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Report of Committee on Rules of Practice before State Boards

Wyoming State Bar

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VIII. JURISDICTION

Nothing herein contained shall be construed to create any financial liability upon any signatory hereto or to authorize the Council to make any commitment of any kind or to declare any policy or position on any question on behalf of any signatory.

IX. ADOPTION

These Articles shall become effective upon the signing hereof by the duly authorized officers of the state bar organizations constituting the said Council.

The within Articles of Association of Interstate Bar Council are subscribed to by officers of the undersigned professional groups first thereunto duly authorized on the date set opposite each.

STATE BAR OF ARIZONA	By:
THE COLORADO STATE BAR	By:
IDAHO STATE BAR	By:
MONTANA BAR ASSOCIATION	By:
STATE BAR OF NEVADA	By:
STATE BAR OF NEW MEXICO	By:
OREGON STATE BAR	By:
WASHINGTON STATE BAR ASSOC.	By:
WYOMING STATE BAR	By:
UTAH STATE BAR	By:
THE STATE BAR OF CALIFORNIA	By:

REPORT OF COMMITTEE ON RULES OF PRACTICE
BEFORE STATE BOARDS

On September 3rd, 1948, the following members were appointed as a Committee to make a study of the problem of Rules of Practice before the State Boards of the State of Wyoming:

- George F. Guy, Cheyenne, Chairman
- Charles Crowell, Casper, Member
- Frank B. O'Mahoney, Worland, Member
- William Garlow, Cody, Member
- Eph U. Johnson, Rawlins, Member

This Committee was charged with the mission of making a study of the matter of Rules of Practice in cases before the Public Service Commission, the State Land Board and other State Boards. This matter had been precipitated by the action of Frank B. O'Mahoney in securing a restraining order from the District Court Commissioner of Washakie County at Worland in 1947 restraining the Public Service Commission from proceeding in a case in which an out of state attorney was appearing without having associated with local counsel.

Following the appointment of the Committee above named a resolution was adopted at the Cody meeting of the Bar which in effect notified the Public Service

Commission that the trial of cases before it constituted the "Practice of Law" within the concept of the State Bar. This resolution was served upon the Public Service Commission by President Diefenderfer with the request that the Commission not permit the continued appearance of non-resident counsel unless associated with local counsel. On November 20th, 1948, the Committee had its initial meeting at Casper at the office of member Charles Crowell. Neither Bill Garlow nor Eph Johnson could be present but Frank O'Mahoney was there. The matter was thoroughly discussed and it was felt that a definite effort should be made to secure the cooperation of the Public Service Commission.

Under the date of October 27th, I reported to you as to the Dockets of the Public Service Commission with hearings set for Casper and Sheridan. I suggested that the respective District Court Commissioners make appearances in those cases and object to the appearance with out of state lawyers who were not associated with local counsel. You followed this up by a letter addressed to the Public Service Commission dated October 28th, 1948. On November 1st, I discussed the matter of non-resident counsel with Mr. Dwight Dahlman, Secretary of the Commission and with Mr. Albert Bruch, one of the members thereof. The Commission had already replied to your protest by stating that the same had been over-ruled. This decision to over-rule your protest as President of the State Bar was arrived at without benefit of advice from the Attorney General.

Mr. Bruch explained to me that the Commission felt that it should not adopt the resolution. The result of my conference with Mr. Dahlman and Mr. Bruch was completely outlined in my letter to you of November 1st. Mr. Bruch also stated that the Commission felt that it was not right for the Wyoming Bar to start such an agitation and then expect the Commission to finish it. He also stated that he felt that it was unnecessary to consult the Attorney General on a matter of policy. Mr. Norman Gray, the Attorney General, had advised me that if he had been consulted that he would have advised the Commission that the appearance by counsel in cases before the Public Service Commission did constitute the practice of law.

Following this rebuff from the Public Service Commission your Committee felt that the only sure way of being able to secure some protection for the members of the Wyoming Bar would be by an amendment to the existing State law which would definitely define the practice of law as including appearances before the Public Service Commission. I introduced such a measure into the House of Representatives as House Bill 115. It was reported out favorably by the Judiciary Committee but when it came up for debate in the Committee of the Whole it was pounced upon by several members as being another "Closed Shop Law". It was taking such a bad beating that I felt that it would be killed in the Committee of the Whole if I did not withdraw it. Consequently, I withdrew the measure and never again had a favorable opportunity for bringing it out on the floor. I still think that was the wise thing to do in favor of the temper of the 30th Legislature.

The matter of the attitude of the Public Service Commission toward the continued appearance of out of state attorneys without local counsel was summarized in a letter from President Diefenderfer to Secretary Bob Laughlin, dated November 2nd, 1948. The substance of that letter was that President Diefend-

erfer concluded that the status of the Wyoming Statutes was such as to preclude any successful injunctive action and that nothing of that type should be attempted until after the statutes had been amended. Upon the failure of efforts to secure such amendments in the recent session of the Legislature, it occurred to me that the only final solution would be to persuade the Public Service Commission to adopt rules which would include a restriction against the appearance of out of state counsel without being associated with local counsel.

At the November 20th meeting of your Committee the following recommendations were made:

First: That Section 2-419, Wyoming Compiled Statutes, 1949, be amended to provide that non-resident attorneys should have resident attorneys associated with them in matters in hearing before the Public Service Commission.

Second: To amend Section 60-1338 concerning the time of hearings before the Public Service Commission and providing that the applicants shall publish a notice of such hearing fifteen (15) days in advance of the hearing in the County in which is located the principal place of business of the applicant.

Third: That Section 60-1341 concerning the attendance of witnesses be amended by providing for depositions and for the issuance of a subpoena duces tecum.

Unfortunately I was unable to attend the January meeting of the State Bar held at Cheyenne for the reason that I was sent to Sheridan on that week-end (January 22nd and 23rd) as a member of a Legislative Committee to set in attendance at hearings on the Powder River Project. Mr. Charles Crowell, as Chairman pro tem of the Committee, made a report to the effect that no further progress could be made on a matter of rules until the Legislative session had ended and we had determined just how we had fared in the Legislature.

The result of our Legislative efforts were practically nil and from that standpoint we are right back where we started. However, I do feel that we have made some substantial progress particularly with the Public Service Commission, as will be detailed later in this Report.

In addition to the question of the appearance of out of state counsel there have arisen several questions in connection with the matter of filing petitions for re-hearing, filing of motions and similar pleadings before the Commission. There has also arisen the matter of the right of the Commission to grant to an applicant authority to operate over a wider territory than actually requested by the applicant himself. All of these matters deserve consideration.

I have also discussed the matter of rules with Mr. John Reidel, the State Land Commissioner, and he tells me that the Board of Land Commissioners would be receptive to a set of rules for practice before that Body.

That situation was precipitated by an episode that arose in May, 1949, when Mr. Gerald Kellogg, former State Land Commissioner, appeared before the Board at its hearings on behalf of certain applicants for state leases. Mr. Erle

Reid of Torrington called this situation to the attention of President Diefenderfer and considerable correspondence passed between President Diefenderfer, Mr. Reid and Mr. James Wilson, Commissioner for the First Judicial District. The final up-shot of all of this was that Mr. Kellogg withdrew from any further appearance on behalf of parties appearing before the Board of Land Commissioners. This instance brings up the desirability of having rules of practice before that body also.

On August 31st, I had a conference with Mr. Mickelson, Chairman of the Public Service Commission, with Mr. Albert Bruch, a member thereof and Mr. Joe Minihan, Director of the Motor Vehicle Department. The whole matter of rules of practice before the Commission was thoroughly discussed, including the question of the appearance of out of State attorneys before the Commission. Mr. Mickelson indicated that the Commission would still be reluctant to adopt a hard and fast rule excluding non-Wyoming attorneys from appearances unless they were associated with Wyoming counsel. He stated that he felt that the proceedings before the Commission were not the same as those before the Courts and that the Commission should not require the same formality as is required by the Courts. He was joined in this sentiment by Mr. Bruch. Another reason for the attitude of the Commission was the failure of our efforts in the Legislature to secure an amendment to the existing law. Hence, there seems to be no change in attitude on the part of the Commission with respect to this particular problem.

However, the Commission pointed out that during the last twelve months there has been a marked increase in the number of Wyoming attorneys appearing in cases before the Public Service Commission. The Commission feels that this particular matter is somewhat solving itself and I must confess that an examination of the record indicates there has indeed been a marked increase in appearances by Wyoming counsel in Public Service Commission hearings during this past year. I feel that the efforts of the Committee to crystalize this situation have been in no small measure responsible for the fact that larger numbers of Wyoming attorneys are being employed in these Public Service Commission hearings. More Wyoming attorneys are also learning of the need of this type of legal service and are qualifying themselves accordingly. It may, therefore, be that this matter will somewhat solve itself and I think that any new Committee appointed on this matter might well delay any positive action on the matter of association of local counsel with out of state counsel for another six months. The Public Service Commission indicated that it would be happy to receive the Committee's recommendation with regard to other rules of practice, and I certainly think that this work should be carried to a conclusion.

This has been a disjointed Report but the substance of it is that your Committee wishes to make the following recommendations:

1. That your Committee be continued either with the same or different personnel.
2. That the Committee submit to the winter meeting of the Bar Association a proposed set of rules for the Public Service Commission and for other State Boards.

3. That the Committee work closely with the Bar Commissioners on the matter of the definition of the practice of law and on the problem of unauthorized practice.

Dated at Rawlins, Wyoming, this First day of September, 1949.

George F. Guy
Charles Crowell
Frank B. O'Mahoney
William Garlow
Eph U. Johnson.

REPORT OF THE COLLEGE OF LAW UNIVERSITY OF WYOMING

I am pleased to make this report to the members of the Bar of the activities of the University of Wyoming College of Law for the academic year 1948-49. An annual report by the Dean of the College has been made to the Bar Association for a great many years, and those of you who have followed them carefully can hardly fail to be impressed with the progress it has made since its very humble beginnings 29 years ago. From an obscure department under the supervision of the Department of Political Science of the University, it has developed into a College which has the highest accredited standing it is possible for a law school to attain, and has gained national recognition.

In the report of last year, it was indicated that a change in the pre-legal requirements for admission to the College was under consideration. This change is now an accomplished fact. Effective as of the beginning of the fall quarter, 1949, three years of pre-legal work instead of two, will be required for admission. The requirement is, of course, not retroactive, and those students who began their pre-legal work before the beginning of the 1949 spring term will be admitted under the old requirement of two years of pre-legal training. The great majority of our present students have had three or more years of college work, and many of them had degrees prior to enrollment in the College of Law, hence no difficulty in making the transition is contemplated.

For many years, pre-legal students have been encouraged to take advantage of what we term a 3-3 plan whereby they may fulfill the requirements for a degree in the College of Liberal Arts, Commerce or Engineering in three years, take their electives in law, qualify for a degree in one of those Colleges at the end of the first year of legal study, and, upon the completion of the final two years of legal study, qualify for the LL.B. degree. A student is thus able to earn two degrees in 6 years rather than one in five. Many students followed this program, and, with the adoption of the 3 year pre-legal requirement, it is reasonable to suppose that the number following it will increase.

However, the 3-3 plan referred to did not meet the needs of those students who were unable to fulfill the specific group requirements of the respective colleges, but who, nevertheless, had completed, or were desirous of completing,