

12-7-2012

Newsroom: C.J. Joseph R. Weisberger (1920-2012)

Roger Williams University School of Law

Follow this and additional works at: https://docs.rwu.edu/law_archives_life

Recommended Citation

Roger Williams University School of Law, "Newsroom: C.J. Joseph R. Weisberger (1920-2012)" (2012). *Life of the Law School (1993-)*. 327.

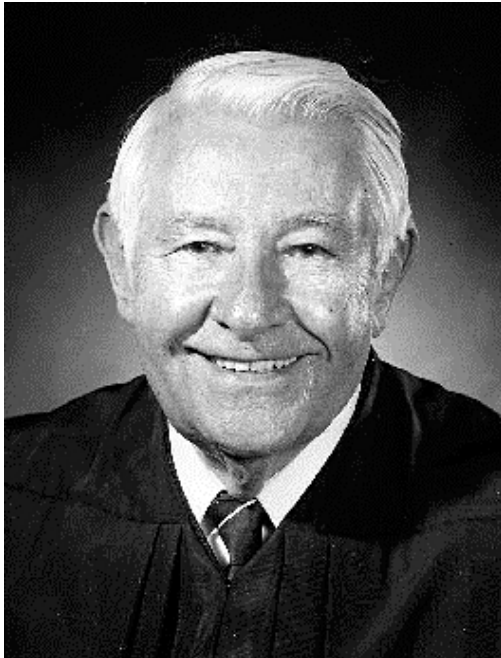
https://docs.rwu.edu/law_archives_life/327

This News Article is brought to you for free and open access by the Archives & Law School History at DOCS@RWU. It has been accepted for inclusion in Life of the Law School (1993-) by an authorized administrator of DOCS@RWU. For more information, please contact mwu@rwu.edu.

Newsroom

C.J. Joseph R. Weisberger (1920-2012)

Chief Justice Joseph R. Weisberger '97H (Ret.) of the Rhode Island Supreme Court -- a central figure in the founding and development of RWU Law -- has died at the age of 92.



December 7, 2012 – Chief Justice Joseph R.

Weisberger '97H (Ret.) of the Rhode Island Supreme Court has died at the age of 92, according to Craig Berke, spokesman for the Rhode Island Judiciary.

In 1991, Chief Justice Weisberger led the feasibility study that recommended establishing RWU Law. He has chaired both its Board of Directors and Advisory Board, and is the namesake of its first endowed professorship.

“In coming days you will hear many accolades for Chief Justice Weisberger’s long and distinguished service to our state,” said **RWU Law Dean David A. Logan**. “But to me it is also personal: he was instrumental in the founding of this law school and was the first and longest-serving Chair of our Board of Directors. He was also a classic gentleman and a wonderful mentor to me.”

Chief Justice Weisberger served as chief justice from 1993 to 2001. Before that, he was a Superior Court judge; and prior to his appointment to the bench, he served as a Republican in the state Senate. In the years since his retirement, Weisberger had -- besides chairing the law school's board of directors -- also helped lead the court's mediation program, and served on Roger Williams University's Board of Trustees.

In 2007, Chief Justice Weisberger penned this essay for RWU's 50th anniversary publication:

Roger Williams and Rhode Island's Inferiority Complex

By the Hon. Joseph R. Weisberger



In the affairs of men and nations, strange twists of fate affect the perspectives from which these human beings, nations and states are perceived. Nowhere is this more apparent than in the history of the State of Rhode Island and Providence Plantations and its founding father, Roger Williams.

Roger Williams was born in or about 1603. He lived through most of the 17th century and was probably one of the greatest men of his time. However, during his lifetime and even today his greatness was, and is, not fully appreciated.

In his early life, Williams came to the attention of the great lawyer and later judge, Sir Edward Coke. His friendship with Sir Edward gained him a place in an outstanding preparatory school that helped him gain admission to Cambridge University. There he received an excellent classical education that prepared him for ordination as an Anglican Minister. He was fluent in Latin, Greek, Hebrew and Dutch; in fact, he aided the writer John Milton in learning to speak the Dutch language.

Soon after his ordination, Williams found he was not satisfied with the ceremony and liturgy of the Anglican Church. He tended to agree with the Puritans who desired to simplify – and, as they would describe it, “purify” – their form of worship. His inclination toward Puritanism led to his emigration to the Massachusetts Bay Colony in 1631. There he served as minister to parishes in Salem and also in Plymouth, a separate colony.

Although he was popular with his congregations, Williams soon came into strong disagreement with the authorities of both the Massachusetts Bay and the Plymouth Colonies. While his ideas would have been admired in the 21st century, they appeared both radical and heretical in the 17th century.

For example, he argued strongly that the magistrates should not enforce attendance at church. He also preached the doctrine of complete freedom of conscience; that all persons should be allowed to worship as they chose. In addition, he enraged the Puritans of Massachusetts by arguing that the King had no right to grant land to Europeans and that the only proper way of acquiring Indian land was by purchasing it from the Indians themselves. This doctrine came close to treason. As a result of his unusual principles and his radical teachings, the authorities of Plymouth colony ordered Williams banished and sent to England, where he might have well been tried for heresy.

A Haven of Tolerance

The story of the great man's escape is now familiar to all Rhode Islanders. Before he could be placed on shipboard, he fled to a wild and trackless piece of land bounding on Narragansett Bay and the Seekonk River. Accompanied by a few devoted followers, he founded the colony of Providence Plantations in the winter of 1636. He purchased a tract land from the Narragansett sachems Canonibus and Mianatonomi. He dedicated this land to the Supreme Being and invited all to come, regardless of their religious beliefs.

Gradually, other radical thinkers – such as Ann Hutchinson, an Antinomian (who generally rejected all authorities), and Samuel Gorton, a quarrelsome and idiosyncratic individual – joined the new colony. Williams aided Hutchinson in purchasing the Island of Aquidneck, where she founded the Town of Portsmouth. Gorton moved in the other direction and founded the Town of Warwick. From the Hutchinson group, William Coddington left Portsmouth and founded the Town of Newport. The Island of Aquidneck was later referred to as Rhode Island (based upon the description by the great Italian explorer, Giovanni Verrazano).

After the founding of the four towns of Providence, Portsmouth, Newport and Warwick, the message went out that complete religious freedom was the rule in the new colony. Slowly but surely, members of various greatly unpopular denominations found their way to one or more of these towns. Quakers settled on Aquidneck Island. Later Sephardic Jews, who were refugees from Europe, found a haven in Newport. Catholics were also permitted to settle in this haven of tolerance.

It must be noted, however, that this policy of complete tolerance – as looked upon by Puritan neighbors to the north, in Massachusetts, and to the west, in Connecticut – was considered not a virtue, but a vice. These Puritans were religious zealots who could abide no form of worship but their own. To them, the

population of Rhode Island was made up of heretics and infidels. They regarded this colony as a moral sewer. It was the intention and the mission of the authorities in Massachusetts and Connecticut to move into the territory of these settlements and absorb them into their own domains.

'To Hold Forth a Lively Experiment ...'

To prevent this from happening, Roger Williams journeyed to England and obtained a Parliamentary Charter through the intercession of the Earl of Warwick from the Long Parliament, which was then exercising full authority since Charles the First had already been deposed. Armed with this Charter, Roger Williams returned to the colony of Providence Plantations with some protection against his predatory neighbors.

While in England in the early 1640s, Williams published his remarkable *Key to the Language of America*. This was a dictionary and outline of the language of the Narragansett Tribe. Williams was one of the few Englishmen to become fluent in the language of that, or any other, Indian tribe. He also published a book entitled, *The Bloody Tenant of Persecution, for cause of Conscience*. These books established Roger Williams' reputation for scholarship, though his position against religious persecution did not persuade many members of the Anglican Church or the Calvinists in America.

In 1660, the English – having wearied of the rule of the Lord Protector Oliver Cromwell and his successors – restored Charles II to his throne. To protect the four towns from the hostile surrounding settlements, Roger Williams and other leaders persuaded John Clarke, a physician and clergyman, to go again to England and obtain a Royal Charter, since the Parliamentary Charter might well be called into question. Clarke was spectacularly successful in his mission, obtaining in 1663 the most liberal Royal Charter that had ever been granted to any colony in the British Empire.

The Charter started with the now famous declaration that a civil state might flourish with full freedom in matters of religious concernments. Such words in a Royal Patent were unprecedented, and they ring today with the same persuasive eloquence: "to hold forth a lively experiment, that a most flourishing civil state may stand and best be maintained ... with a full liberty in religious concernments."

'Home of the Otherwise Minded'

The colony was now given the name which we have retained to the present time, Rhode Island and Providence Plantations. It was destined to become a beacon of religious tolerance and civility, and a model for all of the world.

At that time, however, the rest of the world was not ready for the tolerance and civility of Roger Williams. Rhode Island became known as the “home of the otherwise minded.” Prior to the issuance of the Royal Charter, Roger Williams founded the first Baptist Church in North America. However, he worshiped with that denomination for only a brief period of time because he had theological doubts about its doctrine. He remained “a seeker” throughout his life.

Roger Williams disagreed strongly with the Quakers, and at the age of 72 he paddled a canoe thirty miles down Narragansett Bay to Newport to debate with some of the outstanding members of the Quaker community. Nevertheless, in spite of his disagreement, he would do nothing to impose any legal inhibitions upon their forms of worship.

In contrast, the authorities in Massachusetts passed laws forbidding Quakers from entering that colony – and providing punishment even to a ship’s captain who would transport them there, and any household that would give them shelter. A Rhode Island Quaker woman, Mary Dyer, was hanged in Massachusetts in 1660 for daring to return to Massachusetts after being banished. Connecticut also passed laws against Quakers but did not execute any of their members. So it is scarcely remarkable that large numbers of Quakers came to Rhode Island and held their annual meetings in Newport. No Quaker was ever jailed in Rhode Island or punished in any other way, even though Roger Williams strongly disagreed with their methods and practices.

Cause for Overwhelming Pride

It is not the purpose of this brief essay to give a detailed history of the founding of the Colony of Rhode Island and Providence Plantations, but simply to show the spiritual greatness of Roger Williams.

He did not seek to punish those with whom he disagreed. Indeed, he derived significant satisfaction from theological debates and discourse, but he would not lift his hand or bring authority to bear upon the members of any sect or religious faith and permitted all complete liberty of conscience.

Even to this day, however, Rhode Islanders have an inferiority complex. I suggest this is derived from the early scorn that was heaped upon our colony by our neighbors, to whom tolerance and the sheltering of heretics was not to be admired, but to be despised.

Our history and our small size encourages us to believe that we are inferior to our neighbors, when in fact we should take an overwhelming pride in that history – and in the virtue and outstanding character of our Founding Father, Roger Williams. He was a staunch friend of the Indians; and, at times, averted disastrous uprisings that might have expelled the English at a time of vulnerability. He was rewarded for

his service by ostracism. It was only in 1936 that the legislation in Massachusetts banishing Roger Williams was formally repealed.

We should be enormously proud of our heritage. Our Founding Father was superior in virtue to any of his contemporaries, particularly in the colonies of Massachusetts Bay, Plymouth and Connecticut. Rhode Islanders should swell with righteous pride when we recall the deeds and kindness of this great man. No other 17th Century figure can equal or exceed his outstanding virtues of tolerance, forbearance, and understanding.