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Edward L. Wood

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DICTA

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Colorado Bar Association in 1943

BY EDWARD L. WOOD*

Another year in the life of the Colorado Bar Association is drawing to a close. For me, as your president, it has been a busy and most interesting year. It has been my good fortune during this period to have experienced a close association with some of the most vigorous minds in Colorado and elsewhere, and this at a time in our national existence when critical affairs have taxed every man to the very limit of his capacity. I entered upon this work with an affection for lawyers. As I approach the end of it, I realize that this affection has been many times multiplied and strengthened. The lawyers are performing well in this period of emergency. No other group has been more keenly aware of life's greater values in the United States and no other group is contributing more in the fight to retain them.

Fifteen per cent of all Colorado lawyers, and sixteen per cent of all the members of this association are in the active military service of the United States. And the rest of us who remain at home as civilians can well be proud of our own personal contribution to the welfare of our fighting men everywhere. At every Army and Navy post, camp and station in the United States there are now legal assistance offices conducted in cooperation with bar association committees. This is something entirely new in the military history of this country, and the plan had its inception in the lawyers war emergency committee of the Colorado Bar Association. A property guide for men in the military service has been compiled within the last few months by this same committee and we are advised that this guide will be embodied in a new pamphlet soon to be distributed by the War Department to selective service offices and to Army and Navy recruiting stations in all parts of the United States. Service men everywhere are receiving invaluable benefits from the operation of these plans, and I am happy to report that because of the splendid efforts of our war emergency committee and our legal aid committee, there has not been in Colorado, so far as we know,

*President of the Colorado Bar Association, 1943. Address delivered at the annual meeting at Colorado Springs, September 17, 1943.

a single call for legal assistance in any part of the state that has not been properly and promptly handled by the members of the Colorado bar.

While subjects relating to the war emergency have necessarily employed the major portion of our thought and energy, we have found time to continue and extend our activities upon many other subjects of vital concern to the public and to the legal profession.

Judge John J. Parker of the Fourth United States Circuit Court of Appeals wrote to me earlier this year that "no service that can be rendered by a lawyer is of greater importance than improving the administration of justice." I think neither the lawyers nor the public commonly realize the tremendous contributions we are continually making towards this great objective. Improving the administration of justice has been the major concern of seven separate sections and committees of this association during the past year. The section on water law accomplished the passage by the legislature this year of a procedural code on water rights. The section is now turning its attention to other phases of water law. The section on probate law and procedure, while securing the adoption by the legislature of some amendments to our probate law, failed of its major purpose to secure the enactment of a new probate code. The unsolved problems still facing these two sections are complex and difficult. Both are attacking them forthrightly and with vigor. Our special committee on the selection of jurors in the federal courts has very carefully considered this subject and has reported in detail to the Judicial Conference of the United States Senior Circuit Judges. Our committee on traffic courts, only recently appointed, has already held several meetings throughout the state in conjunction with the office of the attorney general and the state courtesy patrol. The committee to study the *Model Code of Evidence* proposed by the American Law Institute has made some progress in its work although the importance and immensity of its task necessarily means that the work has only been commenced. Within recent weeks, our criminal law and procedure has been the subject of much discussion. A temporary committee appointed to consider the advisability of revision has concluded after careful study that revision is urgently needed. The district judges and district attorneys of the state, at whose suggestion this committee was appointed, almost unanimously feel that this work of revision should be undertaken by the Colorado Bar Association. The appointment of a permanent committee to accomplish this task will of course fall to the incoming president of the association. The seventh committee of the Colorado Bar Association that has given attention to the administration of justice is a special committee which we have named the special committee of the Colorado Bar Association on improving the administration of justice. This committee was not appointed to work upon the revision of any particular statutes. It was rather appointed to operate as a coordinating

agency between these other several committees, and also to devise adequate machinery whereby the ever-continuing work of improving the administration of justice may be adequately financed and may receive officially and constantly the thought and attention of some appropriate body of our state government. The needs of society are in such a constant state of flux that the tremendous task of keeping our laws up to date simply cannot be handled in adequate fashion by any voluntary bar association that is constantly harassed with financial problems. Many other states have solved this problem through the judicial council, a state-financed body specifically charged with the duty of recommending to the legislature statutory changes required for improving the administration of justice. Our special committee on this subject has submitted a report that should receive the careful attention of all members of this association. It feels that the creation of some form of judicial council in this state is most desirable, if not essential to the proper functioning of our judicial system.

The Colorado Bar Association is every day assuming a more important position in the affairs of this state. Less than two months ago there was presented to me as president of this association a copy of resolution adopted by the general interim committee of the Thirty-fourth General Assembly which met at Denver on July 19 and 20, 1943. I am going to read that resolution.

“WHEREAS, It is the opinion of the General Interim Committee of the 34th General Assembly that there are many statutes of the State of Colorado which are obsolete, and can, with benefit to the State, be repealed or revised;

“NOW, THEREFORE, Be It Resolved by the General Interim Committee of the 34th General Assembly, that the President or other proper authority of the Colorado Bar Association be requested to appoint a committee or committees to study the constitution and statutes of Colorado, for the purpose of finding obsolete and unnecessary statutes or parts thereof, and recommending their repeal or revision; and that such committee or committees be requested to report any findings to the General Interim Committee or its proper sub-committee.”

Now that assignment is not a small one. I wonder whether all the members of the interim committee realized just how large an assignment it actually was. Well, we're going to do our best to meet this responsibility. We want the legislature to know that one of the major purposes of this association is to serve the State of Colorado and its citizens. I have not appointed a committee to undertake this work. The time seemed too short before the end of my term of office, and much of the work is of course already receiving the attention of

the seven committees I have mentioned. It is scarcely necessary for me to say that this problem is going to be a very real one for your next president. I know that with your assistance he will make substantial progress in it during the next year.

My remarks up to this point have dealt exclusively with the contributions this association is making to society. I want to talk now for a moment about our own interests. One of the most earnest and hard-working committees we have had this past year was the committee on minimum fees and schedules. The report of this committee has already been read to you. I am not prepared to express an opinion on the advisability of minimum fee schedules. I am prepared to say that the lawyers generally are not receiving adequate compensation for their services. Particularly is this true when we consider the great contributions that the lawyers of this state are continuously making both to the individual and to the state without any financial remuneration whatever. The question of fees should have our most careful consideration. They must be adequate. That they be so is important to the public as well as to us individually. It takes no argument to convince that the public is the loser if attorney fees are not sufficient to justify "studious and painstaking effort" on the part of the attorney. Let us follow through vigorously and decisively upon the excellent report of the committee that has had this subject under consideration.

I wish to say something to you about the proposed amendments to the by-laws. First, the amendment concerning committees. It will be apparent to you from the remarks I have already made that while standing committees are essential, the bulk of the association work is at all times performed by special committees. As the by-laws now stand, the president is not empowered to create any special committees. That function can be exercised only by the board of governors. The crippling effect of this limitation upon the work of the association has never been more apparent than this year. The creation of several very important committees was delayed for several months awaiting a meeting of the board of governors. It is not always possible to anticipate what special committees will be needed. New problems arise every day. The proposed amendment corrects this situation, giving to the president the power to create and appoint special committees but reserving to the board of governors the right to abolish any special committee at any time. The proposed amendment also abolishes several standing committees which have been serving no useful purpose, it creates one new standing committee, the urgently needed committee on legislation, and it empowers the board of governors and the executive committee to create from time to time such additional standing committees as they

may deem expedient. I solicit your favorable consideration of this proposed amendment.

The other proposed amendment to the by-laws would increase the dues of the association from \$3 to \$5 per year. The importance of this proposal as it concerns the welfare of this association and its members cannot be over-estimated. With the extension of our activities, the need for adequate funds has become more pressing than ever before. In this connection, however, let me say that we are now solvent. On September 15, 1943, we had on hand a net cash balance of \$546.04. This happy situation, a circumstance by the way that is a new experience in the life of this association, is not an indication that our present dues are adequate. Our comfortable net cash balance is attributable wholly to the efforts of our committee on sustaining memberships. Forty-seven of our members have contributed this year to our sustaining membership fund. Forty-two contributed \$25 each in addition to their regular dues. The total amount received into the fund during the year was \$1,107. The significance of these figures is obvious. Without the sustaining membership contributions we would be badly in the hole. The committee on sustaining memberships and the board of governors both feel that the principle of the sustaining membership is wrong—that we should not solicit these contributions any longer than may be absolutely necessary. The only answer is to increase our regular dues. Some of the local associations have already gone on record favoring the increase. Others have had no opportunity to consider it. That we have been getting our money's worth at \$3 per year will be conceded, I feel very certain, by everyone here. That we will still be getting our money's worth at \$5 per year will be conceded, I think, by everyone here. The increase ought therefore to be made.

Now there is something else that I want to say in connection with this proposed increase in dues. We have been able to work out an arrangement with a Denver publisher that will give you lawyers a service that I think is unequalled anywhere in the United States. How would you like to have laid down on your desk every Tuesday morning a complete printed copy of every opinion rendered by the Colorado Supreme Court on the day before? And would it interest you also to find printed in the same paper all bar association news of the preceding work for the entire United States? Well, we are in a position to furnish this service to members of the Colorado Bar Association for a total cost of \$1 per member per year. That is less than two cents per week, and obviously the actual cost of the service will far exceed that amount. But we can furnish this service providing our association income will permit us to pay for the service \$1 per member per year. I feel I should make no further announcement of the details of this plan at the present time since the plan has not as yet been approved

either by the board of governors of this association or by the Colorado Supreme Court. We feel that the court will undoubtedly approve the plan as it will result in no expense whatever either to the court or to the state.

And now a few words concerning our 1943 campaign to integrate the Colorado bar. Our failure is regrettable, but we came closer to success than ever before. May I say to you that I think the integration of the Colorado bar, with its many resulting benefits to the lawyer and the public, is absolutely inevitable. We do not want it of course unless a preponderating majority of the lawyers of Colorado want it. There was in this last campaign for integration still a substantial minority of lawyers who opposed it. I am convinced that this opposition exists because the plan is not thoroughly understood, and I am convinced that when the facts of integration actually reach every lawyer in the state, no less than ninety per cent of the entire bar will favor the plan. I think there can be no doubt now that if we lawyers want an integrated bar the legislature and the supreme court will give it to us. The court and the legislature both are finding the assistance of this association to be of increasing value in their own work. So long as they call upon us for assistance, we have the right to ask that our assistance be made more effective through improved bar government and through improved financial position. It continues to be the opinion of the 1943 board of governors that we cannot discharge our responsibilities effectively or completely unless and until the bar of Colorado is integrated. I want to read to you a resolution adopted by the last board of governors at its meeting in Denver June 5, 1943:

“RESOLVED: This Board recommends to the incoming Board of Governors and to the incoming President of the Colorado Bar Association that a committee on integration be promptly appointed to encourage continued discussion of the subject among the lawyers throughout the State to the end that the issue may be formally considered and voted upon at the 1944 annual meeting of the association.”

During the heat of the campaign in the spring of this year to integrate the Colorado bar, I wrote to the members of the board of governors that whatever the result of the campaign we could not permit any bitterness to arise in the minds of our members. I am happy to say that so far as I know there is no bitterness as a result of this campaign in the minds either of our members or of those Colorado lawyers who are not included within our membership. This is a most desirable state of affairs. The continued good health of this association is far more important than any organization issue that could possibly confront it.

There is much I would like to say about the work during the past year of certain association committees I have not mentioned in this report, but shortness of time prevents. May I say to you, however, that as I sat in my office earlier this week reading over the committee reports, I felt a sense of gratefulness and contentment that so much of the thought of lawyers is directed towards unselfish ends. You have made the work of the president this year a pleasure and a satisfaction—not a burden.

In closing, may I refer once again to the war and to our own part in it. The casualties are beginning to reach us. Up to the present time we have lost in dead or missing, four men, Joseph Johnston and Alvin Rosenbaum, of Denver, James L. Lang, of Castle Rock, and John B. Stivers, of Montrose. Very soon we will be learning of many more. We are doing what we can to stay close to the men in the service. DICTA and the LOOSE LEAF SERVICE are sent to all free of charge and their dues to this association are waived for the duration. Within the past few months our secretary has been writing a monthly news letter to all of our members in the service. These letters refer to our activities at home and they tell all we know about the men in service. The warm responses that we have received from our members all over the world would touch your hearts. I will not try to describe them. A number of the letters have been placed upon the bulletin board and you may read them yourselves if you wish to do so.

We must not let up on the little things we are now doing for these men. They appreciate them very greatly. We must not relax in our efforts to strengthen this association. The stronger we become as a bar organization, the sounder will be our individual position at the war's end. This means a better place in life for those who return from the war. This much at the very least we owe to our members in the service. Let's keep up the good work.

DICTA

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Address all communications concerning:

Editorial matters of the Denver Bar Association, to Dicta, George A. Trout, Editor-in-Chief, 214 State Capitol, Denver 2, Colo.
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HONOR ROLL

Members of the Denver Bar Association Who Have Lost
Their Lives in the Service of the United Nations

Alvin Rosenbaum, First Lieutenant, United States Army Air
Forces, August 2, 1943.

Rule for Dismissal of Inactive Cases Suspended

At the *en banc* session of the judges of the Denver district court for the opening of the September term of court, the judges ordered the suspension of Section 1, Rule XVIII, until the further order of the court. This was done to protect the interests of the many attorneys and litigants who are now with the armed forces.

Section 1 of Rule XVIII provides that the clerk of the court, at the opening of the September term of each year, shall report to the judges the cases pending in their respective civil divisions in which no order or progress has been made and entered of record for a period of twelve months. All such cases shall be dismissed with prejudice thirty days after service of written notice by the clerk to attorneys of record or parties, at their last known addresses, unless good cause shall be shown why the same should not be dismissed.