

1988

Committee Reports - Report of the Committee on the Bicentennial

Wyoming State Bar

Follow this and additional works at: https://scholarship.law.uwyo.edu/land_water

Recommended Citation

Wyoming State Bar (1988) "Committee Reports - Report of the Committee on the Bicentennial," *Land & Water Law Review*: Vol. 23 : Iss. 1 , pp. 293 - 327.

Available at: https://scholarship.law.uwyo.edu/land_water/vol23/iss1/13

This Wyoming Bar Proceeding is brought to you for free and open access by Law Archive of Wyoming Scholarship. It has been accepted for inclusion in Land & Water Law Review by an authorized editor of Law Archive of Wyoming Scholarship.

LAND AND WATER LAW REVIEW

VOLUME XXIII

1988

NUMBER 1

Committee Reports

Report of the Committee on the Bicentennial

To commemorate the Bicentennial of the United States Constitution, Wyoming State Bar President Bill Bon appointed Ann Rochelle to head a special Bar Association committee.

The Bar Association, through its committee, undertook the following projects:

1. Wyoming Supreme Court Justice Joseph Cardine presented a C.L.E. on current constitutional issues in Casper in the fall, 1986;

2. The Bar Association donated money to the Wyoming Bicentennial Commission for posters, brochures for all schools on Bicentennial education projects, awards for 4-Hers, and speakers;

3. Along with Bill Downes, C.L.E. Chairman, Ann Rochelle hosted the medical legal program in July 1987 in Casper entitled "Health Care: Life, Liberty and Due Process" focusing on the AIDS crisis, in vitro fertilization, euthanasia, and other ethical, legal, and medical issues;

4. Law Day materials focusing on constitutional issues were disseminated throughout the state to local bar associations, and attorneys visited schools in Wyoming communities;

5. Richard Kraemer, Riverton, and John Davis, Worland, worked with the Riverton TV station for a one-hour show on the U. S. Constitution on September 17;

6. Attorneys wrote guest editorials for the *Casper Star-Tribune* on constitutional issues;

7. Speakers such as "James Madison, A One Act Play" were sponsored;

8. The Bar Association recruited members to serve on the Wyoming Bicentennial Commission's local committees.

At all junctures, the Bar Association Committee enjoyed support from Bar Association President, Bill Bon, and technical assistance and advice from Mary Beth Senkewicz and Tony Lewis of the State Bar's Office.

Respectfully submitted,
ANN M. ROCHELLE
Chairman

Report of the Committee on Wyoming Courts

As usual, a substantial amount of legislation affecting the judicial system was enacted in the 1987 general session of the Forty-Ninth State Legislature. As in previous years, the thanks of our committee goes to committee member Robert L. Duncan for sharing with us his detailed report on legislation enacted in 1987 affecting the judicial system. I have drawn heavily upon it in writing this report. The good parts are his; the poor ones are mine.

References made hereafter to chapters relate, of course, to the chapters in the 1987 Session Laws.

Chapter 12 General Governmental Appropriation. Supreme Court appropriation includes an appropriation for purchase of county court computer system, contingent on the Supreme Court increasing court costs. Court costs were increased June 1, 1987, from \$10.00 to \$20.00 on all misdemeanors, except speeding up to 75 mph.

Chapter 22 Driver's License Compact. Adopts the driver's license compact. Deletes the authorization for persons to hold more than one license, in certain cases.

Compact provisions:

- (a) Effect of conviction — home state licensing authority can suspend for DWUI, negligent homicide, any felony where motor vehicle is used, and for failure to stop.
- (b) On all other convictions — licensing authority shall give such effect to the conduct as is provided by laws of home state.

Chapter 30 Extradition of Parole Violators. Expands provisions of Uniform Extradition Act to include parole violators.

Chapter 65 Game Wardens: Acceptance of Bond. Game warden or other arresting officer may accept bonds posted by violators instead of immediate court appearance. Bond to be posted in accordance with bond schedule adopted by the court.

Chapter 77 Boys' School: Maximum Age of Felons. Decreases age of felons who may be sentenced to Boys' School or transferred to Boys' School from penitentiary. Also provides for return to penitentiary of felons transferred to Boys' School.

Chapter 85 Continuing Garnishments. Creates new Sections W.S. 1-15-501 through 1-15-511 relating to garnishment. Provides for continuing gar-

nishment of wages in certain cases and provides procedures. Prohibits discharge of an employee subjected to continuing garnishment. Maximum effective time of garnishment is 90 days after service.

Chapter 93 Government Claim Jurisdiction. District courts granted exclusive jurisdiction of all claims under the Wyoming Governmental Claims Act.

Chapter 126 Costs in Criminal Cases. Establishes in criminal procedure laws provision for taxing costs of prosecution, but without defining them, as part of sentence in felony and misdemeanor cases. *Cf. Arnold v. State*, 306 P.2d 368, 375 *et seq.* (1957).

Chapter 131 Driver's License Hearings. In DWUI arrests, officer directed to take driver's license issued by Wyoming or any other jurisdiction and issue temporary license in lieu thereof. Provides procedure thereafter relative to suspension and subsequent return of license. Oddly enough, contained section fixing maximum fine and costs for speeding over 55 miles per hour and up to 75 miles per hour as well as treatment of speeding violations less than 75 miles per hour in driver license suspension cases (but see commentary hereafter on special session legislation.)

Chapter 132 Appeal by Certiorari. Creates new section, W.S. 5-2-119, effective July 1, 1987. District courts to hear all appeals from courts of limited jurisdiction. Appeals of those cases from district courts to Supreme Court not allowed unless Supreme Court grants permission. Supreme Court has adopted procedural rules on writ of certiorari.

Chapter 154 Crime Victims Compensation.

(a) Mandatory surcharge by trial court of not less than \$50.00 on every conviction for the following:

- (i) All Title 6 crimes.
- (ii) Fleeing police officers, reckless driving and DWUI.
- (iii) Controlled substances violations.

(b) No limit on amount of surcharge but must be at least \$50.00.

(c) Surcharge must be paid in ten (10) days; enforceable by contempt of court.

(d) Monies paid to court by a defendant shall be applied to the surcharge before being applied to any fine, penalty, or assessment (estimated annual revenue \$425,000).

Chapter 157 Title 7 Revisions; includes the following:

(a) W.S. 7-3-611 created to require Attorney General and Wyoming courts to report to Administrative Office of United States Courts pursuant to 18 U.S.C. 2519.

(b) W.S. 7-1-102 (new). All law enforcement agencies, courts, district attorneys, correctional institutions, and agencies handling

probations and paroles shall maintain public records of crime and criminals, and the operation of the criminal justice system. Attorney General to provide uniform forms for making reports.

(c) W.S. 7-2-101. Definition of peace officer amended to include inspectors of Wyoming Livestock Board (with limited arrest powers).

(d) W.S. 7-2-105 (new, replaces 7-1-102). Sale of unclaimed stolen or seized property through court.

(e) W.S. 7-13-501 (new). As a condition of probation in any misdemeanor case, the court may allow defendant to work at job and be confined to jail on nonwork hours.

(f) W.S. 7-13-502. While defendant serves out probation under preceding section, Sheriff shall collect his earnings and apply them to defendant's board and personal expenses, support of dependents, restitution, statutory surcharge, fines, and reimbursement for services of defense counsel.

(g) W.S. 7-16-101 (new). Labor by county jail inmates. Court shall direct whether work shall be performed under supervision of county sheriff, the state probation and parole officer, or some other responsible person approved by the court.

Chapter 163 Wyoming Criminal History Record Act. District courts and courts of limited jurisdiction shall submit the criminal history record information required under the act. Reports shall be submitted on uniform forms approved and provided by the division.

Chapter 178 Adoption. Written relinquishment of custody of the child to be adopted and written consent shall be filed with petition to adopt.

Chapter 198 Title 1 Revision — Creditors Remedies. Creates section providing for hearing on seizure of debtor's property under execution if filed within ten days after taking. Prescribes form of notice to be attached to money judgments and prescribes procedures related to hearings on objections to continuing garnishments. In summary, legislation is comprehensive revision of Chapters 15 and 34, Title 1, and prescribes new procedures related to creditors remedies.

Chapter 199 County Court Supervision. Purports to vest in Wyoming Supreme Court managerial and supervisory powers over county courts including rulemaking authority and authority to establish fees and costs for those courts. Restates in statutory form basic inherent powers of a supreme court over its court system, duplicates Wyoming Supreme Court's authority described as "general superintending control over all inferior courts" in Article 5, Section 2, Wyoming Constitution, and therefore probably is redundant.

Chapter 217 Juvenile Court Act — Commitments. Specifies authorized dispositions of minors adjudicated delinquent. Sets age limit of 12 or older for commitment. Purports to eliminate Governor's authority to grant par-

don or commute commitments raising interesting constitutional questions in light of Governor's broad powers under Article 4, Section 5, Wyoming Constitution covering "all offenses except treason and cases of impeachment."

Chapter 228 Child Support. Prohibits retroactive modification of support orders; authorizes court to enter an income withholding order; authorizes fee of \$2.00 to be deposited by clerk of court in the general fund of the county.

Chapter 4 (1987 Special Session) Speed Limit Increase. Increases speed limit on interstates to 65 mph. Sets court costs in varying amounts on interstate, primary, and secondary highway speed violations. Authorizes Supreme Court to set court costs on over 75 mph speed violations. Modifies penalty provisions in W.S. 31-5-1201(d) covered in Chapter 131 of regular session dealing with driver's license hearings.

No new county courts were established in either the regular or special 1987 sessions of the Forty-Ninth State Legislature. This means, therefore, county courts are in the same counties reported previously, namely, Albany, Campbell, Carbon, Converse, Fremont, Goshen, Laramie, Lincoln, Natrona, Sheridan, Sweetwater, and Uinta Counties, a total of 12 of our 23 counties. Other counties that have wanted county courts have been denied funding in previous sessions of the legislature.

The Wyoming State Bar has consistently supported the concept of a statewide system of modern courts of limited jurisdiction and has endorsed by resolutions adopted at every annual meeting the expansion of the county court system, or a similar modern system, through appropriate legislation. Consistent with that firmly established policy, therefore, the committee once again respectfully submits another resolution for consideration at this annual meeting by the members of the Wyoming State Bar:

RESOLVED, that the Wyoming State Bar hereby reaffirms its earlier endorsements of the county court system and its expansion statewide and urges that the system be implemented in the remaining eleven counties of the state, either through actions by the Boards of County Commissioners in conformity with existing law and with funding granted by the Legislature, or, in the alternative, by legislation expanding the system statewide and changing the name to characterize more properly the system and to underscore the fact it is a state judicial system of Wyoming.

The amendment to Article 5, Section 17, of the Wyoming Constitution supported by a resolution adopted by the Wyoming State Bar at last year's annual meeting failed adoption in the general election in November 1986. This was the amendment which would have added judges of county courts to the already existing provisions of the Wyoming Constitution which provide a triggering device for paying judicial salaries increased by the legislature once one or more judges through appointment

or election become eligible for such an increase. Unfortunately, this amendment was presented in a confusing way which may account for why it was the only amendment among several on the same ballot that failed to win sufficient votes to be approved.

To compound this disappointment, another effort to get the amendment approved by the legislature a second time failed to gain the necessary number of votes in the Senate during the 1987 regular session. Despite these serious setbacks the effort should be continued to get this amendment properly presented on a future ballot in order that the electorate might have an opportunity to express itself correctly on this issue. Nothing new would be added conceptually speaking, to the Constitution. All the amendment would do is add to that which is already there.

Respectfully submitted,
R. STANLEY LOWE
Chairman

Report of the Legislative and Law Reform Committee

The Legislative and Law Reform Committee of the Bar held its organizational meeting on the 30th day of December, 1986, at the law offices of Pence and MacMillan in Laramie, Wyoming.

Don Sherard, Chairman, appointed H. M. MacMillan as Vice Chairman and Mary Beth Senkewicz as Secretary of the Committee.

At this meeting and following the instructions of the President of the Bar, the Committee established guidelines with regard to the legislative bills which it would review and upon which it would submit its recommendations to the President and to the Bar Commissioners Executive Committee.

The guidelines for review were established as follows:

1. Only those bills determined to be of general interest to the Bar would be reviewed by the Committee.
2. As to bills of general interest to the Bar which the Committee determined not to be of a divisive nature within the Bar, the Committee would recommend the support or opposition of the State Bar.
3. As to bills of general interest which the Committee determined to be of a divisive nature within the Bar, the Committee would recommend that the Bar take no position; however, the Committee would recommend that the Bar offer technical information.

With the expectation that seven or eight hundred bills would be introduced during the legislative session, the Committee relied upon Mary Beth Senkewicz, Executive Director of the Bar, and her staff to do an initial screening of the bills and to forward copies of the same to the Committee members.

It was impossible for the Committee members to assemble for each of the meetings anticipated to consider legislation, and it decided to hold weekly telephone conference calls. This was soon increased to two conferences per week.

Each Committee member agreed to examine the bills forwarded by Mary Beth and to be prepared to present his or her recommendations as to each bill. The Committee also agreed to consider any additional bills deemed by Committee members to be of general interest to the Bar.

During the legislative session, the Committee held eight meetings, considered sixty-eight bills, recommended that the Bar support five, oppose eight, and made no recommendations on the balance.

The Committee took the position that tort reform issues were generally divisive and emotional within the Bar and that it would not recommend either the support or opposition of the Bar.

The Committee recognized that in an integrated Bar, as we have in Wyoming, both membership and the payment of dues are required in order to practice law and that care should be taken not to lobby for or against legislation which is not in the general interest of all members. The Chairman and Vice Chairman, Don Sherard and H. M. MacMillan, participated in a telephone conference call with William S. Bon, President of the Bar, and the other members of the Executive Committee of the Bar Commissioners to discuss the matter. It was recognized by the participants in the call that the Legislative and Law Reform Committee and the Executive Committee should use considerable discretion in determining those bills which the Bar would support or oppose. It was generally agreed, however, that regarding proposed legislation of general interest to the Bar which was divisive and on which the Bar should not take a position, it should obtain input from lawyers on both sides of the issues to present a "white paper" setting forth the pros and cons as fairly as possible.

The Committee held its last telephone conference call during the legislative session on February 17, 1987, to review its action and to make recommendations for coming Sessions of the Legislature.

The Committee has adopted the following recommendations which were submitted to it by MacMillan and Mary Beth:

1. That the President of the Bar, as soon as convenient, write a letter to each member of the Legislature distinguishing the Wyoming State Bar as a whole from the various organizations of lawyers within the Bar; and that he explain the Bar's lobbying process through the Legislative and Law Reform Committee, the review by the Executive Committee of the State Bar, and the Bar's representatives and lobbyists so that the Legislature will be able to distinguish between the Bar as a whole and individuals and organizations within the Bar who may be lobbying;

2. That prior to the next Session of the Legislature, a similar letter be forwarded to each member of the Legislature;

3. That a similar letter be mailed to the appropriate media;
4. That, at the next Session of the Legislature, if possible, the Committee receive its first mailing of bills earlier;
5. That individual members of the Wyoming State Bar be encouraged to contact their own legislators on bills of importance to the Bar;
6. That the Legislative and Law Reform Committee hold an assembled meeting prior to the next Session of the Legislature;
7. That the process would be more effective if Mary Beth were given additional help during the Legislative Session;
8. That the Bar Association lobbyist participate with the Committee in its telephone conferences, which would be an additional source of information;
9. That the Committee hold its telephone conferences twice a week during the intensive portion of the Session;
10. That lawyers, in the Cheyenne area, practicing in specialty areas, be available to assist on bills involving their specialty.

On August 7th the Committee held a telephone conference regarding the Joint Revenue Committee hearing in which it is apparently proposing to eliminate the exemption from sales tax presently enjoyed by professionals, including lawyers. The hearing is scheduled for September 10th and 11th in Thermopolis.

It was the unanimous position of the Committee that it recommend that the Bar strenuously oppose the elimination of the exemption.

The Committee expresses its appreciation to Mary Beth and her staff for their assistance in screening legislation during the Session, mailing the Taxpayers Reports to the Committee, mailing the LSO Reports to the Committee, acting as liaison with the lobbyist, and participating in the Committee's deliberations. She provided this assistance in addition to the performance of her regular duties.

The Chairman also expresses his appreciation to his Vice Chairman, Hoke MacMillan, and the other members of the Committee for their excellent efforts.

Respectfully submitted,
DON SHERARD
Chairman

Report of the Civil Jury Instructions Committee

This is my report of the activities and accomplishments of the Civil Jury Instructions Committee of the Wyoming State Bar for the year 1986-1987. The members are, in addition to myself, Gary P. Hartman, District Judge; Paul J. Hickey; J. N. "Nick" Murdock; and James Fitzgerald.

Your committee met several times personally and by telephone conference. Preliminarily, we had to define the scope of the undertaking. Biting off more than we could chew, we outlined the following areas of need for changes and additions to the existing pattern instructions: contract law, strict liability, professional liability, comparative negligence changes to conform to recent changes in the law, and miscellaneous areas.

After much discussion, debate, drafting, redrafting, and refining, we are offering proposed pattern revisions as follows:

—The addition of SECTION 15 - CONTRACTS.

To this end, we enclose 17 pattern instructions, including comments and use notes, where appropriate. The committee observed increased litigation in this field of the law in Wyoming during these particular economic times as well as cyclically repeated; thus we felt pattern instructions in this area would be helpful to Bench and Bar.

—Amendments to:

*11.01 - Strict Liability in Tort. Completely revised, as attached, to conform to *Ogle v. Caterpillar Tractor Co.*, 716 P.2d 334 (Wyo. 1986).

*4.01 - Measure of Damages - Personal Injury. Revised, as attached, to conform to verdict form in comparative fault and strict liability cases.

*10.01A and 10.03A - Comparative Negligence (Theory and Effect). Revised, as attached, to instruct on the effect of abolition of joint and several liability.

Also, a use note is recommended, as inserted in the revision to 10.02 - Addition to Verdict Form.

*3.01 - Burden of Proof and Issues. Editing amendment is attached.

*2.09 - Violation of Statute as Evidence of Negligence. The attached use note is recommended.

In offering these recommendations, we are mindful that it is not our task to change or “improve” upon the law, only to mirror it. Though some interpretation and value decisions may have inadvertently crept into the process, we were careful not to make the law or sit as a panel of Judges interpreting law or acting in the vanguard in predicting the future course of developments in the law. That, of course, is properly relegated to the Legislature and Courts. Hopefully, our recommendations were in consonance with this philosophy.

Obviously, we did much, but we did not complete our agenda. Accordingly, if the incoming President of the Bar desires, I have been authorized to say on behalf of most, if not all, of the committee members, that we would actively entertain his nomination for reappointment of the committee. We have unfinished business in the field of professional liability, malpractice, strict liability, and perhaps more. Also, we need to further our efforts toward publication, annotation, and annual supplementation

of the pattern jury instructions. As you know, we were unsuccessful in our efforts to entice the Michie Company into an acceptable proposal. Accordingly, we dump that into the lap of your good offices to address with the Bar members or the Bar Commissioners.

Finally, a personal note. As committee chairman, I want to express my sincere gratitude for the efforts and manner of approach to this task exhibited by each of the committee members. A diverse and challenging group, yet universally courteous and compatible in approaching the task. I compliment each of the members for their attitude, observations, their time, their research and participation as hopefully, we improve the quality of justice in our state by these modest additions and alterations to our pattern instructions.

Please advise if you require anything further from the committee in advance of the Bar Convention; otherwise, we will await your advice on action by the Bar on these recommendations.

Respectfully submitted,
ARTHUR T. HANSCUM
Chairman

Report of the Governor's Probate Statute Study Committee

Early in 1987, on the eve of the tenth anniversary of its existence, the Committee observed with sorrow and a keen sense of loss the untimely passing of its first and only Chairman, Howell C. McDaniel, Jr., Esq. of Casper. Perhaps only the charter members of this Committee will ever have a full appreciation of the many and varied and substantial contributions "Howie" made to this Committee and its work product, to the everlasting benefit of Wyoming jurisprudence, and the citizens of the State of Wyoming.

Your Committee — and I use the term "your" advisedly, since all of us on the Committee deem that we serve not only the Governor, but also all of the citizens of the State of Wyoming — had a typically busy and productive year in 1986-87, accompanied by several matters of significance for the future.

In the fall of 1986, following the by now well-developed procedures of the Committee, we authored four bills for submission to the Wyoming Legislature at its 1987 session. Two of the bills made technical changes to the "disclaimer" provisions of Title 2, to keep Wyoming abreast of the developments in the U. S. Internal Revenue Code and assure that Wyoming citizens could have the benefits of these new developments. Another bill authorized, in Wyoming, the popular device of a testator's written list, referred to in his Will, as a method of detailed disposition of personal effects and family mementoes. The final bill sought to clarify the method of computation of statutory fees, and the subject matter of extraordinary fees, for personal representatives and attorneys for estates.

With the able counsel and leadership of Senator Rex Arney, these bills were processed through the necessary pre-legislative and legislative procedures, and have now become law.

Next, and perhaps of greatest long-term significance, I am happy to report that on March 10, 1987, Governor Mike Sullivan reappointed the Committee to continue to serve at his pleasure. At the meeting of the Committee on May 1, 1987, I had the honor of being elected as its Chairman, for an indefinite term.

Next, by the time this Report goes to press, there will have been filed with Governor Sullivan a written report covering, in reasonably brief fashion, the organization and activities of this Committee during the first ten years of its existence. A copy of this report will be filed with the office of the Wyoming State Bar, and no doubt that office will make reasonable arrangements for any member of the Bar to obtain a copy.

Finally, while the Committee has requested the benefit of the advice and instructions of Governor Sullivan as to its future work and activities, pending the receipt of same, it is proceeding with an extension of its past work in this field. With Title 2, and its fine-tuning amendments, firmly in place and tried and tested, and with Title 3 in place and widely accepted without significant adverse comment, as would be expected the Committee's attention is now necessarily drawn to some quite subtle, but sophisticated and significant, interfaces between these statutory systems and other comprehensive Wyoming statutory systems. For example, some of our District Courts have found a conflict between the subject matter jurisdiction of the Probate Court as laid down in Title 2, and of the County Court, as laid down in Title 5. Obviously, a clear resolution of this is required as soon as possible, and this is under study by the Committee. As another example, preliminary analysis suggests some critical statutory conflicts between the Wyoming Uniform Transfer to Minors Act, enacted by the Legislature in 1987 as an addition to Title 34, and certain key provisions of Title 3 dealing with Conservatorships. Again this must be promptly studied, and carefully considered remedial action taken, if deemed appropriate.

In short, your Committee believes there are real needs for its present and future activities, to maintain what we have accomplished, to maintain harmonious coordination with related statutory systems, and to strive always for further improvements in a probate system that is already one of the very best in the nation.

Respectfully submitted,
ROY STODDARD, JR.
Chairman

Report of the Grievance Committee

Since the last report of the Grievance Committee, the following cases have been filed:

<u>Docket No.</u>	<u>Disposition</u>	<u>Type of Case & Allegations of Misconduct</u>
88-86	Pending	DUI; failure to appear.
89-86	Pending	Stock transfer; failed to do work after paid.
90-86	Pending	Bond issue; breach of fiduciary relationship.
91-86	Suspended	DUI; neglect; failure to communicate.
92-86	Pending	DUI; neglect; failure to communicate.
93-86	Dismissed	Custody; allowed client to take actions contrary to explicit provisions of divorce decree.
94-86	Dismissed	Collection; harassment.
95-86	Dismissed	Criminal defense; conflict of interest.
96-86	Dismissed	Enforcement of judgment; did not turn over payment of judgment to client.
97-86	Pending	Bankruptcy; defrauding the court by intentionally hiding assets of client.
98-86	Dismissed	Child custody; neglect; excessive fee.
99-86	Dismissed	Personal injury; neglect; failure to communicate.
100-86	Dismissed	Worker's Comp.; made false statements in support of position.
101-86	Pending	Attorney borrowed money from client and refuses to repay money.
102-86	Dismissed	Custody; conflict of interest.
103-86	Dismissed	Real estate; unethical conduct.
104-86	Dismissed	Criminal prosecution; prosecution without probable cause; conflict of interest.
105-86	Dismissed	Real estate sale; lawyer takes case.
106-86	Pending	Drunk attorney; drunk while appearing.

Docket No.	Disposition	Type of Case & Allegations of Misconduct
107-86	Dismissed	Worker's Comp.; renege on deal; insinuates opposing counsel misrepresented bill.
108-86	Dismissed	Criminal prosecution; conflict of interest; unethical pecuniary gain.
109-86	Dismissed	Estate; neglect.
110-86	Dismissed	Bankruptcy; money paid to attorney for IRS not forwarded.
111-86	Pending	Contract dispute; conflict of interest.
112-86	Dismissed	Lawyer as witness; perjury.
113-86	Dismissed	Enforcement of judgment; lawyer sent threatening letter to opposing party who was represented by counsel.
114-86	Pending	Employment situation; sexual harassment by attorney employer.
115-86	Pending	General civil; attorney intoxicated in court.
116-86	Pending	Settlement; attorney reneged on deal to pay back client.
117-86	(This number not assigned.)	
118-86	Dismissed	Divorce; excessive fee.
119-86	Admonishment	Bankruptcy; neglect.
120-86	Dismissed	Probate; neglect; failure to communicate.
121-86	Dismissed	Medical malpractice; failure to pay fee of shorthand reporters.
122-86	Dismissed	Criminal defense; interference with attorney/client relationship.
1-87	Pending	Bankruptcy; neglect.
2-87	Dismissed	Breach of contract; unethical and rude demand letter.
3-87	Dismissed	Worker's Comp.; neglect.
4-87	Dismissed	Criminal; conspiracy between prosecutor and defense counsel; abusive conduct.
5-87	Dismissed	Criminal defense; not working in client's best interest; lying; excessive fee.

Docket No.	Disposition	Type of Case & Allegations of Misconduct
6-87	Dismissed	Criminal defense; inadequate representation and preparation; not following client's wishes; guaranteed exoneration and didn't deliver.
7-87	Pending	Corporate takeover, bankruptcy; misrepresentation of facts; counseling client to take illegal action.
8-87	Dismissed	Administrative hearing, divorce; interference with administration of justice; conflict of interest.
9-87	Dismissed	Corporate; conflict of interest.
10-87	Pending	Insurance claim; neglect.
11-87	Dismissed	Custody; failing to advance client's position; failing to communicate; failing to provide documents; inadequate preparation; misrepresentation.
12-87	Dismissed	Custody, divorce; overt error in decree; counselled illegal conduct.
13-87	Pending	Contract; failed to file answer resulting in default.
14-87	Pending	Estate; neglect; embezzlement.
15-87	Dismissed	Divorce; neglect; inadequate preparation; discussing case in front of others; intimidating client.
16-87	Dismissed	Criminal defense; filing motion and affidavit containing false facts.
17-87	Pending	Custody, support; neglect; lying to client.
18-87	Dismissed	Criminal defense; prepared false affidavit for witness' signature.
19-87	Dismissed	Criminal defense; conversion.
20-87	Pending	Commercial; neglect.
21-87	Dismissed	Commercial; frivolous complaint.
22-87	Dismissed	Collection defense; libel; advising client not to pay invoice.

Docket No.	Disposition	Type of Case & Allegations of Misconduct
23-87	Dismissed	Domestic relations; harassment during trial.
24-87	Dismissed	Domestic relations; neglect; failing to follow wishes of client.
25-87	Dismissed	Criminal prosecution; gave false information to F.B.I.
26-87	Dismissed	Criminal defense; neglect.
27-87	Dismissed	Criminal; prosecutor reneged on sentence bargain, and attorney did nothing to help.
28-87	Dismissed	Bankruptcy; attorney turned client over to collection agency after planning to wait for fee.
29-87	Pending	Reorganization; failure to timely notice creditors.
30-87	Dismissed	Personal injury; neglect.
31-87	Dismissed	Bankruptcy; neglect; excessive fee.
32-87	Pending	Criminal defense; conflict of interest.
33-87	Pending	Suspension of visitation.
34-87	Pending	Bankruptcy; neglect; commingling funds; breach of confidentiality.
35-87	Dismissed	Custody modification; excessive fee.
36-87	Pending	Criminal prosecution; misconduct.
37-87	Pending	Criminal conviction; misconduct.
38-87	Dismissed	Criminal defense; ineffective assistance of counsel.
39-87	Dismissed	Bankruptcy; neglect.
40-87	Dismissed	Domestic relations; excessive fees; misrepresentation.
41-87	Dismissed	Criminal; prosecutor yelled at defendant.
42-87	Dismissed	Criminal defense; ineffective assistance of counsel.
43-87	Dismissed	Criminal defense; lawyer bribed client to plead guilty.
44-87	Dismissed	Criminal defense; ineffective assistance of counsel.
45-87	Dismissed	Divorce; neglect.

Docket No.	Disposition	Type of Case & Allegations of Misconduct
46-87	Pending	Corporate; conflict of interest.
47-87	Dismissed	Criminal prosecution; abuse of process.
48-87	Dismissed	Criminal defense; failure to communicate.
49-87	Dismissed	Business enterprise; neglect.
50-87	Dismissed	Voluntary foreclosure; neglect; excessive fee.
51-87	Pending	Bankruptcy; neglect.
52-87	Pending	Bankruptcy; neglect; incompetence; lack of diligence; lack of communication.
53-87	Dismissed	Employment suit; conflict of interest; refusing to follow client's wishes.
54-87	Dismissed	Divorce; questionable tactics.
55-87	Dismissed	Criminal defense; perjury.
56-87	Pending	Bankruptcy; fraud.
57-87	Dismissed	Criminal defense; paternity question; neglect; failure to communicate; excessive fees.
58-87	Pending	Personal injury; lawyer refused to pay expert witness full fee.
59-87	Pending	Nursing home commitment; took advantage of elderly and borrowed money.
60-87	Pending	Collection; attorney lied about setting aside court date.
61-87	Pending	Criminal defense; conflict of interest.
62-87	Pending	Divorce; fraud; hiding property.
63-87	Pending	Commercial; failed to dissolve partnership resulting in liability on a partnership loan.
64-87	Pending	Personal injury; failure to communicate or appeal.
65-87	Pending	Divorce; contact with party represented by counsel.
66-87	Pending	Criminal defense; abused authority.

<u>Docket No.</u>	<u>Disposition</u>	<u>Type of Case & Allegations of Misconduct</u>
67-87	Pending	Criminal; failure to communicate; inadequate counsel.
68-87	Pending	Divorce; neglect; inadequate counsel; failure to communicate.
69-87	Pending	Bankruptcy; neglect.
70-87	Pending	Criminal defense; failure to communicate.
71-87	Pending	Criminal defense; failure to communicate.
72-87	Pending	Criminal; lack of diligence; incompetence.
73-87	Pending	Criminal; breach of confidence; excessive fee.
74-87	Pending	Divorce; altered court document; lied to client.
75-87	Pending	Probate; lack of diligence; excessive fees.
76-87	Pending	Criminal; excessive fee; scope of representation; termination of representation.
77-87	Pending	Criminal; neglect.
78-87	Pending	Divorce; filing false documents and/or lying to the court.
79-87	Pending	Criminal; neglect.
80-87	Pending	Civil case; neglect; lack of communication.
81-87	Pending	Divorce; unauthorized change in divorce agreement.

The following types of cases gave rise to the number of grievances indicated:

Criminal	35
Domestic relations	22
Commercial	20
Bankruptcy	13
Estates	5
Personal injury	4
Workers compensation	3
DUI	3
Lawyer borrowed money from client	2
Employment situation	2
Real estate	3
Other - general	8

The following allegations were raised in the following number:

Neglect	32
Failure to communicate	15
Fees problem	13
Conflict of interest	12
Inadequate representation or preparation	7
Deceit	6
Ineffective assistance of counsel	6
Failure to carry out client's wishes	6
Prosecutorial misconduct	5
Filing fraudulent motions or pleadings	4
Reneged on deal	4
Misrepresentation of facts	3
Counseling client to take illegal action	3
Failure to advance client's position	3
Refusal to repay loan from client	3
Communication with represented party	3
Harassment or coercion	2
Fraud	2
Abuse of process	2
Other	29

Respectfully submitted,
DAVID F. PALMERLEE
 Chairman

Report of the Insurance Committee

Based on directions received as a result of the State Bar meeting on September 17, 1986, and subsequently from the Board of Commissioners, the Wyoming State Bar continued exploring participation in a multi-state captive insurance company to handle the professional liability insurance needs of the membership. The Board of Commissioners appointed Glenn Smith to serve as the State Bar's director on the Board of Directors of the multi-state captive insurance company known as Attorney's Liability Protection Society (ALPS). This company began solicitations for investments in the company in June 1987. The company will not begin operation until it has received investments in an amount from \$3.5 to \$5 million. That means a minimum of 400 lawyers in Wyoming must invest in order to meet Wyoming's proportionate share of the capital contribution.

The committee continues to believe that this lawyer-owned company is extremely important to the legal profession and the members of the public who use our legal services. We urge every State Bar member to consider seriously an investment in ALPS.

Respectfully submitted,
MICHAEL GOLDEN
 Chairman

Report of the Legal Aid Services Committee

This committee consisting of M. L. Barton, Riverton; Berthenia S. Crocker, Lander; Curtis L. Harden, Casper; Robert E. Holstedt, Sheridan; Linda S. Miller, Casper; and Robert A. Oakley, Cheyenne; met this past year. The committee continued to focus upon the method of implementation of the *pro bono* resolution which was passed at the State Bar Convention in 1985. At the end of this report, a table can be found which compiles the statistics for the period of July 1, 1986 through June 30, 1987 with respect to the implementation of the *Pro Bono* Resolution. The committee decided that the statistics should be kept in the same format as presented in the committee report of 1986; however, the statistics would be kept over a period in harmony with the method of statistical record keeping already in place at the local Legal Services programs.

The committee was advised that Wyoming was again studying the issue of Interest On Lawyers Trust Accounts (IOLTA). The Legal Aid Services Committee fully supports and endorses the theory of IOLTA.

The committee also had occasion to meet with representatives of the Wyoming Court Reporter's Association. Such association is interested in developing a *pro bono* program of their own and wishes to coordinate such *pro bono* program with the Wyoming State Bar *pro bono* program. This committee will continue to be available to the Wyoming Court Reporter's Association to coordinate and facilitate *pro bono* efforts.

On behalf of this committee as well as on behalf of the Legal Services programs in Wyoming, I would like to take this opportunity to thank the Wyoming State Bar members for their participation and support of the *pro bono* effort. This has enabled the local Legal Services programs to serve more indigent clients in civil matters. We appreciate the continued support of the Wyoming State Bar as a whole.

Respectfully submitted,
ROBERT A. OAKLEY
Chairman

Pro Bono Resolution Statistics*July 1, 1986 through June 30, 1987*

County	Participating Attorneys	Cash	Cases
ALBANY	20	-0-	9
BIG HORN	1	-0-	1
CAMPBELL	2	-0-	111
CARBON	11	-0-	24
CROOK	1	-0-	1
CONVERSE	2	-0-	2
FREMONT	20	10	17
GOSHEN	8	-0-	12
HOT SPRINGS	0	-0-	0
JOHNSON	0	-0-	0
LARAMIE	81	100	90
LINCOLN	3	-0-	1
NATRONA	24	2,500	31
NIOBRARA	5	-0-	3
PARK	2	-0-	18
PLATTE	7	300	9
SHERIDAN	2	-0-	111
SUBLETTE	5	300	0
SWEETWATER	3	-0-	2
TETON	12	600	1
UINTA	5	-0-	1
WASHAKIE	0	-0-	0
WESTON	0	-0-	0
INDIAN RESERVATION	0	-0-	3
TOTAL	214	\$3,810	444

Legal Education Committee Report

As has been the customary practice, the Legal Education Committee met in February at the U. W. College of Law, both to conduct business and to meet with law students. The main focus of discussion concerned the position of the committee, and of the State Bar, in regard to the law school curriculum in general, and to the mix of required courses and electives in particular. In addition, the committee has given consideration to the methods employed by the law school to teach legal writing.

Subsequent to the committee meeting, the Committee Chairman appeared as a bar and committee representative at a student-sponsored meeting in regard to the proposal that certain subjects — corporations, income tax, trusts & estates — be changed from required courses to electives. As a result of all the proposals and discussions, during the summer the law school faculty instituted several changes to the law school curriculum. In briefest summary, several previously required courses have become electives. The revised graduation requirement is that all students

must successfully complete two of the following three courses: Administrative Law, Business Organization, or Trusts & Estates. Students must also successfully complete one of the following three courses: Bankruptcy, Income Taxation, or Secured Transactions. This curriculum change will be effective with the 1989 graduating class. With these changes in requirements, several courses will now have prerequisites. For example, a student wishing to enroll in Corporate Taxation or Securities Regulation must have completed the elective course in Business Organization.

The committee met at the law school on September 4, 1987. The subject of curriculum changes and elective courses was discussed further. In addition, there was a lengthy discussion concerning the relationship between the State Bar and the law school in regard to the conduct of the bar exam. The committee resolved to request, through the President of the State Bar, an opportunity to meet with the State Board of Law Examiners in order to ascertain the standards which are applied to the bar exam and the philosophy of the bar examiners concerning selection of subjects. The committee concluded that in its capacity as liaison between the law school and the Bar it should make some effort to communicate any such standards and philosophy to the law students.

The committee met at length with Dean Morgan concerning his plans and aspirations for the law school. The Dean discussed in detail his attitudes toward the subjects which are objects of the committee's concern: specifically, admission policies, curriculum and course content, financial support for law school programs, and long-range planning. One area of growing concern is the fact that the law library will soon be filled to capacity, and in order to comply with accreditation standards some steps will need to be taken for expansion of available space. Although the law building seems to most of us to be brand new, the fact is that the library was originally designed with ten years' capacity, and it is now ten years old.

The biggest news at the law school is, of course, the arrival of the new Dean. Dick Morgan assumed the position full-time this summer, replacing Pete Maxfield. Pete remains on the faculty as a professor teaching various courses in taxation and Indian law. Dean Morgan comes to U. W. after seven years as a law professor and Associate Dean at Arizona State University. He brings with him considerable experience as a practicing lawyer in Los Angeles and San Francisco, emphasizing corporate and securities practice. He is a graduate of the University of California at Berkeley and the U. C. L. A. School of Law. Dean Morgan has expressed considerable interest in, and sincere concern about, the relationship between the law school and the Bar.

It is the goal of the committee to continue a close relationship with the law school and to fulfill as practicable whatever role can be most helpful to the Dean. In the future the committee plans to formulate specific proposals for the Bar Commissioners, so that recommendations can be made to the law school with the full force of the State Bar, rather than as

mere suggestions from the committee. In addition, the committee hopes to develop a mechanism for student feedback which will encourage meaningful comments from a large number of students rather than what has been in the past a focus on the opinions of a vocal minority.

Respectfully submitted,
STEVE ARON
Chairman

Report of the Necrology Committee

Twelve members of the Wyoming State Bar died during the past year. The Wyoming State Bar is saddened by the loss of the following named persons:

BARD FERRALL

Wyoming attorney Bard Ferrall died March 16, at the age of 83 in Cheyenne. Mr. Ferrall was a past President of the Laramie County Bar Association. He was also a past President of the University of Wyoming Alumni Association and a former member of the U. W. Board of Trustees. Mr. Ferrall attended Centenary College in Shreveport, Louisiana, where he received his undergraduate degree. He later graduated from the University of Wyoming Law School in 1929.

Mr. Ferrall is survived by his wife, Jacqueline; four sons, Bard and John, both of Cheyenne, Timothy of Houston, and Christopher of Minneapolis; and a sister, Sarah Anderson of Clarksburg, Pennsylvania.

He was preceded in death by his son David.

LOU G. GASKINS

Mr. Gaskins, 59, died March 8 at Porter Memorial Hospital in Denver, Colorado.

He was born February 19, 1927, in Harrisburg, Illinois. He attended Southern Illinois University and the University of Colorado Law School. He served with the military during World War II and the Korean War. On March 21, 1952, he was married to Bonnie Dunphey in Coronado, California.

Mr. Gaskins was an attorney for Amoco Production Company. He was a member of the Colorado, Wyoming, and Illinois State Bar Associations; Rocky Mountain Oil and Gas Association; Kappa Delta Alpha Fraternity; and Masonic Lodge. He was President of the Denver Area Oil and Gas Title Association.

He is survived by his wife; two children, Lee Gaskins and Kelly Carlsen, both of Denver; a brother, John; three sisters, Cathryn White, Jane Thompson, and Phyllis Green; and a grandchild.

GEORGE W. HOPPER

George Hopper died on August 23, 1986. He was 56 years old. Mr. Hopper was a senior partner in the law firm of Hopper, Kanouff, Smith, Peryam, Terry and Duncan, a securities regulations firm in Denver. Mr. Hopper was Chairman of the 1979 Snowmass Conference, which resulted in federal legislation that simplified the process by which small business can raise venture capital. Mr. Hopper, a resident of Golden, Colorado, was born June 24, 1930, in Cleveland. He earned a bachelor's degree from the University of the South in Sewanee, Tennessee, in 1951 and received his Doctor of Jurisprudence from the University of Wyoming College of Law in 1956. He was admitted to the Wyoming State Bar on July 31, 1956.

He married Sally Hunter in Laramie, Wyoming, on December 20, 1955.

Mr. Hopper was also a member of the Federal, Colorado, and Denver Bar Associations. He served on the ABA's committees for federal regulation of securities, state regulation of securities and securities regulation of small businesses. He was Chairman of the Securities Committee and the Corporations, Banking and Business Law Section of the Colorado Bar Association.

In addition to his wife, Mr. Hopper is survived by four daughters, Nancy Hopper of Denver, Joan Pevarnik of Tucson, Carolyn Haynes of Washington, D. C., and Ann Elizabeth Vickstrom of Ann Arbor, Michigan.

NORMAN VINCENT JOHNSON

Norman Johnson died Monday, April 20, 1987, at his home in Laramie. He was 58 years old. Mr. Johnson was born on November 5, 1928, in Ogden, Utah, the son of Norman R. and Mabel Johnson.

He earned his bachelor's degree in geology with honors from the University of Wyoming in 1950. He served in the armed forces during the Korean Conflict. After his discharge, he returned to Laramie and entered law school at the University of Wyoming. He graduated with his LL. B. degree in May of 1956. Mr. Johnson practiced with Gerry Spence before returning to Laramie where he was associated with the late John Sullivan from 1962 until Mr. Sullivan's death in 1965. Mr. Johnson was a member of St. Laurence O'Toole Catholic Church in Laramie, the Knights of Columbus, the VFW, the Elks Lodge, the Wyoming State Bar and the Albany County Bar Association. He was also a member of the Alpha Tau Omega Fraternity.

Survivors include two brothers, Alfred A. Johnson of Fort Collins, Colorado, and Thomas W. Johnson of Laramie; a niece, Beth Lin Johnson; and three nephews, J. Bradley, Eric Mark, and Lance Johnson, all of Fort Collins. He was preceded in death by his fiancée, Jo Fowler, in 1976.

HENRY T. JONES

Cheyenne attorney Henry T. Jones, 61, died October 27, 1986.

Born June 10, 1925, in Fort Laramie, Wyoming, Jones had lived in Cheyenne since 1967. Prior to that, Mr. Jones resided in Cody.

Mr. Jones was a member of Ascension Lutheran Church and of the Wyoming State Bar. He practiced law in Cody and was district counsel for the past three years for the Veterans Administration Medical and Regional Office in Cheyenne. He retired October 14, 1986.

Mr. Jones is survived by his wife, Dorothy "Rusty" Jones; sons and daughter, Lt. Commander Thomas A. Jones of Sicily, Italy, Ronald E. Jones of Torrington, Sharon Green of Cheyenne, Larry B. Jones of Cody, and Palma L. Jack of Rawlins; a brother, Kenneth C. Jones of Denver, Colorado; and five grandchildren.

LOUIS MANKUS

Lou Mankus died December 27, 1986, near his office in downtown Cheyenne. Mr. Mankus was 65 years old.

Originally from Chicago, Mr. Mankus came to Wyoming in the 1930s to play football at the University of Wyoming.

During World War II Mr. Mankus served as a Major in the U. S. Marine Corps. He later graduated from the University of Wyoming Law School.

Mr. Mankus worked as a city judge in Cheyenne in the 1950s. During those ten years, he also served on the staff of Wyoming Senators Lester Hunt and Joseph O'Mahoney. In 1963, Mr. Mankus ran for Wyoming's lone Congressional seat on the Democratic ticket.

Mr. Mankus organized an effective pro-MX Missile effort in Cheyenne in 1982 called "All-American Solidarity."

At the time of his death, Mr. Mankus worked in private practice in Cheyenne. He is survived by his brother, Roman, an engineer and consultant in Chicago.

R. LAUREN MORAN

Services for R. Lauren Moran were held on March 7, 1987, in Denver, Colorado.

Born in Huntington, Nebraska, on December 5, 1913, Mr. Moran was a graduate of Wayne State College in Nebraska and received his degree in law from the University of Southern California in 1948. Mr. Moran began the practice of law in Riverton, Wyoming, as a partner of the firm of Moran, Hettinger and Leedy. For many years, that firm and its successor, Hettinger and Leedy, represented Lucky Mc Uranium Company, which became Wyoming's largest producer of uranium oxide. Mr. Moran,

a corporate officer in that mining company, was instrumental in founding the Wyoming Mining Association and served as President of the Rocky Mountain Mineral Law Foundation.

Admitted to the Colorado Bar in 1961, he opened law offices in Denver and specialized in mineral law until his death on March 4. Over the years he authored many published works and lectured on a number of mining subjects of interest to the legal profession and the mining industry. At the time of his death, Mr. Moran was "of counsel" with Lohf & Barnhills, P. C., of Denver.

Mr. Moran is survived by his wife, Nancy, of Denver; a daughter, Robyn Haworth of Helena, Montana; and two granddaughters.

CHARLES G. NEWTON

Charles G. Newton, 69, of Cheyenne died November 28, 1986.

Mr. Newton was born July 13, 1917, in Omaha, Nebraska, and had been a resident of Cheyenne since 1948.

He was a claims adjuster and attorney in Wyoming for 44 years. He was the former owner of Newton Claims Service. From 1967 to 1975, he served as coordinator of federal programs under Wyoming Governor Stan Hathaway. He was also Director of the State Office of Economic Opportunity, which was later incorporated into the State-Federal Relations office. He was twice elected Rocky Mountain Regional Vice-President of the National Association of Independent Insurance Adjusters.

From 1967 to 1975, Mr. Newton was a member of the State of Wyoming Manpower Coordinating Commission and Chairman of that committee from 1967 to 1971. He had helped develop assistance for minorities, poor, youth, older Americans, and unemployed.

Mr. Newton is survived by his wife, Minnie, whom he married June 21, 1940, in Omaha; two sons, Charles G. Newton, Jr. of Atlanta, Georgia, and Douglas A. Newton of Aurora, Colorado; his mother, Grace Glade of Cheyenne; and two grandchildren, Douglas Newton, Jr. and Joshua John Newton.

HOWELL C. McDANIEL, JR.

Casper attorney and former Wyoming State Bar President Howell C. McDaniel, Jr. died February 16, 1987, at the age of 67.

Mr. McDaniel died of an apparent heart attack in Casper where he was a partner in the law firm of Murane and Bostwick.

Born November 29, 1919, in Los Angeles, California, he earned his B. A. degree from the University of California at Los Angeles and enlisted in the U. S. Army as a Lieutenant after graduation, later transferring to the U. S. Army Air Corps during World War II.

His legal career covered many activities. He is a past Glenrock City Attorney and a member and past President of the Natrona County Bar Association. He served as President of the Wyoming State Bar from 1981 to 1982. Mr. McDaniel was also appointed to chair the Probate Statute Study Committee during Governor Ed Herschler's administration. This committee was instrumental in advising Wyoming's probate law. He was on the Council of Probate Lawyers, a Fellow of the American College of Probate Council, and was a member of the ABA and the American Judicature Society. He also served with the Natrona County Republican Central Committee.

Mr. McDaniel is survived by his wife, June Ann of Casper; three sons, James E. McDaniel of Nashville, Tennessee, John C. and Robert N. McDaniel, both of Casper; one sister; and five grandchildren.

RICHARD A. TOBIN

Mr. Tobin died September 19, 1986, in the Wyoming Medical Center in Casper from multiple chronic illnesses. He was 68 years old.

Mr. Tobin shared a private law practice with his wife, the former Marialyce Barrett, in the firm of Tobin and Tobin in Casper. They practiced law since 1956.

Mr. Tobin was born June 6, 1918, in Casper. He was the son of the late Peter and Margaret Tobin, pioneer ranchers. He attended the University of Wyoming in 1936 and 1937, but was struck with spondylitis which made him immobile for some 13 years. He later earned a degree in 1953 from Casper College. He obtained his LL. B. degree from the University of Wyoming in 1956. He was admitted to the Wyoming State Bar on July 31, 1956. Mr. Tobin was very involved in state government and city government, serving as an administrative assistant to six mayors of Casper, as District Court Commissioner, and as City Attorney. He was also named at different times as House Attorney and later as Senate Attorney in the State Legislature. He also served one term in the Wyoming House of Representatives as a delegate from Natrona County and as a senator in the Wyoming Senate from Natrona County for 12 years where he was Majority Full Leader, Vice-President, and President.

In addition to his widow, he is survived by two brothers, Robert Tobin of Arcadia, California, and Peter "Larry" Tobin of Denver, Colorado; two sisters, Margaret "Peggy" Tobin of Laramie, Wyoming, and Mary Jo Wilson of Denver, Colorado; and 19 nieces and nephews.

FRANK J. TRELEASE

Frank Trelease died October 1, 1986, in Peoria, Arizona. He was 72 years old.

Mr. Trelease was Dean Emeritus of the University of Wyoming College of Law and Professor Emeritus at the University of the Pacific, McGeorge School of Law.

Mr. Trelease was an internationally recognized water law authority and was a consultant to several states, countries, and the United Nations. He was the author of numerous books, chapters, articles, papers, reviews, and reports. Two of his well-known works were, "Cases and Materials on Water Law" and "Interference With the Use of Water (Riparian Rights), Restatement of the Law of Torts." In his long and distinguished career he was a visiting professor at 12 universities.

Mr. Trelease received his A. B. and LL. B. degrees at the University of Colorado and a Doctor of Jurisprudence at the University of Wisconsin. One of his many honorary degrees included an LL. B. from the University of Wyoming.

Mr. Trelease published a fourth edition of his water law book during this last year and was working on a paper at the time of his death.

In addition to his wife, Mary Thayer Trelease, Mr. Trelease is survived by his son, Frank III of Cheyenne; three granddaughters; and two sisters, Jonibelle Blair of Easton, Maryland, and Jule Emery of Baltimore, Maryland.

ERNEST WILKERSON

Former Wyoming gubernatorial candidate and Casper attorney Ernest Wilkerson died February 2, 1987, at his home in New York City. Mr. Wilkerson was 66.

Mr. Wilkerson was a founder and publisher of the *Casper Morning Star*, a newspaper which was the predecessor to the present *Casper Star-Tribune*. He worked successfully for the transfer to Natrona County of the former Army Air Base, which is now Natrona County International Airport. As President of the Casper Chamber of Commerce, he persuaded Western Air Lines to locate in Casper and establish an east-west line to connect with Minneapolis and Los Angeles. Mr. Wilkerson was a leader in the successful campaign to change to the Casper city manager form of government and was elected to the first city council under that form.

As President of the Wyoming Automotive Company and founder and President of Wyoming Hardware Company, he expanded those businesses into an important part of Wyoming's economy. Mr. Wilkerson practiced law in Casper for 23 years before leaving for New York City in 1970.

Born March 18, 1920, Mr. Wilkerson attended college at the University of Wyoming. He later enrolled in law school at Yale but enlisted as a Private in the U. S. Marine Corps later that year. He was called to duty in 1942, promoted to Lieutenant, and served in the South Pacific during World War II before being discharged as a Captain.

After completing graduate work at New York University, he spent three years with the Practicing Law Institute, a continuing education service for attorneys. He later established the Center for Advanced Legal

Training and the Commercial Law Form, two programs he directed until his death.

He is survived by two sons, Ernest and Mark; one daughter, Laura Perry; and five grandchildren. His wife, Margret, preceded him in death.

Respectfully submitted,
MARY BETH SENKEWICZ
Executive Director
Wyoming State Bar

Annual Report of State Board of Law Examiners of Wyoming

The State Board of Law Examiners now consists of James L. Applegate, Cheyenne; Thomas C. Toner, Sheridan; Ernest J. Goppert, Jr., Cody; William H. Vines, Wheatland; and Michael Golden, Casper.

Since your last annual meeting the Board administered the Bar Examination on 24 and 25 February 1987, in Laramie, Wyoming, to 13 applicants. Eight of those applicants (61%) taking this exam passed it, and five (39%) failed. Those who did pass were subsequently recommended to the Wyoming Supreme Court for admission to the Bar.

On 28 and 29 July 1987, also at Laramie, the Board examined 62 applicants on the Wyoming essay portion of the Bar Exam and on the Multi-State Bar Examination. Forty-six (73%) of those passed, and 16 (27%) of these applicants failed the exam. Final recommendations as to these 62 applicants have been made to the Wyoming Supreme Court.

Pending before the Wyoming Supreme Court are recommendations of the State Board of Law Examiners that the Court delete the rule permitting applicants to qualify to sit for the bar exam based upon one or two years of law-office study, and also pending is the recommendation of the Board to the Supreme Court that the procedure for admission to the Wyoming Bar without examination be deleted entirely from our rules.

Several pending reciprocity applications for admission without examination were acted on at both our February and July 1987 meetings, and there are others that are presently pending. A lawsuit concerning the reciprocity admission which was filed in late May 1986 in the United States District Court for the District of Wyoming by Mayo Sommermeyer (a Fort Collins attorney) against the Wyoming Supreme Court, Civil No. C86-160, was decided early this summer by Judge Brimmer in favor of the Supreme Court, but it is now on appeal by Mr. Sommermeyer to the Tenth Circuit Court of Appeals.

Yours very truly,
JAMES L. APPLGATE
President, State Board of
Law Examiners

Report of the State Bar Delegate to the American Bar Association House of Delegates

As you know, the annual meeting of the American Bar Association was held this year in San Francisco beginning August 5 and ending August 12, 1987. The Assembly met on Monday, August 10, and the House of Delegates met on Tuesday and Wednesday, August 11 and 12. Your delegate attended all sessions.

This will be my last report in my capacity as State Bar Delegate. You will recall, I was elected last spring by the American Bar Association members of the Wyoming State Bar to serve a three-year term in the House as a State Delegate. My term began at the end of the San Francisco annual meeting. You have appointed as my successor our former State Delegate, Jerry W. Housel. Accordingly, he commenced serving in his new capacity also at the end of the annual meeting.

As usual, there were many items on the calendar at this year's meeting of the House. The highlights included several diverse subjects.

First of all, a resolution was adopted establishing as the ABA's policy its opposition to state or federal legislation authorizing a levy of sales or use taxes on lawyers' professional services.

A recommendation tendered to the House by the Federal Bar Association and the Bar Association of the District of Columbia that the United States Court of Military Appeals should be designated by Congress as an Article III court system under the Constitution was turned down in favor of another recommendation submitted by the Section of General Practice. The latter proposal called for the creation of a study group to address this issue. This position adopted by the House is consistent with that previously taken by the Judge Advocate Generals of the Armed Services as well as the Department of Defense.

A recommendation submitted by the Beverly Hills Bar Association was adopted urging Congress to amend the Internal Revenue Code of 1986 to make the treatment of the valuation of gifts consistent for both federal estate and gift tax purposes. The effect of such legislation would be to prevent the adjustment of valuations of gifts for purposes of computing adjusted taxable gifts for federal estate tax purposes if the statute of limitations has expired with respect to the gifts and if a gift tax was paid. This conforms to the present law dealing with gift taxes, but the estate tax law does not deal directly with this problem. Accordingly, this remedial legislation would make these two bodies of law consistent.

A recommendation submitted by the State Bar of Arizona would have changed some of the language in the Declaration of Cooperation that now exists between the American Bar Association and the Association of Soviet Lawyers. The recommendation was turned down by the House largely on the theory it is important that our profession maintain a dialogue with the Soviets in the hope that eventually we may be successful in achieving desirable changes in the Soviet legal system. This was an

extremely emotional issue involving pickets outside the Fairmont Hotel in which the meeting of the House of Delegates was held.

This identical proposal had been considered the day before (on Monday, August 10) at the meeting of the Assembly with the same negative result. Had it passed the House after being voted down in the Assembly, it would have necessitated a resubmission of the issue to another meeting of the Assembly on Wednesday afternoon, August 12. This was not necessary, therefore, since the House concurred in the action taken earlier by the ABA membership in its Assembly session.

Four amendments to the ABA Constitution dealing with state delegates were acted upon consistently in both the Monday Assembly session and the subsequent meeting of the House of Delegates: That is, in both meetings three passed, and one failed. I will briefly mention first those that passed. Section 6.3(a) of the constitution was amended to eliminate the requirement that ballots be mailed out to members when a state delegate election is uncontested. It was estimated that as much as \$35,000 per year will be saved by the ABA through this change in the election processes. Another amendment dealing with the same section of the constitution, but specifically with subsection (e), was adopted. Under this change, state delegate vacancies will be filled by election only in those instances where there remains enough time in the term that the successor will attend more than one annual meeting. This again is a cost-saving amendment. A state would not go unrepresented on the nominating committee on which state delegates sit if a vacancy were left vacant under this change since in those situations the bar delegate steps in to serve as an interim successor state delegate pursuant to another provision of the constitution.

A third amendment that was approved changed the language of Section 9.2(d) added at the 1984 annual meeting of the ABA and which was to become effective after the annual meeting in 1988. As adopted in 1984, that subsection required a member seeking an office in the ABA or a seat on its Board of Governors to get off the nominating committee for one full association year prior to his nomination. It meant that a candidate had to resign as a state delegate 18 months prior to the time his candidacy would be acted upon. The change effected by the amendment, therefore, allows an individual to remain in the office of state delegate when he becomes a candidate, but of course he must recuse himself from meetings of the nominating committee at which his candidacy is considered. The senior state bar delegate from that state will step in to fill that seat on the nominating committee when that situation arises.

A fourth amendment, not adopted, would have changed Section 7.3 of the Constitution by adding a new subsection. Its purpose would effectively negate the current requirement that a member to be qualified to serve on the Board of Governors must have seen prior service in the House of Delegates. This proposed change in the basic requirements for the office would have applied, however, only in the event a person with House experience were unavailable when that state's turn came up to fill a board

vacancy. This solution was advanced for what was believed to be a serious potential problem for small states such as ours. As a practical matter, to my knowledge, we have never encountered any difficulties with this requirement in the past. Moreover, it is not anticipated we will find ourselves unable to take our turn on the Board of Governors in the future just because we lack having a member of our Bar with House experience.

The House acted on several other items of business that might be classified as being relatively routine. For example, three new categories of membership in the ABA were approved. An amendment to the bylaws was adopted creating a membership classification called "Legal Assistant Associates." These are persons who are not members of the legal profession but are employed or retained by a lawyer, law office, governmental agency, or other entity performing specifically delegated substantive legal work under the supervision and direction of an attorney.

Another similar membership proposal was approved for "Criminal Justice Associates." These are nonlawyers who hold degrees in criminal justice or criminology and serve as law enforcement officers, criminal investigators, parole, probation, pretrial service or correctional officers or work in similar fields of employment directly related to the administration of criminal justice.

A third membership category was accorded to Industrial Organization Economists. These are individuals who deal largely with anti-trust matters and are involved in related investigations.

An amendment of the bylaws which would have reduced by one-half the annual dues payable by retired members was defeated. A retired member was defined under the language of this proposal as a person who is at least 65 years old and derives no income from the practice of law. Moreover, he would have had to be a member of the association for 20 consecutive years preceding retirement.

While we are talking about defeated measures, it is appropriate to mention an item that was withdrawn under pressure of delegates from oil producing states. This was a resolution submitted by the Section of International Law and Practice. It argued that to be consistent with the General Agreement on Tariffs and Trade (GATT) Congress should amend a section of the Superfund Amendments and Reauthorization Act of 1986 which imposes a tax on petroleum products at a higher rate on imported petroleum products than on domestic. This provision in the 1986 superfund Amendment Act was branded discriminatory by the sponsors of this anti-American oil producers proposal. Rather than face a floor fight with the delegates from the oil producing states, however, the sponsors withdrew it.

Returning to the positive side to discuss more reports adopted by the House, a resolution submitted by the Section of Taxation recommending Congress amend the Internal Revenue Code of 1986 was approved. Under this recommendation, a purchaser of substantially all of the assets of a trade or business would be allowed to deduct liabilities he acquired

with the business in the tax year he satisfies those liabilities. At the same time, the seller would not experience any gain, loss, or deduction because of the purchaser's assumption or satisfaction of those liabilities.

A provision directed specifically to state bars was adopted. It was a resolution submitted by the Standing Committee on Lawyers in the Armed Forces. It called upon bar admission and attorney registration authorities to consider adopting a policy recognizing the unique circumstances of lawyers on active duty in the armed forces of the United States who are in "good standing" but are involuntarily absent from the jurisdiction due to military orders. It was recommended in those cases a special category of membership for military personnel be afforded and their dues be waived or reduced.

A resolution submitted by the Section of Criminal Justice was approved which recommended that states which have not already done so adopt a grand jury principle which permits a defendant, after an indictment, to have pretrial discovery of all matters occurring before the grand jury related to him other than the secret deliberations of the grand jury itself. Under a proviso clause, a court on a showing of good cause could condition or restrict such discovery as necessary.

Another report submitted by the Section of Criminal Justice adopted by the House dealt with the black letter criminal justice mental health standards entitled, "Competence and Capital Punishment," dated August 1987. The standards do not take any position on whether the imposition of the death penalty should be approved or opposed. Their sole purpose is to address complex procedural issues dealing with post-conviction determinations of mental competence in capital cases.

The concept of having permanent legislation authorizing special prosecutors to investigate "Watergate" type events was again endorsed by the ABA when the House approved a resolution submitted by the Criminal Justice Section on this subject. The purpose of the resolution was to recommend removal of the sunset provisions in the Ethics in Government Act of 1978. Also, it called for a limited judicial review in the event an Attorney General decides not to seek appointment of independent counsel or does not permit expansion of the scope of an independent counsel's jurisdiction he requests to include additional persons or offenses.

Bankruptcy judges were given a boost when a resolution recommended by the National Conference on Special Court Judges was approved proposing a significant salary increase.

The *Feres* doctrine which prohibits members of the Armed Services from suing the United States under the Tort Claims Act for noncombat related injuries caused by negligent medical or dental treatment was the subject of another affirmative vote by the House. It concerned a resolution submitted by the Tort and Insurance Practice Section that recommended support of H. R. 1054 to partially overturn the decision of the United States Supreme Court in *Feres v. United States*.

Another Tort and Insurance Practice Section proposal which won House approval, after amendment, was a resolution dealing with proposed changes in the Federal Rules of Civil Procedure and state rules of civil procedure governing pleadings relative to punitive damages and discovery of net worth related to punitive damage claims. If these changes were effected, the parties would engage in an evidentiary showing to test prior to trial whether plaintiff had a prima facie punitive damages claim. These rules were developed as a consequence of action taken by the House in 1986 on a report of the ABA Special Committee on Medical Professional Liability.

Certain changes in the Code of Recommended Standards for Bar Examiners were the subject of a resolution submitted by the Section of Legal Education and Admissions to the Bar. They were approved by the House without debate.

There were many other items covered in this year's annual meeting agenda which I have not touched upon in this report. To do so would extend it far too long. If anyone, however, would like to know about any specific item I have not reported or wishes to have more information on the subjects I have covered, please get in touch with me or Jerry Housel.

Let me emphasize one important point about the American Bar Association and its policies. Oftentimes, speakers at annual meetings of the ABA are quoted in the press saying things that are not necessarily consistent with ABA policy. Only positions that bear the imprimatur of the House of Delegates constitute official policy of the ABA. No section, committee, or individual associated with the ABA has any authority without first going through certain procedures to say anything or take any affirmative action that is binding on the ABA and its members. All policy matters must clear through the House to be official. This basic rule is frequently misunderstood by the public and even by some members of our organization. It is for that reason I wanted to emphasize this point here.

I have enjoyed serving the second time as your State Bar delegate, and I want to express my gratitude to the membership for having elected me last year to serve this second time in that capacity. The position of State Bar delegate gives one splendid training for the state delegate role.

Too, I want to thank the ABA members of our Bar who elected me the new state delegate to succeed Jerry who had many years of distinguished service in that post. He enjoyed a lot of respect and popularity in the House. He will be "a tough act to follow."

Respectfully submitted,
R. STANLEY LOWE
State Bar Delegate

Report of the Treasurer**WYOMING STATE BAR EXPENSES -
BY BUDGET CLASSIFICATION****General and Administrative**

	Budget Year Ended Sept. 30, 1987	Actual 11 Months Ended Aug. 31, 1987	(Over) Under Budget
Expenses			
Payroll & Costs,			
Insurance	\$ 84,742.00	\$ 79,008.10	\$ 5,733.90
Travel & Related			
Expenses	26,000.00	18,863.87	7,136.13
Management &			
Financial	2,500.00	100.00	2,400.00
Office Space, Equip-			
ment & Supplies	27,370.00	28,424.14	(1,054.14)
Postage & Express	7,650.00	5,435.57	2,214.43
Telephone	5,000.00	6,573.00	(1,573.00)
Reg. Publications	34,951.00	37,942.68	(2,991.68)
Dues/Fees/Subscriptions	600.00	285.00	315.00
Grievance Committee ..	25,000.00	17,596.37	7,403.63
Fee Arbitration	1,000.00	863.94	136.06
Other WSB Committees	2,000.00	3,085.22	(1,085.22)
Meetings	1,000.00	0.00	1,000.00
Convention Expense	20,000.00	4,395.87	15,604.13
Cash Reserve	5,000.00	34,463.45	(29,463.45)
Law School			
Scholarships	1,432.00	1,432.00	0.00
	<u>\$244,245.00</u>	<u>\$238,469.21</u>	<u>\$ 5,775.79</u>
Revenues			
Annual Dues	\$160,937.50	\$160,465.00	\$ 472.50
Interest	15,000.00	16,055.76	(1,055.76)
Miscellaneous	10,000.00	15,640.91	(5,640.91)
Supervisory & Book-			
keeping Fees	5,400.00	4,875.00	525.00
Rental Income	2,700.00	1,237.50	1,462.50
Parking Income	1,920.00	1,940.00	(20.00)
Convention Excess	20,000.00	17,897.00	2,103.00
	<u>\$215,957.50</u>	<u>\$218,111.17</u>	<u>\$ (2,153.67)</u>
EXCESS OF REVENUES OVER EXPENSE (LOSS) ..	\$ (28,287.50)	\$ (20,358.04)	

Wyoming State Bar Balance Sheet

Aug. 31, 1987

ASSETS

Cash - Convention	\$ 17,741.62
Cash - CLE	5,957.65
Cash - IMMA	16,462.52
Cash - Savings	26,753.53
Cash - Liquid Capitol Fund	40,498.52
Cash - Restricted - CD's	55,327.69
Cash - Checking	55,567.37
Computer	<u>19,841.88</u>
	\$238,155.78

Liabilities and Fund Balance

Checks Outstanding in Excess of Bank Balance	\$ <u>9,630.18</u>
--	--------------------

Fund Balances

Unrestricted	\$182,828.09
Restricted	<u>55,327.69</u>
	\$238,155.78