

**Remarks of
Pennsylvania Bar Association President William P. Carlucci, Esq.
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Thank you all for attending.

Those who heard my remarks at the annual dinner of our association in Pittsburgh in May of 2005 know that I have an interest in the history of lawyers and the law. I mentioned then that the earliest writings by a lawyer that I have discovered are those of a Roman lawyer, orator and senator, Marcus Tillus Cicero. Cicero resisted the concept that those currently in power had the moral right to shape law as they saw fit. Rather, Cicero wrote that “true law is right reason, in agreement with nature.”

Cicero was assassinated, but his notion of Right Reason did not die with him. It evolved into what we now know as the theory of Natural Law. And about 1,800 years later, when lawyer George Wythe of Williamsburg, Va., decided to take on a student in his home to read for the law, I suspect that Wythe’s library contained books on that very subject.

Wythe’s student, young Thomas Jefferson, completed his studies, began to practice and was elected to the Continental Congress. On June 11, 1776, the Continental Congress, as a result of a resolution submitted by Richard Henry Lee, appointed a Committee of Five to compose a list of grievances with the King of England, including Jefferson and John Adams of Massachusetts. The committee did what law firms still do today, they passed the task off to their junior member (we would call him an associate). Jefferson was a student of natural law, and so he composed a letter to the King which explained that: We hold these truths to be self evident, that all men are created equal, that these are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the pursuit of Happiness.

At the time that the Committee of Five submitted Jefferson’s Declaration to the Continental Congress, it had 56 members. Twenty-five of them (45 percent) were lawyers. The Declaration passed.

The colonies attempted to unite under a sort of treaty called the Articles of Confederation. But they were a poor excuse for a government. So in 1787, the colonies sent 55 of their bravest and brightest citizens to a Constitutional Convention to try to iron out the problems with the Articles. And 31 of them, fifty-six percent, were lawyers. And, they quickly concluded that, if the young republic was to prosper, it would need a proper central government with real power. So, they wrote a constitution that has since been recognized as the most perfect roadmap for freedom that the world has ever known.

The Constitution needed to be ratified by the states. Delaware and Pennsylvania did so quickly, as did several others. Then ratification stalled. It appeared that the new republic might be doomed by a potential vote against ratification in New York. Once again, lawyers took the lead. Attorneys Alexander Hamilton and John Jay, along with James Madison, wrote essays to the

editors of newspapers in New York making the argument for ratification. New York voted to ratify, and those collected essays became what we now know as the Federalist Papers.

The new Constitution and the Federal Government that it created were far from popular. In particular, many felt threatened by the fact that the document contained no protection for the rights of the individual. James Madison of Virginia proposed 12 amendments. Ten passed in the first Congress and became known as our Bill of Rights.

We all know that our first president under the Constitution was a soldier, George Washington. But you should also know that the next FIVE presidents, the men who crafted this young republic and breathed life into the Constitution, were all lawyers.

Today we tend to think of these Founders as larger than life. I suspect that they were just as human as us.

John Adams of Braintree, Ma., was admitted into the bar in 1758. He lost his first big case because he filled out a form incorrectly (today I suppose he would have to call his carrier). But he rose above that first blunder. A few years later in 1771, when British soldiers, who were indicted for the shooting that came to be known as the Boston Massacre, were looking for a defense attorney, no Boston lawyer wanted to help. But John Adams agreed to defend them. He did so through two jury trials and all but two of them were acquitted.

While John practiced, he found time to participate in a little public service. Five years later, he was one of those men on the Committee of Five, one of the men who signed Tom Jefferson's Declaration of Independence. He later wrote the Constitution of the Commonwealth of Massachusetts, the oldest Constitution under continuous use in our nation. He was Ambassador to France, and he was our second president. Not bad for a little public service during his legal career.

James Madison, of Orange County, Va., a rather small thin man not as socially adept as his very popular wife Dolly, followed a different path. He attended the College of New Jersey, which, for some odd reason, later decided to change its name to Princeton. He was very well read in the law, but elected not to practice. Instead, he chose a career in public service. In that service, he helped to write the Constitution of the United States, many of the Federalist Papers and the first draft of the Bill of Rights. Not bad for a skinny little kid with only an undergraduate degree from the Garden State.

The course was also somewhat different for John Jay. In 1770, he undertook study at King's College (another school unhappy with its name and later became known as Columbia University). He graduated in 1764 and became a law clerk. He was later admitted to the bar in 1768 and practiced with others and on his own until about 1776, when politics were heating up a little in New York.

Events then caused John to cap his career with public service. He wrote some of the Federalist Papers and served as chief justice in New York and as the first Chief Justice of the Supreme Court of the newly formed United States of America. After that service, he served two terms as

governor of New York. Not surprisingly, he then decided to retire from public life. A well earned retirement, I would say.

Just over ten years ago, Anthony T. Kronman, then Dean of the Yale Law School, wrote a very important book entitled “The Lost Lawyer.” In that book, Dean Kronman noted the difference between the model for lawyers in the first century of this republic (which he calls the Lawyer/Statesman) from the model in the second century. Dean Kronman pointed out that, in our nation’s first 100 years, lawyers were highly regarded for their judgment and wisdom and strength of character. They were expected to be civic leaders, and they accepted that role with the donation of their time and talent.

Dean Kronman contrasts the eighteenth century Lawyer/Statesman to the model of lawyering that has held sway during the last 100 years — he calls it the “scientific” model of lawyering. In this model, lawyers are not expected to be public citizens, but rather, simply learned in the law.

Put another way, for about 100 years, American lawyers used their time, talent and education to help their clients find their way. Now we use those skills to help our clients get their way.

If we understand that lawyers were once the civic leaders of our culture, and they have now been reduced to clerks learned in a Byzantine system of regulations, it is easy to understand how our status in society has been lost and why there are endless lawyer jokes. And, it is easy to understand how lawyers, who composed about one-half of our Continental Congress, now compose only 18 percent of Pennsylvania’s legislature.

Today, when our best and brightest graduate from college and law school, we do not give them an appointment to the Committee of Five — we give them a Blackberry.

Today, when our best and brightest graduate from college and law school, we do not expect the Declaration of Independence — we expect billable hours.

I wish to thank you all for coming, and I wish to thank the Pennsylvania Bar Foundation for supporting this important work.

I wish to thank State Rep. Kathy Manderino, A.J. Mendelsohn and Jack McGinley for devoting the blood sweat and tears necessary to make this program possible.

And, I wish to thank our panelists, all of who are firmly in the model of the eighteenth century Lawyer/Statesmen, for agreeing to come here and show us how it’s done.

I hope you all enjoy today’s program.

I do not care whether public service becomes your career, compliments your career or caps your career. But, I hope public service defines your life.

I hope you will all join with me in our search for the Lost Lawyer, the Lawyer/Statesman that helped make this republic the greatest nation on earth.

And I hope you all lose your Blackberrys.