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MINUTES OF THE ANNUAL MEETING OF THE WYOMING STATE BAR

Torrington, Wyoming August 25, 26 and 27, 1952

Pursuant to Rule 10, the Annual Meeting of the Wyoming State Bar was held in Torrington, Wyoming, on August 25, 26 and 27, 1952, due notice of such meeting having been sent to all members. The meeting was called to order by President Burton S. Hill at 10:00 A.M., on August 25, 1952. The President recognized Thomas F. Kennelly, a member of the Wyoming State Bar, who representing the Mayor of Torrington, welcomed the members.

It was moved, seconded and carried that the meeting dispense with the reading of the minutes of the 1951 Annual Meeting.

Announcements with respect to the entertainment of the members and their ladies were made by Hal Morris.

The President appointed a distinguished visitor committee consisting of the following:

H. Glenn Kinsley R. G. Diefenderfer Meyer Rankin

Vice-President E. E. Murane was called to the chair to preside. Mr. Murane introduced President Hill who delivered his address to the meeting. Upon motion made, seconded and carried, the address was adopted an ordered to be spread upon the records.

The President then resumed the chair and the Secretary-Treasurer gave the financial report covering the fiscal year ending July 31, 1952. Houston G. Williams presented the report of the Auditing Committee; and upon motion made, seconded and carried, the Auditing Committee's report was adopted and the finacial report was approved and accepted.

President Hill called upon Alfred M. Pence who reported on behalf of the Committee on Bar Examinations. He explained the difficulties that had been encountered with respect to regional bar examinations due principally to the refusal of the State of California to go along with the project. However, he stated, something in the way of regional examinations may be developed. There was a general discussion on the report and action thereon was deferred until Mr. Pence could provide further information later in the meeting.

The meeting was then recessed until 1:30 P.M.

The meeting was reconvened at 1:30 P.M., August 25, 1952. The President urged membership in the American Bar Association.

The President discussed the possibilities of conducting some sort of annual ceremony for newly admitted members and appointed Oliver W. Steadman as Chairman of a Committee to handle the matter.

Oliver W. Steadman presented the report of the Title Standards Committee, recommending the adoption of the following standard:

Standard No. 24—Termination of survivorship estates.

- PROBLEM—Where a proper affidavit has been filed as provided by sections 6-2716 and 6-2717 W.C.S. 1945 for the purpose of terminating a joint tenancy, tenancy by the entirety or a life estate, should the examiner approve the title?
- ANSWER Yes, unless some question with respect to the validity of the original instrument creating the survivorship estate appears of record.

Upon motion made, seconded and carried, the standard was adopted. The Committee also recommended that the new standard be printed on gummed paper and distributed to the membership for insertion at the appropriate place in the booklet containing the Canons of Professional Ethics and Standards for Title Examination. The Committee further recommended that the booklet be reprinted in view of the fact that the supply is exhausted. The Committee further recommended that a future meeting an institute on abstract examination be held including a demonstration. Upon motion made, seconded and carried the foregoing recommendations were adopted.

R. Dwight Wallace presented the report of the Committee on Judicial Conferences, recommending that such conferences have merit and that the Committee be continued to study and recommend a concrete plan. Upon motion made, seconded and carried the recommendation was adopted.

Alfred M. Pence then continued with the report of the Committee on Bar Examinations. The Committee recommended further study of regional examinations and that continuing interest be indicated. Upon motion made, seconded and carried, the report was adopted.

Mr. Pence also reported on the activities of the Interstate Bar Council, urging continued participation by the Wyoming State Bar. Upon motion made, seconded and carried, the report was adopted and Mr. Pence was thanked for his services as President of the Interstate Bar Council and for his services for the Wyoming State Bar in the Council.

The President recognized John U. Loomis who discussed the activities and unauthorized practice of law by one John Allen Appleman in connection with estate planning, following which he moved the adoption of the following Resolution:

"RESOLVED, that the Wyoming State Bar condemns the practice in Wyoming of that branch of the law known as 'estate planning' by lawyers or others who have not been admitted at attorneys at law in the State of Wyoming, for the reason that such practice is in violation of the statutes and rules of the State of Wyoming and is contrary to the best interests of the citizens of this State. FURTHER RESOLVED that this association condemns the solicitation of such law practice by attorneys at law, including those who have not been admitted to practice in the State of Wyoming, through life insurance agents or otherwise, because such solicitation is contrary to the canons of ethics of this association and of the American Bar Association.

FURTHER RESOLVED that this association requests its officers and committees and the officers and committees of the American Bar Association to take active steps to prevent such unauthorized and unethical practice in this State and throughout the United States."

The motion was seconded and after a general discussion was carried.

H. Glenn Kinsley moved that the Board of Commissioners be instructed to take appropriate action in the Courts against Appleman and others to enjoin unauthorized practice.

The President then announced that the next order of business would be the election of officers, and reviewed the method by which the election would be conducted, to-wit: That nominations for each office would be by secret written ballot, with the two receiving the highest number of votes being nominated for that office; that a second secret written ballot would be had to determine the election between the nominees. Messrs. James Barrett, John Ilsley and Meyer Rankin were appointed tellers.

Upon secret written ballot, Messrs. Edward E. Murane and R. Dwight Wallace were nominated for the office of President. Mr. Wallace withdrew his name for nomination, and upon motion made, seconded and carried, the Secretary was instructed to cast the unanimous ballot of the meeting for Mr. Murane for President. President Hill, thereupon, declared Edward E. Murane elected president.

It was moved and duly seconded that the rules be suspended, that R. Dwight Wallace be nominated for the office of Vice-President, that nominations be closed, and that the Secretary cast the unanimous ballot of the meeting for the nominee. The motion was carried, and President Hill, thereupon, declared R. Dwight Wallace elected Vice-President.

It was moved and duly seconded that the rules be suspended, that Robert B. Laughlin be nominated for the office of Secretary-Treasurer, that nominations be closed, and that the President cast the unanimous ballot of the meeting for the nominee. The motion was carried and President Hill, thereupon, declared Robert B. Laughlin elected Secretary-Treasurer.

The meeting was then recessed until 9:00 A.M., August 26, 1952.

The meeting was reconvened at 9:00 A.M., on August 26, 1952. The President appointed a Resolutions Committee consisting of the following:

James Barrett R. B. Bowman C. A. Lathrop

James O. Wilson presented the report of the Legislative Committee. Upon motion made, seconded and carried, the report was adopted.

The President announced that the Board of Commissioners had recommended that the meeting recommend to the Supreme Court that the name of the Association be changed from "Wyoming State Bar" to "Wyoming Bar Association." It was moved by John P. Ilsley and seconded by R. Dwight Wallace that such recommendation be made. Upon being put to a vote, the motion was lost.

Invitations were extended to hold the 1953 annual meeting in the following localities:

Cody Sheridan Casper Rock Springs

President Hill then called George J. Millett to the chair to preside. The remainer of the morning session was devoted to an Institute on Oil and Gas Law. Following is the list of subjects and the speakers (as most of the discussions were extemporaneous they cannot be published with these minutes; however, where available the authorities bearing on each subject are cited below for the benefit of the membership):

- 1. Terms and phrases peculiar to the oil and gas industry:

 Robert B. Laughlin
- Distinction between mineral deed and royalty assignment:
 W. J. Wehrli
 Watkins v. Slaughter (Tex.), 189 S.W. 2d 699
 Schlittler v. Smith (Tex.), 101 S.W. 2d 543
 Hoffman v. Magnolia Petroleum Co. (Tex.), 273 S.W. 828
 Tipps v. Bodine (Tex.), 101 S.W. 2d 1076
 Marias River Syndicate v. Big West Oil Co. (Mont.), 38
 Pac. 2d 599.
- 3. Is constructive notice imparted by records in Government and State Land Offices:

George J. Millett

and

Recording of government or state oil and gas leases:
A. G. McClintock

Sections 66-116, 66-119, 66-123, 66-124, 66-127, Wyoming Compiled Statutes 1945
Section 24-203 Wyoming Compiled Statutes 1945

Title 5 USCA, Sections 488-490

York v. James, 148 P. (2d) 596
Hawkins v. Stoffers, 40 Wyoming 226, 276 Pac. 452, 278 Pac. 76
Arnold v. Universal Oil Land Company, 114 P. (2d) 408
Livermore v. Beal, 64 P. (2d) 987
Scioto Oil Company v. O'Hern, 169 Pac. 483
Whayne v. Seamans, 217 Pac. 859
Union Trust Co. v. Henderickson, 172 Pac. 440
In re Atlantic Beach Corp., 224 Fed. 828
Burck v. Taylor, 152 U.S. 632, 38 L. Ed. 578
Rehm v. Reilly, 297 Pac. 147
Lyon v. Davis, 95 Fed. (2d) 103
Bell v. Dennis, 93 Pac. (2d) 1003
Crater v. Wallace, 140 Pac. (2d) 1018.

4. Examination of records in Government and State Land Offices:
Frank M. Gallivan

The meeting was then recessed until 1:30 P.M.

The meeting was reconvened at 1:30 P.M., August 26, 1952. President Hill introduced Charles C. Scott, Esq., of Kansas City, Missouri, who gave a lecture accompanied by slides on the subject of "Questioned Documents."

The President then introduced Hon. Hatfield Chilson, President of the Colorado Bar Association, and Hon. Jean S. Breitenstein, Presidentelect of the Colorado Bar Association, who jointly discussed the operation of the Rules of Civil Procedure now in operation in Colorado.

The Hon. Perry W. Metz, Judge of the Fifth Judcial District Court, Retired, and Hon. Glenn Parker, Judge of the Second Judicial District Court, were introduced. Judges Metz and Parker conducted a constructive discussion of common errors in procedure and in the trial of law suits, including in their discussions many suggestions for lawyers in the practice of law.

D. W. Ogilbee presented the report of the Necrology Committee and moved its adoption. The motion was seconded and carried. The entire membership stood in reverent silence in memory of the deceased members:

Judge C. D. Murane S. E. Phelps R. E. McNally

The President appointed Meyer Rankin and Milward Simpson on the Committee of which Oliver W. Steadman is Chairman to handle the matter of ceremonies for newly admitted members.

The meeting was then recessed until 9:00 A.M., August 27, 1952.

On the evening of August 26, 1952, the members and their ladies were entertained as a social hour and banquet. President Hill presided at the banquet and Hon. Clarence A. Davis, Past President of the Nebraska Bar Association, was the principal speaker.

The meeting was reconvened at 9:00 A.M., on August 27, 1952. George J. Millett was called to the chair to preside and the Institute on Oil and Gas Law was continued, the subjects, speakers and list of authorities being shown below:

5. Effect of failure to file with the Department an assignment or other transfer under a Government lease, or to have same approved:

Frank B. O'Mahoney

Isaacs v. De Hon, 11 F2d 943 (9th CCA)

Alaska Consolidated Oil Fields v. Rains, 54 F2d 68 (9th CCA)

Merritt Oil Corporation v. Young, 43 F2d 27

Dougherty v. California Kettleman Oil Royalties, 69 P2d 155, (Sup. Ct. Cal.)

Recovery Oil v. Van Acker, 180 P.2d 436, (Cal. App.)

Herigstad v. Hardrock Oil Co., 52 P.2d 171, (Mont. Sup. Ct.)

Aronow v. Bishop, 86 P.2d 644 (Mont. Sup. Ct.)

Hockman v. Sunshew Petroleum Corporation, 11 P2d 778, (Mont. Sup. Ct.)

Arnold v. Universal Oil Land Co., 114 P.2d 408, (Cal. App.)

Rue v. Merrill, 42 Wyo. 511, 297 Pac. 379.

But see:

Minnelusa Oil Corporation v. De Larm, 56 Wyo. 464, 111 P2d 107

American Sodium Co. v. Shelley, 276 Pac. 11, (Nev. Sup. Ct.),

6. Effect of royalty assignment under new, renewal or extension lease:

Houston G. Williams

Oldland v. Gray, 179 Fed. 2d 408

Aronow v. Bishop, 86 Pac. 2d 644

Summers Oil and Gas, Vol. III, Sec. 554, Pages 320-322

Gordon v. Empire Gas and Fuel Co., 63 Fed. 2d 487

Montgomery v. Phillips Petroleum Co., 49 S.W. 2d 967

Thomas v. Warner Quinlan Co., 65 S.W. 2d 321 Goosey v. Hopkins, 266 S.W. 1087

Hivick v. Urschel, 40 Pac. 2d 1077

Laguna Ranch Co. v. Dodge, 114 Pac. 2d 351

Western Oil and Refining Co. v. Venago Oil Corp., 24 Pac 2d

Duvall v. Stone, 213 Pac. 2d 212

Kutz Canon Oil and Gas Co. v. McCarthy, 244 Pac. 2d 522

Probst v. Hughes, 286 Pac. 875, 69 A.L.R. 929

Recovery Oil Co. v. Van Acker, 180 Pac. 2d 436.

7. Compensation for surface damage where surface and minerals are separately owned:

(A) Private Lands:

R. G. Diefenderfer

MacDonnell v. Capital Co. (USCCA-9th Cir. - 1942) 130 F. (2d) 311 (320)

Wood v. Hay (Ark. 1943) 175 S.W.2d 189 (190)

Harris v. Currie et al. (Tex. 1944) 176 S.W.2d 302

Irklja et al. v. Keys et al. (Cal. 1942) 121 P.2d 55, 58 CJS 333-335.

Livingston v. The Texas Co. (Not reported) No. 3233 Civil U.S. Dist. Ct. Wyo.; memorandum of opinion by Judge T. Blake Kennedy filed October 9, 1950

Hatch Bros. Co. v. Black, 25 Wyo. 109, 165 P. 518

Bader v. Mills and Baker Co., 28 Wyo. 191, 210 P. 1012
(B) Statutory provisions for benefit of surface owner where minerals are owned by the United States:

Howard Gullickson

43 FCA 141, June 25, 1910, as amended by Act of August 24, 1912, 43 FCA 141

Temporary Petroleum Withdrawal No. 5; September 27, 1909; see also United States v. Midwest Oil Co., 236 U.S. 459, 59 L. Ed. 673 (1915) affirming Presidential authority to render such an order. See Act of July 26, 1866, 14 Stat. 262, and Act of May 10, 1872, 30 FCA 23; see also Davis v. Wiebold, 139 U.S. 507, 35 L. Ed. 238 (1891)

30 FCA 35, July 9, 1870; March 3, 1891

30 FCA 101, February 11, 1897; superseded by Act of February 25, 1920, 30 FCA 181

30 FCA 23-29

30 FCA 21, July 4, 1866

43 FCA 201, June 21, 1866

30 FCA 201, June 21, 1866

30 FCA 122

30 FCA 181 et. seq., February 25, 1920

30 FCA 121 et. seq., July 17, 1914

43 FCA 291 et. seq., December 29, 1916

43 FCA 299

Kinney Coastal Oil Co. v. Kieffer, 277 U.S. 488, 72 L. Ed 961, 966

Gower Federal Service I, Part II, page 27; see also Hoffman, Oil and Gas Lease on Public Domain (1951) pp. 28-9. 115, 121

Gower I, Part II, Sec. 192.100 (c); Hoffman, pp. 121-3 Bourdieu v. Seaboard Oil Company, 119 P.2d 973, 978 30 FCA (Pocket Supplement) 54

43 FCA 315 G. (d), June 28, 1934.

8. Taxation of minerals under Wyoming Law.
Effect of separate ownership of surface and minerals:

J. W. Gee

Miller v. Buck Creek Oil Co., 38 Wyo. 505

269 P. 43, 73 A.L.R. 821 (1928)

First National Bank v. Central Coal and Coke Co., 3 F. Supp. 433 (1933), - on appeal cited as Board of Comm'rs of Sweetwater County, Wyo., et al., v. Barnardin et al., 74 F. 2d 809 (1934)

Wyo. Comp. Stat. Ann., Sec. 32-1001 (1945)

Hudson Oil Co. v. Board, 49 Wyo. 1, 52 P.2d 683 (1935)

Hudson Oil Co. v. Board, 56 Wyo. 199, 106 P.2d 286 (1940)

State v. Snyder, 29 Wyo. 163, 212 P. 758

Westmoreland & C. Natural Gas Co. v. DeWitt, 130 Pa. 235, 18 Atl. 725 (1889)

State ex. rel. Cross v. Board of Land Commissioners, 50 Wyo. 181, 58 P.2d 423 (Wyo. 1936).

9. Relationship between Government oil and gas lease and claims under the mining laws:

W. J. Wehrli

Statutes:

R.S. Sec. 2319 Title 30 U.S.C.A., Sec. 22

R.S. Sec. 2320 Title 30 U.S.C.A, Sec. 23

R.S. Sec. 2322 Title 30 U.S.C.A., Sec. 26

R.S. Sec. 2324 Title 30 U.S.C.A., Sec. 28

R.S. Sec. 2329 Title 30 U.S.C.A., Sec. 35

R.S. Secs. 2329 and 2330 Title 30 U.S.C.A., Secs. 35, 36

Sec. 1 of Leasing Act, Sec. 181 Title 30 U.S.C.A.

Sec. 18 of Leasing Act, Sec. 227 Title 30 U.S.C.A.

Sec. 37 of Leasing Act, Sec. 193 Title 30 U.S.C.A.

Sec. 57-906, Wyoming Complied Statutes, 1945

Sec. 57-914, Wyoming Complied Statutes, 1945

Sec. 57-916, Wyoming Compiled Statutes, 1945 Sec. 57-921, Wyoming Complied Statutes, 1945

Secs. 57-922, 57-923 and 57-925, Wyoming Complied Statutes, 1945.

Court Decisions:

Wilbur v. U.S. ex rel. Krushnic, 280 U.S. 306, 74 L. Ed. 445 Ickes v. Virginia-Colorado Development Corp., 295 U.S. 639, 79 L. Ed. 1627

Norris v. United States Mineral Products Co., 61 Wyo. 386, 158 Pac. 2d 679

Columbia Copper Mining Co. v. Duchess Co., 13 Wyo. 244, 79 Pac. 385

Dean v. Omaha-Wyoming Oil Co., 21 Wyo. 133, 128 Pac. 881

Nevada Sierra Oil Co. v. Home Oil Co., 98 Fed. 673

Krame rv. Gladding, McBean & Co., 85 Pac. 2d 552

Bigelow v. San Juan Gold Co. (Cal.), 148 Pac. 2d 122

Pine Grove Nevada Gold Mining Co. v. Freeman (Nev.), 171 Pac. 2d 366

Crane v. French (Cal.) 104 Pac. 2d 53

Steele v. Preble (Ore.) 77 Pac. 2d 418

Del Giorgio v. Powers (Cal.) 81 Pac. 2d 1006

Wiltsee v. Utley (Cal.) 179 Pac. 2d 13

Scoggin v. Miller, 189 Pac. 2d 677

Hagerman v. Thompson (Wyo.) 235 Pac. 2d 750.

10. Effect of suit to quiet title by surface owner against persons owning mineral interests:

J. B. Sullivan

Substantive Rights:

Severance of Estates: Possession of Minerals

Ohio Oil Company v. Wyoming Agency (Wyo.) 179 P.2d 773; 58 C.J.S., Mines and Minerals, pp. 222-4; 58 C.J.S. pp.328-30; 58 C.J.S. pp. 254-5

61 C.J. pp. 180, note 77 et seq.

29 A.Ľ.Ř. pp. 586

146 A.L.R. pp. 880

Denver Joint Stock Land Bank v. Dixon, 122 P.2d 842; 13 A.L.R. 372.

Adverse Possession Minerals:

Brooks Scanlon Co. v. Stogner (Miss.) 75 So. 596.

Possession of Surface not Adverse to Owner of Minerals:

Curtis Jordan Oil and Gas Co. v. Mullins, Ky. 106 S.W.2d 979

Price v. Big Sandy Co., Ky. 107 S.W. 725

McPherson v. Thompson, Ky. 261 S.W. 853, 157 A.L.R. 485

(Related to question) Farnsworth v. Barret, Ky. 142 S.W. 1049.

Possession in Connection with Quiet Title:

88 A.L.R. 1201

58 C.J.S. 353

Bruch v. Benedict (Wyo.) 165 P.2d 561

Gill v. Fletcher (Ohio) 78 N.E. 433

Harris v. Paul (Ohio) 174 N.E. 615 Ford v. Witwer (Ill.) 50 N.E.2d 714

Chesney v. Valley Livestock Co., 34 Wyo. 378; 244 P. 216, 44 A.L.R. 1255

Sawyer v. Gustafson (Fla.) 118 So. 57.

Previous Judgment — Construction and Attack:

50 C.J.S. 229

51 C.J. 282

41 Am. Jur. 82

Combs v. Virginia Iron, Coal & Coke Co. (Ky.) 106 S.W. 815

31 Am. Jur. 230-1, 654.

Collateral Attack:

31 Am. Jur. 204-5-6

Rock Springs Coal and Md. Co. v. Black Diamond Coal Co. (Wyo.) 272 P. 12

State ex rel. Yohe v. District Court (Wyo.) 238, P. 545 Closson v. Closson (Wyo.) 215 P. 485, 29 A.L.R. 1371

Garison v. Blanchard (Cal.) 16 P.2d 273.

Declaratory Judgment:

Ohio Oil Co. v. Wyo. Agency, 179 P.2d 773 Rice v. Rice, 336 U.S. 674, 69 S. Ct. 751.

Equitable Relief:

Midwest Refining Co. v. George, 7 P.2d 213.

Jurisdiction:

51 C.J. 284

Lichtenberger v. Milligan (Ohio) 25 N.E.2d 357 State v. District Court (Wyo.) 238 P. 545.

Service by Publication:

31 Am. Jur. 302

Clarke v. Shoshoni Lumber Co. (Wyo.) 224 P. 845 Elstermeyer v. City of Cheyenne (Wyo.) 116 P.2d 231.

Fraud as Ground for Attack:

49 C.J.S. 738

Harden v. Card (Wyo.) 97 P. 1075

Miller v. Higgens (Cal.) 111 P. 403 Clark v. Clark (Mont.) 210 P. 93 Rivieccio v. Bothan (Cal.) 165 P.2d 677 Toner v. Conqueror Trust Co. (Kan.) 268 P. 810.

Miscellaneous:

Vance v. Pritchard (N.C.) 197 S.E. 182.

Upon conclusion of the Institute, President Hill resumed the chair. James Barrett was recognized and presented the report of the Resolutions Committee. Upon motion made, seconded and carried the following Resolutions were adopted:

BE IT RESOLVED that the Wyoming State Bar at its annual meeting in Torrington, Wyoming, August, 1952, does again respectfully urge the Supreme Court of the State of Wyoming to adopt in toto the Rules of Civil Procedure proposed by its Advisory Committee after due study, revision and adoption by this body. BE IT RESOLVED that the Wyoming State Bar do and it does hereby extend its grateful appreciation to the Carbon County Bar Association and the Saratoga Inn for the excellent entertainment provided the membership at the banquet of the Bar held in Torrington, Wyoming, on the evening of the 26th day of August, 1952. BE IT RESOLVED by the Wyoming State Bar that the outgoing officers of the Bar, and particularly Burton Hill, as President, and Robert Laughlin, as Secretary-Treasurer, be and the outgoing offices are hereby extended the grateful appreciation of the Wyoming State Bar for their efficient and exemplary conduct of the affairs of the said Bar during their tenures of office.

BE IT RESOLVED by the Wyoming State Bar that the Goshen County Bar Association and the City of Torrington, Wyoming, be and they are hereby extended the grateful thanks and appreciation of the Wyoming State Bar for the hospitality, cordiality, accommodations and many kindnesses extended to the members of the Bar at this, the 1952 meeting of the Wyoming State Bar at Torrington, Wyoming.

BE IT RESOLVED by the Wyoming State Bar that the chairman and all members and participants in the 1952 Oil and Gas Institute had at the 1952 Wyoming State Bar meeting be and they are hereby extended the grateful thanks of the members for the presentation of said Institute; and be it further resolved that similar and like Institutes be pursued in and during future State Bar meetings.

It was moved, seconded and carried that appropriate dissemination of the foregoing Resolutions be made by the Secretary.

President Hill presented a gavel to President-elect Murane and turned the meeting over to him. President-elect Murane thanked the Wyoming State Bar for his election. As a result of inquiry the meeting expressed its preference that future meetings be held at the end of the week prior to Labor Day and that an Institute be conducted at the Legislative Meeting in 1953.

There being no further business, the meeting was adjourned.

Robert B. Laughlin, Secretary-Treasurer.