

1981

Committee Reports

Wyoming State Bar

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Wyoming State Bar (1981) "Committee Reports," *Land & Water Law Review*. Vol. 16 : Iss. 1 , pp. 361 - 382.
Available at: https://scholarship.law.uwyo.edu/land_water/vol16/iss1/15

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LAND AND WATER

LAW REVIEW

VOLUME XVI

1981

NUMBER 1

COMMITTEE REPORTS

REPORT OF CLIENTS' SECURITY FUND COMMITTEE

The Committee had no matters at all to consider this past year. There have been no reports nor applications submitted to the Committee necessitating any meetings nor actions since the creation of the Committee, which was pursuant to an Order of the Supreme Court of Wyoming, dated September 18, 1972, as Rule 22 of the Wyoming State Bar Rules.

The members appointed to the Committee in September, 1979, and the balance of their respective terms, are as follows:

Member	Unexpired Term	District
Suellen L. Davidson Cheyenne	2 years	First
Kermit C. Brown Rawlins	1 year	Second
Harry Lee Harris Evanston	1 year	Third
Richard M. Davis, Jr. Sheridan	Expires	Fourth
Robert A. Gish Basin	1 year	Fifth
Mark L. Hughes Sundance	2 years	Sixth
Howell C. McDaniel, Jr. Casper	2 years	Seventh
Richard A. Stacy Wheatland	Expires	Eighth
Donald P. White Riverton	Expires	Ninth

The monies in the Fund are maintained by the Executive Director-Secretary of the Wyoming State Bar, and are on deposit as shown in the accounting hereinbelow. The four accounts, previously maintained have been consolidated into two accounts:

Guaranty Federal Savings & Loan—Casper	
Money Market #9100128, acquired on 4-1-80,	
matures on 9-30-80, for 15.70% interest	\$23,094.81
Provident Federal Savings & Loan—Casper	
C.D. #37764 at 14.8% interest,	
matures on 10-6-80	\$10,000.00
	<hr/>
	\$33,094.81

The balance in the Fund as of August 31, 1979, was \$21,943.08.

Respectfully submitted,
HOWELL C. McDANIEL, JR.
Chairman

REPORT OF THE PROBATE STATUTE STUDY COMMITTEE

The Bar Committee did not function as such, due to the fact that all but two members of the Committee are also members of the Governor's Probate Statute Committee.

The lawyer members of the Governor's Committee are:

Ross D. Copenhaver of Powell
Howell C. McDaniel, Jr., of Casper
Roy Stoddard, Jr., of Cheyenne
Bruce N. Willoughby of Casper
Robert J. Wyatt of Sheridan

The other members of the Bar Committee are:

Richard S. Dumbrill of Newcastle
H. B. Harden, Jr., of Casper

These gentlemen were kept informed of activities of the Governor's Committee, and did, from time to time, attend the meetings and contribute to the work of that Committee.

Respectfully submitted,
HOWELL C. McDANIEL, JR.
Chairman

REPORT OF THE STATE BOARD OF CONTINUING LEGAL EDUCATION

I am submitting the following report as the chairman of the State Board of Continuing Legal Education for the State of Wyoming. Our activities have lessened somewhat with the passage of time, and now we are basically devoting our time to review of requests for accreditation of seminars and programs submitted by sponsors or attendees of those seminars and programs. Further, during the past year we have met to review the forms utilized in report-

ing credit hours and in requesting accreditation. For the first time, it became necessary for the board to advise the Supreme Court of in-state members who had not completed the required number of hours for 1979. In March of 1980, we advised the Supreme Court of several members who had not completed their requirements for 1979. The Supreme Court granted extensions of time within which to comply with the CLE requirements to several of those individuals, however, as of the date of this report, there are still 25 in-state members who have not complied with mandatory CLE requirements for 1979. I spoke to Chief Justice Raper concerning this matter, and he has requested a recommendation from our board as to how to deal with the delinquent members. We have added this to our agenda for the meeting to be held in Jackson during the State Bar.

The delinquencies for 1979 represent 3 percent of the total members of our state bar. Of the total membership, 46 have completed the requirements through 1982, 108 have completed through 1981, and 246 have completed through 1980. These figures would indicate that statistically the mandatory CLE program can still be considered as a success.

Financially the reporting fee has resulted in a bank balance of \$7,643.00 with expenditures since September, 1979 in the amount of \$383.97 representing travel expenses for the executive secretary and CLE members and for office supplies. Surprisingly, we do have some members who have not paid their registration fee. The Wyoming State Bar office has advised that ten people did not pay the \$5.00 registration fee for 1978, and this number jumped to 76 in 1979. This problem will also be taken up at our meeting in Jackson.

Respectfully submitted,
RICHARD E. DAY
Chairman

REPORT OF THE ADVISORY COMMITTEE TO COOPERATE WITH THE ABA

The members appointed to this committee by President Lubnau, as of October 9, 1979, are: Jerry W. Housel; Carl L. Lathrop; Howell C. McDaniel, Jr.; Alfred M. Pence; William A. Taylor; and Houston G. Williams. The undersigned was privileged to serve as chairman for the committee during the past year.

This committee's function during the past few years has been largely limited to encouraging new admittees and members of the Wyoming State Bar to become members of the American Bar Association. At the suggestion of President Lubnau, however, the committee was encouraged to undertake the task of general liaison between the Wyoming State Bar and the American Bar Association.

Accordingly, while the committee did not actually meet as a group, some correspondence exchanged hands in an attempt to initiate liaison activities between the Wyoming State Bar and the American Bar Association. The primary results of this endeavor concern the receipt, from the ABA's Division of Bar Services, of a brochure describing what that particular division offers for state and local bar associations, a copy of which is appended hereto. All of the committee members received a copy of the brochure which contained a toll-free number to assist communication between the State Bar and the ABA.

Additionally, the ABA advised the committee of its annual Bar Leadership Institute which is designed as a formal training course for emerging bar officials with special emphasis on presidents-elect. It was ascertained that no officer of the Wyoming State Bar has attended the Institute since the first such course in 1978. It would be the recommendation of the committee that the president-elect and perhaps other officers of the Wyoming State Bar consider attending the 1981 Bar Leadership Institute in March, 1981. In addition, the National Conference of Bar Presidents meets twice a year, at the same time as the ABA Midyear and Annual Meetings. This committee commends to the bar officers, attendance at these meetings in an effort to assist your committee in a meaningful way as liaison between the Wyoming State Bar and the ABA.

Finally, your committee was requested by President Lubnau to determine whether or not this committee would be appropriately assigned the responsibility of undertaking a task force study to review the functions of the standing committees of the Wyoming State Bar and to evaluate them. While your committee did not undertake this task, it is our feeling that such a task force would be useful and should be formed during the coming year.

Respectfully submitted this 22nd day of August, 1980.

Respectfully submitted,
ARTHUR T. HANSCUM
Chairman

REPORT OF THE LEGAL EDUCATION COMMITTEE

Members of this Committee met at the Law School at the University of Wyoming on November 16, 1979, and the following items were acted on:

Because of the enthusiastic response of the law students, the Committee again recommended to the Bar Examiners that they provide one or more of their members to speak to the law school during the school year and prior to the giving of the next bar exam. The Bar Examiners did in fact appear and speak as requested.

The Committee again recommended to the President of the Wyoming State Bar that he schedule an appearance to speak to the students at the law school regarding participation in bar activities. The President of the Bar, Mr. Lubnau, did accede to this request and did appear and speak to the student body.

The Committee continued its program of providing bar consultants to faculty members on request. This year, five members of the bar having expertise in the fields of securities law and oil and gas law responded to requests of the Committee and are presently working with the requesting faculty members in these two areas to provide input into the course content in those two courses for this fall's term. The Committee is deeply grateful to the cooperation of the bar and its assistance in this program, and wants the bar to know that up to this point no member of the bar who has received a request from the Committee has refused the request.

The Committee discussed further implementation of the Law School Enrichment Fund solicitation, and completed the appointment of solicitation chairmen in each county for this purpose. The results of that up to this date will be discussed later in the report.

The Committee renewed its request from the previous year to the Bar Commissioners to consider the funding of travel expenses for the purpose of promoting the selection of one or two members of the Wyoming State Bar for appointment to the ABA Committee on Legal Education.

The Committee again requested the dean of the law school to give consideration to the dismissal of classes during the Wyoming State Bar Convention so as to encourage attendance by students at the law school. The dean has again acceded to this request and made the days of Thursday and Friday, September 4th and 5th free for the students to attend the convention. The Committee expresses its appreciation to the cooperation received from the dean in this regard.

The Committee further discussed with the dean an Amax grant being processed by Amax Corporation in favor of the Wyoming Law School and also the proposed establishment of a nonprofit corporation for the purpose of establishing a Wyoming State Bar Foundation.

The Committee met with the faculty of the law school to discuss many of the above subjects and then met with a representative group of students at the law school and considered criticisms and questions dealing with the administration and course content as raised by the students. Where deemed appropriate, these recommendations and suggestions from the students are then transmitted to the dean and faculty.

The Law School Enrichment Fund, which had been established under the auspices of this Committee, made a renewed effort this year to obtain funds on a sustaining basis from members of the bar. The efforts of the Committee resulted in the Law School Enrichment Fund receiving in excess of \$3,500 up to August 11th of this year. These funds were used in the following categories: travel for students to regional and national competitions. Other areas in which the funds were spent included travel for special speakers at the law school, travel for clinical course work by the students, and some amounts were also contributed from these funds towards faculty recruitment and student attendance at ABA meetings.

The chairman of the Committee, together with Dean Maxfield and Professor Joe Cardine are serving on a committee with G. L. Spence and Justice Rose to implement a new trial practice seminar for law students and, possibly, also members of the Wyoming State Bar. These seminars will not be conducted under the auspices of this Committee, but the Committee has offered its cooperation in the initiation of the professional trial practice seminar in this area.

In conclusion, I again assert that the Committee has provided a worthwhile service to the University of Wyoming, to the students and faculty of the Wyoming Law School and to the members of the State Bar as a means of communication between the bar, faculty and students. I believe that it can continue to serve such a purpose and that a similar committee should continue to be appointed each year in the future.

Respectfully submitted
JOSEPH F. MAIER
Chairman
Legal Education Committee

REPORT OF THE COMMITTEE ON PHYSICAL AND MENTAL DISABILITIES

The members of this Committee are: Ellen Crowley, Chairman, Douglas Bryant, James Allison, John Rogers, Alvin Wiederspahn, and Gay Vanderpoel.

During the past year, the Committee has recommended that the Wyoming State Bar purchase a copy of *Legal Rights of Mentally Disabled Persons* for the Wyoming State Law Library. The book is published by the Practising Law Institute. The Committee also recommended that the Bar purchase subscriptions to "Amicus" and the "Mental Disability Law Reporter."

In addition, the Committee recommended that the Bar fund all or a portion of the printing and distribution costs of a manual of education rights for the developmentally disabled. The manual will

be published and distributed throughout Wyoming under the auspices of the Developmental Disabilities Protection & Advocacy System, Inc.

Respectfully submitted,
ELLEN CROWLEY
Chairman

REPORT OF THE COMMITTEE ON WYOMING COURTS

The Committee had one formal meeting during the year on Saturday, February 16, 1980, after efforts to hold the meeting earlier on January 26, 1980, proved unsuccessful as a consequence of adverse weather. Several communications were transmitted by letter and telephone related to the Committee's business during the course of the Budget Session of the Legislature which was convened February 12 and adjourned March 5, 1980.

In this year's legislative session, the Committee did not sponsor any legislation. Most of the legislation the Committee has sought unsuccessfully in the past to improve the county court system in the state was proposed by the Joint Judiciary Interim Committee. Therefore our Committee devoted its efforts to supporting that legislation. This meant, therefore, that the Committee had little control over the form of the legislation and even less to say about the manner in which the bills were being handled during the legislative process.

The following briefly summarizes the bills which passed.

SJR 1. A proposed constitutional amendment to allow juries of less than 12 in misdemeanor as well as in civil cases was approved and will be on the ballot in November. The Committee recommends that the membership endorse passage of this amendment by a resolution to be presented at the annual meeting in Jackson this year.

SF 7 was a bill to extend the jurisdiction of the county courts to include statutory liens, contrary to the recommendations of our Committee, and to enlarge upon the monetary jurisdiction to \$7,000. The bill went on to provide that cases involving sums between \$4,000 and \$7,000 could be tried in either the county or district courts. Your committee had opposed this concurrent jurisdiction concept, too. Nevertheless, this bill passed and is now law.

SF 8 was a bill to do some housekeeping on the law dealing with the enforcement of foreign judgments. It declared that all judgments, including those within the country court's jurisdictional limits, shall be filed in the district courts. In other words, it eliminated any question about how foreign judgments are to be handled if they are for amounts ordinarily within the jurisdictional limits of the county courts. It passed, too.

SF 9, the only bill our Committee voted to oppose outright at its February 16 meeting, abolished preliminary hearings in high misdemeanor cases. This bill also passed.

SF 11 was a bill to increase the maximum fine which could be imposed by a police justice. It would have raised such fines to \$200. This bill failed in the Senate.

SF 12, which would have lowered the population factor for mandating the establishment of county courts, was withheld as a sort of trade off during the legislative session. Reports have been received that the opposition was ready with another bill which would have raised the population factor to a point that only Laramie and Natrona Counties would have county courts. It was a case, therefore, of everyone sidestepping the issue to avoid stirring up a hotly contested controversy in the budget session.

SF 16, the crucial bill from the standpoint of our Committee, would have provided state funding for the county courts and would have authorized the legislature instead of the county commissioners to set the number of judges in each county. This measure passed the Senate, went to the House Judiciary Committee where it won easy approval, and from that point the bill was placed at the bottom of the house calendar where it ultimately died. It was a frustrating experience and an inexcusable manipulation of a bill that was generally supported and should have passed. The Committee is rededicating its efforts toward achieving enactment of this legislation in the next session.

Respectfully submitted,
R. STANLEY LOWE
Chairman

REPORT OF THE ETHICS COMMITTEE

Although the American Bar Association has proposed "Model Rules of Professional Conduct", the same have not been adopted by the ABA. It is understood that the proposed rules have been subject to much discussion, but until such time as they have been adopted by the ABA the Committee does not feel that they should be studied in depth for the purpose of adoption.

The Committee is presently reviewing the ethical considerations of using secretaries as paralegals or legal assistants. Information has been obtained regarding the subject, and from that information the Committee will determine what, if any guidelines, should be proposed to the State Bar.

Respectfully submitted,
TIMOTHY J. BOMMER
Chairman

REPORT OF THE LAW RELATED EDUCATION COMMITTEE

On behalf of the Law Related Education Committee, I wish to report that the Committee has not been as active as I would have hoped due to time constraints and limitations we have experienced; however, the Committee does intend to meet at the Wyoming State Bar Convention to discuss its future activities, which activities I contemplate would include obtaining further and additional information from the American Bar Association, as well as from the Federal Office of Juvenile Justice and Delinquency Prevention who, I understand, are providing nationwide funding assistance.

Personally, I can report that I have addressed, on several occasions, classes of students in connection with law related education this year and have spoken to members of the teaching profession to obtain their input as to what they feel would be helpful to promote a better knowledge and understanding of our legal system. I am aware Professor Ferguson has been quite active in Project Legis but I have not personally worked with him at this juncture. With respect to the other members of this Committee, I trust they have been endeavoring to work within their geographical area to also promote law related education.

From information and sources available to me which I have received from various organizations, it appears to me that there are a number of grants being given for the development of law related education, particularly at the elementary level. My thoughts for the coming year are that more time and effort be devoted to this most worthwhile Committee and a closer mutual relationship established with our contemporaries in the field of education and school administration.

Respectfully submitted,
RONALD L. BROWN
Chairman

**REPORT OF THE PATTERN CIVIL JURY
INSTRUCTIONS COMMITTEE**

The members, in addition to myself as chairman, are the Honorable Rodney M. Guthrie, Justice, Retired; the Honorable Joseph F. Maier, District Judge; the Honorable J. Ruel Armstrong, District Judge, Retired; Kim D. Cannon, Lawyer, Sheridan; Greg Greenlee, Lawyer, Casper; Terry W. Mackey, Lawyer, Cheyenne; and John Stanfield, Lawyer, Laramie.

Judge Guthrie was employed as reporter for the Committee prior to the 1979 meeting of the Wyoming State Bar. The duties of a reporter are to, in between meetings of the Committee, do the neces-

sary supporting research and initial drafting of proposed jury instructions for consideration of the Committee as a whole.

During the past year, Judge Guthrie has devoted hours and hours on end to the research and drafting of instructions. He was assisted by Judge Armstrong, Court Coordinator for the Wyoming Supreme Court, who retired July 1, 1980.

During the course of the past year, the Committee has had four meetings of two days each requiring at least 64 hours of the valuable time of each Committee member away from his usual full-time work. Multiplying that by the eight members, in meeting time alone, there has been a total of 512 hours of professional time devoted to intense discussion and development of instructions in final form, along with comments of the Committee and use notes to accompany each instruction. This does not count time spent by each Committee member in preparation for each meeting. During that time, the Committee has approved approximately 50 instructions. It has on hand at this time 59 instructions prepared by Justice Guthrie and Judge Armstrong for discussion at the next meeting on October 21 and 22, 1980. In the interim until the next meeting, additional instructions, in draft form, will be prepared for consideration.

For the orderly consideration of individual instructions, a working loose-leaf manual for each member has been developed, which will form the basis of the final publication. The contents at this time are divided into thirteen major subdivisions, which embrace chapters covering preliminary instructions to the jury panel before opening statements, miscellaneous instructions after closing of the evidence, and instructions on evidence, burden of proof, negligence, causation, damages, and motor vehicles. The manual will include a summary of all statutory provisions relating to traffic, comparative negligence, products liability, express and implied warranties, malpractice, agency, joint enterprise, premises liability, and eminent domain.

The Committee has, up to this point, had its greatest difficulty in formulating instructions pertaining to comparative negligence, though it has settled on instructions in final form for the two-party case. Some of the problems with comparative negligence has arisen because of the recency of adoption of the doctrine of comparative negligence and the paucity of decisions of the Wyoming Supreme Court on the subject.

The progress promised at the time of this Committee's last report has been made during the past year. The Committee now can see the culmination of its work; and, hopefully, publication can be accomplished early in 1981. It has made every effort to carefully consider every instruction in order that an authoritative volume will result.

It is recommended that the services of the present Committee be retained and that its members be reappointed. The very real reason for this is that a working relationship has been developed along with a standard approach of attack on every problem.

Respectfully submitted
John F. Raper
Chairman

REPORT OF LEGISLATIVE AND LAW REFORM COMMITTEE

The Legislative and Law Reform Committee experienced a basically quiet year since this was the budget session of the 1980 Wyoming Legislature. Efforts were made to identify legislation of general interest to all of the members of the Wyoming State Bar Association which might be worthy of consideration at the 1980 Wyoming Legislative Session.

A sub-committee was appointed for the specific purpose of bringing up to date the Uniform Commercial Code in Wyoming and possibly re-numbering of the sections of the present statutes to coincide with the numbers utilized in the Uniform Commercial Code as promulgated by the National Conference of Commissioners on Uniform State Laws. Wyoming has not yet considered and adopted the recommended changes of 1972 and 1977 in the Code suggested by the National Conference of Commissioners on Uniform State Laws. Professor Jack L. Van Baalan of the University of Wyoming will chair this sub-committee.

Just recently, the Committee began to receive various drafts of proposed legislation for the 1981 session, much of which is of general concern to the Wyoming State Bar Association. This material will be referred to the Committee to be appointed in September of this year at the annual meeting for its consideration and presentation at the Legislative Session of the Wyoming State Bar Association which will precede the 1981 Legislative Session. The site and date of the Bar Association's legislative session will be announced shortly after the 1981 annual meeting of the Wyoming State Bar Association in Jackson, Wyoming.

Respectfully submitted,
Carl L. Lathrop
Chairman

REPORT OF PUBLIC RELATIONS COMMITTEE

The Public Relations Committee of the Wyoming State Bar elected to devote its entire budget to a television public relations campaign. The campaign began on National Law Day and continued for a period of thirteen weeks. Television public relations commercials

were purchased through Ktwo Radio and Television in Casper, Wyoming, and were aired three times a week for the thirteen week period. The total cost for the television spots and for the cost of preparation for each show for the entire period was \$7,930.00.

The Public Relations Committee generally feels that an appropriate use of our public relations budget was to allocate funds for television spots primarily directed at middle income families. The Committee was generally of the opinion that upper income level persons were generally aware of the services provided by attorneys and that the lower income levels of our society were likewise generally aware of their ability to acquire legal services through legal aid offices, public defender services and related legal service projects for lower income persons. Thus, the Committee felt that the State Bar was well advised to commit its budget toward improving the public image of attorneys and in disseminating information to the middle income sector of our society concerning the services attorneys can provide.

The Committee would further recommend that the State Bar consider allocating additional funds for use in a television public relations campaign. In order to provide public relations commercials throughout the year it would cost approximately \$32,000.00, using the format which the Committee used for a thirteen week period, that is, three television spots per week.

We were advised by Ktwo that we reached in excess of 92,000 adults over the age of 18 years every two weeks. We are also advised by Ktwo Television that were the State Bar to run public relations ads for a fifty-two week period, that our average audience during a single two week period would be in excess of 107,000 adult persons over the age of 18 years.

Respectfully submitted,
Dan B. Riggs
Chairman

REPORT OF THE WYOMING STATE BAR DELEGATE TO THE ABA HOUSE OF DELEGATES

This report will briefly summarize the action taken by the American Bar Association House of Delegates at the 1980 Mid-Year Meeting held in Chicago, Illinois, on February 4 and 5, 1980, and the 1980 Annual Meeting held in Honolulu, Hawaii, on August 5 and 6, 1980.

Here is a summary of the most significant items considered at the mid-year meeting.

Report No. 7 submitted by the Maricopa County (Arizona) Bar Association would have compelled the joint IJA/ABA Juvenile Justice Standards Commission to review all of the standards of juvenile justice promulgated by that Commission to change the philosophy expressed in the standards regarding sentences of juvenile offenders, inclusion of noncriminal misbehavior in the jurisdiction of juvenile courts, right to counsel, input of juveniles and participation of parents in proceedings, sentencing and transfer of juveniles to adult criminal courts. The standards, you will recall, were the subject of an intense debate in the House at the annual meeting in Dallas in 1979. The consensus of the members, therefore, was that the standards, having been passed after much study and debate, should not be tampered with so soon. As a consequence, the proposal failed.

The handling of sensitive classified information in trials of criminal cases was the subject of Report No. 101 submitted by the Section on Criminal Justice. "Graymail" is the label given the tactic whereby defendants threaten to disclose sensitive classified information if the government pursues prosecution of a criminal violation. The recommendation acted upon by the House would provide special procedures to permit such evidence to be considered without violating its classified status. The proposal was approved.

One of the 22 sections of the American Bar Association, the Section of Bar Activities, was found to be less active than it ought as a consequence of the existence of the National Association of Bar Executives. The expenditures of ABA money, therefore, for this section were deemed unjustified. As a consequence, the House voted to discontinue this section effective at the end of the annual meeting in Honolulu.

Along the same line was the approval of Report No. 122 changing the name of Section of Insurance, Negligence and Compensation Law to Section of Tort and Insurance Practice.

Report No. 105 was approved dealing with closing costs of residential real estate transactions. It recommended that any legislative or administrative standards to be established take into account certain matters that bear heavily upon the item of fees related to real estate transactions.

Report No. 106 was approved in which it was resolved that the American Bar Association disapproves creation of a court of appeals for the federal circuit and a United States Claims Court as proposed in the Federal Courts Improvement Act of 1979 (S. 1477) and the creation of the United States Court of Tax Appeals.

The Code of Professional Responsibility was the subject of two reports, numbers 107 and 107A. Number 107 eliminated DR 2-102 (E) which prohibited a lawyer engaged both in the practice of law and another profession or business from identifying himself as a lawyer on his letterhead, office sign, professional card, or any publication connected with his other profession or business. This was stricken in the light of the Supreme Court decision in the *Bates* case. Number 107A permitted the insertion of language in DR 3-102(A) (3) to permit nonlawyer employees to share in compensation plans with members of law firms as well as retirement plans.

The Section of Taxation of the American Bar Association submitted ten recommendations to amend the Internal Revenue Code of 1954. The first would apply a 100% dividends-received deduction to all dividends received by a corporation from a domestic corporation; the second would provide that no gain or loss will be recognized on certain successive transfers of property to controlled corporations if each transfer, viewed independently, qualifies for nonrecognition treatment; the third provides that upon a transfer described in both Sections 351 and 304, the receipt of property other than stock of the transferee corporation and the assumption of certain liabilities shall be governed by Section 304; the fourth called for a rewriting of the provisions relating to collapsible corporations so as to utilize objective tests as the basis for defining a collapsible corporation and to make the rules fairer by taxing as ordinary income to a shareholder only that portion of his gain attributable to property which, if sold by the corporation or by him, would have produced ordinary income; the fifth would eliminate the distinction between new and used Section 1245 property in the provisions allowing accelerated depreciation methods; the sixth would make consistent the tests for acceleration of unpaid installments of estate tax in cases of withdrawals from closely held businesses and dispositions of interests in such businesses and to limit the acceleration of unpaid installments where obligations of the business are received in such transactions; the seventh would allow to a terminating trust or a trust included in the gross estate of a decedent for federal estate tax purposes an income tax deduction for gross income permanently set aside for charitable purposes; the eighth would remove the zero bracket amount from the definition of taxable income and from the rate tables and to restore the concept of a standard deduction; the ninth would make the installment method of reporting available where the selling price is subject to a contingency and the contract provides for a maximum selling price; and the tenth would permit the use of investment tax credits to the full extent of tax liability and to allow carryover of unused credits indefinitely. All ten recommendations were approved by the House.

Report No. 110 was approved which called upon the federal government to continue to recognize the special relationship which exists between the United States and the American Indian Tribes and urged a policy of strict adherence to Indian Treaty obligations

By approved Report No. 116, the American Bar Association went on record endorsing the concept of clients' security funds. Although the American Bar Association has had a standing committee on clients' security funds since 1969 and has authorized that committee to coordinate information on clients' security funds and to assist in the operation and administration of such funds, the Association has never officially endorsed the concept as a policy of the Association. This action, therefore, filled that void.

In Report No. 119, the Section of Corporation, Banking and Business Law proposed a resolution that the American Bar Association on principle opposes government appeal of sentences on grounds they are too lenient and, pursuant to such policy, the ABA also opposes inclusion of such provisions in legislation pending before Congress to recodify the Federal Criminal Code and urges the Standing Committee on Association Standards for Criminal Justice to reconsider one of its standards dealing with this subject. The proposal was approved.

By adopting Report No. 122A, the American Bar Association went on record urging that workers' compensation systems remain the responsibility of the individual states and that the federal government should stay out of that field.

The Young Lawyers Division submitted Report No. 125 which, after being amended, was approved resolving that the American Bar Association recommend to Congress the enactment of a statute permitting the peremptory challenge of a federal district court judge, magistrate or bankruptcy judge in civil cases.

A brief summary of the principal matters considered at the annual meeting held in Honolulu follows.

One of the most debated issues was Report No. 10B proposed by the State Bar of Wisconsin. It supported an amendment of the Legal Services Corporation Act to mandate opportunity for private bar involvement in the delivery of legal assistance whenever the private bar was willing and able to participate. A proposal dealing with the same subject was Report 116 proposed by the Section of General Practice. That proposal differed from the Wisconsin proposal in that it merely urged rather than mandated Congress to amend the Legal Services Corporation Act to mandate substantial involvement for private lawyers. The issue was finally resolved by an

amendment to Report No. 116 so that the result was the ABA recommended to Congress an amendment of the Legal Services Corporation Act to mandate the opportunity for substantial involvement of private lawyers in providing legal services to the poor. The basic issue consisted of a conflict between professional, full time legal assistance lawyers as opposed to the private bar.

A very constructive step was the adoption of Report No. 10A, the effect of which was to approve a revised Code of Recommended Standards for Bar Examiners dated February 2, 1980. This supplants the last Code which was approved by the House at the 1959 Mid-Year Meeting.

It will be recalled that the House voted during the Mid-Year Meeting in Chicago to abolish the Section of Bar Activities effective at the conclusion of the Annual Meeting in Honolulu. That section had held a seat in the House of Delegates. The National Association of Bar Executives (NABE), which has existed since 1941, asked to have that vacant seat assigned to its representative. In adopting Report No. 11-1, therefore, the House acquiesced to this request.

Report No. 11-2 proposed several amendments to the ABA Constitution, By Laws and Rules of Procedure of the House of Delegates regarding resolutions and the Assembly Resolutions Committee which is comprised of the assembly delegates. Part of the amendments were approved and the remainder were either reported back to the Committee for further study or no action was taken on them. Several other changes in the Constitution and By Laws of the Association likewise were adopted which effected basic improvements popularly termed as housekeeping.

Two proposals dealt with the subject of judicial discipline and removal as they concerned the Federal Judiciary. Report No. 101 was defeated which would have supported the establishment of procedures within each circuit judicial counsel for handling complaints about federal judges and urge the Congress to defer action on legislation providing additional procedures for judicial discipline. Report No. 121, which supported pending legislation to provide for mechanisms to remove unfit judges and other similar legislation, was approved.

It will be recalled that the House during the Mid-Year Meeting held February in Chicago officially endorsed the Client Security Fund concept. Report No. 105 adopted at the Annual Meeting approved an amendment to the Model Code of Professional Responsibility by adding a provision to the effect that a lawyer has an obligation to the public to participate in the establishment and funding of such funds.

The subject of disciplining lawyers for misconduct during their appearance before administrative agencies was the subject of Report No. 106 adopted in an amended form by the House. The first part of the resolution expressed grave concerns over giving administrative agencies jurisdiction to discipline lawyers. The second part of the resolution, however, directed that the ABA undertake the development of a model enforcement mechanism for the discipline of lawyers practicing before federal and state administrative agencies.

Report No. 107 was divided into two parts. The first would urge Congress to enact legislation establishing uniform principles for the regulation of attorneys' fees in proceedings before federal administrative agencies, recommending that such legislation prohibit arbitrary maximum fees and suggesting that administrative agencies implement such uniform principles through the rulemaking process. The second recommendation effectively disbanded the special committee and requested the Board of Governors to assign a responsibility for monitoring the area of attorneys' fees limitations to an appropriate association body. Both recommendations were approved by the House.

Two reports dealing with *pro hac vice* were considered by the House and both were not approved. One, Report No. 108A, would have approved a proposed rule requiring a court to permit an attorney admitted in another state to appear in a pending matter as if he were admitted in the subject state, provided the attorney associates with him local counsel and with a provision that such an application for admission could be denied only if, after a hearing, the court finds the applicant has engaged in unethical conduct in any court sufficient for disbarment. Report No. 112A dealt with the standards for criminal justice in terms of amending Standard 6-3.11 dealing with admission of attorneys from other jurisdictions under the provisions previously enumerated.

Report No. 111 dealt with persons of diminished mental capacity and called for the enactment of laws by the various states allowing court appointment of limited or partial authority where persons of diminished capacity need some, but not total, assistance in making decisions concerning their personal affairs or estates. The resolution directed attention to the work of a special committee of the National Conference of Commissioners on Uniform State Laws which is presently drafting a proposed amendment to the Uniform Probate Code and a uniform act on limited guardianships. A resolution dealing with this subject was partially amended and adopted by the House.

In proposing Report No. 113, the section on taxation recommended that the Internal Revenue Code of 1954 be amended to relieve from taxation fringe benefits paid employees if the benefit

is incident to the employer's business, is provided primarily for the benefit of the employer and other stipulated conditions. The recommendation was approved.

Report No. 114 dealing with the black letter recommendations set out in the publication entitled "Reducing Victim/Witness Intimidation: A Package" was approved by the House.

Also approved by the House was Report No. 114B of the Section of Criminal Justice dealing with amendments to the Federal Rules of Criminal Procedure to eliminate any necessity for the consent of the government when conditional pleas are entered and to permit a defendant to withdraw the plea rather than affording him the opportunity to withdraw his plea as is provided by the existing rule. Another change would amend the Federal Rules of Criminal Procedure dealing with a judge's advice given defendants when pleading guilty or nolo contendere to require an explanation of the immigration consequences. Lastly, the report would delete a proposed amendment which would add a federal probation officer as a person entitled to request the issuance of a search warrant.

Report No. 114C proposed by the Section of Criminal Justice dealing with the Federal Immunity of Witnesses Act was approved, also. This recommends that Congress amend the law to make use immunity available to defense witnesses.

Certain grand jury reforms were recommended by the approval of Report No. 114E proposed by the Section of Criminal Justice. One recommendation dealt with witnesses who are known to be prepared to invoke the constitutional privilege and the action a prosecutor should take under those circumstances. Another would stipulate that a grand jury be informed as to the elements of the crimes considered by it. The third dealt with witnesses for refusing to testify.

Two reports proposed by the Standing Committee on Judicial Selection, Tenure and Compensation were approved. One, Report No. 121B, urged federal and state governments to adjust judicial compensation schedules to provide relief from the cumulative reductions in earnings caused by inflation. A second, Report No. 121C, was amended and approved to provide that political affiliation should not be considered in evaluating proposed nominees for appointment as federal district court judges.

Three reports proposed by the Young Lawyers Division were approved. One dealt with child abuse and foster care, another urged lawyer referral programs to increase outreach to older persons, and

the third urged a congressional investigation of the need for legislation to ensure meaningful and efficient administrative and judicial review of Medicare controversies.

It will be noted from this brief summary that while no sensational matters were considered at this Annual Meeting and no extensive controversy and publicity, were generated by the sessions, yet many basic and instructive matters were dealt with and resolved by the House.

Before concluding this report, I should like to take this occasion to express my deep appreciation to the members of the Wyoming State Bar for their election of me to the office of State Bar Delegate two years ago and to express my thanks for the opportunity thus afforded me to serve the interests of my bar in that office. Moreover, having just recently assumed the position of Assembly Delegate by virtue of the elections held at the Annual Meeting in Honolulu, I wish to thank the members of the Wyoming State Bar and particularly the officers and former Executive Director, Judge William A. Taylor, for their splendid support and assistance which made the achievement of that office possible.

Respectfully submitted,
R. Stanley Lowe
Wyoming State Bar Delegate

REPORT OF THE LAW SCHOOL

According to all indications, academic year 1979-80 was a successful year and 1980-81 promises to at least equal it.

Earlier this year we received notice that our accreditation by the American Bar Association would be continued unconditionally for another seven years, making now 57 years of continuous accreditation by that organization. This is due primarily to three factors: the new physical facilities, the increased library acquisition budget, and our relationship with the State Bar. Individual Bar members and the organization played a significant role in each of these factors.

Our total enrollment at this time in the 1980-81 academic year is 206 students, with 67 in the third year class, 63 in the second year class, and 76 in the first year class. We had 393 applications with 128 for the 55 resident seats and 265 for the 20 non-resident seats. For the first year class, the mean LSAT was 596 and the mean G.P.A. was 3.28. Twenty-nine percent of the first year class are women.

Fifty-eight students graduated in May of 1980. Of those at least 46 are employed in law-related positions. Twenty-six of these have entered the private practice of law with 18 in Wyoming firms,

five in firms elsewhere, and three in solo practice. Eighteen others entered federal, state, or local government legal positions. Two have assumed other law-related positions and 2 have taken non-law positions. Although we suspect that at least half of the remaining 10 are now employed, we have no definite information on this. Being very proud of our graduates and confident of their potential, we are extremely gratified by the interest of individual Bar members in employing them.

Between last academic year and this one just starting, we are making several additions to the curriculum including courses in American Indian law, business planning, federal jurisdiction, insurance law, jurisprudence, and lawyering skills. We will be exploring ways in which students can gain even more exposure to professional skills-related courses including legal writing. These very essential sorts of courses require small sections and demand large amounts of faculty time. Consequently, with a small faculty, curricular improvements of this sort come slowly in view of our other curricular responsibilities. Our three clinical programs are growing more active each year because of the support given them by all segments of the Bench and Bar. According to a number of national legal organizations including the American Bar Association and the Judicial Conference of the United States, these opportunities for developing professional skills are essential to a legal education.

Teams of students from the College participated in three regional professional skills competitions, i.e., the moot appellate court competition sponsored by the Bar of the City of New York, the client counseling competition sponsored by the American Bar Association, and the moot trial competition sponsored by the Wyoming and American Trial Lawyers Associations. We won first place in the latter two and consequently competed in the nationals in those two. For the second year in a row we won first place at the national level in the client counseling competition. Christine L. Edwards and Floyd L. Hoover, Jr., now both third-year students, were the winning team members.

The faculty has been very active this past year with participation in numerous CLE and law reform activities in Wyoming and elsewhere. The CLE programs in Wyoming ranged from State Bar and Bar/Law School sponsored to local Bar programs with several planned for this fall as well. It should be noted that we welcome the use of our facilities for these purposes. Law reform activities include work on Bar committees and legislative and State government bodies among others. A number of scholarly articles were published in the *Land and Water Law Review* and other legal journals. Six treatises

and texts are currently under contract with national law book publishers on subjects including evidence law, probate law, commercial law, and mineral income taxation.

By comparing our salaries and library budgets with those of other law schools, we are respectable considering our size. Nevertheless, we must not be complacent in the face of soaring inflation. This impacts in several ways on the above items. Regarding salaries we must strive to be competitive with all of the law schools in the region. Additionally, based on reports received from other law schools and other sources, there is a growing gap between law school salaries and incomes available in practice. There has always been a substantial margin between these two figures; however, if the margin grows too wide, it becomes difficult to attract outstanding people into law teaching. Regarding library acquisition budgets, it is noteworthy that of the \$92,000 acquisition budget for academic year 1979-80, less than \$6,000 were available for new materials in view of the rapidly increasing costs for continuations. Academic year 1980-81 our acquisition budget of \$145,000 will be strained with the need to acquire new materials of a significant nature as well as some selected earlier materials foregone because of past budgetary constraints. With inflation for books running at close to 20 percent, we must be vigilant in maintaining at least our current purchasing power in coming years. With the use of computer research services growing rapidly, we will be seeking funding to incorporate either LEXIS or Westlaw into our program. More and more of our graduates are finding themselves unprepared to utilize this resource which is available in a growing number of public and private law offices in Wyoming and elsewhere. We will also be looking this year at ways technology might inexpensively be used to make our library resource available to practitioners in the State. Additionally, we will be seeking support for an additional faculty position to enable us to strengthen our professional skills and legal writing programs in response to the criticism and recommendations of a number of national legal organizations.

The factor which has given our program tremendous vitality this year is the generous involvement of members of Wyoming's Bench and Bar. At least fifty of Wyoming's lawyers and judges gave of their time to directly participate in various law school activities. The financial support through the Enrichment Fund made possible student participation in professional skills competitions, more effective faculty recruitment and participation in national meetings, and a markedly more active clinical program. More than ever before the students and faculty feel a part of the legal community in the State. Though many are responsible for this, a special debt is owed Tom

Lubnau and Judges Joe Maier and Al Taylor for their hard work on our behalf. To achieve and maintain excellence, we welcome and require the suggestions, criticism, support, and involvement of the Bar. We will work very hard to be worthy of it.

Respectfully submitted,
Peter C. Maxfield