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HOW TO MODERNIZE YOUR COURTS

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Justice under law in the United States is on the brink of bankruptcy, not because court business is bad, but because it is too good.

Today, we are just at the beginning of a "law explosion" which is already threatening to engulf the courts in metropolitan areas such as New York and Chicago, where there are backlogs of personal injury cases which can delay trial of a case as much as eight or nine years. In many cities, persons accused of serious crimes, who cannot afford bail, may have to remain in jail for over six months before trial. A single judge in certain traffic courts may be required to handle over 400 defendants in a day, 50 each hour for eight hours. Divorce cases are on production lines and juveniles are handled like so many widgets. And, it is going to get worse because the administration of justice is big business and it is getting bigger and bigger every day. As a result, many of our courts are already in the first stages of bankruptcy.

Now, this doesn't sound like Wyoming—and it isn't—today—but even today there are problems in Wyoming. These problems are not so glaringly drastic as the above—but they are symptomatic of a need to seriously look at the need for court modernization in Wyoming. Why? Because most state courts are organized and run like 19th century general stores where, as Justice Tom C. Clark so aptly has said, half of the help spends all its time trying to find items that are lost and the other half sit around pot-bellied stoves while the customers, the people, wait. There is little organization, less business-like management, obsolete methods, inadequate facilities, and personnel who are more to be commended for durability than distinction. It is little wonder that 70 representative citizens from 20 states recently issued a report which began with the conclusion: "The administration of justice in the United States is in trouble."

Why? First, because there are more people. In 1930, the population of the United States was 122 million. In 1960, it was 179 million. In just 30 years, over a 40 per cent increase, and we have only begun. Our population is expected to double by the end of the century. More people means more court business.

Second, more of the people are coagulating in urban areas. Not long ago, only 50 per cent lived in cities; today, 70 per cent; and it will be 80 per cent by the end of the century. Cities have always been the best source of court business because when you double or triple the number of human beings in the same area, you more than double or triple the number of automobile accidents, family breakdowns, juvenile problems, crime, and social disorder.

Third, our accelerating scientific, technological and industrial society is imposing a whole host of new and complex legal problems on our courts. One example should suffice, space law was the esoteric problem of a few law professors ten years ago. In August, "Early Bird" up there sent live television coverage of Gemini across the Atlantic and the moon is next.

Fourth, whether we like it or not, there is a growing persuasion that everyone is entitled to legal services whether they can afford them or not. Gideon is probably here to stay and already legal assistance grants have been given in the war on poverty.

We have a "law explosion" on our hands. That is fact.

Most of our state court systems are not equipped to handle this explosion. This is fact.

Unless our state courts are modernized, and in a hurry, justice under law in the United States may face bankruptcy. This is fact.

What is a modern state court system? If you don't have one, how do you get one?

The answer to the first question is simple. Roscoe Pound set forth the underlying principles in 1906. The State-Wide Judicature Act, published by the American Judicature Society in 1914, put those principles into the first model state judicial article. In 1962, the American Bar Association rati-

fied and restated those principles when it adopted its Model State Judicial Article.

A modern state court system must have a unified organizational structure without any overlapping jurisdiction.

A modern court system must have uniform rules of practice and procedure promulgated by the courts, not the legislature.

A modern court system must use business-like management methods to gather facts, anticipate problems, and assign personnel and resources to meet those problems as they arise.

A modern court system must have competent judges, selected on the basis of merit and retained in office so long as they properly fulfill the duties of their office.

A modern court system must provide adequate compensation, including sufficient pensions, for court personnel.

A modern court system must have appropriate facilities, not only court rooms but offices, libraries, juries rooms, and the like.

A modern court system must be organized, managed, staffed and quartered to administer justice under law promptly, economically, efficiently and effectively so that not only will justice be done but also that it will be felt to be done and seen to be done.

In 1965, does Wyoming have such a court system? If it does not, how do you go about getting such a system?

First, you face the fact that, even if you could get all the judges and lawyers to agree on what should be done, members of the legal profession can never get the job done alone. You must have an informed, concerned and, if you will, militant citizen leadership. And I can promise, on the basis of considerable experience, that, when citizen leaders are informed, they become both concerned and militant.

Are the citizen leaders of Wyoming, the men and women who provide the educated civic leadership in this state, informed about the administration of justice in the courts of Wyoming today? On the basis of absolutely no information, I will baldly assert that they are, without exception, functionally illiterate about their courts, how those courts operate,

and how those courts could be improved. If they are not, then they are very different than the more than 2,000 citizen leaders in 14 different states where we have held court modernization conferences during the past three years.

How do these conferences work? Patterned after the 1959 National Conference on Judicial Selection and Court Administration, these conferences give 50 to 100 non-lawyer citizens in each state including manufacturers, newspaper editors, labor leaders, bankers, educators, clergymen, representatives of civic groups, women's organizations, service clubs, professions and other groups an opportunity to study and discuss their state's court system in depth. A comprehensive resource book is published and distributed before each conference. Judges and lawyers from other states join local members of the bench and bar to lead discussions on the various aspects of judicial administration. At a final general assembly, a summary statement of recommendations on each of the topics studied is adopted by the conferees.

Typically, such conferences run two or three days. Four or five major addresses are presented to the entire group by experts on the various subjects under discussion. Citizen conferees are divided into three to six permanent discussion groups. One or more discussion teams on each of the major topics then go round-robin from group to group so that each group discusses all the topics before the final general assembly. Each discussion team is composed of a chairman, reporter and two panelists. The panelists are usually judges and lawyers from other jurisdictions who have had some experience with the particular topic. The reporters on the team draft a summary statement of the conclusions reached by the various discussion groups on each of the topics. This statement is presented to a general assembly of all of the citizen conferees for discussion and adoption.

This final statement invariably calls for modernization of the courts and for the formation of a continuing citizens' organization to work for improvement. This is the opportunity to create a real working partnership of the legal profession and the civic leadership of the state.

Your sister states have either done it or are doing it now. Colorado had a very active citizens' group during its 1962 campaign to adopt a court reorganization amendment and another citizens' group has been formed to spearhead merit judicial selection, tenure, retirement and removal reforms.

Nebraska had such a conference and got merit judicial selection adopted in 1962 for all state court judges.

Iowa used a thousand member citizens' committee to spearhead its successful 1962 merit selection reform.

North Dakota had a conference last October and got merit selection reforms through the legislature.

South Dakota will have a citizens' conference in October of this year to study a proposed revision of its entire court system.

Idaho and Utah have study committees now at work and, at least, one conference will be held next year. Montana is also considering such a conference.

Such conferences are not the only way to bring the courts of Wyoming into the twentieth century before it is over—but it has been proven to be one of the most effective ways to bring about more efficient, more economical and more relevant justice under law in our courts.