

1993

Journey for the Pole: The Life and Times of Fred H. Blume, Justice of the Wyoming Supreme Court

The Honorable Michael Golden

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University of Wyoming

College of Law

LAND AND WATER LAW REVIEW

VOLUME XXVIII

1993

NUMBER 1

The Land & Water Law Review is pleased to announce that it has been authorized to publish this thesis, authored by The Honorable Michael Golden, Justice of the Wyoming Supreme Court. This biography of Justice Blume offers a unique glimpse into the history of one of Wyoming's most notable jurists and the role that he played in shaping this great state.

This biography has been divided into two sections. The first considers Justice Blume's life up to the point that he was named to the Wyoming Supreme Court, and is published in this issue of *The Land & Water Law Review*. The second section, which reviews Justice Blume's contributions to Wyoming law and his vast knowledge of Roman law, will be published in the Spring issue.

JOURNEY FOR THE POLE: THE LIFE AND TIMES OF FRED H. BLUME, JUSTICE OF THE WYOMING SUPREME COURT

Michael Golden

FIRST SECTION

| | |
|--|-----|
| <i>Acknowledgments</i> | 197 |
| <i>Introduction</i> | 199 |
| I. Beginning | 202 |
| II. Early Life | 205 |
| III. Moving West | 213 |
| IV. Politics | 216 |
| V. Family and Friends | 227 |
| VI. Appointment to the Wyoming Supreme Court | 262 |

SECOND SECTION

(To Be Published in the Spring Edition)

JUSTICE FRED H. BLUME

Journey For the Pole

One saw that artists and poets shrank from [the law] as from an alien world. . . .

And yet one said to oneself, law is human—it is a part of man, and of one world with all the rest. There must be a drift, if one will go prepared and have patience, which will bring one out to daylight and a worthy end. . . . Most men of the college-bred type in some form or other have to go through that experience of sailing for the ice and letting themselves be frozen in.

In the first stage one has companions, cold and black though it be, and if he sticks to it, he finds at last that there is a drift as was foretold. When he has found that he has learned the first part of his lesson, that one is safe in trusting to courage and to time.

But he has not yet learned all. So far his trails have been those of his companions. But if he is a man of high ambitions he must leave even his fellow-adventurers and go forth into a deeper solitude and greater trails. He must start for the pole. In plain words he must face the loneliness of original work. No one can cut new paths in company. He does that alone.*

* O.W. Holmes, Speech at Brown University Commencement (1897) in CATHERINE DRINKER BOWEN, *YANKEE FROM OLYMPUS* 260 (1943).

ACKNOWLEDGMENTS

This biography of Justice Fred H. Blume owes its existence to the Graduate Program for Judges, University of Virginia School of Law, Charlottesville, Virginia.

Inaugurated in 1980 at the University of Virginia Law School, the graduate program, designed primarily for judges of the state and federal appellate courts in the United States, leads to the award of the degree of Master of Laws (LL. M.) in the Judicial Process. The first and only such law school program in this country, it thrives under the masterful direction of its tireless and dedicated director, Professor Daniel J. Meador.

Most fortunate to have been one of the thirty judges selected for the class enrolling in 1990, I attended two successive summer terms of six weeks each at the University of Virginia Law School, studying an integrated combination of subjects in such areas as legal history and jurisprudence, the economic implications of judicial decision making, social science, comparative law, corporate governance, chemical hazards, and contemporary legal thought. In addition to receiving this instruction, as a degree candidate I was required to submit a thesis within the academic year following the second summer session. This biography is adapted from that thesis submitted in partial fulfillment of the requirements for the degree of Master of Laws in the Judicial Process at the University of Virginia. Having met all the requirements, I received my degree in the spring of 1992.

Wondering during the first summer session about a suitable thesis subject, I received inspiration from Professor Calvin E. Woodard who was teaching us jurisprudence. A remarkable teacher, whose knowledge is broad and deep, and whose manner is engaging, Professor Woodard planted the seed in my mind for choosing a subject of legal history. Another source of inspiration was Professor Stan Henderson, who, before leaving the University of Wyoming Law School two decades ago for Mr. Jefferson's academic village at Charlottesville, skillfully guided me through contract, agency, antitrust, and labor law courses in the mid-1960's. At lunch one July afternoon in 1990, he remarked that it was surprising no one had explored Justice Blume's life, considering his legendary stature among Wyoming judges. After reflecting on the matter and doing some preliminary research, I suggested the topic to Professor Meador. After some discussion of the nature and scope of the project, Professor Meador gave me his kind blessing to proceed.

Professor Meador wisely asked Professor G. Edward White, scholar and first-class legal historian, to serve as advisor of the project. Professor White's sound counsel and helpful suggestions during

the preparation of my manuscript were most valuable. I am honored to have had his deft guiding hand.

During my research, I soon came to appreciate the generous help afforded one in my shoes by the personnel at the Wyoming Historical Research and Publications Unit, Parks and Cultural Resources Division, Wyoming Department of Commerce. Notable among those who patiently assisted me and answered my questions were Ann Nelson and Roger Joyce.

In Audubon, Iowa, I was ably assisted by Evelyn Wiges, clerk of the district court. Without hesitation, she responded to my request for assistance in locating relevant records documenting incidents in Justice Blume's early years in southwestern Iowa.

Early on, in sorting through the materials available, I discovered a number of letters written in German, the Blume family's native language. In need of a translator, I found several willing ones nearby. Allen Johnson, the senior staff attorney at the Wyoming Supreme Court, amazed me with his mastery of the German language. Charlotte Paul, a friend of Justice and Mrs. Blanche Blume, was a jewel. She and her daughter, Liv Hanes, also provided expert translation.

The Blumes' long-time friends, Mary Liz and Julian Carpender, were generous with their time and warm memories, as was Dorothy Ratz, who nursed both Mrs. Blume and the judge in their later years.

My visits to the Blume Room at the law library at the University of Wyoming Law School to revel in Justice Blume's three thousand book library, gaze in awe at the product of his translation of the Code of Justinian, and explore other Blume memorabilia, were made most pleasant and worthwhile by Catherine Mealey.

Without the blessing of Justice Blume's nephew, Fred P. Blume, this project would have been diminished. He provided informative conversation and made available for my foraging additional research material, treasured family keepsakes, and illuminating photographs.

My sincerest gratitude goes to Elaine Black, my daytime judicial assistant and nighttime and weekend manuscript typist, who labored unstintingly without complaint despite my numerous revisions.

Finally, I was blessed with an unselfish family who encouraged a selfish husband and father, and lived around the files, books, and papers amassed at different spots throughout the house.

Thank you all.

Michael Golden
Cheyenne, Wyoming

INTRODUCTION

A noted legal historian has said, "there is no field of legal scholarship more woefully neglected than the jurisprudence of our states."¹ In Wyoming, the jurisprudence of the state's judges has not simply been neglected, it has been largely ignored. In an effort to replace that ignorance with a fresh breeze of learning, I have undertaken this biography of Justice Fred H. Blume of the Wyoming Supreme Court. When judicial biographies have been undertaken in the past, "[j]udges have not generally been fortunate with their biographers."² In my aim to write so that Justice Blume will have been fortunate with me, I have tried to make Blume available to those both learned and not learned in the law. Blume should not only be known as a jurist, but also as a son, a student, a lawyer, an idealist, a friend, a philosopher, a brother, a husband, a trusted adviser—in short, as one of the most useful and productive of Wyoming's citizens to whom the state's citizens, present and future, owe a large debt of gratitude for the rich contributions he made, both on and off the bench, to his beloved state.

On April 23, 1921, at the age of forty-six, Fred H. Blume was appointed to the Wyoming Supreme Court by Governor Robert D. Carey. On January 1, 1963, a week short of his eighty-eighth birthday, Justice Blume retired from the court. During his forty-one years and eight months on the court, he had been Chief Justice a total of seventeen years. It is believed that he served on a court of last resort longer than any judge in the United States with the exception of Justice Oliver Wendell Holmes, who served twenty years in Massachusetts and thirty years on the United States Supreme Court. When Blume, the youthful lawyer, arrived on the Wyoming scene, Wyoming was itself young, having been a state only fifteen years. Blume and this infant state grew together in many ways over the ensuing near-half century. In many respects, these were the court's defining years in the context of the development of a maturing judicial system and a concomitant body of jurisprudence. Justice Blume's contribution to his state and to its jurisprudence during that span of time cannot be overstated. His accomplishments deserve our rich admiration and continuing celebration.

At first thought, the prospect of writing a biography of a person who lived ninety-six years, the majority of which were played on the stage of Wyoming history, seemed an overwhelming task. Following

1. JOHN PHILLIP REID, *CHIEF JUSTICE — THE JUDICIAL WORLD OF CHARLES DOE* 297 (1967).

2. Louis Auchincloss, *Introduction*, CATHERINE DRINKER BOWEN, *YANKEE FROM OLYMPUS* ix (1980 ed.) (1943).

preliminary investigation and a progression of after-thoughts, the project began to appear more manageable.

Fortunately for the biographer, the story of Justice Blume divided fairly evenly into discrete halves. The first half, his first forty-six years, reveals a restless, adventuresome, searching young man. At a tender age he arrives as an immigrant on this country's shores. As an adolescent, he works in the forests and wheatfields of the midwest until he meets a stranger who befriends him and soon becomes his mentor and close friend. From his mentor, he receives the gift of a formal education and the opportunity of a successful professional career. The young man marries and heads west to a new state in search of his future.

In raw western surroundings he quickly adapts and soon becomes a player in the passions and actions of his time. He becomes embroiled in the political struggles of early statehood. He is a soldier on active duty in the legendary political combat between the forces of Francis E. Warren and the forces of Joseph M. Carey. As the political battles wane, he comes to understand an important truth about himself and discovers the lasting treasure of the spirit of self-education. Fortune smiles on this maturing young man and he is appointed to judicial service on the state supreme court. Over these first years, his vision, in a sense, was turned outward as he searched, probed, and challenged his environment. He was seeking his future.

In contrast to the restless and impassioned first half of his life, his remaining fifty years present a matured, contemplative judicial scholar, at peace and content among his books. He has found that which he sought. For these years, his face, in a sense, has turned inward as he patiently and deliberately lives his destiny.

Given the different natures of these two halves of Justice Blume's life, the biographer's treatment of the first half differs from his treatment of the second. Along the lifepath of the first half, frequent stops are made. A rich variety of activities and events vie for attention. In sharp contrast, the final fifty years of his journey are, for the most part, marked by his judicial service and by a private, scholarly endeavor. Few outside interests intrude. Those that do, do not divert our view. Rather, they help bring our subject into more complete focus and are, therefore, worth noting.

On the eve of his retirement from his juristic labors, Justice Blume was given proper recognition for his unsurpassed years of extraordinary service to the rule of law when he was named dedicatee of the 1962 Annual Survey of American Law, published by the New York University School of Law. Thus honored, he found himself among such previously honored, well-recognized luminaries as Roscoe Pound (1947), Arthur T. Vanderbilt (1948), Herbert Hoover (1949),

Bernard M. Baruch (1950), Edward S. Corwin (1953), Harold H. Burton (1958), and Austin Wakeman Scott (1961).

No words could more eloquently introduce the subject of this thesis, Justice Fred H. Blume, than those which dedicated the 1962 Annual Survey of American Law to "the last of that line of judicial giants, famed in American legal history, who moved west in the vanguard of civilization, helped mold the jurisprudence of the youthful states which came to commercial age during the first half of this century, and injected into the mainstream of American law the sprightly breeze of a favonian current."³ They read:

Though contemporary in thought and modern in learning, Judge Blume's career recalls nostalgic echoes of our legal past. Trained in a practitioner's office rather than at a law school, and admitted to practice in Iowa during the last year of the old century, he began his career as did so many leaders of the early bar as a city solicitor and a county prosecutor. In 1904 he again followed the pattern of folklore by moving west to a newer, rawer state. Within three years he was elected to the Wyoming House and later served two terms in the State senate. Finally, in 1921 he began the long tenure on the Supreme Court which not only saw him emerge as the chief draftsman of Wyoming law, but as a contributor to the legal development of the nation. His decisions have been equally erudite and sensible, many of them spicing the casebooks of our law schools and finding their way into the *Annual Survey*. Perhaps his most unique achievement, however, was to acquire the wide reputation which he has earned as a student of Roman law. Without special training, Judge Blume translated the entire Code and Novels of Justinian from Latin into English. Indeed, he has done more for he has taken this most academic of all our legal studies and has put it to practical use in some of his finest opinions by using principles and doctrines of the Romanist tradition to expound and enlighten the common law of Wyoming and of the United States.

During the expansion of the American legal system across the vast continent from ocean to ocean, each state and each jurisdiction in turn underwent an epoch of development known as its formative era. The cast of its future was often shaped into the form of one man who served on the highest court from which he implanted the seed of his judicial philosophy to influence the course of law for decades to come. Just as

³ John Reid, *Foreward*, 1962 ANNUAL SURVEY OF AMERICAN LAW xiii (New York University, 1963).

New Hampshire has always been influenced by Jeremiah Smith, Massachusetts by Theophilus Parsons, and New York by James Kent, so the pattern was carried westward where Arizona bears the stamp of Lockwood, Colorado of Burke, and Washington of Dunbar. So also will history link the jurisprudence of Wyoming to the service of Fred H. Blume, a scholar on the bench.⁴

I. BEGINNING

The time: Friday evening, June 14, 1894. The place: Russell's Opera House, Audubon, Iowa. The occasion: The Ninth Annual Commencement for the graduating class of Audubon High School. The class motto sounded a familiar theme, at once commonly typical on such occasions and yet, for a few graduating seniors, uncommonly prophetic: "The bay is reached, the ocean lies beyond."⁵ One of thirteen seniors, Fred H. Blume, age nineteen, spoke on "The Opportunities of American Youth," a fitting subject for this young German immigrant, whose life's accomplishments, as we shall see, would rival those of any Horatio Alger hero. In the audience, among school officials, parents, relatives, and friends, sat Theodore F. Myers. Since Myers was a member of the local school board,⁶ his attendance was to be expected; but there was another, more personal reason for his being there, which shall be revealed in due course.

Although young Blume's mind was no doubt focused on the task at hand, delivering his address, it is likely too that his thoughts that early summer evening looked both to the past and, naturally, to the future. How had he come to be where he was and where would he go from here? He knew, of course, the answer to the first question; the answer to the second, however, was uncertain, as it would be for any youth graduating from high school.

How had he come to be where he was? He was born Friedrich Heinrich Blume on January 9, 1875, in Winzlar of Hannover Province, Germany.⁷ Nearby was the lake called Steinhuder Meer. His parents were farmers.⁸ Wilhelm, his father, had been born on Sep-

4. *Id.* at xiii-xiv.

5. Commencement Program, Blume Collection, H89-28, Wyoming Historical Research and Publications Unit, Parks and Cultural Resources Division, Wyoming Department of Commerce [Blume Collection, H89-28 hereinafter H89-28, WHR].

6. AUDUBON AND AUDUBON COUNTY 28 (Audubon Historical Society, Audubon News-Advocate, 1982).

7. Untitled manuscript, Blume Collection, H69-10, Wyoming Historical Research and Publications Unit, Parks and Cultural Resources Division, Wyoming Department of Commerce [Blume Collection, H69-10 hereinafter H69-10, WHR].

8. Interview with Fred Blume, nephew, October 26, 1990, Cheyenne, Wyoming; interview with Dorothy Ratz, nurse, January 13, 1992, Cheyenne, Wyoming.

tember 17, 1844;⁹ his mother Caroline, whose maiden name was also Blume, had been born on February 22, 1852.¹⁰ He had two brothers, Wilhelm Friedrich, a few years older, and Heinrich, a few years younger than he. The farm comprised only about forty acres; and when old enough, the boys were assigned farm work by their father. Herr Blume was strict, tough, and brooked no interference. In the village of Winzlar, population about eight hundred, he was firmly in charge.

Although the boys had their chores, they also attended a local school.¹¹ "One of the things that always impressed foreign visitors to the German states in the last third of the nineteenth century was what appeared to them to be the excellence of their institutions of elementary education."¹² As early as the 1700's, Volksschulen (elementary schools) were found in the German states, as were compulsory attendance laws.¹³ "[B]y 1830 almost all Germans could read and write; and by the end of the century the rate of illiteracy in Germany was only 0.05 percent."¹⁴ The lessons and value of education were not lost on Friedrich Heinrich Blume, as shall be evident as this story progresses.

The Blume boys did not stay on the farm. Apparently, their parents saw only a bleak future for them in Germany. The oldest son, Wilhelm, was the first to leave. Although we have no details, he came to America and located, first, in Elgin, Illinois. Friedrich, the middle son, was the next to leave. He was only twelve years old. The parting from his parents, especially his mother, was tearful. The scene remained etched in Blume's memory the rest of his life.¹⁵ His passage across the Atlantic Ocean was difficult. Immigrants were crowded into every available space on board the transport ship; he was alone.¹⁶ He, and many others, fought seasickness,¹⁷ as well as homesickness. Arriving at Ellis Island among the huddled masses, Blume was, as were all immigrants, subjected to physical examinations, vaccinations, and interrogations.¹⁸ After three days of processing, he was permitted to go. He joined his brother Wilhelm in Elgin, Illinois.¹⁹ When, and under what circumstances, the youngest son, Heinrich, joined them in this country is unknown.

9. Blume scrapbook (courtesy of Fred P. Blume, nephew, Cheyenne, Wyoming) (displaying photograph of grave headstone).

10. *Id.*

11. Ratz, *supra* note 8.

12. GORDON A. CRAIG, *GERMANY 1866-1945* 186 (1978).

13. *Id.*

14. *Id.* at 187.

15. Ratz, *supra* note 8.

16. *Id.*

17. *Id.*

18. *Id.*

19. *Id.*; Blume, *supra* note 8.

Among Justice Blume's photographs is one of him and Wilhelm, his older brother, bearing the date, 1891, and identifying the location as Elgin, Illinois.²⁰ We learn from one of Justice Blume's letters that Wilhelm studied law in a lawyer's office in Elgin.²¹ Apparently, while in Elgin, the boys anglicized their names.²²

Blume worked as a farm hand in Minnesota and the Dakotas for a period of time.²³ His brother Henry ended up in St. Paul, Minnesota, where he worked for the Postal Service. With William in Illinois, and Henry in Minnesota, young Fred Blume was on his own at the age of seventeen. He relied on his farming background to make his way. During this period of adventure Blume did not totally neglect his education; he attended various country schools.²⁴ Years later, Justice Blume may have been alluding to that educational experience when he wrote this revealing passage:

Speaking individually and generally, and not for the court, it is not, perhaps, surprising that such apprehension [of future danger] should exist and in no small degree. The favorable aspects presented in the case at bar would have a tendency to allay it in this particular instance, were it not for the fact that here a new field, heretofore considered sacred, is invaded for the purpose of exploration. Is there no end? *Many of us were not brought up in the bosom of luxury, nor did we sleep in marble halls. The village schools with their humble surroundings, and the university campus graced with edifices hoary with age, seemed to us to satisfy the longings for learning.* We heard at that time of the wrecks and ruins of the past brought about by mortgaging the future, ordinarily generously indulged in under pretense of benefit to the children yet unborn, but often in reality with the purpose that the living may enjoy the magnificence of the present at the expense of posterity—the forgotten man. We heard of the existence in the past of cities, once humming with the glad refrain of hundreds of thousands of happy human beings, lying now desolate, with their stately baths, their roomy porticoes, their sacred shrines in ruins because no space, no corner, no nook had become exempt from the invasion of the gatherer of public burdens. Do ruins tell tales merely to be scorned? But perhaps we heard

20. Photograph, album, Blume Room, University of Wyoming College of Law, Laramie, Wyoming.

21. Letter from Fred Blume to Charles B. Hazelhurst (June 13, 1939) (H89-28, WHR, *supra* note 5).

22. Letter from William Blume to Fred Blume (April 1, 1921) (H89-28, WHR, *supra* note 5).

23. Glenn Parker, *A Tribute to Chief Justice Blume*, 17 Wyo. L.J. 89 (1963).

24. *Id.*

wrongly. Times change. Younger generations perhaps learn better than their elders. The tide of the day sweeps us along into whirlpools which seem giddy. We can but hope that they may not be what they seem.²⁵

In addition to suggesting Blume's early learning at village schools, this passage, of course, demonstrates, as do countless other passages in his judicial opinions and other writings, the depth and breadth of the learning, especially of the Roman Empire and the history of civilizations, that was yet to come in Blume's life as he traveled the wheatfields of midwestern America in search of his future. Strangely enough, he was to find the seed of that future by sheer accident, happenstance or coincidence, in a way that at the time could have hardly seemed destined, but now, in retrospect, seems to have been preordained.

II. EARLY LIFE

On his way to seek work in the Kansas wheatfields, young Blume, age seventeen, found himself on a July morning in 1892, in Audubon, Iowa, a small farming community, population about 1,800, in the southwestern part of the state.²⁶ He had missed the southbound train, which left before his train from the north had arrived in Audubon. He would have to wait for the next one. Young Blume knew no one, but that was about to change. Nearby, from where he waited, was the First National Bank of Audubon. Above the bank's first floor offices was the law office of Theodore F. Myers.

Recounting the meeting between the young farmhand Blume and the middle-aged lawyer Myers, a high school classmate of Blume's later wrote:

That morning Myers swept his stairway. When he reached the sidewalk below he noticed the lad in the shade of [the large cottonwood tree just west of the bank]. By his side was a small suitcase.

When Myers greeted the lad he received an answer with a distinct German accent. Luckily Myers could speak the lan-

25. *Arnold v. Bond*, 47 Wyo. 236, 257, 34 P.2d 28, 35 (1934) (emphasis added). C.P. Arnold, father of Thurman Arnold and a prominent citizen and lawyer in Laramie, Wyoming, in which is located the University of Wyoming, the state's only four-year degree granting institution, sought with other taxpaying citizens a declaratory judgment against the University's board of trustees, the state board of land commissioners, the public lands commissioner, the state auditor, and the state treasurer concerning the constitutionality and validity of a statute authorizing the trustees to borrow money from the federal government for the construction of a liberal arts building on the University campus. Writing for the court, Blume upheld the constitutionality of the challenged statute. *Id.*

26. *BIOGRAPHICAL HISTORY OF SHELBY AND AUDUBON COUNTIES, IOWA* 656, 658 (1889).

guage, and, when he greeted the lad in German, a surprised and happy look completely changed the expression on the somewhat bewildered boy's face.²⁷

After learning of the youth's situation, Myers offered him a job cleaning his law office until the train arrived. Without asking what he would earn, Blume quickly agreed and set to this task. He washed the windows and swept cobwebs from the ceiling. He dusted the books of the law library. After emptying and cleaning the spittoon, he scrubbed the stain on the floor where the spittoon had rested.²⁸

Myers and he then talked. Myers learned that Blume was fluent in French as well as his native German. As a school board member and interested in education, Myers encouraged Blume to stay in Audubon, work part-time at the law office, and enter high school in the fall. Myers proposed converting a room in the rear of his office into a living and studying area for him. Blume agreed. In September, Blume enrolled in high school and, by taking twice the number of courses offered, graduated in two, instead of the normal three, years. He was an above average student. It was reported that he sometimes "arranged chairs in his cramped home * * * and then spoke long and loudly to an imaginary audience seated before him. * * * [H]ecklers from the sidewalk below tried, but failed, to stop the oratory."²⁹

When not in school, Blume not only cleaned Myers' law office, but was also kept busy "copying papers to be filed in court, and briefs, thus gaining valuable and practical knowledge at an early age."³⁰

During that high school graduation ceremony at Russell's Opera House, young Blume reflected on his past. He thought about his friend, Theodore Myers, who sat in the audience that summer evening as proud as any parent or friend there. Myers was born in Montezuma, Iowa, in 1859.³¹ His parents had been born in Germany, then came to the United States, and had been early pioneers.³² A civil war veteran,³³ Myers' father was a tinsmith and ran a hardware store.³⁴ In his youth, Myers worked in his father's store in the afternoons after school and on weekends. He graduated from Grinnell College and then taught a few years in country schools.³⁵ When western Iowa

27. Frank Mantz, AUDUBON NEWS-GUIDE, May 16, 1957.

28. *Id.*

29. *Id.*

30. Annexed notes to letter from Fred Blume to Clyde Pharr, December 28, 1943, H69-10, WHR, *supra* note 7.

31. Obituary, MONTEZUMA REPUBLICAN, August 23, 1934.

32. Letter from Fred Blume to John J. Langenbach (May 16, 1960) (H89-28, WHR, *supra* note 5).

33. *Id.*

34. *Id.*; Obituary, *supra* note 31.

35. Obituary, *supra* note 31.

began developing in 1880, Myers moved to Audubon. He studied law in the office of Stotts and Nicholas, prominent lawyers in southwestern Iowa.³⁶ After admission to the Iowa bar, Myers joined that firm. He became a successful real estate dealer, engaged in "a heavy money loaning business,"³⁷ and, of course, was president of the school board.³⁸ Myers also played a prominent role in area Republican politics.³⁹

Young Blume might never have met Theodore Myers that July day in 1892, and thus might never have pursued the law as his life's work, had Myers himself pursued another path he was considering in 1885. In law practice that year with Joseph L. Stotts, the two entertained thoughts of moving west—to Wyoming. W.W. Pettigrew, publisher of the *Sundance Gazette*, reported on Saturday, August 29, 1885, "A letter received from Theo. Myers states that he and Joe Stotts will be out in a few weeks to permanently locate." As it turned out, Myers remained in Audubon. Stotts, however, went west, moving to Sundance, Wyoming, where relatives S.C. Stotts and G.W. Stotts, operated a livery stable. On February 6, 1886, the *Sundance Gazette* noted:

Mr. Joseph Stotts is drawing up the necessary legal papers for the organization of a cattle and horse company, the outfit to be placed in this county. The company will be composed of Wyoming and Iowa people. Of course, Sundance will be headquarters, and the offices located here. We will give particulars as soon as the organization is completed.

Stotts was born in Detroit, Illinois, in 1850, living there until 1865.⁴⁰ In that year he went to Colorado and remained one year.⁴¹ He moved to Audubon, Iowa, in 1866, where he completed his education and began the practice of law.⁴² After moving to Sundance, Wyoming, Stotts became a member of the Wyoming Bar on January 18, 1888.⁴³ He acquired interests in several Wyoming newspapers of the day, including the *Sundance Gazette* and the *Wyoming Farmer*, the name of which he changed to the *Wyoming Republican*, to suit his political persuasion.⁴⁴ Stotts also published a newspaper called *The*

36. *Id.*

37. *Id.*

38. AUDUBON AND AUDUBON COUNTY, *supra* note 6, at 28 (1982); Commencement Program, *supra* note 5.

39. Obituary, *supra* note 31.

40. CHEYENNE SUN, January 14, 1890.

41. *Id.*

42. *Id.*

43. WYOMING SUPREME COURT, LAWYERS ADMISSION BOOK NO. 1 10.

44. CHEYENNE SUN, *supra* note 40; 1 THE HISTORICAL ENCYCLOPEDIA OF WYOMING 215 (1970).

Stockade Journal in 1889 in Field City, near Newcastle. Also known as Tubb Town, Field City survived only a few years.⁴⁵ In September, 1889, he was among the Crook County delegates to the constitutional convention on the eve of statehood.⁴⁶ On February 27, 1897, Stotts became the district court judge for the Fourth Judicial District in Wyoming.⁴⁷ In 1904, he retired from the bench and entered the private practice of law in Sheridan, Wyoming. He was soon to be joined by a young Iowa attorney, but that is getting ahead of our story.

After graduating from high school, Blume spent the summer in Myers' law office. Myers offered him a permanent position to study the law and ultimately join the firm.⁴⁸ Blume decided to attend college instead, because he wanted to learn subjects other than law.⁴⁹ Before leaving for college that fall, however, he tried his first lawsuit, defending a man who was sued for five dollars. Blume filed a counterclaim for twenty-five dollars and won.⁵⁰

In a letter written to Theodore Myers twenty-seven years after that graduation evening, Blume described, in the third person, his first effort to pursue a college education:

Then in his eagerness to get further education, [he left] you, with fifty dollars in his pocket which you gave him, hoping to find work to take him through college. He did not find the work, and with prospects hopeless everywhere else, he called on you, and without raising any question, unstintingly and immediately you again came to his assistance and enabled him to get his college education, for which he never repaid you.⁵¹

Because Blume could not find a job to help pay his college expenses, his first year of college was put on hold until Myers came to the rescue.

Blume enrolled in the fall of 1895 at the State University of Iowa at Iowa City, later to be known as the University of Iowa.⁵² He

45. THE HISTORICAL ENCYCLOPEDIA OF WYOMING, 215 (1970); MABEL BROWN & ELIZABETH THORPE, JUBILEE MEMORIES 5 (1965); 33 ANNALS OF WYOMING, No. 2, at 157; 34 ANNALS OF WYOMING, No. 1, at 20.

46. JOURNAL AND DEBATES OF THE CONSTITUTIONAL CONVENTION OF THE STATE OF WYOMING 4 (1890).

47. 6 Wyoming Reports iii (1899).

48. Annexed notes, *supra* note 30.

49. *Id.*

50. *Id.*

51. Letter from Fred Blume to Theodore F. Myers (April 25, 1921) (H89-28, WHR, *supra* note 5).

52. ARIEL, vol. xxi, No. 31, University of Minnesota, May 14, 1898 (profile of Iowa Debating Team), courtesy of Dorothy Ratz, Cheyenne, Wyoming. ARIEL was a student newspaper.

majored in philosophy. At the end of his first year, on June 10, 1896, he returned to Audubon for an important ceremony, to “renounce forever all allegiance to any foreign Prince, Potentate, State, or Sovereignty, whatsoever and particularly to the Emperor of Germany of whom he was heretofore a subject.”⁵³ At the age of twenty one years, he became a citizen of the United States.

In his senior year⁵⁴ at college Blume was a member of a literary society debate team, the Irving Institute, of which he was elected president in the spring of 1898.⁵⁵ He enjoyed debate and his team enjoyed success. In his words, “I took an active part in debates and was leader of the debating team sent in the spring of 1898 to debate with a like team of the University of Minnesota.”⁵⁶ The Iowa-Minnesota teams debated the question whether an income tax should be imposed in the United States.⁵⁷ Blume’s performance was described as follows:

Mr. Blume of Iowa came next. He brought the first smile to the audience and his clear, sharp voice was a contrast to the oratorical tone of the last speaker. He argued that an income tax has been used and used successfully in nearly all the civilized countries save the United States. The many ways in which revenue is now collected offer great temptations to eluding it; the large duty on foreign goods was noted as an incentive to fraud. The income tax will be small and hence less burdensome. The income tax is necessary for the maintenance of an invariable revenue; the present system gives a surplus one year and a deficit the next. Then, too, every election produces business stagnation because of a certain change in the tariff. The income tax is flexible and no change would be made, due to change in administration. This alone would be an advantage strong enough for its adoption.⁵⁸

This account closed with this description of Blume’s summation for the affirmative: “Mr. Blume closed the debate in a fiery speech, driving home his arguments with a delivery which was effective and telling. He devoted part of his time to rebuttal with good effect.”⁵⁹ Iowa won the debate.⁶⁰

53. Naturalization record, June 10, 1896, Office of Clerk of the District Court, Audubon County, Audubon County Courthouse, Audubon, Iowa.

54. ARIEL, *supra* note 52.

55. Untitled manuscript, *supra* note 7.

56. *Id.*

57. THE VIDETTE-REPORTER, Vol. 30, No. 46, Jan. 22, 1898, at 1, H89-28, WHR, *supra* note 5.

58. *Id.*

59. *Id.*

60. *Id.*

During his college days, he had also taken some courses in law. Describing that part of his undergraduate education, he said:

I took courses under Dean McClain and others during the time in which I studied in the school of Liberal Arts. * * * I was able to take the courses in view of the fact that I was practically brought up in a law office, and the studies were comparatively easy for me.⁶¹

Earning his Phi Beta Kappa honors, Blume graduated in 1898 with a degree of Bachelor of Philosophy.⁶²

After graduating from college, Blume returned to Audubon. According to him, "Death and sickness in the family prevented further schooling."⁶³ The death he referred to was probably that of Theodore Myers' first wife; the sickness, that of Myers' following his wife's death. It was at this point in his life that Blume began his study of the law in earnest. "I simply had to take over the law office for the time being,"⁶⁴ he would later explain.

Blume described his study of the law:

My main legal education was obtained in Mr. Myers' office. I first read the elementary book of Walker on American law. I then read from top to bottom Kent's Commentaries on American law which gave a broad foundation of the law and is worth reading today. I studied Pomeroy on Equity, Mecham on Agency, McClain on Criminal Law, Persons on Partnership, Jones on Evidence (which was then quite a small book) and books on contracts and tort and constitutional law. I read extensively on subjects in the first edition of American and English Encyclopedia of Law and when I came to a point which I did not clearly understand, I read one or more cases on the subject to give me a clearer understanding. In other words, I combined text and case law, the latter then coming into vogue. I was fairly well acquainted with procedure, gained partially through actual experience.⁶⁵

During this period of study and work in Myers' office, Blume was elected justice of the peace in Audubon.⁶⁶ Seven months after grad-

61. Letter from Fred Blume to Wiley Blount Rutledge, Jr., Dean, College of Law, Iowa University (November 4, 1937) (H89-28, WHR, *supra* note 5).

62. Untitled manuscript, *supra* note 7.

63. *Id.*

64. *Id.*

65. *Id.*

66. *Id.*

uating from college, Blume took his bar examination. It was an oral as well as written examination before the Iowa Supreme Court.⁶⁷ He passed, becoming a member of the Iowa bar on January 16, 1899, at the age of twenty-four.⁶⁸

Blume was twice elected to two-year terms as county and prosecuting attorney of Audubon County, in 1900 and 1902.⁶⁹ He later reminisced about that time period in correspondence with one of his old friends from Audubon, Hal Mantz, who at the time was the district court judge in Audubon and who later would serve as a member of the Iowa Supreme Court. Judge Mantz had written several letters to Blume about the dedication ceremony for the new courthouse in Audubon and had invited him to attend.⁷⁰ Unable to attend the dedication ceremony, Blume wrote:

The old must go and the new must take its place. That is nature's way. Still, the old court house brings back to my memory many incidents of my younger days which I still cherish. There it is where I used to stand quite often addressing a jury, and I loved nothing better in those early days. The fire of youth then in my soul has gone down, but has left an after-glow and a memory of delight. It was a privilege to practice before Judge Green, Judge Macy and Judge Thornell, all of whom were fine lawyers, upright judges and distinguished gentlemen, and to whom I owe much of whatever little success I have made in life.

One incident stands out in my mind. It seems but as yesterday when, in the summer of 1900, a county convention was held in the court room, and John Masier, George Carson and I — John and I were sitting outside the railing, but I could not sit still when, after several ballots, I thought that the critical time had come for me to mingle with the delegates.

And I might mention also that the old court house really represents the beginning of my judicial career in a very modest capacity, namely, that of Justice of the Peace, to which office I was elected when really nothing but a kid. I tried a number of cases, with a jury, in that room. I often wonder what a sad spectacle I made of myself.

But good-by to the old. Let the new be ushered in. May it stand as a monument to the men responsible for the new

67. *Id.*

68. *Id.*

69. *Id.*

70. Letters from Hal Mantz to Fred Blume (December 23, 1939; January 13, 1940) (H89-28, WHR, *supra* note 5).

structure. I hope that the new court room may be an inspiration to the court and the lawyers, with the continued determination that justice shall ever prevail. *Fiat justitia, ruat coelum.*

To you personally I extend a further hope, namely, that you may go forth from that court room to the larger one erected for the Supreme Court of your state, where, while not engaged in greater duties, you may be engaged in more extended ones.⁷¹

It was in that old courthouse, which Blume remembered with appropriate fondness in his later years, that an event occurred in the fall of 1903, which Blume probably would have just as soon forgotten. On October 5 of that year, Alice McGuire filed a slander action against Blume.⁷² In her complaint Ms. McGuire stated that she and her sister had been dressmakers for fourteen years in the town of Audubon.⁷³ She alleged that on two separate occasions, once in April of that year and again in September, Blume, in the presence and hearing of others, uttered slanderous words suggesting she was a woman of loose morals.⁷⁴ For the first incident, the plaintiff sought the sum of ten thousand dollars; for the second incident, fifteen thousand.⁷⁵ Attorney J.M. Graham filed Blume's answer which denied all allegations.⁷⁶ According to a release signed by Ms. McGuire on March 2, 1904, the matter was settled for an undisclosed sum.⁷⁷

Although the settlement of this lawsuit made the year of 1904 noteworthy and pleasanter to Blume, another event that June eclipsed it by far. On June 16, 1904, Fred H. Blume and Helen Gray Myers, daughter of Theodore Myers, were married at her parents' home in Des Moines.⁷⁸ Perhaps it should not be surprising that he married his mentor's only child. The account of the wedding described Blume in these glowing terms:

Mr. Blume is one of the best known citizens of Audubon County and well known throughout the congressional district in which he resides. Not many years ago there appeared in Audubon a green lad with no financial backing and no knowl-

71. Letter from Fred Blume to Hal Mantz (February 7, 1940) (H89-28, WHR, *supra* note 5).

72. Letter to the author from Evelyn Wiges, Clerk of the District Court, Audubon County Courthouse, Audubon, Iowa, January 24, 1991, with copies of the complete file #6613.

73. *Id.*

74. *Id.*

75. *Id.*

76. *Id.*

77. Release dated March 2, 1904, H89-28, WHR, *supra* note 5.

78. AUDUBON REPUBLICAN, June 23, 1904.

edge of the world but an overpowering desire for knowledge and ambitious to succeed. He entered school and pushed his way to the front, graduating with honor. He had worked in Theo. F. Myers' office during this time and he seeing in him good possibilities, helped him along and helped him through Iowa City * * * and took him in as partner. Four years ago by the franchise of the county he was made county attorney and re-elected two years ago to succeed himself. He is counted one of the strong factors in the political maneuvering of the county and one of the most reliable campaigners there is. His efficient services rendered in the county have given him more than a local reputation and he may look forward to greater things in the county.⁷⁹

Following their wedding trip, the Blumes returned home to Audubon. Blume, the busy county attorney, had cases to try and his bride a home to settle into as they faced their bright future in southwestern Iowa.

III. MOVING WEST

Despite the strong support and backing of his father-in-law, his success in the county attorney's office, his hard-earned reputation that spread wider than Audubon County, and his bright future in Iowa, within seven months Blume was in Sheridan, Wyoming. On January 20, 1905, he made written application for admission to the Wyoming Bar.⁸⁰ What caused Blume to leave his promising future in Iowa to pursue an uncertain future in Wyoming? We look in vain in his papers and correspondence for the answer. Blume's silence on this momentous change in his life is confounding.

Judge Ewing T. Kerr, the senior member of Wyoming's federal judiciary, observed that Blume had once said he settled in Sheridan "after * * * traveling extensively throughout the United States to find the best of all places."⁸¹ Curiously, Blume's papers make no mention of these "extensive travelings" prior to landing in Sheridan. The newspaper in Blume's hometown of Audubon provides an answer. On December 8, 1904, the *Audubon Republican* reported:

We learn on pretty good authority County Attorney F.H. Blume has been offered a partnership with J.L. Stotts, of

79. Undated newspaper clipping, family scrapbook, courtesy of Fred P. Blume, nephew, Cheyenne, Wyoming.

80. File No. 1-203, Office of the Clerk of Court, Wyoming Supreme Court, Cheyenne, Wyoming.

81. Blume Memoriam, 484-492 Wyo. Rptr. 4 (1972).

Sheridan, Wy., and that while he has not yet decided positively, the probabilities are that he will accept.

After describing Stotts' previous association with Theodore F. Myers and his distinguished career in Wyoming, the news item continued:

By taking Mr. Blume into partnership the firm would be a strong one. Mr. Blume is well educated, is full of energy, is a good office man as well as a good trial lawyer, is a public speaker of ability, and has a bright future before him. * * * He is a loyal Republican and has done good party service on the stump and wherever work has been needed. The public will generally regret his departure should he finally conclude to go.

The Blumes spent Christmas with the Myers family.⁸² Blume had come to a decision. He would head west. On January 18, 1905, the Blumes boarded the train in Audubon. The *Audubon Republican* wished them well:

They have a host of friends here who greatly regret their departure. We have no doubt but a bright future awaits them. We hope so. Mr. Blume's ability as a lawyer and a businessman and the good personal qualities of both of them will surely win success. Audubon favorably commends them to Sheridan people.⁸³

Stotts and several of the Iowa judges before whom Blume had practiced wrote letters of recommendation on Blume's behalf in support of his application for admission to the Wyoming bar.⁸⁴ Upon being admitted to practice in Wyoming, Blume joined Stotts in partnership.⁸⁵

When Blume joined Stotts, the latter was in the midst of representing a rather well-known figure of the American west in a nasty divorce action. William F. Cody, *aka* Buffalo Bill, had engaged Stotts and another Sheridan lawyer, M.E. Camplin, to represent him in his attempt to obtain a divorce from his wife Louisa.⁸⁶ Joining Stotts and Camplin on behalf of Mr. Cody was Hilliard S. Ridgley.⁸⁷ Ridgley, a lawyer from North Platte, Nebraska, had come to Wyoming

82. AUDUBON REPUBLICAN, December 29, 1904.

83. AUDUBON REPUBLICAN, January 19, 1905.

84. File No. 1-203, *supra* note 80.

85. Untitled manuscript, *supra* note 7.

86. MA# 12683, Wyoming State Archives: County Government, Sheridan County Clerk of Court, Civil Case File #970, Cody v. Cody, 1904-05, folder #1, Cheyenne, Wyoming.

87. *Id.*

in 1903 as Cody's personal representative in the town that bears his name.⁸⁸ From the available court records, it does not appear that Blume participated in any of the divorce proceedings. In fact, by the time of Blume's admission to the bar on April 24, 1905,⁸⁹ the presiding judge, Richard H. Scott, who would later serve on the Wyoming Supreme Court, had held the final proceedings in the Cody action on March 20, and was preparing his opinion.⁹⁰ He did not grant Cody a divorce.⁹¹

Blume and Stotts continued their partnership for four years.⁹² The *Wyoming Reports* for those years reveal ten appeals before the Wyoming Supreme Court handled by Stotts and Blume.⁹³ The appellate issues were unremarkable. Stotts retired in 1909.⁹⁴

Blume practiced alone for the next twelve years.⁹⁵ His was an active and varied general practice, including collections, real estate transactions, title opinions, probate, business law, oil and gas and mining law, and criminal law. Reviewing the *Wyoming Reports* during this time reveals that Blume handled three appeals before the Wyoming Supreme Court.⁹⁶ Again, the appellate issues were unremarkable.

88. T.A. LARSON, *HISTORY OF WYOMING* 387 (1965).

89. Blume signed the attorney's oath on April 24, 1905, see File No. 1-203, *supra* note 80. On April 7, 1905, the *Sheridan Post* reported that Blume was among the applicants admitted to practice by the State Board of Law Examiners.

90. MA# 12863, *supra* note 86.

91. *Id.*

92. Untitled manuscript, *supra* note 7.

93. *Davis v. Big Horn Lumber Co.*, 14 Wyo. 517, 85 P. 980 (1906) (an action for a balance due for lumber and building materials, and to enforce a mechanics' lien therefor); *Kinney v. Owens, Sheriff*, 15 Wyo. 387, 89 P. 573 (1907) (proceeding under the statute to vacate a judgment); *Eggart v. Dunning*, 15 Wyo. 487, 89 P. 1022 (1907) (action to recover a money judgment); *Kilpatrick v. Horton, Receiver*, 15 Wyo. 501, 89 P. 1035 (1907) (appellee moved to dismiss the appeal as not from a final order—granted); *Brown v. Grady*, 16 Wyo. 151, 92 P. 622 (1907) (action to recover possession of real estate and rents and profits); *Riordan v. Horton*, 16 Wyo. 363, 94 P. 448 (1908) (concerned validity of order fixing and allowing Fred Horton certain amounts for compensation as receiver of the Bank of Newcastle); *Weltner v. Thurmond*, 17 Wyo. 268, 98 P. 590 (1908) (suit in equity to enforce the rights of a grantor of real estate under a contract entered into between the parties contemporaneously with the deed), second case, 17 Wyo. 310, 98 P. 601 (1908); *Bryant v. Cadle*, 18 Wyo. 64, 104 P. 23 (1909) (suit to recover possession of real estate and damages for its alleged unlawful detention brought by one Scrutchfield against Bryant); *Tucker v. Wyoming Coal Mining Co.*, 18 Wyo. 97, 104 P. 529 (1909) (ejectment action by Wyoming Coal).

94. Untitled manuscript, *supra* note 7.

95. *Id.*

96. *Kutcher v. Post Printing Co.*, 23 Wyo. 178, 147 P. 517 (1915) (action for libel concerning the mayor of the City of Sheridan in newspaper article dated March 18, 1913); *Hasbrouck v. LaFebre*, 23 Wyo. 367, 152 P. 168 (1915) (action in replevin to recover possession of general merchandising goods); *Calkins v. Wyoming Coal Mining Co.*, 25 Wyo. 409, 171 P. 265 (1918) (personal injury action—death of coal company employee at electricity sub-station; man repairing switches was electrocuted. At close of evidence, the court directed verdict for defendants. Worker negligent while acting outside the scope of his duties going to place of danger in disregard of his instructions).

Although he enjoyed the practice of law, his passion was politics. To that we now turn.

IV. POLITICS

Considering that Blume arrived in Sheridan in early 1905, he wasted no time in becoming intimately and actively involved in the politics of the day, both locally and state-wide. Elected city attorney in 1907, he would hold that position for four years.⁹⁷ In 1907, he was also elected as a Republican to the state house of representatives.⁹⁸ For the next fourteen years, he was one of the more influential figures in Wyoming politics.

Perhaps the best way to introduce into evidence Blume, the politician, is to lay some foundation. When Blume arrived in Wyoming, the state was fifteen years old. For all of that time and, indeed, beginning in territorial days,⁹⁹ the state's population was largely concentrated in southern Wyoming, along the Union Pacific's railroad line that entered the state at Pine Bluffs on the southeastern border with Nebraska and exited the state at Evanston on the southwestern border with Utah. As the 20th Century dawned in the state, the Republican party was dominant, headed by United States Senator Francis E. Warren.¹⁰⁰ Warren's influence, at both state and national levels, during his political career of almost fifty years was substantial.¹⁰¹ In 1884, he served both as treasurer of the Territory of Wyoming and mayor of the city of Cheyenne. In 1885-1886 and in 1889, he was the territorial governor. In 1890, he served as the new state's first governor. In that office less than two months, he resigned to be named Wyoming's second United States Senator, a position he held from 1891-1893. He was reelected to that office in 1895 and he relinquished it only upon his death in 1929. In the course of that distinguished national service he was chairman of two powerful committees, Military Affairs and Appropriations. Except for Carl Hayden of Arizona who held his senate seat from 1926-1970, Warren served in that deliberative body longer than any other individual.¹⁰²

Despite the Republican party's tight grip on the state's political affairs, winds of change were blowing. One author described those winds in this way:

97. C. PETERSON, *MEN OF WYOMING* 331 (1915).

98. *Id.*; MARIE H. ERWIN, *WYOMING HISTORICAL BLUE BOOK* 1005, 1210 (1946).

99. Wyoming Territory was officially organized May 19, 1869; see ERWIN, *supra* note 98, at 157.

100. ERWIN, *supra* note 98, at 1311-12.

101. LEWIS L. GOULD, *WYOMING FROM TERRITORY TO STATEHOOD* 262-70 (1989 Centennial Ed.).

102. DANIEL A. NELSON, *The Supreme Court Appointment of Willis Van Devanter*, 53 *ANNALS OF WYOMING* No. 2, at 11 n.7 (1982).

[I]n the first decade of the twentieth century there was a dramatic shift in population. Sheridan County, located along the northern border, grew most rapidly. From 1890 to 1900 its population increased by 159.7% and from 1900 to 1910 by a phenomenal 218.7%, compared to a relatively stable gain of 29.5% for Laramie County and a decrease for Albany County (two counties through which the Union Pacific passed). The city of Sheridan grew by 454% from 1890 to 1900 and by 439% from 1900 to 1910. Ranching was the mainstay of the economy, but growth was spurred by the coming of the Burlington Railroad which crossed the eastern border of Wyoming in 1887 and reached Sheridan in 1894, terminating in Billings, Montana. The Burlington maintained shops and a tie pickling works in Sheridan. When the trains came, coal fields were opened * * *. Sheridan also boasted a flour mill, an elevator, and a brewery, while Ft. Mackenzie housed a garrison of over 200 and was rapidly expanding. By 1902 Sheridan County property valuation exceeded \$2,500,000.¹⁰³

Considering the growth of Sheridan County and the wide-open opportunities for an ambitious young lawyer with experience in political affairs, Blume could not have picked a better place to make his mark. This is well-described in the following passage:

Naturally a growing section attracted new men, often well educated, men on the make, who were unwilling to submit to the domination of established politicians in the south. Significantly, an overt split in the Republican party occurred in the rapidly growing town of Sheridan. Chafing under boss rule both in the home county and in the state, a group of young Republicans, calling themselves insurgents, began a revolt which had statewide repercussions and resulted in a realignment of traditional party strengths, incidentally providing a foothold for the progressive movement.

Typical of such men was Fred Blume, a young Iowa attorney who came to Sheridan in 1905. Blume had been in politics in his home state and was anxious to renew his political career in Wyoming. But within two years he was at loggerheads with the old guard element in Sheridan. Blume had some support from a Sheridan editor, W.H. Huntley, and from an older Republican politician, S.H. Hardin * * * . Huntley used his newspaper to advocate more democratic

103. Betsy Ross Peters, *Joseph M. Carey and the Progressive Movement in Wyoming*, 20-21 (1971) (unpublished Ph.D. dissertation, University of Wyoming).

trends in government, especially the direct primary.

Later, another midwesterner, H.N. Gottlieb, joined this small group of nonconformists. Gottlieb [like Hardin] came from Chicago and was a graduate of the University of Chicago. He received his LL.B. from the Columbia Law School and practiced law in Chicago before moving to Sheridan.¹⁰⁴

In the 1907 legislative session, the insurgents' efforts bore their first political fruit. Representative Blume pushed a bill relating to the deposit of state funds, historically controlled by the state treasurer.¹⁰⁵ William Deming, influential owner of the *Cheyenne Tribune* and a Republican of progressive ideas like Blume, used his newspaper to support Blume's legislative efforts.¹⁰⁶ Blume's depository law passed.¹⁰⁷

Blume-led independents beat the stand-pat, or regular, Republican element in the Sheridan County elections of 1908.¹⁰⁸ According to one source, "The animosity between the factions even provoked a fist fight between Blume and E.E. Lonabaugh, a regular."¹⁰⁹

In the Sheridan city elections of 1909, owing to the continuing internecine strife between the insurgents and the regulars of the Republican party, the Democrats controlled the elections.¹¹⁰ GOP regulars laid the blame for their defeat at Blume's feet.¹¹¹ Blume met those charges head on in a letter to the chairman of the party's city central committee.¹¹² In his letter he criticized the county political organization and offered suggestions to change it.¹¹³ His remarks cut across state and national issues. "He deplored Wyoming's unjust tax laws, excessive withdrawals of public lands by the federal government, and in typical Republican fashion he protested against any lowering of the tariff."¹¹⁴ He warned that ultra conservatism would retard the state's development.¹¹⁵

Blume was a two-term state senator from Sheridan County in 1909 and 1911.¹¹⁶ "As Wyoming insurgency increased in numbers and in breadth, it developed more affinity with national issues, and the Wyoming insurgents by 1910 had identified themselves with the pop-

104. *Id.* at 21-22.

105. *Id.* at 34.

106. *Id.*

107. *Id.*

108. *Id.* at 28.

109. *Id.*

110. *Id.*

111. *Id.*

112. *Id.*

113. *Id.* at 29.

114. *Id.*

115. *Id.*

116. ERWIN, *supra* note 98, at 1005.

ular government ideas endorsed by (the National) congressional insurgents and by progressives in general."¹¹⁷

In the 1910 campaign for governor, Joseph M. Carey announced his candidacy but without identifying under which party's banner he was running.¹¹⁸ No other figure in the young state's formative years, save Francis E. Warren, was so widely respected. Carey's list of accomplishments was formidable. He was born in Delaware in 1845 and educated in the east. He graduated in law from the University of Pennsylvania and practiced law in Philadelphia. Carey was appointed by President Grant as United States Attorney for the Wyoming Territory in 1869.¹¹⁹ He served in that office for two years.¹²⁰ Carey was then appointed to and served on the Wyoming Territorial Supreme Court from 1871-76.¹²¹ He was the mayor of Cheyenne from 1881-85.¹²² He was a delegate from the Wyoming Territory to Congress from 1885 until 1890, when Wyoming became a state.¹²³ Carey had been elected to the United States Senate, serving from December, 1890, until March 1895.¹²⁴ He was a member of the Republican National Committee from 1876 until 1897.¹²⁵ Having been defeated in his reelection bid for the United States Senate, Carey entered private law practice in 1896.¹²⁶

Blume supported Carey's gubernatorial campaign.¹²⁷ The announced Republican candidate was W.E. Mullen of Sheridan.¹²⁸ Blume wrote Senator Warren, explaining the insurgents' support of Carey and disdain for Mullen.¹²⁹ According to Professor T.A. Larson, the Republican machine would not accept Carey on the ticket unless he promoted party discipline.¹³⁰ Less than a week before the Republican convention in September, Carey announced that he was running as an independent Republican candidate, identifying with the insurgents or progressives of that party.¹³¹ Mullen, not Carey, received the party's nomination in convention.¹³² As Larson describes what happened next, in a stunning turnabout Carey agreed to accept and was given

117. Peters, *supra* note 103, at 37.

118. *Id.* at 64.

119. ERWIN, *supra* note 98, at 1311.

120. *Id.*

121. *Id.*

122. *Id.*

123. *Id.*

124. *Id.*

125. *Id.*

126. *Id.*

127. Peters, *supra* note 103, at 68.

128. *Id.* at 64.

129. *Id.* at 68.

130. LARSON, *supra* note 88, at 320.

131. *Id.*

132. *Id.*

the Democratic party's nomination.¹³³ Carey defeated Mullen in the general election by nearly six thousand votes.¹³⁴

Among the Republicans in the legislative session following Carey's victory was Blume who pledged to support Carey's program.¹³⁵ When the session convened in early 1911, two primary election bills were introduced.¹³⁶ The House version was introduced by Boies Hart of Big Horn and Park Counties.¹³⁷ "The Hart bill was actually authored by Blume and after it reached the senate it was generally referred to as the Blume-Hart bill."¹³⁸ The Senate adopted the House version.¹³⁹ That primary bill became law and the state has operated under that basic system ever since.¹⁴⁰ Another piece of reform-minded legislation authored by Blume, a corrupt practices bill, passed with little difficulty.¹⁴¹ It "limited campaign expenditures to twenty percent of a years' salary of the office to which the candidate aspired."¹⁴²

As 1912 arrived, attention turned to events unfolding on the national stage. After formation in Chicago of a Roosevelt National Committee in January, plans were made to perfect a Roosevelt organization in Wyoming.

A few progressives, probably Robert Carey [the governor's son], Fred Blume, and Boies Hart, announced a general meeting for January 25. Those attending drew up a Declaration of Principles advocating progressive legislation and endorsing Roosevelt for president. Robert Carey explained that the new alliance would support laws applying to modern industrial and commercial conditions: a reconstruction of banking and monetary laws, a reasonable conservation of coal, oil, gas, and timber, laws for direct democracy, a more liberal and impartial administration of federal land laws, a presidential primary, more equitable tariff, federal control of interstate corporations, and an amendment to the Sherman Law to define illegal combinations.¹⁴³

133. *Id.* at 321.

134. *Id.*

135. Peters, *supra* note 103, at 80.

136. *Id.* at 90.

137. *Id.*

138. *Id.*

139. *Id.*

140. *Id.* at 91. This law replaced the system under which a political party's candidate for the general election was handpicked, not by the party's registered voters, but by a few power brokers at the convention. It established the primary election by which the party's registered voters would decide the general election candidate of their choice. See 1911 Laws, ch. 23.

141. Peters, *supra* note 103, at 97.

142. *Id.*

143. *Id.* at 144.

The Executive Committee of the Wyoming Association of Progressive Republicans consisted of Robert Carey, Blume and Hart.¹⁴⁴ In April, in his home town of Sheridan, Blume introduced the governor, Joseph Carey, at the cattlemen's convention and the Sheridan Progressive Club.¹⁴⁵

Warren was appropriately concerned. He worried that either Blume or Robert Carey had sufficient support to become state chairman of the Republican party.¹⁴⁶ Warren's efficient political maneuvering, however, resulted in the election to that influential post of Casper sheep rancher, Patrick Sullivan.¹⁴⁷ Warren also opposed the selection of Blume and Hart as delegates to the Republican National Convention in Chicago.¹⁴⁸ Warren said that if word got out "that our delegation is for Roosevelt first and LaFollette second, or for LaFollette first and Roosevelt second, it would simply raise h— with all our interests, influence, and conditions at this end of the line."¹⁴⁹ Warren was firmly in Taft's camp.¹⁵⁰

Although Blume earlier had promised to support the Republican party's nominee, after observing the tactics of Taft supporters at the state convention, which tactics he found repulsive, he refused to do so, believing Taft's nomination had been improperly secured.¹⁵¹ Ever the sage politician, Warren in July "decided it would be good politics to let Blume run for the senate from Sheridan County."¹⁵² In a show of political courage, however, in August, "Blume resigned as Republican candidate for the state senate and worked actively for the Bull Moose party, speaking throughout the state."¹⁵³ The rallying song of the new party was heard on every occasion:

When the Bull Moosers come around,
And the band begins to play,
The boys around the elephant's cage
Had better get away.¹⁵⁴

In the November, 1912, election, the progressive candidates fared poorly. Due to the split in the Republican vote, the progressives failed to elect any candidates to the state legislature.¹⁵⁵ Roosevelt suffered

144. *Id.* at 145.

145. *Id.* at 154.

146. *Id.* at 155.

147. *Id.*

148. *Id.* at 156.

149. *Id.*

150. *Id.*

151. *Id.* at 158-59.

152. *Id.* at 165-66.

153. *Id.*

154. Pamphlet entitled *THE PROGRESSIVE PARTY*, H89-28, WHR, *supra* note 5.

155. Peters, *supra* note 103, at 174.

defeat; Wilson, the Democrat, won a plurality in the state, with about forty percent of the vote.¹⁵⁶ For the first time in twenty-two years of statehood, Wyoming went with a successful Democratic president.¹⁵⁷ Blume wrote Roosevelt, apologizing for the Wyoming vote: "Wherever I went I saw traces of false ideas of your conservation policies, spread by our past political machine."¹⁵⁸

Blume was at a crossroads; the fire that had burned so fiercely and brightly had not been extinguished, but it had been dampened. He would remain involved in partisan politics for the next eight years, but not at the same high level of intensity. Another interest began crowding his thoughts, one that in time would be ever as demanding and as consuming as political reform had been in the early years of his adulthood. Blume's own description of this new interest best captures the beginning stages of his metamorphosis:

On election day of that year [1912] I sat in my office. I had just returned from a three-week's speaking tour over the state. I knew that the candidate of my party would not be elected. I sensed that for a number of years the party to which I belonged would not be in power. So I decided on that day that I would quit politics and spend the time which I had devoted to it on something else. And while my friends did not permit me to do so entirely, —yet on the whole I carried out my resolution reasonably well. I had zealously courted "the jealous mistress" during the preceding years, despite my interest in politics. But I had acquired a good working law library, such as is seldom seen in a town of the size of the one in which I lived, and hence believed that it would not be necessary to devote quite so much time to the law, as I had devoted to it previously, but felt that I could devote part of my time to something else, —to take the place of the time which I had previously devoted to politics. I had a burning hunger to know more of the civilization of humanity in all of its phases. So on that very election day of 1912, sitting in my office alone, with no clients to bother me, I picked up a book on the Middle Ages.¹⁵⁹

As we shall shortly see, Blume did much more than pick up one book. But we interrupt our investigation of Blume's "burning hunger" in order to complete our inquiry into his political adventures.

156. *Id.*

157. *Id.*

158. *Id.* at 176 (quoting from a photocopy of a letter dated November 7, 1912, from Fred Blume to Theodore Roosevelt, Roosevelt Manuscript, Library of Congress).

159. Annexed notes, *supra* note 30.

We shall return to his quest for learning "more of the civilization of humanity" after closing this political phase of his life.

As the 1914 elections approached, the Wyoming Progressives in February held a meeting in Casper.¹⁶⁰ The meeting was not well attended, but Blume was there. Although they adopted a resolution opposing merger with any other political group, they made room for alliance with others on an independent slate.¹⁶¹ The Progressives explored possibilities with both major parties; discussions with the Republicans bore no fruit, but those with the Democrats were more encouraging.¹⁶² If the Progressives would support John Kendrick, a successful Sheridan rancher, for governor, the Democrats were prepared to offer the Progressives two offices on the state slate.¹⁶³ The Democrats wanted to nominate Blume for United States Congress; the Progressives would be allowed to select a candidate for state auditor or treasurer.¹⁶⁴

S.G. Hopkins, state Democratic chairman, was excited to have Blume on the Democratic ticket, as an independent or even as a Progressive if Blume preferred.¹⁶⁵ Progressives might not care to fuse and abandon their place on the ballot. He assured Blume that if the alliance could control the legislature, then election laws could be changed to give the Progressives a place on the ballot in the future.¹⁶⁶ Hopkins knew that Frank Mondell, the Republican incumbent in Congress, was assured of victory if two challengers opposed him and split the vote.¹⁶⁷ "Hopkins * * * asked Kendrick to make the overture to Blume."¹⁶⁸ Hopkins believed that Joseph Carey, who was not seeking elective office, wanted Progressives to appear on the Democratic slate; therefore, Hopkins asked Kendrick to confer with Carey about that when he discussed the proposal with Blume.¹⁶⁹ Blume would assert, fifty-five years later, that Kendrick made no overtures to him; and had they been, he would have rejected them.¹⁷⁰ Blume, on June 28, announced he was a Progressive candidate for the state's lone seat in the United States House of Representatives.¹⁷¹

160. Peters, *supra* note 103, at 207.

161. *Id.* at 207.

162. *Id.* at 212.

163. *Id.*

164. *Id.*

165. *Id.* at 213.

166. *Id.*

167. *Id.*

168. *Id.* at 212 (quoting from letter from S.G. Hopkins to John Kendrick, April 24, 1914, Kendrick Papers).

169. *Id.* at 213.

170. Letter from Fred Blume to Betsy Ross Peters (October 1, 1970) (courtesy of Fred P. Blume, nephew, Cheyenne, Wyoming); Peters, *supra* note 103, at 212.

171. Peters, *supra* note 103, at 214.

In the primary election on August 18, 1914, Blume faced Mondell, the Republican, and Douglas A. Preston, the Democrat, then state's attorney general.¹⁷² To Mondell's 10,247 votes and Preston's 6,019 votes, Blume ran a dismal last with a paltry 334 votes.¹⁷³ In the ensuing two and one-half months before the general election, Blume failed to gain ground. On November 3, 1914, Mondell enjoyed reelection with 21,362 votes, besting Preston by about 4,000, and Blume by about 20,000.¹⁷⁴ Many years later, commenting on his last hurrah, Blume said:

In 1914 in order that the Progressive party might continue in existence I was persuaded—or rather coerced—into running for Congress, and I knew of course that I had no chance of election * * * . I made a great many speeches over the state during the campaign of 1914 knowing of course that it was rather useless. The Democratic party tried to persuade me to withdraw, but I could see no particular reason to do so.

The campaign in 1914 substantially ended the Progressive party in this state, and, as far as that is concerned, in the nation generally. Most of the so-called Progressives drifted back into the Republican party.¹⁷⁵

Kendrick was elected governor¹⁷⁶ and, with Republican support in the 1915 legislative session, succeeded in passing reform legislation.¹⁷⁷ Most of the Progressives' reform proposals were now law. Without the issues that had driven them to challenge the entrenched political machine and without their attractive candidates, the progressive movement waned.¹⁷⁸ Although Joseph Carey and his son Robert attended a January, 1916 meeting of the National Committee of the Progressive Party, the latter on his return to the state indicated the Progressives and the Republicans could probably agree on a presidential candidate.¹⁷⁹ At the Republicans' Washington Day dinner that year Blume spoke on the same program as Clarence D. Clark, United States Senator.¹⁸⁰ Blume's return to the fold was obviously complete when, at the state Republican convention, he served on the rules committee.¹⁸¹ He made speeches on behalf of candidates and was state

172. ERWIN, *supra* note 98, at 1226.

173. *Id.*

174. *Id.* at 1227.

175. Letter from Fred Blume to Betsy Ross Peters (June 16, 1970) (courtesy of Fred P. Blume, nephew, Cheyenne, Wyoming).

176. ERWIN, *supra* note 98, at 1227.

177. Peters, *supra* note 103, at 225.

178. *Id.*

179. *Id.* at 229.

180. *Id.* at 230.

181. *Id.* at 232.

chairman at the 1920 convention. Blume remained active in the Republican party until 1921. Robert Carey attended the Progressives' national convention which offered the presidential nomination to Roosevelt, who, after some delay, declined to accept it.¹⁸² When Carey returned home from the convention, he resigned from the party's national committee.¹⁸³

In 1916, while occupying the governor's office, Democrat Kendrick opposed Senator Clark and was elected United States Senator.¹⁸⁴ He began his first term in March, 1917.¹⁸⁵ As the 1918 election approached, Senator Warren, at age seventy-four, was mulling retirement.¹⁸⁶ Aware that Republicans wanted Robert Carey as their gubernatorial candidate to challenge Democrat Frank L. Houx, who was acting governor after Kendrick resigned to be United States Senator,¹⁸⁷ Warren worked toward reconciliation of the Progressives and the regulars of his party.¹⁸⁸ To this end, among various efforts, he

wrote a warm and friendly letter to Robert Carey and a similar one to Blume urging them to meet with [Will H. Hays, Chairman of the Republican National Committee, who was visiting in Cheyenne on April 4, 1918] * * *. To Blume he indicated that Hays "does not admit—nor do any of us—that we are not now all the same kind of Republicans and that there is any division of stand-pat and progressive in these days."¹⁸⁹

Robert Carey secured the Republican nomination and was elected governor, effectively drawing to a close the history of the Progressive party in Wyoming.¹⁹⁰ Harold Ickes, trying to prolong the progressive movement nationally in 1919, wrote Blume for his views and invited him to attend a meeting at Ickes' home.¹⁹¹ There is no evidence Blume answered the letter. Clearly, he did not attend the meeting.¹⁹² Unlike those in the national progressive movement motivated by conditions of immigration, urbanization, and industrialization, Wyoming progressives had been driven by the cause of political reform and the felt need to break the domination of the Republican old guard element personified by the Warren machine and the Union Pacific Rail-

182. *Id.* at 238-39.

183. *Id.*

184. LARSON, *supra* note 88, at 391.

185. ERWIN, *supra* note 98, at 1313.

186. PETERS, *supra* note 103, at 252-54.

187. ERWIN, *supra* note 98, at 930.

188. PETERS, *supra* note 103, at 252-54.

189. *Id.* at 254 (quoting from Senator Warren's letter to Fred Blume, March 28, 1918, Warren Papers).

190. *Id.* at 257.

191. *Id.*

192. Letter from Fred Blume to Betsy Ross Peters, *supra* note 175.

road interests.¹⁹³ With Blume and the two Careys, father and son, playing central roles in and providing energy and direction to Wyoming's progressive movement, the Progressives accomplished, for the most part, their agenda. Their efforts hastened reform legislation and weakened the grip of the Republican regulars, thus effecting in the consequent reaction a revitalization of the Democratic party in Wyoming. Following the examples of Joseph Carey and John Kendrick, the line of successful Democratic office holders has continued over the years from United States Senators Joseph C. O'Mahoney and Gale McGee to United States Representative Teno Roncalio and Governors Ed Herschler (three terms) and Michael Sullivan, who is presently serving his second four-year term.

Having completed our examination of Blume in the political light, we return to the subject identified earlier, namely, Blume's interest in self-education which began on election eve in 1912 when he picked up a book on the Middle Ages.¹⁹⁴ Resuming our look at this aspect of Blume's life, we marvel at his own description of what can be characterized, in understatement, as a substantial undertaking:

In the course of time I procured and read dozens upon dozens of books on the Medieval, Roman, Greek, Oriental and Egyptian worlds, relating to wars, finances, economics, education, ethics, philosophy, religion, science, life and culture in general, even reading considerable amount of the Ante-Nicene and Post Nicene Fathers. I read until I was reasonably well satisfied in my mind on the various subjects.

During probably the first year after November, 1912, I read two books by Dill on Roman society after Nero. He gives many citations from the Theodosian and Justinian Codes. I wanted to read the original sources, so I wrote to Stechert and Company in New York, the largest second-hand book firm in the United States, to procure for me an English translation of these codes. Much to my chagrin and surprise I found that there was none in existence. So ruminating on the subject, I wondered if I might not be able to add my little mite to the culture of the world by translating at least one of these codes. Here was the germ of the thought of the translation of the Justinian Code, although I did not realize at that time the difficulties ahead.¹⁹⁵

What Blume did realize, however, was that to accomplish a translation he would have to become fluent in several foreign languages. He said:

193. Peters, *supra* note 103, at 259-61.

194. See *supra* text accompanying note 159.

195. Annexed notes, *supra* note 30.

I knew both French and German quite well when I left school but had forgotten a good deal of them, of course. I gave more attention to modern languages than I did to the ancient ones. The main thing I remembered about the Greek was the difficulty I had in learning the conjugations. Most of the Latin which I had learned in high school and in college was forgotten, but I knew, of course, that I had to know that language quite well before I could begin the translation so I started to re-learn the Latin from the beginning, procuring and studying books for beginners. I did a good deal of prose composition. Then I proceeded to read the texts. I read a number of orations of Cicero, his *de senectute*, his *de amicitia*, his *de officiis*, his *de natura deorum*. I read Lueser's Gallic War through at least three times, Sellust at least twice. I read Eutropius, Petronius, Cornelius, Nepos, some of the letters of Pliny the Younger. I read Suetonius through at least twice. I read some of Tacitus, Ammienus Marcellinus, Livy and others. I did not go into poetry much, though I managed to stumble through Juvenal and Lucretius and I got a little taste of Vergil. I probably wasted a lot of time in attempting to learn a lot of technical terms which are never used in the law. Later I read and studied Poste's Gaius and the Institutes of Justinian. In the meantime I tried in New York, London and Paris to get a copy of Krueger's text of the Justinian Code but was unable to do so. I found an edition of 1571, but the print of that is too fine and I did not undertake to translate from that. I did not get a modern edition of Krueger until after the first world war.¹⁹⁶

Blume constructed this foundation of self-education for a purpose, a purpose which became a passion—his translation, unaided by any other person, of the Code and Novels of Justinian—a singularly remarkable achievement for any scholar, let alone for one who was largely self-taught and primarily engaged in his full-time life's work as an appellate jurist. In constructing this foundation, Blume had "started for the Pole."¹⁹⁷

V. FAMILY AND FRIENDS

We now turn our attention to that period in Blume's life bordered by the years 1914 through 1920. We will examine his relationships with family and friends, his views on selected topics of that day, other activities he pursued, and his friendship with Robert Carey;

196. *Id.*

197. See *supra* note *.

the friendship which would lead to Blume's appointment to the Wyoming Supreme Court.

In addition to being actively involved in politics with the progressives through the 1914 election and with the Republican Party through 1920, Blume devoted his attention to other interests. In the period from 1914 through 1921, he exchanged correspondence with his brothers, William and Henry, and with his father who, in his seventies, was living in a Germany at war. During this period, probably in 1915 or 1916, Blume's marriage ended in divorce. During this same period, he corresponded with the state's congressional delegation, expressing his views on the League of Nations and universal military training. In 1918, he met former President Theodore Roosevelt, the famed Rough Rider and leader of the Bull Moose Party in which Blume had invested so much of his energy several years before. Roosevelt made a lasting impression on Blume.

Blume's personal life found happiness in 1920 when he married his second wife, Blanche Alexander Rice, who was to be his loyal companion and steady help-mate for the next forty-two years until her death. In 1921, Blume became a member of the state bar association which had been formed six years earlier. Joining at the same time as Blume was a young lawyer from Laramie, Wyoming, who had recently mustered out of the army after pursuing Pancho Villa in Mexico. This young adventurer, Thurman W. Arnold, had recently joined his father, Constantine Peter Arnold, in his law practice. And through 1920, Blume continued to be a close and trusted adviser to his friend, Robert D. Carey, who had been elected Governor in 1918. Blume's mother died suddenly on December 10, 1913.¹⁹⁸ In the father's correspondence that followed, he discussed the settlement of her estate.¹⁹⁹ He indicated his intention to sell the farm, if he could obtain a fair price.²⁰⁰ He proposed to invest the sale proceeds and live off the interest.²⁰¹

World War I interrupted the settlement of Mrs. Blume's estate. The war was under way in earnest in 1914, and there is no record in Blume's papers evidencing communications between the Blume sons and their father until 1919. Blume and his brother William kept in touch. William was practicing law in Dickinson, North Dakota, and tending his small farm.²⁰²

198. Blume scrapbook (courtesy of Fred P. Blume, nephew, Cheyenne, Wyoming) (displaying photograph of grave headstone); Letter from Wilhelm Blume to Fred Blume (January 12, 1914) (Blume Scrapbook, courtesy of Fred P. Blume, nephew). The father's letter is in German; the author gratefully acknowledges the translation made by Charlotte Paul and her daughter Liv Hanes, Cheyenne, Wyoming.

199. Letter from Wilhelm Blume to Fred Blume (January 12, 1914) *supra* note 198.

200. *Id.*

201. *Id.*

202. Letter from William Blume to Fred Blume (May, 1917) (H89-28, WHR, *supra* note 5).

In the meantime, Germany had announced, in January, 1917, it would sink all vessels on sight in a specified zone around the British Isles and in the Mediterranean.²⁰³ Events escalated. In March, 1917, German submarines sank five American ships; also in March, a second battalion of the Wyoming National Guard was ordered into federal service; on April 6, 1917, Congress declared war on the Central Powers.²⁰⁴ According to Professor Larson, "Pacifists were scarce in Wyoming."²⁰⁵ He further noted, "Some two thousand German-Americans were probably hoping for continued neutrality, yet they said little publicly."²⁰⁶ William Blume, from his law office in North Dakota, expressed his feelings on the matter in the following words to his brother Fred in Sheridan:

You know it was by accident I drifted to this town. I worked for the N.P. [Northern Pacific] R's Co. for quite awhile, being broke. My entry here, therefore, as an attorney, was wrong. Not being a Catholic, the German-Russians have long called me a Jew. The professionals said I was no good, or else I would not have worked for the railroad, etc. Lately these taunts give place somewhat to jealousy. Because of German blood, my Americanism has not been questioned, but still allusions, and one thing with another are such, that I feel grieved. I just as soon have a change of activity.²⁰⁷

In closing his letter to his younger brother, William said:

Thought some of going to California, take a piece of wild land cheap and make it highly productive, but that may mean more physical labor that I can endure. I am too young yet to retire. The oil fields of Wyoming are well spoken of here. It might do me good to have a change. I see no prospect of getting married; but confess to lonesomeness that is awful. I have been busy, believe me, to do as well financially as I have; if it was not for that, the lonesomeness would be more terrible.

Please write me what you know of the oil territory, if anything.²⁰⁸

203. LARSON, *supra* note 88, at 394.

204. *Id.* at 395.

205. *Id.* at 394.

206. *Id.*

207. Letter from William Blume to Fred Blume (December 23, 1917) (H89-28, WHR, *supra*, note 5).

208. *Id.*

Fred answered William's letter on January 9, 1918. After advising his brother to think twice about changing places "at our time of life," he counselled as follows:

The war situation may make it somewhat unpleasant for you, as it has done for thousands of others, but that situation is no different in any part of the country, and that does not warrant the making of a change in the location. The situation now demands silence and acquiescence, if not approbation, and we must make the best we can of the matter as it stands. I am taking an active part in all the liberty loan drives, Red Cross and similar matters, and we cannot afford to do anything else in a time like this. After all, we must remember, that none of us would wish this country harm, and while we all hope that the war may be over soon, we also hope that it may be settled with honor to us.²⁰⁹

At the time Blume wrote, "Patriotism, hitherto quite subdued, erupted all over * * *,"²¹⁰ in the forms of mass meetings, flag displays, resolutions of support, newspaper articles and advertisements.²¹¹ Blume's advice to his brother to be silent and acquiesce was no doubt informed from Blume's own awareness of the ugly expressions of intolerance for German-Americans during 1917-18 which had unfortunately arisen in Wyoming. In the town of Basin a man who had criticized President Wilson was forced to kiss the flag; in Thermopolis "disloyal" persons were also forced to kiss the flag; in Cheyenne, a railroad employee of Russian ancestry was stripped and painted yellow because he refused to buy a victory bond; in Greybull and a few other towns German books were burned; in Garland several students seized the German teacher in an effort to force him to burn German textbooks; and the town of Germania was renamed Emblem.²¹²

Blume's friend and political ally, Robert D. Carey, who was running for Governor in 1918, did not escape the rampant anti-German sentiment. The Democrats attacked him using

newspaper advertisements headed "Hun Kultur at Careyhurst (Carey's home ranch)." The ads declared that a German alien, Fred J. Wiedeke, had been employed by J.M. Carey and Brother since March 1, 1914. Wiedeke was described as "the

209. Letter from Fred Blume to William Blume (January 9, 1918) (H89-28, WHR, *supra* note 5).

210. LARSON, *supra* note 88, at 395.

211. *Id.*

212. *Id.* at 400.

unregenerate offspring of Hunland” and the “subject of the Beast of Berlin.” It was alleged that he was in a position “to insidiously and constantly influence Robert D. Carey.”²¹³

Robert Carey’s father, Joseph M., vouched for Wiedeke’s loyalty; young Carey won the election by five thousand votes.²¹⁴

After counseling his brother on anti-German attitudes, Fred tried to raise his spirits. “I note the cases you have won in the (North Dakota) Supreme Court, and they do you honor. If I were you I would not feel conscious of any self-deficiency. We are all more or less deficient, but courage is half the battle.”²¹⁵ After giving William the benefit of his considered judgment about the value of land, he cautioned about the disillusionment in seeking riches in oil. He wrote:

The oil fields are alluring. But thousands upon thousands of dollars are invested that are lost. It is the exception that wins, the rule that loses. I have gambled in oil; I have lost. I still hope to win, but I can tell nothing about it. The game, unless one happens in luck, seems to be the rich man’s game. Of course men, that have been poor, have made lots of money; but that has been the exception. People are beginning to be very wary, and the vast majority do not take a hand in it. One could in no event make it other than a side issue, and one cannot afford to invest money in it, unless you can afford to kiss it good bye when you put it in. The ordinary man better plod on along in his usual course, and make the money slowly. I may come to that conclusion myself soon. I have lost so far, anyway \$1500.00, and by the end of this year may have lost a \$1000.00 more, although I am hoping it may turn out otherwise.²¹⁶

Four months later, William wrote Fred again. He told him he had sent him a book of poems which he had written and had published; he asked Fred to read the book with a critical eye and give him his opinion of it.²¹⁷ After commenting on the state of business and his land dealings, William raised the question whether they should try to find out about their father’s situation in Germany. Fred replied, mentioning only William’s poetry, but nothing about filing a claim pertaining to their father’s estate. He wrote:

213. *Id.* at 403.

214. *Id.*

215. Letter from Fred Blume to William Blume, *supra* note 209.

216. *Id.*

217. Letter from William Blume to Fred Blume (April 24, 1918) (H89-28, WHR, *supra* note 5).

I have not yet had time carefully to peruse your book of poems, which you so kindly sent me some days ago.

I am not a judge of poetry; some of the verses I read in your book I thought, however, very good. I can appreciate the tremendous amount of labor that this book has cost you, but I can also appreciate the fact, that while you were composing the poems you received an infinite amount of pleasure and satisfaction out of your work. And that is worth something. It is hard for one man to tell another how to spend his time, and how to devote his energy. The completeness of life is measured perhaps not so much by what we accomplish, but by the amount of satisfaction we receive out of life. And that satisfaction, if rightly directed, must be received out of some useful occupation that will broaden us, and make life worth living.

I am glad you sent me the book, and will take a good deal of pleasure in the future, from time to time, to see what your turn of mind produced and with what it was occupied during the time of the composition.²¹⁸

The subject of their father's estate was not raised again by William until months later. In the meantime, Henry and Fred corresponded concerning the high school education which Henry's son Roy should pursue.²¹⁹

In November, 1918, two weeks after Germany signed an armistice,²²⁰ William again wrote Fred, raising the propriety of filing a claim with respect to their parents' estates in the event their father was no longer alive.²²¹ In early December, Fred replied, questioning the benefit of filing a claim before communications were reestablished with Germany and stating he would not join in any such claim but rather would assign his share to William and Henry.²²² In early January, 1919, William advised Fred by letter that he was going to file a claim for the mother's estate, but was undecided what to do with their father's estate.²²³

218. Letter from Fred Blume to William Blume (April 26, 1918) (H89-28, WHR, *supra* note 5).

219. Letter from Henry Blume to Fred Blume (August 13, 1918) (H89-28, WHR, *supra* note 5).

220. LARSON, *supra* note 88, at 404.

221. Letter from William Blume to Fred Blume (November 25, 1918) (H89-28, WHR, *supra* note 5).

222. Letter from Fred Blume to William Blume (December 6, 1918) (H89-28, WHR, *supra* note 5).

223. Letter from William Blume to Fred Blume (January 6, 1919) (H89-28, WHR, *supra* note 5).

In September, 1919, William wrote Fred that he heard from the state department that their father was alive.²²⁴ Their father wanted them to know, "My health is in fairly good condition but the insufficient nourishment and old age (he was seventy-five) are leaving their traces. How long I shall still live rests with God."²²⁵ The rest of William's letter mentioned his wanting Fred to follow through on his assignment of his share of his parents' estates, his meeting a Mr. Button who conducted business colleges and was inquiring about Fred, and his dislike for the non-partisan league in these words, "If anyone should talk non-partisan league to you, better take a sledge hammer and knock him over the head. They are taxing us to death; it is a fright."²²⁶

Two days later, Fred replied to William's letter. He told him he would sign any instrument of assignment of his share.²²⁷ With reference to Mr. Button and his business colleges, Fred said:

The name of Mr. Button had not occurred to me for nearly thirty years. I had completely forgotten his name. You remember that is probably that fellow that inveighed me to go up to Fargo and helped spend my money. I wonder where he is located at this time. If he had run so many business colleges during these years he might as well stayed in Minnesota chopping trees as he taught me to do. It was not funny at that time, although of course these things now are all pleasant recollections.²²⁸

Then, Fred in strong terms told William how he felt about the non-partisan league, the League of Nations, and President Wilson:

Your non-partisan league is nothing but an organization which desires to legislate for only one part of the people. The name "non-partisan" is a misnomer, and if they keep it up they will have this country in the same situation that Russia is in at the present time.

That which is called the League of Nations is an organization for war and for the purpose of giving to Great Britain the control of the world. I can't understand the attitude of Senator McCumber on the peace treaty. He evidently does not

224. Letter from William Blume to Fred Blume (September 1, 1919) (H89-28, WHR *supra* note 5).

225. *Id.*

226. *Id.*

227. Letter from Fred Blume to William Blume (September 3, 1919) (H89-28, WHR, *supra* note 5).

228. *Id.*

take into consideration the interests of the United States. The tendency of the times are that Germany will be forced to go into a league with Russia, and while you and I will not see it, there will come a time, unless the situation is remedied, when the infamous peace treaty that was made at Versailles will some day be revenged. There is nothing in history that I know of that so much shows the brutal instincts of humanity. It enslaves not less than one hundred and twenty five millions of people. The situation as it stands shows that Wilson has done more damage to his country than any ten presidents could possibly do. And I think that history will record that he was a man who said one thing and did another, and was good for nothing.²²⁹

Blume's brother William was not the only person with whom Blume shared his views. He had also shared them with Senator Warren, Wyoming's senior senator and long-time chairman of the committee on appropriations. In reply to Blume's letter to him in which Blume had expressed his strong feelings against the proposed League of Nations, Senator Warren said:

My dear Blume:

I am obliged to you for your letter of the 30th ultimo, containing an expression of your feelings regarding the proposed League of Nations.

Almost every one admits that some sort of an understanding must be had among the nations interested, but I feel like you do, that the United States should not be called upon to become responsible for the troubles of all other countries and to pay all the bills, both in cash and in human life, that may come up hereafter. I believe that the majority of the people, as you state, have not a thorough understanding of the matter, but believe that the League Articles as proposed would bring about a sort of millennium or universal peace that would be heavenly for all the peoples on the globe. It does not appear how the signing of the Articles is to bring about an immediate and lasting and thorough change in human nature.

I assume that you are reading the various speeches, *pro* and *con*, in the Congressional Record, and, while I have not anything against you, I hope that you will go right on with your reading, since I myself have to go on with my listening,

229. *Id.*

and that you will help along those around you through a course of education and advice.²³⁰

Blume did not mince words. In his judgment:

[T]he peace treaty is the most iniquitous peace and the foulest international agreement that History records, and indicates the most selfish, uncompromising and blackest purpose since the day of the famous or infamous saying of Cato that "Carthago delenda est".²³¹

Blume also informed Congressman Mondell of these views. Blume offered him an insightful analysis of the conditions which led him to this position and, as world events would later prove, a chillingly accurate prediction of the future. Blume wrote:

I am not much of a military man and am one of those who thinks that war is perfectly senseless among civilized people, or among people that call themselves civilized, and am one of those who wonders why people are carried away so far as to engage in a conflict of killing each other. That of course doesn't mean that when war is inevitable that in that case it should not be carried on.

Now comes the proposition of universal military service in the United States, which has been discussed for a number of years and which has now been recommended by the administration or rather by Secretary Baker. He has done this despite the fact that he has been opposed to it altogether heretofore. Ten years ago I would not have thought that time would come in my life time, when I would be in favor of universal military training in the United States, but despite the fact that I have been opposed to it, and still would hate to see the United States become a military nation, still at the same time conditions and circumstances have changed so much, that it appears to me to be an advisable thing to have the boys trained for six months, and have the nation prepared in any emergency. It appears to me that this would be advisable on account of the changed condition in two things.

1st. The conditions that have arisen out of the war just past, have changed the complexion of things as it appears to

230. Letter from F.E. Warren to Fred Blume (July 5, 1919) (H89-28, WHR, *supra* note 5).

231. Letter from Fred Blume to F.E. Warren (September 2, 1919) (H89-28, WHR, *supra* note 5).

me. Europe is in a turmoil and probably will continue for a period of fifty years. During the war I had complete confidence in the statements made by the English statesmen and the French statesmen, that they were fighting for democracy, and that they were ready for a continued peace, and I was then one of those who was very much in favor of a league of nations, and of the United States entering into that league. I am sorry to say that I have been compelled to completely change my attitude in regard to the league, and I am now in favor of the United States having nothing to do with it. I have been completely deceived in the attitude of the European Allied statesmen. They have shown that they are not in favor of a continued peace excepting upon their own terms. I just got through reading an article on the conditions of peace contained in a conservative and as I believe a first class English magazine, which deplores the harsh, severe terms of the Versailles treaty and believes that it is nothing but a breeder of war.

I have not the slightest doubt that the principle of self determination should be applied in some cases, yet on the whole notwithstanding the transcendent wisdom of President Wilson I have always believed, and now believe that the doctrine as advocated is simple [sic] a doctrine of secession in another form, and it was applied only where the allied Powers thought it would do them good. The principles of justice had nothing to do with it. So many new states have been created that a continued strife, and turmoil cannot be avoided in Europe for many decades to come. Then again. For forty years France nurtured, "Revanche". It is very apparent that this "Revanche" will now be nurtured in Germany, and we must remember that counting the Austrians, there are nearly One Hundred Million of them. The peace that was made at Versailles, [sic] without going into details, clearly shows the pretensions of England and France, that they were fighting for democracy, was in fact but a hollow mockery, and that they were simply fighting and killing for nothing but the purpose of loot. We, of course, have known this all the time, so far as Italy is concerned, but I did not believe during the war, that any such motives actuated England or France. The whole treaty simply shows that Germany was apparently justified in claiming her very existence was threatened by the allied nations of Europe including Russia.

If of course the whole matter were ended there, we might easily say that the loot did not particularly concern us, but the trouble of it is that the matter is not ended there. The continual turmoil bound to exist in Europe, as I stated before,

the harsh severity of the treaty and the "Revanche" nurtured does not bode well for the future. It appears to me that the continued pursuance of the present course by the allies will without fail drive Germany, Austria, Hungary, and Russia into an alliance. Japan is a natural enemy of England, on account of territorial conflicts and it would seem that the time is bound to come, unless the present attitudes of the Allies are changed, when Japan will be allied with Russian [sic] and Germany, and that this alliance will then at some time in the future try to topple over the supremacy of England, which from internal and external conditions is bound in time to become top heavy, if it is not already so. It is therefore very apparent, that the time will come when the interests of the United States will have to be protected by force if necessary, and that the advisable thing to do, for our protection, is to prepare for any contingency that may arise.

2nd. It is needless for me to go into any details in regard to the internal conditions in the United States, but you know as well as I do that they are fraught with considerable danger. Hence my changed attitude on the question of universal military training.

When I was a young man and attended the University of Iowa, we had compulsory military training, and the boys were compelled to drill three times a week for the period of three years, and in addition were compelled to attend lectures on military science. Some other matters were voluntary. I underwent the training the same as the rest of the boys and I don't know that the time spent in this training was time wasted, and believe that if the training had been more concentrated in time, but more efficient that the benefit would have been considerably greater. On the whole it appears to me that it would be advisable to adopt universal military training. The Republicans cannot hope to get the votes of Socialists and Ultra-pacifists. Secretary Baker has recommended the measure and therefore the Democrats cannot gain any political advantage because a Republican congress passes it. The time appears to me to be ripe when the measure ought to be adopted.²³²

Mondell promptly answered:

My dear Blume:

232. Letter from Fred Blume to Frank Mondell (December 13, 1919) (H89-28, WHR, *supra* note 5).

I am very glad to have your letter of Dec. 13th, and reading it over for the second time, I find that our minds have been following much the same lines in regard to the need for some sort of military training and service in this country.

As you know, I have always opposed the universal training and service system as we know it to have been practiced by the Prussians. I am still opposed to any such plan, but I think all good citizens who have followed the trend of world affairs, generally, in the past two years, realize the necessity of greater preparation for military service of the youth of this nation. Just how we can best supply this need to the people is still a matter of speculation and one likely to require practical application before we shall be able to settle on just the policy most desirable and workable. The Congress will take this matter up during the winter, and when it is reached you may be sure I shall keep in mind your very logical and evidently well thought-out conclusions.²³³

The Blume sons continued to correspond with their father. Their father had sold the family farm but had apparently made arrangements with the purchaser that he could continue to live in one of the rooms in the house.²³⁴ Their father obviously had a difficult time trying to make financial ends meet in post-war Germany and he was lonely. He wrote:

You should know that my thoughts are constantly with you. It is not enough that you write you are all right. I would like to know how William and Frederick are doing, what kind of jobs they have now, and what type of work they do * * * .

* * *

Here I have nobody with whom I can share joy or trouble. I am an old man and old people are pushed aside. Yes, my dears, it is difficult as an old man to be on your own, especially at the present time * * * .

* * *

This unhappy war has brought some people a lot of misfortune. But the farm owners became rich and become richer

233. Letter from Frank Mondell to Fred Blume (December 19, 1919) (H89-28, WHR, *supra* note 5).

234. Letter from Wilhelm Blume to Henry Blume (October 12, 1919) (H89-28, WHR, *supra* note 5). The letter is in German; the author gratefully acknowledges the translation made by Charlotte Paul and her daughter Liv Hanes, Cheyenne, Wyoming; personal interview with Fred P. Blume, October 26, 1990.

every day; food is expensive, foreign food even more * * * . This creates a flood of paper money which in turn influences and lowers our value abroad so that our money is only worth one-fifth against foreign currency.²³⁵

He also informed them that many of their family's friends had died in the war.²³⁶ In another letter he wrote:

I am all right so far—depends how you want to look at it—had I not kept the room for myself I would be lying in the street in these expensive times. Nowadays, one is only tolerated at a person's mercy. A person is so to speak rags because clothing is too expensive, everything is in shreds. In order to be clothed decently, you would have to spend thousands. But this is not important. The clerk said to me, I should be able to live better for being so frugal, but one mark of my savings would be more appreciated by you later than my belongings which you might inherit.²³⁷

Blume responded to his father's needs. Working with his brother Henry, Blume sent his father money. In a letter to Henry to achieve this purpose, Blume said:

I am going to strain myself and send him some more. His letter is just pitiable, and I feel so, so sorry for him * * * . Be sure and send this at once, Henry,

* * *

I am in some deals now, that I hope I will make a lot of money out of. I may be dreaming, but I hope not, I should mighty well be in position to help not alone father, but you as well. And in six months, or so, from now I shall know much more about it * * * .²³⁸

At this same time, Blume wrote his father and explained to him William's previous efforts to file claims in the event he (father) had died during wartime.²³⁹ Blume made clear to his father that the latter should

235. Letter from Wilhelm Blume to Henry Blume (September 23, 1919) (H89-28, WHR, *supra* note 5). The letter is in German; the author gratefully acknowledges the translation made by Charlotte Paul and her daughter Liv Hanes, Cheyenne, Wyoming.

236. *Id.*

237. Letter from Wilhelm Blume to Henry Blume, *supra* note 234.

238. Letter from Fred Blume to Henry Blume (November 7, 1919) (H89-28, WHR, *supra* note 5).

239. Letter from Fred Blume to Wilhelm Blume (November 7, 1919) (H89-28, WHR, *supra* note 5). The letter is in German; the author gratefully acknowledges the translation made by Charlotte Paul, Liv Hanes, and Allen Johnson, Cheyenne, Wyoming.

use all of the money for his living expenses and not be concerned with leaving his sons an inheritance.²⁴⁰ In closing the letter, he said:

I wish that I could write to you better, but as I have already often said, it is difficult for me to write in German because I have not spoke it for thirty years and have written even less during that time. Some books which I can't get in English, I have read in German. But not very many. I work at the same job as always. I have thought now and then that I must go back (to Germany) after the war. It has not been very nice during this time. Everything German was despicable, disdainful. All Germans were under suspicion. And one could say very little.²⁴¹

After Blume sent this letter to his father, Blume heard from Henry. Henry assured Blume that he had also told their father that he should use not only the interest earned but also the corpus of any family funds in order to support himself.²⁴² In reply to Henry's letter, Blume answered him saying he wanted to send their father even more money and also clothing if Henry thought that appropriate.²⁴³

During these war years, not all of Blume's concerns were with his brothers and his father; he also had concern for his own personal life. His marriage to Helen ended in divorce, sometime before mid-July 1917, although no court record establishing the date has been located.²⁴⁴ The evidence of the divorce itself consists of information contained in two letters. In the first letter, written by Blume to friend and lawyer E.E. Enterline on July 6, 1917, Blume expressed his "feeling of delicacy" about public knowledge of his former wife's impending remarriage:

Dear Enterline:- Frank Emory is leaving here this evening for Billings. The supposition is that he is to be married to my former wife, Helen Gray Blume, or Helen Gray Myers Blume. You can understand the feeling of delicacy about the matter on my part. I want to keep the matter out of the Billings papers, and I wish you would see the clerk and have him keep from the newspapers the issuance of the license, and also see the newspapers, and keep the fact of the marriage out of them, and particularly of course out of the Billings Gazette

240. *Id.*

241. *Id.*

242. Letter from Henry Blume to Fred Blume (November 12, 1919) (H89-28, WHR, *supra* note 5).

243. Letter from Fred Blume to Henry Blume (November 27, 1919) (H89-28, WHR, *supra* note 5).

244. The author's attempts to locate the court file of the divorce action were unsuccessful.

that comes down here for "Curious minds to ponder o'er." The supposition is that they are to be married on Sunday, but the date might be a little off, and it might be to-morrow. I presume the newspapers should be handled carefully, so that the fact of wanting to keep it out would not be an incentive to put it in.

I shall appreciate your kindness in this matter, and I need hardly say that it is confidential.²⁴⁵

In the second letter, written by Blume to his former father-in-law, benefactor, and close personal friend, Theodore Myers, on the occasion of Blume's appointment to the court on April 23, 1921, Blume merely alludes to the divorce, saying:

[B]ut I know, too, and I keenly feel that whatever I would do, I could never, even in small measure, repay the unstinting friendship and generosity you have shown me. I feel this more keenly, and realize this more deeply, since I so miserably failed in the endeavor, and in the hope which I once entertained, of being able to show, in a measure, my appreciation of what you did for me, by taking care of one that is dear to you, and once was — nay still is, dear to me.²⁴⁶

Blume remarried on June 24, 1920; the bride was Blanche Alexander Rice. She was born July 16, 1886, near Louisville, Kentucky, the daughter of Alonzo Earl and Catherine (McClure) Alexander.²⁴⁷ When she was a young child, her family moved to a farm near Blandsville, Illinois, where she attended country schools.²⁴⁸ She attended a teacher's college at Macomb, Illinois.²⁴⁹ She came to Sheridan, Wyoming, in 1912, joining an older brother who had earlier come to manage a mining company.²⁵⁰ From 1912 to 1916, she taught in Sheridan public schools.²⁵¹ In 1916, she campaigned for and was elected County Superintendent of Schools for Sheridan County; in 1918, she was reelected to that position.²⁵² Her campaigning skills would be put to good use in later years when Blume campaigned for re-election to the court.

245. Letter from Fred Blume to E.E. Enterline (July 6, 1917) (H89-28, WHR, *supra* note 5).

246. Letter from Fred Blume to Theodore F. Myers, *supra* note 51.

247. WYOMING TRIBUNE, June 25, 1962; CORA M. BEACH, WOMEN OF WYOMING 108-09 (1927).

248. WYOMING TRIBUNE, *supra* note 247; BEACH, *supra* note 247, at 108-09.

249. WYOMING TRIBUNE, *supra* note 247; BEACH, *supra* note 247, at 108-09.

250. WYOMING TRIBUNE, *supra* note 247.

251. BEACH, *supra* note 247, at 108; WYOMING TRIBUNE, *supra* note 247.

252. BEACH, *supra* note 247, at 108; WYOMING TRIBUNE, *supra* note 247.

In writing to his former father-in-law, Theodore Myers, about his remarriage, Blume observed:

While a man of my age [he was 45] hesitates considerably to get married, I hope, and believe, it will have no disastrous consequences. I want her to get better acquainted with you and you with her, and I believe you and Margaret [Mr. Myers' second wife] both will like her. If I am justified in getting married at all, I believe that I am making the wise choice, on account of her unflinching loyalty to me * * * . Mrs. Rice thoroughly understands my undying affection for both you and Margaret, and I have often told her that I would permit no person on earth to interfere with that, and there is no reason why anyone should.

And then, too, if anything should happen to befall you, which I trust and believe will not be for many years, but if it should so happen, Margaret could have a place where she would always be welcome as in her own home, and feel that she is not without friends.

Dr. Hodson for several years has been at me, time and again, urging me to get married, and for a wonder he most emphatically approves of Mrs. Rice and thinks she is a wonder.²⁵³

Blume's correspondence with Myers was not confined to Blume's domestic relations. As would be expected, given their close bond, their exchange of information and views covered a wide range of subjects, from personal business dealings to sore throat remedies to national and world politics. Here is a sampling.

I heard from some source that you had quit smoking. Write me whether or not it is a fact so I can reform too and write me particularly how your throat is. A cold compress on your throat every night when you retire might be a good thing to try. Take a turkish towel, wring it *dry* out of *very cold* water, wrap it around your neck and then wrap a dry one over it. Leave it on all night. Such treatment is recommended by many physicians as a great thing to remove inflammation. Pin it on with big safety pins.²⁵⁴

On another occasion, Blume wrote:

253. Letter from Fred Blume to Theodore F. Myers (June 17, 1920) (H89-28, WHR, *supra* note 5).

254. Letter from Fred Blume to Theodore F. Myers (March 13, 1919) (H89-28, WHR, *supra* note 5).

You did not enclose the letter from Mr. Green. I should like very much to read that, and am particularly interested in what he has to say with regard to a panic. I should like to show that to some parties whom I have been unable to satisfy in regard to being conservative in investments at this time.

* * *

I don't believe that it is necessary for you to make any more money. I believe you have enough of it without spending the balance of your life worrying about making any more. It is absolutely certain that when I have made enough to make me safe in the future that I am going to quit thinking about making any more money. If the present prospect pans out as I hope [it] will, it may be that the time is not far distant.²⁵⁵

Confronted with the undependability of train travel due to a coal strike, Blume offered this opinion to Myers:

But of course I realize that travel these days is precarious. Trains are not at all dependable these days, and it is getting worse all the time. And it is hard to tell just what it will end into. I wish that I had the power to deal with this coal strike for just about a week. I certainly would break it up and do so effectively. The only way that it can be broken up is by giving the miners the same dose that they are giving to the public. It can't be broken up by giving them all the coal, fuel, lights and comforts that they want, while the balance of the people are freezing.²⁵⁶

When, on one occasion, Blume had to cancel a Christmas visit to the Myers, he explained:

A few days ago I got involved in a matter which involves about \$8,000.00 for a client of mine, a matter involving both criminal and civil matters, part of which will come up on Tuesday or Wednesday next. I fairly hate and despise to get mixed up in criminal matters. I haven't tried a criminal case for three years. But I cannot very well desert a client of mine, and was almost compelled to get mixed up in it. If this had been the only reason, however, I would have turned it over to some one else, and have come to see you and Margaret

255. Letter from Fred Blume to Theodore F. Myers (July 28, 1919) (H89-28, WHR, *supra* note 5).

256. Letter from Fred Blume to Theodore F. Myers (December 20, 1919) (H89-28, WHR, *supra* note 5).

anyway because I hated to miss seeing you and Margaret during this Christmas season. But on account of all these various matters I believe that it would be a mistake for me to leave at this particular time, and I do most sincerely hope that you and Margaret will not take it ill because I am not with you this time.²⁵⁷

A week after having presided as chairman of the state Republican convention in May, 1920,²⁵⁸ Blume expressed to Myers his feelings about the peace treaty with Germany and world affairs. He said:

I have been watching with interest and other feelings the peace treaty. No document like it exists in all history. France during the Napoleonic era depredated Europe for 20 years, yet in 1815 was let substantially as she was. The severity of the terms of the present treaty will place Germany in position where she will have to repudiate the terms gradually. The arrangement of the territory is such, that there will be no peace.

I very much fear that the present war, together with the terms of the treaty will mean continual trouble in Europe. Germany will throw in with Russia; the agitation will constantly continue; the Socialistic elements, if not worse, will take all of Europe and finally, of course, all of America. I rather expect the whole world to be on a socialistic basis in 50 years from now. I think the whole thing is the most short sighted policy imaginable. If it were not for the utterly selfish spirit manifested by the Allied nations, other than the United States, which seems to indicate that actual selfishness exists, a man might think that they are treating Germany the way they are, were for the purpose of disarming her for the next 25 years, so that no other war between them would occur. But that does not seem to be the purpose; they are all grabbing as much as they can. England is the worst of them all. A year and a half ago she started out to publish articles over the world that Germany had misruled the African colonies. There was evidently only one purpose in this all, and that is to get the colonies for England. And she will get them; she will further control additional territory of vast extent in Asia. But of course, England was fighting for democracy. It may be that all this fighting was for the purpose of turning the world Bolshevistik, in its actual results. It would appear to me, that

257. Letter from Fred Blume to Theodore F. Myers (December 10, 1919) (H89-28, WHR, *supra* note 5).

258. Letter from Fred Blume to Theodore F. Myers (May 12, 1920) (H89-28, WHR, *supra* note 5).

it were better for the world, if Germany were made a buffer state, against the stemming tide from Russia. But the result will be that Germany will feel, that it is a crime to raise children for perpetual slavery, they won't consequently care, whether the world turns Bolshevik, or not.

On the whole, the world situation appears to me far from bright, and I can only hope that mistakes may be rectified before it is too late.

My oil interests are in statu quo—waiting. Its a most hazardous proposition. I am hoping.

Everything will be, so it appears to me, will be on a high price level for many years, and possibly perpetually. Labor will be high, and continue to be so. Europe is changing as well as we. It is really puzzling to know where it will all end in.²⁵⁹

On the eve of the November, 1920 elections, Blume wrote Myers, predicting Republican victory:

The slump is on. Republican victory is assured. Possibly after the election things will begin to adjust themselves so that we won't have to be afraid of any further increase on prices in general, and we will have a more steady situation. I think Harding will carry every state north of Mason's and Dixon's lines, including Missouri, Kentucky and Maryland. A possible exception will be Montana, but it begins to look to me that Harding will carry even that state.²⁶⁰

In the aftermath of that election, Blume gave Myers his analysis of the Republican success and his assessment of the bleak economic conditions facing the country:

I did not answer your last letter at once, because I was out campaigning. The result is as I anticipated, except that the majority was even greater than I had thought. It is very gratifying to know that the country is in better hands, and to know further that such vital promises as were made by Wilson in 1916 cannot be violated with such impunities, and which, if done by anybody else in private life would entitle a man to be called a scoundrel. There were so many objections to

259. Letter from Fred Blume to Theodore F. Myers (May 17, 1920) (H89-28, WHR, *supra* note 5).

260. Letter from Fred Blume to Theodore F. Myers (October 11, 1920) (H89-28, WHR, *supra* note 5).

the Wilson administration, many of them exceedingly vital, that it seemed to me to be impossible, that the Democrats could win out. The swing toward Cox, that was much talked about in the last two weeks of the campaign, did not materialize. The league of nations, while it alienated many votes from the Democrats was only one of the issues after all. The terrible extravagance of the party had something to do with the result. But the main factor, as I view it, was the fact that promises were made in 1916, the people were fooled, the promises were broken, and revenge was taken for the deceit. Several million votes, perhaps, even went farther, and voted for the Republicans because of the fact that Wilson got us into the war regardless of the promise that he made us in 1916. Then again the fear of many that the Democratic party was getting us into Bolshevism had much to do with the result. So all in all the tremendous landslide was brought about. An extra session of Congress will no doubt be called in March or April, and the question of taxation will be taken up immediately. The chances now are that the tariff will be radically changed, probably the excess profits tax will be wiped out, perhaps the general income tax will be revised, although I do not look for radical changes in this.

The country seems to be getting into a terrible condition. Apparently several million men are already wholly or partially thrown out of employment. The agricultural interests have suffered the worst. Thousands of men, who two years ago could write a check for \$100,000.00 are bankrupt. The cattle and live stock interests have gone to pieces, hides and horses are substantially worthless. I enclose you a clipping from the Chicago Tribune, which goes into part of that. The reports from the remainder of the country are the same.

One thing, however, has to be borne in mind. The retailers and jobbers are in a deadlock with the manufacturers. The former are not buying, on account of what they consider the high prices. But commencing say with January 15th spring buying will have to commence, which ordinarily has been done long ago, and that will revive part of the trade. The purchasing power, however, of the farmer, rancher, and many laboring men will be curtailed however, at least for another year, and I look for a lower price level all along the line, and perhaps starting out with this new level, and a steadier course, with say about next spring. I think the heaviest slump will be over by spring, and from that time on we will commence to revive somewhat.²⁶¹

261. Letter from Fred Blume to Theodore F. Myers (November 13, 1920) (H89-28, WHR, *supra* note 5).

Blume was involved in the 1920 election in another way. He and Blanche had the honor of hosting Theodore Roosevelt, Jr. in October 1920. As he told Myers about it, "We recently entertained young Teddy Roosevelt. Blanche, of course, was so proud of it."²⁶²

The newspaper account of the Roosevelt visit observed that Blume, "[i]n a masterful flow of oratory * * * introduced the distinguished guest to the excited standing-room-only crowd gathered to hear Roosevelt's keynote speech of the Wyoming Republican campaign."²⁶³ The account reported Roosevelt's appearance in colorful prose, no doubt matching if not surpassing Blume's introduction:

Looking back through a perspective of years it was comparatively easy to visualize the elder Teddy in every motion, gesture, or word spoken yesterday afternoon and evening by Colonel Theodore Roosevelt, Jr., at the Orpheum Theatre. From the moment he descended the train at noon yesterday until he departed last evening late, his wonderful smile, and gallant array of teeth, worked magic among all classes, and old grey haired pioneers who have taken active part in many campaigns, were thrilled at the similarity to the man they bent every effort for in former years.

The illustrious Teddy was met at the train by thousands of jubilant people, and was given three rousing cheers on his appearance. * * * Heading a parade of over two hundred automobiles he proceeded up Broadway to Alger, where, in a spirit of daring, he leapt to the back of a horse that was one of a cordon of "rough riders" escorting him around town, and proceeded horseback to the Sheridan Inn, where he was busy until 2:30, when the keynote speech of the Wyoming Republican campaign was delivered.

* * *

Teddy opened his speech with the remark that Mr. Blume had forgotten the most important claim to fame that Teddy boasts of, namely, that he is the father of four children.²⁶⁴

The visit by the former President's son no doubt brought back to Blume the memory of his meeting with the Rough Rider himself two years earlier. Of that memorable meeting, many years later Blume would write:

262. Letter from Fred Blume to Theodore F. Myers, *supra* note 260.

263. THE SHERIDAN POST, Sept. 17, 1920.

264. *Id.*

In 1918 the active Republicans persuaded Robert D. Carey to run on the Republican ticket, which he did and was elected. About the latter part of September or the first part of October Theodore Roosevelt was expected to travel to and make a speech at Billings, Montana, and the Republican Central Committee wanted me to get in touch with Roosevelt and persuade him to give a recommendation for the election of Robert D. Carey as Governor. I made arrangements to meet Roosevelt and traveled with him from Sheridan to Billings and he wrote the recommendation which was subsequently published in the Wyoming Tribune. * * * I talked with Roosevelt about the Progressive Party. He stated that the Party was dead, and, in fact, I got the impression that he somewhat regretted that he had been responsible for the organization of the Party.²⁶⁵

Years later Blume would also speak about his train ride meeting with Roosevelt; in May, 1935, in an address he delivered to the graduating seniors of Torrington High School, he said:

I had the good fortune to see Theodore Roosevelt just a few months before his death. I had an appointment with him and rode with him from Sheridan to Billings, and I had a talk with that wonderful American. I had a good chance to get his viewpoint on many essential matters of government. I suggested to him that a good many people had been against him because they thought that he had been too radical. He said he knew that, and yet that it had been his aim all of his life not to be so; that he had always attempted to steer the middle, median course, and he said to me: "Unless the American people steer along the path of the golden mean, unless they avoid ultra conservatism on the one hand and radicalism on the other, the Government cannot survive." And I believe that he was right.²⁶⁶

Revealing the strength of the impression that Roosevelt had made on him, Blume later repeated the theme of the "path of the golden mean" in one of his court decisions. In *State v. Langley*,²⁶⁷ in which the court, in answering a certified question, upheld the constitutionality of the Unfair Competition Act as within the state's police powers, he eloquently wrote:

We are not able to state whether in the long run, courts will be able to withstand preponderant majorities. That is for the

265. Letter from Fred Blume to Betsy Ross Peters, *supra* note 175.

266. Wyoming Supreme Court Justice Fred Blume, Untitled speech delivered to the graduating class of Torrington High School (May, 1935) (H69-10, WHR, *supra* note 7).

267. 53 Wyo. 332, 84 P.2d 767 (1938).

psychologist to say. It may be that, in the long run, might will make right. But it would seem that courts should not adopt such fatalistic attitude, so long as the constitution commits to them the power and duty to say what is "right." It would seem further that in view of the position which courts occupy under our constitutional form of government, and to uphold true democracy under the constitution, it is incumbent upon them, in deciding constitutional questions such as the one before us, to avoid Scylla on the one hand and Charybdis on the other, and to travel at all times, so far as is humanly possible, along the path of the golden mean. Let us then examine the immediate question before us in that light.²⁶⁸

At the risk of understatement, Roosevelt had a strong personality and, therefore, it is no wonder that he made such a strong impression on Blume. Another person of whom Blume was fond who also possessed a strong personality, likeable personal characteristics, and the qualities of leadership, was Thurman W. Arnold. On January 14, 1921, Blume and Arnold were among the thirty-seven lawyers elected to membership²⁶⁹ in the Wyoming State Bar Association which had been formed six years before.²⁷⁰ Thurman Arnold's father, Constantine P. Arnold, had been the first president of the new organization.²⁷¹ Born on June 2, 1891, in Laramie, Wyoming, Thurman Arnold, at age sixteen, left Laramie and enrolled in Wabash College, Crawfordsville, Indiana.²⁷² Although he excelled academically at Wabash, Arnold did not enjoy his social experience there and chose to attend Princeton the following year.²⁷³ Graduating in 1911, he, like Blume at Iowa, was elected to Phi Beta Kappa.²⁷⁴ Following his graduation from Harvard Law School in 1914, an uneventful practice of law in Chicago for two years, an abbreviated stint in the Illinois National Guard called up as part of General Pershing's campaign against Pancho Villa on the Mexican border, a short return to Chicago, and a year's service in France during the war, Arnold returned to Laramie and joined his father's firm.²⁷⁵ In June, 1927, Arnold left Laramie to become the new dean of the law school at the University of West Virginia.²⁷⁶ From there, he scaled the heights as a Yale law professor, noted author, assistant attorney general in charge of the Antitrust

268. *Langley*, 53 Wyo. at 346, 84 P.2d at 771-72.

269. Wyoming State Bar Proceedings 1915-22: Eighth Annual Meeting at 13 (1921).

270. *Id.*, Proceedings of the Meeting of Organization, at 3.

271. *Id.* at 4.

272. GENE M. GRESSLEY, VOLTAIRE AND THE COWBOY, THE LETTERS OF THURMAN ARNOLD, 5-9 (1977).

273. *Id.* at 9.

274. *Id.*

275. *Id.* at 9-14.

276. *Id.* at 23, 25.

Division of the Department of Justice, judge on the Federal Circuit Court of Appeals for the District of Columbia, and founding partner of the highly regarded Washington law firm of Arnold, Porter and Fortas.²⁷⁷

Nearly forty years after he, along with Blume and others, had joined the state bar association, Arnold returned in September, 1960, to address that group. On that occasion, Blume wrote Arnold this encomium:

Dear Thurman:

I was unable last Friday evening to stop and tell you of my personal approbation of the fine talk which you gave to the bar and I give it now.

You are the one man from Wyoming who has made an enviable national reputation. Compared with you, most of the rest of us are but small fry.²⁷⁸

Arnold replied with his own praise of Blume in this letter:

Dear Fred:

Thank you for your letter. I appreciate it very much indeed. I can't tell you how much I enjoyed coming back to Wyoming. I knew a lot of people, like yourself; a lot more people knew my father and the younger crowd all knew my brother, so it was a heart warming experience.

Further than that, I enjoyed coming into contact with lawyers who represent individual clients with personal law suits. That is what I miss in my present practice which makes it seem a business rather than a profession. Because of this, it seemed to me that the Wyoming lawyers were so much more human, so much more a part of their communities, that it was more pleasant to visit with them than with the stuffed shirts at an American Bar Association convention. The trouble with the corporate bar is that business-getting rather than legal ability is the touchstone of success. They practice under dead men's names to get the benefit of the going concern value of their organization which does not seem to me to fit the real traditions of law. For instance, in the largest firms in New York there is usually not a single lawyer in the firm's name who is alive. In Cravath, Swaine & Moore there is no Cravath,

277. *Id.* at 29-68.

278. Letter from Fred Blume to Thurman Arnold (September 12, 1960) (H89-28, WHR, *supra* note 5).

no Swaine, no Moore. In Sullivan & Cromwell there is no Sullivan or Cromwell. Nobody ever heard of Colonel Hartfield, and yet he is the senior partner in White & Case. He never argues a case in court; he couldn't write a brief if he tried; yet I suppose he has one of the largest incomes of any lawyer in New York.

I felt when I attended the Wyoming Bar Association meeting that I was among lawyers and not businessmen. That's what made me enjoy it so much. I intend to come out next year and every other year that I can, and certainly when I retire I will come back to Wyoming. It is a grief both to Frances and to me that because of a series of accidents there will be no next generation Arnold in the state. Both my sons are practicing in California.

I have a particular regard for you. You were on the Bench when I argued my first case in an appellate court. You have given learning, dignity and character to that Court. You spoke about retiring before your term expires. Personally, I hope you stay on.²⁷⁹

Thurman Arnold's father had been the kind of lawyer of whom Thurman Arnold wrote. Constantine Peter Arnold had been a gifted writer, orator, and trial lawyer. Thurman Arnold's biographer Gene Gressley gives us this profile:

Over the years "C.P." amassed a battery of imaginative courtroom acrobatics. A favorite device, which he employed shamelessly when he sensed that he was losing an argument, was to recite poetry for the edification of the entire courtroom. Usually he began with a monologue, emphasizing to judge, jury and witness that twentieth-century America should honor poets and poetry. Then he followed up by reciting as many verses of his favorite poems as the benevolence of the judge and the opposing counsel would allow.²⁸⁰

C.P. Arnold's reputation is secure. In fact, Justice Blume memorialized it for future generations of lawyers in *Moshannon Nat'l Bank v. Iron Mountain Ranch Co.*,²⁸¹ in which "C.P." was senior counsel for the plaintiffs. Justice Blume wrote of him:

They would have us believe that their clients are to be compared to innocent lambs, and the defendants to a pack of

279. GRESSLEY, *supra* note 272, at 438-39.

280. *Id.* at 22.

281. 45 Wyo. 265, 18 P.2d 623 (1933), *reh'g denied*, 45 Wyo. 265, 284, 21 P.2d 834 (1933).

wolves, and that the former are being led to the slaughter by the latter. We think that the comparison is hardly fair, for this reason, if no other, that the lambs in this case, if any, had, at least in the person of the senior counsel for plaintiffs, a shepherd, tried and true, fearless and with ample ability to drive off any wolves that might come, as the bar and the courts of this state will gladly attest.²⁸²

Perhaps one explanation for Blume's not having become a member of the state bar association until six years after it was formed was the crush of his other varied activities which we have described. Although he had tried to disengage from his political involvement, he had not been entirely successful. In addition to serving the Republican party through speaking engagements on behalf of candidates, chairing the 1920 convention, and obtaining Roosevelt's endorsement of gubernatorial hopeful Robert D. Carey, Blume was Carey's trusted adviser. Of course, as we have seen earlier, he and Carey were closely allied in the progressive movement. But their relationship and friendship continued even after the extinction of that particular cause. Indeed, after Carey's election as governor in 1918, their ties flourished as their exchange of correspondence reveals.

In September, 1918, before the election, Carey and Blume were engaged in efforts to select a person to run the *Sheridan Post* newspaper.²⁸³ After Carey took office he regularly sought Blume's counsel on a variety of state matters. In May, 1919, they discussed what Carey should do about the position of the warden of the state penitentiary at Rawlins.²⁸⁴ Also in May, 1919, Carey appointed Blume to serve as a member of an executive committee of five, including such notables as former governor B.B. Brooks and Joseph M. Carey, in order to establish a state-wide organization to raise funds on behalf of the Theodore Roosevelt Memorial Association, a national group dedicated to building a fitting memorial to the late president.²⁸⁵

That summer of 1919, Blume spoke and wrote to Carey about securing a position in the state highway department for a man who had recently mustered out of the army.²⁸⁶ It is obvious that Carey did not mind Blume's solicitation on such matters; in fact, Carey seems definitely to have encouraged it. For example, that same sum-

282. *Moshannon*, 45 Wyo. at 288-89, 21 P.2d at 836.

283. Letter from Robert D. Carey to Fred Blume (September 18, 1918) (H89-28, WHR, *supra* note 5).

284. Letter from Robert D. Carey to Fred Blume (May 28, 1919) (H89-28, WHR, *supra* note 5).

285. Letter from Robert D. Carey to Fred Blume (May 31, 1919) (H89-28, WHR, *supra* note 5).

286. Letter from Fred Blume to Robert D. Carey (July 10, 1919) (H89-28, WHR, *supra* note 5).

mer, Carey wrote Blume seeking his recommendations to fill upcoming vacancies on the State Board of Equalization and in the Blue Sky Department for a special examiner. He cautioned Blume, however:

If you can recommend anyone for these positions I would like to have you do so but I hope you will be very careful not to let any one know that these positions will be vacated as it will probably cause me some embarrassment by people applying for them who are not qualified. I am particularly anxious to get a good man for the State Board of Equalization as I had a great deal of trouble getting a bill through the Legislature authorizing this Board and I am more than anxious to see the Board get the results that I think it is possible for them to if they handle the business properly.²⁸⁷

Blume promptly complied with Carey's request writing:

My Dear Governor:-

I have yours of the 23rd with reference to vacancy on the State Board of Equalization, and Special Examiner.

In connection with the first of these positions—on the Board of Equalization, I don't believe that you could make a mistake in appointing Harry M. Huntington to the position. He is an all around good man, has had a lot of experience in connection with valuations, and with public utilities. I wrote you a letter last winter with references to him, when I expressed the same sentiments. I asked Brandon what he thought of him for this position, and he most emphatically agreed with me.

I did not however, deem it advisable to say anything to him, or anybody else about it. I think that he will take it, but thought it best not to say anything further until you would definitely make up your mind, that you would be willing to appoint him.

If you are willing to appoint him, then I would like to have you write or telegraph both to R.G. Diefenderfer and M.L. Blake, that you would like to appoint Mr. Huntington to this position, provided that it is satisfactory to the central committee. I know that Mr. Diefenderfer would only be too glad to have him appointed, and I feel satisfied that Blake and everybody else would fall right in. You might at the same

287. Letter from Robert D. Carey to Fred Blume (July 23, 1919) (H89-28, WHR, *supra* note 5).

time take it up with Mr. Huntington or perhaps, better ask Diefenderfer and Blake to do so, if satisfactory to them, which, as I said, it will be.

I did not understand from your letter, whether you wanted to give Sheridan County only one or both of these positions, hence I have not given the second position the consideration that I otherwise would. The position paying only \$2000.00, not everyone could afford to take it. But anyway, that possibly might be gotten to take it, though I don't know at this time. If you intended both positions, let me know, and we'll try and get a good man for you.²⁸⁸

Blume had hardly finished reading Carey's expression of gratitude for his recommendations when he received word that the Governor wanted Blume to join him at a meeting of the Utah and Wyoming leaders of the Roosevelt Memorial Association to be held in Salt Lake City, Utah.²⁸⁹ Carey was combining that business with a meeting of Western States' Governors to discuss the public land question. He told Blume:

It has been suggested that if the Governors of the various states can agree it might be possible to get some bill through Congress which would in some way solve the land question. I expect to attend the meeting and while the same is confined to Governors of the Western States I would be very glad to have your cooperation and assistance in working out some plans.²⁹⁰

Late that summer, Blume wrote Carey about the possibility of appointing Judge C.H. Parmelee to succeed Ralph Kimball of Lander, whom Carey had recently appointed to the district court, in his work in connection with compiling the Wyoming statutes.²⁹¹ Blume remarked somewhat apologetically, "I hate very much to write to you from time to time in regard to appointments. In fact if the people knew how much I hate to do it they would not be asking me to write to you from time to time, as they have been doing."²⁹² In his reply to Blume, Carey said he would determine the status of the compilation project, give Parmelee's appointment due consideration, and

288. Letter from Robert D. Carey to Fred Blume (July 25, 1919) (H89-28, WHR, *supra* note 5).

289. Letter from Robert D. Carey to Fred Blume (July 31, 1919) (H89-28, WHR, *supra* note 5).

290. *Id.*

291. Letter from Robert D. Carey to Fred Blume (August 20, 1919) (H89-28, WHR, *supra* note 5).

292. *Id.*

keep Blume advised.²⁹³ Without referring to Blume's expression of distaste in regard to appointments, Carey warmly thanked Blume for his kind hospitality to him and Mrs. Carey on their recent visit to Sheridan.²⁹⁴

In the fall of 1919, Carey was faced with a difficult personnel matter involving the state's Commissioner of Prohibition. He again sought Blume's advice.²⁹⁵ A month later, Carey and Blume were corresponding about the selection of the Commandant of the Soldiers and Sailors Home located in Sheridan.²⁹⁶ As 1919 came to an end, both men's attention was focused on the coal strike at the mines near Sheridan. Blume counseled:

Operators alarmed about withdrawal of troops. Miners on ragged edge. Apt to quit any time if troops withdrawn. Simply awaiting good opportunity to quit. Nothing should be done now to queer good work that you have heretofore done. If you can keep troops here, by all means do that.²⁹⁷

Carey wired his immediate reply:

TROOPS AT SHERIDAN ARE NOT BEING WITHDRAWN STOP WE ARE CALLING FOR ADDITIONAL MEN FROM OVER THE STATE TO HANDLE OTHER MINES²⁹⁸

In the summer of 1920, Blume urged the appointment of a certain person for the position of regimental sergeant-major in the Wyoming National Guard.²⁹⁹ Blume expressed sincere pleasure in this particular recommendation, since "[h]e is the man who two years ago in the absence of the [Divisional] Superintendent arranged for me to meet Colonel Roosevelt on the train as he went up to Billings, and I feel personally indebted to him for exerting his efforts for me, in making arrangements."³⁰⁰ Carey assured Blume that he would take the matter up with the Adjutant General as soon as the Guard was of sufficient

293. Letter from Robert D. Carey to Fred Blume (August 31, 1919) (H89-28, WHR, *supra* note 5).

294. *Id.*

295. Letter from Robert D. Carey to Fred Blume (October 23, 1919) (H89-28, WHR, *supra* note 5).

296. Letter from Robert D. Carey to Fred Blume (November 20, 1919) (H89-28, WHR, *supra* note 5).

297. Letter from Fred Blume to Robert D. Carey (December 3, 1919) (H89-28, WHR, *supra* note 5).

298. Robert D. Carey to Fred Blume (December 3, 1919) (H89-28, WHR, *supra* note 5).

299. Letter from Robert D. Carey to Fred Blume (June 15, 1920) (H89-28, WHR, *supra* note 5).

300. *Id.*

size to warrant regimental officers.³⁰¹ On a more personal note, Carey told Blume:

I returned home day before yesterday after a somewhat lengthy absence and found a card announcing your marriage. I intended to write you a letter but there has been so much to do since my return, and as I am just leaving here to go to Moorcroft I will have to include my congratulations in this letter. I was certainly pleased to hear of your marriage but cannot make up my mind whether you or the bride are the more entitled to congratulations. I wish you both all the happiness in the world.³⁰²

As 1920 drew to a close, Carey directed his attention to the Wyoming Supreme Court. The members of the court were Chief Justice Cyrus Beard, Justice Charles E. Blydenburgh, and Justice Charles N. Potter. Beard had been born in Pennsylvania in 1850, had graduated from the Law Department of the University of Iowa in 1874, and had practiced law in Iowa until 1890.³⁰³ In that year, he came to Evanston, Wyoming, and formed a partnership with Clarence D. Clark, who later would serve as United States Senator from 1895 until 1917, during part of which service he chaired the judiciary committee.³⁰⁴ Beard practiced law in Evanston for fourteen years until he was elected for an eight year term to the supreme court in 1904.³⁰⁵ He was reelected in 1912 and again in 1920.³⁰⁶ On Thursday, December 16, 1920, however, after an illness of a few days, Beard died, creating a vacancy that Carey would have to fill.³⁰⁷

Carey wasted no time in seeking Blume's counsel. On Friday, December 17, 1920, he wrote Blume:

As you have perhaps heard, Chief Justice Beard of the Supreme Court died last evening and I expect within a day or two I shall receive countless applications from people who desire to be appointed in his place.

Sometime ago when it appeared that Judge Blydenburgh would not recover I had a talk with Judge Burgess, at which time I asked him if he would accept an appointment to the

301. Letter from Robert D. Carey to Fred Blume (July 1, 1920) (H89-28, WHR, *supra* note 5).

302. *Id.*

303. Beard Memoriam, 27 Wyo. Rptr. (1922); ERWIN, *supra* note 98, at 1002.

304. ERWIN, *supra* note 98, at 1002, 1312.

305. *Id.* at 1002; Beard Memoriam, *supra* note 303.

306. *Id.*

307. *Id.*

Supreme Court if the same were offered him. At that time he was willing to accept an appointment but I do not know how he feels about the matter now, and further, something might come up that would make it impossible for me to offer the appointment to him. In the event that he would accept and I should decide to appoint him there would be a vacancy in your judicial district, and I would not want to make the appointment to the Supreme Court before having a successor to Judge Burgess as District Judge determined upon. I wish you would advise me as to who might be available for this appointment and I would like to have you see Burgess and find out if he would be in [a] position to accept an appointment to the Supreme Court if it were offered to him. I would also like to know if you would care to be appointed to Burgess' position if it is possible for me to appoint you. You of course realize the pressure that is brought to bear in cases of this kind and that many things have to be taken into consideration. While I know that I must consider the appointment from a political point of view, one thing I am determined upon: that I will not appoint anybody to the bench while I am Governor who I do not believe to be in every way qualified for the position.

I am writing you to get your advice in the matter of these appointments as I desire you to express your views. Please consider this letter a confidential one but you, of course, are at liberty to tell Judge Burgess that I approached you in regard to the matter. I have not consulted with anyone but it seems to me that either Burgess or Kimball should be elevated to the Supreme Court.³⁰⁸

Thus, Blume's mission was to find out from District Judge James H. Burgess of the Fourth Judicial District, in Sheridan, Wyoming, if he would accept the appointment if offered; he was also to decide, and tell Carey, whether he wanted to be appointed district judge in Burgess' place if Burgess were elevated to the high court.

Blume did not receive Carey's letter until Sunday, December 19. In the meantime, however, he had heard of Beard's death.³⁰⁹ A Sheridan lawyer had informed Blume of Beard's death and had told Blume the Supreme Court appointment should belong to Blume.³¹⁰ Blume did not reject the notion out of hand. His thinking was:

308. Letter from Robert D. Carey to Fred Blume (December 17, 1920) (H89-28, WHR, *supra* note 5).

309. Unsent letter, Fred Blume to Robert D. Carey (December 21, 1920) (H89-28, WHR, *supra* note 5).

310. *Id.*

I did not think it advisable to state that I would not under any consideration take it, partially, at least, for the purpose of keeping men out of the field whose endorsement might possibly embarrass you [Carey]. I further felt that you would offer the position to Judge Burgess, and accordingly paid no further attention to it at the time.³¹¹

Others, however, were paying attention to the situation. "Later other members of the bar spoke to me about it, and were rather insistent on it."³¹² Blume told them that if Judge Burgess would want the appointment, then Blume would not even consider it.³¹³ According to Blume, "None of us had talked to [Judge Burgess] about it for a long time. Judge Burgess was interviewed and he expressed to them, as he did to me,"³¹⁴ that, due to existing financial pressures, he felt he could not afford to accept the appointment.³¹⁵ Blume also had the impression that Judge Burgess did not want to do anything that might jeopardize his chance for an appointment to the federal bench should a vacancy occur there.³¹⁶ In light of Judge Burgess' expression of disinterest,

[s]ome wanted to call a bar meeting, which I prevented at that time, and I talked over with them that you [Carey] might want to appoint Judge [Ralph] Kimball in case that Judge Burgess would decline. But they took the position that inasmuch as you [Carey] had already honored Judge Kimball by the appointment to two positions, further that ordinarily men are appointed to the supreme courts of the various states from the bar and the bench, and further because Judge Kimball had just been re-elected to the bench in his district for six years, that probably he would be out of the question. So the matter stood on Sunday morning [December 19] when I got your [Carey's] letter [written December 17], and I was glad to get it.³¹⁷

Upon receiving Carey's December 17 letter, Blume knew that, in view of Judge Burgess' disinterest, Carey's choice would probably be Judge Kimball. That Sunday, then, Blume had R.E. McNally, a Sheridan lawyer, call Graddus Hagens, a Casper lawyer, to find out

311. *Id.*

312. *Id.*

313. *Id.*

314. *Id.*

315. Unsent letter from Fred Blume to Robert D. Carey (December 20, 1920) (H89-28, WHR, *supra* note 5).

316. *Id.*

317. Unsent letter from Fred Blume to Robert D. Carey, *supra* note 315.

if Judge Kimball would accept the appointment.³¹⁸ Hagens learned on Monday morning, December 20, that Judge Kimball would accept.³¹⁹ With that knowledge at hand, Blume advised his fellow Sheridan lawyers to hold a meeting to formalize an endorsement of Judge Kimball.³²⁰ Blume was busy all day Monday and learned only late that evening that support for Judge Kimball had jelled swiftly during the day.³²¹ During that Monday, the Casper lawyers endorsed Judge Kimball; Carey traveled to Casper and talked to Judge Burgess on the telephone, learning of his disinterest.³²²

In light of his knowledge of these events and of the swelling support for Judge Kimball, Blume on Thursday, December 24, wrote Carey as follows:

I wrote you a letter Monday, telling you that Judge Burgess would not accept the position on the Supreme Court, thanking you for the offer to appoint me, if possible, to the vacancy here in case Judge Burgess should be appointed to the Supreme Court, and that I could see no objection to the appointment of Judge Kimball. But after your arrival at Casper, caused no doubt by the endorsements already made there, and your talk with Judge Burgess over the phone and the talk of Hagens with McNally, as told to me, the letter which I had written did not seem to just fit it, and hence I did not mail it. I could have wished that I could have talked to you over the phone, but I was busy all day Monday, and did not learn of the matters until Monday evening, and the details of it only when quite late. McNally further expected another phone call from Hagens and [Patrick] Sullivan, and so I did not call you. From what you learned, you, of course, felt that you hardly wanted to call me.

I think you are absolutely right in your idea not to appoint anybody to any judicial position who cannot fill it creditably. I don't know Judge Kimball very well personally, but he bears a fine reputation as to his qualifications and his diligence in work, and I don't see how, from the standpoint mentioned, you could have made a mistake in his appointment, which I presume has been made before this letter reaches you. Some one was telling me that you would appoint Judge

318. *Id.*

319. *Id.*

320. *Id.*

321. Letter from Fred Blume to Robert D. Carey (December 24, 1920) (H89-28, WHR, *supra* note 5).

322. *Id.*

Kimball on Christmas eve, and it is just a few hours before that at this writing.

I have no doubt that you felt it your duty to appoint either Judge Burgess or Judge Kimball, and you being in a better position to know, and having, no doubt some special reasons, that was enough for me, and hence I counselled the endorsement of Judge Kimball here, as soon as I learned that he would accept the appointment. I cannot be blamed, and should feel rather gratified on the attitude of our bar here but trust that it has not caused you any embarrassment.³²³

Between Monday, December 20, and Sunday, December 27, Carey, not yet aware that Blume might himself have interest in the appointment, was faced with several considerations. One was,

I was in a rather unfortunate position due to the fact that I had stated that I was going to offer the appointment to Burgess, and if he would not accept it, to appoint Kimball. Although I had never promised Kimball anything I felt that possibly I had committed myself, and I did not want to put myself in the position of being accused of not keeping my word.³²⁴

The other consideration was "complications arose in the Basin country and it seemed necessary that I should make the appointment or I would have complications on my hands."³²⁵ A few days before Sunday, December 27, just before the "complications arose in the Basin country," Carey received a letter from Blume's friend R.E. McNally, informing Carey for the first time of Blume's interest in the appointment and the Sheridan lawyers' support of him.³²⁶ Upon receiving that letter, Carey "tried my best to figure out some way whereby I could appoint you [Blume], and even went so far as to wire Kimball and asked him to come down here [Cheyenne]. He happened to be in Lander and could not get here immediately, and in the meantime"³²⁷ the Basin country complications arose. Carey appointed Ralph Kimball to fill Beard's vacancy.

On Sunday, December 27, Carey received Blume's letter written on Thursday, December 24, in which Blume expressed his support

323. Letter from Fred Blume to Robert D. Carey, *supra* note 321.

324. Letter from Robert D. Carey to Fred Blume (December 27, 1920) (H89-28, WHR, *supra* note 5).

325. *Id.*

326. *Id.*

327. *Id.*

for the appointment of Judge Kimball. Writing his reply that Sunday morning to Blume's letter, Carey told Blume

I had hoped to hear from you before now in reply to my letter which I wrote you sometime ago [December 17].

I am rather upset over the matter of the appointment of a successor to Judge Beard and had I known early enough in the game that you cared for the appointment you may be assured that things would have been different. I had no idea that you would care to come here to Cheyenne, although I thought you might be willing to take the place vacated by Burgess should he have accepted * * *. You may be assured that had I known in time regardless of everything else you would have had the appointment.³²⁸

Then, Carey inscrutably hinted that future events might reveal a different road down which his trusted friend might travel:

There are reasons which I will not mention now but which I believe are such that it is better for all concerned that you did not get this appointment at this time. I will not write you about them but will explain them when I see you. I feel that there is a bigger field for you politically than by going on the bench.

I want you to know that I appreciate the way you acted in this matter, and you have demonstrated again, as you have on many other occasions, your friendship and loyalty to me. I appreciate it and shall try to never be forgetful of it.³²⁹

So closed the year 1920, Blume's forty-fifth of existence. In that brief span of time, he had traveled light years from that small farm in the village of Winzlar. A mere ten years before his birth, Lee had surrendered to Grant at Appomattox and Booth had assassinated Lincoln. At his birth, a general named Custer had another eighteen months to live before the Seventh Cavalry troops under his command would be annihilated by an overwhelming force of native Americans led by Crazy Horse on a lonely rise of earth and sagebrush and native grasses near a narrow, shallow river called Little Bighorn, only seventy miles from Sheridan where Blume sat reading Carey's letter that late December day. Twenty-four years earlier, at age twenty-one, Blume had renounced loyalty to a European emperor and pledged allegiance to a nation committed to the ideals of democracy and to a republican

328. *Id.*

329. *Id.*

form of government. From a German farm boy who in his lifetime would have had only the remotest chance of being involved in the affairs of government or meeting his country's ruler, he had become a highly respected state legislator, had run for United States Congress, had met and traveled and talked with a former United States President, and was probably the most trusted adviser of his state's chief executive officer. Having begun his quest for knowledge in a small village schoolhouse, he now proudly wore the coveted key of Phi Beta Kappa on his vest watch chain.

As the year 1921 opened, Blume's "character and aims were set. The machine was formed and fashioned; it had only to function."³³⁰ Facing that new year, he once again, as before on that graduation night twenty-six years earlier, had no sure idea what the future would bring. But, as before, he was well prepared to meet that future, accept its challenges, avail himself of its opportunities, and make his mark.

VI. APPOINTMENT TO THE WYOMING SUPREME COURT

On January 3, 1921, Ralph Kimball, of Lander, took the oath of office and his seat on the Wyoming Supreme Court.³³¹ Although Blume did not know Kimball very well personally, he knew of his splendid reputation, his judicial qualifications, and his diligence in his work.³³² Born on November 23, 1878, in Nevada, Missouri, and educated in the public schools there, Kimball later served for two years as a secretary to a Missouri congressman in the nation's capitol.³³³ He had been admitted to the Missouri bar in 1899, after returning from his stint in Washington, D.C.³³⁴ In 1901, he moved to Lander, Wyoming, where he was quickly accepted into the community's affairs, serving in 1903-04 as county attorney of Fremont County.³³⁵ A Republican, like so many others in Wyoming's public life, Kimball served in the state house of representatives in the 1915 legislative session.³³⁶ Carey had appointed him to the district court bench, in September, 1919.³³⁷

Taking his place on the court, Kimball, at age forty-two, joined Justice Blydenburgh, age sixty-six, and Chief Justice Potter, age sixty-eight. Of Blydenburgh, it was said "[h]e was descendent of one of the old New York families."³³⁸ He had been born in Brooklyn, New

330. BOWEN, *supra* note 2, at xx.

331. Beard Memoriam, *supra* note 303.

332. Letter from Fred Blume to Robert D. Carey, *supra* note 321.

333. ERWIN, *supra* note 98, at 1004.

334. *Id.*

335. *Id.*

336. *Id.*

337. *Id.*

338. Blydenburgh Memoriam, 27 Wyo. Rptr. (1922).

York, on March 19, 1854, and educated in private schools of Brooklyn, Connecticut, and New Jersey.³³⁹ Princeton University conferred two degrees on him, a bachelor of arts in 1874 and a master of arts in 1877.³⁴⁰ In 1878, Columbia University granted him a degree of engineer of mines.³⁴¹ Soon the young mining engineer arrived in Rawlins, Carbon County, Wyoming, where he opened an assay office.³⁴² Ten years later, he and his brother entered the cattle business on a ranch in Saratoga, forty miles southeast of Rawlins.³⁴³ Interested in education, Blydenburgh served in 1881-1882 as county superintendent of schools of Carbon County.³⁴⁴ In 1888, he served as a representative in the Tenth Territorial Legislative Assembly.³⁴⁵ That same year, he studied law in the office of Andrew McMicken, a pioneer attorney in Rawlins.³⁴⁶ When admitted to practice that year, he was thirty-four years old. Unlike the late Justice Beard, Justice Kimball, and Chief Justice Potter, all of whom were Republicans, Blydenburgh was a Democrat, being chairman of that party's state central committee in 1896 and, four years later, a delegate to the national convention.³⁴⁷ Besides having been city attorney and actively involved in civic matters, Blydenburgh served for eleven years on the state board of law examiners.³⁴⁸ In November, 1917, on the death of Justice Richard H. Scott, who as a district court judge had denied a divorce to Buffalo Bill in 1905, acting Democratic Governor Frank L. Houx appointed Blydenburgh to the court.³⁴⁹ He had been elected to an eight-year term on the court in November, 1918.³⁵⁰

Although Blydenburgh and Kimball possessed worthy credentials, they reposed in the sizeable shadow cast by the brilliant record of their esteemed Chief Justice. Charles N. Potter, first elected to the court in 1894 following which he took office in January of 1895, like many of Wyoming's famous leaders who were his contemporaries, had begun life in the east. Born in Cooperstown, New York, on October 31, 1852, he graduated in 1870 from high school in Grand Rapids, Michigan.³⁵¹ Three years later, when he was twenty-one, the University of Michigan granted him a bachelor of laws degree.³⁵² Pot-

339. *Id.*; ERWIN, *supra* note 98, at 1004.

340. Blydenburgh, *supra* note 338; ERWIN, *supra* note 98.

341. *Id.*

342. *Id.*

343. *Id.*

344. ERWIN, *supra* note 98, at 1004.

345. *Id.*

346. *Id.*

347. *Id.*

348. *Id.*

349. *Id.* at 1004.

350. *Id.*

351. *Id.* at 1002; Potter Memoriam, 37 Wyo. Rptr. (1928).

352. *Id.*

ter returned to Grand Rapids and practiced law there until March, 1876.³⁵³ Arriving in Cheyenne, Wyoming Territory, that spring, he soon became involved in that community's legal, civic, political, and social commerce.³⁵⁴ As was, and still is, typical of ambitious young lawyers, Potter sought public office, serving as city attorney from 1878 to 1881, and, again in 1889.³⁵⁵ From being city attorney in 1881, he moved that year to serve as county and prosecuting attorney for Laramie County, a post he held for two years.³⁵⁶ When the convention to form a constitution for the proposed State of Wyoming met in Cheyenne on September 2, 1889, Potter was present as one of the delegates from Laramie County.³⁵⁷ Potter was one of the leaders during the convention, as the journal record reveals. Not surprisingly, he was a Republican; and as chairman of the state delegation in 1892, he attended the national convention.³⁵⁸ From February, 1891, until January, 1895, he served as state attorney general for both acting Governor Amos W. Barber and Governor John E. Osborne.³⁵⁹ After taking his seat on the supreme court in January, 1895, Potter had enjoyed reelection to three successive eight-year terms.³⁶⁰

Thus, when young Kimball took his place among these two distinguished jurists, Potter had been on the bench twenty-six years, more than half of Kimball's life. Potter did not boast when he stated, "I have known, personally, all of the judges of the territory, as well as the State, except the first Chief Justice, Howe, and Associate Justice Jones of early territorial days."³⁶¹

It had been this eminent jurist who, in 1903, had written the decision for the court that, after painstaking review, affirmed the first degree murder conviction of the infamous Tom Horn for the ambush murder of fourteen-year old Willie Nickell.³⁶² Horn would hang in a public execution in downtown Cheyenne. Horn, allegedly a professional killer hired by a cattlemen's interest group, had been represented by superb legal talent, perhaps the best the Rocky Mountain region had known. Chief among those at his side were the estimable John W. Lacey and his aggressive young associate, T. Blake

353. *Id.*

354. *Id.*

355. *Id.*

356. *Id.*

357. JOURNAL AND DEBATES OF THE CONSTITUTIONAL CONVENTION OF THE STATE OF WYOMING, *supra* note 46, at 3.

358. ERWIN, *supra* note 98, at 1002; Potter Memoriam, *supra* note 351.

359. Potter Memoriam, *supra* note 351; Erwin, *supra* note 98, at 921.

360. ERWIN, *supra* note 98, at 1002; Potter Memoriam, *supra* note 351.

361. Charles N. Potter, Sidelights on the Wyoming Judiciary, May 7, 1920, Proceedings of the Eighth Annual Meeting, Wyoming State Bar Association, Appendix, at 60 (1921).

362. LARSON, *supra* note 88, at 372-74.

Kennedy.³⁶³ Lacey, known as the Nestor³⁶⁴ of the Wyoming bar, was born in 1848 in Indiana. Enlisting at age fifteen in the Indiana Infantry, he served until the Civil War's end. DePauw University conferred both bachelor of arts and master of arts degrees on him. At Quincy College he taught mathematics. In Marion, Indiana, he studied law in the office of Isaac Van Devanter, father of Willis Van Devanter who became in 1910 an associate justice of the United States Supreme Court. In 1876, Lacey was admitted to the Indiana bar. He married his mentor's daughter in 1878.

In 1884, after successfully practicing law, he was appointed by President Arthur to serve as Chief Justice of the Supreme Court of Wyoming Territory. After two years on that court, Lacey resigned to enter the private practice of law in Cheyenne. In 1890, when his partner John A. Riner was appointed to serve as the first federal judge for the District of Wyoming, Lacey associated with brother-in-law and future United States Supreme Court Justice Willis Van Devanter. Linked with political heavyweights and powerful cattlemen, Lacey represented the latter's interests with success. In 1889, he successfully defended the six cattlemen alleged to have hanged Ella "Cattle Kate" Watson and James Averill. Three years later, Lacey and Van Devanter were counsel for influential cattlemen who had been involved in the state's "Johnson County War." Twenty-two years after defending outlaw Tom Horn, Lacey represented oilman Harry Sinclair, who had been accused of fraud in the national scandal of Teapot Dome.³⁶⁵

Lacey's young trial associate, T. Blake Kennedy, learned well at "Nestor's" knee. Following a successful law practice, Kennedy was appointed by President Harding in 1921 to succeed Lacey's former law partner, John A. Riner, as the District of Wyoming's sole federal judge. He would serve in that capacity for thirty-four years. During that period of service he presided as trial judge on many significant cases, perhaps the most celebrated one of which was the federal government's case against Harry Sinclair, who was represented by Kennedy's former mentor, Lacey.³⁶⁶

In Justice Kimball, Carey had appointed a solid lawyer, and for that he had good reason to be proud. Soon, an event would occur

363. *Id.*

364. A King of Pylos who in his old age served as a counselor to the Greeks at Troy; thus, one who is a leader in his field. WEBSTER'S NEW COLLEGIATE DICTIONARY 764 (1980).

365. See generally, ERWIN, *supra* note 98, at 193, 195; REBECCA WUNDER THOMSON, HISTORY OF WYOMING TERRITORIAL SUPREME COURT JUSTICES, 53 Annals of Wyoming No. 2, p. 37 (Wyoming State Archives, Museums and Historical Department, Fall, 1981); REBECCA WUNDER THOMSON, THE FEDERAL DISTRICT COURT IN WYOMING 1890-1892, 54 Annals of Wyoming No. 1, p. 18 (Wyoming State Archives, Museums and Historical Department, Spring, 1982).

366. THOMSON, THE FEDERAL DISTRICT COURT IN WYOMING, 1890-1892, *supra* note 365, at 14-20.

that would give the governor opportunities to be, not only proud, but personally genuinely happy. This event would allow him to fulfill a commitment to a trusted, close friend. This event would reveal the path down which that trusted, close friend would turn and travel on his journey for the Pole.

In the summer of 1920, Justice Blydenburgh had been taken ill, as he had been the year before.³⁶⁷ "He has been ailing for a long time, and has been in such condition that most of the time he has been unable to attend to his duties, and * * * he was expected to succumb any time."³⁶⁸ In the afternoon of Monday, April 15, 1921, while visiting a local bank, Justice Blydenburgh "was stricken with paralysis * * * and removed to the hospital where" that evening he was reported to be in serious condition.³⁶⁹

Reading the next morning's newspaper account of Justice Blydenburgh's condition, Blume acted almost instinctively, drafting a letter to his closest friend and most trusted confidant, Theodore F. Myers. Although the swiftly moving events prevented Blume from mailing that letter, as he would later explain to Myers,³⁷⁰ that unmailed letter is revealing. In it we learn that Blume had earlier broached with Myers the subject of Blume's going on the court and Myers had not expressed enthusiasm about his taking the position.³⁷¹ We also learn that Blume, relying on Governor Carey's letter of December 27, 1920, following Kimball's appointment, anticipated that Carey would offer him the position in the event of the next vacancy.³⁷² Finally, we learn the factors which Blume considered and weighed as he wrestled with a decision that would change his life. This was his thinking:

The last legislature raised the salaries, and I think it is now \$7500.00 per year or \$7000.00 (the session laws are not out yet). There are three supreme court judges; their labors very light, and I imagine that a man in three months time could do all the work required of them during the year. That would give a man considerable leisure time, and as I feel about it would not at all hinder me in giving such attention to your business as should be given it.

It would give me, as I feel about it, a life position at a good salary. Since the war, as you know, I do not feel that

367. Unsent letter from Fred Blume to Theodore F. Myers (April 15 [16], 1921) (H89-28, WHR, *supra* note 5); Letter from Fred Blume to Theodore F. Myers (April 25, 1921), *supra* note 51.

368. Unsent letter from Fred Blume to Theodore Myers, *supra* note 367.

369. *Id.*

370. Letter from Fred Blume to Theodore F. Myers (April 25, 1921) *supra* note 51.

371. Unsent letter from Fred Blume to Theodore F. Myers, *supra* note 367.

372. *Id.*

I would want to mix in the turmoil in politics, and the judges' positions here are taken out of politics. It would assure for me a living, without having to worry, and without the turbulence of lawsuits, which I am getting to detest, and which worry me. And I am not strong enough to go through too much turbulence. So all in all, that is the way I have looked at it, though I fairly hate to leave Sheridan and have to live in Cheyenne.³⁷³

No doubt realizing that only a few short months earlier his delay and indecision of a few days' time had cost him the position that he truly desired, Blume acted decisively. Instead of mailing his letter seeking Myers' advice, which advice he would not have received for several days at least, Blume immediately wrote this fateful letter to Governor Carey:

I thought that I should have seen you before this, but one thing or another has prevented me from coming to Cheyenne, and seeing you, and talk over the matter concerning which I wrote you last December.

I wish that if a future vacancy should occur on the Supreme bench, you would consider me for the position for one of the Justices of that court. I may be able to see you before that time comes, and in that case I can talk the matter over with you further.³⁷⁴

Blydenburgh died on April 17, 1921.³⁷⁵ Concerned that intrigue from other interested parties in the southwestern part of the state, which was the geographical area from which Blydenburgh had come, was stirring, Blume turned to his friends Charles V. Westover and Walter Schoonmaker, both officers along with Blume in the WY O Tex Oil Company, located in Cambria, Wyoming, and enlisted their aid in sending strong endorsements on his behalf to Carey. He wrote Westover this letter:

Judge Blydenburgh is dead. From Carey's correspondence three months ago, I had very [sic] reason to believe that the vacancy would be offered to me without question. It seems now that they are already—so soon after the death—are making contention in the southwestern portion of the state causing the Governor anxiety in making the selection [sic]. He said last

373. *Id.*

374. Letter from Fred Blume to Robert D. Carey (April 16, 1921) (H89-28, WHR, *supra* note 5).

375. ERWIN, *supra* note 98, at 1004; Blydenburgh Memoriam, *supra* note 338.

night over the phone to a friend of mine that if he were following his own inclination that he would appoint me, but that the other matter was giving him trouble.

To bring the matter to a head, I am inclined to believe that a few telegrams at this time would help in the matter, which could be followed up later by other endorsements. Wish you and Walter would send in a strong endorsement for me urging my appointment. Don't of course say anything about any "candidacy", but simply urging my appointment to the vacancy.³⁷⁶

Westover and Schoonmaker came through, telegraphing and writing Carey. Their letter said:

While we do not want to appear over-eager, yet we understood that other parties were already seeking appointment for the vacancy on the Supreme bench, and we therefore took the liberty of telegraphing you as per copy of telegram herewith, in which we called your attention to the name of Hon. Fred H. Blume, of Sheridan, Wyoming.

We would feel very derelict in our duty to an upright, honest, young man if we did not do this, and we assure you that his friends in this part of the state would be highly gratified to learn of his appointment, which we verily believe would be in keeping with the strong line of appointments you have previously made, and lend further luster to your administration.³⁷⁷

Blume's friend Patrick Sullivan, Casper sheep rancher and Republican National Committeeman and future United States Senator, also telegraphed the Governor to endorse his friend.³⁷⁸

On April 23, 1921, Carey appointed Blume to the court; he took the oath of office just before noon that day.³⁷⁹ Two days after taking the oath of office, and a few days before closing his law office in Sheridan and assuming his judicial duties, Justice Blume sent to his mentor, Theodore Myers, the letter, now in revised content, that he had hastily thought of sending earlier before the fast-moving events of history took the pen from his hand. In the most pertinent, and

376. Letter from Fred Blume to Charles V. Westover (April 19, 1921) (H89-28, WHR, *supra* note 5).

377. Charles V. Westover and Walter Schoonmaker to Carey (April 20, 1921) (H89-28, WHR, *supra* note 5).

378. Letter from Fred Blume to Patrick Sullivan (April 29, 1921) (H89-28, WHR, *supra* note 5).

379. THE SHERIDAN POST, April 23, 1921; ERWIN, *supra* note 98, at 1005.

poignant, part of the letter, Blume paid this moving tribute to his dear friend Myers:

It is with mingled emotions that I write this letter. The appointment is not an absolute certainty of course that I would continue in that position, since the salary, at \$7000.00, is now so attractive that there are many applicants for the office, and opposition might develop in the election, although I think not. Whatever the future, however, may have in store, * * * as I scan the years that have gone, there comes to my mind a penniless, homeless beggar boy, hopelessly groping about seeking shelter and sustenance in his struggle to get an education. You, a complete stranger to him then, came to his assistance and enabled him to graduate from high-school. Then in his eagerness to get further education, he left you, with fifty dollars in his pocket which you gave him, hoping to find work to take him through college. He did not find the work, and with prospects hopeless everywhere else, he called on you, and without raising any question, unstintingly and immediately you again came to his assistance and enabled him to get his college education, for which he never repaid you. That beggar boy, through the help and assistance so, and otherwise, rendered him by you, became finally a justice of one of the supreme courts of the United States, one of the highest honors that can be bestowed upon any man. The occupancy of that position is primarily due to you, and to none other, and the satisfaction that exists in it for me, more than anything else, is the fact that I have shown that the assistance you rendered me, and the unfailing friendship [sic] you have show [sic] me, was not perhaps altogether wasted, but I know, too, and I keenly feel that whatever I would do, or could do for you, could never, even in small measure, repay the unstinting friendship and generosity you have shown me. I feel this more keenly, and realize this more deeply, since I so miserably failed in the endeavor, and in the hope which I once entertained, of being able to show, in a measure, my appreciation of what you did for me, by taking care of one that is dear to you, and once was—nay still is, dear to me.³⁸⁰

As Blume looked forward to judicial service, he remained committed to that personal project, begun perhaps a year earlier, of translating the Code of Justinian into English.³⁸¹ We will look more closely at that project in our treatment of the second half of Blume's life.

380. Letter from Fred Blume to Theodore F. Myers (April 25, 1921) *supra* note 51.

381. Annexed notes, *supra* note 30.