

# Gates Public Service Law Law Speaker Series

**Derek Douglas**

**Director of the Washington Office of the Governor for the State of New York  
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**Michele Storms:** I'm Michele Storms, I direct the Gates Public Service Law program. And we are really happy that an important part of the work we do with this program is bring speakers to the law school to help our community get a deeper and more thoughtful grasp on what public service means, what our obligations are as lawyers and what are the many different ways we can do the work of public service regardless of what kind of a career path we choose.

Well one of my program liaisons at the Gates Foundation, Amy Carter told me last year that she'd met a really impressive lawyer, someone who has been at the Center for American Progress and she was so exstrongd about the work that he was doing and she wanted me to consider him as someone to come out and meet with our student body and our community and that person is Derek Douglas obviously or I wouldn't be telling you that little story. And it really was an excellent suggestion on her part.

He had been with the Center for American Progress working on a number of consumer issues and they were taking a show out on the road and actually had a public forum in Tacoma, Washington to bring people in to talk about things that were happening in terms of predatory lending and the payday loan places and all of that. They had a really great gathering that she was much impressed by. So I did contact him and he was willing to come.

Of course in the meantime, he changed jobs, but that doesn't matter, because he has had a career that is so exciting in the breadth of public service in terms of what he has done, because he has been in a litigation type atmosphere, he has been in the policy think-tank atmosphere, he has had a judicial clerkship and he is now working in government. So just a great deal of experience and knowledge to share with us.

So let me be a little bit more specific about some of the things that he has done and then I am going to just turn it over and let him share his thoughts and ideas with you.

Derek Douglas is currently the Director of the Washington Office of the Governor for the State of New York and actually I didn't know that there were really such jobs, but every state in our union has a Washington Office I have learned for the governor. And it is a great opportunity because in that capacity, he serves as the Governor's chief liaison between the State of New York, the United States Congress and the Executive Branch of the Federal Government.

Now, prior to joining Spitzer and now the Paterson administration, Derek was the Associate Director for Economic Policy at the Center for American Progress, which is a progressive think-tank in Washington D.C. headed by President Bill Clinton's former Chief of Staff John Podesta.

At the center, Derek also served as Director of the Economic Mobility program which focused on issues that bear directly on the economic security and social mobility of low and middle income families, such as debt, higher education and housing.

Prior to joining that center, Derek was counsel in the Strategic Counseling Practice Group at O'Melveny & Myers where he advised clients on matters of the close nexus to politics, legislation or regulation. So that is his one private sector job where apparently he spent a good deal of his time doing pro bono work.

And before that he was at the NAACP Legal Defense and Educational Fund specializing in the area of education. He also has developed and directed legislative and community outreach efforts in support of litigation. He had a Skadden fellowship and worked in the Economic Studies Program at the Brookings Institution as a research assistant.

So we are really fortunate to get to have him as I said to warm us up this evening, get us back into the swing of being in school and thinking about what our obligations are as lawyers. So join me in welcoming Derek Douglas.

[applause]

**Derek Douglas:** Thank you Michele. I hope for all of you 10 years out of law school, you won't have had as many different jobs as I have had. I mean I have already worked for two governors and I have been on the job for a year. But it is really a pleasure to be here with you all today.

First I want to thank Michele for inviting me and really for sticking with me. It is at least a year-and-a-half ago now where I first got the call and she told me about this wonderful program, the Gates Scholarship and all the work that you all are doing in the public interest side. And so I was anxious to come out and talk and then I switched jobs and wasn't sure if she would still want me. I remember having that conversation. She said, "No, no, we still want you to come, government work is public service work."

And so I was exstrongd to do it and then last week she actually called me and said, "Are you still coming?" very quietly and cautiously. And given all that had been going on the last few weeks, I was actually anxious to get out of Washington D.C. and come up here and meet with you all today.

I also want to commend Bill Gates Sr. and thank him for being here today for his vision and for the gift that has made this all possible. I know firsthand what a difference it makes having financial freedom in the decision to pursue a career in public service work. I was fortunate enough to have a scholarship in law school as well as a Skadden Fellowship coming out. It makes a huge difference and the types of commitment that the William H Gates Public Service Law Program has made. I think should be a model for the nation.

And I really hope one day every law school will have such a program not just for the support it provides, but for the statement it makes about the way the institution values public service.

I also wanted to commend Dean Gregory Hick for the job he has been doing. I met with him earlier today, wonderful guy. We just kind of sat around the table and caught up about everything; politics, what I am doing, what he is doing, things that are happening at the law school and it meant a lot for him to be so welcoming for me to be here today.

And finally, Ann Spangler, I don't know, yeah she is back there. I am here because of Ann Spangler. She took care of all the logistics. I didn't have to worry about a thing and I did and I was literally like the day before I was leaving, I remember talking to Michele figuring out, when is my flight, where am I going to stay, all that sort of thing, so I just wanted to thank Ann for that.

Well, I have already had a wonderful day. I met earlier with a group of law students for lunch. Michele was gracious enough to pull that together and I was thoroughly impressed with the folks that you have with this law school, the support the law school gives for public service work. A lot of energy, a lot of exstrongment and I can tell why you have a program like this and why you are a model for the nation in terms of supporting public service.

Today, I want to talk about kind of the breadth and talk about my own experiences to demonstrate I think the breadth of ways in which people can contribute to public service. But before doing that I wanted to read a couple of quotes that I think aptly frame some of the issues that I want to get in.

The first quote should be familiar to some of you, one person in particular who is here. It reads as follows "Law is human service of the highest order. Our role as lawyers is to make it possible for people to survive and thrive in an extraordinarily complex world."

The second quote I wanted to read is another one that is well known, but captures some of the issues I want to get into. "A lawyer is either a social engineer or a parasite on society."

Now those are powerful words, both are powerful words and the first quote is by the gentleman sitting right there, Bill Gates Sr. I actually came across that quote when I was on the website doing some research about the program and was very moved by it and I thought it fit in very well with what I was trying to talk about it.

The second is by Charles Hamilton Houston who was Thurgood Marshall's law professor at Harvard Law School and really the chief architect of the civil rights legal strategy that led to the end of segregation in the Brown vs. Board of Education case.

Both of these quotes espouse profound principles not the least of which is the view that all lawyers have the responsibility to contribute in some way to the betterment of society. However to me, these quotes also instructive for what they do not say. Let me explain what I mean by that. Specifically, I think it is particularly notable that in calling on lawyers to engage in social action neither quotes specifies the form or the career through which lawyers must do this.

Now when I was in law school, there was a sense that public interest lawyers took the public interest work and non-public interest lawyers did whatever else they wanted to do. I think that these quotes implicit in them is the notion that there is no only one way to engage in public

service or there is no only one type of public service lawyer. And I think it is important for lawyers and legal institutions to turn the traditional assumptions about whose job it is to do public service on its head and to move to a model that says all in the legal profession can have a public service component to the work that they do. It's really just up to individual to make that happen.

To put it differently, it's not necessarily what you do, but how you do it that counts. For me, that point resonates because I've done a lot of things. [laughs] And I've worked in a lot of different jobs. All different, all interesting, and in each, I found a way to get myself involved in public service.

I thought to illustrate that I would spend just a little bit of time walking through some of the jobs that I've had since graduating from law school, a little bit about what I did there. And really to raise some of the challenges, because some of you may be thinking about pursuing a similar option. So I wanted to raise some of the challenges or things that you might want to think about when entering that.

The first I job I had was at the NAACP Legal Defense Fund. I went there right after clerking, went there on a Skadden Fellowship. And that was a classic public interest job. It was the classic public interest organization, it was the oldest civil rights law firm, basically, in the country. Founded in 1941 by -- Thurgood Marshall was the first director-counsel.

At the time, the NAACP Legal Defense Fund and the NAACP were joined. They were within the same entity. But in the '60s, the two split for tax purposes and now they're separate entities, although they share a similar mission.

At the Legal Defense Fund the focus of the work was impact legislation. That is distinguishable from direct services, where you have an individual client that you represent, like, say, at a legal services organization, and you take the case to help get that client a specific remedy.

In impact legislation, you have individual clients, but the objective is often beyond just providing relief for that one individual. It's for changing the law in a way that will provide relief for thousands, many individuals. *Brown v. Board of Education* is a classic example. There were five cases in five different states, five different plaintiffs, but winning that case was the start of dismantling segregation in America.

At the Legal Defense Fund, there were four major issue that we focused on: education, criminal justice, political participation -- which is voting rights, essentially -- and economic justice. I worked in the education section, and I really enjoyed it.

Working on education, I got to work on all facets of the issue. While LDF's history was in desegregation cases, when I got there people were starting to look at other avenues for trying to bring about education equity. So we were involved in voluntary desegregation, which there was a case recently. When I was talking with the law students earlier, they brought up the Seattle case which you are all probably familiar with, where school districts were trying to get at a problem of desegregation by voluntarily taking steps to address it.

The Supreme Court unfortunately ruled that you can't use race as part of that process, but I know school districts now are looking at different strategies to desegregate their schools.

I also worked on issues of affirmative action, school choice -- like magnet schools, charter schools, things of that nature -- high stakes testing, which some you may or may not be familiar with. That is when school districts starting putting in place a requirement where you had to pass an exam in order to graduate from high school. And what they were doing, at least when we were working in New York, was saying unless you pass that exam, you don't get the diploma. You could have straight A's in all your classes, but if you failed that exam -- you had one bad day -- no diploma.

So we thought that was unfair, and a lot of us banded together to look at bringing a lawsuit to prevent them from using the test in that way. Not saying you can't have testing, but don't use it in that way.

One case I wanted to spend two minutes just talking to you about in more detail, it was the basis for my Skadden Fellowship, it was called *Chef v. O'Neal*. I don't know if any of you have heard about that case, but it was an education case in Connecticut. It was a state case, not federal. And there was a strategy behind that. Federal law was much more difficult litigation when there was no history of active segregation by the state. It was much more difficult to challenge it at the federal level than at the state level.

You had school districts in Hartford, Connecticut, where the city district school was 95% minority and the suburban were all 95% white. The city school had the worst resources one could imagine, the suburban school were some of the wealthiest schools in the entire country. And a case was brought to say that under the Connecticut State Constitution, which says the state has to provide an equal opportunity education to all kids, having a system where one school district touching literally another, with the worst education and the best, was unconstitutional.

The case was brought in 1989, and in 1996 there was a landmark decision where the Supreme Court of Connecticut ruled in our favor and said that the racial isolation and the educational inequities in those schools violated the constitutional right to an equal educational opportunity.

I came in 1999 to the case, believe it or not, we won in '96, and three years later nothing had been done. And this is something that you should all keep in mind, because people assume you bring a lawsuit, you win the lawsuit, it's over. No. Particularly in impact litigation, you bring the lawsuit, you win the lawsuit, now it just begins.

Because in order to implement the remedy you had to rely on the state legislature to do the right thing. And in Connecticut you had a governor and you had a legislature that did not want to do that. So when I came in, we had to bring another lawsuit, an enforcement action, that said the state had not been abiding by the dictates in the original decision.

We settled that case, and I believe the case is still ongoing. The state started to take steps, and it tends to drag its feet. One lesson that I learned from that was that when you are going to be a

civil rights lawyer in particular, you have to think broadly and you have to think multi-pronged in terms of your strategy.

There's got to be the litigation piece, the suit you file, the bread-and-butter of how you shape the arguments, how you're going to move the law. But there also has to be a legislative piece to what you're doing. How are you going to get the legislature to act and do what it is you're saying the law dictates.

And third piece that I used heavily in the Chef case, which kind of helps with the legislative piece, was community organizing. Because basically legislators will react when they hear enough complaints. I mean, it's a blunt way to put it, but that's how it is. If there's community activism, if there's noise, if there's things written in the papers, you get movement. If no ones' talking about it, there's another issue that they've got to deal with, and that they don't get to it. So having those three parts to a strategy, I found, was very helpful.

Now there are a couple of things, if you're going into this line of work, that I think you need to also consider. Lessons learned, things to think about. One is, you have to have patience to do this type of thing. When I got to the Legal Defense Fund in 1999, I got cases that were 40 years old. 40 years, the same case. [laughs] If you can believe it. The same case was being litigated for 40 years.

Chef itself started in 1989 and it's still going today. These are long-haul types of efforts, this is a long-haul type of profession. There are victories along the way, no doubt about it, but you have to have patience and you have to be able to find satisfaction in moving the law in the direction you want, even though you don't get the full, immediate result right away.

A second thing I think you all need to consider, and I think Barack Obama kind of did the best job of late of bringing this issue to the fore, is that civil right issues -- particular race issues, discrimination -- are not things people want to talk about anymore. For some reason society seems to have reached a point -- I don't know if it's exhaustion, I don't know if it's embarrassment, I don't know what it is -- but they've reached a point where they don't like to discuss issues and problems of discrimination and disparity.

When I was at the Center for American Progress, which I'll talk about in a minute, inequality -- we used to think about how we could talk about inequality without using the word inequality, in order to get people to write about it, in order to get people to address the issue.

Now, Barack Obama's speech I think, to date, was the best effort to thread the needle when we talk about these issues. But if you're going into this profession it's going to be important to find a way to talk about it, because if we don't you're not going to be able to ever address the issues. And the same problems we're facing today are going to be problems of tomorrow.

The next job I had which I want to spend a little bit of time talking about was at O'Melveny & Myers, a corporate law firm. Now, I don't know how it is here, but when I was in law school, if you were in the public interest world you didn't talk about law firms. You didn't talk to people who were going to law firms. There was a very significant kind of divide between who was

selling out and who was doing the right thing. [laughter]

And remember, I was at the Legal Defense Fund, and I had to tell my boss and my people that I was leaving to go to a law firm? That wasn't easy. It wasn't easy. But I got away with it, because one of the partners at the law firm was a gentleman by the name of Bill Coleman, who some of you may or may not have heard of. He was a former Secretary of Transportation, but he was one of the lawyers on the legal team who brought the Brown v. Board of Education case. And he had a long history with the NAACP Legal Defense Fund.

So I remember telling Elaine Jones, who was the Director at the time, "I'm going to work for O'Melveny & Myers, and I'm going to X, Y, and Z, and she said, "Bill Coleman got you? I can't believe Bill Coleman's stealing you!" So it was not an issue for me, because Bill Coleman was there. But that being said, it was a private sector firm, a big law firm, corporate culture, very different from the Legal Defense Fund.

The one quality that was important to me that the firm had was that there was a spirit of public service. Some of the big name, most notable partners, like Bill Coleman. Warren Christopher, who you all probably know-the former Secretary of State-was a partner there. Walter Dellinger, the former Solicitor General. There were people there who had spent a large part of their careers in public service. So there was an overall spirit that valued that type of work.

Now, my paying clients, I worked in the Strategic Counseling Group, which was essentially political consulting. But it was important to me to engage myself in public service work. So I took on a number of pro bono cases while at the law firm. I actually brought a case with me from the NAACP Legal Defense Fund.

Now, to be sure, to take on pro bono matters I had to take the initiative to do it. Partners don't come in your office saying, "Hey, I got this great civil rights case, can you help me out with that?" But they were supportive, and in one year 30% of my hours were doing pro bono. And so I think that it is not an excuse to say, "I'm at the law firm so I can't do public service." Or it's not proper to say folks in the law firm, or corporate law firms, shouldn't be looked at as people who have a responsibility to engage in public service.

And while there I had a lot of interesting cases. I worked on the University of Michigan Affirmative Action cases-the Supreme Court briefs for that. I brought a Section 1983 Civil Rights case in Virginia. It was a terrible, terrible tragedy where an elderly African-American, mentally disabled, and physically disabled man locked himself in with his girlfriend at the time. And the police came to get her out, and they had a very short conversation. The police department then came back with a SWAT team, broke into this man's house, and shot and killed him within literally 20 seconds. And they were arguing that he was this big risk, and they were scared, and the force was reasonable. Totally absurd.

So we brought that case-no one would have taken it-and we got it through oral arguments, we won some motions. We had a very bad District Court judge, and so there was a loss there. And then, it's in the 4th Circuit. You all know about the 4th Circuit. You don't want to do Civil Rights cases in the 4th Circuit if you can at all avoid it. But the case is still going with appeal.

But I was able to get good experience, do oral arguments, and write Supreme Court briefs while being in the private sector. And I think there are a couple of lessons there. None of you probably are thinking about this. You may think about it down the line. But one is-if you do think about it-to get involved, you have to be prepared to take the initiative, to seek things out.

The other is that, it can be tough at times to stay the course, because as you move up the ladder and get closer to partnership, you start to get a sense that your paid work is going to be of more value than the pro bono work. And so, I was seventh year, a year or two away from being a partner; I didn't care. That was just my background, and that was my interest, so I was doing a ton. But I could see how if you don't have that commitment, you would start to move in another direction, or feel more pressure to move in another direction.

The next job I had-again, wholly different-was at the Center For American Progress. Now that, as Michelle mentioned, is a progressive public policy think tank founded by John Podesta, Bill Clinton's former Chief Of Staff. And most of you probably know, but for those who don't, the way to think about a think tank is, it's like the research component of a university, where the nuts and bolts of what you do is research and the exploration of ideas. One of the differences is that the work that you do is focused on solving societal problems by developing and analyzing public policies that improve people's lives.

I would consider it a non-traditional public service job for a lawyer, but there are a lot of lawyers there. The main difference is that instead of representing clients and contributing that way, you contribute through your ideas, which I really enjoyed. It allows for a lot of creativity and flexibility. Reality is not a limitation to what you have to do, which can be nice sometimes in your work. [laughs]

When I went there it was to create an economic mobility program. At the time-I don't know if you remember back in the beginning of 2005-I think the Wall Street Journal did a series, and the New York Times. All these major national papers started doing these series on what's happening with mobility, what's happening with inequality. So the Center For American Progress didn't have a program and wanted to create one, and given my background-I have an economics background in undergraduate-they asked me to come on to do it. So it was a challenge, but I felt it was a different way in which I could contribute and engage myself in public service. So I took it.

And the program asked two questions. The first question was, what is the status of economic mobility in America. In other words, is the American Dream still alive? And it is alive for everybody? Does everyone have the opportunity to achieve the dream? The second question it asked was, what are the key levers that allow people to move up the economic ladder, or cause people to move down? With those two questions in mind we kind of structured the work to address those problems.

So one set of the work was to commission papers, and write broader-framework type of narrative pieces that looked at the overarching questions of mobility, social mobility, that sort of thing. The major paper we came out with was this paper called, "Understanding Mobility In America, "

where we hired economists to analyze it in terms of where you started on the economic ladder, and also breaking it down by race. What we found was that if you were poor, if you started out poor you had a much more difficult time moving up the ladder, than if you were higher. I think that is not surprising to most folks. And if you were a minority your ability to move up the ladder was more difficult still.

The second set of work that we did was to focus on specific issues-those levers-that allow people to move up the economic ladder, to try and address them in a way to provide greater opportunity. So three of the issues that we chose, one was debt. Because debt-whether credit card, mortgages, being susceptible to predatory lending-has a draining and a dragging down effect that really makes it hard for people to ever move up; to accumulate the wealth that's necessary to move up.

We focused on higher education, because the studies showed that having a higher education was one of the most important factors as to where your children would be on the economic ladder, or where you yourself would be. The third we looked at was housing, because home ownership and the ability to accumulate wealth was such a critical factor.

Now, on the issue of debt, just two quick words. Believe it or not, when we addressed the issue of debt we started from the premise of, we defined a way to raise the profile of this issue. Now it's hard to think in '08, with all that's going on with the subprime crisis, the markets collapsing, everything you read about, everywhere you turn, this is an issue that people understand.

Three years ago, this was an issue that people did not want to talk about. Now there were groups out there working on it diligently. The problems and the warning signs were there. We had a conference that we put together where we brought experts from around the country to talk about what's happening with household debt, what's the prognosis if this isn't brought under control.

But it was an effort to try and raise the profile of this issue so that people would start to pay attention to it. Now look at where we are. It's one of those issues that I say to myself, if there had been more done in the Congress, in these bodies, to regulate on the front end, some of the problems that we're dealing with today could have been prevented, or may have been alleviated.

A couple of things. This is great work. I really enjoy it, and I think if you kind of like the research writing, the creative, the ability to just think through issues and put them out there, it would be a great way to contribute to public service.

A couple of things, though, I think you might want to keep in mind. The first is that you can get a bit disillusioned by what I call the "ivory tower affect." It's kind of the question of, "Is anybody really listening to what I have to say? I wrote this paper, a few people read it, it goes on the website, and then it's done."

And if you do that enough times, you can start to question yourself. Because you wanted to contribute to public service, it's very different than being on the front lines, with direct services litigation for example.

But sometimes at the time when you don't think anyone was listening, later on in life you get

vindicated. And I have a personal example of that on the issue of a colleague of mine and myself, we did this article for the "Washington Monthly" looking at credit card debt. It was called "Taking Charge, " if you want to look it up.

And essentially we looked at the problem of credit card debt, which was skyrocketing for families and for individuals. And we looked at some of the practices that we were particularly damaging, and we proposed a set of ideas, things that could be done to make life better for consumers.

Now, one of the ideas that we put forward in the article was to create a credit card safety rating system, where -- you know how with cars, whenever you to look for a car, you see the commercials and they have a five-star crash rating system so you can tell, "Is this a safe car? Is this a not-safe car?" It's easy for the consumer to understand as opposed to reading in the details and that sort of thing.

And we said we should do that for credit cards. Now what's funny is that when the editor was editing our piece, they wrote back and they wanted to strip that section out. They said, "That's too crazy. That's kooky. No one's going to ever believe that. Let's get rid of that."

We said, "No. That's like the one interesting thing we've got in the piece."

[laughter]

**Derek:** "That's the one innovative thing we've got, we want it in." So they kept it in. About six or seven months later, I did a report where I fleshed that idea out, of the safety rating system. It's called "Safety Sells, " and I looked at a lot of stats on what happened to the auto market when they started putting on this safety rating system.

Essentially what you saw was, back in the '70s when they started this, most cars that were produced were unsafe. They were getting very low safety ratings. Twenty years later there were virtually no cars produced that were getting low safety ratings. Everybody in the market moved towards making safer cars, because that sold. Safety sells.

And so I said that if we tried something similar with credit cards, you might see similar results. Now I did the report. It was one of those where you ask yourself [laughs] is anybody going to listen to this, is it going to make a difference. But this last year Senator Biden and Senator Barack Obama introduced a bill to institute a five-star safety rating system for credit cards.

So it was a personal vindication for me, and I wanted to call back the editor and say, "I told you so."

[laughter]

**Derek:** But I didn't. So that's one thing, though. The second thing that you need to be, I think, cognizant of if you're thinking about contributing to public service in this way, is you need to be careful about not getting consumed by the press. Fame may be another way to put it.

I don't know about you, but you know all those pundits you see every day on the TV news shows, all those folks pretty much work at think tanks. And the way that you kind of are scored, in a way, in the think tank world, is by the press that you get. Are you getting out on TV? Are you getting the radio interviews? Are you getting the quotes in the paper?

Now, it's a double-edged sword because you need the press and the press is very useful to get your ideas out into the public debate. But, if you're not careful what you could end up doing -- and I saw this on a couple of occasions -- is that you could start to choose the issues that you want to work on, the contributions you want to make, based on what you think will get picked up in the press as opposed to what you think will make the most difference in people's lives.

So, doing that, I think, is problematic if your ultimate goal is serving the public. But I also think it could lead to not focusing on issues, like the sub-prime issue or the debt issue, until it's too late. And so key problems that could have been addressed if people were focusing on what's hurting people and holding people back the most, kind of get put aside for the sexy issue of the time.

Lastly, I want to talk a little bit about what I'm doing now, which is working for the New York State Washington Office of the Governor. This is my first job in government, and again, it's incredibly different from any of the other three. But it very much is a job where you are engaging in and contributing to public service.

I now am on the front lines. And I was on the front lines when I was with the Legal Defense Fund, but I'm on the front lines in a different way. And as Michele said, my chief job is to serve as the liaison between the governor and his cabinet, or the state agencies, with the Congress, the executive branch, the White House, and the federal agencies, as well as with other states.

So I work in what is called the Hall of States, and in there, all the other states have Washington offices. I work with -- in Congress -- particularly with our New York delegation, which is good for me, because we have a very strong one. We have Senator Chuck Schumer, Senator Hillary Clinton, Charlie Rangel, we have a lot of people who chair committees, which makes life a lot easier.

But essentially what I do is, my job is to shape the federal agenda for the governor, which is to look at what is we could be doing in terms of federal policy, in terms trying to bring back federal resources that could have the greatest impact to the benefit of the people of New York. And what could be doing at the federal level to support what the governor's agenda is at the state level.

So that requires us to work on pretty much any issue that you can think of. We have issues and priorities in areas of health and economic development, energy, the environment, transportation, financial services, civil rights, you name it. Because every one of those issues impact the lives of people in New York State.

New York, I should just note, is a very interesting -- I know someone here is from New York is here. You're right there. You're from downstate or upstate?

**Michele:** Brooklyn.

**Derek:** OK. I lived in Brooklyn when I was in New York. But she can tell you, New York is an interesting state because they have this downstate/upstate dynamic, which is very interesting. The downstate, which is New York City, that's what most people think of -- if you're not from New York -- when you think of New York. And the upstate folks really are always concerned that they're getting the short end of the stick compared to New York State.

Upstate has been suffering quite a bit. It's more industrial, a lot of farms. There's a huge agricultural community in New York State. And as jobs and businesses have been going overseas or the cost to live in New York, property and what have you, has been going up, a lot of jobs have been leaving upstate New York, and it's been dealing with serious economic struggles.

Downstate has been doing much better, and oftentimes they complain that they have to basically support upstate. So there's a dynamic within the state that we also have to work out.

But I really love what I'm doing now. It's exhilarating, it's intense, I work on issues where I can see how, on a daily basis, you're making a difference in people's lives. Last year, a good example was working on the S-Chip issue, which is children's healthcare. Governor Spitzer, who was the governor at the time, took that as one of the main issues he wanted to champion because he had a goal in the state of providing health coverage to every child. He wanted every child in New York State to be covered. So every day as you worked with Congress and you saw the issue getting written up in the paper, you could feel that you were going to make a change, you were making a difference.

Unfortunately, in that case, the law got passed in both the Senate and the House, but President Bush vetoed the bill twice, so it hasn't become law yet. But the hope is that soon it will. The subprime mortgage issue is another one. Also you can work on issues that are quite controversial. For me the one that stood out last year was the driver's license issue for undocumented people in the state. And if people have questions about it, we can talk about it. It was a very challenging and intense few months while we were going through that.

The skill set that you need to do this, I think it requires a lot of long-range planning, strategic thinking, political judgment, creativity, and you have to be willing to stick with issues. Because Congress is a weird animal. You can be working on an issue, they draw up bills, they know nothing's going to happen. Like this year there might be two or three things that get signed by the President, even though you're working on a ton of stuff. So you have to really be able to stick with issues throughout a Congress, and over the years.

The one lesson I wanted to talk about--it's a personal one, because it relates to what's happened over the last few weeks in New York. But I wanted to share it with you, because I think it's important for anyone thinking about a career in public interest to keep this in mind. Now, for obvious reasons the past few weeks for me have spurred a period of introspection about what I do and why I do it.

The events surrounding Governor Spitzer shocked me personally. He was in Washington when

that all happened. I was with him the entire next day. But they shocked everybody. And for many in our state, and many on my staff, in government, the general public, the private sector, the non-profit sector, there were a lot of feelings of discouragement, disillusionment, betrayal, and disappointment over what happened. And it really caused people to question, because there was a lot of hope put in Governor Spitzer.

And while what happened to Governor Spitzer is not something that anyone ever expects-I don't think you can ever plan for that-it's really not a unique situation. It seems like almost a couple days after that you started hearing about the Mayor of Detroit and the former Governor of New Jersey. These things happen in politics. And, in fact, this type of disillusionment is not limited to just politics.

While I was flying up I was reading the Saturday's New York Times, and there was a story in there about the increasing amount of theft taking place within our nation's charitable organizations. I don't know if any of you saw that article; it was in Saturday's New York Times. But the story strongd a report that found as much as 40 billion dollars-40 billion-may be stolen each year by individuals working for charities.

Now think about that. This is people giving money, whose job it is to help others. People are taking out of their own pockets. Oftentimes they don't have a lot of money, but they want to help out in some way. And this is what's taking place. That could cause a lot of disillusionment if you're working in these areas.

Now, for me to make sense of it I was forced to look at the true reason I do the work that I do, and who, at the end of the day, I really work for. Because when you're in politics, or when you're in government, you tend to work for one individual. Someone hires you, like the Governor, or the President, or you work for a mayor, or a member of Congress. And doing that can cause you to think that your entire life is wrapped up in that one individual's life.

But in reality I think it's important to keep in mind that you really are working for the people, not the person; that is, the issues that must be the ultimate focus of your efforts, not the individual. I had to rely on that to make sense of what was going on. My staff had to rely on that to make sense of what was going on. In essence, it was important to-to use a popular phrase-keep your eyes on the prize of why you were actually there. And I think by keeping that focus, it provides you with the proper perspective when unexpected challenges come your way.

So, if I had to sum up my work experience, and just to give you a little bit of advice about what you're choosing to do, I would say the common threads are you should do what you love-that's important. I remember the first time I met Senator Chuck Schumer. He was working at a firm for maybe a year or two, and then he ran for Congress because, he said to me, "I decided I had to do what I loved. I didn't like this, and I said, 'I'm not going to be in a job that I don't love.' And since I've been a public official I've loved every day of it."

I think it's important to keep your eyes on the prize, remember why you're there. Disappointments will happen. People will let you down. You'll lose cases. You'll feel like you got a raw deal. But remember why you're there.

I think it's important to be an ambassador for public service. You are going to be a public servant, but no matter where you go, people could have the opportunity to be a public servant. Be an example, in a firm, think-tank, working in the government, wherever you are. And finally, I think you should think big and be bold. Because that's how you change the world.

Now, I want to just close with one more observation. I apologize for going a little bit longer, but I want to go back to the quotes, again, from Mr. Gates and Mr. Houston, and then make a point. Earlier I made the point that the quotes were careful not to specify the form in which a lawyer must practice. And I used my own public service experiences as an example of different ways in which you can contribute.

But I also now want to focus on what the quotes do say. That was what the quotes didn't say, what they didn't specify. Let me read them again. "Law is human service of the highest order. Our role as lawyers is to make it possible for people to survive and thrive in an extraordinarily complex world." That's the quote by Mr. Gates. Here's Mr. Houston's quote again. "A lawyer is either a social engineer or a parasite on society."

I think one of the problems we have in the legal profession is that we too often accept the distinction between the roles and responsibilities of public interest lawyers and other lawyers. When I read those quotes, to me, Mr. Gates and Mr. Houston—we can ask Mr. Gates to verify, he's here—but in their quotes they don't appear to see any distinction between those groups.

Mr. Gates' quote didn't say, "Our role as public interest lawyers is to make it possible for people to survive and thrive." He just said, "lawyers." Likewise, Mr. Houston didn't say, "A public interest lawyer is either a social engineer or a parasite on society." He just said, "lawyer." It does not make sense to me that the legal field should expect public service lawyers to shoulder the complete burden and the fight for social justice.

Now, those of you here might say, "We know this, you're preaching to the choir. Why bring this up to us? You need to be going to the business law conference and making this point." [laughs] And while there's something to that—particularly with respect to the University of Washington Law School, which I think is a leader on these issues—I don't think it's entirely true with respect to the legal community at large.

I believe that our nation's law schools are uniquely positioned to play a leading role in bringing about the paradigm shift in attitudes that will be necessary to make this happen. Now, it's already started. Earlier today I learned about the University of Washington's 60-hour community service requirement for every single person who graduates from the law school. And for a number of years the American Bar Association has been making efforts to try and promote lawyers to engage in pro bono work.

However, in my view, I think we can go further. As is the case with Con law, or Torts, or Contracts, or Civil Procedure, I don't see why we couldn't have some course on social justice issues be a required part of the curriculum for all students, regardless of the career path they ultimately choose. While this law school's 60-hour requirement is wonderful, not enough law

schools around the country hold themselves up to that high standard. And is it time to push further? I don't know. But if you look at the challenges we face in the nation and this world, I think it's clear that we cannot afford to have any lawyers standing on the sidelines.

I think a classic example of the mortgage crisis, where you have families losing their homes, going into foreclosure. Wouldn't it be nice if lawyers from the private sector were working with lawyers from the public sector, public officials, to try and help families cope with this crisis, as opposed to just spending time bailing out the Bear Stearns of the world.

And I think lawyers have unique skill sets. All lawyers do. There's lawyers who are good at deal-making, there's lawyers who are good at negotiating, there's advocates. All those skills need to be brought to bear if we want to get the most out of our public service.

Now, to me what's encouraging is that there appears to be a movement afoot to try and bring more attention at the national level to a focus on public service. And I think it's really important for legal institutions like this law school and other law schools to tap into this.

Just last September "Time Magazine", you all probably saw, did a feature story, it was entitled "The Case for National Service", and it focused on a lot of individuals in different careers who did public service work. And it explored the issue of whether or not a universal national service model would make sense.

Two of our presidential candidates, Senators Obama and Senator Clinton, have national service proposals that are part of their platform. Senator Obama's is a detailed plan that calls for a dramatic expansion of both the infrastructure and the resources that currently support public service opportunities. He also calls for the integration of public service learning and experience into our schools and curriculum.

Senator Clinton has an idea where it would be a national service program where you would forgive student loans in return for people working in public service upon graduation.

Now, I think this is great momentum, and I think election years provide a unique opportunity to really raise the level of issues, because there's so much attention that comes with a presidential campaign.

Thus it's my hope that law schools and lawyers across the country make the most of this opportunity by actively engaging in and promoting the national discourse on public service and by rethinking how they approach the issue within their own programs and workplaces.

Yes, the University of Washington School of Law is well ahead of the game, but there is always more that can be done. I truly believe that this is what Mr. Gates and Mr. Houston were calling for in their statements. In essence, I hesitate to use this phrase because it's become unpopular in other circles, but we must leave no lawyer behind.

[laughter]

I had to get some public policy in there. We must leave no lawyer behind in our quest to serve the public most effectively. That, I believe, is our ultimate call to action, and I look forward to working with you all to answer this call. Thank you.

[applause]

I should take... yeah. OK.

**Michele Storms:** So we do have time for a few questions if anyone wants to direct anything to Derek Douglas.

**Man 1:** You've had, clearly, a varied career, and it seems that you've gone from one job to another, the commonality has been kind of the skill set, you brought one skill set, not as much the substantive area for things you were doing. Given where you're at now, would you have taken the same career path, or would you have, had you been offered the job, would you have gone straight to this job? Is there any job, assuming there's nobody here from any of those jobs, that you would have cut out in the middle?

[laughter]

You worked for O'Melveny & Meyers.

**Derek:** Yeah. The way I... my career path is interesting, and really the attitude I took was, I wanted to do what I loved, but if an opportunity came about that I thought was interesting and challenging, but I could still contribute in some way, I would look at it.

Now, every opportunity that came my way I didn't take, but I knew... when I got in civil rights, I thought I would just be a civil rights lawyer for the whole time, and then, as I talked about with the Sheff v. O'Neill case, I saw how important the public policy side was to actually getting and accomplishing the results I wanted.

And that got me more interested in learning more and getting more involved in public policy. O'Melveny was an interesting... I wouldn't really change it, and to be honest with you, O'Melveny helped me get the job at the Center for American Progress, because coming from just the civil rights litigation community, I didn't have any Hill background. I never worked on the Hill before, going to law school, a lot of people do after college. But I didn't have any government work.

And O'Melveny, I was in this practice group where we worked a lot on government issues, political issues, I would track legislation for companies, that sort of thing. And so, when I met with folks from the Center for American Progress, that job helped set up the other.

Now, on a substantive level, the work of O'Melveny, kind of the antitrust cases and whatever, I could've done without. And part of why I left was because that wasn't something I wanted to do, and to be perfectly honest with you, part of why I went was because I needed to get some financial resources to free me up. I felt that I was not in a position to be free to pursue whatever

opportunity came my way because I was broke, basically.

[laughter]

And doing that did provide me a little bit more freedom to then go off to CAP and things that didn't pay what a corporate firm paid but were of interest to me.

Maybe it's just because it's the job I have now, but I really love what I do now. Working for the state but on federal issues, you're at this really interesting nexus between state government and federal government, and you get to work and see and understand how the state side works in terms of making laws, and you get to see how the federal side works, and how the two go together.

Also, working on a variety of issues, I feel like I've exposed myself and I'm learning a lot about a lot of different things I didn't know before. When I was at LDF, I worked on education cases, when I was at CAP, I did the debt stuff and whatever. Here, you've got to know environment, you've got to know energy, you've got to know everything. And I enjoy that.

So to answer your question, I probably wouldn't do anything differently. I went to LDF because that was the best job I had when I was in law school, you know you do the summer internships? It was the first summer internship I had, first year. My 1L summer, my first job was there, and it was the best job I had. So I went there, and I miss that and I miss the folks there, but every job, I think, has been a building block, and who knows what the next one will be? I'll probably be here for a little while.

**Man 2:** What is strategic political consulting in a private law firm?

**Derek:** Strategic counseling was the practice group. It's essentially when corporate clients have issues before Congress. They come to a law firm to get your help to figure out how to navigate Congress.

For example, the first matter I had when I went to O'Melveny was, John Snow had just been nominated to be the secretary of the Department of Treasury. To get him prepared for his confirmation hearings, he hired us, and I was on the case, to help get him prepared.

So we had to do all the background vetting and dig every bit of dirt up we could, knowing that that's what the Congress would do. Then you take him through the mock hearings and you'd have to do his paperwork. It was that sort of thing.

We did a lot of work for investment banks who were investing in companies that would be impacted by federal legislation, like a good example is... what were some of the ones we did? Like some medical companies, or things of that nature. Now, the investment banks didn't care which way the law went, they just wanted to know which way it was going to go, because that would influence their investment decisions in the companies.

We also had people who got called before Congress because there was some investigation about

practices, and we would help them get prepared. It was that type of thing.

So it was essentially consulting, counseling, advising clients with Congress being your forum instead of a courtroom.

Yes?

[off-mic inaudible question]

**Derek:** I would say that the issue to me - and maybe it's because it's my foundation - but the issue that I think underlies most problems that we face is education.

I think if I could fix one issue or deal with one issue, it would be the education system in this country because it's the foundation for so much. When I looked at the mobility work it all came back to education.

At the Legal Defense Fund a lot of the problems on which we worked with the criminal justice system and things like that you could trace back to having issues with education.

So I think that that is something that has always stayed with me and has always been kind of one of the areas on which I focused. Even now we do a lot of work on trying to improve higher education, elementary and secondary education.

Governor Spitzer, now Governor Patterson fortunately both really believed education was paramount and that was the top priority for both. So I would say that issue.

But in terms of more broadly speaking, I can't really think of one thing that has kind of weaved its way in terms of an issue all the way through everything I've done. It's been quite different.

Take a couple more? OK.

[off-mic inaudible question]

**Derek:** Yeah. I thought so when I was there. [laughs]

That was an interesting time. It was very wild because I remember - one of the interesting things about my job now is you know what's coming before it actually comes. So you're there and you know there is going to be this announcement on driver's licenses and you know it's going to be controversial.

I don't think anyone predicted - maybe we were naïve - I don't think anyone predicted the type of venom that it would spawn, that it did. Now Governor Spitzer wanted to raise this issue.

What was interesting was he talked about this a lot when he was campaigning for Governor. He put this issue right out there. And he won but he got a record amount of votes - 70% of the vote, which is the highest in the history of the state for Governorship.

But I think what must have happened was either people weren't paying attention or there is a difference between talking about an issue in theory and actually doing it in practice.

So when we put it out the Governor really believed it was the right thing to do. He believed you had people living in the shadows. He believed that these were people who were contributing to our economy. They were vital.

He believed that there were safety concerns because there were studies showing that there were more hit and runs and accidents as a result of this. So he felt it was the right thing to do.

I think he still, if you asked him today he would feel it was the right thing to do. What we learned was that it's very difficult for a state to tackle the immigration problem on its own because it is such a contentious issue. And it is an issue where the other side can so easily vilify.

For us to explain our policy we needed a one pager to talk about safety and security and all this stuff. They could just say the words 'illegal immigrants'.

So in terms of framing the issue and framing the debate, the other side had a much easier time. So you were always on the defensive. As soon as that came out we were literally fighting upstream for the next three months to get anything done because the public was so against it, because people would use that to kind of instill fear and say that Osama bin Laden is going to get a license in New York and come in - crazy stuff that would never happen.

What I always pointed out was that 9/11 - right now New York doesn't provide licenses for illegals and 9/11 happened. So the terrorists didn't need New York to give licenses to undocumented people in order to bomb the World Trade Center.

But I think the Governor took a step back. I remember we were at the National Governor Association Meeting. It was a Governors only session. They were talking about the issue of immigration.

The Center for American Progress did a study or a poll on how to talk about immigration. You should look it up. It's pretty interesting.

But Governor Spitzer said, "States shouldn't talk about it. [laughs] States should not talk about it. It's the Federal government's responsibility in the first instance to come up with a comprehensive way to solve it. And if a State goes out on its own to deal with it they are going to get slapped down."

I think the Federal government knows that in many ways. One of the issues we were talking about with the students today is how the Federal government is trying to kick that responsibility on to the States.

They have asked all Departments of Labor for example to go around and start to enforce the laws that say employers can't hire illegal immigrants. They want our States, our DMV's, our

Departments of Labor to essentially be the INS. The State is not equipped. We don't have the resources to do that.

So it was a lesson learned. It was unfortunate. It was sad the way people talked about immigration and immigrants. I personally thought it was embarrassing. But it is what it is. And now we have to, those who want to work on those issues really have to go back to think about a strategy for how to talk about it and to present it in a way that won't be as polarizing.

OK. Last question.

**Man:** Do you have a vision for an ideal public interest law firm? And going forward we often hear about this distinction between intense litigation and services. You talked earlier about the challenges, at one point talking about inequality without saying inequality. And I could see similar challenges hitting different kinds of groups of interest lawyers, so there being common need but not necessarily a common answer. And talk about that episode.

**Derek:** It was funny. I thought about - I remember when I was applying to law school, in my essay I think I put it - I have to look it back up - but I think one of the dreams that I had was to create this law firm that would be multicultural.

A lot of the way that we do the stuff today, you have the Legal Defense Fund, which focuses on issues affecting African-Americans, and there is MALDAF and there is PRLDF and ALDF. A lot of DAFs all around.

My ideal was to create a multicultural Law firm that looked at all the issues because it's all the same issue. We're just looking at different populations. It would have with it a research component that could support the litigation component.

In an ideal world it would have a strong community organizing arm. The Legal Defense Fund used to have that years ago. When I was there they got rid of the community organizing piece. So I got there and I had to figure out how to do that stuff on my own because I realized the Legislature wasn't going to listen to me.

It would have that piece. The final piece - it would have a large communications element to it because communication, getting the word out is so effective at motivating behavior. It's really remarkable.

When I was at the Center for American Progress, that's where I learned that the best. Most think tanks are 90% scholars and research and that sort of thing and maybe five, 10% on communications.

The way the Center for American Progress was setup, 50% of the budget was on the policy development, 50% was communications. The organization was started in 2003 and already, five years later it's one of the most well-known in terms of getting ideas, getting people out there. Because the view was, if you are doing good work, if no one knows about it the impact of what you're doing is greatly diminished.

So I would have those four components. And I'd have major investments in all four. Then I would just try and go get it done basically. [laughs]

[laughter]

**Derek:** Anyway that was my dream. It still is one of my dreams. I have more dreams now. But thank you again. Thank you again.

[applause]