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ADDRESS OF THE PRESIDENT

ANNUAL MEETING OF THE WYOMING STATE BAR

William J. Kirven

Jackson, Wyoming

September 3, 1975

Members of the Wyoming State Bar:

Since taking office as President of the Wyoming State Bar on September 13, 1974, I have found the office to be both challenging and rewarding. These are indeed times of challenge for lawyers and the list of decisions facing the legal profession seems endless. In what some people call this era of consumerism past practices of the legal profession are under close scrutiny and not only are the affairs of lawyers being reviewed by the courts and the associations of lawyers themselves, but also by Congress and state legislatures. The list of subjects is numerous—minimum fee schedules, prepaid legal services, no-fault insurance, contingent fees, recertification of lawyers, advertising and specialization, to name a few.

It would be a mistake for us to believe that these topics apply only to lawyers practicing in more populous areas. Rightly or wrongly, each such matter has an effect on Wyoming lawyers. Previous officers of the Wyoming State Bar have recognized these problems facing us, and during this past year your present officers have continued to listen, consider and act. We have attended meetings where these subjects have been vigorously discussed and we have made known the position of the Wyoming State Bar on many of these matters to the American Bar Association, our congressional delegation, and members of the Wyoming Legislature. In this effort we have been ably assisted by the Bar Commissioners and the chairmen and members of our various committees. Lest you think

that these are matters which are not close to home, let me state that on several occasions I have been contacted by members of the Wyoming Legislature inquiring as to what our Bar proposes to do about medical malpractice matters, limitations on contingent fees and recertification of practicing lawyers in Wyoming. It is my strong opinion that these are subjects which the Bar and the Wyoming Supreme Court should control, but it is clearly evident that if we do not, then the Legislature will attempt to do so.

One probably cannot realize the volume of matters to be handled by the Wyoming State Bar today until he assumes the presidency. Then the flood of mail and telephone calls begins; from the American Bar Association and its numerous committees, federal and state agencies, commissions on domestic and international law, legislators (national and local), law schools and universities, lawyers and law students desiring to practice in Wyoming, researchers and I must add, a few cranks. Since taking office I have made it a practice to send copies of all letters written by me to each of the other Bar officers so they were fully aware of what was being done, and also had some idea of the variety of matters brought to the president for handling.

We have continued our good relations with the bars of our neighboring states. As was the case with the past officers of the Wyoming Bar, I found that many of the problems that confront us are also being faced by the bars of the western states and our joint discussions provide a solid basis for workable solutions. In September, 1974, I drove to Medora, North Dakota, and attended the annual meeting of the Jack Rabbit Bar, an informal organization of the officers of the Wyoming, Idaho, Montana, North Dakota and South Dakota Bars. In shirtsleeve sessions we discussed the Uniform Probate Code, energy development, the possibility of our bars securing a joint legal malpractice insurance policy for individual lawyers, and other professional topics. The 1975 meeting date was advanced to June and President-Elect Kepler represented the Wyoming Bar at that Jack Rabbit meeting.

In October I attended the Nebraska State Bar meeting and other Bar officers were assigned to the meetings of the Utah and South Dakota Bars. We are indeed pleased that the Presidents of the Nebraska and South Dakota Bars are with us for this meeting and we urge you to make their acquaintance. The Utah Bar is dedicating its new law center this week and Chief Justice Burger is speaking so none of the officers are able to attend this meeting of ours.

In February I attended the meeting of the National Conference of Bar Presidents in Chicago, and with President-Elect Kepler participated in the Conference of Western Bar Presidents. As always these sessions were informal and practical. Questions were answered

and opinions given by bar presidents who give each other the benefit of their personal experiences in handling problems identical with those facing the Wyoming Bar. I feel confident that your new officers will continue to keep pace with matters vitally affecting the legal profession by attending these meetings.

As your President I participated in numerous activities within the state such as attending installation ceremonies of Supreme Court Justices, co-sponsoring the reception for retiring Chief Justice Glenn Parker, welcoming two groups of newly-admitted members of the Wyoming State Bar, and on May 31, 1975, attending the Interim Judiciary Committee hearing of the Wyoming Legislature held in Casper to discuss the problem of medical malpractice. The committee had asked that in addition to my participation, we have speak a member of both the defense Bar and plaintiff's Bar. Dick Bostwick of Casper spoke as a member of the defense Bar and Gerry Spence as a member of the plaintiff's Bar. The meeting with the doctors and the legislative committee was vigorous and vocal and I think that all participating groups came away from the meeting with a clearer understanding of the other person's viewpoint.

Recently I appointed a committee consisting of one lawyer from each judicial district to act as liaison with a similar committee formed by the Wyoming Medical Society. It is hoped that some incipient problems concerning medical malpractice matters can be handled early by these two committees, and benefits achieved for the public as well as the medical and legal professions. Paul Godfrey of Cheyenne is Chairman of this committee which should do much to restore harmonious relations between our two professions.

You may remember that in his address to the Bar a year ago, immediate Past President Tom Morgan set forth a program of action which he felt was necessary to restore public confidence in the law profession. These items included strengthening of the standards of professional ethics and the machinery for professional discipline, including law school emphasis on the teaching of ethics. He also stressed the need to make legal services more available to individuals of moderate means and those who were without the ability to pay for legal services. He asked that we take an active role in developing public respect for the courts, that we strengthen the role of the organized Bar, and that we take an active interest in our law school.

I am happy to report to you that while these programs were not completed and probably never should be, during this past year we have given our time and attention to these objectives and they have moved further along the road toward the high standard which we want them to reach. Code of Professional Responsibility is in force

and working in Wyoming, and our Grievance Committee is functioning well as you will hear from the report of the Chairman, Jim Zaring. At times some Bar members question the efficacy of the Grievance Committee because we never hear what it is doing. However, we must remember that its operations are, and should be, highly confidential and most of their work never be publicized, but I believe Jim will have some interesting statistics for us.

The subject of teaching ethics at the law school has been discussed with Dean Rudolph and the faculty and once again a cooperative response has been received which assures that legal ethics will continue to be taught and stressed at the law school.

Both our Prepaid Legal Services Committee and our Legal Aid Services Corporation are vigorously pursuing their goals, leading to better availability of legal services for all citizens of Wyoming.

You will hear from Larry Yonkee, Chairman of the Legislation and Law Reform Committee, of the action taken at the legislative meeting last December, including the decision to poll the lawyers of the state concerning continuance of judges in office when they appear on the ballot for retention. Such a step will be of benefit to the Bar and to the Public and will assure to the citizens of Wyoming the same high quality of judicial performance that has been traditional in Wyoming.

You have heard and will hear the reports of some of our committees, and other committees are continuing their work but have no conclusive reports to make at this time. All committees are fully staffed and a number of younger lawyers were appointed to committees this past year in order to encourage their participation in Bar activities.

One of our more active committees has been the Legal Education and Bar Admissions Committee, activated by Past President Tom Morgan. This committee has maintained close contact with the faculty of the College of Law at the University of Wyoming and with the law students. Curriculum and course content have been discussed with both the faculty and the students; arrangements were made for practicing members of the Bar to speak to the students about different phases of law practice; and the committee brought to Laramie the Director of Legal Intern Program of the University of South Dakota Law School who spoke to the faculty, students and committee members. After one of these meetings I had the privilege of addressing the law student body and answering their questions about their future as lawyers in Wyoming. Later that evening a "mixer" was held at a local bistro and committee

members, faculty and students had the opportunity of getting better acquainted and exchanging ideas for several hours, with the State Bar paying for the refreshments.

Another committee which performed outstanding work during this past year was our Title Standards Committee under the direction of its Chairman, Rex Arney. Through the work of this committee statutes were enacted which will simplify the examination of land titles and eliminate needless curative work, all to the benefit of the attorney and his client.

Dave Scott of Casper continued to serve this past year as Chairman of the Continuing Legal Education Committee. This is undoubtedly one of the more important committees of Wyoming State Bar and we added to its duties this year by assigning to it responsibility for the subject of mandatory continuing legal education and its corollary of recertification of practicing lawyers. Dave attended a regional conference in Denver on June 27-28 sponsored by the American Law Institute and the American Bar Association and he and his committee members are keeping abreast of the of the adoption by some states, notably Minnesota, Iowa and Wisconsin, of recertification standards. Incidentally, this committee did plan to conduct their regular continuing legal education program in 1975 but possibly they should have mentioned the subject to Governor Herschler. When the Governor vetoed the Uniform Probate Code he also unknowingly vetoed the committee's program. I understand, however, they are working on a replacement program.

I would like to speak directly about one bill introduced in the House which was sponsored by your Bar. This was a bill which would have switched the authority to set the annual dues of members of the Wyoming State Bar from the Legislature to the Wyoming Supreme Court, the latter to act with the advice and counsel of the Board of Bar Commissioners. Such a bill failed to get out of the Judiciary Committee of the Senate in the 1973 Legislative Session. Regrettably, almost the identical thing happened in 1975.

The bill passed the House very early in the session and was sent to the Senate Judiciary Committee. This was indeed a sad fate. Despite prodding by members of the Legislation and Law Reform Committee, and a personal visit I paid to the Chairman of the Senate Judiciary Committee, the bill stayed in committee until very shortly before the Legislature adjourned. It then was sent to the floor with a "do-pass" recommendation, but of course at that hectic time it had no chance of coming before the members of the Senate.

Preliminary research indicates that very possibly the existing statute is unconstitutional since it permits the legislative arm of the government to exercise control over a part of the judicial arm of the government. I hope that the incoming officers and the commissioners will review this matter and perhaps institute a court challenge.

At present our annual dues are fifty dollars, of which fifteen dollars is set aside in a separate account for present and future use of the Grievance Committee. Thus, we have an effective thirty-five dollars per member to work with. This is not enough to enable us to pay for the much-needed services of a full-time Bar secretary. Dan Burke, our present Secretary, is most helpful and cooperative and he knows that there is nothing personal in the feeling of past and present officers that the Wyoming State Bar needs a full-time secretary now. In fact, Dan has stated during this past year that he would vacate the position of secretary if we could obtain the services of a full-time person.

In my opinion, totally satisfactory handling of Bar matters, and full utilization of the information and problem-solving services available to us, cannot be accomplished unless the president of the Bar takes a one-year sabbatical leave from law practice or the Bar retains the services of a full-time secretary-treasurer. My suggestion is that we ease the financial burden by having this person act not only as Bar secretary-treasurer, but also as secretary for the Grievance Committee and the Board of Law Examiners. These other two entities could then contribute to the annual salary of the secretary-treasurer. I urge that you give serious consideration to this proposal and hopefully the Bar Commissioners and officers can take positive steps toward solving this urgent problem in the next year.

I wish to thank Charlie Kepler, Larry Yonkee and Dan Burke for their assistance during the past year. On many major issues I conferred with Charlie and I am certain you will find his leadership in the coming year both competent and vigorous. The cooperation I received from the Bar Commissioners, committee chairmen and members of the Bar was excellent. On every occasion when I asked for help on some task it was promptly and cheerfully given. This is not surprising but rather it is typical of the Wyoming Bar and I sincerely hope that this spirit remains for many years to come, and is augmented by the young lawyers joining our Bar.

This has been a memorable year and I appreciate the honor which you bestowed in selecting me as your President. It is a privilege I shall not forget, and I thank you for it.