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1950 Annual Report of the President

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1950 ANNUAL REPORT OF THE PRESIDENT

ALFRED M. PENCE

The law directs that in the initial stages of this Annual Meeting, I, as President of the Bar for the past year, make a report of the office which I have held. My predecessors in office have construed this requirement to include a report of the year's activities of the office, together with recommendations as to the future course of the Bar.

What has been accomplished or bungled since we met in Rawlins a year ago is relatively unimportant. My recommendations for future pursuits of the organized lawyers of Wyoming is worthy of the serious consideration of the Bar, or I have failed the grave responsibility and trust vested in me as President.

Adhearing to the expressed philosophy, I shall report the year's events briefly, for your information, and for the lesson, if any, that they teach, and move rapidly to what I think might be our future purposes.

FINANCES:

For many years, the State Bar was blessed with a comfortable cash surplus. At times the matter of reduction in dues was seriously considered to avoid further accumulation of surplus. In the fiscal year 1948-49, the problem was effectively solved by spending \$2,000.00 more than the cash receipts and leaving the Bar in the red by more than \$500.00. It is true that we had on hand at the beginning of my term of office a balance of \$2,676.38, but the majority of that sum represented advance dues collected which mean actually that after payment of convention expenses the Bar was in the red. The commissioners are not chargeable with extravagance; the Bar simply embarked on a program more costly than its income warranted. As a direct consequence, however, of this financial condition, we have, by necessity, been required to watch expenditures very carefully this year.

RULES OF CIVIL PROCEDURE:

At the Rawlins meeting, the Bar passed two resolutions, without dissenting vote, to be communicated to the Supreme Court. One of these resolutions, in substance, urged the adoption in toto of the Rules of Civil Procedure as recommended by the Rules Committee; the other requested the Supreme Court to define, by Rule, the practice of law. Both resolutions were transmitted by me personally to each member of the Court. A few days later, I called upon the Chief Justice and conferred with him at length concerning the subjects of the Resolutions. At that time, the Chief Justice expressed many objections to the rules as a whole and indicated, in my opinion, that the Court did not look with favor upon the adoption in toto. I was also advised that the Court

did not look with favor upon a Rule defining the practice of law.

Several weeks later, in company with Vice-President McClintock, also a member of the Rules Committee, a conference was held with all the members of the Supreme Court. At that time, the members of the Court advised that they would like to consider, upon the recommendation of the Rules Committee, about "one-half dozen of the Rules, the adoption of which would not be harmful."

Thereafter, I polled, by correspondence, each of the members of the Committee regarding the advisability of calling the committee together at Cheyenne and deliberating the counter-proposal of the Court. A majority desired such a meeting, and it was called for April 10, 1950. Following a morning-long discussion, the Committee thought it advisable to meet with the Court, in order to get, first hand, an impression of the Court's view. Such a meeting was arranged and we met in lengthy conference during the afternoon. The Court refused to say that it would not adopt the Rules in toto; it was said, however, that it was desired that the Committee submit an alternate proposal of some rules possessed of special merit so that the Court might consider adoption of the Rules as a whole as contrasted with adopting the rules of so-called "special merit."

The Committee met again following the conference and after careful consideration of the proposal of the Court, directed me to communicate to the Court that it was the consensus of opinion of the Rules Committee that the rules having been written as a composite set, generally interlocking with one another, the effectiveness would be lost by piece-meal adoption, and further they felt bound by the expression of this Bar at both its 1948 and 1949 meetings to advocate the adoption of a complete set of Rules.

On April 12, 1950, I communicated to the Supreme Court the action of the Committee. I received no acknowledgment of my communication, nor have I received any further directive from the Court. The matter has thus rested in the interim.

MUNICIPAL CODE COMMITTEE:

Conforming to the recommendation of my predecessor, a committee was appointed to study the matter of revision of the Wyoming Municipal Code. This Committee consisted of the city attorneys of cities representing the several classes of Wyoming cities as classified by our statutes. The Committee met in Cheyenne, April 11, 1950. There will be a report by the Chairman of that Committee tomorrow afternoon for your consideration.

LEGISLATIVE COMMITTEE:

Early in my term of office, I appointed a legislative and law reform committee with direction to initiate its work promptly to the end that

legislation finally sponsored by the Bar would be in the best possible shape when presented to the Legislature for consideration. The Committee has functioned as I had hoped and will report in detail tomorrow. Of course, its principal effort will be between now and the mid-winter meeting of the Bar.

WESTERN STATES BAR COUNCIL:

A delegation of this Bar, consisting of myself, R. Dwight Wallace, and C. W. Cook, attended the annual meeting of the Western States Bar Council in Salt Lake City, Utah on March 2nd and 3rd, 1950. It was a very successful and well attended meeting. I have asked Mr. Wallace to make a short report on this meeting.

UTAH STATE BAR MEETING:

The Board of Commissioners of the Utah State Bar invited me to be on their program at their annual meeting, June 14th, 15th and 16th, in Jackson, Wyoming. In view of the fact they were holding their meeting in our State, I felt obliged to, and did, accept. The Secretary has advised me that my remarks will be published in the *Wyoming Law Journal*. Four other members of our Bar attended some of the sessions of the Utah Convention. It was a pleasure to have the Utah Bar in our State, and I enjoyed very much the opportunity to meet with them.

TENTH CIRCUIT JUDICIAL CONFERENCE:

On July 10th, 11th and 12th, the Tenth Circuit Judicial Conference was held in Denver, Colorado. At the invitation of the Tenth Circuit Court of Appeals, I and several members of this Bar were in attendance. Chief Judge Phillips had arranged a very fine program; the conference was well attended and the meeting was both profitable and enjoyable. I commend the Conference, which is an annual event, to all members of this Bar. I am sure you will find attendance very much worth your time.

VISITS TO LOCAL BARS:

The year afforded me some opportunity to attend local bar meetings. Wherever possible, I did meet with the local Bars and took occasion to preach the gospel of organized Bar activity on a broader level. I feel that there is much the County Bar Association can do to improve the standing of the profession and that it should be one of the duties of the state President to assist by all means at his command. Leadership at the local Bar level is of the greatest importance and the State Bar should and can be tremendously helpful.

Wyoming Law Journal:

In compliance with the expressed wishes of the Bar, we have again

cooperated, financially and otherwise, with the University of Wyoming Law School in the publication of the *Wyoming Law Journal*. I have been deeply disappointed that the *Journal* has not even come close to publishing on schedule. As a matter of fact, at the time of writing this report, we have not had a *Journal* since the one that carried the report of proceedings of our Rawlins meeting a year ago. It is my opinion that a continuation of such a policy will preclude our further participation in this adventure. Possibly the Law School will offer us a reasonable explanation and some assurance of better future results. It would appear that the publication of the *Journal* is a highly commendable venture, and, personally, I should regret to see it discontinued.

INSTITUTE PROGRAM:

At the last meeting of the Bar, it was recommended that the Wyoming Law Institute be established as a joint enterprise with the University of Wyoming Law School. We have failed to comply with the recommendation completely, but we are initiating, for the first time, an Institute program with this Bar cooperating with the American Law Institute, through our Committee on Continuing Legal Education headed by the Dean of the University Law School. I have chosen to call this endeavor the First Annual Institute for the reason that I sincerely hope that you, the members of the Wyoming Bar, will be sufficiently impressed with this year's program to insist that it become an annual affair. During the term of my office, I have been forced to conclude that Wyoming lawyers need Institute work on a number of vital subjects in their modern practice; that they are losing valuable law business because of lack of personal confidence in their knowledge of these subjects; and that they are, unforgivably, in my opinion, actually sending their clients, in some instances, to laymen for advice on legal problems, this especially in the field of tax law. It is beyond my comprehension that we can discharge our duty to the public by a continuation of such a practice. We have worked hard to bring you this Institute this year, and I want very much for it to meet with your approval. I want especially to tell you that both Judge Delehant and Laurens Williams have inconvenienced themselves to be here. Mr. Williams is conducting an Institute at the South Dakota meeting today and tonight and will fly out here tomorrow. It was the only possible way that the Institute on Taxation could have been conducted if we were to have Mr. Williams. I therefore especially urge that all of you who can, attend all of the Saturday Institute that we might sufficiently compliment the effort Mr. Williams has made to accommodate us. Remember, both of these gentlemen render their services gratuitously and their only remuneration is our gratitude.

That briefly is our record of achievement this year.

RECOMMENDATIONS

Based upon the experience of the office of President, combined with my three years as a member of the Board of Commissioners and upon my conception of our objectives, I respectfully submit the following recommendations:

FINANCES

I am convinced that, if this Bar is to continue its activities and enlarge upon its program as I believe it should, we must increase our anticipated revenue. Our dues are fixed by law and can be increased only by Legislative Act. I have entertained the thought of placing the *Law Journal* on a subscription basis. This I do not believe would be good judgment. What other means of increasing our revenue are available, I have not determined. To study this matter and make recommendations, I have appointed a committee on Ways and Means, composed of the Vice-President, the Secretary, and three past Presidents. They will report to us tomorrow afternoon. In the meantime, you should all be thinking of this matter. I do recommend most strongly that some method of increasing our revenue be adopted in order that additional funds be available for our constantly expanding program, and I further recommend that we forthwith discontinue the practice of paying convention expense from Bar funds, but add these items to registration fees.

PUBLIC RELATIONS

There has been a gradually growing feeling among the Bar Associations in the United States that public relations have been sadly neglected by the profession. During my years as President, I have made considerable study of this matter and have become firmly convinced that we should and must do something about it. I have preached this philosophy to our members and have talked upon the subject both at the Interstate Bar Council and at the Utah State Bar meeting. I find without exception that attorneys everywhere are in accord with that thinking. I recommend that this Bar, without delay, appoint a Public Relations Committee, committed to a definite program; that a similar committee be appointed by each organized County Bar; and that these committees integrate their work to the end that we, at the earliest possible date, embark on an effective Public Relations program.

LEGISLATIVE PROGRAM

For many years, I have been impressed with the fact that the Bar of this State was failing to assume its proper responsibility with respect to State Legislation. In investigating this activity in other state Bars, I find a much more comprehensive program. Some Bars spend a large amount of their budgets on this activity. Naturally we cannot hope to

parallel the work of Bars which spend many thousands of dollars, but within our financial ability, we can and should do a great deal more than we have heretofore done. Early in my term of office, I appointed a legislative committee which, in my judgment, was especially competent for the assignment. They have already done some considerable work. I urge my successor to re-appoint this committee, and I urge this Bar to authorize an expansion of the committee's activity to include:

a. Meeting at Cheyenne early during the session and entertaining at dinner the members of the Judiciary Committee of both branches. This in order to become better acquainted; to outline briefly the State Bar's program; and to tender the services of the Bar to the legislature in whatever way we can be of assistance.

b. To make our good offices available to the legislature in whatever way we can be of assistance, but especially in analysing proposed legislation, revision of existing statute, rendering opinions on constitutionality, attending committee hearing as impartial consultants and generally rendering such services as our limited facilities permit.

Such a program, added to our normal legislative function, will cost some money and will be demanding upon the time of some of our members. It should, however, have its reward in public gratitude, higher esteem for the profession, and more carefully drawn and considered legislation from which the entire state will materially benefit.

LAW INSTITUTES

If, after sampling the Law Institute, you believe with me that it has substantial merit, then I recommend that it become a permanent part of our annual program. I recommend that we solicit Dean Hamilton to re-extend his invitation of a year ago to have a three-day institute next year at the University of Wyoming Summer Camp in the Snowy Range. Possibly the Commissioners will elect to hold next year's Convention in Laramie, and precede it with the Institute program. This would appear to be practicable and desirable.

JUDICIAL CONFERENCE

Having had the pleasure and experience of attending the 10th Circuit Court of Appeals Judicial Conference this year and being convinced of the merit of such conferences, I am impressed with value of such a conference of State Judicial Officers. As you know, in Federal Courts the Conference is directed by law. I recommend your serious consideration of the proposition of sponsoring legislation which would require a similar conference of our State Court personnel in Wyoming.

COMMISSIONERS MEETING

During my term of office, I have felt that it was a serious handicap to the efficient administration of the office to be unable to meet with

the commissioners. Most of the other State Bars with which I am familiar hold monthly meetings. I know of no integrated bar, the Board of which meets less than quarterly. Even two meetings during the year would be of substantial help; would be of tremendous assistance to the officers; and would reduce the President to something less than a dictator. Every effort should be made to provide sufficient funds to make Commissioner meetings possible. I also strongly favor amending our By-Laws to provide for the election of officers by the Commissioners from their own body in lieu of election of officers from the membership at large. The President, in my opinion, should be schooled in Bar work as a member of the Board of Commissioners before he is eligible for the position. I am sure I need not elaborate upon this view. The reasons for this recommendation should be apparent to all. I am sure that an incidental advantage of such a procedure would be more careful thought to the election of commissioners. It may not be that all Boards of Commissioners will be of the exceeding high quality as the one with whom it has been my distinct pleasure to serve. They have cooperated with the officers fully and I desire to give public recognition to their fine service.

INTERSTATE BAR COUNCIL

The Interstate Bar Council is in its second year of existence. I am convinced that the organization is sound and worthy. It provides a medium for the exchange of ideas among the officers of the 11 Western State Bars. Such an exchange of ideas is especially advantageous to small State Bars like our own. Without reservation, I recommend continued participation by the Wyoming Bar.

THE STATE PRESIDENT

The office of State President is of great importance to a strong organization. The member of this group who is honored by the position should be not only proud but consciously aware of the great responsibility that goes with that honor. A proper administration of the office, as I see it, requires an unselfish devotion of time and the expenditure of considerable personal funds. I have refused an allowance by the Commissioners of funds for the operation of the office in spite of the recommendation of my predecessor. In the first place, our budget is terribly small and our need of funds great. In the second place, I am convinced that the President should expect to expend personal funds in the discharge of his duties, and that he should not be available for the position solely for its honor and prestige. Those who aspire to the office should seriously weigh the responsibilities it entails.

THIS MEETING

Both your officers and the Convention Committee have tried especially hard to make this meeting bigger and better than any before it. We have arranged what I believe you will endorse as a fine program, both business and social. I am going to try to handle a great deal of the business part

through the committee system. That does not mean that, if you fail to get an audience with a committee or if they treat your idea lightly, that the floor will be denied you. Every effort will be made to permit any of you to bring any business to this floor that the Convention, as a whole, desires to entertain. The system which I shall use is designed for no other purpose than utilizing our time advantageously.

CONCLUSION

In conclusion, permit me to say that I visualize great things for the Wyoming State Bar. Since this Bar became integrated, every meeting has evidenced growth and development. The Bar of Wyoming must and will become a powerful organization in the promotion of the welfare of its members, the discharge of its duty to the public and the development of our great State.

Your continued interest by attending these meetings and by participating in the purposes will provide the enertia essential for these big things.

I have enjoyed being President of the Bar. There is no other honor that could have meant so much to me. I only hope that when this meeting is over and I am relegated to the noble order of Past Presidents, that I can feel that possibly I have added some little constructive thing to the record. I thank you.

JUDAH P. BENJAMIN, LAWYER AND STATESMAN

JOHN W. DELEHANT*

In extending to me your gracious invitation for this evening, your honored president complimentarily suggested that my effort on the occasion might fittingly be liberally interlarded with humor, as well as oriented to some timely and serious theme.

It is probable that he was prompted to his reference to humor by my surname and its intimation touching my racial origin.

However, in our American society that significance has receded to the point where it is only presumptively, or as in my own case, but partially valid. And, fortunately or unfortunately for audiences upon which from time to time I am visited, the Snyders and VanDeusens and Van Burens, among my forebears, outdid the Delehants and the Mahers in the compounding of my capacity for the presentation of humorous discourse, either created or reported. In consequence, my aptitude for jesting pleasantries must be measured by the humble standards of the Catskill hills and th Hudson valley, rather than the celebrated canons of Tipperary

* United States District Judge, District of Nebraska.