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President's Report

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PRESIDENT'S REPORT

PROPOSED RULES OF CIVIL PROCEDURE:

The major accomplishment of the Wyoming State Bar for the last year has been preparation of the proposed Rules of Civil Procedure for courts of record. On September 23, 1947, the Supreme Court appointed a Rules Advisory Committee under the authority of Chapter 53, Session Laws of Wyoming, 1947, designating the president of the Bar as chairman ex officio, and naming the following members, one from each judicial district, to-wit:

A. G. McClintock.....	1st Judicial District
Frank J. Trelease, Jr.....	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, Jr.....	7th Judicial District

At its first meeting, held October 23, 1947, the committee was organized and decided to write rules of civil procedure for courts of record in the State of Wyoming to be recommended to the Supreme Court for adoption, and to use as the basis for its work the Federal Rules of Civil Procedure, with such modifications as might be deemed necessary or desirable.

To each member of the committee was assigned the work of preparing rules upon one or more of the eleven divisions of the federal rules. After preparation by the individual committee member, the rules were presented to the entire committee for consideration, and 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 were considered and passed upon by the committee after the making of approved changes. The proposed rules have been printed in the August issue of the Wyoming Law Journal. They cover the same scope as the federal rules, and such modifications have been made as were deemed necessary or advisable for adaptation to Wyoming practice. In my opinion they are carefully prepared and well suited to our needs.

The cost of preparation of the rules consists solely of the expenses of members of the Rules Advisory Committee in attendance at committee meetings, in the amount of \$1,062.77. All stenographic work was furnished by the members of the committee without charge. The only additional expense incident to this work is that of publication, and the State Bar under its arrangement with the University Law School will pay one-half of the printing of the August issue of the Wyoming Law Journal, and will also pay for an additional 200 copies of the Journal, which the Association will retain for such future use as may be required.

WYOMING LAW JOURNAL:

We have continued the arrangement with the University Law School for publication of the Wyoming Law Journal which was made when the Journal first came out. The State Bar has been paying one-half of the cost of publication, not to exceed, however, \$150.00 per issue. Recently, Frank J. Trelease, for the

law school, has recommended that the Bar pay a flat fee of \$1.80 per year per member. It is his opinion that this would give more flexibility in the use of funds in the publication of the Journal, while the total amount paid by the Bar would be approximately the same. This proposal was presented by letter to the Commissioners, but no final action has been taken. Consideration should be given the matter at the meeting of the Commissioners immediately following this convention, and action taken thereon.

STANDARDS FOR TITLE EXAMINATION:

On April 17, 1948, the Bar of the 7th Judicial District adopted certain standard for real estate title examination. They were printed and distributed to all members of the Bar. In large part, they are taken from standards of the State of Nebraska and Denver Bars. Eight of these standards were adopted by this Bar Association at its 1946 meeting, and they appear in the publication of the 7th Judicial District Bar as Standards numbered 1, 2, 8, 18, 19, 20, 22 and 23.

Lawyers engaged in title examination work, I believe, are all agreed on the desirability of adoption of certain principles which may be followed by all examiners. My opinion is that the Bar will have a higher reputation and the public will be better served if throughout the State of Wyoming we adopt and adhere to uniform rules in title opinions. The standard adopted by the 7th Judicial District Bar will be presented later in this meeting for your consideration.

CONTINUING LEGAL EDUCATION:

Dean R. R. Hamilton, of the University Law School, is chairman of the Legal Education and Admission to the Bar Committee. Other members are Vernon G. Bentley, of Laramie, and Lloyd C. Sampson, of Cheyenne. The question of continuing legal education has been studied by this committee and the chairman of the committee will report to this meeting at a later time.

LEGISLATIVE COMMITTEE:

Since there was no general session of the Wyoming Legislature during the past year, we have not had a Legislative Committee. In my opinion such a committee should be appointed immediately after adjournment of this convention so that preparations may be made for presentation to the 1949 Legislature of such legislation as may be found desirable.

All of us have our pet annoyances in the practice of law. One of mine is defect of title arising from requirements for conveyance or encumbrance of homestead, as now prescribed by Section 66-209, Wyoming Compiled Statutes, 1945. It is required that every such conveyance or encumbrance must contain a release of homestead in the body of the instrument and also in the acknowledgment. Section 9 of Article 19 of the Constitution provides merely that a homestead shall not be alienated without the joint consent of husband and wife. When a warranty deed is executed by husband and wife, why is it necessary that it contain in the body of the instrument or the acknowledgment a specific release of homestead? Doesn't it sufficiently show upon its face that it is an alienation of title and of all title that either grantor may have, without specific mention of

homestead? In my opinion, the Bar ought to give consideration to the amendment of Section 66-209, to the end that conveyance of homestead may be simplified and numerous title defects eliminated in the future.

RECOMMENDATIONS:

The following recommendations are made:

1. The Rules Advisory Committee has limited its work to a consideration of rules of civil procedure in courts of record, excepting that such rules include appellate procedure in criminal cases. Chapter 53 of the 1947 Session Laws provides that the Supreme Court may from time to time adopt, modify and repeal general rules and forms governing pleading, practice and procedure in all courts of this state. The Rules Advisory Committee is a continuing organization, or at least in my opinion it should be, and I believe it should consider, as time permits, the following additional subjects:

- (a) Probate procedure.
- (b) Criminal case procedure.
- (c) Procedure in Justice Courts.
- (d) Procedure in the appeal of matters from state administrative boards, boards of county commissioners, municipal boards and officials, and school districts.

2. Study should be given to the procedure before state administrative boards, particularly the Public Service Commission, and rules of procedure should be formulated to be adopted by these various boards. Perhaps the same or similar rules could be devised for boards of county commissioners, school boards and other agencies before whom hearings are had, and from the adverse decisions of which appeals may be taken to the courts. While only applicable in part, I would recommend study in this connection of the federal Administrative Procedure Act, found in Sections 1001 to 1011 of Title 5, U.S.C.A.

3. I recommend the continued collaboration of the Bar with the University Law School in the publication of the Wyoming Law Journal.

4. As above stated, I recommend the appointment of a Legislative Committee following the adjournment of this convention, so that it may have ample time to prepare for the general session of the Legislature in 1949. No doubt there are many subjects such a committee should consider. I have suggested above what I conceive to be the unnecessary complexity of conveyance of homestead, which I believe could well be remedied.

5. I would also recommend a study of the advisability of elimination of the office of constable, his duties to be performed by the sheriff's office. For the more populous counties, I would recommend the study of the desirability of a merger of the jurisdiction of justices of the peace and police judges or city magistrates into one court, with increased jurisdiction in civil causes up to \$1,000.00, and with admission to the Bar as a requirement for eligibility to the office of judge.

CONCLUSION:

I am deeply grateful to the members of the Wyoming State Bar for having given me the opportunity to serve as your president during the past year. I deeply

appreciate the fine cooperation of all officials and members of the Bar at all times. I did not call a meeting of the Commissioners during the year, since so much time was taken up with the meetings of the Rules Advisory Committee. Some matters were submitted to the Commissioners by ballot, and upon these or any other request I uniformly received a prompt and considered reply.

I am particularly grateful to the members of the Rules Advisory Committee. The total sessions of this committee consumed twelve days, and at every meeting not less than seven of the eight members were present. Between meetings, a vast amount of time was expended by each member of the committee in preparation of the preliminary drafts of the rules, and each member had to supply a considerable amount of stenographic work. After the preliminary drafts were considered by the committee and changes made, each member prepared the final copy which was used for publication of the rules as to the particular division or divisions assigned to him. Whatever the wishes of the Bar may be with respect to the proposed rules, I am happy in the belief that they represent a careful and comprehensive consideration of the subject.

Largely because of my election as president a year ago, I attended the American Bar Association meeting in Cleveland, September 22 to 26, 1947. I received many fine suggestions from attendance at the different sections, as well as from the fine addresses of leaders of the Bar. Wyoming has the lowest membership in the American Bar of any state. I believe we are lacking in appreciation of the many fine accomplishments of the American Bar and that our membership should be increased.

Much can be accomplished by the Wyoming Bar, and I shall be happy to relinquish my office to my successor, in the firm belief that the members of this organization will continuously strive to achieve improvement in the administration of justice and a better service of the bar and the bench to the public.

W. J. Wehrli.

REPORT OF THE COLLEGE OF LAW UNIVERSITY OF WYOMING

Since the College of Law of our State University is the principal source of new members of the Bar, the Bar of the state is vitally interested in the activities of the College and the quality of the training prospective members of the Bar receive. I am very glad, therefore, to submit to the Bar of the State this report of the activities of the College during the academic year 1947-48.

Professor Edward P. Morton, who had been a member of the law staff for the past two years, resigned at the end of the spring term. Professor Morton taught the courses in Property, Constitutional and Administrative Law. He was a very valuable member of the staff and his loss will be felt keenly. However, we were extremely fortunate in procuring Professor John O. Rames, of Denver, to replace Professor Morton. Mr. Rames is an honor graduate of the University of Colorado Law School and practiced 12 years in the office of Henry McAllister in Denver. He assumed his duties at the beginning of the summer session, 1948, and shows great promise as a teacher and legal scholar.