

REMARKS

Speech given by the Honorable James L. Ryan at the Annual Luncheon of the Michigan Supreme Court Historical Society on May 20, 1998.

Thank you.

After accepting President Riley's invitation to say a word or two on behalf of the past justices of the Court, it struck me that he did not say the past "living" justices, but rather the past justices. To say a word on behalf of the more than 90 former justices, from Augustus Woodward who began his service in 1805, through Dorothy Riley who ended hers in 1997, is a very different task than saying a word on behalf of the relatively small handful of us who gather to celebrate the Court here this evening.

On examining the long list of justices who have served the Court in uninterrupted succession now since 1805, a number of thoughts emerge! Principal among them is a consciousness that our Supreme Court is singular and unique in our State's system of tripartite government, in that the Court has a constitutional constancy – continuity – that our successive State Constitutions did not provide for the sister branches of government; the legislature or the executive. The Court's judicial officers serve for stated terms to be sure, but the terms are constitutionally arranged so that the continuity of the institution is preserved and perpetuated.

That is one of the reasons, of course, why it is so critically important that this Supreme Court Historical Society take permanent root in the historicity of our Supreme Court and become a permanent part of the institution. We of the Supreme Court Historical Society, all of us, lawyers, judges, present and former justices, academics, state historians, and others, have a special obligation to tell the story of the Michigan Supreme Court, and in the telling, emphasize that the Court's historical continuity, for nearly 200 years now, reflects a sort of constitutional oneness, that partially defines its mission, and also serves as a dramatic reminder of how very different the Court is, from the legislative and executive branches. These last, are short-term institutions, renewed, to be sure, with historic regularity, but each an entity unto itself. That, of course, in the judgment of the framers and adopters of the Constitution, is the appropriate way for the will of the people to be expressed in the establishment of public policy.

But here in the supreme judiciary of the State, where the shifting tides of public preference and political response have no place, there must be a special sensitivity and allegiance to the historic stability, constancy,

and steadiness of the Court as an expositor of the public policy that is debated and adopted elsewhere.

The Court's oneness can serve as a valuable reminder to sitting justices of every era, that this institution still, after nearly two centuries, continues to respect and adhere to the Madisonian aspiration of judicial self-restraint – that the justices respect the difference between judicial power and judicial authority.

Just as there has been an unbroken succession of serving justices, there is likewise a continuing body of living former-justices whose service to the Court need not end with their individual incumbencies.

It seems to me that recently serving former justices can provide a singular and valuable service to the Court in a number of ways. I hope you will permit me to offer the personal view that surviving former justices of the Court are ideally, indeed uniquely, well-positioned to assess with greater objectivity, perhaps, than sitting justices, the success and, indeed, the level of excellence with which a sitting court is carrying out its solemn, constitutional responsibilities. To be sure, incumbent justices generally do very well at that, despite the burdens of addressing the judicial business of the Court, the administrative and budgetary demands upon it because of its superintendence of the Bench and Bar, and, of course, the regrettable but constant necessity that each justice pay heed to the political reality of judicial service in an elected body.

But former justices, ordinarily unburdened by those considerations, and suffused, I would hope, with a deep and genuine love of the Court have much to offer it. But they must first be invited to offer it. Former justices might well be called upon to offer, for example, suggestions concerning the attitudes, perspectives, and methodologies by which the scholarship, the efficiency, and the judicial excellence of the Court's performance can be enhanced and, perhaps of equal importance to those considerations, how public confidence in the Court can be built and preserved.

I will very soon request the Board of Directors of the Michigan Supreme Court Historical Society permission to prepare and, in due course, to submit to the Supreme Court, a set of proposals by which the Court, whomever its sitting justices may be, may call upon former justices for significant and valuable service to the Court.

I know I speak for each of the former justices in this room and those two others who cannot be with us tonight in telling you that each of us cherishes fondly the privilege of having served in the Court and the memories of those wonderful days in our professional lives. We love the Court and we like to think of ourselves as having a continuing association with it, even if in an attenuated way. We look forward, indi-

vidually and collectively, to serving the Court today, and for the rest of our days, in any way the justices deem appropriate, and perhaps in the years to come in innovative ways that have not previously been considered.

We thank you for the honor you do us this evening.