

Washington Law Review

Volume 36

Issue 4 *Annual Meeting of the Washington State Bar Association*

11-1-1961

Report of the Board of Governors and Address of the President

Justin C. Maloney

Follow this and additional works at: <https://digitalcommons.law.uw.edu/wlr>

Recommended Citation

Justin C. Maloney, State Bar Journal, *Report of the Board of Governors and Address of the President*, 36 Wash. L. Rev. & St. B.J. 363 (1961).

Available at: <https://digitalcommons.law.uw.edu/wlr/vol36/iss4/2>

This State Bar Journal is brought to you for free and open access by the Law Reviews and Journals at UW Law Digital Commons. It has been accepted for inclusion in Washington Law Review by an authorized editor of UW Law Digital Commons. For more information, please contact cnyberg@uw.edu.

were introduced and extended a warm welcome to the members. DeWitt Williams, member of the Board of Governors, responded.

The Honorable Orris L. Hamilton, President of the Superior Court Judges Association, addressed the members and described some of the recent work of the Association of Superior Court Judges.

REPORT OF THE BOARD OF GOVERNORS

AND

ADDRESS OF THE PRESIDENT

Justin C. Maloney

In 1933, the Legislature established the Washington State Bar Association. We are met at the 29th Annual Convention Meeting since the establishment of our Association. The State Bar is governed by the Board of Governors, which is charged by law with the executive functions of the State Bar, and the enforcement of the provisions of the State Bar Act. We have seven Congressional Districts in the State of Washington and the seven members of the Board of Governors listed in the order of Congressional Districts are: DeWitt Williams, First; Howard C. Graham, Second; Dale McMullen, Third; James I. Leavy, Fourth; Charles F. Scanlan, Fifth; Carl H. Skoog, Sixth; and George H. Bovingdon, Seventh.

The Board during the past year has met on the average of once a month in general meeting, with such special meetings interspersed as needed or emergency dictated. I am happy to report to you a sincere dedication and devotion to duty and responsibility on the part of each member of the Board and of the Executive Secretary and of the Counsel for the Association. Many local Bar Associations have seen fit to write to the Board requesting that one of the meetings be held in their city. These invitations are most welcome and are accepted with pleasure when the business and commitments of the Association and the Board permit. May I suggest to you that such invitations be encouraged, for the reason that it brings the work of the Association closer to the members, tends to enliven their interest, quicken their appreciation, binds us together more closely and provides the base for professional cordiality, confidence and friendliness.

During the past year, God, in His infinite wisdom, has called from among us two Past Presidents of this Association; Hilton Gardner, who served as such from 1959 to 1960; and F. A. Kern, who served as such from 1953 to 1954. Their contributions to this Association and

to their profession are not to be chronicled at this time; yet, appreciation and fond memory prompts us to recall that our Clients' Indemnity Fund was born during the tenure of Hilton Gardner, that the spark that led to the establishment of the Washington State Bar Foundation was struck by F. A. Kern during his term of office. Our appreciation and fond memory of these two gentlemen will be kept alive and will be shared by those who follow in our footsteps long after we have been called to our reward. May they rest in peace.

Much of the work of the Association is performed by the committees. There is a temptation to report to you at this time on this phase of our activities. It seems this would be unfair and detract from the committee reports when given. Many of these reports have been published in the Washington State Bar News and you have had an opportunity to read them. Many will be presented to you for your consideration at this meeting. Many more committees have functioned during the past year, unheralded and unsung. No reports of their labors will be published and no reports of their labors will be made at this meeting. In every county of the State, local Administrative and Trial Committees have been functioning and faithfully performing their duties, protecting the public and the members of the Bar and, in a very real sense, serving your conscience, and elevating the Code of Ethics from the printed page and making it alive and a vital part of our lives and of our work. As you know, the duties of these committees are difficult, it is at once apparent that a high standard of personal and professional conduct is demanded of every member of the Bar and the public expects, and has the right to expect, such conduct, and it is the duty of these committees that such standards remain inviolate and, yet, at the same time, it is the duty of these committees to protect and defend their professional brethren from unjust and unwarranted complaints. It seems appropriate to remind ourselves that these duties rest on all members and that we should be quick to insist that all observe the high standards of our profession, and that we should be equally quick to defend our brethren from unwarranted charges.

I am happy to discuss this next matter with you and that is the high sense of professional responsibility that is characteristic of our Association and its members. We have 26 standing committees and 21 special committees. The work of these committees covers practically every phase of the profession and one thread runs through all committees and that is a willingness to serve, a devotion to service, a deep

interest in the work, and an unselfish contribution of time and talents to every assigned task. It is my honor to acknowledge with gratitude the fine work of every committee of this Association and its members. Your Board of Governors joins me in acknowledgment of this.

Your present President is a member of the National Conference of Bar Presidents. Two meetings of this Conference were held during the past year. One of the purposes of the Conference is to provide a forum for the mutual interchange of ideas. I report to you that the State of Washington may well be proud of our courts, the administration of justice in Washington, the functioning of the legal process, your Association, and its accomplishments. While we may justly be proud of the record, we know that diligence is the watchword. To what extent do we individually assume our full professional obligation? While membership in this Association is compulsory, let us not forget that compulsion did not bring forth the fruit we enjoy but, rather, individual contributions of time, talent and devotion of outstanding members of our profession. In a national sense, that same process is at work, and always will be. Membership in the American Bar Association is the fulfillment of the minimum obligation of every lawyer to himself. It is necessary for his welfare and for that of his profession. The dues of our Association are now \$25.00 per year, having been raised periodically over the past 29 years from a starting figure of \$10.00. An increase of dues is both necessary and desirable. Frankly, it is doubtful if an increase will come from an action of your Board. If it is to come, it must come as the result of the insistence of the members acting through your voluntary Associations. It is true that our dues are comparable to social and fraternal dues, but the field here is of a more fundamental nature and goes to the protection of the very practice itself, which the individual cannot do and which must be done for his protection.

It does not require too much knowledge to observe that an economic revolution has taken place and that the profession has suffered. If any doubt exists as to this, let any lawyer evaluate the costs of his service in a proportionate and comparative sense with the costs of the service of the skilled craftsmen and of other professions. The result is obvious and cannot long be ignored. As you know, the constitutionality of the integrated Bar has been upheld by the U.S. Supreme Court in the case of *Lathrop v. Donahue*. The decision held that compulsory State Bar membership was not a violation of freedom of speech or of association. The decision did not dispose of the question as to whether a member's

dues could be used to advocate or oppose legislation contrary to the personal views of such member. In this State, members' dues have not been used to advance the legislative program of the Association. All expense of the Legislative Committee work has been by voluntary contributions of members of the Association. Your Association did not file a Brief in the Wisconsin case because of this very difference. It is true that lawyers, in the mind of the public, are charged with the responsibility of law and its administration in all its forms. We have many members of our Association who are serving in this legislative branch of our State government. We may well ask ourselves if we, individually, and as an Association, are cooperating with these members, making available to them our program, and forging the bond of professional responsibility. Should not the lawyer members of the Legislature serve on a Legislative Committee and carry the program of that Committee? Are we utilizing our own in this very important work? It has been well said that public relations of the Bar are a mirror only of the individual lawyer's relation to the public. The nature of our work requires us many times to scrutinize and even criticize the work of other lawyers, and in that process, at times, possibly, other lawyers and other branches of the profession may be downgraded. It is well to remember that any improper or unjustified downgrading adversely affects all branches of the law and all lawyers. An opportunity presents itself to show our confidence in lawyers by stipulating for their appointment as Judges Pro Tem. Such practice provides a solution for crowded dockets and displays a respect for the confidence and integrity that we feel and tends to convey to others that same respect in all members of the Bar.

A matter of vital interest to every American, and particularly to every American lawyer, must be suggested for your thoughtful consideration. To say that Communism is a problem confronting the United States is obviously a gross understatement. The American Bar Association, many years ago, saw this menacing cloud on the horizon and appointed a committee on Communist tactics, strategy and objectives. This committee, for many years, has worked tirelessly, objectively and effectively in bringing to the attention of all Americans the true strategy, tactics and objectives of Communism. A distinguished Past President of this Association, Tracy Griffin, served with honor and distinction on that committee for many years. Shocking as the disclosures of these committee reports have been, yet, in a strange way, the American people, and even lawyers, have not been alarmed and

have not yet roused themselves to the necessity of action. The committee has proposed, and the House of Delegates of the American Bar Association has adopted, the following:

NOW, THEREFORE, BE IT RESOLVED, That the American Bar Association recommend to State and local Bar Associations that they establish committees to conduct a program to provide addresses and literature to school assemblies and civic organizations to explain the nature, objectives and tactics of Communism and its dangers to our rights and freedoms, and to contrast affirmatively the basic fundamentals of Communism with the liberties under the Constitution of the United States.

This Association should accept that recommendation.

The report of that committee of the American Bar states, in part: "The propaganda of Communism must be met with truth, and the lies of Communism must be exposed. Under these grave circumstances, as individuals devoted to the preservation of free and democratic government under law, lawyers must alert the American people to the nature of the Communist menace and what can be done about it."

This report is available to every lawyer, and should be obtained from the American Bar Center. The report quotes from Communist writings and statements of beliefs, making clear the atheistic nature of Communism. Quoting now the heads of the Party over there in these words, "We Communists, the Soviet politicians, are atheists." The report follows with the quotation from Karl Marx: "Religion is the opium of the people." The report quotes Lenin: "Religion is a kind of spiritual gin in which the slaves of capital drown their human shape and their claims to any decent life." The report goes on: "As a substitute for religion, Communists developed a militant crusade for atheism. Since atheism is a natural and inseparable part of Marxism, consequently, a class-conscious Marxist Party must carry on propaganda in favor of atheism. It is obvious, my friends, that the heart and soul of Communism is atheism and materialism; whereas, the heart and soul of America is religion and the acceptance of the natural law of God. We declared officially that all men are created equal and were endowed by their Creator, and in support of the declaration our forefathers said: "With the firm reliance on the protection of Divine Providence." We have acknowledged the existence of the Creator and the fact of our creation, and herein lies the basic difference. If God is the Creator of all, He is the author of the nature of all, and this is called natural law. Cicero, the spokesman for the Roman jurist, said: "There is, in fact,

a true law, namely right reason, which is in accordance with nature, applies to all men, and is unchangeable and eternal. By its command, this law summons men to the performance of their duties, by its prohibitions it restrains them from doing wrong." Continuing, Cicero said: "To invalidate this law by human legislation is never morally right, nor is it permissible even to restrict its operation, and to annul it wholly is impossible. Neither the Senate nor the people can absolve us from our obligation to obey this law, and it requires no expositor to expound and interpret it." Cicero proceeds to point out in great detail the universality and timelessness of the natural law in these words: "It will not lay down one rule at Rome and another at Athens, nor will it be one rule at Rome and another at Athens, nor will it be one rule today and another tomorrow, but there will be one law eternal and unchangeable, binding at all times upon all peoples, and there will be, as it were, one common master and ruler of men, namely God, who is the author of this law, its interpreter and its sponsor. The man who will not obey it will abandon his will, abandon his better self and, in denying the true nature of a man, will thereby suffer the severest of penalties, though he has escaped all the other consequences which men call punishment."

Two stalwarts of the Common Law, Sir Edward Coke and Sir William Blackstone, have expressed their views on the natural law and natural rights. Coke wrote of natural law as follows: "The law of nature was before any judicial or municipal law and is immutable. The law of nature is that which God, at the time of creation of the nature of man, infused into his heart for his preservation and direction, and that is the eternal law, the moral law, called also the law of nature."

Blackstone, a century later, conveys the same ideas. He said: "This will of his Maker is called the law of nature. This law of nature, being coeval with mankind and dictated by God Himself, is superior in obligation to any other. No human laws are of any validity if contrary to this, and such of them as are valid derive all their force and all of their authority from this origin." Hence, it follows that the first and primary end of human laws is to maintain these absolute God-given rights of individuals. Human dignity and liberty come from God, and if we wish to have the light, we must keep the sun. Room has been made in this country for atheism, but the country is not atheistic. May we ask ourselves this question, all thoughtful Americans, out of a deep and abiding respect for the religion of one another, if we have permitted our sins to give occasion for the rise in America of atheism, which is the foundation of Communism. Our National Motto, "In God We

Trust," this motto inscribed on every coin, the oath of every officeholder, the oath of every witness, every juror, what a sham law becomes when the oath loses its dignity and significance. Truth without God is a mere matter of convenience and utility. The only peace with crooks is compliance. It can be nothing less. That is the moral base of our society. This country can take no part in judicial proceedings that attempt to establish new norms or water down high norms. We do have in this country peace under law with crooks. We have enforced compliance with law by crooks.

I will not close this statement to you, my friends, without expressing to you my gratitude for the privilege and honor of having served as your President this past year. With a grateful heart, I thank you.

And I just want one word to all of you; the wish of blessing and Godspeed: May the road always come up to meet you, may the wind always be at your back, and may the Lord always hold you in the hollow of his hand, and may you be in Heaven 24 hours before the Devil knows you're dead!

Various committee and other reports were presented and received as indicated in the program set out above.

REPORT OF THE WASHINGTON STATE BAR FOUNDATION

Philip D. Macbride

Mr. President, Members of the Bar Association: Five years ago the Washington State Bar Foundation was incorporated, one of the objects of which was to raise funds for the acquisition of a State Bar Association Center building.

The Articles of Incorporation provide for nine Trustees, three of whom are to be the then latest Past Presidents, and the other six to be one from each of the six Congressional Districts. Up to this date, no one has ever filed for Trustee from any of the Congressional Districts, and your Bar Foundation Committee recently decided that, in order for this corporation to properly function, a new method for the selection of Trustees would have to be selected, and your Committee subsequently adopted a plan suggested by Mr. A. J. Schweppe. This plan was to amend the Articles, to make the number of Trustees consist of not more than fifteen (15) persons and to be self-perpetuating, the first Board to consist of seven (7) persons, four (4) of whom shall be the four (4) latest living Past Presidents and of three (3) other per-