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## The Honorable Wesley Castles

John C. Harrison

*Associate Justice of the Montana Supreme Court*

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## IN MEMORIAM

### **The Honorable Wesley Castles**

**September 26, 1918—April 6, 1990**

It was my good fortune to serve with Justice Wesley Castles on the Montana Supreme Court for sixteen years. Therefore, I feel very qualified in saying that he was one of the hardest working and most able of the some fourteen justices with whom I have served.

When Justice Castles was appointed by Governor Hugo Aronson, I was the County Attorney of Lewis and Clark County and, not knowing Castles, I strongly disapproved of his appointment. However, my election to the court allowed me to work with Justice Castles and it did not take long for me to realize how wrong I was. I not only found a friend in Wes Castles, but also an associate truly dedicated to the law.

Throughout the sixteen years we worked together, I suppose we philosophically disagreed more than any other two members of the court, yet we remained true friends and colleagues. Regardless of how the vote on a case would come out, he was never disagreeable. Often, when I was to be the author of a certain opinion, he would come in and say: "I don't agree with the majority, but if the holding is to be that way, here are some cases that will strengthen the opinion."

Lawyers forget that when Chief Justice James T. Harrison and Justice Castles were appointed to the court in 1957, the court had over 300 opinions still awaiting decision. Some appeals were as much as six years old. Yet, by the summer of 1962, this backlog of cases was finally disposed of and the court became current. During that time, much of that work fell on Justice Castles' shoulders due to the illness of Chief Justice Harrison in 1959. The people of this state, and particularly the members of the bar, owe Justice Castles a great vote of thanks.

During their twenty years on the supreme court together, Chief Justice Harrison and Wes Castles brought more changes and improvements to the judicial system of Montana than during any

other period in its history. The Montana Rules of Evidence, the Uniform Probate Code, the new Administrative Code, the Canons of Professional Ethics, the Commission on Practice, the integrated bar, the Sentence Review Board and the revision of the criminal law, all occurred with their direction and support.

Wes served as Chairman of the Criminal Law Commission that was established by the 1963 Legislature to draft an entirely new criminal code. The first phase on Criminal Procedure was submitted and passed in 1967. The second phase, revising the substantial criminal law defining crimes, was passed in 1973 with nothing changed in the voluminous bill. Wes's patience and guidance lasted an entire decade while judges, legal scholars, prosecuting and defense attorneys debated each provision and definition separately.

Much has been said of Justice Castles' so-called conservative view of the law, and many lawyers strenuously opposed him at election time. However, many of the "Johnny-come-lately" bar members either did not know or have not realized that Justice Castles was the author of one of the most liberal holdings of the Montana Supreme Court concerning negligence, damages and evidence. That case was *Krohmer v. Dahl*, 145 Mont. 491, 402 P.2d 979 (1965). Justice Castles truly understood the importance of that opinion. Wes's conservative nature was troubled by it, but he felt it was time for the law in those fields to change. During the writing and the conferencing on *Dahl*, I would try to bargain with Wes by saying that I would gladly trade any three of my cases to be known as the author of *Dahl*. In my opinion, this one case opened the door for many of Justice Castles' opponents to make a living.

A part of Justice Castles' personality to which some people objected was his "bluntness." I always admired that part of Justice Castles, for you always knew where you stood with him. He called it like he saw it and then let the chips fall where they may. Few people other than his close friends knew and enjoyed his wonderful lighter side. He delighted in recounting funny experiences even when he was the victim of the experience. Last, but certainly not least, was his devotion to his family. Ruth, his wife, and his three daughters were the delights of his life. Ruth had a serious asthma problem and Wes was always on the alert to help if an attack occurred. In spite of this handicap, Ruth was as independent as Wes, and she refused to restrict her activities on account of his position on the court. Ruth Castles was an active figure in state politics. She represented House District Twelve in the forty-third session (1973-74) of the legislature, served as a delegate to the Republican National Convention and was the Republican Party's State Secre-

tary. Whether he agreed or disagreed of Ruth's political activities, I never knew.

Wes was very busy in addition to his role as a justice. He was a graduate forester, border patrolman, Executive Secretary to Governor Hugo Aronson, Director of Montana Unemployment Compensation Commission, licensed big game hunter, fisherman, rancher, farmer, mine operator, carpenter and a Scholar in Residence at the University of Montana School of Law in 1989. One can say "quite a career."

Montana was fortunate to have a native son who served it so well.

—Associate Justice John C. Harrison, Montana Supreme Court

