ADVANCE SHEET – April 11, 2025

President's Letter

In this column I try to abstain from contemporary writings and controversies. The Trump administration's contemporary assault on large law firms does not stand alone; it was preceded by efforts of the opposing faction to purge large firms of lawyers seen as consorting with 'the enemy' as with Paul Clement's departures first from King and Spalding after championing the unfashionable side of a 'gay rights' case and then from Kirkland and Ellis, after championing the unfashionable side of a gun control case. An essay and book (A Nation Under Lawyers) by the Harvard scholar Mary Ann Glendon written thirty years ago anticipated the Bar's present troubles, and her lecture on it in 1994 is tendered here.

George W. Liebmann

A Nation Under Lawyers

By Mary Ann Glendon

November 17, 1994

I am always curious about why other scholars choose their particular research topics, so perhaps you too will want to know why this lawyer has just written her own book about what has been going on in the legal profession over the past thirty years.

About twelve years ago I wrote a rather long piece on that subject for the *Encyclopedia Britannica*, in which I thought I had the subject wrapped up in a nice, neat little package. But as the 1980s wore on, that package came undone quite spectacularly. Many lawyers, including me, began to feel like the character in the Louis Auchincloss story, who said that he felt as though all the “legal eggs” that he had been carrying in a basket for thirty years had fallen through the bottom to the street.

Part of the impulse for writing by lawyers about their profession is the normal human impulse to make sense of one's environment. Still, I could have resisted that impulse were it not for a lecture series that the late Allan Bloom organized about six years ago at the University of Chicago. Bloom invited a number of speakers to address the contemporary state of the institutions that had attracted Alexis de Tocqueville's attention during his visits to the United States and about which he wrote in *Democracy in America*.

I remember thinking it was a pity that the legal profession was left out, because Tocqueville had been so intrigued by the role of the legal profession in what was even then the world's most legalistic society. It seemed obvious to him–and I think it is still obvious–that citizens in a republic that depends so heavily on law cannot be indifferent to changes in legal culture.

When Tocqueville traveled around the country, he was amazed to see lawyers at all the pulse points and switches of the economic and political life. He marveled as well at the influence they seemed to have on popular culture. Ordinary citizens, he said, were even imitating the speech and manners of lawyers in much the same way that French men and women were imitating their deposed aristocracy. No one will understand American democracy, Tocqueville asserted, without understanding the legal profession.

What might strike us moderns as a little more surprising is that Tocqueville regarded the influence of the legal profession as almost entirely beneficial. He thought America was blessed to be a nation under lawyers. A large lawyer class, as he saw it, operated as a kind of social check and balance on the impulses and excesses of a rowdy democratic population. Lawyers fussed over contingencies and details. They planned for the long term. They were like the egg whites holding up the social souffle. And so many of their sober habits rubbed off on their fellow citizens that Tocqueville saw fit to call America "a nation of magistrates."

What if Tocqueville could revisit the United States today? He certainly would still find a nation under lawyers in the sense that it is lawyers, and not graduates of the *Grandes Ecoles*, who predominate in economic and political life. But would he still see them as a force for stability, moderation, and restraint? Or would he see them as perhaps cooperating with, even aggravating, democratic excesses? Would he see America as a nation of magistrates, or would he see a citizenry that resembled, at times, a crowd of adversarial advocates?

The first question Tocqueville would surely ask would be, What are the implications of changes in the beliefs and attitudes of members of the legal profession for a polity dependent on law? In the recent literature about lawyers, almost nothing has been written about that question. Legal writers tend to focus on litigiousness, or increased competitiveness, or spectacular instances of bad behavior by individual lawyers, sometimes with hand-wringing, sometimes with defensiveness. The more I read in that superficially introspective literature, the more it seemed to me that something important was missing–not that I agree with our valiant bar leaders who claim that it is unfair to blame the whole profession for the misdeeds of a mere five or six hundred thousand lawyers!

What finally prompted me to do research of my own was that I kept running into evidence of a problem that not even the most cynical lawyer bashers had zeroed in on.

Significant proportions of lawyers were no longer even professing to believe in the few core ideas that American citizens count on lawyers to uphold, such as the rule of law, separation of powers constitutionalism, or even the idea that a lawyer is a special kind of public citizen who retains certain public duties even while representing a client.

I am referring, deliberately, to what lawyers *profess to believe*, rather than to what they actually *do*, because lawyers, like all other human beings, sometimes have trouble living up to their ideals. Perhaps more than most other people, they are afflicted by doubts. But it is one thing to be a sinner and a doubter, and another to be an apostate.

Here is one example of the kind of thing that piqued my curiosity or, as we now say, caused in me "cognitive dissonance."

You may remember the moment in October 1973, when Archibald Cox gave voice to what are still widely held popular sentiments about the rule of law principle. One might argue about particular applications of that principle or even question Cox's own understanding of it, but most Americans, happily, do not contest that the principle of government under law is fundamental to our system of ordered liberty.

What is one to make of the fact that just a few months after Cox became a folk hero of sorts with his famous statement, another equally prominent law professor–even better known than Cox was at the time–told a large audience in the legal academy's most prestigious lecture series that the rule of law is just an empty slogan, that we are a nation under a government of men, not laws, and that the only people who still believe in the rule of law are unreconstructed "cold warriors?"

The speaker was no radical, but Grant Gilmore, a grand old man of law teaching. What is one to make of the fact that Professor Gilmore's contemptuous dismissal of the rule of law went entirely uncriticized and unchallenged in the legal community? The main criticism of his lectures, in fact, was that there was nothing new in them!

II.

There have been in our time significant changes in what lawyers believe about law and in what they believe about what constitutes excellence in a practitioner, judge, teacher, and legal scholar. I decided to explore the political implications of those changes for a republic that entrusts so many roles to legally trained men and women, and I quickly found two rich veins of material.

The first was what I call "praise literature:" after-dinner speeches, law-day speeches, tributes, and testimonials. This may sound boring, but if you read them the way we were taught to read Pericles' funeral oration–not for the truth of what they say, but for what they tell you about what the speaker expects his audience to admire–they are a most revealing body of work.

The second fruitful source is what I call the "nobody here but us girls" literature–the specialized journals where lawyers write for each other with great candor about such things as how to get and keep a client and how to make sure your fees get paid.

Think for a minute about what qualities you consider to be admirable or praiseworthy in a judge. If you are like Alexander Hamilton or like most of the other Founders, you will think of integrity, impartiality, and independence from outside influences. Until

recently, the praise literature took those qualities for granted. What attracted the most admiration in legal circles up to about the late 1960s were several traits that add up to what I call the classical model of judging: virtuosity and legal craftsmanship; skill in maintaining principled continuity in the law; the ability to decide cases so that even the losing party can go away feeling that he has been fairly treated. (That last item may be the rarest and most difficult of judicial skills.) Finally, there were constant references in the literature to the qualities of humility or modesty–which meant not just personal modesty, but judicial deference to the other branches of government. As Oliver Wendell Holmes said once summing up his own philosophy: "About seventy-five years ago, I learned that I was not God. And so when people, through their elected representatives, want to do something, and I can't find anything in the Constitution expressly forbidding them to do it, I say, whether I like it or not, goddammit, let them do it."

Years later, in a speech dedicating a portrait of Justice Holmes, Judge Learned Hand added a few words of his own in praise of craftsmanship. He rhetorically asked the audience, which included Holmes and Dean Roscoe Pound, "Are you a member of the Society of Jobbists, or do you know that guild? If not, let me tell you of it. It's an honest craft, gives good measure for its wages, and undertakes only those jobs which the members can do in proper workmanlike fashion. It demands right quality, better than the market will pass."

The judge whose name is synonymous with the whole range of classical traits, rather than just one or two, was not the redoubtable Holmes, or even Hand, but Benjamin Nathan Cardozo. When lawyers and judges with forceful personalities praised Cardozo–and when they used the word humility, they were expressing admiration for his–what they meant was his superior ability to put aside personal bias and predilection and to resist the temptation to press the judicial role to its limits. Many scholars have since shown that Cardozo was not perfect in those respects, but he was much admired by his contemporaries for being about as good as one could be. Hand once praise Cardozo for those qualities, described him as "a runner stripped for the race."

What a sign of changing times it was when Clarence Thomas, in his Senate confirmation hearings, evoked that classical tradition by saying that he tried to approach the task of judging like "a runner stripped for the race." That statement was pounced upon and ridiculed in the national press and in law school corridors by people who appeared to have no idea that Thomas was quoting Hand on Cardozo!

III.

By the 1990s, ideas of excellence in judging had been in turmoil for many years. The classical ideal still had vigorous adherents, but it has been increasing challenged by an attractive new model of judging, one we may call "romantic." Up until the mid-1960s, the occasional judge who regularly strayed from the classical model–one thinks of someone like William O. Douglas–was widely disapproved even by those who shared his social and economic views. But Douglas lived to see many of the traits for which he had been criticized become part of a new and increasingly respectable ideal.

The romantic model of judging is, of course, bound up closely with the Warren Court and with the hopes that some of its decisions awakened in and out of the profession that court decisions could be an important factor for social justice. The romantic judge

is admired for boldness rather than self-discipline, for compassion rather than even-handedness, for creativity rather than technical proficiency, and for specific results, regardless of the effect on the legal system as a whole.

A few anecdotes will illustrate another contrast. When Learned Hand was asked about his judicial philosophy, he liked to say that it was summed up in what Oliver Cromwell is supposed to have said on the eve of the battle of Dunbar: "I beseech ye, in the bowels of Christ, think that ye may be mistaken." On another occasion, Hand famously said: "The spirit of liberty is the spirit that is not too sure that it is right." Fast-forward to 1992, when William Brennan was asked on his retirement whether he had ever had any second thoughts about any of the controversial decisions that he had rendered. "Hell, no," Brennan replied, "I never thought I was wrong."

But it would be a mistake to suppose that romantic attitudes toward judging are confined to liberal judges. They extend across the judicial spectrum, and from the top of the judicial hierarchy down to the capillaries. A well-respected conservative judge, to whom I sent chapters of my book on judging, wrote me that he sided with Brennan, not Hand, on this point. His exact words were: "Show me a judge who has doubts about his decisions and I'll show you a ninny."

For a recent example of romantic illusions from a supposedly centrist judge, consider Anthony Kennedy. In 1992, on the day on which the Court's decision in the Casey case was announced, he invited a reporter from his home state of California to follow him around and, in the course of that day-long interview, compared himself–not once, but twice–to Julius Caesar.

Whatever you think of the Warren Court, it is almost impossible to imagine any of its judges–with the possible exception of Douglas–preening before the media in that way. Either something has happened to the water in the Court's drinking fountains, or there has been a shift in what judges consider to be appropriate behavior.

The extent of that shift, and its ripple effect among lower-court judges, is hard to gauge, but a 1987 poll of several state and federal judges is illuminating. When asked to name the contemporary judge they most admired, more judges gave William Brennan's name than any other, but Brennan got only 22 percent of their votes. The next most admired, with 15 percent each, were Chief Justice Rehnquist and Lewis Powell, followed by Byron White, with 8 percent. These figures suggest that a substantial segment of the judiciary is still oriented to the classical model, but an equally significant proportion now appear to admire fellow judges for qualities that traditionally were more likely to be associated with executives and legislators than with judges.

Another telling sign of the rising respectability of the romantic ideal is that in 1987 the American Bar Association's judicial selection committee added two qualities to the list of qualities on which it evaluated judges: "compassion" and "sensitivity." Elements of the old classic ideal, it seems, are now mingling with elements of the new romantic ideal in some new, as yet undetermined, synthesis.

In some ways, that might be an attractive prospect; in some ways worrisome. Is it not heartwarming to see good-natured, romantic Earl Warren congratulating that old Jobbist, Learned Hand, on fifty years of service in the federal courts? You could almost

imagine that the best qualities of Hand's generation were going to be brought forward to deal with new problems. How well that in fact has happened, I leave for you to judge.

IV.

The turbulence in judicial ideals over the past thirty years has been but a minor tremor compared to the upheavals that practitioners have experienced over the same period. Many recent studies document growing distress, confusion, and dissatisfaction in the profession. To be sure, the law has never been a bastion of professional contentment. Moreover, a lawyer's ethical life has always been an extremely complicated one. Tensions between our duties to our clients and our obligations to the legal system are just the beginning. When novelist John Le Carre was asked why intelligence agencies so often recruited their agents from lawyers, he said: "Because lawyers know how to walk the dark side of the street." In other words, a lawyer's choices are rarely clear-cut. They usually involve greater and lesser goods and evils. Our actions are fraught with moral ambiguity and often followed by haunting doubts.

The image of the lawyer in the American Bar Association's first canons of ethics in 1908 corresponded rather well to that agonized existence: a Humphrey Bogart-like figure, struggling with divided loyalties, not always successfully, trying, not always successfully, to subdue self-interest.

What has changed? In the first place, old, conflicted Bogie is now rivaled by characters who have simplified their ethical lives by giving absolutely priority to client loyalty over their other obligations. Some, as author Walter Olson has pointed out, have openly put their own interests ahead of both client and court. And keep in mind that when one speaks here of a lawyer's own interests, they need not always be financial. They could be the interests of a cause, or an interest in personal publicity. Many lawyers who resist these pressures seem increasingly fearful of being blindsided by competitors, adversaries, and even colleagues who are no longer oriented to any ideas of self-restraint. Meanwhile, the canons of ethics have changed from holding up ideals that were so demanding that they were often honored in the breach to espousing more realistic standards that can be more easily met.

For more than sixty years, the ABA canons held up as a model the wise, independent legal counselor, who owed a duty not only to faithfully represent his client, but to maintain the integrity of the legal system. An attorney, they said, "advances the honor of his profession and the best interests of his client when he impresses upon the client the importance of complying with the highest moral as well as legal standards." In 1969, the ABA scrapped that provision and in its place simply told us that it is desirable to call our clients' attention to the ethical aspects of a proposed course of action. By 1983, even that language seemed too strong. We are now told that we may discuss ethical aspects of a problem with a client–if we wish. That is just one of dozens of steps through which the canons–or, as they are now called, rules of ethics–have retreated from trying to hold up an idea of what is excellent in a lawyer, to telling us little more than what kinds of conduct we should avoid on pain of being disbarred, or going to jail.

What happened between 1969 and 1983? Many nostalgic, older lawyers say that the commercialism and greed of the 1970s and 1980s have ruined the profession. When

law became a business rather than a profession, a once noble calling became debased by the morals of the marketplace. According to many academics, however, that is not what happened at all. And on this point, interestingly, legal economists are mostly in agreement with the critical legal theorists. What the old guard is really moaning about, the academics say, is not commercialism but competition. From the mid-1920s to the mid-1960s, the same big-firm lawyers who headed the professional organizations that wrote the canons of ethics were also controlling prices, regulating entry to the profession, and consolidating what Richard Posner calls an imperfect but elaborate cartel. As for the old professional consensus, my colleague Duncan Kennedy would file that under false consciousness, while Posner has written that it was just a self-serving cover story.

What is one to make of these two stories? It is certainly true that increased competition has been a major transformative force in changing the legal landscape. But it seems to me that maybe both of those accounts involve a faulty concept of what it means to be in business. That is, both the high-minded lawyers, who insist that law ought not to be a business, and the critics, who claim that law was never anything else, are making the same questionable assumption that being in business is inconsistent with ordinary, decent behavior. I cannot help wondering whether, ironically, the nearly universal disdain for business in the legal profession was one of the factors that helped to set lawyers up for a fall when increased competition finally forced them to acknowledge that they, too, are "in business."

Contrast that with Honest Abe Lincoln, who always referred to his legal practice as his business. He was never ashamed of it, and there is no evidence that Lincoln ever assumed that being in business meant that he was exempt from the requirements of common decency. I believe that this bit of advice from Lincoln should be inscribed on the portals of every law office: "Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser in fees, expenses, and waste of time. As a peace maker, the lawyer has a superior opportunity of being a good man. There will still be business enough."

Lincoln's view of lawyering brings me to one more point about recent shifts in the world of practice: the degree to which the lawyers who have always been the backbone of the profession have come to feel increasing devalued and demoralized. Lawyers in every job description are under increasing pressure to transform themselves in the image of that small minority of hard-ball litigators who are more glorified than ever, not only by the media, but by law teachers and even the public.

V.

At this point you may be wondering whether there is anything that the nation's 6,000 or so legal educators could do to come to the aid of their brothers and sisters in the trenches. Unfortunately, the legal academy has been caught up in its own upheavals. Suffice it to say that law schools have never been more distant from the concerns of practicing lawyers than they are today, in part because fewer law professors have ever practiced law–even for one year–and the ones that have are increasingly leaving through death and retirement. One would have to look long and hard in the contemporary legal academy to find anyone like the two characters I am going to show you now.

Sonya Mentschikoff, the first woman ever to teach at the Harvard Law School, came to Harvard from being a partner in a Wall Street firm. (I do not think many partners in Wall Street firms could get jobs in many elite law schools these days.) Her husband, Karl Llewellyn, as a young teacher at the Yale Law School, took a two-year leave of absence from his courses on contracts and commercial law to work first in a bank, then for a Wall Street law firm. The two of them then moved to the University of Chicago Law School–the greatest law school in the United States–where they drafted the uniform commercial code that has harmonized commercial law in forty-nine-and-a-half states. They then went out on the hustings in state legislatures and argued it through, while continuing to make those pathbreaking contributions to legal theory that can only be made by someone who is firmly rooted in practice. It is hard to imagine finding one, let alone two, such scholar-practitioners in the legal academy today.

With hindsight, it seems remarkable that from about the 1920s to the mid-1960s, a coherent set of ideas about lawyering, judging, and teaching was widely, though certainly not universally accepted. What is most striking about the current situation is not that those ideas are being challenged by rebels or malcontents, but by our nation's most prominent judges, teachers, and practitioners. Reading the sources that I looked at chronologically, one can trace the emergence of a fairly stable official consensus.

At the turn of the century, the legal profession was in as much chaos as it is in today. But following the so-called Robber Baron era, a relatively stable consensus endured from the 1920s to the mid-1960s. The breakup of that consensus did not give rise to a new consensus, but to a situation that natural scientists would characterize as one of turbulence. The old system has broken up, but its elements are still entering into combinations with new elements, which are entering into yet further combinations with each other.

In the case of the law, elements of the old belief system are now circulating with ideas that formerly were but minor tributaries, or counter currents to the mainstream. Cynicism about the rule of law is not new–but the respectability of such cynicism certainly is.

VI.

As for the political implications of all of this, Tocqueville's point seems to me to be as admonitory as ever. The fate of the democratic experiment in a legalistic society like ours is intimately bound up with the fate of the legal profession.

Warning lights should begin flashing when a significant proportion of lawyers cease to pay even lip service to elusive but essential notions like the rule of law, impartiality in judging, and a certain degree of self-subordination in representing others.

Alarm bells should start ringing when constitutional law professors ignore the structure of the Constitution and concentrate instead on selected parts of a few amendments, or when the proportions and prestige of the profession's gladiators rises at the expense of lawyers skilled in the day-to-day preventive lawyering that any healthy society requires.

But as Tocqueville well understood, the interaction between the culture of lawyers and the culture at large is a two-way street. Shifts in the legal culture cannot be understood apart from other changes in American society. Lawyers, after all, are in the business of

representing other people, and it would be too much to expect them not to reflect at least some of turbulence and shifts in the rest of society.

And who would deny that many of the social and legal changes of the past thirty years have been for the better? Nearly every lawyer that I have talked to welcomes the profession's increased concern with social justice, its increasing diversity, even the livelier atmosphere in law schools. Those of us who went to law school in the early 1960s did not have nearly so much intellectual stimulation as law students do today. On the other hand, we learned a lot more law.

What makes it all so perplexing is that many of the developments that now cause anxiety seem to be outgrowths or by-products of genuine advances. Hardly anyone, and certainly not women and minorities, would want to turn the clock back to the pre-1960s legal regime. But can we not take what was sound and healthy in the older tradition and adapt it to new circumstances in a way that has always been the pride and glory of the common law tradition?

I must admit the conclusions I have been offering are perhaps not satisfying to people who like firm diagnoses and definite prescriptions. My primary aim has been to call attention to the shifts in legal culture that are politically ominous in a republic that entrusts so many crucial roles to legally trained men and women and that depends so heavily what Lincoln and the Founders called "reverence for laws in the citizens."

In this country, we have had the luxury of taking ideas like the rule of law for granted, but we would do well to remember what Kierkegaard once wrote about the pilings that supported Venice, a city built over the sea. The sea represents civilization's oldest enemy–chaos. Venice is the American experiment. And the pilings, as Tocqueville would have told us, are our habits, laws, and mores.

I do not know what the legal profession would look like if it safely negotiated this trip through the edge of chaos. But I do believe that lawyers contribute most to society when they do what they have always done best, and contribute least when they try to be something that they are not, like judges who are trying to be executives and legislators, counselors who want a piece of the client's action, office lawyers who want to be litigators, and law professors who want to be philosopher-kings and -queens.

That thought is not original with me. We find some such idea at the heart of Plato's *Republic*. After a long search for justice in the city, Socrates says that maybe justice has something to do with perfecting your art and sticking to your last. It may not be so bad, he says, if a carpenter tries to make shoes or a cobbler tries to build a house. But when men who only seem to be guardians of the law take over the administration of the city, injustice is certain to run rampant.

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REMARKS BY GEORGE W. LIEBMANN, PRESIDENT OF THE LIBRARY COMPANY OF THE BALTIMORE BAR, AT A MEMORIAL EVENT IN HONOR OF JUDGES JOSEPH H. H. KAPLAN AND JAMES F. SCHNEIDER, APRIL 3, 2025

The Bar Library, since I became its President for the second time in 2006 has had a series of memorial events in honor of distinguished Baltimore judges and lawyers. At that time, the Library's collection of portraits was scattered throughout the courthouse, with smaller items in filing cabinets, and few items on display dating after the 1920s. Since then, we have consolidated, displayed, and added to our collection by way of becoming a museum of sorts of Baltimore legal history, including commemorations of twentieth-century lawyers, but not living ones. We have had memorial events in honor of William L. Marbury, Reuben Oppenheimer, H. Vernon Eney, Charles Dorsey and Harry Cole, among others. This series, interrupted by COVID, is resumed with the present event, which honors Joseph H.H. Kaplan, a Past President of the Library and James F. Schneider, a past director, succeeded by his wife, Equity Master Susan Marzetta, who cast the decisive vote to preserve the Library as an independent institution in 2006. Both their widows are here tonight.

Because of the efflux of time, I have been unsuccessful in obtaining colleagues of Judge Kaplan in two of the significant episodes in his career, the proceedings leading to the resignation of Vice President Agnew and the Old Court receivership. We will hear, however from two of his colleagues on the Circuit Court, Judges W. Michel Pierson and Robert Kershaw, as well as from my predecessor as Bar Library President, Mark Stichel. Judge Schneider will be memorialized by Mr. Stichel, federal district judge Ellen Hollander and his Bankruptcy Court colleague, Judge Duncan Keir, and by one of his former law clerks, Laura Bouyea. I will have some concluding reflections

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We will be permanently displaying in the Thieblot Room downstairs, the memorable joint photograph of Judgs Kaplan and Schneider, testament to their almost perpetual youth. It will be accompanied in Judge Schneider's case by a characteristically modest and humorous autobiographical essay and in Judge Kaplan's by a tribute to him in American Judicature Magazine by Judge Paul Grimm, fittingly entitled "The Best Judge You Never Heard Of."

I came to Baltimore law practice by the same route as Judge Kaplan: we were recommended by Professor Philip Kurland of the University of Chicago Law School to be law clerks to Chief Judge Frederick W. Brune of the Maryland Court of Appeals.

The same route was followed by Robert Martineau, Secretary to the 1967 Maryland Constitutional Convention and Larry P. Scriggins of Piper and Marbury, who became head of the ABA Corporate law section. My association with Judge Schneider lasted throughout his entire tenure on the Bankruptcy bench, which almost perfectly coincided with my 35 years as a part-time federal bankruptcy trustee.

Early in my law practice, I attended annual sessions of the Fourth Circuit Judicial Conference, where Professor Bernard Ward of the University of Texas Law School sparred with his more conservative colleague, the late Professor Charles Alan Wright, and celebrated the "thin black line" of Southern federal district court judges who enforced school integration in the South. Judges Kaplan and Schneider were members of a similar, longer, but less celebrated 'thin black line' of federal and state judges who were opponents of financial chicanery and unravelled complex cases which their less conscientious colleagues, some of them in Maryland, were prone to sweep under the rug in order to close cases and gain the favor of keepers of court statistics. Such negligent judges are the patron saints of sociopaths and create a real political danger. The Third Republic in France and the Weimar Republic in Germany were importantly undermined by unpunished financial scandals; the unwashed public does not react well to obvious defalcations that go unpunished. A graphic fictitious portrayal of one was provided by the British novelist Anthony Trollope, the villain in his The Way We Live Now bears an uncanny resemblance to the late Jeffrey Levitt.

The last case in which I appeared before Judge Kaplan was one in which I represented a minor player in the complex affairs of an hotel in the Dominican Republic. Judge Kaplan cut through nonsense; the principal actor, a lawyer, migrated to Florida where he was disbarred only last month. The last case in which I appeared before Judge Schneider involved my bankruptcy trusteeship of a lawyer whose specialty was resisting foreclosures, including those on her own properties. I gained possession of them with the aid of two United States Marshals, dispatched by Judge Schneider, who put their hands on their handguns to dissuade the debtor from again changing locks. She was reported to the Attorney Grievance Commission by Judge Schneider and was subsequently disbarred in a 95 page opinion by Chief Judge Getty of the Maryland Court of Appeals.

The United States withstood the financial crises of 1907 and 1929 with the aid of thorough investigations by the Pujo and Pecora committees, followed in the first instance by the Federal Reserve and Clayton Acts and in the second by the Glass-Steagall Act, the federal securities laws, and the Public Utility Holding Company Act and the jailing of the head of the New York Stock Exchange. Only Charles Keating paid a price for the 1980s federal savings and loan debacle; the subsequent sub-prime mortgage scandal saw no prosecutions, billions in federal subsidies to the five largest banks, and the largely irrelevant Sarbanes-Oxley Act. Thanks to Judge Kaplan's management of the Old Court receivership, justice, both civil and criminal, was both done and seen to be done in Maryland. Due to a famous or infamous memorandum, I was a bit player in that affair; the publicity given to it was not due to me but to Judge Kaplan's insistence on accountability.

We are living through an Age of Excess reminiscent of Edwardian England and Wilhelmine Germany. If a free and honest economic system survives it, we will owe its survival to countless relatively obscure judges who share the intellectual curiosity and moral compass of Judges Kaplan and Schneider.

I tried to arrange for a friend of mine, a trumpeter, to blow Taps at this point, but he is away in Korea and this inadequate praise must serve instead.

Commitment

A number of weeks ago, Father Richard Florek, a man who had been the pastor of the church my family and I attended from 1995 to 2005, passed from this world to the next. As a Catholic I suppose there is no greater complement that I can pay him than to say he was a good priest. I can say it even though I am fairly sure I cannot comprehend what it means. How can I, when I am certain men and women much smarter than I cannot comprehend what allows someone to give themselves totally to their beliefs, in the case of Father Richard, to God. On the sixth floor of the Mitchell Courthouse, in the hall in front of the Library is the room where people come to get married. Talk about committing yourself to something. I have been married for over

thirty years and still cannot comprehend how anyone, even overflowing with love, can find it within themselves to summon the courage to say perhaps the most amazing words in the English language "I do."

This brings us to the related subject of being the best at something. Can anyone be born the best? Perhaps in very rare instances, in a minute number of undertakings, but for the overwhelming part, where a field allows that pinnacle to be reached, nothing is as important as commitment: wanting it with the totality of your being. Who is the best lawyer you ever knew? How about the best judge? I worked for one of the best lawyers I have ever known. Judge Lawrence Rodowsky, one of the best judges and men that I have met once said to him "You get more out of nothing than anyone I have ever known." Guess how he does it? Working harder and longer than anyone. Commitment! In sports, for every LeBron James, a person that looks as if they were manufactured in a lab, there is a Michael Jordan: someone so physically unspectacular they could not even make their high school team. Yet, at some point the "I want it more than anyone out there" light came on, and a G.O.A.T. was born.

Now, commitment, which is a human trait, can of course be transferred to or imbued within institutions based upon those individuals that represent it. Yes, we are once again talking about the Bar Library. Here at the Library we are committed to providing anyone who walks through its doors, or reaches out remotely, with the best services and collections possible. Since the basis of our existence is matching users with what they need to further their legal pursuits, it is only logical that this commitment should be nothing less than total. You need it – we have it – we are going to do all we can to make sure that the equation is solved. Let's do the math together.

I look forward to seeing you soon.

Joe Bennett

Readers Respond

In the last issue of the *Advance Sheet*, Library President George W. Liebmann presented his article *Shackles On A Free Society* which begins “The action of the Trump administration in suspending several hundred million dollars in aid to Columbia University and in threatening a half-dozen other leading universities with similar treatment has aroused indignation among liberal-minded persons, but few have noted what made this outrage legally possible.” In a call for anyone to respond who might wish to do so, the Library received the following:

“At least since the beginning of higher education, colleges and universities have been laboratories where young adults and adults have had the freedom and opportunity to expand whatever thoughts they believed relevant and, in a civil way: debate, discuss and argue their respective positions. Todays colleges and universities are nodifferent,

but that freedom to think, to ruminate, to express, to debate and discuss, does not extend to a manifestation of disruption to the college or university, its students, faculty and staff. Where that freedom evolves to such acts as to interfere with students, taking over campus facilities and infringing on the rights of others to participate in the laboratory of learning, these kinds of infringements cannot be tolerated even in the laboratories where thought and ideas are evolving to new and sometimes, improved places, people, government or a host of things with which man has struggled and evolved. The wisdom and power to stop the interference with these freedoms, by those, claiming their right to do so, is a subject of balance. The balance here favors encouraging, restraining or confining academic institutions to keep a balance between the freedoms of those to express their thoughts, ideas and philosophies - - but not the right to interfere or infringe on the rights of others to do so. If that means suspending or terminating funds to institutions that will not or cannot maintain and enforce a fair balance - - then, that kind of restriction of funds benefits not only those whose rights are infringed, but in the long run, the institutions return to what they always have and should be." - Harvey Greenberg, Esquire

"The association may not be political, but I think it is time that we, as lawyers, stand up for the judges who still believe in the rule of law and the First Amendment."
- Charles Lazar, Esquire