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## Report of Rules Advisory Committee

Wyoming State Bar

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# REPORT OF RULES ADVISORY COMMITTEE

## TO THE MEMBERS OF THE WYOMING BAR:

The Supreme Court, in accordance with the provisions of Section 4 of Chapter 53, Session Laws of Wyoming, 1947, appointed an advisory committee September 23, 1947, consisting of one member from each judicial district and the president of the Wyoming State Bar as ex-officio chairman of the committee.

At the organization meeting of the committee held October 23, 1947, the following two motions were unanimously adopted:

- "1. That this committee shall proceed to write a complete set of rules of civil procedure for all courts of record in the State of Wyoming, to be recommended to the Supreme Court for adoption.
- "2. That this committee shall use as an outline or basis for its work the Federal Rules of Civil Procedure, with such modifications, omissions, additions and supplements as the committee shall determine to be necessary or desirable."

Having thus declared its purpose, the committee proceeded with the preparation of rules, and to each member of the committee was assigned the task of preparing rules upon one or more of the eleven sections contained in the federal rules. The rules prepared upon each section were submitted to the committee at meetings held December 13 and 14, 1947, January 24, 25, and 26, March 27, 28 and 29, and April 24 and 25, 1948. All rules, after preparation by the member of the committee to whom assigned, were considered at a meeting of the committee, and at all committee meetings not less than seven of the eight members attended. Each section of every rule was carefully read and considered by the committee, and such changes or modifications made as in the judgment of the entire committee seemed necessary or desirable.

Following the framework of the federal rules, the committee presents 86 rules for consideration, each of which relates to the same subject matter as the federal rule of the same number. The committee did not adopt the federal rules verbatim, but made numerous changes and modifications which were considered necessary or desirable.

The federal rules were adopted by the Supreme Court of the United States under authority of the Act of June 19, 1934 (U.S.C.A. Title 28, Sections 723 (b)—723 (c)), and became effective September 16, 1938. Amendments were adopted by the Supreme Court December 27, 1946. The original rules and amendments were prepared by an advisory committee of distinguished and capable lawyers of national reputation.

In using the federal rules as the basis of those proposed for Wyoming, the advisory committee believes that we can well avail ourselves of the thought and study that went into the preparation of the federal rules and amendments thereof by some of the leading lawyers of the country, and also of the experience with these rules resulting in their amendment. The committee also feels there is distinct advantage in using the federal rules as the basis of our proposed rules since there will be a considerable body of decisions in the federal courts interpreting and applying these rules, and also in the states which have adopted similar rules.

It is provided in Chapter 53, Wyoming Session Laws of 1947, that the Supreme Court may adopt rules "for the purpose of promoting the speedy and efficient determination of litigation upon its merits." This has been the guiding principle governing the action of the advisory committee in the adoption of the proposed rules, it being our purpose to suggest such procedure as will promote the speedy trial of cases and eliminate as far as possible the disposition of causes on technical grounds, without consideration of the merits. Such, also, is the avowed purpose of the federal rules, it being provided in Rule I that "they shall be construed to secure the just, speedy and inexpensive determination of every action."

While, as will be seen from the first motion adopted by the committee, it was our purpose to write a complete set of rules of civil procedure only, we found appeals in criminal cases now governed by the provisions of our Code of Civil Procedure, Articles 53 and 54 of Chapter 3, Wyoming Compiled Statutes, 1945, and that perforce our proposed rules must necessarily cover criminal appeals. Consequently, as set forth in Rule I, the rules are designed to govern procedure in courts of record in all actions, of a civil nature and special statutory proceedings, and in all appeals in criminal cases.

In accordance with the suggestion of the Supreme Court, the proposed rules will be presented for consideration at meetings in each of the seven judicial districts, and there will also be opportunity for consideration at the next convention of the Wyoming Bar to be held at Cody, September 3 and 4, 1948. It is suggested that each member of the Bar retain this copy of the Wyoming Law Journal, as no other publication of the proposed rules is contemplated prior to their consideration by the district Bar meetings. Following the rules hereinafter will be found a table listing statutes superseded by them.

Respectfully submitted,

**RULES ADVISORY COMMITTEE,**

W. J. Wehrli, Chairman

A. G. McClintock, 1st Judicial District

Frank J. Trelease, 2nd Judicial District

R. Dwight Wallace, 3rd Judicial District

James Munro, 4th Judicial District

E. J. Goppert, 5th Judicial District

Thomas O. Miller, 6th Judicial District

W. H. Brown, 7th Judicial District

June 1, 1948.