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## Report of Committee on Judicial Selection

Wyoming State Bar

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Natrona and Park. However, all of the 11 District Judges are being contacted either in person or by mail questionnaire, and all of the 23 Prosecuting Attorneys are being contacted in person or by mail questionnaire. The views of 33 lawyers who have been appointed as counsel for indigents in the four counties are being solicited through Form V, one of the mail questionnaires. As a result of all of this activity, it is believed that a fair picture can be obtained of the manner in which the defense of indigent persons accused of felonies in Wyoming courts is being provided. It should be emphasized that the choice of method, the preparation of Forms, and the selection of interviewees all were determined by American Bar Foundation staff, and not locally.

Since the study has not as yet been completed, the Associate Subcommittee is not in a position to report results. The Subcommittee, joined by the Reporters, does wish to express its deep appreciation to the members of the Bench and Bar of the State who have responded so generously and promptly to our request for assistance in the conduct of the study.

Respectfully submitted to the September, 1963 meeting of the Wyoming State Bar:

WYOMING ASSOCIATE SUBCOMMITTEE OF THE AMERICAN BAR  
ASSOCIATION COMMITTEE ON THE DEFENSE OF INDIGENT  
PERSONS ACCUSED OF CRIME,

Arthur F. Fisher  
Charles E. Graves, Jr.  
Stanley K. Hathaway  
John W. Pattno  
Walter F. Scott  
Oliver W. Steadman  
John F. Raper, Chairman

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#### REPORT OF COMMITTEE ON JUDICIAL SELECTION

Your Committee on Judicial Selection has had two meetings since its appointment in March of this year. One of the meetings was an informal meeting with the members of the Supreme Court of Wyoming which proved to be most helpful to your committee; it should be pointed out that nothing in this report should be implied or construed as expressing any view whatever of the Court or any member thereof, with reference to the matters hereinafter referred to. However, your committee would be hopeful that the Court and its members would approve the suggestions and recommendations herein made. In our review of the matter of judicial selection your committee has considered the work of prior committees of the Wyoming State Bar and the provisions of H.J.R. No. 10 which was introduced in the Wyoming Legislature on January 27, 1961. That resolution called for the submission to the electorate of Wyoming of a Constitutional Amend-

ment which would be necessary if the present system of electing judges to the Supreme Court and to the Judicial District Courts is to be changed. The resolution died in committee and nothing further was done with reference to the matter at the 1963 session of the Wyoming Legislature.

It is the opinion of your committee that the matter of Constitutional Amendment so as to provide for a system similar to that suggested by the American Judicature Society and which is commonly referred to as the "ABA" or as the "Missouri Plan," should have more study and should not be presented to the Legislature to provide for a Constitutional Amendment unless and until the members of the Wyoming State Bar have been briefed with reference to the Plan, have had the objections thereto as well as the points in favor of the system presented to them in writing, and have expressed themselves by secret ballot as to their views in the matter. If it should appear from such referendum ballot that 80% or more of the members of the Wyoming State Bar favor the adoption of a plan patterned upon the American Judicature Society's suggested plan, that then and in such event, a bill be drafted by the Wyoming State Bar Committee on Legislation and Law Reform with its recommendations to the State Bar concerning such proposed Constitutional Amendment, and that if the State Bar, at its next regular annual meeting approves and adopts such Constitutional Amendment, that then and in such event, the members of the State Bar be urged to present the matter in their respective communities as much before the next regular session of the Legislature as possible, and that the Committee on Legislation and Law Reform take such further steps as may be necessary to bring about the introduction of and enactment, by the next regular session of the Legislature, of suitable legislation calling for a Constitutional Amendment.

In considering the matter of judicial selection, it appears that there is a void in the election laws of Wyoming with reference to vacancies which may occur between the close of a primary election and the general election, insofar as the nonpartisan election of judges for the Supreme Court and the District Courts are concerned. The election laws (22-118.171, Wyoming Statutes 1957) provide in part that "the two (2) candidates receiving the highest number of votes at the primary election for each nonpartisan office shall be entitled to have their names printed on the official nonpartisan ballot for the ensuing general election," and that the candidate receiving the highest number of votes shall be declared duly elected. The Statute then provides that "in all other respects the procedure for the election to nonpartisan offices shall be regulated by the provisions of the Statutes relating to general elections in force in this State, so far they are applicable."

Section 22-118.88 (b), Wyoming Statutes 1957 provides for the filling of a vacancy after the general election, but *there is no provision in the Statutes to take care of the situation of a vacancy in the nomination for a nonpartisan office.* Vacancies in nominations as to other offices are pro-

vided for in Section 22-118.44 to 22-118.48. Generally speaking, such vacancies in partisan offices are filled by state or county central committees of the political parties. Your committee is of the opinion that the matter of filling vacancies in nominations for justice of the Supreme Court and for judge of District Courts is of utmost importance and should be taken care of as a separate matter at the earliest possible time.

It is the recommendation of your committee that the following suggested amendment to the election laws be now approved by the Wyoming State Bar in convention assembled, and that the Committee on Legislation and Law Reform be instructed to draft (in proper form) an Amendment to the election laws of the State of Wyoming of 1961, by amending and re-enacting the following sections thereof to read as follows:

(Additional wording for inclusion in the Statutes is indicated by italics.)

### Division 3. Vacancies in Nomination

22-114.44. **FILLED BY BOARD OF COMMISSIONERS OR BY PARTY COMMITTEE.** — If, at any time prior to the general election, any person nominated at a primary election dies, is or becomes disqualified to hold the office for which he was nominated, fails to accept the nomination (in cases where acceptance is required by law), or withdraws as a candidate, a vacancy in such nomination is thereby deemed to occur. Such vacancies may be filled in the following manner: *If the office for which the candidate was nominated is for the non-partisan office of Justice of the Supreme Court of Wyoming or for the non-partisan office of Judge of the District Court of a judicial district of Wyoming the vacancy may be filled by the Board of Commissioners of the State Bar.* If the office for which the candidate was nominated is a *partisan office* and is one to be voted for by the electors of the entire state, or of a district larger than a county, the vacancy may be filled by the state central committee of the political party by which the candidate was nominated. If the office for which the candidate was nominated is a *partisan office* and is one to be voted for by the electors of a county or subdivision thereof, the vacancy may be filled by the county central committee of the political party by which the candidate was nominated. (Laws 1961, ch. 235, PP 42).

22-118.45. **MANNER OF FILLING VACANCY.** — As soon as the existence of a vacancy among these nominated at a primary election becomes known to such *Board of Commissioners*, or to such state central committee, as the case may be, and if the vacancy is for the office of *Justice of the Supreme Court* or for *Judge of a District Court* such *Board of Commissioners* must fill the vacancy by designating a *Wyoming lawyer* meeting the other statutory qualification for the office for which nominated; such designation shall be made as soon as practicable before the general election; or if the office is a *partisan office*, such committee may proceed to fill the vacancy in accordance with the rules of the political party then on file in the office of the secretary of state; or, if no rule respecting the filling of

such vacancy is then on file with the secretary of state, in such manner as the committee may determine. Such committee, *as to partisan offices*, must fill any vacancies other than these occurring through death not later than thirty (30) days before the general election, but they shall have no power to nominate a candidate for any office for which no nomination was made at the primary election. Laws 1961, ch. 235, PP 43.)

**22-118.46. NOTIFICATION OF FILLING VACANCY.** — *If and when such vacancy is filled by the Board of Commissioners of the State Bar, such Board shall send a written notification of the filling of the vacancy to the secretary of state, over the certificate of the President and Secretary of the State Bar. Each such notification shall set forth the name, place of residence and post office address of the lawyer nominated to fill the vacancy, the office for which he is thus nominated, the name of the candidate who is being replaced, and the cause of the vacancy, and shall certify that the person nominated to fill the vacancy is qualified to fill the office for which nominated and is the choice of the Board.* If and when such vacancy is filled by the state or county central committee, such committee shall send a written notification of the filling of the vacancy to the secretary of state, over the certificate of the chairman and secretary of the committee, or other persons authorized to act in their stead. Each such notification shall set forth the name, place of residence and post office address of the person nominated to fill the vacancy, the office for which he is thus nominated, the name of the political party making the nomination, the name of the candidate who is being replaced, and the cause of the vacancy, and shall certify that the person nominated to fill the vacancy is the choice of the committee. (Laws 1961, ch. 235, PP 44.)

**22-118.47. CERTIFICATE OF NOMINATION ISSUED. CERTIFICATION OF NOMINEE TO COUNTY CLERK.** — Upon receipt of such notification of the filling of a vacancy, duly made according to law, the secretary of state shall forthwith issue a certificate of nomination to the person so nominated to fill the vacancy. In certifying to the county clerks the nominees to be voted on in the forthcoming general election, the secretary of state shall substitute the name of the person who has thus been nominated to fill a vacancy in the place of that of the original nominee. In the event that he has already sent forth his certificate, the secretary of state shall make and send a supplemental certificate to the county clerks involved, notifying them of the necessary particulars of the substitution. (Laws 1961, ch. 235, PP 45.)

**22-118.48. STICKERS TO BE USED WHEN VACANCY FILLED AFTER BALLOTS PRINTED.** — When any vacancy occurs before general election day and after the printing of the *non-partisan ballots or tickets*, *as the case may be*, and a person is nominated to fill such vacancy, the officer whose duty it is to have the *ballots or tickets* printed and distributed shall thereupon have printed a requisite number of stickers, and shall mail

them by registered letter or deliver them in person to the judges of election in the various precincts interested in such election, and the judges of the election whose duty it is to distribute the *ballots or tickets* shall affix such stickers in the proper place on each *ballot or ticket, as the case may be*, before it is given out to the elector. (Laws 1961, ch. 235, PP 46.)

Your committee also recommends that a Committee on Judicial Selection be appointed by the President of the State Bar for the ensuing year to continue the work and recommendations of this committee as hereinabove set forth.

Respectfully submitted,  
Committee on Judicial Selection  
W. Hume Everett  
Howell C. McDaniel, Jr.  
Donald E. Chafin

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#### REPORT OF THE COMMITTEE ON PUBLIC RELATIONS

The 1962-1963 Special Committee on Public Relations consisted of the following members: James R. Tilker, Chairman, Donald Sherard, Alan K. Simpson, Harry Thompson, Robert A. Burgess, Houston Williams, Walter B. Phelan, Frederick G. Loomis, Robert W. Costin and Robert C. Sigler.

President George Millett assigned to the committee the special project of carrying out and reporting on an institutional advertising program patterned after a project carried on in Texas a couple of years ago.

The Texas Bar made a survey which revealed that the principal reason that more people did not consult lawyers was a fear of high fees. Other information concerning the public's concept of attorneys was also disclosed by the survey. Consequently, the Texas Bar developed an unprecedented newspaper institutional advertising campaign, stressing that it costs nothing for people needing legal services to consult a lawyer and inquire as to fees and charges. At great expense, the Texas Bar prepared and copyrighted a series of twenty-five different cartoon-like ads which they caused to be published in 1961 in newspapers throughout Texas. This program was highly acclaimed and received recognition by the American Bar Association.

Subsequently, the Texas Bar announced that its ads would be made available, without cost, to any bar association desiring to use them. Observing that we could utilize the ads in Wyoming, thereby saving thousands of dollars in art work, engraving and mats, the committee reported to the Commissioners of the Wyoming State Bar in January of 1963. Estimates of printing costs and copies of the ads were presented, and the Commissioners authorized the Public Relations Committee to expend a sum not exceed-