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THE NORTH CAROLINA STATE BAR

THOMAS P. PRUITT, *Editor*

MEETING OF THE COUNCIL OF THE NORTH CAROLINA STATE BAR

January 16, 1948

The regular quarterly meeting of the Council of the North Carolina State Bar was held in the offices of the State Bar on January 16, 1948, with the following officers and councillors present:

Officers:

Joseph B. Cheshire, President, Raleigh
Thomas P. Pruitt, First Vice-President, Hickory
J. B. James, Second Vice-President, Greenville
Edward L. Cannon, Secretary-Treasurer, Raleigh

Councillors:

Junius D. Grimes, First District, Washington
Z. V. Norman, Second District, Plymouth
John D. Warlick, Sixth District, Jacksonville
I. M. Bailey, Seventh District, Raleigh
Louis J. Poisson, Eighth District, Wilmington
Dickson McLean, Ninth District, Lumberton
R. P. Reade, Tenth District, Durham
G. H. Hastings, Eleventh District, Winston-Salem
J. F. Spruill, Twelfth District, Lexington
W. L. Mann, Thirteenth District, Albemarle
J. Laurence Jones, Fourteenth District, Charlotte
Kyle Hayes, Seventeenth District, N. Wilkesboro
Charles Hutchins, Eighteenth District, Burnsville
John M. Queen, Twentieth District, Waynesville
P. W. Glidewell, Sr., Twenty-first District, Reidsville

The meeting was called to order by the President, Joseph B. Cheshire. The President announced that notice had been received of the death of Mr. Julius Brown, of Greenville, Councillor of the Fifth District, who died on December 24, 1947. The President further advised that he had received notice from the President of the Fifth District Bar that he had appointed Albion Dunn, of Greenville, as Councillor for the Fifth District until the next regular meeting of the Fifth District Bar. The President designated Judge Albion Dunn and J. B. James, both of the Fifth District, to prepare an appropriate memorial on Mr. Julius Brown and to present the same to the Council at its April meeting.

The President also advised the Council of notice received of the death of R. L. Phillips, of Robbinsville, former Councillor from the

Twentieth District, who died since the last meeting. The President designated Mr. John M. Queen, of Waynesville, to prepare proper memorial on Mr. Phillips for presentation to the Council at its next meeting.

The minutes of the last meeting were read by the Secretary and approved as read.

The President called for the report of the Executive Committee which was made by Mr. Pruitt in the absence of the Chairman, Judge Bland, who was ill. Upon motion the Council adopted the report of the Committee and approved the same.

The President called for the report of the Grievance Committee made by Judge Hastings, Chairman. The committee recommended that further study be given to several matters pending before it. The committee recommended that the request of Thomas J. Nivens, of New York, for the return of papers filed against a member of the bar be declined. The Secretary was directed to notify Mr. Nivens that he might secure copies of documents filed by him at his own expense. Mr. Bailey offered the following motion:

"It is the policy of the Council of the North Carolina State Bar that no documents filed in complaints be returned to complainants, but that the same be held as a part of the permanent records of the State Bar."

Mr. Grimes offered an amendment, which Mr. Bailey accepted, reading as follows:

"except that if in said documents there be notes or other original evidences of indebtedness that such items might be withdrawn upon the complainant replacing the same by proper authenticated copy or copies thereof."

The motion as amended was adopted.

Upon motion, the recommendations and the report of the Grievance Committee were approved.

The President called for the report of the Legislative Committee. Mr. Poisson, Chairman, advised the Council that the Committee had no report at this time as the Committee desired to give careful study to the proposals now before the Congress for amendment to the tax laws providing for certain changes to determine the application of community property rules. He requested that these matters carry over to the next meeting in order that the Committee might have sufficient time to make proper recommendations. The Council approved the request of the Chairman.

The President called for the report of the Ethics Committee and the Chairman, Mr. Grimes, requested that the same go over until after the noon recess.

The President called for the report of the Committee on Unauthorized Practice made by Mr. Norman in the absence of the Chairman, Mr. Williams. He advised the Council: 1. that several requests had been received by the Secretary to communicate with various justices of the peace and others engaged in unauthorized practice. The Committee recommended that the Secretary comply with such requests as were received; 2. that the advertising material of the Durham Bank and Trust Company appeared to be satisfactory and not in violation of the law; 3. Mr. Norman pointed out that a serious situation faced the Council in connection with the real estate boards. The Committee recommended cooperation with any local bar in acting against real estate operators and agents and recommended that the Council join in any move necessary and if necessary that the Council employ special counsel to assist in such prosecution as the President and Secretary might deem advisable.

At this point, Mr. Poisson made the suggestion that the Council employ counsel and bring a test case as soon as possible. Mr. Glidewell made this in the form of a motion which was duly seconded and adopted. Motion was made to adopt the report of the Committee as such with the adoption of the motion of Mr. Glidewell as adopted.

The President called for the report of the Membership Committee made by Mr. Pruitt. The Committee made the following recommendations: 1. The case of G. A. Warlick be held over for the proper petition. 2. The case of H. L. Swain—The Secretary was authorized to cancel an old charge of \$3.00 brought forward from Mr. London's records. 3. R. E. Mitchell, Jr.—Approved petition and place on inactive list for the period of time indicated. 4. E. L. Culbreth—Refer back to the Secretary to secure further information. 5. W. M. Hood—Placed on inactive list if petitioner pays dues for the years 1933 and 1934. 6. E. T. Hart—Placed on inactive list during law study. 7. Mark S. Dunn—Continue for further study by Committee. Mr. Pruitt moved the adoption of the report and the motion carried.

The President called for the report of the Committee on Solicitation of Litigation. Mr. Jones, Chairman, advised that there was no formal report but as a matter of information he reviewed the orders entered and judgments signed by Judge Armstrong in the Morris case which is spending in the Superior Court of Iredell County. Mr. Jones gave rather general information to the Council.

The President called for the report of the Committee on Post War Work and Mr. Norman stated that there was no report for the Committee.

The Council adjourned at 1:15 P.M. and reconvened at 2:15.

The President called for the report of the Ethics Committee made by

Mr. Grimes, the Chairman. The Chairman reported that inquiry had been received, requesting a ruling on the propriety of examination of witness for adverse party when subpoena had been served on the witness by another party. The recommendation of the Committee was as follows:

"The question you ask is this: Has the counsel for the adverse party the right to examine a witness who has been subpoenaed by his adversary. We think it proper for him to do so, after the witness has been subpoenaed by him. In connection with this answer, we call your attention to Canon 39 entitled "Witness" of the Canons of Professional Ethics of the American Bar Association."

The Committee recommended that the Secretary state the findings of the Committee to the inquirer. On motion, the report of the Committee was adopted.

The President called the attention of the Council to a communication received regarding a campaign for funds for members of the Bar of devastated areas of Europe. Without objection, the matter was referred to the Committee on Post War Work.

The President recommended to the Council the election of the following committees for the year:

Executive:

D. H. Bland, Chrm., Goldsboro
J. L. Jones, Charlotte
P. W. Glidewell, Sr. Reidsville
J. D. Warlick, Jacksonville
B. F. Williams, Lenoir

Grievance:

G. H. Hastings, Chrm., Winston-Salem
Z. V. Norman, Plymouth
J. E. Banzet, Warrenton
W. L. Mann, Albemarle
Thomas P. Pruitt, Hickory

Post War Work:

Z. V. Norman, Chrm., Plymouth
G. H. Hastings, Winston-Salem
J. D. Warlick, Jacksonville
Thomas P. Pruitt, Hickory

Committee on Solicitation of Litigation:

J. L. Jones, Chrm., Charlotte
J. D. Grimes, Washington
Kester Walton, Asheville

Ethics Committee:

J. D. Grimes, Chrm., Washington
Dickson McLean, Lumberton
Kester Walton, Asheville
J. M. Queen, Waynesville
J. B. James, Greenville

Unauthorized Practice:

J. A. Scott, Chrm., Statesville
D. H. Bland, Goldsboro
R. P. Reade, Durham
Dickson McLean, Lumberton
W. L. Mann, Albemarle
Kyle Hayes, N. Wilkesboro
Albion Dunn, Greenville
J. F. Spruill, Lexington

Legislative:

L. J. Poisson, Chrm., Wilmington
R. P. Reade, Durham
P. W. Glidewell, Sr., Reidsville
J. A. Scott, Statesville
I. M. Bailey, Raleigh

Membership:

I. M. Bailey, Chrm., Raleigh
L. J. Poisson, Wilmington
B. F. Williams, Lenoir
J. E. Banzet, Warrenton
Charles Hutchins, Burnsville
J. B. James, Greenville

Special Committee to Confer with Industrial Commission:

J. F. Spruill, Chrm., Lexington
Albion Dunn, Greenville
J. M. Queen, Waynesville
Kyle Hayes, N. Wilkesboro

Motion was made that the Council elect the committees as set forth above. Motion was seconded and the above committees were declared elected for the year 1948.

The President advised the Council that he wished their approval of Mr. Thomas P. Pruitt to handle material in the NORTH CAROLINA LAW REVIEW on behalf of the State Bar. Upon motion, the appointment of Mr. Pruitt was approved by the Council.

Mr. Hayes suggested that the council consider the employment of a young law student to assist in investigating unauthorized practice. Following discussion Mr. Norman moved that the matter be referred to the Executive Committee for consideration. Motion was adopted.

The Secretary reported on further inquiry into the application for reinstatement of Spencer T. Thorne, of Columbia, North Carolina. Upon motion, the following resolution was adopted:

“RESOLVED that upon and after consideration the petition and application of Spencer T. Thorne, of Columbia, North Carolina, for reinstatement be and the same is hereby denied and the President is directed to enter an order denying said petition.”

Whereupon the following order was entered duly signed by the President:

BEFORE THE COUNCIL OF THE NORTH CAROLINA
STATE BAR

In the Matter of Application for Restoration of License by Spencer T. Thorne, Columbia, Tyrrell County, North Carolina.	}	ORDER
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This CAUSE COMING on to be heard before the Council of the North Carolina State Bar on this the 16th day of January, 1948, upon application of Spencer T. Thorne of Tyrrell County, North Carolina, for restoration of license to practice law, and being heard, and after being heard, and after consideration of said application and hearing the petitioner in person and through counsel, and after careful consideration of said application, it was moved and seconded that his application be denied, whereupon, by a unanimous vote the said application was declined; it is therefore,

ORDERED, ADJUDGED AND DECREED that the application of the said Spencer T. Thorne for restoration of his license to practice law be and the same is hereby denied.

Done at Raleigh, North Carolina, this the 16th day of January, 1948.
(Sgd) *Joseph B. Cheshire*

Joseph B. Cheshire, President
The North Carolina State Bar

The Council adjourned at 3:30 P.M.