madison County Justice Court Judge
 - Andy Stewart—Flowood attorney with his own practice
- Fellow Circuit Judges John Emfinger and Steve Ratcliff will return to their seats unopposed in Subdistricts 1 and 2, respectively.

Chancery Court

Hinds County's Subdistrict 2 has two local lawyers seeking the Chancery Court seat currently held by retiring Judge Patricia Wise:

- Crystal Wise Martin—Jackson attorney with Precious Martin Sr & Assoc
- Reginald Harrion—Jackson attorney with his own practice

Two area attorneys are also seeking retiring Judge William Singletary's seat in Hinds County's Subdistrict 3:

- Monique Brown- Barrett—Jackson attorney with her own practice
- Ottawa Carter, Jr.—Clinton attorney with his own practice
- Tiffany Grove—Jackson attorney with Williford, McAllister & Jacobus
- Steven P. Nixon—Clinton attorney with Milner & Nixon and Clinton municipal judge

In Rankin County, longtime Chancery Court Judge John Grant is retiring. Three candidates are seeking his seat:

- Tamekia Cooper Bennett—Brandon

attorney with her own practice

- Mel Coxwell—Brandon attorney with his own practice
- Troy Odom—Brandon attorney with Blair & Bondurant

Rankin County Chancery Judges John McLauren in Subdistrict 1 and Haydn Roberts in Subdistrict 3 have no challengers. Neither do Madison County's three Chancery Court Judges—Robert Clark, III, Cynthia Brewer, and James Walker—who will all return to the bench unopposed.

County Court

Three candidates are seeking retiring Hinds County Court Judge Bill Skinner's seat in November:

John Fike—Raymond attorney with his own practice

Johnnie McDaniels—Jackson attorney and executive director of the Henley-Young Juvenile Justice Center

Yemi Kings—Jackson attorney with her own practice

Incumbent Hinds County Court Judge Melvin Priester, Sr. is being challenged by former Hinds County assistant public defender Bridgette Marie Morgan. County Court Judge Larita Cooper-Stokes is running unopposed.

In Rankin County, Brandon lawyer John Shirley is challenging incumbent Judge Thomas Broome. Rankin County Court Judge Kent McDaniel is running unopposed, as are Madison County Court Judges Staci O'Neal and Ed Hannan. ➡

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Start the discussion...



CAMPAIGNING FOR OFFICE AND MAINTAINING A LAW PRACTICE

Do-able But Difficult

By Chris Shaw



Famed Supreme Court Justice Joseph Story said it best: “the law is a jealous mistress and requires a long and constant courtship. It is not to be won by trifling favors, but by lavish homage.” Campaigning

for elected office, even though temporary, can be every bit the possessive paramour as law practice.

“It’s like having two full-time jobs with lots of overtime,” said Gerald Kucia, a lawyer with

“My experience thus far is that it requires a focus on the now, the day before you, while always keeping the end-point on the periphery of vision.”

the Morgan & Morgan firm and candidate for Hinds County Circuit Judge District 4. “I’m very grateful for my staff and some very understanding defense attorneys.”

Matt Allen, a candidate for Hinds County Circuit Judge District 1, said managing his responsibilities as a lawyer with the Brunini firm with a campaign isn’t easy, but “has been one of the most rewarding and interesting experiences in my life. Juggling the competing demands of running for office, an ongoing law practice, family life, and other life matters is a challenge, but it is doable. My experience thus far is that it requires a focus on the now, the day before you, while always keeping the end-point on the periphery of vision.”

All Mississippi appellate and trial court judges in Mississippi are selected by voters in nonpartisan elections, justice courts and municipal judges in odd-numbered election

years and all others in even-numbered election years. Mississippi is one of 26 states that select its appellate judges by election, whether partisan or nonpartisan. Forty-two states select their trial courts judges by vote, also with some elections partisan and others not.

Some have had to let their judicial campaigns take second stage to handle more important—things like being an actual judge. Judge Joseph Sclafani, appointed in April to complete the term of retired Hinds County Circuit Judge William Gowan, has found his first stint on the bench leaves little time to devote to what is also his first campaign.

“Attempting to balance the management of

a criminal and civil docket containing well over one thousand cases with conducting my first campaign has been a challenge,” said Sclafani. “Since taking the bench in April, I have worked 7 days a week to implement policies and procedures to move criminal and civil cases off the docket. That has not left much time for campaigning to date. August has been a criminal trial month, and we set thirty cases for trial. As of today, twenty-seven have been resolved, and three are set for trial the last week of August. October will be another criminal trial month, but in between, I hope to find time to hit the campaign trail hard.”

Troy Odom with the Blair & Bondurant firm in Brandon finds his days—and weekends—more crammed than ever. In order to manage his law practice, campaign, and duties as the part-time prosecutor for the City of Pearl on Tuesdays and Thursdays when campaigning “is not an option,”

Odom’s remaining days start early and end late.

Even then, “undoubtedly, a speaking engagement or ribbon cutting, or other event will occur during those private practice times that I must attend,” said Odom. “Thankfully, my partners [in the small firm] are fully supportive of my run. They shoulder the economic burden for me during this campaign. I produce as much as I am able, and they see that I am working as hard as I can to balance both obligations.”

Some candidates are sole practitioners, which makes a full-time campaign even more of a challenge. Tameika Bennett, a Brandon lawyer seeking retiring Rankin County Chancellor John Grant’s seat, has learned to simply make campaigning part of her everyday lifestyle.

“I am a devoted Chancery advocate and running a campaign dedicated specifically to my mission in life is rewarding and honestly just another day at work,” said Bennett. “As a wife, mother, attorney, and community leader, I wear several hats and my campaign hat is only additional embroidery added to my attorney hat. Every court appearance and client consult advances my mission and my cause.”

Mel Coxwell, a Brandon lawyer and sole practitioner in the same race with Bennett, said he has begun incorporating case management software to manage both his law practice and his campaign duties, which will “list events that I need to go to and the task I need to do for my campaign,” said Coxwell. “Even when work is not a conflict, I usually have to choose between multiple events or task.”

With campaigns intensifying as election day nears, these lawyer-candidates will no doubt continue to struggle with getting the balance right, but they are setting examples of how to rise to the challenge. 🏹

CABA *September* Membership Meeting



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FEDERAL COURTHOUSE DOWNTOWN RENAMED FOR RETIRED SENATOR THAD COCHRAN

By Terryl Rushing

On August 9, 2018, the United States District Court for the Southern District of Mississippi, joined by United States Senator Roger Wicker and United States Senator Cindy Hyde-Smith, as well as the United States General Services Administration, held a ceremony commemorating the naming of the Thad Cochran United States Courthouse. Congress officially named the Courthouse earlier in the year, honoring the recently retired United States Senator.

Senator Cochran had a hand in nominating and securing Senate confirmation for every District Judge currently in service on our Court, as well as each of Mississippi's four judges on the United States Court of Appeals

for the Fifth Circuit. All of those judges have chambers in the Courthouse, which was constructed with funding obtained, in large part, through the efforts of Senator Cochran. Prior to the ceremony, Senator Cochran and his wife, Kay Webber, met with the Southern District Judges and toured the Courthouse.

Although the heat and humidity were typical for Jackson in August, the rain held off, and, the Courthouse's new name was officially (almost) unveiled in the front of the building.

It quickly became obvious that what began as a routine, "pull on the rope, and the covering will fall off" mission was going to be unsuccessful. Apparently the cloth was affixed too tightly to the new sign, but Senator Cochran took it in stride. Ultimately, the sign was fixed the old fashioned way.

After the unveiling, several hundred guests moved to the building's rotunda to hear Grady Jolly, Senior Judge of the Court of Appeals for the Fifth Circuit, speak on behalf of the Senator's family. Governor Phil Bryant also attended, as did retired Senator Trent Lott and many state and local officials. Following brief speeches by Chief United States District Judge Dan Jordan and others, the guests were welcomed inside for a reception. All's well that ends well, and the employees who work at the Thad Cochran Courthouse are honored to be in a building named for such a distinguished public servant. 🍷



WHERE HAVE ALL THE LAWYERS GONE?

The Vision of Myres McDougal Is Needed Now More Than Ever

By Jimmy Robertson



Years ago, J. P. Coleman addressed a group of lawyers in the old Heidelberg Hotel in Jackson. The state's former Governor, Chief Judge of the U. S. Court of Appeals for the Fifth Circuit, larger-than-life political force, and much more, made sure the assembled attorneys did not leave unchallenged.

The context that day was the fact that fewer and fewer lawyers were offering to serve in the legislature. Or offering for any elective office, or in serious public service at all. No signs that the trends were about to abate.

But Judge Coleman was cutting a wider swath. His focus was to remind us of the lawyers who, over the generations and through history, had been exemplars of responsible citizenship, humanity, civic virtue and teaching one's community by leading.

Sometimes lawyers have had to grab their towns by the scruff of the neck and just lead!

I do not recall specific names mentioned. I will recall this former district attorney, circuit judge, attorney general and legislator reminding us of the critical importance of each state and county and community having the good fortune to number among its citizen-lawyers, men like Fred Smith of Ripley, Sherwood Wise of Jackson, and Roy D. Campbell, Jr., of Greenville, men like Atticus Finch, or Gavin

Stevens of so many Faulkner novels.

Of course, today the problem is far worse, its obstacles more formidable. Billable hours. Overhead. Student loans to be repaid. Not so civil competition for blue chip clients. Tort reform has cut the income for trial lawyers and defense counsel.

And the excuses we will muster for not taking political hot potato cases! Getting and spending we lay waste our powers.¹

But there is more. Few today think as Blackstone, when he taught that 'tis better that ten guilty criminals go free than that one innocent man suffers.² In an era of documented false confessions and DNA exonerations,³ legislators and judges move heaven and earth to thwart a meaningful role for the Great Writ. We the People seem to agree.

The head of human dignity is on the block, the axe in the hands of nationalistic, narcissistic bullies.

A Very Special Lawyer Is Born and Bred

In late November of 1906 a boy was born in the rural Burton community up in northeast Mississippi. His father was a country doctor. Legend has it the father was a political force, that he hoped his son would become a U. S. Senator.

The boy grew into a teenager who would come to praise his Latin teacher in Booneville High School. In 1922, this young man enrolled at Ole Miss. He played football a couple of years.

In his senior year, he edited *The Mississippian*, the college newspaper. He was president of a rather large Greek Club in days when such extra-curricular activities had nothing to do with fraternities and sororities.

Fast forward a few more years, and having become a Rhodes Scholar, he had earned close to half a dozen academic degrees, several related to the law.

In 1935, Myres Smith McDougal established a career collaboration with a savvy and insightful political scientist, Harold D. Lasswell. They joined the faculty at Yale Law School. Then the War Came.

As early as 1943, McDougal and Lasswell began talking to the whole wide world about good citizenship. And the human dignity of all of mankind. They changed the way law students were taught, to be good citizens as well as good lawyers.⁴

Half a Century Later

Back at Ole Miss in his 90th year, Mac was lauded for his lifetime of service. One-time Colorado football star Byron (Whizzer) White, a former McDougal student at Yale, spoke of his mentor. White quoted fellow acolyte, Richard Falk, who had moved on to Princeton and made a name in academia. For beginners,

McDougal and Lasswell conceive[d] of legal education less in terms of vocational training and more as a means

1. Wordsworth, William, *The World is Too Much With Us* (circa 1802).
2. Sir William Blackstone, 2 Bl. Comm. c. 27, marg. P. 358, ad finem. (1765), quoted in *Coffin v. United*

States, 156 U.S. 432, 456 (1895).
3. See my "A Life Sentence Served by an Innocent Man," www.caba.ms/articles (2011), page 8 [Tripp, Please Confirm year and month of

CABA publication].
4. McDougal and Lasswell, *Legal Education and Public Policy; Professional Training in the Public Interest*, 52 Yale L.J. 203 (1943).

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of producing enlightened citizens capable of understanding the issues of the day as a struggle to realize the values of human dignity.⁵ Thus, they s[ought] through their jurisprudence a dynamic of political engagement needed to achieve and sustain a free society.

Justice White told of becoming aware of Prof. McDougal's "call to arms for lawyers" made back in 1943, and, referring to the above, added, "Professor Falk had it right."⁶

Together these admiring former students left no doubt where lawyer McDougal had "gone," and how he had changed the way the world's lawyers should live and lead and practice citizenship.

I don't recall the date of Judge Coleman's call to arms for Mississippi lawyers, but I well recall its substance. And its more local kinship to the gospel that country-Mississippi-born-and-bred Myres McDougal spread across the seven seas for almost seventy years.

Understand that the case may be well made that McDougal was the greatest scholar the state of Mississippi ever produced. Without doubt, he was the most prolific.

Richard Falk said it would take an Olympic weight lifter to carry the published corpus of McDougal and Lasswell.⁷ The content of that corpus is still found in another article they published fifty years ago.⁸

A quarter of a century before that, this native son of rural Burton, somewhere east of Booneville in Prentiss County, set the cornerstone of his teachings:

One fact of *global* significance is the universalization of the demand of peoples and individuals everywhere for a respected place in the world. More comprehensively phrased, the "former colonial peoples" of every continent and archipelago are demanding social orders more in harmony

MISSISSIPPI COLLEGE LAW LIBRARY HOURS

FALL 2018

August 12—November 29

Monday—Thursday	7:00 am—midnight
Friday	7:00 am—7:00 pm
Saturday	9:00 am—7:00 pm
Sunday	noon—midnight

EXCEPTIONS

FALL BREAK: October 11—October 14

Thursday & Friday (Oct 11 & Oct 12)	7:00 am—5:00 pm
Saturday (Oct 13)	9:00 am—7:00 pm
Sunday (Oct 14)	noon—midnight

THANKSGIVING: November 16—November 25

Friday (Nov 16)	7:00 am—5:00 pm
Saturday & Sunday (Nov 17 & Nov 18)	CLOSED
Monday & Tuesday (Nov 19 & Nov 20)	7:00 am—5:00 pm
Wednesday—Sunday (Nov 21—Nov 25)	CLOSED

GRADUATION: December 14

Friday	7:00 am—5:00 pm
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Final Exam Hours to be posted at a later date.

Hours subject to change without notice. For more info call the Circulation Desk at 601-925-7120

with the dignity of man than have been characteristic of many past societies. Individuality is growing as the individual human being becomes more aware of his own ego, and of the fact that by asserting himself he can often rise to positions in society which were entirely out of the question in traditional forms of civilization or in so many kinds of folk culture.⁹

In typical lawyer style, of course, McDougal never used one word when two or three would do just as well (he was often charged with using five of six instead of one). The only clarification and update needed for the quoted passage above is that Mac meant every human home, from the tiny towns of Mississippi, to his country, to the world and to the extra-terrestrial.¹⁰

His teachings may be more relevant and

5. Prof. Michael Reisman, acolyte and heir apparent, spoke of McDougal's quest for a public order of human dignity in remarks made at the University of Mississippi School of Law in March of 1996. See Reisman, *Myres S. McDougal: Architect of a Jurisprudence for a Free Society*, 66 Miss. L.J. 15, 22 (1986).

6. Byron S. White, *Tribute to Myres S. McDougal*, 66

Miss. L.J. 1, 3 (1996).

7. Their magnum opus, *Jurisprudence for a Free Society: Studies in Law, Science and Policy* (1992), well exceeded 1500 pages in length and filled two weighty volumes.

8. McDougal & Lasswell, *Jurisprudence in Policy-Oriented Perspective*, 19 U. of Fla. L. Rev. 486 (1966-67); see particularly pages 499-501.

9. *Id.* at 490.

10. Few know of McDougal's role in establishing the Space Law Program at his alma mater, the University of Mississippi School of Law. See also *Law and Public Order in Space* (1963) (w/H. Lasswell and I. Vlasic). Remember, Sputnik first soared in 1957.

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needed today than at any time since World War II.

Myres McDougal and his constant colleague challenged lawyers to make of the Cold War world a planet where human dignity was the foremost—and a realistic—goal and experience for every man and woman who drew breath.

New and different challenges face us today. But how new and different? How much more are lawyers needed as sage public servants, and as good citizens? [Tripp: Please this as a featured quote.]

A few illustrations—mine not Mac’s—still they give you the sense.

You Can’t Have It Both Ways

*Roe v. Wade*¹¹ and progeny present today’s lawyers a complex challenge. Freedom to worship as one pleases is a respected value in McDougal’s and Lasswell’s concept of human dignity. It was one of the famous Four Freedoms of Franklin Delano Roosevelt that Mac knew so well.

Yet, as free as men and women ought to be, to practice their sincerely held religious beliefs, no person should of right be able to call upon the state to compel others to observe those same beliefs. The Establishment Clause!

Many believe fervently that a sacred soul is infused into a human being at the moment of conception. Persons are free to practice such beliefs in their own lives. If a woman so believing wishes to carry to term the child of an unwanted pregnancy, and give birth, that is her prerogative. Human dignity demands no less.

Many others do not believe there is any such soul, either as a matter of biology, sincerely held religious belief, as a matter of secular humanism or morality, or any other perspective.

People of fundamentally different views must get along, with mutual respect.

Limiting our view to the United States, “person” within the Fifth and Fourteenth Amendments includes many babies who have

not been born. There was a time when the law had worked out a practical approach to just who was a “person.”

Prior to the point of viability, a fetus was not a person in the eyes of the law.¹² Past the point of viability, he or she was a person within the constitution, albeit advances in medical and obstetrical science suggest the point of viability may be earlier than once thought.

This is not the time or place for full scrutiny of *Roe v. Wade*¹³ under the McDougal-Lasswell human dignity imperative. One point is clear.

No, You Really Cannot Have It Both Ways

If—as some believe — the state may force a woman to carry her unwanted pregnancy to term and give birth, it follows as the night the day that this same state is obliged to provide generously the human, financial and other social services reasonably needed by both the mother and child until the child reaches the age of majority. A public order of human dignity requires no less.

Of course, the state may in part discharge its public order obligation by requiring the father to provide child support. But the human dignity imperative commands that the state bear the risk of default. If the father fails in such support, the state’s support obligations stand, though the father remains subject to reasonable and legally enforceable support remedies.

The mother, too, may be expected to provide support at a reasonable and practicable level, particularly after the child reaches school age. Again, the mother’s failure does not discharge the state’s support imperative.

To be sure, many taxpayers may not like such support obligations incumbent on the state. Fine, but their personal preference comes at a civic price. Taxes are the price we pay for civilization. Would be tax avoiders must stop trying to inhibit a woman’s right to make the terrible choice whether to terminate her pregnancy.

“No society can continue without its members being required to give up some of what they deem their personal rights and liberties.”¹⁴ A wise insight of a little remembered Mississippi jurist of a century ago.

A public order of human dignity commands all of this. No, you simply cannot have it both ways. Ask any Myres McDougal-trained lawyer-citizen.

Complexity is Everywhere

It is easy to say the right to vote is an essential element of human dignity—“the political precondition to human hope,”¹⁵ to plagiarize myself. Think hard through the photo ID stratagems enacted shamelessly by some to dampen down the minority vote.

Fifty years ago in the South, enormous obstacles faced African Americans who dared to try registering and voting. Idealistic civil rights workers came from next door and all over to help Southern states with “our problem.”

So many overcame that the South was changed.

Today a photo ID is an essential element of social existence in America. Not just as a ticket to voting, but to cash a check, gain access to decent healthcare, board a common carrier for almost anywhere, and dozens more.

Well-intentioned lawyers and others have mounted court challenges to voter ID laws. But stop and think. No one is done a favor by receiving a signal that it’s okay not to have a photo ID. Again, “[n]o society can continue without its members being required to give up some of what they deem their personal rights and liberties.”¹⁶

We need to send a different signal. Having a photo ID enhances our public order of human dignity, even if it involves a bit of trouble for less sophisticated persons to get one.

The obstacles to registering and voting today are not one-tenth as great today, as in the Civil Rights Era. Policy-oriented lawyers are charged to show the way, and overcome

11. *Roe v. Wade*, 410 U. S. 113 (1973).

12. See line of cases from *Rainey v. Horn*, 72 So. 2d 434 (Miss. 1954) through *In Re Estate of Davis*, 706 So. 2d 244 (Miss. 1998). Then see the problematic separate opinions in *66 Federal Credit Union v.*

Tucker, 853 So. 2d 104 (Miss. 2003).

13. *Roe v. Wade*, 410 U.S. 113 (1973).

14. *J. J. Newman Lbr. Co. v. State*, 59 So. 923, 925–26 (Miss. 1912).

15. *Wilbourn v. Hobson*, 608 So. 2d 1187, 1196 (Miss.

1992) (concurring opinion).

16. *J. J. Newman Lbr. Co. v. State*, 59 So. 923, 925–26 (Miss. 1912).

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the excuses and reluctance of the many who just don't have time to get involved. Getting and spending we lay waste our powers.¹⁷

The quality of life of each person is enhanced by as many as possible having photo IDs.¹⁸ A greater public order of human dignity is the prize. Caring lawyers should lead the way.

Human Dignity in Immigration Practice

Recent American immigration policy and practice are an easier exemplar. Assume for the moment that compliance with—and

enforcement of—clearly-worded and constitutionally-defensible law is a given.

No practice smashes human dignity like stripping children from the arms of their mothers without an absolutely fool-proof system of knowing—in a moment—the exact whereabouts of each mother's child, coupled with the ability to reunite the two promptly should some government agency—such as a federal court—order that done.

More generally, is it not self-evident why so many from “south of the border,” and from points southerly of Mexico's border as well, want to come to the United States?

For more than two centuries, the United

States has preached—bragged—to the world that there are freedoms to be found here—freedoms and opportunities that enhance and enrich human dignity—beyond those available anywhere else on this planet.

Past that, we were the saviors of the free world in two horrific World Wars. Americans put their lives on the line—and many lost their lives—to secure the blessings of liberty for all mankind as far as reasonably practicable, that human dignity might flourish around the globe.

17. Wordsworth, William, *The World is Too Much With Us* (circa 1802).

CABA June Membership Meeting



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Can there be any doubt that the United States as a matter of fundamental public policy, if not inalienable right, should support a world public order of human dignity? And that its lawyers should lead the way?

“No society can continue without its members being required to give up some of what they deem their personal rights and liberties.”

And so, why are we surprised that so many want to come here? That so many will expose themselves to—will endure—the full wrath that the U. S. Immigration and Naturalization Service might inflict upon them? And still they come.

And why—this is the one that hurts—do so many U. S. citizens attribute such sinister motives to others not lucky enough to have been born here, and who will do almost anything, endure almost any hardship or danger, just for a ghost of a chance at the life of freedom and human dignity offered only in the United States of America?

“Give me your tired, your poor, your huddled masses”

Before the World Wars, America became great in the eyes of mankind for its open arms. Our Statue of Liberty has long called to all. It still contains Emma Lazarus’ words attributed to Lady Liberty, speaking hopefully to countries around the world,

Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shore, Send these, the homeless, tempest-tossed to me, I live my lamp beside the golden door.

How many thousands of times each day do people in the United States say the Pledge of Allegiance with its ringing conclusion “... and liberty and justice for all!” How many millions elsewhere know that we say these

words? And think we mean what we say?

All lawyers know that in dozens, if not hundreds, of contexts each day, persons and entities are held responsible for the reasonably foreseeable consequences of their words and actions.¹⁹ In this

regard, should not the Republic for which our flag stands set the example for all to follow?

Lawyer Citizen McDougal’s Commitment to Human Dignity for All Mankind

A half century ago, Myres McDougal and his colleague challenged us all with their proclamation to the world:

Hence we commit ourselves, and commend to all who will cooperate, the clarification and implementation of a jurisprudence oriented toward the dignity of man. We postulate human dignity as a goal; and we respect the freedom of those who accept this goal to choose whatever theological or metaphysical grounds enable them to associate themselves with this overriding objective.²⁰

There are still lawyers in this country who do not flinch from that moment when he or she may stand—alone and defiant—between one less fortunate and the gates of hell. We still have lawyers who stand up to the narcissistic bullies of today, those once known simply as “ugly Americans.”

To be sure, many of us nearing the end of our careers—in our less charitable moments—cherish the memories of bullies slain in courtrooms past, and in other civic venues as well. Most of us, at one time or

another, accept that we are less than likely to inherit the earth.

What is important is that we still have great-souled lawyers who understand that the most powerful force that can be brought to bear is a courageous humility, lawyers who understand the spirit of liberty as Judge Learned Hand taught in one of our darkest hours, “that the spirit of liberty is not too sure that it is right.”²¹ Lawyers who stand nonetheless, and are counted.

We once had a great teacher who came from the proverbial Podunk, Mississippi, and who gave so much of his three-quarters-of-a-century career that lawyers might have acquired the wisdom and courage to realize and defend the values of human dignity, that their practice might enhance that “dynamic of political engagement needed to achieve and sustain a free society.”

That the people of our communities and of our planet may have fewer occasions to wonder, where have all the lawyers gone? ➔



18. I have discussed this issue more fully in my article, *Variations on a Theme by Posner; Facing the Factual Component of the Reliability Imperative in the Process of Adjudication*, 84 Miss. L.J. 471, 625–29 (2015).
 19. See, e.g., *Glover v. Jackson State University*, 968

So. 2d 1267, 1277, 1278, 1280 (¶¶34, 36, 48) (Miss. 2007); *Tail v. State*, 669 So. 2d 85 (Miss. 1996); *Gebben v. State*, 108 So. 3d 956 (Miss. Ct. App. 2012).
 20. *Id.* at 500.

21. Hand, Learned, “The Spirit of Liberty Speech,” I am an American Day, May 21, 1944 (Central Park, New York City, NY).

THIS AIN'T YOUR DADDY'S LAW PRACTICE

From the rise of artificial intelligence to concierge-level support of clients, the legal industry is changing, and changing fast.

By Ira Rushing



No one anticipates robots taking over our jobs or providing strategic legal advice any time soon (although this author could respect any machine that could efficiently execute Rule Against Perpetuities code). Yet, with advancements in legal innovation and technology, lawyers who are more connected with each other via Facebook than at happy hour have a unique skill set that can be leveraged into some serious business prospects.

In the past, lawyers were able to remain guarded as the sole-sources of legal knowledge and services. Clients received information and resources from “their lawyers.” The system guaranteed a monopoly, and the main source of competition remained centered within various legal sectors. But long gone are the days where a firm’s high-dollar clients will accept a bill for some arbitrary amount of hours worked on a case. Firms are increasingly in competition with their clients’ own legal departments. As companies look more to the bottom line, legal spending has been highlighted as a key area for cutting waste.

As clients focus on research and development to increase efficiency and decrease legal budgets, the practice of law is increasingly more reliant on machine learning, artificial intelligence, and various other automation methods. Technology is changing the traditional ways of practicing at increasing rates. It is a buyers’ market for legal services these days, and clients

are demanding more cost-effective yet still robust and “full-service” legal services. This has led to new competition and innovation as folks hustle to be more efficient while also struggling to remain profitable.

Those consumers with relatively simple and routine legal needs now have many options at a fraction of the traditional price of hiring a lawyer, accessible at their fingertips 24-hours a day. Not only are lawyers competing with their clients’ in-house lawyers, they’re competing with e-service providers and automated systems designed to deliver a product cheaply, effectively, and quickly, rather than cater to a customer’s every need. Still, there is no substitute for good judgment and creativity, now needed to adapt to and implement these innovations, as well as to assure that quality remains on the forefront of legal services.

This isn’t to say that customer service

will suffer as the legal industry adopts new technology. In fact, excellent client service is not just a nice idea anymore - it is a necessity. Interestingly, work product and/or poor results are not cited as the predominant reasons clients search for new counsel. More clients leave a firm because of service issues. Past culture has tended to focus on billings, originations, and results, but rarely on service. That makes sense when considering how attorneys have typically been evaluated for salary and bonuses.

Now, however, the name of the game is technological and process innovation. That’s where young lawyers have unique skills that are changing the industry every day. While obviously working hard to drive profit, many of these processes are born out of a nod towards customer service.

A big part of this goes all the way back to J. Edwards Deming in the 1950s. While largely

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ignored by American businesses at the time, Deming singlehandedly transformed Japanese business. By teaching companies to transform “Made in Japan” from meaning cheap junk into meaning high-quality products, he finally got American companies to adopt his methods in the 1980s. He found that you could only achieve quality by measuring it. Enter the Six Sigma method, first introduced at Motorola and popularized by General Electric. This method identifies waste, inefficiency and error, and corrects the deficiencies by implementing workflows and processes. Implementing these project management practices at a law firm is the most meaningful, measurable way to drive profit without sacrificing high-quality customer service.

With the rise in popularity of legal tech startups like LegalZoom and Rocket Lawyer, there is a desire for subscription pricing and fast, user-friendly service. Law firms that can provide these things in addition to top-notch legal expertise have a wonderful competitive advantage. These firms are proof that affordability is not limited to online templates and they are establishing a foothold as industry leaders. These firms are putting a spin on traditional methods of process improvement and project management and applying them to the legal industry for the first time. At last, legal project management (LPM) is taking flight.

The fact that some lawyers are so reluctant to play ball in this project management arena should scream OPPORTUNITY to younger lawyers. In the age where computers are virtually human appendages, young attorneys are perfectly positioned to leverage their knowledge

into positions traditionally reserved for the handful of “10-pound-brains” graduating at the top of every law school class. As law firms begin investing heavily in tech, they are experiencing tremendous freedom from time and cost constraints usually associated with higher customer service output. The “Six Sigma” and “Lean” methods popularized in manufacturing and production industries are starting to catch on in the legal realm, and young folks already have many of the tools necessary to “get it.”

Yet, even with its meteoric rise among the Am Law 100 firms, LPM still struggles to gain traction with most individual lawyers. Indeed, there is a huge gap between lawyer mindset and the logic of implementing project management principles. These principles include things like identifying stakeholders, determining client objectives, defining scope, institution of a formal scope change process, establishment of a communications plan—when who will talk to whom about what, recording time by task codes, building a budget by task code, monitoring actual progress against budget, creation of a work breakdown structure including dependencies, identifying risks to success to outline remedial actions, and performing after-matter reviews. It’s a lot. No wonder people don’t want to do these things—who would? You. You would. For a paycheck in a world where paychecks are hard to come by.

So what can law students and recent grads do to position themselves in this changing industry? Try a basic coding class. Read LPM blogs. Take at least an entry-level course in

project management. Gone are the days where students go to law school because they’re bad at math. Young and future lawyers will need to love math and technology, have leadership skills and emotional intelligence, and will need to be creative, sober about risks, and thrive under pressure. Leverage the fact that you know how to do all of these things. It is very likely that any lawyer entering the industry right now has at least a basic understanding of technology and innovation that is light years ahead of the senior attorneys in most firms.

More than anything, law schools and law firms need to be realistic about the type of candidates they’re looking for. Law is no longer a haven for people who want to read and write all day. These skills are certainly still important, but there is also a new frontier of legal budgeting and data analysis. Hiring will need to adjust to accommodate this wider range of skill sets, and firms will need to provide a greater variety of training. Showing up with this knowledge already in your toolbox makes you much more valuable than you would think.

A good part of project management implementation in law firms, especially where a program is already lacking, is like teaching your grandmother how to use her iPhone. You’re Mark Zuckerberg, the attorneys in the firm are Congress, and they want to know how Facebook works. Most younger folks have been thinking this way all of their lives. As firms start to key in on how valuable your experience in this realm truly is, it’s time to capitalize on that. This ain’t your daddy’s legal industry anymore. 🍀

CABA COMMITTEE CHAIR MEETING

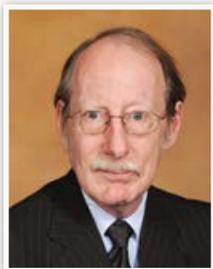


» On Computing

Focused on the Contemporary Lawyer



Open-Source Software...



By Joel Howell

Welcome to the world of open-source software, where the tech is publicly accessible without costing a cent. With thanks to the usual sources, here are some of the most popular and reliable sources for free, easy-to-use software.

[iCloud](#) storage from Apple is available across all personal devices. Think of it as storing all your data in one pool and being able to dip into it from any of your devices that have internet access. However, be cautious, because even though this is a great way to store data, it is not a true backup service, and your data is not restorable in the event of an accident.

If you have any Apple device you automatically get 5 GB of iCloud storage for free. [Google Drive](#) also gives you 5 GB of cloud storage for free. [Amazon Prime](#) sweetens the deal a little by not only giving you 5 GB for free, but also tacking on unlimited storage for photos. [Dropbox](#) decided to be a little more reserved in regard to giving out cloud storage at only 2 GB but compromises by letting you earn more storage space when you get others to sign up on their platform.

Don't want to pay Microsoft Office prices? [LibreOffice](#) is a bundle of six applications that are compatible with all Office formats. Another good alternative is Google Drive, which offers what's called Google Docs, Sheets, and Slides that act as a word processor, spreadsheet, and presentation program respectively.

Without regard for your word processor of choice, the hardest part is actually putting in the effort to write. [FocusWriter](#) eliminates all other distractions on the screen except for you, the text, and any editing tools you might need. It will even track your and help you set daily goals to keep you on track.

Once you've started writing, enhance your word processor's built-in auto correction by using [Grammarly](#). Copy and paste anything to the site and have it checked then and there for mistakes. If you want to be a step ahead, you can get Grammarly's free browser extension that checks your writing as you type it. If you're looking for a more complex proofreading companion, try [Hemingway Editor](#); a site that also uses a copy-and-paste style but tests your "readability" and gives you a grade based on the ease with which you get your point across.

If you're looking to take your photography skills from "novice" to "professional" without draining your bank account, then look no

further than the [GNU Image Manipulation Program](#), also known as GIMP. At no cost, it has many of the same tools used in Photoshop, albeit with a very different layout, so there is a bit of a learning curve.

Want to video edit? [iMovie](#) and [Windows Movie Maker](#) are beginner-level software, as are most video editing programs if they're free. More advanced, but still free is [Video Editor](#) by VSDC. Another is [Lightworks](#), which has been used to edit blockbuster films like "Pulp Fiction." Obviously, the more features, the higher the learning curve.

What's a movie without great sound? [Audacity](#) lets you record and edit, not to mention you can find all the tutorials for it on [YouTube](#).

Audiobooks are a great solution for people who don't have time to read themselves and like listening to books on the go. The catch here is that they can be pricey, which is especially upsetting when you realize that you can go to your local library and get your fix for literature for free; but who has the *time*? The creators of [Overdrive](#) were thinking exactly that when they created an app that connects you to your local library or academic institution, and all you need is a library card. If you've got a taste for the classics, another source is [LibriVox](#), which specializes in public domain books, written or audio, and keeps up-to-date on the newest releases.

It's obvious that everyone loves free stuff: free data storage, free software, free entertainment, so what could be better? More free stuff. Amazon meets these needs by offering a [Sample Box Program](#) with all sorts of products for you to try, and if you've got a Prime account, your shipping is free.

If you don't want to make an account for free stuff and be bombarded with subsequent emails for the latest offers, check out [TheFreeSite](#), which offers anything from snacks to hygiene products for you to try, and when you find something you like, you can buy it in sizes that that'll last you longer than those samples you love so much.

As a result of getting all these freebies, you may get a lot of unwanted emails, something that there is definitely a surplus of these days. The solution is a disposable email address. Services like [Mailinator](#) or [Maildrop](#) allow you to create a temporary email if you're on a site that requires you to put in your email address to continue. ➔



Questions or comments?

Drop me an email: jwh3@mindspring.com



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