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September 4, 1992

Ms Carrie Collins
Program Director
C-SPAN
400 North Capital St., N.W.
Washington, D.C. 20001

RE: Viewer Call-in Program, Thursday, September 3, 1992
Entitled: Michael McWilliams, New President of ABA

Dear Ms. Collins:

I am writing this letter to seek equal free air time for Americans for Legal Reform, under the Fairness Doctrine, for balanced presentation of issue raised in your above mentioned program, aired on C-SPAN on September 3, 1992, at 6:30 P.M. on "The Viewer Call-in Program," to provide a contrasting views on the issues such as the members of the legal fraternity -- especially the judiciary in places of power -- are working toward the eventual destruction of this nation as a nation based on law.

There are more crimes committed in our court system today than on our streets. We need more honest prosecutors, judges, public defenders, prison and jail guards, parole, probation officers and of course honest lawyers and where are they all!!

The civil courts of America are no longer places where citizens come to settle their disputes -- the instrument by which we are protected from all nature of evil -- so an insidious, mostly unnoticed transformation has occurred in our courts. Today, our temples of justice are a network of members of the bar, who at the sole expense of the taxpayers, labor to process the millions of claims that constitute the annual business of the bar industry.

American public are tyrannized by the legal profession who control our legal system and there is a growing concern and a "cause" among the general public.

They are professional organization, but the effect of their work rules is to benefit the paychecks of the members no matter how ludicrous the work rules sometimes seem. The law has become a caricature of make-work government procedures. The profession is almost universally criticized for its high hourly rates that can only be paid by deep pockets and therefore, in practice, defeat the objective of "Equal Justice for All."

The judicial system must be responsive to the needs and

desires of those it represents. The law was thought of as a learned profession but it is now widely believed that in its vast nether regions it does not function as a profession at all. The bottom line on professional courtesy is this: "It is a system whereby lawyers make life easier for themselves and for each other, generally at the expense of their clients." It is said that the law has become a business without making businessmen of the lawyers and judges--some of them try "to churn a case forever."

Every system must finally be judged by the character of justice it delivers, and justice attuned to the demands of the new kings provides justice for none. The founding fathers set out to establish a government of laws and not of men, we wound up with a government not of men but of lawyers.

The lawyers in this country have certainly done their part in destroying our Constitution. Common Law is a roadblock to the lawyers, and they have done every thing in their power to destroy the Constitution and help implement a clear road to One World Government.

They have disemboweled most of the ten Amendments of our Constitution's Bill of Rights; perverted the First Amendment (which affects the right to redress and freedom of speech; threatened the Fifth, Seventh, Eighth, Ninth, Tenth and Eleventh; allowed "involuntary servitude" (in the form of judicial tyranny) once prohibited by the 13th Amendment; paid only lip service to the Fourteenth (regarding citizenship and due process); and abused the 16th (the income tax amendment, which probably wasn't even legally ratified). And on December 1, 1991, they have essentially terminated people's constitutional right to trial by jury.

The destruction of our constitutional rights is based on Judiciary Law 28 U.S.C. § 2072 which grants the Supreme Court the power to make procedural rules provided that "such rules shall not abridge, enlarge or modify and substantive right." Sounds reasonable enough, but the statute includes the following "repealer": "All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect." In other words, once these rules are passed, even by default, any previous rules or laws to the contrary are automatically repealed.

This repealer renders the statute unconstitutional "on its face" and subject to challenge since the statute permits the supreme court to non-judicially repeal laws previously passed by the legislature. Nevertheless, the statute and the court's unconstitutional power continue unpublicized and unchallenged.

The judiciary's rule making assault on the Constitution started after the Great Depression. Instead of maintaining its constitutional responsibility to legislate the procedural rules of federal courts, Congress ceded that power to the Supreme court.

At first, the Supreme Court made the Federal Rules of Civil Procedure (and also the Federal Rules of Evidence, Criminal Procedure, and Appellate Procedure). Later, several of the Supreme Court Justices requested that the Supreme Court be relieved of the rule making power in order to avoid the "embarrassment of having to sit in judgment on the constitutionality of rules which we have approved and which as applied in given situation might have to be declared invalid". So to insulate the Supreme Court from political repercussions, the rule making power was shifted to another agency of the judiciary called the "Judicial Conference". (The Judicial Conference includes the Chief Justice of the Supreme Court, the Chief Judge of each of the Circuit Courts, the Chief Judge of the Court of International Trade, and one district court judge from each of the Circuits. The diversity of judges sounds somewhat like a legislature that serves only lawyers, doesn't it?).

Judicial Conference proposes whatever new procedural rules they want, the Supreme Court rubber stamps that Judicial Conference's proposed rules, and sends them to Congress for approval. Congress is not even obligated to approve the proposed rules for the rules to pass. Each year, if Congress simply does nothing, the rules pass by "default" and become Law. (This is a curious reversal of constitutional roles: the judiciary makes the rules -- a legislative function -- while the congressional committees determine the rules' constitutionality -- the legitimate role of the judiciary). Worse, any existing law or rule which contradicts the new rules, is automatically repealed without a direct Legislative or Judicial act. Congress has essentially surrendered its obligation to make laws to the Judiciary in an obvious violation of the Constitution and the doctrine of separation of power.

From 1937 to 1963, the liberal Supreme Court Justices Brandeis, Black, Frankfurter, and Douglas frequently opposed the judiciary's submission of proposed rule amendments to Congress. Excerpts from their objections: "While some of the Rules of Civil Procedure are simply housekeeping details, many determine matters so substantially affecting the rights of litigants in law suits that in practical effect they are the equivalent of new legislation which ... the Constitution requires to be initiated in and enacted by the Congress and approved by the President. The Constitution ... provides that all laws shall be enacted by the House, the Senate, and the President, not by the mere failure of Congress to reject proposals of an outside agency. Our chief objection to the rules relate essentially to fact that many of their provisions do 'abridge, enlarge, or modify' substantive rights and do not 'preserve the right to trial by jury' but actually encroach upon it." Opposition of Justices Black and Douglas to 'January 21, 1963 order of Supreme Court of the United States adopting & Amending Rules (368 U.S. 1012).

Judges have whittled away or denied the right of trial by

jury, through the devices of directed verdicts and judgments notwithstanding verdicts. Since we do not approve of this sapping of the seventh Amendment's guarantee of a jury trial, we cannot join even this technical coup de grace. (Galloway v. United States, 401-407, 63 S.Ct. 1077, 87 L.Ed. 1458; dissent).

"Such devices are used to impair or wholly take away the power of a jury to render a general verdict. One of the ancient, fundamental reasons for having general jury verdicts was to preserve the right of trial by jury as a indispensable part of a free government... Rule 49 is but another means utilized by the courts to weaken the constitutional power of juries and to vest judges with more power to decide cases accordingly to their own judgments. A scrutiny of the special verdict and written interrogatory cases in appellate courts will show the confusion that necessarily results from the employment of these devices and the ease with which judges can use them to take away the right to trial by jury." Ibid.

The liberal Supreme Court Justices' objection to proposed rules as being unconstitutional were outvoted by the balance of the Supreme Court, ignored by the Congress and unheard by the public. In consequence, the Supreme Court and Judicial Conference have caused a constant erosion of our rights by making unconstitutional procedural laws in small, sneaky steps. But, last year, the Judicial Conference's assault on our constitutional rights is so bold as to be frightening.

On December 1, 1991 four rules became Law over the Constitution and statutes, which will effectively repeal our right to trial by jury. Although these four rules do not prohibit trial by jury, they end our absolute, constitutional right to trial by jury. We shall no longer receive a trial by jury as an automatic, undeniable, constitutional right, but only as a privilege to be selectively granted or refused according to the whims of judges.

For example, Rule 16(c)(15) will give judges the unconstitutional sua sponte power (the ability to act on their own initiative, without even responding to a litigant's motion) to enter summary judgments "to avoid unnecessary costs of trial" at a pretrial conference. If the judge thinks you don't have a case, he can simply decide in favor of your adversary, in the relative secrecy of a pretrial conference. he can deny your right to trial by jury based on nothing more than his personal evaluation of your case's prospects.

(Of course, the judge can also deny your right to trial by jury because of your race, your gender, your political affiliation, whether you're pro se, whether your adversary's lawyer is a personal friend of the judge, whether the other side's bribed the judge, or whether your case represents a constitutional issue the courts would rather not consider in public. Federal and state

judges will be able to do all that and more, provided they don't admit it publicly, and justify their actions as per Rule 16(c)(15) as avoiding "unnecessary costs of trial".)

Rule 41(b) permit the involuntary dismissal of cases for failure to comply with other procedural rules or any court order. This Rule violates the right to equal protection under the law because it applies only to plaintiffs ... not defendants. Since only plaintiffs are vulnerable, the courts can effectively restrict some kinds of cases or litigants from even initiating a lawsuit (petitioning for redress of grievances), let alone being heard in court.

For example, if you were trying to sue a judge or lawyer, a federal judge could theoretically dismiss your case based ostensibly on the technicality of failing to observe on the myriad of other procedural rules. This reliance on technicalities may constitute a de facto denial of our right to due process of law. The potential for judicial abuse is obvious.

Rule 50 gives judges total tyrannical power to abort a case before giving it to the jury. The "Motion for judgment as a matter of law" will authorize judges to enter judgments at any time during the trial whenever a party has been fully heard with respect to only a single issue (not the whole case) and the judge decides when a party is unable to carry the burden of proof essential to his case. Again there is an enormous potential for abuse.

Rule 52 (judgment on partial findings) gives judges the same power as in Rule 50, except in non-jury trials. You can prepare for trial, start your evidence, and bingo, if the judge becomes bored, your case can be dismissed.

Many discretionary power has been taken by judiciary without any means on the part of Congress or the public of determining whether such power is lawful and in the spirit of our constitutional system of checks and balances.

The legal profession are perceived as arrogant and greedy who create problems, not solve them, and who are unconcerned about their clients or the public at large -- they do not care as much about who they had become as how they appeared. Ethics is, instead, mysteriously connected with position, prestige, and power -- with money. The legal industry has carved out huge unconstitutional immunities for itself in the Congress, and it is this country's only major industry not subject to the nation's antitrust laws.

The one factor that most distinguishes totalitarian societies from our own is that in the former people do not have much control over their own existence. The most significant lure of democracy is the control over one's own life. That is what is lost by the

individuals who are trapped in the economic quicksand of the court system. They have been convicted of no crime, yet they are forced to forego the most essential aspect of freedom. And their out-of-control lives are now saturated with fear. The people, for years are floated in a perfidious, deceitful, conniving, and manipulative world in which the rules are not followed, or known in time, where some of the lawyers and judges who are supposed to be on your side are playing their own games while you are destroyed irremediably. What the court process in the United States has created is an underworld of inequity for the benefit of a special breed of lawyers and judges, who know just how to administer "the corpuscles of fear" in order to get their way.

The American Bar Association, like every professional group of its kind, would of course prefer to superintend its own reform. If a man who represents himself has a fool for a client, what are we to call those who would be their own rehabilitator, as the American Bar Association insists? That has been as effective as having prisoners supervise their own rehabilitation.

The discipline system favors attorneys as it is controlled by them despite concrete evidence of misconduct. The slow, lenient and secret system to discipline is meaningless since it does nothing more than a reprimand - a slap on the wrist - and nothing to redress the harm caused by the lawyer.

The liberal Supreme Court Justices could not overcome unconstitutional rule-making by the Supreme Court and Judicial Conference. And though Congress is obligated to overturn unconstitutional court decisions or decisions which misinterpret the Constitution, they normally ignore their duty -- unless they are lobbied. Almost everyone has a lobby: NRA, NAACP, the Church, Pro Choice, Pro Life, Animal Rights, the Environment, etc. etc. Even judges have a lobby which they use to petition Congress for judicial immunities! With the rise of special interests, PACS, and unbridled political campaign contributions, the people's original lobby -- the Congress -- has abandoned us. Now, only We, the People, have no lobby, so our government ignores us.

It should be plainly clear that if We, the People, do not object, no one else will. We must stop the judiciary's usurpation of power and our loss of rights.

We, the People, must let the Judiciary and Congress know that they are sitting on an angry volcano that's ready to explode if

¹ It should not surprise us. Plat warned us in The Republic that all societies we know of are governed by the selfish interest of the ruling class. Legal profession has created a micro-society and its particular junta of lawyers becomes its ruling class.

they don't do something right now to preserve what little is left our individual protections once guaranteed by the Bill of Rights, and specifically, our right to trial by jury.

If we, the People, are to be mobilized and energized to ask Congress for giving additional money to the courts, the judiciary first must restore the people's faith in the system which is crumbling, not because of any budget crisis but due to corruptions, greed, incompetency of judges and lawyers and the administrative mis-management of the system by the legal profession themselves. The state unified court system is the problem and not the solution for diminution of rights and for obtaining free and full access to the justice system by all citizens.

If, We, the People, can't be the part of the justice system, we demand that it must be abolished. Of course, this might mean "we wouldn't have justice system. But what difference does it make if we have a bad justice system where people are excluded, or a good justice where people are excluded.

Please file a copy of this letter, along with your responses to me, in the public file. I hope you will communicate with the undersigned regarding the date, time and place of another program granting equal time -- right of the public to be informed and to hear different viewpoints concerning vital controversial issues concerning "And Justice for None?" In particular, the Due Process Clause limits the extend to which legislative and judicial functions may be combined in a single actor, to meet the very high standard of broadcasting maintained by your station.

Very truly yours,

