



Should the Bar bar BARR?

PREPARATIONS ARE WRAPPING UP FOR THE 2023 STATE BAR OF TEXAS ANNUAL MEETING JUNE 22-23 IN AUSTIN. The all-volunteer Annual Meeting Committee has put in countless hours assembling a first-rate lineup of speakers, programs, and events. We owe them a great debt, and on behalf of the State Bar, I thank them for their tireless efforts.

But their work has not been without controversy. Over the past weeks, I have heard objections over the choice of former U.S. Attorney General William P. “Bill” Barr to be our keynote speaker at the Bar Leaders Recognition Luncheon. Some have asked that the State Bar cancel his appearance.

First, this: No bar dues are used to pay keynote speakers’ fees or expenses. Those costs are covered by Annual Meeting revenues. Second, Attorney General Barr’s presentation will take the form of a moderator-led Q&A, and I expect him to be asked tough-but-fair questions about his government service and legal career.

Barr has certainly gathered his share of criticism in recent years. Nonetheless, he is unquestionably a public official of the first order. He began his legal career as a law clerk on the U.S. Court of Appeals for the District of Columbia Circuit. He is one of only two people to serve as attorney general in nonconsecutive administrations: under George H.W. Bush in 1991-1993 and under Donald Trump in 2019-2020. In public life, he has also held positions of authority in the Reagan administration, with the U.S. Justice Department, and with the CIA.

Fans and foes alike can agree that he has played a prominent role in historical events. Whether we agree with his views or not, his opinions on politics, on governance in general, and on the powers of the executive branch, in particular, are views that have been impactful in modern American life.

I personally have disagreed with some of Barr’s statements and positions. But as lawyers we defend basic rights, chief among them, freedom of speech. It is easy to defend the rights of speakers we agree with, but it is essential to the rule of law that we also defend the rights of speakers with whom we disagree.

In these polarized times, it seems we’re in danger of losing that. As lawyers, we should be in the forefront of protecting unpopular or controversial speech. The ability to “disagree without being disagreeable” has long been a hallmark of great trial lawyers. In *The Dying Art of Disagreement*, journalist Bret Stephens wrote:

To disagree well you must first understand well. You have to read deeply, listen carefully, watch closely. You need to grant your adversary moral respect; give him the intellectual benefit of the doubt . . . And you need to allow for the possibility that you might yet be persuaded of what he has to say.

The British author Evelyn Beatrice Hall, in describing the beliefs of French philosopher Voltaire, famously wrote: “I disapprove of what you say, but I will defend to the death your right to say it.” In the more narrow focus of free speech rights under the First Amendment, Justice Robert Jackson said it very well when he wrote these words in *West Virginia State Board of Education v. Barnette*:

[F]reedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order.

When making decisions about keynote speakers, the Annual Meeting Committee always seeks to invite individuals who have interesting stories to share or who have played significant roles in events affecting the legal profession. Annual Meetings have featured speakers of various political views, and the selection of a speaker is not and has never been an endorsement of those views.

I thank the committee for arranging the appearance of a speaker with the national prominence of Attorney General Barr. I urge all to attend and to listen respectfully. Come with a notepad. And an open mind.

Speaking for myself, I can say this: I can promise Barr that I will listen. I cannot promise that I will be persuaded. That’s what freedom of speech is all about.

LAURA GIBSON

President, 2022-2023
State Bar of Texas