



## FEDERAL BAR ASSOCIATION – DETROIT CHAPTER

704 U.S. COURTHOUSE

DETROIT, MICHIGAN 48226

### PRESIDENT'S MESSAGE

#### PART OF THE PROBLEM OR PART OF THE SOLUTION?

At this time of year, most of us take stock of our lives, evaluate our performance and often re-evaluate our objectives. It is in that spirit that I offer the following:

Almost 80 years ago, G. K. Chesterton wrote an essay called "The Twelve Men" after he had completed criminal jury service in a suburb of London. Listen to these words from a poet and philosopher of 1909:

"The trend of our epoch up to this time has been consistently towards socialism and professionalism. We tend to have trained soldiers because they fight better, trained singers because they sing better, trained dancers because they dance better, specially instructed laughers because they laugh better and so on and so on. \* \* \* Many legalists have declared that the untrained jury should be altogether supplanted by the trained Judge.

Now, if this world of ours were really what is called reasonable, I do not know that there would be any fault to find with this. But the true result of all experience \* \* \* is \* \* \* that the more a man looks at a thing, the less he can see it, and the more a man learns a thing the less he knows it. The \* \* \* argument of the expert, that the man who is trained should be the man who is trusted, would be absolutely unanswerable if it were really true that a man who studied a thing and practiced it every day went on seeing more and more of its significance. But he does not. He goes on seeing less and less of its significance. In the same way, alas! we all go on every day unless we are continually goading ourselves into gratitude and humility, seeing less and less of the significance of the sky or the stones.

Now, it is a terrible business to mark a man out for the vengeance of men. But it is a thing to which a man can grow accustomed, as he can to other terrible things; he can even grow accustomed to the sun. And the horrible thing about all legal officials, even the best, about all judges, magistrates, barristers, detectives, and policemen, is not that they are wicked (some of them are good), not that they are stupid (several of them are quite intelligent), it is simply that they have got used to it.

Strictly they do not see the prisoner in the dock; all they see is the usual man in the usual place. They do not see the awful court of judgment; they only see their own workshop. \* \* \*

In the late 1960's and early 1970's, social and political activists challenged the socially and politically apathetic with the words: "If you are not part of the solution, you are part of the problem." What is the problem to which I refer?

For present purposes, it is sufficient to define the problem as how far our performance falls short of our stated objectives. In the absence of a single comprehensive statement of objectives, we have to look in several places. You can add others of your own choosing.

"These rules \* \* \* shall be construed to secure the just, speedy, and inexpensive determination of every action." (Rule 1, Fed.R.Civ.P.)

"These rules are intended to provide for the just determination of every criminal proceeding. They shall be construed to secure simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay." (Rule 2 Fed.R.Crim.P.)

"A lawyer shall not:

- (1) handle a legal matter which he knows or should know that he is not competent to handle, without associating with him a lawyer who is competent to handle it;
- (2) handle a legal matter without preparation adequate in the circumstances;
- (3) neglect a legal matter entrusted to him." (Canon 6, DR 6-101, Code of Professional Responsibility)

"An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. A judge should always be aware that the judicial system is for the benefit of the litigant and the public, not the judiciary. The provisions of this code should be construed and applied to further those objectives." (Canon 1, Code of Judicial Conduct)

The problem is the disparity between our performance and our objectives. Are we part of the problem, or are we part of the solution?

Have we, in Chesterton's words, got used to it?

John P. Mayer

### BANKRUPTCY SEMINAR

The Bankruptcy Committee will be holding a seminar on the new bankruptcy law. The seminar is scheduled for January 13, 1987, at 10:00 a.m. in Room 115 U.S. Courthouse. Speakers include:

Honorable Arthur J. Spector, Bankruptcy Judge for the Eastern District of Michigan

Molly P. McIntyre, Estate Administrator's Office

Gladys Goschka, Miller, Canfield, Paddock & Stone

Michael S. Khoury, Clark, Klein & Beaumont

For more information, please contact Richard Fellrath at 963-6420.

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### CONSTITUTIONAL BICENTENNIAL CELEBRATION

Just about the time you start to feel the pangs of withdrawal from the holiday season, your mail will bring you an impressive invitation from the Sixth Circuit Judicial Conference Committee for the Celebration of the Bicentennial of the Constitution. Under the energetic leadership of Circuit Judge Damon J. Keith, the Sixth Circuit will lead the nation in inaugurating the Bicentennial Year. Judge Keith has committees working on every facet of the observance throughout the year with the kickoff event to be a community-wide banquet at the Westin Hotel on Friday, January 30. Chief Justice Warren E. Burger, retired, will be the guest speaker. Music will be provided by the Interlochen Arts Academy concert band.

Our Chapter's representation on Judge Keith's committee has until now consisted only of your President. Anyone who would like to help with the planning and execution of the January 30 program or the events to follow (your Executive Board is discussing a variety of activities to follow throughout the year) is urged to telephone John Mayer at 226-2120.

[NOTE: Many thanks to those who responded promptly when this item ran in the December newsletter. An initial planning meeting has already been scheduled. Anyone who has not yet previously responded who would like to participate in Bicentennial activities is urged to call John Mayer at 226-2120.]

### CHIEF JUDGE LIVELY'S COMMENTS

At the November 19, 1986 luncheon meeting, Chief Judge Pierce Lively of the Sixth Circuit Court of Appeals spoke on the past, present and future of the Federal Judiciary. Copies of his speech may be obtained by writing to 704 U.S. Courthouse, Detroit, Michigan 48226. He closed with these words:

"The genius of our Constitution seems to lie in the fact that its grand outline is so sound that the undreamed-of changes in life on this continent over the last 200 years have not rendered it obsolete. Congress has grown and its staff has mushroomed; the office of the President and the plethora of executive departments and agencies would astound observers from as recently as 50 years ago. Yet all these developments have taken place without any fundamental changes in the basic plan of government devised in 1787. History seems to prove that Benjamin Franklin was right - the Constitution may not be perfect, but it is probably the best that man can devise. It has given us a framework for government that has been flexible enough to accommodate revolutionary changes in our society without the traumatic and unsettling experience of constantly rewriting our basic Charter.

With the addition of the Bill of Rights, the Constitution has given a free people those protections against tyranny that are required to maintain personal liberty. Finally, in our day we see the promises of equal opportunity, proclaimed in the Declaration of Independence and engrafted onto the Constitution by the Civil War Amendments, moving more nearly to reality. Though it is not susceptible to proof, it can be argued that the way in which the federal courts have dealt with numerous challenges to the government's efforts in dealing with vast unforeseen changes is the central ingredient of the success of our constitutional form of government. The least dangerous, and smallest branch, may have provided the essential balance wheel."

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### DETROIT CHAPTER NEWSLETTER NEWS

The next issue of the Detroit Chapter Newsletter will be the February issue. Material for publication should be sent prior to January 16, 1987 to:

Thea Marie Sankiewicz, Esq.  
Raymond, Rupp, Wienberg, Stone &  
Zuckerman, P.C.  
755 W. Big Beaver Road, Suite 1900  
Troy, Michigan 48084

## MEMBERSHIP NEWS AND REMINDERS

We would like to take this opportunity to welcome some of our new members:

Albert Calille  
Stephen Cochell  
Marisa Petrella  
John Engstrom

Mary Margaret Bolda  
Magistrate Virginia Morgan  
Rachelle Silberberg

A hearty "Welcome Aboard!" to these new members who have joined one of the largest and most active FBA Chapters in the country. We are very pleased to count them among our members.

A reminder to all current members to pay your Detroit Chapter dues for 1986-87 if you have not done so already. These nominal dues are very important to sustaining the wide variety and high quality of Detroit Chapter programs. Send in your dues today!

Further, in order to be a member of the Detroit Chapter of the Federal Bar Association, you must be and remain a member of the National Federal Bar Association. Please make sure your annual dues to the National Association are current.

If you have any questions on membership, need forms, and so forth, please contact Membership Committee Co-Chairpersons Mark Brewer at 965-3464 or Anthony Adams at 224-3420.

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### DETROIT CHAPTER DUES

The Detroit Chapter has had an excellent response from members for the 1986-87 local dues. For the few who have neglected to pay their dues, a notice was sent December 15 - immediate payment will be greatly appreciated.

We would like to acknowledge and thank our fast-growing list of SUSTAINING MEMBERS:

Paul D. Borman  
John William Butler, Jr.  
Norton J. Cohen  
Thomas M. Cranmer  
David F. DuMouchel  
Lance A. Fertig  
Neil H. Fink  
Alan C. Harnisch  
Patrick E. Hackett  
Robert S. Hertzberg  
Norman Hyman  
Leonard C. Jaques

Richard F. Krandle  
John P. Mayer  
Artis M. Noel  
Clarence L. Pozza, Jr.  
James K. Robinson  
Charles R. Rutherford  
Thea Marie Sankiewicz  
Arnold S. Schafer  
Mary M. Waterstone  
Richard E. Zuckerman  
Milton Y. Zussman

SCHEDULE OF EVENTS

1/13/87            Bankruptcy Section Seminar, 10:00 a.m.,  
Room 115 U.S. Courthouse

2/5/87            Executive Board Meeting, Savoyard Club,  
12:15 p.m.

4/2/87            Executive Board Meeting, Savoyard Club,  
12:15 p.m.

5/8/87            Annual Dinner Dance, Lansdowne

[NOTE: There will be two membership luncheons, one in late February or early March and one in April. The dates will appear in this space as soon as arrangements are firm.]

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