

Land & Water Law Review

Volume 26
Issue 1 *Special Focus: Wyoming Centennial --
100 Years of State Law*

Article 19

1991

Minutes of the Annual Meeting of the Wyoming State Bar

Wyoming State Bar

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Recommended Citation

Wyoming State Bar (1991) "Minutes of the Annual Meeting of the Wyoming State Bar," *Land & Water Law Review*. Vol. 26 : Iss. 1 , pp. 430 - 439.

Available at: https://scholarship.law.uwyo.edu/land_water/vol26/iss1/19

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MINUTES OF THE ANNUAL MEETING OF THE WYOMING STATE BAR

SEPTEMBER 6, 7, 8, 1990,
SHERIDAN, WYOMING

The Annual Meeting of the Wyoming State Bar was convened pursuant to notice on September 8, 1990, at 10:30 a.m. at the WYO Theater, Sheridan, Wyoming.

The meeting was called to order by President Richard M. Davis.

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

Mr. Davis 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 Richard M. Davis, Jr.

Those of you who attended the annual Convention in Sheridan are aware the format of the business meeting was changed. Oral reports were reduced in number and in length with the thought that those who were really interested could read the written reports in the Law Review. Also, in an attempt to increase attendance and include the public in some Bar Association activities, the business meeting was scheduled just prior to a political issues forum at the Wyo Theater. Attendance was up and everyone seemed to enjoy the program, so hopefully no one felt too abused by the change.

When I assumed the office of President in September 1989, the Bar had only recently received IRS approval of IOLTA. The challenge was to have it accepted by the membership and the participating banks so that income could be generated for legal services and other Foundation programs as soon as possible. Thanks to the efforts of a number of people, within one year we have over 67 banks and 115 attorneys participating in IOLTA, and anticipate earning approximately \$30,000 by the end of December. I am also pleased to report that the Foundation voted to contribute a minimum of \$20,000 to legal services next year and also agreed to undertake the responsibility of funding scholarships for the Western Trial Advocacy program.

The officers also obtained Supreme Court approval of a rule change so that lawyers do not have to advise or obtain the consent of their clients before depositing trust funds in an IOLTA account. It is

hoped that with this change and by combining the efforts of legal services, the Bar, and the Foundation, many more lawyers will establish IOLTA accounts in the future.

Another program undertaken during this last year was the creation of practice sections in the Bar. The success of this venture exceeded our wildest expectations. As of the Convention, there were eleven active sections, six of which either sponsored or participated in the CLE program at the Convention. So far there are more than 150 attorneys who have joined one or more sections. In my view, sections can make significant contributions in the areas of education, legislation and involvement of lawyers in their profession.

With the help of Dave Uchner and Harry Buck, the officers and commissioners tried to expand participation in and recognition of lawyers for pro bono and public service activities. By creating a new award for public service and encouraging the county bars to select recipients for each award, it was hoped more lawyers might take an interest in their public service and pro bono responsibilities. The names of those selected by the county bars appeared in the local media, and annual awards were presented in each category at the Convention with additional media exposure.

The commissioners also reviewed State Bar resolutions on recommended hours for pro bono and concluded that the policy should be changed and the number of hours increased from fifteen to fifty (the ABA recommended minimum) and that the "buyout" should be increased to \$500. The definition of pro bono was also brought in line with the ABA.

Believing the Bar should have more contact with its membership and that there should be more involvement and participation by lawyers in the organization, we undertook an effort to travel to every county in the State. Although we fell a little short of our goal, we did bring the message of what the Bar was doing to many of the lawyers in the State who had never had a visit from an officer of the State Bar.

During the process of talking to lawyers and speaking to lay persons around the State, I have become convinced that the most important factor contributing to our poor public image is the total lack of knowledge and understanding of the judicial system on the part of the general public. People not only do not understand the courts or the work of the Bar, they have forgotten (or perhaps were never taught) the basic and fundamental concepts of our system of justice. In an effort to overcome this lack of understanding, I think it is important for the organized Bar, lawyers and judges to make a supreme effort to educate the public on our system of law and justice. It has been suggested and I would wholeheartedly support the creation of a Bar sponsored speakers bureau which would offer lawyers and judges as speakers to local groups around the State.

By now everyone has read or heard about the attempts to bring about some changes in the court system through the "Morton Report" or the "Macy Report." The "Morton" committee was a broadly based group of lawyers, judges, lay persons and legislators who after seven months of intense study and debate, which included several public meetings, reached a general consensus on recommendations to the Joint Judiciary Committee. The "Macy" committee, on the other hand, was an ad hoc, hand-picked, group of lawyers and judges who met twice and reached "unanimous agreement." It is unfortunate, in my view, that the two committees could not get together in their recommendations to the legislature and it is anyone's guess as to what will come out of it.

One area of which I think the Association can be proud is our efforts to seek better pay for the judiciary. Dave Uchner, Dick Day, and John Daly deserve special thanks for their efforts and although we did not get as good a package as we were seeking, I think the organized Bar played a significant and important role in lobbying on behalf of the judiciary.

Some five or six years ago the Bar made some critical decisions on its future. It could either continue in a caretaker role or it could take off in a new direction. With wisdom and foresight it decided on the latter, and since that time the officers and commissioners have been engaged in a continuing reassessment of the Bar's major functions, redefined the role of its Boards and Committees, and rewritten the rules and bylaws of all its major ones. As a result, the Bar has improved its basic functions in the areas of grievance, CLE and admissions, has added public service programs, has expanded into the area of communications and public relations, has established IOLTA and practice sections, and I believe has generated more interest and participation in the organization than ever before.

Not so evident to the membership are numerous internal changes which have come about over the past few years. One source of concern and some frustration to the officers and commissioners has been the accounting and bookkeeping areas. After struggling with different programs and software packages, I believe we now have in place a budget system which provides an accurate charting of accounts and most importantly is in a format which does not require a CPA to decipher. The Bar has also conducted an exhaustive review of CLE records and credits and it appears as though the bookkeeping end of that has been refined.

These achievements are the result of a lot of time and effort on the part of many people both before and during my term, but I particularly want to thank Harry Buck, Kermit Brown, Galen West, David Palmerlee, Lou Walrath, Dan Price, Greg Greenlee, Fred Dilts, and Hank Phibbs who served as commissioners during my term and devoted countless hours of their time. Any new topic was always a challenge; none of them would take any "wooden nickels." I also could not

have made it through without tremendous support from Dick Day, Dave Uchner, and Eric Alden and the countless hours of telephone time and meetings of the executive committee.

I was also very fortunate to have a great group of committee chairpersons and members all of whom were dedicated to doing their assigned tasks and were always available for consultation and advice.

Finally, very special thanks go to Tony, Marybeth, Lucy, and Karen and the others at the State Bar office. They never failed to meet the challenge which at times was more than anyone anticipated or could reasonably expect.

I am humbled and greatly honored to have served as your president and while I am relieved the year is over, I want you to know I thoroughly enjoyed it and want to thank you for a wonderful experience and opportunity.

REPORT OF THE CHIEF JUSTICE OF THE WYOMING SUPREME COURT

*By Wyoming Supreme Court Chief Justice Walter C. Urbigit**

Mr. President, Officers, Honored Guests, Members of the Wyoming State Bar:

This is a report of your judiciary and, to a degree, the entire judicial branch of government which includes the practicing bar and the Wyoming State Bar Association as its integrated bar organization.

I will divide this report into segments. Relations between the judicial branch and the legislative and executive as well as between the Wyoming Supreme Court and the Wyoming State Bar Association and with the people of the State will be the first topic.

Second, I will discuss what we have done last year and thus far this year as your judiciary. Are we getting your work done properly in the interest of an efficient justice delivery system?

Third, consideration will be given to caseload and status of business. With a loss of state population, what has happened to judicial activities?

Fourth, I will discuss where the Wyoming Supreme Court is today and then finally I would like to generalize about the past year and explore the next one or two, the end of this century and the next decade or so thereafter.

First and foremost, it would be terribly improper and churlish if I failed to recognize the excellence of the guidance and leadership that the Wyoming Supreme Court and the entire judiciary enjoyed during the past two years from Chief Justice Joe Cardine. He has been hard working and attentive as the chief executive of the judicial branch of

government. Similarly, we observe that your president, Dick Davis, and bar officers including Executive Director Tony Lewis have been active, enthusiastic and cooperative in joint efforts with this Court. They deserve both our recognition and our accolade for hard work and conscientious attention to the welfare of the organization and the practicing bar. Together, the officers with this Court in the past two years have updated and renovated the entire field of bar organization and committee by-laws, rules and regulations. Unquestionably, more changes have been made than perhaps ever before in the history of the state bar as coming within the direct responsibility of the leadership of Dick Davis and other bar officers and the bar commissioners. Organizationally, it has been a year of cooperation and productive effort of the Wyoming State Bar and the judiciary.

Generally then to move to the second subject, I believe caseload processing is in as current a status in all courts as has existed for at least the past half a dozen years if not longer. That is specifically true for the Supreme Court. Our production has maintained a heavy constant pace. Obviously, some additional personnel and the expedited docket has permitted increased efficiency in decision. If we could develop some usage of the expedited opinions, it would help even more. Salaries and compensation remain a serious problem, but the increase received early this year, which will be effective January 1, 1991, will moderate a decade-long loss to inflation in salary level structure. Caseloads in all courts have remained constant with population trends within the State creating geographical changes in court business within the State.

A major project of the Supreme Court and the state treasury has been the development of a county court computer network. By all analysis, this is the state of the art in the system including county courts and the Supreme Court. A heavy investment of time and effort by Justice Thomas has existed and still continues in this developmental phase.

The computer hardware and software programs now have been installed in all of the county courts and justice of the peace courts, and court staff personnel are receiving training to enable them to operate and utilize the system. It will, when fully operational, provide a central data base for all state misdemeanor cases that will be current daily. The specific goal of the current status is to furnish a prompt reporting of convictions that impact drivers' licenses, but the system will have a broader utility in connection with the criminal justice system. Each of these courts will have, as a part of this development, a capacity for electronic management of the court docket in both civil and criminal cases. By year end it is anticipated that there will be pilot programs to utilize this system in at least five of our larger municipal courts.

Another major concern and ongoing operation of the Wyoming Supreme Court is judicial reorganization. Since the Supreme Court in

itself did not participate in the Intergovernmental Judicial Study Commission, I have appointed a judicial committee which is chaired by Justice Richard Macy. Its report has been completed, approved by four of the five members of the Supreme Court and copies are now available for individual review. There is a difference and in some ways significant with the Morton Report, but I remain dedicated to advancing a moderate program justified by need and authenticated by cooperation and mutual understanding. Justice Macy and his committee, in expeditious and effective study and reporting with recommendations for availability by this time, are to be favorably commended. You should study that report and the minority report of Justice Cardine which was released to me August 31, 1990.

Let me then speak briefly to the future in regard to rules promulgated by this Court and the future reorganization of the justice delivery system, which of course involves both executive and legislative participation. In my perception, Wyoming is at least a decade behind in modernization of court adopted procedural rules. We have today mostly an old shadow of the federal rules since we have not kept up with changes.

Review of rules is my immediate major project. In part, I have segmented the responsibility by the creation of a committee on appellate rules to be chaired by Justice Richard Thomas. Another committee on rules of the county courts is chaired by Court Coordinator, Robert Duncan. Remaining is the statutory rules advisory committee which is called to address rules of civil and criminal procedure in depth. Unquestionably, any analysis of rules should include inquiry about the cost of litigation and what can be done to retain access for all groups of citizens to use our courts and secure good legal representation at an affordable cost. We have to update, modernize and direct efforts to cost containment in the litigative process.

Sometime after pending business of reorganization is completed, I would like to follow the lead of progressive states and undertake a twenty year planning for delivery of justice in Wyoming. This would seek direction toward the year 2020 involving the entire system which exists to settle civil disputes and control criminal misconduct as consequently involving broad segments of executive agencies, county government, state institutions, the law school and other colleges of the University of Wyoming and, comprehensively, the Wyoming legislature. As an example, the State of Virginia utilized a broad judicially directed group of legal and lay people and completed an outstanding and challenging profile for the future. We can do as well. Inadequate representation, insufficient facilities, debilitating procedures and unnecessary delay are not inborn conditions that have to be foisted off on the practicing bar and the citizens of Wyoming.

Even while we look at the next twenty to thirty years, we need to recognize improvements challenging our attention yet today. When I went on the Wyoming Supreme Court, it was apparent that delay in

conduct of legal business existed in certain areas of the State. I think that these problems are no longer existent or significant, but I really do not know for sure since where we are in the district courts or, for that matter, also the county courts, is not now defined in current statistics related to the current status of the performance of legal business. We need that accurate current information for the status of case management to permit this Court to perform its constitutional responsibility of supervision and to assure to the people of the State of Wyoming and the practicing bar that justice is not lost because it is only justice delayed. For sure, inequalities of workload are developing and require attention which, in part, is recognized in the Reorganization Committee report authored by Justice Macy.

I am going to need some cooperation and understanding which will involve clerks of court and judges. What we really do not know may truly be causing the loss of justice for litigants.

There is another problem which justifies a sad report. In appeals presently pending, we have nineteen requests for extension of time for filing a record (delayed transcript), not really too bad, but then fifty-four extensions for filing briefs in cases now pending on appeal, seventy-three pending cases with one or more extensions, transcript or brief on more than one extension or all three. Unquestionably, appellate advocacy and briefing involves a particularly significant character of expertise, but any, if not most states and the federal system have now come to recognize that delays are unacceptable and that public criticism of delay resulting from extensions is deleterious not only to the litigant, but certainly to the system.

Another item of considerable frustration is the degree that appellate work reflects less than attention and expertise and particularly current examination of court rules on requirements for briefs. Missing appendices, failure to reference the brief to the record, disorganization, unclear issue identification, and incorrect citations are some of the regretted observations that come to the jurist in appellate opinion writing.

Perhaps the greatest concern I have is the obvious failure of government to adequately fund requested legal services of the independent practicing bar. Worker's compensation case remuneration, contract public defenders and court commissioner services all reflect an almost obscene proclivity which seems directed to deny justice by refusing to compensate the required advocate. This is a challenge to all of us not alone to the members of the bar who are in the legislature which calls for recognition that the oaths of office are violated in efforts to deny justice by expecting attorneys to work for next to nothing. Wyoming certainly has sufficient economic resources that it can support, obey and defend its constitution by the maintenance of the justice for which the constitution was written.

It is my belief that the last year, the last two years and, for that

matter, the last five have been progressive and forward reaching in an improved justice delivery system. While I note problems, I seek recognition that society's judgment of lawyers in the justice delivery system challenges us to move forward no matter how complacent we presently may be. I perceive an opportunity where Wyoming with its small population and minimized social problems of complex modern society could move to the front in providing a prosperous bar, a protective judiciary and a first class justice delivery system. I am neither anguished nor Polly Annish. My two years as the chief executive is a call to me to work with you since it is after all the practicing bar which will inevitably determine and define the success of our professional responsibilities.

*Members interested in obtaining detailed Wyoming judiciary statistics are welcome to request a copy from the Wyoming State Bar.

REPORT OF THE DEAN OF THE UNIVERSITY OF WYOMING SCHOOL OF LAW

By Dean Arthur R. Gaudio

First Year Class

As of just a few days ago, the new academic year began. I am happy to say we matriculated an entering class which continues and enhances the Wyoming tradition of excellence. Students not only from the State of Wyoming and the surrounding region, but also from other parts of the country, have found our law school to be attractive. Perhaps it's the quality of our program, perhaps it's the quality of the faculty, or perhaps it's the quality of the environment. More than likely, however, it's all of these put together.

This year's entering class numbers seventy-nine students, of which approximately 40% are women. They come from thirty different undergraduate institutions and fourteen different states. About 70% of them are Wyoming residents. Once again, their academic credentials have improved. Their median LSAT is 35 and their median grade-point-average is 3.34. As in other recent years, this class is more mature than the traditional entering class. The median age is twenty-five years. More than half of the class has spent some time pursuing other avenues or careers after graduating from college and before entering law school. This maturity is characteristic of Wyoming law students, an aspect which I noticed quickly when I arrived here. These students are in law school to learn about law and the legal profession. To them law is not an idle pastime. Nor is it merely the pursuit of a living. Rather, it's a dedication.

Placement

One of the events soon to be transpiring at the law school will be

placement interviews. In recent years, the prime time for these interviews has become the period from approximately mid-September to mid-November. I encourage all of you who know that you will need an associate next year, or are even considering whether you might need one, to come during that period to interview students. I know that it is not uncommon for many of you not to know your needs until the spring. Unfortunately, with all the competition in job placement, some of the best students who might have had the greatest interest in a position with you, may have already accepted a position elsewhere by that time. If you would give Assistant Dean Debra Madsen a call, she would be more than pleased to accommodate you for an on-campus interview. If you find it impossible, because of time or distance to get to the campus, we would also be pleased to collect resumes of students who are interested in a position you have available and transmit them to you.

Law Library Addition

The funding for the addition to the law library will probably be the most significant item on my agenda for the next six to eight months. As you know, the legislature appropriated half of the funds last year, leaving \$850,000 to be raised from private sources. It's essential that we obtain this funding and begin construction on the addition as soon as is humanly possible. At the moment, we are so cramped for space that it is not stretching the truth too far to say that when we bring in a new book, it must push out an old one. As you know, lawyers, law students, and the legal profession depend upon having access to many forms of primary and secondary authority, including the most up-to-date decisions. The quality of our education and our service to the members of the bench and bar will depend upon completing this addition.

Furthermore, we will be having our sabbatical reaccreditation visit two years from this fall. According to ABA standards, it is clear that we do not have enough shelf space currently to house the materials we have on hand, no less the materials which we must obtain on a regular basis every year. Needless to say, it is essential that we put ourselves in compliance with these standards.

Paradoxically, the longer we wait, the more difficult it becomes to obtain sufficient funding. The total funds necessary to build the addition, according to our estimate last year, was 1.7 million dollars. With annual inflation in the real estate construction sector being as it is, it is not unlikely that we have experienced an additional cost of \$100,000 by waiting the past year. In effect, this means we must raise \$1,000,000 and not merely \$850,000. Obviously, the longer we wait, the greater will be this inflation.

We are currently attempting to raise these funds from two main sources. First of all, we have been researching and making application

to foundations which may have an interest in funding capital projects for law schools. The second part of this approach is to seek out alums and friends of the law school and ask their assistance in this time of need. Since we have such a short time to raise the funds, we are primarily looking to leadership gifts from a few alums and friends to get us most of the way to our goal. However, let me assure you that we would be most grateful for every gift, whether it be \$1,000, \$500, or \$100. While I don't want to turn this report into a fund-raising effort. I would like to encourage any gifts that you may be able to make or that your friends, associates or clients may be willing to make.

Continuing Legal Education

As you know, each July we host the Western Trial Advocacy Institute. This program was conducted this year shortly after I arrived on campus. It would be an understatement for me to say how impressed I was, both in terms of the quality of the faculty and the quality of the students. I hope that over the next several years, the law school can develop other continuing legal education programs which will supply quality education for lawyers, whether they be members of the Wyoming bar or lawyers from other parts of the country who would like to obtain CLE credit while having the opportunity to experience the grandeur of our State. We now have a beginning on that program in the form of the pre-game programs which we sponsor during the fall football season. I know that we can do much more, and I'm looking forward to seeing how this can be developed.