



## 1954 – 1967

### ROBERT J. McCANDLISH, JR. AND ROTHWELL J. LILLARD

In 1954 the popular Hugh B. Marsh resigned as Commonwealth’s Attorney and joined the McCandlish firm, which then became known as **Richardson, McCandlish, Lillard, Marsh & Van Dyck**.<sup>15</sup> Marsh was a true character, and the prototype country lawyer. He has been described as a conservative’s conservative, and a charter member of Harry Byrd’s “court house gang,” who attended the Senator’s famous picnic whenever he could. Marsh had been accused of causing a fire in an office where he once practiced, and for this reason he emptied his ashtray every evening at 5 o’clock in the gutter at the edge of Payne Street. And he always went outside to empty the ash from his pipe. His favorite expression was, “either it ‘tis pepper or it t’ain’t pepper.”

McCandlish claimed that Marsh never really learned to use the three lines on the office telephone. During his years as Commonwealth’s Attorney, his responsibilities included giving civil advice to the rapidly-growing county (a role filled by the County Attorney today), and he was allowed to have a private practice on the side. Marsh lived one block from the office and Court House, while McCandlish and Van Dyck lived about two blocks away.

The firm had a number of associates, including J. Mason Grove, who later became legendary as a very stern County Court Judge. In the annual bar libel, local attorney Joe Bennett, who played Judge Grove, was always heard to intone to a driving offender, “Death by hanging.” James B. Lockwood, Jr. and Henry M. deButts, who eventually became Vice President of Western Airlines, were also among the firm’s associates. The office building could accommodate only six small offices. Even at six lawyers, the firm was the largest and most dominant firm in Fairfax County, representing the power company, the gas company, the telephone company and anyone of national scope who took an interest in Fairfax County.

In the summer of 1960, McCandlish was elected President of the Virginia Bar Association. Fairfax was granted independent city status in 1961 with an estimated population of 11,000, and would soon overtake the once-larger towns of Clifton and Herndon in population.

In 1961 McCandlish served on the bar committee that recommended Fairfax Circuit Court Judge Harry Carrico to fill a vacancy on the Virginia Supreme Court. The selection of Carrico by Governor J. Lindsay Almond, Jr. set off a major controversy about succession to the empty 16th

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<sup>15</sup> A native of Charlottesville, Virginia, **Hugh B. Marsh** began practice in Fairfax around 1923 and was associated, for a time, with then Commonwealth’s Attorney Wilson M. Farr. In 1944, Marsh was appointed Commonwealth’s Attorney, succeeding Paul E. Brown when Brown was elevated to the Fairfax Circuit Court bench. Marsh was President of the Fairfax County Bar Association from 1943-1945.

circuit judgeship in the small local bar, which at that time consisted of about 50 lawyers. McCandlish and the “establishment” lawyers supported Jim Keith, a partner in Pickett, Keith and Mackall, another long-established local firm. Keith was opposed for the bar’s endorsement, which was considered tantamount to selection, by Robert C. Fitzgerald, who had followed Marsh as the Commonwealth’s Attorney. Fitzgerald had a number of assistants and former assistants working for him who were members of the local bar. They canvassed the bar aggressively, seeking support for Fitzgerald.

The bar was nearly evenly divided. Governor Almond, whose decision would fill the vacancy, saw that he could not win by picking either candidate and, looking around for an alternative, focused on the studious and well-liked Van Dyck. McCandlish might never have supported his good friends Carrico and Keith for elevation had he known that his even closer friend and law partner, Van Dyck, would end up out of the firm and on the bench.<sup>16</sup>

Van Dyck was necessarily cut out of the daily luncheon sessions at the Court House Country Club where McCandlish and such cronies as Jack Wood, long-time Mayor of Fairfax City, discussed and plotted local strategy. However, Judge Van Dyck and his wife, Anne, maintained close and friendly relationships with many members of the bar and frequently entertained at their house close to the Court House. Much to the chagrin of lawyers in the firm, Van Dyck declined to recuse himself in cases involving his old firm. Knowing his scrupulous integrity and intellectual independence, opposing lawyers always consented to Van Dyck’s hearing cases involving the firm while firm lawyers always suggested that he disqualify himself. This did not please Judge Van Dyck, who was correctly proud of his ability on the bench to ignore that he had recently been a member of the McCandlish firm. Van Dyck was widely known to be smart, studious and hardworking, and no one ever suggested that *Judge Van Dyck* incorrectly handled or decided any case that he tried involving members of the firm. The bar was shocked and saddened at his sudden and wholly unexpected death from a heart attack in 1967.<sup>17</sup>

**McCandlish, Lillard, Marsh & Van Dyck** had maintained its six-lawyer size with the addition of Randolph W. Church, Jr. as an associate in 1960 upon the departure of deButts, who was itching for a full-time trial practice. When Van Dyck went on the bench in 1961, the firm acquired another associate, Stephen L. Best. Best was as spontaneous, gregarious and outgoing as Church was meticulous, quiet and reserved. Both, however, were extremely bright and capable lawyers who naturally became close friends. In 1963, **McCandlish, Lillard & Marsh** took Randolph W. Church, Jr. and Stephen L. Best as partners.

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<sup>16</sup> Some years later James Keith did become a circuit court judge. Fitzgerald and McCandlish remained opponents through additional annexation cases. Fitzgerald won a re-run of the *Falls Church* case in 1961, but McCandlish scored a huge and satisfying win in 1976 when representing Manassas against Prince William County, represented by Fitzgerald. McCandlish convinced the three-judge court to give the Town even more land than it had asked for, and he and Randolph Church convinced the Supreme Court not to grant the County's Petition for Appeal.

<sup>17</sup> In March 1967, just weeks after E. Calvin Van Dyck's death, a grateful Fairfax City Council honored him by naming the not yet completed new city park in his memory the "E. Calvin Van Dyck Park" on Old Lee Highway.

Randolph W. Church, Jr., originally from Richmond, attended undergraduate and law school at the University of Virginia. Church joined the firm on June 27, 1960, and quickly developed a reputation for meticulous preparation of all matters that he handled. He practiced in every Court early in his career, and was capable of handling almost any legal matter for both businesses and individuals. Church's long hours were legendary and he reputedly made use of a shower facility in the firm, and maintained a cot in the office. Reliable and attentive to detail, Church was a master at serving and retaining clients brought into the firm by McCandlish and others. During his tenure with the firm, Church would become general counsel to such entities as the Fairfax County Water Authority and American Medical Laboratories, Inc. He argued a number of cases before the full Virginia Supreme Court on a variety of legal subjects.<sup>18</sup> Church continued and enhanced the firm's reputation for participation in bar and civic activities.<sup>19</sup>

Best attended Kenyon College in Ohio before traveling East to pursue law school at George Washington University. He developed a general business practice and represented Virginia National Bank (later Sovran, NationsBank, and Bank of America) as well as other local lenders. He also practiced in the area of trusts and estates and became very knowledgeable in fiduciary matters. Best was very popular, active in civic affairs,<sup>20</sup> and well-liked by lawyers inside and outside of the firm. He was elected President of the Fairfax Bar Association in 1979. McCandlish particularly liked Best, who served as his Deputy Commissioner of Accounts for many years.

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<sup>18</sup> **Randolph W. Church, Jr.'s Reported Cases:** *Gordon v. Board of Sup'rs of Fairfax County*, 207 Va. 827, 153 S.E.2d 270 (1967); *Lillard v. Fairfax County Airport Authority*, 208 Va. 8, 155 S.E.2d 338 (1967); *McNair v. Clatterbuck*, 212 Va. 532, 186 S.E.2d 45 (1972); *Moosavi v. Fairfax County Bd. of Ed.*, 666 F.2d 58 (4th Cir. 1981); *Thomas P. Harkins, Inc. v. Reynolds Associates*, 221 Va. 1128, 277 S.E.2d 222 (1981); *Link Associates v. Jefferson Standard Life Ins. Co.*, 223 Va. 479, 291 S.E.2d 212 (1982); *United Virginia Bank/National v. Best*, 223 Va. 112, 286 S.E.2d 221 (1982); *Virginia Electric and Power Company v. Buchwalter*, 228 Va. 684, 325 S.E.2d 95 (1985); *Potomac Hospital Corporation v. Dillon*, 229 Va. 355, 329 S.E.2d 41 (1985); *Bennet, Executor v. First & Merchants Bank*, 233 Va. 355, 355 S.E. 888 (1987). There were four unreported cases later. The first was *Potomac Hospital, Bennet, Buckwalter and Clifton Homeowners v. Vepco* (unreported *per curiam* opinion). Three others were argued to the full court. The first was won in an unreported decision. The second, a very important Fairfax County Water Authority rate case in 1979 was won when the Court was convinced on oral argument to dismiss the appeal as "improvidently awarded." The third case involved succession to the Lansburg lease at Tysons Corner. The case was settled after marathon negotiations following oral argument. Settlement was reached just before the decision was announced. McCandlish, Lillard, Church & Best represented the shopping center owners, who wanted Bloomingdale's as a tenant. Hunton & Williams represented the departing tenant which wished to assign its lease to Corvette's. Bloomingdales in fact became the tenant, and this case assured that Tysons would be an upscale center.

<sup>19</sup> **Randolph W. Church, Jr.** was Vice President of the Virginia Bar Association in 1972, Past President of the Northern Virginia Young Lawyers Association (1965) and a Fellow of the Virginia Law Foundation and American Bar Association Foundation. In 1983, he authored "Appellate Litigation", published by Michie/Bobbs-Merrill; Church also served on the Board of Visitors of George Mason University for 8 years, and was its Rector from 1983-1986. He and his wife Lucy remain long-time season ticket holders and enjoy traveling, and more than a few George Mason University basketball games.

<sup>20</sup> **Stephen L. Best** was President of the Fairfax Jaycees in 1965, and an officer of the Cancer Crusade Committee in 1966, among other civic activities, and President of the Fairfax Bar Association in 1979.

When Lockwood decided to move into solo practice in March, 1963, Jesse B. Wilson, III joined the firm as an associate. Some 37 years later, Wilson would recall that at the time, Southern Railway had local counsel in every jurisdiction that had a stop. There was a stop in Fairfax Station, Virginia and Hugh Marsh was their local counsel for the princely sum of \$5.00 per month, plus a pass to travel on the railroad. Upon Marsh's retirement in 1968, Wilson succeeded to that exalted position, although it is his recollection that the "perks" were soon changed. By this time Fairfax County had grown to over 260,000 people.



**John H. Rust Sr.**

Population growth was grist for the firm's practice. In May, 1963 McCandlish succeeded his friend, John H. Rust, as Attorney for the City of Fairfax. Rust had succeeded Van Dyck as Town Attorney. In the early 1960s, McCandlish represented a widely dispersed African-American family that owned land at the strategic intersection in eastern Fairfax County of U.S. Route 50 and State Route 7 (Leesburg Pike). McCandlish worked with them for months to find as many members of the family as possible and structure a sale to Washington commercial developers to construct the first modern mall in Virginia on the site. Called the "Seven Corners Shopping Center", the mall was anchored by two major D.C. department stores. This development was the forerunner of the decline of the central Fairfax City shopping district and the independent base of the suburbs. McCandlish became general counsel to the shopping center.

McCandlish and Marsh were also heavily involved in the local financial community. McCandlish was a director and general counsel to the Fairfax County National Bank (now a part of Wachovia) and Arlington-Fairfax Savings and Loan Association (now a part of SunTrust), while Marsh served on the board of the National Bank of Fairfax (now part of the Bank of America).<sup>21</sup>

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<sup>21</sup> **Hugh B. Marsh** was a Director of The National Bank of Fairfax from 1939-1959. He was also a member of the Mount Vernon Board of Visitors, and the Board of Trustees, Willard Hall, Town of Fairfax.

McCandlish represented Melpar (a division of Westinghouse), the first national firm to establish a major presence in Fairfax County. The firm represented the major local utilities as they underwent explosive growth to develop county-wide infrastructure. This representation included many battles as Virginia Electric and Power Company expanded its grid of transmission lines and large substations, Washington Gas Light Company expanded its transmission system, and the Chesapeake and Potomac Telephone Company built new dial centers and repeater stations in residential neighborhoods. McCandlish represented the Gas Company (and served as its lobbyist in the General Assembly) and the Telephone Company.

Marsh, through connections he had established with the State's largest law firm, Hunton & Williams, from his days as commonwealth's attorney, was local counsel for Virginia Power. He worked with other large clients of Hunton & Williams who came through the County, including Transcontinental Gas Pipeline Company, Colonial Pipeline Company and Plantation Pipeline Company. Church worked closely with Marsh, and when Marsh retired in 1968, Church was chosen to be counsel for Virginia Power in Fairfax and was called on to do transmission line siting work for the company throughout the region. Church also became Fairfax City Attorney in 1968, a position he held until 1972.