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REFLECTIONS ON A LAW TEACHING CAREER AS THE CURTAIN CLOSES ONLY TO OPEN AGAIN

*Jonathan K. Stubbs**

Grandmother once said to me, “Johnny boy, it ain’t as long as it has been.” Stated another way, Grandma was telling me that there were not as many years to come in her life as had already passed. In some respects, that’s the way it is with one’s teaching career. There is a beginning, a middle, and then a “something else.”

I write to briefly share a few personal comments regarding how I am thinking about what happens next in my evolving career.

THE BEGINNING BEGINS THE END

About 33 years ago I was visiting with some very close friends in Stamford, Connecticut. On a Saturday morning I found myself literally on my knees next to the bed in prayer. I was suffering from an acute and relatively widespread but under diagnosed condition called flounderitis. Another friend who was a prosecutor described flounderitis as a condition characterized by symptoms involving individuals acting like they just do not know what to do with themselves. Flounderitis! I thought, “Well, yeah, that’s about right.” And there I was kneeling on a Saturday morning looking for insight about what to do. It came to me: “teach, preach, and a bit of practice.” I said to myself, “I can remember that.” That’s been my focus over the last 30-plus years. That’s central to my personal identity.

I wear multiple hats – teacher, preacher and lawyer. However, for me it all boils down to one organizing principle: service. How can I give back to my community – the community of humans on this interplanetary spaceship called earth?

CONTINUITY AND CHANGE

A few brief biographical notes may help you to understand my career related decision making. I was born two years before the Supreme Court

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decided *Brown v. Board of Education*¹. Nevertheless, for fourteen years following the *Brown* decision, little changed in my rural, Tidewater Virginia community.

For example, I attended an overcrowded all black high school built for five hundred and forty students and which packed over nine hundred young people into its brick structure. Later local authorities procured several mobile classrooms which did little to relieve the overcrowding. At the same time as we were being educated in the make shift classrooms commonly known as “trailers”, county government officials funded a new elementary school which opened in 1967 with a nearly all white student body.² At that time, a “Freedom of Choice” school desegregation plan was in effect which for various reasons merely resulted in token desegregation of Gloucester County schools. Practically speaking, the County had three elementary schools and one high school with overwhelmingly white student populations along with a smattering of African American students. Approximately two thirds of public school students were white and attended these four schools. In contrast, the remaining one third of public school students were crammed into one segregated African American public school serving grades 1-12. Despite *Brown*, I was bused past an all-white elementary school less than a mile from my home to the all-black school (bursting at the seams) about nine miles away.

These facts helped me to understand that a change in constitutional law did not necessarily mean a change in my circumstances. Accordingly, I developed an early skepticism towards notions of law as some grand and majestic human edifice. I saw that the law – up close – could be used as an instrument of repression. Law could lift its sword and become an executioner rather than a humble and obedient servant of justice. Though I did not recognize it then, when I look back, even as a child, I see that legalized injustice did not sit well with me.

I had the good fortune to grow up in a tight knit African American community in which most of the neighbors were relatives by blood or marriage and were fiercely protective of us children. That meant that any adult in the neighborhood was an informal community law enforcement

1. *Brown v. Board of Education*, 347 U.S. 483 (1954).

2. See *Achilles High School Landmark Gets New Life*, GLOUCESTER-MATHEWS GAZETTE JOURNAL (May 17, 2017), https://www.gazettejournal.net/index.php/news/news_article/achilles_high_school_landmark_gets_new_life. The news article points out that in 1967, a new elementary school was built on the site of a former (all white high school). In 1968, in the wake of *Green v. New Kent County*, 391 U.S. 430 (1968) and the Department of Health Education and Welfare’s policy of cutting off funds to public schools which maintained segregated systems, the Gloucester County, Virginia schools transitioned from a dual virtually segregated scheme to a unitary desegregated one. See also Sherry Hamilton, *Gloucester’s First Fully Integrated Class Celebrates Fifty Years*, GLOUCESTER-MATHEWS GAZETTE JOURNAL (Oct. 16, 2019) at A.1.

person and was authorized to deal with children's misbehavior. That usually resulted in an in-person visit and report to your parents specifying your misdeeds. This series of events invariably resulted in enhanced punishment. You had not only misbehaved but also embarrassed the family.

Nearly a half century ago, this social context provided me an early teaching opportunity. At the age of sixteen, I became a Sunday School teacher and Assistant Sunday School Superintendent. Adults in my church family pushed me forward in part because at a relatively early age, I was learning effective verbal and written communication skills in large part through my local 4-H Club where I studied public speaking under the tutelage of a retired educator, Ms. Grace C. Walker. Miss Grace as she was called, was the middle daughter of Thomas C. Walker, Esq., the first African American lawyer on Virginia's Middle Peninsula.³ I learned both about law from studying with the daughter of a well-respected African American lawyer and about teaching because I was able to present my ideas effectively.

Though I was not much older than they were, I loved teaching middle school students. It was exciting to see them learn. I liked studying the Sunday School lessons and trying to prepare myself to answer students' questions. Somehow it just felt right.

While in high school, I also began to assist the Pastor on a regular basis. I began to feel a pull in the direction of some type of ministry. But like Jonah, I ran in the opposite direction. And as some readers might expect, about ten years (and several law degrees) later, I found myself on Easter Sunday (April 15, 1979) finally acknowledging a calling to preach repentance as part of a Christian ministry. Forty short years ago...

EBB AND FLOW

While I did not know it, the pieces were beginning to fall into place. After clerking for a distinguished federal trial judge in Philadelphia and working for two years at the City Solicitor's Office in Philadelphia, a transformative tragedy occurred. In January 1983, one of my cousins was killed in an automobile accident. He was only a few years older than I. I found myself wondering what should I do with my career. I was a lawyer with a calling to ministry, but what did that mean? The easy path would have

3. THOMAS C. WALKER, *THE HONEY-POD TREE; THE LIFE STORY OF THOMAS CALHOUN WALKER: Lawyer Walker of Gloucester* (1958); see also NATIONAL PARK SERVICE, *Thomas Calhoun Walker* (May 7, 2018), <https://www.nps.gov/people/tcwalker.htm>. T.C. Walker's house is scheduled for substantial renovation after remaining vacant for over thirty five years. See Matt Jones, *T. C. Walker's home sat vacant for decades. Now HU plans to revitalize its alumnus' home*, THE DAILY PRESS (Oct. 20, 2019).

<https://www.dailypress.com/news/education/dp-nw-t-c-walker-house-gloucester-grant-20191020-by2tw2apmffbnoyodtw6zhrwe-story.html>

been to work at the Solicitor's Office for ten years, get a vested pension, join or perhaps create a law firm, live a comfortable upper middle class life, have a family, retire and die.

Suppose I did that – take the easy, safe well-trod path. Would I have regrets? After thirty or forty years would I say: "I could have. I should have. I would have. But I did not."

And what about ministry?

A different path beckoned. I applied to Union Theological Seminary and Harvard Divinity School, got into both, and literally flipped a coin as to which one to attend. I wound up at Harvard. Shortly after relocating to Cambridge, Massachusetts, I knew that I had made a wise decision. I needed the time and space away from the grind of law practice as well as other personal matters to focus on what next to do.

I wound up spending hours in meditation in the Harvard Divinity School Chapel. I discovered that at that point in my personal evolution I was not called to a traditional pastoral ministry with a congregation meeting in a specific place, and following a set pattern of worship. Something on the inside (an internal compass) pointed towards preaching as the opportunity presented itself and being open to the guidance of the Spirit.

After two years at Harvard Divinity, I relocated to the Washington, D.C. metropolitan area. I worked with two dear friends in their law firm doing legal research and later spent a semester at Howard Law School. I then moved back to my hometown, Gloucester, Virginia. While overcoming the acute effects of flounderitis, I got admitted to the Virginia Bar. By then I knew that service was the driver of my life activities. I did not need to go to another country or continent to help people in need. The people in my birth community needed my skills. And my parents were then in their fifties. Getting up in age I thought. Since I was single, I felt convinced that I should be in place to help them if and when they needed it. I came back to serve.

After a couple years in a general private practice of law (meaning among other things, litigating boundary disputes, drafting divorce and separation agreements, representing criminal law defendants, incorporating businesses, and representing tort victims) I recognized that something was missing. The teaching aspect of my calling to service was unfulfilled. I reached out to Professor Linda Greene at Wisconsin who suggested that I talk with Professor Okianer Christian Dark at the University of Richmond. And the rest, as they say "is history." Professor Dark and her late husband Lawrence became my mentors and advisers.

I should note that I nearly remained in private law practice because my client base was expanding and I saw a number of (seemingly) lucrative real estate related business opportunities. But I had the calling: "teach, preach and a bit of practice." And I know that disobedience to the will of the Spirit is playing with mortal fire.

Since joining the University of Richmond faculty, I have had many professional opportunities to interact with gifted colleagues, students, alums and others. For me personally, two capstone legal educational experiences were meeting and working with the late Oliver Hill, Esq. and more recently with his protégé and law partner, former Virginia State Senator Henry Marsh. I had the honor of participating in editing the autobiographies of both of these human rights luminaries. I first edited Mr. Hill's autobiography.⁴ Later with my former student and future law school colleague, Dr. Danielle Wingfield-Smith, I co-edited Sen. Marsh's memoirs.⁵

Mr. Hill was a close friend, law school classmate and professional colleague of Thurgood Marshall. At the urging of Justice Louis Brandeis, Dr. Mordecai Johnson, President of Howard University, established a first class law school so that lawyers could properly prepare civil rights cases for Supreme Court review.⁶ Dr. Johnson selected Charles Hamilton-Houston

4. OLIVER W. HILL, SR., *THE BIG BANG, BROWN V. BOARD OF EDUCATION AND BEYOND: THE AUTOBIOGRAPHY OF OLIVER W. HILL, SR.* (Jonathan K. Stubbs, ed. 2007).

5. HENRY L. MARSH, *THE MEMOIRS OF HON. HENRY L. MARSH* (Jonathan K. Stubbs and Danielle Wingfield-Smith, eds.) 2018.

6. *THE BIG BANG*, SUPRA NOTE 4 at 78. Brandeis also advocated that lawyers pay more attention to working in the "public interest". See Louis Brandeis, *The Opportunity in the Law* (Address delivered May 4, 1905) before the Harvard Ethical Society. See <https://louisville.edu/law/library/special-collections/the-louis-d.-brandeis-collection/business-a-profession-chapter-20> (last visited, May 7, 2019).

[T]he counsel selected to represent important private interests possesses usually ability of a high order, while the public is often inadequately represented or wholly unrepresented. Great unfairness to the public is apt to result from this fact. Many bills pass in our legislatures which would not have become law, if the public interest had been fairly represented; and many good bills are defeated which if supported by able lawyers would have been enacted. Lawyers have, as a rule, failed to consider this distinction between practice in courts involving only private interests, and practice before the legislature or city council involving public interests. Some men of high professional standing have even endeavored to justify their course in advocating professionally legislation which in their character as citizens they would have voted against.

...

Here...consequently, is the great opportunity in the law. The next generation must witness a continuing and ever-increasing contest between those who have and those who have not. The industrial world is in a state of ferment. The ferment is in the main peaceful, and, to a considerable extent, silent; but there is felt to-day very widely the inconsistency in this condition of political democracy and industrial absolutism. The people are beginning to doubt whether in the long run democracy and absolutism can coexist in the same community; beginning to doubt whether there is a justification for the great inequalities in the distribution of wealth, for the rapid creation of fortunes, more mysterious than the deeds of Aladdin's lamp. The people have begun to think; and they show evidences on all sides of a tendency to act... Often their leaders are men of signal ability, men who can hold their own in discussion or in action with the ablest and best-educated men in the community. The labor movement must necessarily progress. The people's thought will take shape in action; and it lies with us, with you to whom in part the future belongs, to say on what lines the action is to be expressed; whether it is to be expressed wisely and temperately, or wildly and intemperately; whether it is to be expressed on lines of evolution or on lines of revolution. Nothing can better fit you for taking part in the solution of these problems, than the study and preeminently the practice of law. Those of you who feel drawn to that profession may rest assured that you will find in

to become the Vice Dean of this new full time day law program which replaced Howard's part-time evening program. Hill and Marshall were in the entering class of the revamped Howard Law School. They blossomed under Houston's tutelage. As the de-facto dean as well as a full time law professor, Houston taught his students that a lawyer is either a social engineer or a parasite on society.⁸ Along with a number of other courageous lawyer leaders, Houston, Marshall and Hill laid the foundation culminating in the legal "shot heard round the world" – *Brown v. Board of Education*.⁹

Henry Marsh helped to lead the fight to implement the mandate of *Brown*. In addition, Marsh became the first African American mayor of Richmond, Virginia (the capitol of the former confederacy) and served with distinction for nearly a quarter century in the Virginia State Senate. Through their brilliance, courage, determination and skill, Oliver Hill and Henry Marsh sought to make America live up to its creed of "liberty and justice for all." Being privileged to work closely with these human rights champions has sparked a renewed sense of mission within me. I too will serve, in some capacity as long as life lasts.

THE END BIRTHS A NEW BEGINNING

Now that you know something about me, you might better understand why for me personally, I have a social justice orientation. Charles Hamilton Houston prepared social justice lawyers as well as planned and implemented long term, groundbreaking legal strategies. The social justice spirit of Houston and Brandeis undergirds my teaching, scholarship and service.

Accordingly, as I move through this part of my career, I ask myself, "What do I have to offer? Who needs to be taught? What is it that I have to teach and for what purpose?" One evolving crisis is the rapidly shrinking opportunity for people who want to enter the legal profession to represent the people whom Charles Hamilton Houston said were unable to fight back.¹⁰

it an opportunity for usefulness which is probably unequalled. There is a call upon the legal profession to do a great work for this country.

8. GENNA RAE MCNEIL, *GROUNDWORK: CHARLES HAMILTON HOUSTON AND THE STRUGGLE FOR CIVIL RIGHTS* 84 (1983).

9. *Brown*, *supra* note 1.

10. Houston wrote: "I made up my mind that I would never get caught again without knowing something about my rights; that if luck was with me, and I got through this war; I would study law and use my time fighting for men who could not strike back." MCNEIL, *supra* note 6 at 42. As to the need for lawyers willing to serve in the public interest, the Legal Services Corporation Justice Gap Report (2017) estimated that during 2017 approximately 1.7 million legal problems would be brought to Legal Services Corporation grantees for resolution, but "these estimated 1.7 million civil legal problems represent less than 6% of the total civil legal problems faced by low-income Americans. See LEGAL SERVICES CORPORATION, *JUSTICE GAP REPORT*, 31 (2017), available at <https://www.lsc.gov/media-center/publications/2017-justice-gap-report#bfitoc-2017-justice-gap-report> (last visited, Oct. 22, 2019).

How does one help develop legal champions for folks who are being struck, knocked down and often unable to defend themselves?

Part of my mission, as I see it, is to identify kindred spirits. Who are like minded persons? Who, in this phase of their careers, also would like to be involved in preparing individuals able and willing to be involved in social justice work? Broadly conceived, such work doesn't necessarily mean helping somebody who's trying to become the next Thurgood Marshall or Pauli Murray or Constance Baker Motley or A. Leon Higginbotham or Elaine R. Jones. I am interested in identifying people who want to make a constructive difference in their communities. I would like to assist in preparing them to provide better servant leadership (in the public interest). **When I leave full time law teaching, I will, God willing find some way to serve those in need.**

So my fellow encore or about to be encore colleagues: there must be something that we can yet do. The sled (which Professor Hobbs described in his scintillating essay) is not pulled into the forest for us quite yet.¹¹ There must be some ways that we can work together in order to make a difference at this time in our careers. But we don't have forever...

11. STEVEN H. HOBBS, ENCORE PROFESSOR: CRAFTING A NEW STORY FOR LIFE AFTER THE LEGAL ACADEMY, 43 J. LEGAL PROF. 341 (2019).

