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### Excerpts from the Address of Arley R. Bjella, Honorary Elect, at the Annual Dinner of the Order of the Coif

Arley R. Bjella

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## BENCH AND BAR

### EXCERPTS FROM THE ADDRESS OF ARLEY R. BJELLA, HONORARY ELECT, AT THE ANNUAL DINNER OF THE ORDER OF THE COIF

I am particularly gratified that this comes at a time when Dean O. H. Thormodsgard is the Dean of the University Law School. It has been my privilege and yours to become a lawyer under a man whose goodness and stature one realizes more as each year goes by . . . The lawyers and the Bar of North Dakota, in a true sense, are a mirror of his endeavors, and what one sees in that mirror does nothing but reflect credit and honor on the good Dean . . .

First of all, I think a good lawyer must be a person of thought and reflection . . . To be a good lawyer you must know in the historical perspective of man's long battle for liberty; what it actually means to have freedom of speech, freedom of the press and freedom of religion . . . stand firm against the tide that appears to be fashionable in the sophisticated set of the world today; that is of being cynical about man's purpose, about the future of mankind and about the fundamental principals upon and about which each life is built . . .

If you do not care for people, if in a measure you are not able to share with them their joys and their sorrows, you may become a good lawyer insofar as being a good mechanic of the law is concerned, but you will never be privileged to serve the people as a lawyer . . . .

For centuries long past lawyers have been in the vanguard of public enterprise of good and betterment, and we must always remember that lawyers as a profession have always devoted more time to public service than any other profession because of the need and of our ability to do so . . .

. . . all men are not necessarily equal when it comes to a matter of articulation or a particular knowledge of their own causes when they deal with concepts of law and regulation. This situation creates the basis for . . . a lawyer standing by his side at such time as may be necessary . . .

I do hope that the few words that I have mentioned here tonight will in some way, somehow, cause you to become a better lawyer, not for yourself, but for these people and this country which you must serve in this your chosen profession.

## NOTICE

The Seventh Annual Rocky Mountain Mineral Law Institute will be held July 27, 28, and 29, 1961 at Albuquerque, New Mexico. The North Dakota Oil and Gas Association is one of the sponsoring industry associations. The topic coverage will include: public, Indian, and state land leasing, mineral leasing by fiduciaries, tax considerations in mineral transactions, marketing and proration, shut-in gas wells, conservation laws—effect on lease provisions, multiple use problems, right of way, discovery requirements, assessment work requirements.

DISTRICT COURT DIGEST  
EXTRAORDINARY REMEDIES—PREROGATIVE WRITS  
IN THE DISTRICT COURT.

*The State of North Dakota v. North Dakota Hospital Service*, District Court of the Fourth Judicial District, Burleigh County, North Dakota, W. C. Lynch, District Judge.

This was an action brought by the State of North Dakota against a hospital insurance company seeking a restraining order to prevent the latter from modifying their insurance contracts without the consent or approval of the Commissioner of Insurance.

The issues were whether or not a district court could issue a prerogative writ such as this in the first place, and secondly whether they could do so without first issuing a summons and complaint.

*Held:* Even if the court had jurisdiction to issue such an order they were compelled to comply with the procedural prerequisite of first issuing a summons and complaint. The court also commented that they felt that the issuance of prerogative writs should lie solely in the jurisdiction of the Supreme Court. The latter should be the only source of any such extraordinary remedy such as a prerogative writ. Since such a writ is concerned with speedy and final relief, it would be only logical to initiate the action in the highest tribunal of the state and one from which there can be no appeal.

DIGEST OF ATTORNEY GENERAL OPINIONS

GENERAL FUND APPROPRIATIONS — INVESTMENT AND PROCEEDS  
DECEMBER 19, 1960

- Does the Board of Higher Education have authority to invest funds which have been appropriated from the general fund and receive the proceeds from such investment for a certain institution?