

“From the Chair”

Column by Honey Kessler Amado

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I wish I had a nickel for every time someone said to me with a smirk, upon learning that I am an attorney, “You know what they say, ‘First thing we do, let’s kill all the lawyers.’” I always smile back and say, “Well, actually, that’s taken out of context. The speakers were plotting to overthrow the king, so they wanted the lawyers out of the way.” (See William Shakespeare, *King Henry VI, Part II, Act 4, Sc. 2, line 86.*) I must admit that my response usually ends the conversation, not altogether surprisingly or unhappily. I like Shakespeare’s quote because it underscores the role of lawyers and law in society. Law brings order to chaos, and lawyers seek redress between parties and from the government. And we’ve been doing that for a long time.

From the beginning of recorded history, when our ancestors began to live in communal settings, they sought laws to regulate their behavior, to order their property, and to provide remedies for the negligence or abuse of another. The Code of Lipit-Ishtar of the Sumarians dates back to between 1868 and 1857 B.C.E., predating the Babylonian Code of Hammurabi, which dates back to between 1792 and 1750 B.C.E. The presence of Biblical law, Greek law, and Roman law are familiar to us.

America is the longest enduring democratic republic in history. As pointed out by historian Joseph Ellis in the introduction to his book *Founding Brothers*, the relics of our nation’s birth are striking pictures of educated men, committed to the principals of law and to the peaceful resolution of our internal conflicts. (Ironically, of course, our national birth was accomplished by these same men through the violent resolution of revolution.) The philosophical differences that our Founding Fathers had amongst themselves and that we, as their political and historic descendants, have amongst ourselves are expressed in political parties. And the inherent conflicts between the majority and the minority or between the governing and the governed, are expressed often in lawsuits and resolved through the nonviolence of the courtroom. It is having a forum and opportunity for resolution – and the freedom to use the courtroom – that I submit has allowed this republic to long endure.

American history is filled with examples of lawyers invoking the law to protect individuals against the government or against the abuses of the majority or the powerful. Labor rights suits, religious rights suits, civil rights suits, and voting rights suits (which may be necessary yet again) are a few such examples. The outcome of the litigation, while sometimes politically motivated or disappointing, such as in *Dred Scott v. Sandford* or *Korematsu v. United States*, is less important than the act of prosecuting the suit. Each suit reaffirms that we are free to challenge our government and those who would act under the protection of the government. Each significant suit adds to the public debate about critical issues.

Suits seeking to protect consumers, workers, or the environment are no less significant to the well-being of our society. The prosecution of these suits reinforce the role of the court in protecting the weak or relatively powerless against the strong and powerful.

The opposite experiences, where the absence of an individual's access to the courts leaves a government unfettered to execute repressive policies, are replete in modern history and current events. Modern history gave us the repressions of the Third Reich in Germany, where the role of the attorney as "an independent servant of justice" was gradually eliminated. (Kenneth C. H. Willig, "The Bar in the Third Reich," *American Journal of Legal History* 20 (1976), included in *Law: A Treasury of Art and Literature*, ed. Sara Robbins (1990), at p. 222.) During and after World War II, there were the abuses of Josef Stalin in the then-Soviet Union, of Mao Zedong in China, and by the Soviets in Eastern Europe. Current examples of repression include Bosnia, Afghanistan, Myanmar (Burma), Indonesia, China, Uganda, Kenya, and Haiti. (Of course, the lack of law ultimately leads to chaos. Were chaos added to the list of countries without legal redress, Rwanda and Sudan would lead the list.)

I am reminded of a bumper sticker from the late 1960's or early 1970's – paraphrasing it, "Next time you're in trouble, call a despot." Surely, the continuing role of attorneys in maintaining a just society allows us to smile back at our detractors and gently correct their perception of what we do. And, thank you, Mr. Shakespeare.

Your thoughts, ideas, and concerns regarding this magazine are welcome. You can reach me through the Los Angeles Lawyer magazine offices (213/896-6503) or at my e-mail HoneyAmado2@gmail.com.

Honey Kessler Amado's professional website is archived and may be accessed at AmadoLaw.com.