

Can We Afford Our Constitution?



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American Bar Association (ABA) Days in Washington, D.C., were April 20–22, a time when lawyers from every state speak to their congressional delegation about issues that are important to the profession. Michigan attorneys were ably represented by Past President Reginald M. Turner Jr., President-elect W. Anthony Jenkins, Secretary Bruce A. Courtade, and me. Because Michigan is a mandatory bar, State Bar members could advocate on Capitol Hill only for *Keller*¹-permissible issues.

The State Bar of Michigan delegation lobbied for a bipartisan approach to the reauthorization of the Legal Services Corporation (LSC). The LSC is the federal entity that funds local legal aid clinics. Last year, Michigan received \$11 million from the LSC. Under the present budget request from the LSC, Michigan would receive \$13.6 million. The LSC funds 136 local programs in every congressional district in the country, and in Michigan alone, more than one million residents are eligible for civil legal aid. The importance of the services provided by the LSC funds is highlighted in the May 2010 President's Page entitled "Justice for Whom?"

As State Bar members met with elected members of the House of Representatives and other Michigan congressional delegation staff members, we heard realistic assessments of the federal budget and con-



Left to right: SBM Past President Reginald M. Turner Jr. and President-elect W. Anthony Jenkins met with U.S. Rep. John Conyers Jr. on Capitol Hill during ABA Days April 20–22.

Photo by Lisa Helfert/American Bar Association

cern for the mounting federal deficit. While sitting in House office buildings—literally across the street from the U.S. Capitol and Supreme Court and six blocks west of the National Mall to the National Archives, which displays the Constitution—I had a disturbing thought. Suppose we, as a society, cannot afford to provide the rights and limitations guaranteed in the Constitution. Take a minute to think about the implications. They are terrifying. Paralyzed by fear of terrorism and locked in ideologies that block meaningful strategies to confront a burgeoning deficit, citizens seem ready to abandon

or condone abandonment of important constitutional rights. A little chip off the Constitution here and there can have a cumulative effect, resulting in no Constitution at all.

Is the Constitution a document with meaning and the strength of mandatory implementation, or is it comprised of nice words and ideals that we aspire to achieve when we can? During ABA Days, Rep. John Lewis (D–Georgia) gave a moving speech in which he recounted his nonviolent actions to register voters and to sit on interstate buses in seats reserved for whites—actions that resulted in more than 40 beatings and arrests. Rep. Lewis committed his life to ensuring that the guarantees in the Constitution mean what they say.

We, as attorneys, must have the same commitment. Part of our oath is to support the federal and state constitutions. But how many in our profession reflect on the thought that our day-to-day work upholds the Constitution? When we take a deposition or examine a witness, the details that we take for granted—notice, decisions by

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a competent neutral decision maker, and the opportunity for an appeal to another decision maker—are all guaranteed by the due process clause. But how many times do attorneys think of those daily activities in constitutional terms? Certainly, if any constitutionally prescribed or sanctioned activities are abridged or constitutionally prohibited activities occur, lawyers must be on the front lines protecting constitutional guarantees. The constitutional rights of our citizens must be protected regardless of the economy or any budgetary deficit. That is our calling as lawyers. That is the cause we as a profession must be committed to defend and prosecute.

During the ABA Mid-Year Meeting in Orlando, incoming ABA President Stephen N. Zack and Francisco R. Angones, past president of the Florida Bar, both from Miami, described their Cuban backgrounds. At age 11, Angones' parents placed him on a boat headed to the United States because they feared that their son would be taken to the Soviet Union for "indoctrination." Angones said he was fortunate because he only waited about two years before he was reunited with his parents. These thoughts and actions are so foreign to us. It's so easy to think, That's Cuba, it can't happen here. But Angones' final observation was chilling: "Do not forget, Cuba's Constitution used to be like the U.S. Constitution. Look at the difference now."

These are sobering words indeed. It is not a question of whether we can afford the Constitution. We cannot afford *not* to have a Constitution—a Constitution that we as a citizenry understand, value, and enforce in good times and bad. To ensure that none of our constitutional rights are infringed regardless of how small or for what reason, our profession must remain vigilant to recognize breaches and commit to protecting the full liberties guaranteed to all in the Constitution. That is our profession's fundamental and highest calling. ■

FOOTNOTE

1. In *Keller v the State Bar of California*, 496 US 1 (1993), the United States Supreme Court ruled that a bar receiving compelled dues must stay out of partisan political and philosophical issues unrelated to its purpose.