

1986

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Recommended Citation

Wyoming State Bar (1986) "Minutes of the Annual Meeting of the Wyoming State Bar," *Land & Water Law Review*. Vol. 21 : Iss. 1 , pp. 265 - 271.

Available at: https://scholarship.law.uwyo.edu/land_water/vol21/iss1/19

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University of Wyoming

College of Law

LAND AND WATER LAW REVIEW

VOLUME XXI

1986

NUMBER 1

Minutes of the Annual Meeting of the Wyoming State Bar

August 21, 22, 23, 1985

Laramie, Wyoming

The 70th Annual Meeting of the Wyoming Bar Association and the 44th Annual Meeting of the Integrated Bar of the State of Wyoming was called to order by President Thomas S. Smith at 9:00 a.m. on August 23, 1985 in the Classroom Building on the University of Wyoming campus in Laramie.

Mr. Smith opened the meeting by explaining the voting procedure for the contested office of Vice-President for the upcoming year. Voting had been taking place at all times during the convention, and would be closed shortly so the Election Committee could count the ballots.

Mr. Smith asked for a motion from the floor to dispense with the reading of last year's minutes. Mr. Howell McDaniel moved, which motion was seconded, that the minutes as published in the *Land and Water Law Review* be approved. The motion passed.

Mr. Smith then informed the members of the Bar that all committee reports, and also his report as President, were published in the program for the convention. It was moved and seconded that the reports as published in the program be adopted. The motion passed.

Mr. Smith then turned the attention of the membership to the resolutions which were on the floor to be voted on by the Bar, which were published on page 11 of the program. The first resolution was that of the Legal Aid Services Committee. Mr. Smith read the following resolution by that Committee to the membership:

RESOLUTION OF THE LEGAL AID SERVICES COMMITTEE

WHEREAS the Wyoming State Bar Association at its regular meeting in September, 1973, (see *Land and Water Law Review*, 1974, Volume IX, Number 1 at page 284) by Resolution recognized to those unable to pay a fee as set forth in the Canons of Judicial Ethics and in

the Code of Professional Responsibility and that such services could best be provided in Wyoming through staffed Legal Aid Offices, and

WHEREAS such services have heretofore been provided through three federally funded Legal Aid Programs located in Cheyenne, Casper and Ft. Washakie, and

WHEREAS the staffed Legal Aid Programs have in the past four years suffered substantial cuts in funding which has severely limited the programs' ability to meet the needs of the needy, and

WHEREAS the staffed Legal Aid Programs are in dire need of assistance from the private bar by way of donations of both professional services and cash to make up in part the lost resources, and

WHEREAS Ethical Consideration 25 of Canon 2 of the Code of Professional Responsibility places the duty on each member of the private bar to participate in serving the needy,

NOW, THEREFORE, BE IT RESOLVED:

THAT each individual member of the Wyoming State Bar Association should participate on a voluntary basis in the delivery of professional legal services to the needy of Wyoming, and

THAT a reasonable level of participation is an annual donation of at least fifteen (15) hours professional services (20 minutes per week) or annual donation of \$300 to the appropriate staffed Legal Aid Program, and

THAT the Wyoming Bar Association Legal Aid Services Committee Report be approved, and

THAT the Wyoming Bar Commissioners take such action as is reasonably appropriate to aid in the accomplishment of the goals and objectives set forth therein.

It was moved and seconded that the resolution be adopted with the deletion of the word "association" from the resolution since the proper name of our group is the Wyoming State Bar. After discussion, the motion carried. Therefore, the resolution was adopted with the deletion of the word "association."

The next resolution was that of the Committee on Wyoming Courts. Mr. Smith read the following resolution to the membership:

RESOLUTION OF THE COMMITTEE ON WYOMING COURTS

RESOLVED that the Wyoming State Bar reaffirms its earlier endorsements of the county court system and its expansion statewide and urges that the system be implemented in the remaining eleven counties of the state, either through actions of the Boards of County Commissioners in conformity with existing law or by legislation expanding the system statewide and changing the name to more properly characterize the system as being part of the judicial system of the State of Wyoming.

It was moved and seconded that the resolution of the Committee on Wyoming Courts be adopted. After discussion, the motion passed.

The next resolution was that of the Washakie County Bar Association. Mr. Smith read the following resolution to the membership:

RESOLUTION OF THE WASHAKIE COUNTY BAR ASSOCIATION

WHEREAS we believe that the public would be best served by attorneys trained not only in the theoretical but also practical aspects of the law; that the body of young aspirants to the legal profession would benefit by exposure to actual legal practice; and, having discussed it among ourselves, we desire that it

BE RESOLVED: That the Wyoming State Bar Association should have a prerequisite for final admittance to the Bar a one year post-law school internship involving practical experience in law.

There was no motion to adopt the resolution; therefore, no action was taken.

The next resolution was that regarding the place of the Wyoming State Bar Annual Meeting. Mr. Smith read the following resolution to the membership:

WHEREAS, the towns of Cody, Jackson and Sheridan have the hotel and convention facilities to accommodate the members of the Wyoming State Bar at their Annual Meeting;

WHEREAS the Annual Meeting of the Wyoming State Bar has always been well attended when it is held in Cody, Jackson or Sheridan;

BE IT RESOLVED that henceforth all Annual Meetings of the Wyoming State Bar shall be held in either Cody, Jackson or Sheridan.

There was no motion to adopt the resolution; therefore, no action was taken.

Mr. Smith then called on Mr. John E. "Jack" Stanfield. Mr. Stanfield is Chairman of the Bar's Insurance Committee, and he related the activities of the Committee in its quest to find a solution to the liability insurance problem facing attorneys. Mr. Stanfield indicated that one potential solution the Committee was pursuing regarded the formation of a multi-state captive insurance company for lawyer's professional liability insurance. Mr. Stanfield also indicated that the Bar was working with other groups within the state who are also having problems obtaining liability insurance.

Mr. Stanfield then read the following Resolution to the membership:

WHEREAS, the Wyoming State Bar has joined several other state bars to conduct a feasibility study of the possibility of a multi-state captive insurance company to provide a stable and affordable market for Wyoming attorneys' professional liability insurance and has contributed its \$4,000.00 share of the cost of that study; and

WHEREAS, the other Wyoming professionals and governmental entities and professions are faced with a similar liability insurance crisis and have formed a coalition to find solutions to their common problems; and

WHEREAS, it is appropriate for the Wyoming State Bar to assist the coalition in finding solutions,

NOW THEREFORE, IT IS HEREBY RESOLVED:

1) that the participation of the Wyoming State Bar in the multi-state bar feasibility study be ratified and approved, and

2) that the Wyoming State Bar contribute the additional sum of \$750.00 to cover the expense of bringing the multi-state actuarial and insurance company or a series of captives to provide liability coverage for other Wyoming citizens or groups facing the current crisis.

It was moved and seconded that the Resolution be adopted. After discussion, the motion passed.

The Election Committee came into the room to announce the results of the contested election for the office of Vice President. The Committee announced that Mr. David H. Carmichael of Cheyenne had defeated Mr. Thomas T. Zollinger of Rock Springs by a majority vote.

Mr. Smith then introduced the new officers of the Bar to the membership:

Mr. James L. Hettinger, President, Riverton; Mr. William S. Bon, President-Elect, Casper; Mr. David H. Carmichael, Vice President, Cheyenne; and Mr. George L. Simonton, Secretary-Treasurer, Cody.

There being no further business before the Bar, the meeting was adjourned at approximately 11:00 a.m.

Respectfully submitted,
MARY ELIZABETH SENKEWICZ
Executive Director

Report of the President

At the outset, my thanks and appreciation to the respective committees and particularly to the Officers and Board of Commissioners who give unselfishly of their time and effort to the bar program. We held a series of five meetings of the commissioners in Jackson, Rock Springs, Riverton, Cheyenne and Saratoga and never seem to want for matters of importance to overload each agenda.

A matter of primary concern was the relocation of bar headquarters which we completed in April, 1985 by taking over the sole occupancy of quarters at 21st and Central Avenue. I encourage all of you to stop in and utilize the facilities, which are conveniently located and close to the

Supreme Court Building. There is ample parking space for visiting attorneys which will be appreciated by those running late for a Court appearance.

We put to rest, at least temporarily, further consideration of the IOLTA (Interest on Lawyers' Trust Accounts) program and concluded that if such a program were undertaken in Wyoming it would, of necessity, have to be voluntary as opposed to mandatory, and because of this restriction, would not probably attract enough contributions to make the program worthwhile.

The workload of the Grievance Committee was eased substantially by the hiring of Thomas J. Rardin, a retiring Wyoming lawyer who recently completed 20 years of service with the F.B.I. Tom will investigate complaints for the Committee and make recommendations relative to proposed charges. I had the pleasure of recommending, I believe, the first woman to the Grievance Committee. The appointment of Kathleen A. Hunt of Laramie was approved by the Supreme Court in March.

We undertook to terminate many of the existing but non-functioning committees and established several new ones including the Alcohol and Drug Committee, the Joint Medical-Legal Committee and the Insurance Committee. We did considerable work to conform the procedure for committee elections and appointments to the enabling by-laws, statutes and constitutional provisions. Of particular importance in that regard were the recent amendments to the By-Laws relative to the Judicial Nominating Commission which now provide for the nomination of replacements to coincide with annual bar meetings.

A considerable amount of time and effort has been devoted to the malpractice insurance crisis. My special appreciation to my partner, Jack Stanfield, for his assistance in our continual efforts to resolve this critical problem. We currently have one insurance company which will write malpractice insurance for Wyoming attorneys, but at premium rates which exceed \$1,000 per lawyer. We are not assured of continued coverage by this company and if it should terminate its coverage, Wyoming lawyers will go unprotected against malpractice claims. We are currently working diligently to form a captive insurance company with other states which have similar insurance problems. As an alternative, we are working with other groups in Wyoming in anticipation of formulating a Wyoming captive company which might include not only attorneys, but doctors, engineers, architects, cities, towns, other political subdivisions and perhaps even the State of Wyoming. Required capital contribution to such a company might be made from our huge cash reserve fund. This use would, in my view, better serve the interests of the bar than any other conceivable program. It is doubtful that we could ever hope for a decrease in insurance premiums but at least we could assure ourselves of coverage and at a stabilized premium rate. Hopefully, by undertaking a program of risk management and claims control the premium rates could be held to a minimum.

Rather than continuing to chortle about my accomplishments as bar president, which, to say the most are few, I would prefer to emphasize those matters which I feel merit considerable attention in the future.

I would like to see the Commissioners expand the duties of Mr. Rardin to include the writing of advisory opinions on ethical matters. Most of the neighboring states offer this service to their members, which has been greeted with great acceptance. Whether or not we ever establish a captive company, such a service is destined to become very important from the standpoint of risk management and claims control.

I would like to see the bar cooperate with the Supreme Court to take immediate steps to achieve a resolution to the case overload problem of the Supreme Court. It has been interesting to converse with bar and court officials of the neighboring states. South Dakota has attempted to resolve its problem by establishing a settlement panel at the Supreme Court level, which apparently has not met with lesser importance from a precedent standpoint, to staff attorneys, who then circulate the opinions for approval of a majority of the court. The Utah Court is moving toward the writing of more per curiam opinions and only writing extensively on problems relating to the constitution, death penalties, and cases of first impression. Idaho seems relatively satisfied with its system which involves a Court of Appeals. All cases are appealed directly to the Supreme Court, which in turn assigns cases to the Court of Appeals on a pre-arranged jurisdictional basis, in which case the Court of Appeals is supposedly a court of last resort. The consensus is that the weak point in the system is that in a very few cases the Supreme Court has entertained consideration of a Court of Appeals case upon certiorari. It is doubtful that any adopted procedure would receive the unanimous approval of the bar and the bench, hence the adoption of any system would necessitate the dedicated service of a strong leadership. In any event, the time is now.

I would hope to see the process of judicial selection strengthened by publishing the names of the final nominees selected by the Judicial Nominating Commission. To be selected as a nominee is indeed a very high professional compliment. Moreover, I see no reason to cast a cloak of secrecy around the ultimate gubernatorial selection of the replacement. The public should be aware of choices confronting the governor and he should be politically responsible for his selection. True, such a process would subject him to a flood of political influence, but under such conditions he would be more likely to fulfill the desires of the people he was elected to serve.

I would hope to see more done to vitalize the activities of the bar foundation committee. We must direct more attention to the development of a strong foundation, the income which might ultimately provide us with our own state bar headquarters and the means to make a substantial contribution to legal services.

Our work in alcohol and drug rehabilitation is barely underway. We have brethren in dire need of assistance and we must rise to the occasion.

Work must continue on standardization of district court rules and pattern jury instructions.

In all, there is a myriad of undertakings which lie ahead to challenge the ability and imagination of my successors to come. My year has been educational and pleasantly rewarding and I am grateful for the opportunity to have served the Wyoming State Bar Association. I am particularly appreciative of the patience demonstrated by members of my firm with my many absences and the considerable amount of time spent in my attempt to resolve some of the more pressing and current day-to-day bar problems.

Respectfully submitted,
THOMAS S. SMITH