



By Douglas McElvy

# The Good That Men Do Lives After Them

**J**ohann Gottfried Cullman (1823-1895) was a lawyer who founded a German colony in the county that now bears his name. Having a deep interest in the welfare and problems of the immigrant settlers, he functioned as "judge, banker, doctor, minister, real estate agent, and ticket agent"<sup>1</sup> in the early days of the settlement. Using the wealth he had acquired from his lucrative law practice, he purchased several thousand acres of land for his settlement. He sold the land at a very low price to allow settlers to acquire a plot of ground they could call their own. He donated more land for churches, a park and a cemetery. In his later years, he devoted his time and energies to creating jobs for the citizens of Cullman. The town prospered and thrived under his fatherly attention and care.

Houston County was also named for a lawyer, **George Smith Houston** (1811-1879). He served nine terms in the United States Congress, two terms in the U.S. Senate and two terms as Alabama's governor. He is credited with ending the Reconstruction Era in Alabama. During his terms in office, the Alabama Constitutional Convention of 1875 was held, the public school system was reorganized, and the Alabama State Board of Health was established.<sup>2</sup>

In St. Clair County, we find **Judge John Washington Inzer** (1834-1928) as one of the incorporators for Pell City. After serving as a soldier and being held as a prisoner of war during the Civil War, he returned to St. Clair County. He was appointed probate judge soon after his return, and accepted the appointment

although he was still ill from his imprisonment. He lived a life full of service to the public.

At first it amazed me, the role that lawyers played not only in founding, but also building, practically every county and community in Alabama. Since taking office, I have visited and addressed many local bar associations, ranging from the smallest and most rural to the largest urban areas in our state. Prior to my visiting each bar, my paralegal conducted fairly extensive research on each county where I was headed. Like the stories above, everywhere we looked, lawyers played a pivotal role in sometimes the founding and always the development of the counties and communities. In fact, in almost every case, lawyers and judges had great influence, comprising the original aristocracy and leadership. If you look at the City of Birmingham, you find lawyers not only leading in the legal system but also serving as industrialists and developers. You find lawyers like **Rufus Rhodes** (1856-1910), who founded *The Birmingham News*, and lawyers like **Frank Spain** (1891-1986), a great lawyer and philanthropist, who was instrumental in the development of Spain Rehabilitation Center and the Spain Heart Tower. **Maud McLure Kelly** (1887-1973), the first Southern woman to plead a case before the U.S. Supreme Court, also devoted countless hours to civic clubs and service organizations.

These lawyers are not the exception. In virtually every county, you find that lawyers were at the heart of forming and supporting educational institutions, hospitals, banks and other institutions which are still serving our communities today. In many cases their names are forgotten but the good they did lives after them. Their legacy continues to have a profound impact on their communities long after they are gone.

It's been a great honor to crisscross the state representing the Alabama State Bar and meeting so many lawyers who are great leaders in their communities. As I've done so, I have often wondered what legacy our generation of lawyers is leaving for future generations.

When I became a member of the bar in 1971, it wasn't uncommon still to fuss with carbon paper on typewriters. We've come from carbon paper to computers, fax machines, cell phones, the Internet and electronic transfer of mail and documents, and what took two to three weeks to turn around back in the old days, now takes two to three hours. With technology comes efficiency, but the expectations and demands of immediacy have dashed any hope of having more time. With this kind of pressure, even our most noble intentions to do good are sometimes truncated before they ever get off the ground.

In previous columns I have talked about the importance of our profession and the stresses that go along with our work. I don't want to rehash that here, but when you add to that the torrid pace of our work, it seems there is a great gravitational pull to live in a just-get-by mode. Sometimes we have to climb out of the trench and take a look around to get a bigger perspective. It's this perspective that I think those great lawyers had in past generations and many have in this generation. Take, for example, the great Alabama lawyers who were involved in the Civil Rights movement. Essentially, they were willing to sacrifice all to use their legal abilities to stamp out the pernicious evil of racial discrimination and segregation. Had I been a lawyer during that time, I often wonder if I would have stood next to and supported those legal giants who suffered abuse, insult, intimidation and arrest for a greater good.

We still have the opportunity to solve the problems of racial disharmony and other issues of discrimination that lawyers are uniquely situated to influence. Our own bar association has taken the initiative to expand the Board of Bar Commissioners to take advantage of the talent and perspective of minorities. No community of people plagued with racial disharmony and discrimination can fulfill its highest mission. There is still much to be done.

Sometimes the overwhelming pressures of daily life or the desire to be amalga-

mated into the mainstream hinders us from seizing the great opportunities our profession offers each of us. Problems like those plaguing many of our school systems in Alabama are no less severe than when lawyer **Alexander Beaufort Meek** (1814-1865) helped develop the public school system in Alabama. Meek was a lawyer who served in the Alabama House of Representatives. As chairman of the House Committee on Education, he oversaw the passage of the bill which established the state's free public school system. Lawyers led the way to solve the problems with education then, and there are those in our profession today who have the ability to step up to the plate.

Perhaps another hindrance to lawyers being active in public service is that our new lawyers enter the profession with huge educational debt. Of last July's bar examinees, 75 percent of them had an average debt of almost \$66,000. Some had debt as high as \$185,000. The implications of those statistics are dismal. Young lawyers with that kind of debt are just not capable of stepping into the public service roles in which many of us started our careers. The Alabama Law Foundation and the Alabama State Bar are investigating debt forgiveness programs for lawyers who enter the public service arena, but that kind of debt load severely restricts an attorney's ability even to participate in the **Volunteer Lawyers Program**. The VLP is an excellent program, but we need the participation of more lawyers.

Recently, I was talking to one of the Legal Services attorneys in Montgomery, and I asked the question, "What can lawyers do to help the over-burdened Legal Services programs?" He responded that the Volunteer Lawyers Program is the greatest help but said, "We just need more lawyers." Currently, only about 20 percent of our lawyers participate in this service. If you haven't signed up, I encourage you to do so. Even if you take only one case a year, it would be a great service. Please contact **Linda Lund** at the Alabama State Bar (334-269-1515) for more information.

Then there are the issues with the perception of our judicial system. The cost of justice is beyond the pale of many of our citizens, and the high cost and acrimony associated with some of our judicial races result in a diminished respect for our judicial system. Since 1996, candidates for Alabama Supreme Court races have been required to raise more than \$1 million per election. In that same year, contributions exceeded \$2.68 million to the winning candidate and \$1.76 million to the losing candidate.<sup>3</sup> The total \$4.4 million for that race held as a national record for state high court campaigns until surpassed by an Illinois Supreme Court campaign in 2004.<sup>4</sup> In the year 2000, when five seats were filled, the total Alabama Supreme Court campaign contributions exceeded \$13 million. That election led the nation for campaign contributions to judicial candidates. I'm not questioning the excellent ability or the integrity of the members of our court, but unfortunately such high-stakes, politically-charged elections (in which special interests sometimes play a larger-than-desirable role) damage public perception of the judicial process.

In addition to the high cost of judicial campaigns, the Alabama court system has recently suffered from a lack of adequate funding by the legislature. This is a serious problem that now deprives our court system of sufficient personnel and adequate training of new judges and court staff. Jury trials have been curtailed, and in most of our counties, the court system is severely understaffed.

John Adams once said, "No civilized society can do without lawyers."<sup>5</sup> To that may I respectfully add that no civilized society can continue to function without a balanced, independent, effective judiciary and one respected by its citizens. This is essential to sustaining life and liberty in a "government of laws not of men."

The Board of Bar Commissioners recently approved a reiteration of its 1997 proposal calling for merit selection of appellate judges in Alabama. While it may not be the only answer or the final solution, it is worth noting that Alabama is one of only eight states that provide for

partisan elections of appellate court judges. The goal of our judicial system is to administer justice fairly, impartially and in accordance with the rule of law. If lawyer-judges and members of the bar do not solve the problems, who will?

Clement Comer Clay (1789-1866), first chief justice of the Alabama Supreme Court, helped the state's nascent judicial system grow and develop into a respected institution. During the Reconstruction Era, when respect for the rule of law had nearly disappeared, another lawyer came along who worked to restore public confidence in the judiciary.<sup>6</sup> Chief Justice George Washington Stone (1811-1894) invested his time, efforts and personal reputation to see the legal system returned to its proper constitutional parameters. His own personal character helped restore the public's confidence in the rule of law and the judicial branch of government. As lawyers today, we can't sit by and watch our court system deteriorate. Our courts should be out of the reach of no one, and its doors should never be closed because of the lack of funding.

It has been argued that, "Alabama's lawyers owe high fiduciary duties to all Alabamians, especially the most powerless and vulnerable, such as children, the elderly and those trapped in poverty or struggling to make ends meet at low income levels," and that this fiduciary duty extends to an obligation, "to ensure that the state's laws themselves promote justice for all Alabamians, especially the poor and powerless."<sup>7</sup> This is a challenging statement and one supported by the *Rules of Professional Conduct* and the history and tradition of the Alabama legal profession. Many of the lawyers in Alabama are very involved in seeking solutions to these and other issues. These are not problems that the legal profession alone faces, but there is no other profession or group who is better equipped to lead the way.

Of course there are all kinds of opportunities for good in our profession beyond solving the major issues of our day. Just the sensitivity and attentive ear extended to those seeking our advice to be sure we're helping them with their real needs are of

great value. Most of the lawyers I know do everything they can to help their clients and their communities. Alabama lawyers give thousands and thousands of hours yearly to charitable institutions and other projects for public good. If you multiply that time by their hourly rate, the contribution would reach into the millions of dollars. I personally know several judges and lawyers who have coached baseball, basketball and virtually every other youth sport. One of my sons, who is now an adult, still talks about the Tuscaloosa lawyer who coached him in his first years of basketball. He made an impact on my son's life which continues to encourage him to this day.<sup>8</sup> Just proof that even the simple things that we do to increase good can live after us.

My prayer is that all of us would be mindful of the potential we have to do good now and leave our fingerprints on future generations. ■

## Endnotes

1. Margaret Jean Jones, *Combining Cullman County* 8 (1972).
2. Samuel Rumore, *Building Alabama's Courthouses*, 60 ALA. LAWYER 300 (1999).
3. For an interesting discussion of this issue, see Laura Stafford and Samantha Sanchez, *Campaign Contributions and the Alabama Supreme Court*, (May 5, 2003), at 5, available at [www.followthemoney.org/press/AL/20030505.pdf](http://www.followthemoney.org/press/AL/20030505.pdf).
4. *ICPR Finds Illinois Supreme Court Race Breaks National Record*, PR NEWSWIRE, (Oct. 19, 2004), available at [www.news.findlaw.com/prnewswire/20041019/19oct2004180428.html](http://www.news.findlaw.com/prnewswire/20041019/19oct2004180428.html).
5. DAVID McCULLOUGH, JOHN ADAMS 591 (2001).
6. Alabama Department of Archives & History, *Alabama Hall of Fame: George Washington Stone* (Jan. 18, 1996), available at [www.archives.state.al.us/famous/g\\_stone.html](http://www.archives.state.al.us/famous/g_stone.html).
7. Susan Pace Hamill, *The Book That Could Change Alabama*, 56 ALA. L. REV. 219, 240 (2004).
8. As a side note, while we are on the issue of family, I wanted to add how overwhelmed I have been by the number of encouraging comments I have received on my last article, which addressed the stresses of being a member of a lawyer's family. Many have affirmed the ideals it contained regarding keeping our faith and our families in proper priority with our professional work. As I mentioned in the article, I am indebted to Fiona Travis for her insightful book *Should You Marry a Lawyer?* from which several of the concepts and ideas used in my article were drawn.