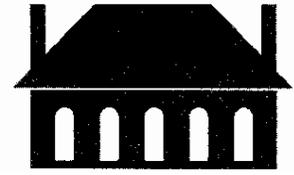


# Hanover County Historical Society BULLETIN



No. 104 “I know of no way of judging of the future but by the past.” ~ Patrick Henry Autumn 2021

## Re: Commonwealth of Virginia v. Stevenson Richmond Newspapers, Inc. v. Virginia

*A documentary film featuring two important court cases with origins in the historic Hanover Courthouse will have its premiere showing at the Society’s meeting on October 14. The film features Judge David B. Caddell Jr. of the Hanover General District Court and then-Commonwealth’s Attorney Patrick H. Bynum Jr. discussing events that took place in a local murder trial which led to a precedent-setting ruling by the Supreme Court of Virginia as well as a landmark ruling by the U. S. Supreme Court.*

*Frank D. Hargrove Jr., Clerk of the Circuit Court, will give introductory remarks, and a discussion will be led by Judge Caddell.*

In July 1980, the U. S. Supreme Court issued a landmark decision in Richmond Newspapers, Inc. v. Virginia holding that the First Amendment to the Constitution guarantees that the Press has the right to attend criminal trials. This ruling was in response to a Constitutional challenge to a Judge’s decision to exclude the public and the press from a Hanover County, Virginia murder trial in which the defendant was found not guilty. That case was Commonwealth of Virginia v. John Paul Stevenson.

In December 1975, Lillian Keller was found stabbed to death in her apartment at the Holly Court Motel near Ashland, Virginia where she was employed as manager. Chief suspects were Holly Court Motel resident Howard Franklin Bittorf and his close acquaintance John Paul



Historic Hanover Courthouse, c1976

Stevenson. They were arrested, charged with murder and, in separate trials in 1976, convicted of killing Ms. Keller. The next year, the Supreme Court of Virginia reversed the convictions and remanded the cases for retrial finding that a blood-stained shirt reportedly belonging to Stevenson had been improperly admitted into evidence at the trials.

After mistrials were declared in the second and third attempts to prosecute the case, the defense attorney, Willard Norwood, requested that the fourth trial be closed to the public. Commonwealth’s Attorney Patrick H. Bynum Jr. did not object to the motion by the defense but deferred to the discretion of Judge Richard H. C. Taylor who ordered that the courtroom be kept clear of all parties except the witnesses when they testified. Attorneys for Richmond Newspapers, Inc. interrupted the fourth trial to object and request that the Judge vacate the

closure order arguing that he should have considered less drastic measures. Judge Taylor denied the request.

When the closed trial resumed, Judge Taylor granted the defense attorney's motion to strike the Commonwealth's evidence due to its insufficiency. There was a conviction, and Stevenson was sentenced by the jury. On appeal, the Supreme Court of Virginia reversed and remanded for trial holding that the bloody shirt given to the Investigator by Stevenson's family member represented hearsay but not in the normal sense of a statement. The Court called it "non-verbal hearsay." That decision itself was precedent-setting because no court had ever ruled, at least in Virginia, that there was such a thing as non-verbal hearsay.

Richmond Newspapers, Inc., persuaded the U. S. Supreme Court to review the Judge's decision to exclude the public from the courtroom. In 1980, the Court ruled that, absent an overriding interest, the trial of the criminal case must be open to the public, including the press.

#### Remarks by Judge Caddell:

The U. S. Supreme Court viewed the case from the perspective of the First Amendment right to free press, and inherent in that is the right of the press to report on matters of the government. The Court also considered the Sixth Amendment right to an open trial, not only for the defendant, but also interpreted more broadly to include the community as well as the press to be involved in the criminal process to assure that government is held accountable.

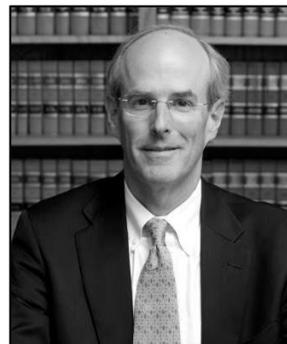
An article in the University of Virginia Institute of Government newsletter in May 1985 explores why the Supreme Court came to its conclusion, at least pragmatically, in the fourth trial in this case.

Moreover, Stevenson was found not guilty but not as a consequence of the jury's

verdict but instead Judge Taylor affirmed the motion by defense counsel for a dismissal because the case against Stevenson without the evidence of the blood-stained shirt was only circumstantial. Yet the details about the evidence against Stevenson and the basis for his acquittal remain obscure because the trial was closed, no trial transcript was made and a tape recording of the trial and Judge Taylor's ruling was largely inaudible.

The criminal case was, of course, important to those involved locally, certainly the victim's family and the defendant. Moreover, what is interesting about this case is that it originated here in the Hanover Courthouse where Patrick Henry practiced law and went all the way to the U. S. Supreme Court. Beyond that, it is considered a seminal case, the first important case where the Court articulated a newly-established and incredibly important, history-making precedent and ruling.

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Frank D. Hargrove Jr., Clerk of the Circuit Court since 2000, has produced a documentary film which records a first-person account of events in the case of Commonwealth of Virginia v. Stevenson and explores the far-reaching effects of Richmond Newspapers, Inc. v. Virginia.

Among his achievements of special interest to researchers, Hargrove has instituted a state-of-the-art records management system, preserved early records and coordinated with the Library of Virginia to digitize the Chancery records.

A past-president of the Virginia Court Clerk's Association, Hargrove continues to strive for innovative solutions in the courts, both in Hanover County and across the Commonwealth. He received the Society's Patrick Henry Leadership Award in 2021.