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Richard R. Botswick

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ADDRESS OF THE PRESIDENT

ANNUAL MEETING OF THE WYOMING STATE BAR

Richard R. Botswick

Casper, Wyoming

September 2, 1965

Rule 10 of the Rules for the Bar Association provides that there shall be an annual meeting and that such meeting shall be open to all members in good standing. The rule provides, among other things, that such meeting shall be held for:

The election of officers.

To hear the address of the President,

And, in general, for discussion of the matters of interest to the State Bar and affecting the administration of justice.

The program this year is designed in that manner. Later this morning we will have a matter of interest to the State Bar. Tomorrow morning we will have a matter affecting the administration of justice and in the afternoon tomorrow we will have the election of officers. You are now required to listen to the address of the President.

The year 1965 has brought about some rather sweeping economic and social changes in the United States and the Wyoming lawyer is bound to be affected by them. First, let me make some general remarks about the status of the Bar. Presently, Wyoming has licensed 625 members. Of these

members of the State Bar, a total of 450 are in active practice within the state. You must keep in mind with reference to some of the remarks in this address that these 450 lawyers are scattered over 97,000 square miles and clustered in rather small groups with the exception of the metropolitan centers of Cheyenne and Casper where approximately 90 to 100 lawyers are located in each instance. The Bar of Wyoming appears to be well disciplined. We have our problems, of course, but they are few with respect to ethics of practice and while there is always room for improvement, I am happy to say to the Wyoming Bar and to the country generally that those lawyers practicing in Wyoming are well educated, competent in their fields, and adhere generally to the Canons of Professional Ethics. From my point of view it is unfortunate that our public image is not as good as I think it should be.

The realm of definitive accomplishments and of hopeful aspirations is always an interesting exploration. Therefore, let me remark to you briefly on some of the things which your State Bar engaged in during the past year, with and without success.

LEGISLATION

Two of the major concerns of your Bar with respect to the last legislature were as follows:

The increase of judicial salary and the change in the license fee for the members of the State Bar. Under the very able leadership of Art Kline, the Legislative and Law Reform Chairman, we were able to get a modest increase for our judges. Legislator John Rooney, District Judge John Ilsley, Chairman Art Kline and your President met with the Appropriations Committee and explained the position with respect to the judges' pay raise and at that time we sincerely asked for \$18,000.00 for District Judge and \$20,000.00 for Supreme Court Justices. As you know, we did not get that but the judicial pay raise did pass the legislature allowing \$15,000.00 for District Judges and \$16,500.00 for the Supreme Court Justices. I must say I was a bit surprised at the philosophy with respect to pay raise when the judges were considered in the general pay raise of government employees under the

governor's bill. The Judiciary, being a separate arm of government, as well as the Legislative and Executive branches, it was my feeling that the judges should have been considered separately by the legislature. All other Bar-sponsored legislation passed with the exception of the increase for probate fees which passed the House and was later killed in the Senate. Further remarks with respect to legislation will be presented by the Chairman of the Legislative Committee.

The license was changed by the legislature to allow a maximum of \$35.00 and on the basis of this maximum, I recommend to the incoming officers and Bar Commissioners that the dues be raised from \$20.00 to \$30.00.

The Report of the Committee on dues last year in Cody is printed in Volume 19, No. 2, of the Wyoming Law Journal, and shows the conflicting statutes and court rules with respect to dues and accordingly we tried to amend this to eliminate any ceiling on dues being placed by the legislature. We hoped to place this decision in the hands of the executive committee of the Bar composed of the officers and the commissioners and under supervision of the Supreme Court. This is where we think it rightfully should be and I recommend continued effort in this regard. While speaking of dues, it might be well at this time to remind the Bar that the annual license fee is paid through July 31st of each year, yet the Annual Meeting of the State Bar cannot be held before the second week of August and this results in the incumbent president paying for the convention expenses of the immediate past president. This is certainly not the most desirable situation and it may be that some change should be considered to alleviate this problem.

BAR ACTIVITIES

What the future may hold with the advent of more clamor and desire for social justice, presents an interesting inquiry: "That all men are created equal. They are endowed by the Creator with certain inalienable rights. That among these are life, liberty, and the pursuit of happiness," is a familiar phrase to all lawyers in the United States as well as to most of our citizens. The application of this doctrine

heretofore has been on individual justice and this is the concept on which America was built. Each man was entitled to his day in Court and his cause would receive due attention and be resolved by the proper application of the rules of law. However, with the ever changing complexities of society and the needs of the people, a concept known as social justice began to appear on the scene approximately 50 years ago. Its first real application on a practical basis might be said to be the Social Security Act of the 30's. More recently, however, we have had the Criminal Justice Act of 1964, which is intended to see that all of those people who are charged with a crime are duly represented in all stages of their proceedings before the Courts and thus none can say that they have been denied the right of counsel. No one can say that this is not good law. The application of it may seem to be a hardship from time to time upon the individual practitioner but in the long run I believe we can say this is something that should have been done long ago. The Civil Rights Act has further extended the application of the idea of social justice. The Office of Economic Opportunity and its program entitled "The Law and Poverty," which resulted in a national conference being held in Washington, D.C. on June 23rd through 25th, 1965, will offer an unheard of impact upon the social structure of this country and particularly upon the practice of law as we have known it heretofore. This far-reaching law and its attendant application to the public need, needs more than passing comment and, while I do not wish to belabor the point in this address, I do wish to call the members' attention to this matter in a little detail. The organized Bar for sometime has recognized the need for legal services to those who are unable to properly pay for them. As a result of this concept, years ago the idea of lawyer referral service and of legal aid grew up in many of the large metropolitan communities. These programs, and similar ones, have been in operation for many years. It seems obvious, however, on studies made, that these programs do not fully satisfy the need. Suffice to say here, that I know of no program in Wyoming that encompasses either lawyer referral or legal aid. The Natrona County Bar at one time looked into the matter

but this got no farther than the committee-reporting stage. It may be that such programs are necessary in selected areas. I am satisfied that the lawyers of Wyoming, as well as the lawyers elsewhere, devote a considerable amount of their time to those people who need aid and for whom no charge can be made and I am sure that there is not a lawyer in this room who has not done so from time to time over the years of his practice. However, to show you the magnitude of the problem now envisioned and point out the fact that the voluntary programs of the Bar probably are not going to be able to meet the need, I wish to quote the following from the report of the National Conference previously mentioned:

Title 6 of the Civil Rights Act of 1964 now confers on all citizens the right to any service, financial aid or benefit under any federally assisted program, regardless of race, color, or national origin. This includes access to federally aided schools, hospitals, employment offices, vocational programs, and agricultural extension services. Many state and local laws and ordinances grant similar rights.

But the fact of discrimination is a particularly difficult one to prove. In almost every instance the services of a lawyer are essential to articulate a claim, to initiate a complaint, to prosecute an action. The right to equal opportunity must be tortuously defined by lawyers and courts in a variety of contexts.

A moment's reflection on this statement will immediately apprise you of the magnitude to which this activity may evolve.

We have already been contacted by the Office of Economic Opportunity and your President received a letter under date of August 4th from Bruce J. Terris of the Executive Office in Washington, inquiring whether or not it would be possible to have an OEO representative participate in our Annual Meeting of the State Bar in September. Unfortunately, by the time this letter was received, our program was completed and available time for such a comprehensive discussion as might be involved in this field was not available. A report on our program, however, will be given to you later in this meeting by President-Elect Elmer Scott, who attended

the conference. As your President, I have discussed this in some detail with your President-Elect and I am certain that the State Bar will engage in some kind of a program with respect to this matter in the future. Additional information with respect to this program may be obtained from The Lawyers Committee for Civil Rights Under Law, Suite 1035 Universal Building, Washington, D. C.

I would also just like to call your attention to the availability of the services of Robert C. Kelly of the Small Business Administration with offices at 301 O. & S. Building, Casper, Wyoming. If you have any problems concerning small business investment companies, this office is ready to assist you.

SUPREME COURT

As you know the composition of the Supreme Court of the State of Wyoming consists of 4 justices. Wyo. Const. art. 5, § 4. Several years ago it was necessary that the Bar, along with others, exert a great effort for a constitutional amendment to allow the appointment of an additional justice to the Supreme Court. At that time, I and several others felt that the amendment should be so worded to provide for a maximum number of justices on the Supreme Court and that these chairs might be filled from time to time as needed under proper appropriation of funds from the legislature. However, the amendment merely increased the composition of the Court from three justices to four justices. This did not seem to be a proper number for a Court since an equal division is apparent. It now seems that a further amendment should come before the electorate in the not too distant future to again adjust the composition of the Court. I would suggest that at such appropriate time as this may come before the lawyers and the popular electorate that the amendment be so worded and the educational activity necessary to insure passage of the amendment be pertinent to the point that the Court be given a definite limited composition up to possibly seven members and that the justices' chairs may be filled from time to time under proper appropriation by the legislature. I think this would avoid the need for repeated trips to the electorate for the purpose of proper composition of our only appellate court in this state.

CONSTITUTIONAL AMENDMENT

When considering constitutional amendments, or other proposals of public interest and which must of necessity go before the electorate, the following quote from the 27th American Assembly at Arden House should be kept in mind with respect to courts:

The courts and their problems have never engaged the informed, active and sustained interest of the public, even of our community leadership. Law and legal institutions are slighted in public education, and an inadequate picture seems to come through from most coverage in the press, radio and television. This is profoundly disturbing, because basic reforms in legal institutions require citizen participation and cannot be achieved by lawyers and judges alone.

While speaking of constitutional amendments on the state level we might now direct our attention momentarily to an amendment to the Constitution of the United States with respect to the presidential disability. As you know at the meeting in Cody last year, Mr. Bert Early, Executive Secretary of the American Bar Association delivered an address on this topic. The Bar unanimously approved the Resolution to Congress. The Resolution did pass Congress and is now on the way to the States. The American Bar Association has been credited by the chief Senate and House sponsors as the guiding force in bringing about the Congressional approval. It now, however, becomes our task as lawyers to help educate the public in the State of Wyoming and for the lawyers of other states to do likewise in an effort to secure the passage of this by the requisite number of states in order that it become the law of the land. I urge your interest in this field and that you express a favorable opinion upon it at every public and private opportunity.

AMERICAN BAR ASSOCIATION

Inasmuch as I just referred to the American Bar Association, I wish to say a word about that organization. Wyoming is quite well represented among its members. However, I would like to see that membership in the American Bar Association increase. Keep in mind that this association is

not just a name or some organization located in Chicago and Washington. It is an effective organ for the benefit of each lawyer in this vast country of ours and also for the various organized bars throughout the entire country. Detailed reports with respect to its operations and functions will be given to you later in this meeting by our delegates, Mr. Al Pence, the State Bar Delegate and Mr. Edward Murane, representing the American Bar Association members of Wyoming in the House of Delegates and presently the Chariman of that body. I say at this time also that we are most privileged to have in attendance with us at this meeting the newly elected President of the American Bar Association, Mr. Edward Kuhn of Memphis, Tennessee, who will address us at the luncheon today.

DEFENDER AID PROGRAM

Wyoming received a grant-in-aid to establish a Wyoming Defender Aid Program from the National Legal Aid and Defender Program Association. You have been circularized in the mail of recent date by the University Law School. Further information and program assistance is available through the College of Law. A more detailed report on this project will be given during the committee reports.

GRIEVANCES

Grievances against lawyers and investigation thereof are not a pleasant topic. Moreover they tend to reflect against all of us even though only an individual may be involved. The Wyoming procedure is that the Bar Commissioners first make an investigation of any complaint made by a client or other lawyer against a practicing attorney. A written report of this complaint is then to be sent to the President of the State Board of Law Examiners. The State Board is to consider and determine what action, if any, is to be taken. It may ultimately be referred to the Attorney General for action with respect to disbarment or suspension by the Court. The key to the successful operation of this disciplinary measure is prompt investigation by the Bar Commissioner. We have had a Bar Committee study this matter previously and on previous recommendation, we have left the structure intact.

I believe it worked reasonably well this year but I urge all Commissioners to be ever alert and to give first priority to investigating any complaint which they receive. To an aggrieved client or lawyer, nothing could be more important than prompt disposition of the matter.

It has been suggested that perhaps the machinery should be broadened so that each county might have a person to make the investigation rather than relying upon a Bar Commissioner who may be as much as 150 miles from the location of the instance. Our counties are big and this is true in the Seventh District where the Commissioner is located in Lander and a problem would arise in Casper or Douglas. It is possible that a resolution along this line may be presented by those interested in this feature at this annual meeting.

ECONOMICS

Economics of the Bar always has been, now is, and always should be of prime concern to the practicing lawyer. We recognized this two years ago in a formal way and have continued the committee as a special committee. So that the matter may never slip entirely into the background again, it is my recommendation to the Commissioners that this committee be made a standing committee under appropriate amendment of our by-laws.

GENERAL ACTIVITIES

Just a brief comment on some of the events and participations engaged in by your officers this year. Your President attended bar meetings in Colorado, Nebraska and Utah but was unable to accept the invitations of Idaho and South Dakota due to conflicts. We participated in the retirement ceremonies for Judge Sam Thompson of the First Judicial District in December in Cheyenne. We attended the ceremonies for the newly elected judges held in the Supreme Court chambers early in January. In May, I talked to the Potter Law Club with regard to the image of the lawyer and the ethics of practice. Our appreciation is extended to J. J. Hickey, a past president, for appearing on behalf of the Bar on August 16th in Cheyenne for the swearing in of new members at a time when all of your officers were otherwise engaged. As

your President, I was also privileged to participate in a panel program in Miami Beach on August 6th at the National Conference of Bar Presidents along with presidents of Illinois, Mississippi, New York and Washington State Bars, the Bar Associations of Houston and Philadelphia, and the past presidents of the South Carolina and California Bars.

As you know, the Constitutional Amendment which we attempted to support in the November election last year failed with respect to the minor courts. This perhaps was due as much to lack of education as to any other feature. Our program in this meeting of the State Bar this year is keyed to an educational theme for the lawyers with respect to modernization of courts. This program will commence tomorrow morning at 9:00 o'clock and run through the noon hour. It is being put on by the American Judicature Society at our request and I am sure that each of you will be most interested in the discussions to be had concerning this topic. This is timely. It is necessary and I hope that we will have a full attendance and good participation in this phase of our program.

In closing, I want to say a word of appreciation to the lawyers of Wyoming and others who have been so helpful. Jerry Housel of Cody did an excellent job as your President a year ago and I have tried to deport myself in the manner and style set by Mr. Housel. Our program this year was mainly keyed to the legislature and, as you know, we had an interim meeting in Cheyenne in January which was quite well attended. My appreciation to Elmer Scott, the President-Elect, and to George Guy, the incumbent Vice-President, who have been invaluable in their aid and comfort throughout this year. My thanks to the officers and people of the American Judicature Society who have exerted great effort to prepare and to present to us a fine program this year. My thanks to Mr. Ed Kuhn, the newly elected President of the American Bar Association, for being our guest and appearing on the program with us. Finally, to each of you members of the Wyoming Bar my sincere and deep appreciation for your having given me the honor to represent you as your President this past year. It is a job that takes considerable

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time but the time is well spent. It has many compensations and you meet so many fine people at other Bar Association meetings. My very best wishes to Elmer Scott of Worland, your President-Elect who will take over as your guiding light tomorrow night. Thank you for a memorable year in my life.