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ADDRESS OF THE PRESIDENT ANNUAL MEETING OF THE WYOMING STATE BAR

Houston G. Williams

Casper, Wyoming

September 6, 1973

After taking office as President of the Wyoming State Bar on September 9, 1972, a most eventful and satisfying year has ensued.

Due to the efforts of the Wyoming State Bar Committee on judicial selection and tenure, and many justices, judges and lawyers throughout the state, and due, further, to the efforts of the Citizens Committee set up under bar auspices, the people of the state of Wyoming approved Constitutional Amendment No. 4 by a large margin. The support of the news media was very apparent, and their cooperation was greatly appreciated, and, in the opinion of your president, very effective. Personal appearances by lawyers before various groups and on television, together with news releases prepared by bar officers, immeasurably assisted the passage of the amendment.

Since Constitutional Amendment No. 4 was not self-executing, it became necessary that the Legislative Committee of the Wyoming State Bar, in conjunction with the officers and the Supreme Court, prepare and submit implementing legislation to the 1973 Session of the Wyoming Legislature. The lawyers in the legislature again were very helpful, and particularly those on the House Judiciary Committee. Pete Mulvaney and the Legislative Service were also of great help in this phase of the project. As a result, all of the bills submitted were enacted and the amendment was fully implemented.

Under the new amendment and new statutes, it then became necessary for the bar to conduct an election of its three members on the Judicial Nominating Commission. This was done by having the Board of Bar Commissioners act as a nominating committee of

the bar, and five names were presented and an election by mailed ballot was held. The results of the election were then made known to the Chairman of the Nominating Commission, Chief Justice Parker of the Wyoming Supreme Court. Concurrently, the Board of Bar Commissioners, in a meeting in Casper, selected two bar members as its representatives upon the Judicial Supervisory Commission established by the amendment and by the statutes. Shortly thereafter, a concurrent announcement was made by the Governor and the President of the State Bar of the Commissions, which include laymen appointed by the Governor on each.

This Commission met in Cheyenne on May 14, 1973, for the purpose of recommending three persons to Governor Hathaway in connection with the filling of a vacancy on the Supreme Court caused by the creation of a fifth justice as a part of the legislation sponsored by the bar and three persons for each of the three District Judges' positions—one in the Second Judicial District by reason of the addition of a third judge by act of the legislature, and, by reason of retirement, one in the First District and one in the Fifth District. Such certifications were made, and Governor Hathaway made the four appointments. So far as your president was able to tell, all of these appointments received wide acceptance and hopefully laid to rest the contention on the part of some opponents of the new system that in some fashion politics would govern the selection. Two Democrats and two Republicans were among those four selected, and in the opinion of your president, each possessed outstanding qualifications for the jobs to which they were appointed. Some of them noted that they would never have made themselves available for these judicial posts except for the new system and would have had no expectation of ascending to the bench under the old system.

The foregoing activities were probably the most significant as far as the bar and bench are concerned, representing what we hope to be a new era in the administration of justice in the state of Wyoming. The support of the bench and bar in this instance, and the cooperation between them, was outstanding, and it is gratifying to know that the people of the state of Wyoming still respond favorably to attorneys' attempts to improve the practice of law and the administration of justice.

The next significant development during the year was the adoption by the Supreme Court of the new Rules of Discipline for the Bar which became effective April 1, 1973. The special bar committee, in cooperation with the Chief Justice of the Wyoming Supreme Court and the active participation of the other Justices, drafted rules based upon the American Bar Association model rules but adapted to Wyoming practice and requirements. Concurrently with this effort,

and prior to the effective date of the new Rules of Discipline, the Supreme Court adopted the Code of Professional Responsibility with the amendments recommended by the Wyoming State Bar. The Rules of Discipline then incorporated the Code as being a standard for ethical conduct for members of the bar. Since the Code of Professional Responsibility is the basis for bar ethics in all states, a uniformity has been achieved which should be beneficial. Under the new Rules of Discipline a Grievance Committee, consisting of five members of the bar, was established. The Board of Bar Commissioners, as the governing board of the Wyoming State Bar, recommended five lawyers to the Supreme Court for staggered terms, and the Supreme Court appointed these five lawyers with Edward E. Murane as chairman. Mr. Murane had been the American Bar Association Regional Representative of the Section recommending not only the adoption of the Code of Professional Responsibility, but also the Model Rules of Discipline, and he was very familiar with the Code and the Rules. In its order adopting the Rules of Discipline, the Supreme Court required all pending investigations to be turned over to the Grievance Committee, and this was done. This committee has recently had under consideration approximately 16 complaints, and it is expected that when this report is given most of these will have been resolved. A parenthetical comment here might be in order. Your president was not aware upon taking office of the number of complaints made by laymen against lawyers. While some of these which were investigated by the members of the Board of Bar Commissioners prior to the adoption of the new Rules of Discipline appeared to be and were determined to be not meritorious, a few more serious charges were referred to the new Grievance Committee. Speedy disposition of these complaints is required by the new Rules, and they provide a comprehensive procedure for the processing of these complaints with adequate safeguards for the lawyer and the complainant. Confidentiality is also preserved.

In order to finance the activities of the new Grievance Committee and prior to the adoption of the Rules, but in anticipation of such adoption, the Wyoming State Bar also sponsored an increase in the annual bar dues of \$15.00 per year. It was the feeling of the bar officers that, since a statutory enactment would be necessary, the limitation on bar dues should be removed and left to a determination by the Supreme Court or the Board of Bar Commissioners. However, notwithstanding the fact that all lawyer members of the House Judiciary Committee co-sponsored such a bill, it was blocked by the two lawyer members of the Senate Judiciary Committee. A last minute compromise was reached, and the Senate version was adopted, merely raising the limit from \$35.00 to \$50.00. The Supreme Court, acting under its authority to set the bar dues and upon recommendation

by the Board of Bar Commissioners, raised the annual bar dues which are due in October each year to \$50.00, with the usual proviso that those members having practiced less than five years pay one-half of the dues. The Court in its order specifically earmarked the \$15.00 increase for use by the Grievance Committee, and for no other purpose, in its activities and, in particular, in the employment of outside investigators where necessary.

Again, with the new Code and the new Rules of Discipline and with the bar paying its own way, it is believed that the Wyoming State Bar has indicated its continuing desire to police itself and to improve the quality of the practitioners of the law in Wyoming.

If these two advancements were not enough, the bar took further steps in the field of criminal justice to assure improvement in such field. The American Bar Association has developed standards for criminal justice, and numerous states have been engaged in an analysis of their laws, decisions, practices and procedures to determine if improvement is required. Your president, together with Dean Rudolph and Professor Gallivan of the University of Wyoming Law School, and John Rogers, Administrator of the Governor's Planning Committee on Criminal Administration, met in Cheyenne with Mr. Lauren A. Arn, Deputy Project Director for Implementation of the Section of Criminal Law of the American Bar Association. Dean Rudolph indicated that Professor Gallivan was prepared to proceed with an analysis of Wyoming criminal law, as embodied in the statutes and decisions and the practices and procedures followed by the courts, prosecutors and defense counsel, and could obtain, during the summer of 1973, the services of law student research assistants for such purposes. It was indicated that some L.E.A.A. funds might be obtained through the Governor's Committee and that additional funds would be available from the American Bar Foundation, but that these probably could not be obtained in time to start the program in the summer of 1973. As a result, the Board of Bar Commissioners of the Wyoming State Bar authorized the expenditure of \$2,500.00 to start the program, and this was done immediately after the meeting referred to above. Shortly thereafter, the American Bar Foundation allocated \$3,000.00 for such purposes, and it is expected that the L.E.A.A. funds, in the approximate sum of \$9,000.00, will be obtained to continue the program. The Executive Committee of the Governor's Planning Committee has indicated a favorable attitude toward the request for L.E.A.A. funds. A final decision will be made by the full Planning Committee shortly. Consistent with the recommendation of Dean Rudolph and Professor Gallivan, your president has appointed a special advisory committee to assist and review the work of the law school in this project. At the 1973 meeting of the Wyoming State Bar a program will be offered on such project by

Justice Erickson of the Colorado Supreme Court and General Hodson, Chief Judge of the Military Court of Review.

During the year your bar officers attended several meetings of the National Conference of Bar Presidents, which are held the two days preceding the American Bar mid-winter and annual meetings. In your president's view, the National Conference of Bar Presidents is an extremely important organization, and it is hoped that the bar officers will continue to attend these meetings. At such meetings, which are very well attended by bar officers over the country, excellent programs are presented by outstanding people, not only in the profession, but in the news media, from the bench and from law student groups. Current concerns of state bar organizations are fully covered, such as prepaid legal insurance, lawyer referral services, no-fault insurance, no-fault divorce, OEO programs, legislative programs, relations with the news media, disciplinary procedures and many others. An opportunity is given for bar officers from each state during these meetings to take the floor and ask for assistance from other state bar organizations in solving current problems. Many of the things that have happened in Wyoming during the past year are as a direct result of some of these conferences. For example, the Board of Bar Commissioners of the Wyoming State Bar has authorized your president to conduct a poll of the bar members in a district where a district judge is on the ballot, or statewide where a Supreme Court Justice is on the ballot, which will determine to the extent possible the attitude of the lawyers who will practice under such judge or justice toward the candidate. As you know, the ballot will simply provide a question as to whether or not the particular judge or justice should be retained in office. The Board of Bar Commissioners further authorized the results of such poll to be published prior to the election. This idea is not new and has been followed in varying degrees in other states, and the results uniformly reflect that lay people not only appreciate the expression of the bar's attitude but also tend to follow it. We have all had the experience during a judicial election of having our friends call us and ask our opinion concerning candidates. Where the elections have been contested, sometimes the answers are difficult. Where the elections have not been contested, there is no point in posing the question since the people had no choice. Under one of the provisions of Constitutional Amendment No. 4 adopted by the people of Wyoming, the Wyoming Judicial Nominating Commission must certify the candidacy of an incumbent judge or justice. This was not the idea of the lawyers who proposed the amendment, but was inserted by a layman member of the Senate. There are those who feel that this is a bad feature, since it reposes considerable power in the Judicial Nominating Commission. On the other hand, it is contended that it is a strong point and that,

while a qualified incumbent would have nothing to fear, time and effort might be saved in the selection of judges and justices. Be that as it may, such provision does exist, and it is peculiar to Wyoming as far as anyone has been able to determine.

At the suggestion of your president, the Wyoming State Bar, at its 1972 meeting, established a permanent Continuing Legal Education Committee. The results have been most gratifying, and in years to come it is hoped that this also will be a significant contribution to the improvement of the practice of law in Wyoming. The first Institute sponsored by the State Bar C.L.E. Committee was held in Casper to provide the members of the bar with up to date and solid instruction upon the law of comparative negligence, since the Wyoming Legislature, in its 1973 Session, had passed a new comparative negligence statute. This meeting was outstanding and was well attended. It was also financially successful, and it appears there is no reason why the Wyoming State Bar cannot continue to have outstanding education institutes which are self-sustaining. As a matter of fact, it is expected that they will implement the income of the bar considerably. Again, the idea for this was generated at one of the meetings of the National Conference of Bar Presidents when the state of Idaho gave a program on its C.L.E. activities. Particularly interesting was the report of its financial success.

Another new committee established by your president is the Young Lawyers Committee, and it is recommended that this be made a permanent committee of the bar at our 1973 business meeting. Again, the idea for this came from one of the meetings of the National Conference of Bar Presidents. The idea has been enthusiastically received by the younger members of the bar, and it is expected that in the future they will contribute significantly to bar programs. They are to be encouraged to be innovative and vocal.

In the 1973 Session of the Wyoming Legislature a layman senator introduced as a package the Uniform Probate Code. While it did not surface and was not passed, it signaled very clearly that changes have to be made by the bar, failing which the laymen will take matters in their own hands. It was felt by your bar officers that the bar had a responsibility to submit to the legislature and the people of Wyoming an intelligent, comprehensive bill which would be in the best interests of both the bar and the clients. Accordingly, your president appointed a Uniform Probate Code Committee with Professor Averill of the University of Wyoming Law School as chairman and implemented by six attorneys representing the various geographical areas of Wyoming. Since that time, two of these members have become district judges, and your president has asked them to continue to serve on that committee as it was apparent that they could contribute

much to its activities. You will receive a status report from the committee at our 1973 meeting, and it is hopefully expected that a bill will be ready for introduction in the 1975 Session of the Wyoming Legislature. Here again, the bar has taken the lead in an area where it has responsibility, and this, after all, should be its primary function.

The work of the Legal Aid Services Committee of the Wyoming Bar Association has gone forward all year, and you will be interested in the committee report which will be submitted to you by Lee Harden, which will contain some forward-looking recommendations.

During the year the matter of prepaid legal services, which again was the subject of much discussion at the National Conference of Bar Presidents' meetings, was put forward as a bar project. Again you will hear a program at our 1973 meeting which will lay before you a proposal to implement a prepaid legal services system in the state of Wyoming. It is your president's opinion that due to our small membership and the small population of Wyoming a major insurance company should handle the program. This will avoid the necessity of the bar itself attempting to establish the necessary reserves and administrative machinery required by any such program. However, no matter what program you choose to adopt, and, after all, it will be up to you as bar members, the merits of such a program are recommended to you. The obvious benefits to clients and lawyers alike are being recognized over the country, and Wyoming should be in the forefront of this newly developing concept. The Wyoming State Bar Prepaid Legal Services Committee should continue to function, and your president recommends its continuance.

During the year we had contact with our legislative delegation in Washington on several matters pending in the Congress. The Labor-Management Relations Act Amendment allowing employer contributions to plans of legal services for union groups was supported by the Wyoming State Bar, and the Senate Finance Committee has approved such amendment.

There have been, of course, other and varied bar activities during the year, but this report would become unnecessarily lengthy if they were detailed. Your president would like to take this opportunity personally to thank each and every member of the bar who has so generously agreed to work on the various programs and in the various activities of the bar during this year. It has been a high honor to serve as your president, and this report of stewardship is merely a reflection of the loyal support of lawyers throughout the state, each of whom, when asked to serve the bar, has agreed to do so unhesitatingly, and a special thanks should be given, also, to the judges and justices of the state who have evidenced at every point their willingness to cooperate with the bar in trying to improve the quality

of legal services rendered and the quality of justice obtained. It is believed that cooperation between the bench and bar has proceeded upon a foundation laid by the predecessors in this office to a point where it is efficient and most harmonious.

This chronicle could not be written except for the largely unheralded and excellent cooperation rendered the bar officers by the Board of Bar Commissioners of the Wyoming State Bar. They are your board of directors and make all the policy decisions of any consequence. They have served you well and should here be congratulated upon their performance.

Your continued support of your incoming officers is requested, and based upon your past performances, is assured. Your president's personal experience in having worked with your President-Elect and Vice-President leads to the confident assertion that you will have the finest leadership possible.

One cannot serve as your president without being impressed with our practitioners. You are true professionals, and this is why it has been such a pleasure and honor to serve as your president.

We hope that you will have a most enjoyable time at our 1973 meeting.