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REPORT OF THE PRESIDENT

BURTON S. HILL

During my term as President of the Wyoming State Bar, I have often pondered upon the real purpose of the organization. And each time I have pondered the thought has occurred to me that some vital purpose must have been originally conceived. This must be so since we are all compelled to belong. Not only are we compelled to belong, but serious consequence can follow the non-payment of our dues. Yet, with the payment of our dues each year, there appears to be no further requirements as far as the individual lawyer is concerned. He can decline to hold office in the organization; he can decline to serve upon the various committees annually appointed; he can decline to attend the meetings; he can, in fact decline to take any interest at all. Yet, he can not decline membership nor the non-payment of his dues.

This, of course, is quite unlike most other organizations. An individual, for example, may be a war veteran, but as such he is not compelled to belong to one of the veterans' organizations or to pay dues to one. Or, an individual may be known as an ardent politician, but by law he is not compelled to belong to a political party or pay assessments of any kind to one. Even the doctors of this state are not compelled to belong to a medical association; nor are the dentists, accountants, engineers, preachers, or teachers compelled to belong to any association or society.

Moreover, the law which compels us to belong to the Wyoming State Bar does not specifically provide what the organization must accomplish. We are, it is true, supposed to hold meetings, elect officers, appoint certain committees, and otherwise be active, but there appears to be no penalty for not doing so. In fact, I have often wondered what would happen if none of our members would accept office and none would serve on the various committees. I have often wondered what would happen if no annual meeting were called. Apparently, the consequences would not be as severe as our declining to pay dues for a single year. If we do not pay dues we can be obliged to discontinue the practice of law, yet with impunity any one or all of us can decline to do anything else to keep the organization alive.

Under these circumstances it has appealed to me that the Wyoming State Bar, by its accomplishments, should reach every lawyer in the state. This must have been the design when we became an integrated bar, or compulsory membership would not have been enforced. Accordingly, it would appear that the officers of the organization assume a serious obligation when they accept office. However, I think they generally recognize

this fact since each year our accomplishments seem to reach out further and more interest is shown. For the past two years we have added an additional day to our program for the purpose of an institute on the income tax laws and procedure, and the results have been most encouraging. This year our institute will be on the laws and decisions pertaining to oil and gas. This subject was selected since it seemed to be in great favor and demand. It is our hope that this institute will prove as interesting and instructive as the former institutes have been.

Another departure this year from what has previously been attempted is our radio program. The idea was conceived last year by President A. G. McClintock and his Commissioners who purchased the service for the incoming administration. As many of you know, the service consists of a dozen or more records entitled *You and the Law*, which are supposed to be passed around to the various radio stations in the state to be played at their free times. In order to get the program started I selected William F. Swanton, of Casper, to become general chairman and to take charge. At his suggestion I then selected as committeemen an attorney in each city or town having a radio station. They were to take charge of the programs in their respective communities. Mr. Swanton and his committee have worked hard to establish the programs and to set up the proper rotation of the records. I am pleased to report great success. The chief difficulty has been to sell the service to the stations themselves. Many have demanded a fee for their services, and sometimes these fees have come high. However, if the results have not been up to expectation it has been because of the quality of the records and not the work done.

This service has been a public relations venture to explain to the public the vital position of the lawyer in the community. But what the real reaction has been none of us are yet sure. All of the communities have not been reached but they will be within a short time. At all events, it is a venture definitely in the right direction. Unquestionably, the eventual reaction will point the way for some broader and more far reaching program.

In connection with public relation programs of the bar, it has long appealed to me that they are badly needed. With this in mind I have done some investigating upon the subject with the view of bringing you some useable and timely observations. Moreover, at no expense to this association I have visited various bar association meetings, including the annual meetings of the Colorado and Nebraska Bars, and the regional meeting of the American Bar Association in the Yellowstone Park. At all these meetings I have listened to the earnest discussion of our present day problems and have found that the matters of our public relations have been receiving serious and conscientious attention.

Without being too critical of our professional way of conducting our-

selves before the public, it has been my observation that in late years we have perhaps been slipping a bit. While I am sure every lawyer wants to give careful attention to the public's opinion of him, it would appear that of late years he has not given enough. He has, in fact, been so absorbed in his own busy affairs that he has not seen the approaching shadow of many evils to his best welfare. One of these evils is the unauthorized practice of law which we have been hearing so much about. At first this evil showed itself only in the larger centers, and in the beginning nothing much was done about it; but as it has grown and expanded it has reached the smaller centers. I can assure you that it is matter worthy of our most active and vigorous attention. I say this because there are evidences of this nature of practice right here in Wyoming. At least two instances have been called to my attention, but immediate action has been taken. These cases will be well taken care of.

But why should there be such an evil as the unauthorized practice of law? This question is often asked and those who have made a study of it come up with one simple answer. It may not be pleasing to hear, but we are told that in some fields where lawyers and laymen compete, the laymen are doing a better job. This will likely continue until the lawyers are able to educate and equip themselves to the point where they will do the best job. When this occurs there will be no unauthorized practice of law. But in almost every community we have seen insurance adjusters adjusting casualty claims which at one time lawyers handled exclusively. We have also seen a large amount of probate work going to trust companies and banks; and, we have seen income tax work lawyers should be doing now being done by the accountants. Not always of course, but in many instances legal advice is given and legal papers are drawn by laymen. But in only the most flagrant cases is anything ever done. Even then, many times the truth has come out that the layman knew what he was doing and that his services were probably more prompt and sympathetic than the lawyer's service would have been.

Of course, it must not be over looked that the lawyer can not advertise nor solicit business. In these respects he is somewhat handicapped. Yet, he can make his services so superior that this should be advertisement enough. With instances of the unauthorized practice of law so often occurring there has been of late a healthy self-analysis among members of the bar everywhere. This process has been encouraged and furthered by the bar association of many states and by the American Bar Association. Committees have been appointed by these associations to make searching inquiry into the problem with fine results. However, in the last analysis the solution of the problem has come down to a matter of better public relations. It has been found that first of all the lawyer must dedicate himself to the public by his cheerful willingness to serve, and by his efforts to render honest service at a reasonable cost.

In the January, 1952, issue of the American Bar Association Journal there appeared an article entitled *What Do Laymen Think of Lawyers*, by Albert P. Blaustein, of the New York Bar. This article is highly recommended to any who have not read it. The author has compiled many revealing statistics to show that of late the lawyer has slipped from his former high position in the community, and has furnished some of the reasons. Among these is the result of a survey conducted by Mr. Regenal H. Heber Smith, Director of the Survey of the Legal Profession. He has found that the fundamental complaint against lawyers by laymen is that lawyers in a large part are unnecessary. Laymen feel that they know what real justice is as well as any other man. Most other complaints fall under the headings of "high charges," "financial dishonesty," and that lawyers are the "tools of big business," and that they have "too much power." Of course, as Director Smith has observed, these charges are largely unfounded, but since they exist they should not go unnoticed. He further has observed that "where the legal profession fails to serve the public—and serve it well—it must clean house." Fortunately, the legal profession has awakened to the fact that where complaints are lodged against attorneys restitution must be made if true. Of course, where justified some action has usually always been taken, but we as lawyers must be more alert to criticism than ever before. Mr. Smith feels that even when criticism against us is unfounded and untrue it is more than ever our duty to show the true role of the Bar to the public. It may still appear that many lawyers have not become convinced that this job is necessary, but their number is dwindling as better public relation programs are being introduced.

No doubt all of us have heard the complaint that the services of lawyers are available only to the well-to-do. While this may not always be the case, it is likely that a deserving citizen without funds can not readily obtain the most competent legal help when needed the most. Consequently, of recent years bar associations in many states have developed a plan known as the *Lawyers Referral Plan*. By this process each competent lawyer in every community has his turn for a stated period to furnish legal aid to the poorer and more indigent clients. However, these services are not rendered absolutely free of charge. I have understood that in some of the larger centers the client pays a small fee for one-half an hour of counsel by the best attorneys. Certain convenient hours are set aside for these services at a time most convenient for the client. Where legal papers must be drawn or correspondence is necessary, this also is arranged to a reasonable degree. While suits are not ordinarily filed under the referral plan, proper guidance is afforded so that this might be done at as reasonable costs and under the proper circumstances.

It probably is too early to determine how well the *Lawyers Referral Plan* will eventually work out, but so far it seems to be fulfilling its original purpose. Experience with the plan is making it more workable all the time, and it is helping the public relations of the bar.

During this period of self-analysis, some revealing comparisons have been made to learn how we stand with other professions. Of these the most enlightening has been made by Mr. Arch M. Cantrall, of the West Virginia State Bar, involving the medical profession. Some of his statistics are not pleasing to contemplate perhaps, but they are, nevertheless, well worthy of our study and close consideration.

One of Mr. Cantrall's tables shows the average net income of all non-salaried independent practitioners in the United States as applied to the legal and medical professions, with the following results:

	1929	1949	Percentage of Increase
Physicians	\$5,224	\$11,744	125%
Lawyers	\$5,534	\$ 8,083	46%

This can only mean that the physicians have made more than two and one-half times the progress lawyers have enjoyed over the period of that twenty years in the manner of gaining income.

Mr. Cantrall's tables also show that in towns of 2,500 to 4,999 the average annual net income of physicians is \$11,228 as compared to \$5,060 for lawyers. In cities of 10,000 to 24,999 the ratio stands \$12,134 for physicians against only \$6,350 for lawyers. In cities of 50,000 to 99,999 the ratio is \$13,186 for physicians as compared to \$7,332 for lawyers. Only in cities of 1,000,000 and over is the ratio about even, with an income of a bit more than \$10,600 for each.

In the age group the tables reveal that physicians from 35 to 39 years of age enjoy an average net income of \$12,608 as against \$6,786 for lawyers. In the highest brackets physicians from 50 to 54 years of age make \$13,952 while lawyers in the same age group make \$9,872. Only in case of physicians and lawyers over the age of 65 do the lawyers come ahead. At this time of life the physician makes \$5,293 and the lawyer makes \$7,070.

In a lecture by Mr. Cantrall which I was privileged to attend, some of the reasons were given for the situation as we find it. It appears that physicians are out-stripping us in late years because they come out of school better prepared to practice their profession than we do ours. Even before the average young doctor leaves medical school he has an opportunity to prescribe for patients who are willing to see him. And following medical school he must undergo a long period of internship in a recognized hospital. Consequently, he eventually enters his profession with a pretty fair knowledge of what will be expected of him. Moreover, the pre-medical training is longer and more thorough than the lawyer's pre-legal training. And then the actual medical school training is much more severe.

Of recent years, of course, the training of lawyers, both from the standpoint of pre-legal and at law school has been materially increased. There is no question that the results have been of material assistance, but

has the increase been sufficient? These matters I have often discussed with Dean Hamilton of our Wyoming Law School and have been encouraged to learn that the problem is being given rigid investigation and study. For one thing, of recent years the leading law schools, or at least some of the most prominent, have been attempting to sound out the legal aptitude of all candidates for entrance. This is being done by a certain aptitude test which is believed to give a fair indication as to the probability of the candidate's ability to properly absorb his legal training and apply it afterwards. Although the test is yet far from perfect, experience gained from giving it is laying a foundation for something more complete and reliable. Some of the best law schools are waiting to determine the exact result before adopting the test, but it is probable that in the near future all of the leading law schools will give a test of some kind. For another thing, after entrance each law student is closely observed concerning his possibilities, and even though he may be able to pass the examination, if he should be found to lack the proper legal attitude he is induced to attempt some other line of endeavor.

For many years the system of teaching law remained about the same; and because of the rapidly changing conditions in the field of jurisprudence this system was becoming outmoded. However, healthy reforms have generally been introduced. These have been showing unusually fine results.

But regardless of all our efforts as lawyers to improve our public relations, we know in advance that our struggle will be uphill. To win acclaim the lawyer's path has always been steep and rocky. This situation will continue. Since the lawyer lives by controversy the reason is obvious. Almost anything the lawyer attempts, no matter how honest and conscientious, he will have to take a position which may be against the views, or even the well-being of some person or class of persons. It is likely he will not be accepted with favor by those he must oppose, and particularly so if they are on the losing side. Yet, even under these conditions, by his fine professional conduct, his utter fairness, his sympathy and his promptness, the lawyer can go a long way towards more favorable public relations.

As a result of my late experience as your President, I might suggest a few ways in which I believe we might improve our position with the public. These are in addition to those already touched upon. First of all, by salary increases and some adequate plan of retirement, our foremost lawyers should be encouraged to seek the bench. Whether we have the inducements in Wyoming is a serious question among both lawyers and laymen who have given the matter the proper consideration. In the past, and at the present time, we can probably have little complaint to make about our Wyoming bench; but will the salaries now paid be very attractive in the future? Many think not. When I speak of an adequate plan of retirement I would include the matter of infirmity because of age, and those

handicaps which come by reason of bad health or physical impairment. At present these matters are coming in for drastic reforms in many states and should not be overlooked in Wyoming. In Colorado, for example, a constitutional amendment is being proposed which, if passed, will allow a judge to remain on the bench as long as he can perform his duties in an adequate manner. But when it appears that he should be removed, in case he has not resigned of his own accord, by a certain process promulgated by the Attorney General, his condition is investigated and the results passed up to the Supreme Court for action.

After long study and close observation, I feel as many others do, that the *Missouri Plan of Judicial Selection* should be adopted in Wyoming. While I realize this would require an amendment to our constitution and a complete change in many of our present statutes, I believe the results would be an improvement over our non-partisan elective system. Many of our sister states are giving this plan serious consideration, and no doubt in the next few years we will find those states adopting it.

Furthermore, I am firmly convinced that we should not lessen our efforts in the months to come to secure the adoption of the new rules of procedure. My observation has shown me that these rules would largely eliminate delays, common errors in pleading, and would further the ends of justice by the system of discovery for which the rules provide. It is my conviction that the adoption of these rules is nearer than it has even been, but a little forbearance is yet required. I trust this will be practiced, and that no honest effort will be left undone to acquire an early adoption.

Another reform which I have heard discussed in Wyoming is the matter of county courts. The theory is that these tribunals could have jurisdiction in matters of probate, juvenile delinquency and domestic relations, as well as in many matters now being handled by justices of the peace. In these ways, it is proposed, the ends of justice would be better served at less expense, and with greater dispatch. Whether or not many of our counties have sufficient population to support county courts is a question, but it does appear evident some reform is necessary. By reason of our rapidly growing population the state might well be redistricted and additional judges provided. Of course, this is a matter which would require much study and ample consideration from every point of view, but it might be well to allow its investigation and adoption at the next meeting of our legislature.

In reading over this paper it appealed to me at once that perhaps I should have mentioned more of the bright side. That, of course, would have been easy since there is much of it. However, I thought it would not be amiss to give you the picture as I have had occasion to see it during the past year. The topics I have discussed are those discussed at the Bar Association meetings of our sister states, and at the various meetings of the

American Bar Association. The reason they are discussed is to improve our condition, and that is the reason I pass them on to you.

Of course, beyond question, many of the problems pertaining to the bar of other states are much more acute than ours. We, in fact, are fortunate to be entirely free of a vast number of their worries. At the same time we do have some of them, and may have more. Consequently, we should be ready to meet any contingency.

Before closing I want to thank the Wyoming State Bar for the honor it has bestowed upon me. I have been able to hold an office I had long hoped some day I might. Whether or not I have *filled* the office I must allow others to judge, but I do appreciate having the opportunity to try. Any time I have called upon any of you for help I have readily had it. I have had your time, your attention, your advice, and your utmost good will. More could not have been asked. Although I am soon to retire as your President, I trust I may still have the opportunity to serve you, and to assist in maintaining the present high standing of our Wyoming Bar, and if possible to improve it.

WYOMING STATE BAR ASSOCIATION

HON. CLARENCE A. DAVIS*

August 26, 1952

Mr. President, Distinguished Guests,
Members of the Association,
Ladies and Gentlemen:

It is a pleasure to be here.

That very flattering obituary which your President gave by way of introduction, I'm sorry to say, is not a completely adequate description of my varied accomplishments. For I belong to another select and limited group of specialists at the Bar—I am a Pig Lawyer.

During one of those hot lazy afternoons for which Nebraska is notorious (welcome to Wonderful Wyoming), the telephone rang. It was New York. Now I don't know how you all react, but in our impoverished lives, when the girl says New York calling, we snap to attention and say, "Yes, Sir."

Well, the gentleman said, "My name is Mr. Randall. We have never met but I think I can identify myself."

"You've heard of railroad lawyers?"

*Past President of the Nebraska Bar Association.