

BY Judge Norman H. Jackson

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Making a Difference In his national best-seller, *Megatrends 2000*, John Naisbitt (a native Utahn) wrote, “The great unifying theme at the conclusion of the 20th century is the triumph of the individual.” He went on to say: • *It is an individual who creates a work of art, embraces a political philosophy, bets a life savings on a new business, inspires a colleague or family member to succeed, emigrates to a new country, has a transcendent spiritual experience. It is an individual who changes him or herself first before attempting to change society. Individuals today can leverage change far more effectively than most institutions.* • *The 1990s are characterized by a new respect for the individual as the foundation of society and the basic unit of change.* [P. 322]



However, Naisbitt points out that this new empowerment of the individual is coupled with the doctrine of individual responsibility, that is, each individual is responsible for everything he or she does. He says: *This is not an "every man for himself" type of individualism, gratifying one's desires for their own sake and to hell with everyone else. It is an ethical philosophy that elevates the individual to the global level; we all are responsible for preserving the environment, preventing nuclear warfare, eliminating poverty. Individualism, however, does recognize that individual energy matters.* [p. 323] I would like to share with you four examples that show that the energy of each lawyer matters and can make a difference in our profession, our society, and our world. I hope that you will expend your personal energy to make a difference.

Selection of Judges

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On a recent trip to Las Vegas, it was obvious that a judicial election was in full swing. Posters on many street corners touted the names and displayed the faces of justices of the peace and other judges, including the chief justice of the Nevada Supreme Court. Local newspapers carried election year allegations that the chief justice had misused his court telephone by charging to his state account numerous long distance phone calls to members of his family. A conflict-of-interest claim relating to a case in litigation was also leveled against him.

These political-type aspersions against the presiding judge of our profession in Nevada made me grateful for some lawyers in Utah. Twenty years ago those lawyers initiated legislation to take judicial selection out of the political arena. They pushed the "Missouri Plan" through the Utah legislature. Although the plan allowed a selected and appointed judge to be challenged by an attorney at the next general election, that vestige of politics was soon eliminated in favor of the current judicial selection and retention system. Further, those who have observed the Utah judiciary for more than a generation agree that the quality of judges has improved under this system.

With 31 of one hundred Utah judges standing for retention election this year, our legal system would suffer considerable turbulence under the former political process. Under the present system there will hardly be a ripple. Today, we are reaping the benefits of action initiated by a few lawyers two decades ago. Indeed, they made a difference. Sponsor some legislation!

Public Members / Bar Committees

We continue to have institutional and personal calls to reform our legal system. Such cries plead for more public involvement in the legal system. A number of years ago a lawyer on the bar's long-range planning committee suggested that one way to improve public confidence in the system would be to have public members serve on bar committees other than the disciplinary screening committee. A three-lawyer subcommittee was appointed to study the matter. As often happens, the lawyer who suggested the idea was one of the three. After a thorough cross-county survey and evaluation, they prevailed upon the bar commission to pursue the idea.

A recent check indicates that the bar has 24 standing committees, 50 percent of which have public members. Of the total 36 public members, two are committee chairs. Over time, the public members who have served will number many times the current 36. I believe I would be safe in concluding that their involvement has been mutually beneficial to the bar and to the public. Indeed, the bar now has many informed nonlawyer public spokespersons.

Yes, one lawyer made a difference. Join a bar committee!

Interest on Lawyer Trust Accounts

About 10 years ago, a couple of lawyers realized that banks were getting the benefit of earnings of funds in clients' trust accounts. They wondered what would happen if those earnings were utilized to advance the administration of justice and for other worthwhile law-related public programs. They went to work with the I.R.S., the Utah Supreme Court, and the Utah Bankers' Association and creat-

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3 ed the Utah Interest on Lawyer Trust Accounts (I.O.L.T.A.) program. The Utah Bar Foundation, which had been created in 1969, became the recipient of those funds. In 20 years, it had built a \$40,000 fund, and its annual grants consisted of the \$3,000 to \$4,000 interest earned.

Today, the perpetual endowment fund totals more than \$700,000. In 1996 the Foundation awarded some \$285,600 in grants as follows:

- \$197,700 for legal services for the poor
- \$35,000 for law-related education
- \$46,000 to improve the administration of justice
- \$6,900 for law student scholarships and ethics awards at BYU and the University of Utah

Indeed, a couple of lawyers made a difference, a difference of about one-third of a million dollars a year. Raise some money!

American Inns of Court

I have often said that the Inns movement is the single most positive development in our profession during the 20th century. The Inns' watchwords are professionalism, ethics, civility, and advocacy. Though some readers may be aware of the beginning and development of the Inns' movement, let me take a moment to reflect on its history.

Although Chief Justice Burger provided the idea for the Inns, the first movers were lawyers whose roots are found in St. Johns, Arizona; the Uinta Basin; and Sanpete County, Utah. The pilot program was entrusted to one of them, Judge A. Sherman Christensen. The first Inn was organized at BYU on February 2, 1980. The rest, as they say, is history. Today, there are about 20,000 members in 270 Inns in more than 40 states and the District of Columbia.

A recent edition of *The Bench*, the Inns' national newsletter, gives the reasons for organization of the Inns' movement:

The American legal profession is in great distress today. We are all too well aware of the negative public perception of our profession. The burgeoning lawsuits against lawyers coming out of the financial institutions' debacle—suits against some of America's finest law firms—are only the

latest evidence that there is something seriously wrong. The growing number of books, articles, and biting jokes are evidence enough that society has a growing dislike of what it sees in the legal profession. The American Inns of Court were born and have grown (in an attempt) to meet this challenge.

Sherman L. Cohn, president of the American Inns of Court Foundation, paid tribute to Judge Christensen's individual effort last fall. Cohn wrote:

Without this extraordinary man, without his vision of what the legal profession should and can be, along with his dedication to our profession as an essential pillar of what makes America great, we know that the American Inns of Court would have been stillborn.

As the Inns multiplied in number and membership, some members felt it was time to adopt a governing code or set of rules. They were opposed by others who recognized the genius of letting members proceed on principles of simplicity, creativity, and flexibility. A meeting was scheduled at the national convention to debate the issue. A large group assembled. The chair let each person in the circle state his argument, whether pro or con. Then the chair turned to Judge Christensen and asked, "What do you think about this issue? Please share your thoughts with us." Judge Christensen responded with a simple question: "Oh, I don't know, how do you catch a sunbeam?"

His question shed instant and infinite light upon the issue. A vote was taken, and the proposal was defeated. And, like a sunbeam, the Inns were set free to grow and develop, rather than being imprisoned by a set of rigid rules. Join or start an Inn of Court!

Each individual lawyer can make a difference in our profession, our society, and our world. Remember, out of small things great works are accomplished.

Judge Norman H. Jackson is an original member and still sits on the Utah Court of Appeals. He is also a senior lecturer at the J. Reuben Clark Law School. This article includes remarks delivered at a meeting of American Inn of Court I and expanded in a lecture to the Law School's professional responsibility class on April 11, 1996.