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ADDRESS OF THE PRESIDENT ANNUAL MEETING OF THE WYOMING STATE BAR

Elmer J. Scott

Riverton, Wyoming

September 1, 1966

There are numerous activities and programs that any Bar Association could undertake, and the first decision a president has is to select those programs thought to be important and worthwhile. The limitations imposed by the funds available and the time which any lawyer, particularly an officer, can devote to this non-remunerative work necessarily narrows the field to a few programs at any one time. For reasons I shall point out later, I selected as projects of the State Bar during my term, judicial reorganization and the establishment of a clients' security fund.

The choice of judicial reorganization was a natural one in view of the emphasis given that subject at the annual meeting last year. Any progress made toward and momentum generated for judicial reform by that meeting with its excellent speakers might have been lost if the matter were not immediately followed up with some concentrated effort. Accordingly, representatives of the American Judicature Society were invited to attend a mid-year meeting of the officers and commissioners. At that meeting plans were made for the holding of a Laymen's Conference this fall. Hume Everett, Chairman of the Committee on Judicial Selection and Tenure, and R. Stanley Lowe, Chairman of the Minor Courts Committee, were appointed Co-Chairmen, and they graciously consented to serve. They have already spent a lot of time and will report to you later. I do not want to encroach on their subject, but I should report that a Laymen's Conference has been arranged for September 22-24 at Laramie.

About 100 leaders, representing all segments of the population, the state's industries, labor, political and social groups, have been selected to attend. Invitations to attend will be extended them by the Governor. The conference will be jointly sponsored by the American Judicature Society, the University of Wyoming and the Wyoming State Bar. This sponsorship by the Bar meant that there had to be budgeted for the conference \$1,200.00 from Bar funds. In addition, there will be other expenses which we believe will not exceed \$250.00. It is hoped that the first fruits of this effort will be adoption of Amendment No. 1 at the general election this fall, and that other measures for the benefit and improvement of our judicial system will follow.

The other project upon which considerable effort has been expended this last year is the establishment of a clients' security fund. I have been privileged to attend two conferences of State Bar Presidents held in connection with meetings of the American Bar Association; two meetings of the Western Bar Conference, composed of officers and past officers of the Bars of eleven western states; and State Bar meetings of several adjoining states. From attendance at these meetings it appeared to me that Wyoming, having done nothing concrete towards the establishment of a clients' security fund, was lagging behind the other states in not moving towards creation of such a fund. In line with this thought I procured some information from the American Bar Association and turned it over to a committee which I appointed composed of Jerry Housel, Chairman, George P. Sawyer, and Morris Massey. That committee will have a full report, and I hope that you will follow their recommendation of adopting a plan for such a fund financed out of your dues. In my opinion, nothing that we, as lawyers, might do would improve our public image more.

Neither the Laymen's Conference on Judicial Reorganization, nor the establishment of a clients' security fund would have been feasible without a dues increase. As you know, the last legislature authorized raising the dues from \$20.00 to \$35.00 for lawyers having been admitted five years. The officers and commissioners unanimously recommended an increase to only \$30.00, and the Supreme Court, by order, ap-

proved the increase effective July 1, 1966, the beginning of the new fiscal year. The additional \$5.00 which might have been levied under the statute was held in abeyance with the thought in mind that the sum might be levied later and earmarked for the funding of a clients' security fund, if necessary. While I was generally disappointed that the legislature did not remove the limitations and vest the power to fix the dues in the Supreme Court and the State Bar, I feel that the use of a substantial part of the authorized increase for the establishment of a fund to protect clients from the occasional, but rare, defalcations of lawyers will be good for public relations, as well as pave the way later for the removal of any limitation by the legislature on the amount of our dues. Generally, Bar dues in Wyoming are considerably lower than in the adjoining states. South Dakota has dues of \$100.00 a year, and Idaho \$50.00.

In the past the officers and commissioners have had one meeting a year, and that one immediately following the regular annual meeting. This has left the officers to act as an executive committee and places a great deal of responsibility on them for making decisions in important or controversial matters. I, therefore, inaugurated a policy of holding a mid-year term meeting of the officers and commissioners in January. This, to my mind, was beneficial and helpful. As the Bar grows and becomes more progressive, the work of administering its affairs becomes more burdensome and time consuming. Adjoining states have found it necessary to have commissioners' meetings quarterly and, in some states, even monthly. We can anticipate more meetings for the commissioners and more time being spent by the officers as time goes on. The growth of the Bar has meant a big increase in the duties of our part time secretary, John Dixon, whose attentiveness to the job and willingness to perform any assigned task has lightened the load for me.

During the year a vacancy occurred on the Tenth Circuit Court of Appeals of the United States by reason of the retirement of Judge Pickett of Cheyenne. The Bar was invited by our senior Senator to give its views on the various aspirants for the job. However, the Bar had no committee or procedure for reviewing the qualifications of lawyers

seeking the job, nor for making any recommendations. In other states when a vacancy occurs on the state bench, a blue ribbon committee of Bar members, and sometimes including laymen, exhaustively investigates, examines and considers the qualifications and fitness of applicants for judicial appointment and propose a slate of the three considered best qualified to the Governor for appointment from that list. The State Bar should, in my opinion, as a part of its concerted effort on judicial selection, have a committee of outstanding lawyers to review the qualifications and fitness of all who seek appointment to fill a vacancy on the bench, pick the three believed to be most qualified, certify their names to the Governor in the case of state judicial offices, and to the President in the case of federal appointments. Candidates for the offices of Governor and U. S. Senator should be approached by the Bar for a commitment that, if elected, the Governor would appoint to the state judiciary from that list, or the Senator would recommend to the President that he do so in the case of a federal judgeship.

The State Bar, and I personally assume responsibility for it, has done nothing about legal services for the poor under the Economic Opportunity Act. As you know from my report to you last year, the plan of the Office of Economic Opportunity was to have legal services for the poor performed by attorneys hired on a salaried basis by Community Action groups, with the OEO putting up 90% of the cost. I found no enthusiasm among the people of Wyoming for this plan of operation. Wyoming does not have large concentrations of poor people in city slums and ghettos, but rather in a state of small towns separated by great distances. The poor, few in number in these small towns, have had their legal needs, by and large, taken care of by the lawyers on either a free or reduced fee basis. The lawyers have always responded to the needs of the poor and for years defended the criminally accused without any compensation.

Moreover, the plan of the OEO was inconsistent with my concepts of the ethics and duties of a lawyer. The Economic Opportunity Act of 1964 does not mention legal services to the poor. I wonder, if it had, whether Congress, with lawyers predominating in its membership, would have passed

the Act. Of course, the poor need legal services, just as they need medical services, and both should be provided on the same basis, but the plan of the OEO treats lawyers as a second class profession. A poor person may select his doctor, but the OEO, through governing bodies of Community Action Agencies funded by OEO, hires the lawyers and tells the poor to use them. To me this is a bald step towards the socialization of the legal profession. But even worse, a lawyer's first duty is to his client. He cannot serve two masters. When one person is a client but someone else is the boss and is paying the salary and controlling promotions, who is the master?

Recently the OEO has adopted on a trial basis in Wisconsin a system whereby a poor person, after receiving a certificate of eligibility, goes to the lawyer of his choice. The lawyer does his work at 80% of the standard fee and is paid with funds supplied by OEO. I think this preserves the attorney-client relationship, is not a step towards the socialization of the legal profession and is consistent with the present canons of legal ethics. This plan, known as the English system, is commonly referred to as Judicare. Because I think it is an acceptable way of furnishing legal services for the poor, I have invited a member of the Regional Office of OEO to appear on the program this afternoon to explain Judicare to you and answer any questions.

Finally, being President of your State Bar has been a rich and rewarding experience. I have always liked lawyers, liked to be with them, work and play with them. They are the finest group of people in the world, and I have enjoyed immensely working for you as your President. I am deeply indebted to my able predecessor, Dick Bostwick, who left things in such fine shape for me, to George Guy, President-Elect; Henry Burgess, Vice President; John Dixon, Secretary-Treasurer; to the Commissioners; and to all committee members who worked together towards a goal of improvement of our Bar Association. To all members of the Bar, may I express my heartfelt thanks for the privilege of serving as your President. I trust that during the past year we have moved forward towards a better Wyoming State Bar.