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ADDRESS OF THE PRESIDENT

ANNUAL MEETING OF THE WYOMING STATE BAR

Edgar J. Herschler

Jackson, Wyoming

September 11, 1969

At this early point of the proceedings it is my privilege to give my report of the performance or non-performance, as the case may be, as your President for the year 68-69. This not only gives me the pleasure of saying something to you, it is also designed to satisfy the requirements for Rule 10, of the Rules governing the Bar.

First of all, I believe the officers of the Bar this year have complied with the requirements of Rule 16. My immediate predecessor, Henry Burgess, was instrumental in persuading our Supreme Court to amend Rule 16 so as to provide that Bar funds may only be disbursed by the Treasurer upon order of the Board of Bar Commissioners, as the result of a budget adopted at the beginning of the President's term. As indicated by the Treasurer's report, this administration has met the requirements of the Rule. I am now firmly convinced that the Bar is now in a sound financial condition. Any failure upon my part to meet some of the social aspects of my position will, I hope, be forgiven. As it has been my fervent desire, as was the desire of my immediate predecessor, that the Bar get back to a sound financial position, my traveling this year was limited to the Mid-Winter meeting of the American Bar Association in Chicago, and the annual meeting at Dallas. There were other meetings of State Bars that I had hoped to attend, but unfortunately because of personal problems, not involving my practice, I was unable to do so. This unfortunate circumstance was compounded by the fact that the President-Elect was unable to go in my place.

Any success that I may have had this year can only be attributed to the splendid support that I have had from my fellow officers, the Board of Commissioners and the appointed committees of the Bar. The advice and counsel I have received from your President-Elect, James Zaring, and your Vice-President, Ross Copenhaver, has been invaluable, and your Commissioners have performed in a manner most commendable. One of the most distasteful duties of being President is the necessity of referring client complaints to the Commissioners for investigation. In each instance the particular Commissioner has performed his required duties without complaint, nor has he asked to be relieved because he may have been a friend or close associate to the person that was to be investigated by him. The committees have acted in a way that could only restore faith in your fellow lawyers, if any such doubt could have ever existed.

As indicated, it has been distressing to me that so many complaints have been lodged against the members of the Bar this past year. I am happy to report, however, that in each instance the Commissioners assigned to the investigation have recommended that no further action be taken, and I feel satisfied in my own mind that the Commissioner's action in each case was correct. In almost every instance, it seemed to me that the client expected something that could not be accomplished by his counsel. This may mean that the layman does not realize what a lawyer's limitations are, but on the other hand it may mean that we, as a group, are remiss in not explaining to the general public the practicalities of the law and of our profession. Unfortunately, the accused lawyer can have complied with all of the requirements of his profession and the canons of ethics, but is still criticized by his client. As you all know, we have certain requirements in our profession that prohibit individual members from publicizing their professional problems, but it seems to me that it is incumbent upon the Wyoming State Bar to start a program of "Public Education," so that lay people can be more cognizant and aware of our true duties, responsibilities and limitations. I hope that my successors will give my recommendation serious consideration.

Today, we will have a limited explanation of the Code of Professional Responsibilities that has just been adopted at the most recent meeting of the American Bar Association. This Code is far-reaching and there are many portions of which that may be shocking to you. In any event, I hope that each of you will take it upon yourselves to examine the

Code closely and will be willing to offer any suggestions, either constructive or otherwise, if and before the Code is submitted for adoption in this State.

All of the committees that were appointed by me at the beginning of the year, or those committees that were hold-overs from the previous administration, have performed in a manner that has been most gratifying to me, and they all deserve a special thanks from every member of the Bar.

As you will recall, a Legislative meeting of the Bar was held in Cheyenne last January, just prior to the beginning of the 40th Session of the Wyoming Legislature. The Legislative and Law Reform Committee, headed by its Chairman, Alan K. Simpson, was instrumental in securing the passage of many Bar sponsored pieces of legislation by that branch of our State Government. In addition, the committee was also persuasive in not permitting the passage of legislation that might have been detrimental to our profession. Hopefully, we will have a full report of that committee's activities and frustrations from Chairman Simpson later this morning.

Another committee that deserves particular praise is the Minor Courts and Judicial Reform Committee, which was headed by Don Chapin. He and his committee worked tirelessly in an effort to secure the passage of "Minor Courts Bill" in the last Legislature. Although the passage of the Bill was not accomplished, it is my hope that because of significant progress having been made the passage of such legislation in the 41st Session of the Legislature will be accomplished. A discussion on the Minor Court problem will be held this afternoon, and I hope that we can agree on a plan and a Bill that will be acceptable to the Bar and the Legislature. In any event, if such legislation is ever passed to implement the mandate of the citizens of Wyoming, as expressed by the passage of the constitutional amendment at the election in 1966, it will be the result of the solid effort on the part of the lawyers of the State. Every organization, either of Government or of lay people, expect the Bar to take the lead in this matter. I do not believe we can afford to shirk this responsibility. I might also add that this committee worked long and hard for an increase in judicial salaries. An increase, although not as large as desired, was secured, and I think this committee deserves the plaudits of all of us. Unfortunately, other proposed judicial reform was not enacted.

For the first time since the national program of Law Day USA was instituted, the Wyoming Bar has received an award

from the American Bar Association for its excellent program. This award was the direct result of the efforts of the Law Day USA Committee, whose Chairman was Max Osborn. A special thanks to Max and his Committee for a job well done.

As the result of my attendance at the American Bar Association and other meetings, it is apparent to me that the role of the lawyer in our society is becoming more and more complex. More duties and responsibilities are being heaped upon us and this is especially true in the field of human rights. The nation looks to us for guidance, and the fact that the torch is being handed to us makes it our duty to accept these responsibilities. People, especially the poor and disadvantaged, are demanding more and more protection. Whether we accept these demands will determine in a large part, if our profession is to maintain the status that our predecessors strived for so long and hard to accomplish. We in Wyoming have not been subject to many of the responsibilities as have been showered on the lawyers of other states with large metropolitan areas. However, I do believe that in the not too distant future these responsibilities will be upon us, and we must be prepared to go forward as only we must. In the field of criminal law there are many startling proposed changes. Tomorrow we will have a panel discussion by three eminent and respected members of the Bar, and I am sure that many of you will be surprised at the many new procedural innovations. Also, a discussion is planned for tomorrow on the "Minimum Standards of Criminal Justice." We in Wyoming cannot ignore our changing times, and I know that we will meet these challenges for the latter part of the 20th Century.

One matter that has been disturbing to me and I am sure disturbing to the other officers and members of the Bar who are aware of the problem, is that we have been sued. A member of our Bar has challenged the fact that we are an integrated Bar and has raised the constitutionality of such requirement. In addition, he has challenged the necessity of belonging to the Wyoming Bar Association for the reason, as he puts it, that such is a violation of the "Right to Work Law." Upon my recommendation and the concurrence of the other officers and commissioners, the Bar has retained Tom Miller and Archie McClintock to represent the Bar in this proceeding. I do not wish to touch upon this matter any further as I am not certain it would be proper to publicly discuss such pending litigation.

There is another matter which I believe to be of great importance to the Bar. I am not certain that it is generally

known that one of our members of the Wyoming Bar has announced his candidacy for the office of President-Elect of the American Bar Association. He is a past Chairman of the House of Delegates of that association, is a past President of the Wyoming Bar, and by now I am sure you know that I am talking about Ed Murane. Not only would Ed's election to that high post be a great honor to him, but it would also be something that every member of this Bar could be extremely proud. Because of the tremendous competition of this post and the innerworkings of the American Bar Association, Ed will need, and I am sure would welcome, help from every one of us. I would hope that I might have an expression from this convention that it would be the desire of the membership that some financial assistance be budgeted out of Bar funds for Ed's campaign. Also, I would recommend that as many as can attend the Mid-Winter meeting of the association at Atlanta, Georgia.

Friday evening I will hand the gavel to Jim Zaring as your new President. Jim is a man of ability and integrity and a fine lawyer. I have greatly appreciated his assistance to me during the past year and I am certain that he will be an excellent President. It is without saying that he can count upon the same cooperation that you gave me.

It has been a great honor and privilege to serve as your President during the past year. If anything has been accomplished I must give full credit to the other officers, commissioners and committees who have worked long and hard on behalf of the Wyoming State Bar. I give my wholehearted thanks to each of them and to all of you.