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## Minutes of the Annual Meeting of the Wyoming State Bar

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## MINUTES OF THE ANNUAL MEETING OF THE WYOMING STATE BAR

SEPTEMBER 6, 7, 8, 1989

GILLETTE, WYOMING

The Annual Meeting of the Wyoming State Bar was convened pursuant to notice on September 8, 1989, at 10:00 a.m. at the Complex, Gillette, Wyoming.

The meeting was called to order by President John M. Daly.

The minutes for the last Annual Business Meeting, upon motion and second, were approved.

Mr. Daly asked for a motion from the floor to dispense with the reading of last year's minutes. Upon motion, seconded and carried, the minutes as published in the *LAND AND WATER LAW REVIEW* were approved, and the motion passed.

### REPORT OF THE PRESIDENT

*By John M. Daly*

There is a new Executive Director of the Wyoming State Bar, Jerome (Jerry) Statkus, who practiced law in Cheyenne for 17 years. Mary Elizabeth Senkewicz is the first Bar Counsel of the Wyoming State Bar, and had been Executive Director for over five years.

Over the past year, work was completed on revisions to all the major rules under which the Bar operates. The Supreme Court has approved in an order of May 18, 1989, Amended and Rewritten Rules Providing for the Organization and Government of the Bar Association of the Attorneys-at-Law of the State of Wyoming and By-Laws of the Wyoming State Bar. The Supreme Court has also approved amended Rules for Resolution of Fee Disputes which became effective on August 1, 1989.

The Grievance Committee has submitted an amended Disciplinary Code for the Wyoming State Bar which awaits approval by the Wyoming Supreme Court.

Rule 5 defining reciprocal admission of attorneys to the Wyoming State Bar, was reinstated after a poll taken at the convention in Cheyenne in 1988. Veteran attorneys in good standing with other state bars will not need to "test in" to our bar, and our veteran attorneys will not need to "test in" to theirs. Along with reinstating Rule 5, the Bar has recently developed a detailed application for admission to the Wyoming State Bar for all applicants.

The Internal Revenue Service on August 22, 1989, issued its ruling authorizing the Wyoming State Bar Interest on Lawyer Trust

Accounts (IOLTA) program. The IOLTA program once established will result in interest from lawyers' trust accounts going to the Wyoming State Bar Foundation for various philanthropic purposes.

Town meetings on our system of justice, and public comment, were held in Douglas, Worland and Gillette. Interesting comments were made by the public, and that input has been put to work.

The location of the Wyoming State Bar's office at 500 Randall Avenue, Cheyenne, was named the Wyoming State Bar Willis Van Devanter Law Center on July 19, 1989. Judge Kerr gave the dedication speech, which was well attended.

Traveling around the state over the past year, I spoke to the 1st, 6th, 7th, 4th, and 9th judicial district bars. I was a judge at the mock trial competition in Cheyenne and at History Day in Riverton, and I spoke to the teaching students at the Legal Studies Institute sponsored by the Wyoming State Bar at the university in June.

The Bar has developed an historical exhibit to commemorate Wyoming's history and heritage in law. The exhibit will travel from county to county in the coming year, to mark the state's centennial.

There were new events instituted at the Annual Meeting in Gillette on September 6, 7, and 8. These included a Foundation Lunch, a Prayer Breakfast, and a play at the Heritage Theatre in the complex on the first night of the convention. This year, the sporting events were also expanded.

Looking ahead to the future of the Bar, I expect to see the following developments:

- (1) there is going to be some effective reorganization of the judiciary;
- (2) IOLTA will generate enough money to have a significant impact in improving the administration of justice in Wyoming and the delivery of legal services to the indigent;
- (3) the Grievance Committee rules will be streamlined to eliminate unnecessary delay;
- (4) there will be a greater role of the Bar in *pro bono* representation for poor people;
- (5) there will be expanded duties for the Lawyer's Assistance Committee;
- (6) alternative forms of dispute resolution will become much more common in the next few years;
- (7) there will be a flood of new techniques for operating law offices and courts (air mail is 69 years old on the date of this talk) as the legal profession catches up to the Computer Age;

(8) there will need to be more emphasis on professionalism and the high ethical standards that set us apart from other professions;

(9) Wyoming lawyers will continue to see the Bar's budget balanced.

It has been my privilege to represent you lawyers, as President of the Wyoming State Bar, for the past year.

### REPORT OF THE PRESIDENT-ELECT

*By Richard M. Davis, Jr.*

President-Elect, Richard M. Davis, Jr., spoke briefly as Chairman of the Long-Range Planning Committee. The Committee has adopted a mission statement for the association:

The Wyoming State Bar: an organization of lawyers responding positively to the needs of the public and the profession.

To supplement this statement and provide a framework to achieve that mission the Committee finalized the following set of organizational goals for the Wyoming State Bar:

1. to ensure the highest standards of ethical conduct and professionalism in the legal system;
2. to assure professional competence among members of the Wyoming State Bar;
3. to promote cooperation, understanding, and respect among lawyers, the judiciary, and the bar;
4. to ensure the legal system is fair, efficient, accessible, and responsive;
5. to identify and respond positively to the needs of lawyers in Wyoming;
6. to increase the public's understanding of the law and the role of the legal profession.

### REPORT OF WYOMING STATE BAR DELEGATE

*By Jerry W. Housel*

"Resolving Disputes in Pacific Ways" was the theme for this interesting and highly educational meeting in beautiful aloha land. The ABA board of governors meeting started August 1 and continued most of the week. The opening assembly of the American Bar Association meeting was held Sunday evening, August 6, 1989, in the Hilton Hawaiian Village where the ABA staff and meetings of the board and house of delegates were located. It crowded Honolulu for enough rooms to accommodate all the functions programmed for this once a year,

highly educational and stimulating encounter. The judiciary functions were headquartered in the Ilikai Hotel, and other sections, divisions, committees, and special groups met in other hotels in the Waikiki area. The beach was readily available to most registrants, but hardly enough time was allowed for that delightful pursuit.

A significant honor and recognition came to the Wyoming State Bar as well as the entire state upon the election of Judge Margie M. Meacham as chair-elect of the national conference of special court judges. Representatives of the special courts all over the United States form this conference, and Judge Meacham previously served as a member of the executive committee of this conference. I was elected to the ABA board of governors and have been meeting with the board the last six months. My predecessor on the board was Alfred M. Pence of Laramie, who served many years in the House of Delegates.

The 435 or so house delegates heard statements of the House chairman, the ABA president, the ABA executive vice president and chief operating officer and Board of Governors reports. The House considered nearly 100 proposed resolutions and also many reports from state associations, city associations, special commissions, standing committees, special committees, sections, and divisions of the American Bar Association. The United States attorney general made a flying trip to Hawaii and returned to address the House with an interesting discussion of the activities of his office.

Report number 401 of the ABA task force on the first amendment generated the most extensive and thoughtful debate in both the Board of Governors and the House of Delegates. A task force appointed by the House chairman included chairman Randolph W. Thrower and members Barbara A. Black, Warren Christopher, Erwin Griswold, Gerald Gunther, Robert McKay, Earl Silbert, and Cyrus Vance, all highly respected lawyers and educators. The special consultant to the task force was Lawrence M. Baskir.

Their task force proposed two resolutions:

- 1) That the ABA oppose adoption of an amendment to the constitution authorizing the federal government and states to criminalize the desecration of the American flag as a political protest.

- 2) That the ABA oppose enactment of federal legislation seeking to criminalize the desecration of the American flag as a political protest.

Two amendments to the first paragraph of the first resolution were accepted. One struck "authorizing the Federal Government and the State to criminalize" and inserted the word "concerning". The second amendment deplored on behalf of the ABA any desecration of the flag and declared ABA's full support for the proposition that the flag is a revered national symbol and ought to be treated with great respect by

all citizens of the United States. Both resolutions with these amendments were approved by the House over substantial opposition.

A discussion of each item acted on by the House would unduly lengthen this report and increase the ennui incurred in reading it. Following are some of the highlights:

11-1. Amended the constitution, bylaws, and rules of procedure of the house to provide gender neutral language throughout.

11-3 and 11-4. Amended the constitution to allow a delegate from the Virgin Islands to the House and making the Federal Energy Bar Association an affiliate.

11-7. Created a new class of associates known as law librarian associates.

11-8. Provided a law student member admitted to the bar of a state, territory, or possession a free first year of membership in the ABA.

101A, B, C, D, and E. Approved recommendations of the section of administrative law and regulatory practice on the federal administrative procedure act, veterans' affairs, debt collection and forfeiture proceedings, nonlegislative rule making, age discrimination employment, and federal security clearance procedures.

102. Deplored human rights violations in Iran.

112A. Urged adequate funding for the Organization of American States.

112B. Deplored apartheid practices in South Africa.

114. Approved and recommended alternative dispute resolution techniques.

116A, B, and C and 117. Approved recommendations of the rules taxation section concerning IRC "top-heavy" rules, foreign tax credit carryback, tax treatment of trust charitable contributions, and the "throwback rules".

120. Approved durable powers of attorney.

122. Recommended that the government-wide ethics act of 1989 not apply to the judiciary since the judiciary has its own rules.

127A and B. Approved the model joint custody statute and family support act.

130A and B. Approved the uniform statutory form power of attorney act and the uniform construction lien act.

131. Approved revised model rules for lawyer disciplinary enforcement.

133. Approved model rules for lawyers funds for client protection.

301. Deplored the recent atrocities in China.

402. Approved uniform code of military justice amendments.

104A and 110. Urged the United States to accept jurisdiction of the international court of justice where opposing parties have accepted.

104B, C, and D. Approved recommendations of the section of international law and practice on international sale of goods, international commercial arbitration, and worldwide prevention and control of AIDS.

Two other subjects were debated at some length. The proposal of the senior lawyers division to add a senior lawyer as a delegate to the house and member of the nominating committee was defeated after extensive debate. On this case the action of the House differed from that of the assembly so the senior lawyers withdrew the proposal to avoid the excessive cost of a referendum vote. The recommendations of the commission on mass torts were debated at some length and deferred until the next meeting.

At the conclusion of Honolulu house meeting, we held the first meeting of the new Board of Governors. This is a busy group and meets often. My term is for three years, and the two following years I will continue to serve in the House of Delegates. If I do not continue as Wyoming State Bar representative to the house of delegates, a new bar association delegate should be appointed and elected to serve. I highly recommend Margie M. Meacham for this position. She has worked to increase ABA membership in the Wyoming bar and shows much interest in ABA activities and the House of Delegates.

Several ABA officers and lawyers joined the Australian legal convention in Sidney following the meetings in Honolulu and later met with the Law Society of New Zealand in Auckland. The seminars and meetings in those sessions were most interesting and informative on perhaps some better ways to administer justice and implement alternative dispute resolutions.

Somehow, some way there should be more interest in American Bar Association membership and activities on the part of Wyoming lawyers. At one time we ranked in the top three or four in ABA membership percentage in the entire United States. Our position has slipped since then. It will be great if the state bar can work closely with the ABA and encourage ABA membership on the part of all Wyoming lawyers. The ABA JOURNAL is a highly informative publication worth the cost of membership alone. At the annual and midyear ABA meetings continuing legal education credit is available for virtually every field of law. Those appearing on these programs are the leading attorneys in their respective fields in the entire nation.

My thanks to the Wyoming State Bar for allowing me to serve as delegate to the House of Delegates not only the last two or three years but also many years ago when I served as bar association delegate when Alfred M. Pence was state delegate and Edward E. Murane was chairman of the House. I look forward to my term on the Board of Governors and will be glad to assist the state bar and its members in any way I can during that tenure.

If anyone has any questions or suggestions concerning the ABA or lawyers generally, he/she should see me, R. Stanley Lowe, or Margie M. Meacham, as all of us are active in the affairs of this great institution.

### STATE OF THE JUDICIARY REPORT

*By Wyoming Supreme Court Chief Justice G. Joseph Cardine*

Not enough is known about the operation of government. That is especially true of the public's knowledge and perception of the judicial branch. If there is a general negative impression of courts and of lawyers who are officers of the court, it is due to a lack of understanding. One of the best things we have done to further understanding of the courts and the judicial branch of government is to take the court to the people—that is, hold sessions of court in various communities throughout the state. The format of our program is for each of the justices of the supreme court to meet with classes in the junior high schools, high schools, and junior colleges during the morning to discuss with them the organization of trial and appellate courts, the judicial system and its relationship to other branches of government, and to inform them of the facts and issues involved in the cases to be heard during the afternoon. Lunch is with members of the local bar association and with those involved in the planning and arrangements for the court session in the afternoon. Members of the press often attend the luncheon and interview the justices on any subject they choose.

The afternoon is devoted to a session of court at which two or three cases are heard. At the conclusion of the hearings and adjournment of court, there is an open discussion at which anyone may pose questions to the members of the court concerning anything about the cases heard, the procedure employed, the method of deciding cases, and anything about the operation of the judicial branch of government and its relation to the other branches of government. The program has been successful beyond what was expected when it was begun. During the past year, sessions of court have been held in the following communities:

- a. November 3, 1988, at Casper College, Casper, Wyoming—More than 500 persons attended the session of the supreme court at some time during the afternoon.
- b. During the first week in June at the Cody auditorium, Cody, Wyoming—186 girls from Girls' State attended the afternoon session of the court. The Girls' Staters showed a keen interest



in the entire proceeding, and at the close of arguments, engaged in a lively discussion with members of the court concerning the cases heard and the procedures employed.

c. October, 1988, at the University of Wyoming, College of Law, Laramie, Wyoming—A session of court at which three cases were heard was held in the large classroom. More than 100 college of law students attended the session. There was a good discussion of the law and appellate procedure at the conclusion of arguments. A session of court will be held again this year October 18, 1989, at the University of Wyoming College of Law in Laramie.

d. On Friday, September 8, 1989, during the meeting of the Wyoming State Bar Association, the court will sit in Gillette, Wyoming, for the first time ever. Two cases will be heard during this afternoon session. Students from the junior college, high school, junior high, and general public are invited to attend.

e. September 12, 1989, the court will be in Jackson, Wyoming, for an afternoon session. This also will be the first time ever that the Wyoming Supreme Court has sat in session in Jackson.

The program is well received. Those who attend are enthusiastic and most complimentary and thank the court for coming to their community. Among all of our activities, this is one of the best and is a source of much satisfaction to the justices on the supreme court.

Last fall the Chief Justice of the Wyoming Supreme Court and District Court Judges Edward Grant and Nicholas Kalokathis met and agreed to install on a trial basis in Laramie County, Wyoming, an alternative dispute resolution program. An outline of the rules and procedures to be followed in the program was prepared. There was no money or funding to operate the program. Therefore, a number of local lawyers and retired judges were asked to provide mediation services *pro bono* to the project. Without exception, every single lawyer and every retired judge contacted agreed to serve. The program was totally voluntary. Judges Grant and Kalokathis identified six cases which they thought would benefit and be amenable to the mediation process. Five of those cases settled. One was a tort case that resulted in a relatively large monetary settlement paid the plaintiff. Another was a divorce case in which very substantial property was divided between the parties. The parties and their counsel participated in the process, and without exception were most pleased with having been a part of the resolution of their case and the result. The tort case had been scheduled for a five-day trial which was avoided. In each case considerable judicial time was saved, and the cost of the proceeding was considerably less than would have been incurred in trial and perhaps appeal to final result. The project has proved successful but has been put on hold until it can be funded. The court will ask the budget session of the legislature to fund alternative dispute resolution and then begin to expand it to other communities in the state of Wyoming.

The state of Wyoming continues to fall behind in judicial compensation and retirement for judges. When all of the salaries enacted by legislatures become effective, Wyoming will have fallen to about 48th out of 50 states. That means there will be just two other states paying their justices less than the state of Wyoming pays to its judges. Salaries paid and which will be effective next year in some of the surrounding states are as follows:

	<i>Highest Court</i>	<i>General Trial Court</i>
Colorado	\$72,000	\$63,000
Utah	76,000	67,500
Idaho	67,374	61,740
North Dakota	70,243	64,462
New Mexico	69,660	65,150
Nebraska	70,023	64,772

Montana raised its salaries for the supreme court by \$7,722 but still is lower than Wyoming. South Dakota is also below Wyoming with a salary of \$61,618. West Virginia, one of the lowest in judges' salaries at \$55,000, raised those salaries by \$17,000 a year. Tennessee had also trailed Wyoming, paying \$65,650, but raised its judges' salaries to \$85,500. There will be just one or two states that will be paying their judges less than Wyoming at the end of this year. Wyoming Supreme Court justices and district court judges have received during the past nine years one approximately five percent increase in their salaries while all other state employees have during this same period of time received an approximate 25 percent increase in their salaries. During the past two years, vacancies in judgeships have attracted 12 to 15 applicants for each vacancy—a very small number from a bar association of 1,000 - 1,200 lawyers. The people of the state of Wyoming will surely suffer in the future as vacancies occur and must be filled under present inadequate judicial compensation.

An Intergovernmental Judicial Study Commission, composed of one judge from each level of court, four members appointed by the governor, two appointed by the Wyoming State Bar, and two appointed from the legislature by the president of the senate and the speaker of the house has been formed. The commission is in the process of studying court structure, operation, and judicial compensation and is scheduled to report to the legislature and to the executive and judicial branches of government its findings, recommendations, and suggestions for improving the efficiency and operation of the judicial branch and proposing fair and reasonable compensation for judges.

The expedited docket continues to be one of our most successful changes in appellate practice. So far this year, 112 cases have been briefed and matured for decision. Thirty-nine of these cases, or 35 percent, have gone on the expedited docket. The savings in time and judi-

cial resources has been very great and has permitted us to be so current that as of the end of June 1989, we had heard argument in and had under consideration every single case then at issue. Presently, every case assigned to a justice for the preparation of a written opinion was assigned after January 1989. Within the first eight months of this year, 1989, the supreme court has published 170 opinions. Of the 47 cases now under advisement, written opinions are circulating in 32, and 15 are in the process of opinions being written. Thirty-nine dissenting opinions have been published, and 35 special concurrences have been issued by members of the court. It appears now that the total number of published cases issued by the supreme court will be about the same as last year. District courts, through January 1989, handled 10,062 cases which was a three percent decrease from the previous year. County courts, through January 1989, handled 127,601 cases of all kinds which was an increase over the previous year. Total revenues generated by the entire court system were in the amount of \$5,807,973. Total expenditures for the operation of the judicial branch of government during the past year were in the amount of \$8,669,558. The total cost of operation of the judicial branch of government is approximately two and one-half percent of all the monies expended by state government in the state of Wyoming.

Mr. President, the court thanks you for the opportunity of reporting upon the status of the judicial branch of government of the state of Wyoming. G. Joseph Cardine, Chief Justice Wyoming Supreme Court.

## ADDRESS OF THE DEAN OF THE LAW SCHOOL

*By Dean Richard J. Morgan*

Dean Richard J. Morgan thanked the President for the opportunity to appear at the Annual Meeting. He also thanked the Bar and its members for all the support that they have given to the University of Wyoming College of Law over the past year.

Dean Richard J. Morgan reported about the status of the Law School. The applicant pool for the 1989-90 school year was 75 admitted with two-thirds resident and one-third nonresident. The first year students had a 3.2 GPA and 34 LSAT which was the 65 percentile.

On placement of UW 1988 graduates, 80 percent were placed in law related jobs, and in 1989 65 percent were placed with one-half out of state. This placement was due to the decline in economy in the state.

On the 1989 bar exam results, 70 percent of UW graduates passed where in the past 80 percent had passed. The reason or reasons for this are going to be studied.

On Continuing Legal Education on October 14, Ted Lauer will lecture at the law school on "Homicide in Wyoming", a Centennial Per-

spective, followed by a homecoming reception at the law school from 11:00 a.m. to 1:00 p.m.

On November 3 and 4, the law school and Bar will sponsor a day and one-half CLE program on state administrative law. Following the CLE, there will be a pre-game buffet luncheon at the law school.

The morale of the faculty is good, and faculty retention is stable. The faculty is energetic and involved. The Hooper Research is utilized by the faculty during the summer.

The law library continues to be offered to lawyers throughout the state. As a result of private donations, plans have been completed for an addition to the law school. The construction funds are going to have to be raised through the Legislature.

Dean Morgan stated he had resigned effective December 31, 1989, to become Dean of the Law School at Arizona State University at Tempe, Arizona. He stated his feelings are mixed as it has been a privilege to serve as Dean and know and become acquainted with so many fine people.

The speakers at the Law School have been most interesting the past year.

### GENERAL BUSINESS

There were no resolutions filed and moved from the floor.

There was no new business.

It was reported that there was no contest for the following offices and the following individuals should be deemed elected: Richard E. Day, President-Elect, David D. Uchner, Vice-President, and Eric M. Alden, Secretary-Treasurer. Richard M. Davis, Jr. will automatically succeed to the office of President. It was duly moved and seconded that the verbal foregoing report be adopted, and the motion carried.

Upon motion, seconded and carried, the following commissioners were certified: Harold F. Buck, Kermit C. Brown, L. Galen West, David F. Palmerlee, Louis L. Walrath, Dan R. Price II, G. G. Greg Greenlee, Fred W. Dilts III, and Henry Phibbs II.

It was then moved, seconded, and carried that the following resolution be adopted:

BE IT RESOLVED that the members of the Wyoming State Bar are deeply grateful to John M. Daly for his dedication to his job as President and thank him for the remarkable job he has done, and wish him Godspeed and good health.

It was further moved, seconded, and carried that the members of the Wyoming State Bar thank Stan and Jody Wolfe, co-chairpersons,

and their convention committee for the great job done for the annual meeting in Gillette.

There being no further business before the Bar, the meeting was adjourned at approximately 12:00 p.m.

Respectfully submitted,  
Jerome Francis Statkus  
Executive Director