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THE NORTH CAROLINA STATE BAR

Meeting of the Council of the North Carolina State Bar
April 15, 1949

The regular quarterly meeting of the Council of the North Carolina State Bar was held in the Justice Building, Raleigh, North Carolina, on April 15, 1949, with the following officers and members present:

Officers:

Thomas P. Pruitt, President, Hickory
J. B. James, First Vice-President, Greenville
A. W. Sapp, Second Vice-President, Greensboro
Edward L. Cannon, Secretary-Treasurer, Raleigh

Councillors:

Junius D. Grimes, First District, Washington
Z. V. Norman, Second District, Plymouth
Julius Banzet, Third District, Warrenton
D. H. Bland, Fourth District, Goldsboro
Albion Dunn, Fifth District, Greenville
I. M. Bailey, Seventh District, Raleigh
L. J. Poisson, Eighth District, Wilmington
Dickson McLean, Ninth District, Lumberton
R. P. Reade, Tenth District, Durham
G. H. Hastings, Eleventh District, Winston-Salem
W. L. Mann, Thirteenth District, Albemarle
Kyle Hayes, Seventeenth District, N. Wilkesboro
P. W. Glidewell, Sr., Twenty-first District, Reidsville

The meeting was called to order by the President, Mr. Thomas P. Pruitt.

The President announced that the terms of three members of the Board of Law Examiners were expiring and that members of the Council should give consideration to nominations which would be called for later in the meeting.

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

The President called for the report of the Executive Committee which was made by Judge Bland, the Chairman. The Committee reported that it had checked the receipts and disbursements for the quarter January-March and found the same to be correct. The Committee reported to the Council that the Secretary had recommended approval of a temporary arrangement with an investigator to assist in investigations and the Committee recommended that the Secretary be author-

ized to enter into such arrangements with said investigation as he deemed advisable. Upon motion the report of the Committee was adopted.

The President called for the report of the Grievance Committee made by Mr. Reade, Chairman. The Committee informed the Council that it had no formal complaints and had not given notice to any attorneys, but that it had considered a number of matters informally and reported the same.

The President called for the report of the Ethics Committee made by Judge Hastings, Chairman. The Committee reported and recommended as follows:

1. Inquiry as to the violation of ethics by attorney in discussing with client of other attorney matters connected with pending litigation. It appeared that attorney was related to one of the parties to the litigation and discussed the matters with them in that capacity and at that time had not been retained as an attorney in connection with the case, both of the parties thereto being already represented by counsel. The Committee recommended that the Council find that there was no violation of ethics in this matter and the same be so indicated. The Council unanimously adopted the recommendation of the Committee.

2. Inquiry of attorney, as to whether or not it would be proper for him to appear in radio broadcasts discussing legal matters and doing so through a sponsor. The Committee recommended that the matter be held open for further inquiry to determine the question of whether attorney anticipated doing such broadcasting for a fee and further, as to what subject-matter would be discussed in such broadcasts. Recommendation of the Committee was adopted.

3. In the matter of attorney, regarding advertising in local papers, said advertising carrying information *other* than a simple card notice. The Committee recommended that it was their opinion that such advertising was improper and the recommendation was unanimously adopted by the Council.

4. In the matter of attorney using certain stationery and letterheads wherein one attorney, not a member of the Bar of this State, was listed along with several attorneys of this Bar and addresses given as in this State. The Committee asked for discussion of this matter and following discussion, motion was made that the matter be referred back to the Committee for their recommendation as to such changes as would comply with the ideas of the Council.

5. Inquiry of attorney, "Is it improper for an attorney who has been employed in the event his client may be sued to address a letter to a judge or judges asking that he or they refuse to grant any application that might be made for appointment of a receiver until he, the writer, might be heard on behalf of his client." The Committee was of

the opinion that such action was not improper and it was therefore not a violation of ethics when there was only a request to be heard. Recommendation adopted.

6. Inquiry of attorney as to whether it would be improper for him to represent a client in a habeas corpus proceeding while holding the office of solicitor of Recorders Court. The Committee was of the opinion that the same would be objectionable. Upon motion, the opinion of the Committee was unanimously adopted.

The Chairman of the Committee presented at some length the requests of attorney which was in substance as follows: "Would it be improper for the said attorney who is a member of the Bar of this State to take a position with a firm of accountants on the following basis:

1. To be employed by the firm as a member of their accounting staff, to handle all non-legal tax work which is referred to them by their clients. I will be compensated by a fixed salary plus a percentage of the revenue from the performance of this work.
2. Any legal questions involved in or arising from this tax work shall be referred, in accordance with the wishes of the client involved, either to me to handle in my separate capacity as a lawyer or to some other attorney. If such legal questions are referred to me, I will deal directly with the client, will render a bill directly to him for my services, and will retain for myself the entire fee charged, not sharing or paying it over to anyone else.
3. It will be agreed that my name shall not appear, as an attorney-at-law, on any letterhead or other stationery of the accounting firm, or on any door plate or door lettering of the firm.

The Chairman of the Committee stated that the Committee felt that it would not be objectionable so long as the said attorney does not engage in the unauthorized practice of law. Motion was made that the recommendation of the Committee be adopted. A substitute motion was offered as follows: "That the Council take cognizance of this contract or proposed contract and that the same would be a breach of ethics and unauthorized practice both and that the Council disapprove said contract and such practice generally." The substitute motion was duly seconded and being put to a vote, the substitute motion was passed.

The President called for the election of three members of the Board of Law Examiners and announced that the terms of Messrs. Varser, Carlyle and Hartsell were expiring. Messrs. Varser, Carlyle and Hartsell were nominated to succeed themselves as members of the Board of Law Examiners. Motion was made that nominations be closed. Motion carried. Motion was made that the Secretary cast the vote of the Council for L. R. Varser, I. E. Carlyle and L. T. Hartsell, Jr., to

three-year terms on the Board of Law Examiners. The Secretary cast the vote of the Council for Messrs. Varser, Carlyle and Hartsell.

The President called for the report of the Membership Committee which was made by Mr. Dickson McLean. The Committee recommended that action be taken on petitions before it as follows:

1. Charles O'H. Grimes—It was recommended that if the Secretary finds his present position does not require that he be an attorney that the petition be granted. The Secretary was instructed to make further inquiry. Recommendation of the Committee was adopted.

2. A. T. Daniel, Charlotte—The Committee recommended that the petition be granted and upon motion, the recommendation was adopted.

3. R. S. McClure—The Committee recommended that as the petitioner was in the Judge Advocate's Department and as the same appeared to require his being an attorney, that petition be denied, the Secretary to make further inquiry. Recommendation approved.

The Council adjourned at 1:15 P.M. to reconvene at 2:30.

The President called for the report of the Legislative Committee made by Mr. Poisson, Chairman.

The Chairman made several observations regarding various proposals considered and still being considered by the General Assembly, and suggested that final report be heard at the July Meeting of the Council.

The President called for the report of the Committee on Unauthorized Practice which was made by Mr. Grimes, Chairman. The Committee reported recommendations in the following matters as follows:

1. Inquiry as to the practice of laymen preparing tax returns. The Committee recommended that the matter be the subject of further study. Recommendation adopted.

2. Request for action against Justices of the Peace and Notaries Public in every county engaged in Unauthorized Practice. The Committee recommended that the Secretary investigate the matter and if the facts are found as alleged that parties complained of be restrained and that the executive be requested to revoke their commissions. The Council unanimously adopted the recommendation.

3. As to certain direct-mail advertising and solicitation of the Trust Companies, the Committee recommended that the Secretary notify the Trust Companies requesting that they discontinue objectionable practices. Upon discussion, amendment was offered to the recommendation of the Committee to include all banks and trust companies. A suggestion was made that the matter be discussed with the Banking Commission. Further suggestion was made that a committee of the Council confer with a committee from the Bankers Association. Following con-

siderable discussion, motion was made that the Unauthorized Practice Committee confer with similar committee of the Trust Division of the Bankers Association and that Messrs. Sapp and Bailey be added to the Unauthorized Practice Committee for this purpose. Mr. Bailey requested that his name not be submitted and the President, Mr. Pruitt, substituted. Upon vote, the motion was unanimously adopted. Motion was thereafter made requesting the Secretary to advise the Chairman of the Trust Division of the Bankers Association, Mr. Vick, Mr. John McNair, President, Mr. Fred Greene, Secretary, requesting that a committee of the Bankers Association be appointed to confer with the committee of the Council.

Mr. Grimes advised the President that there was no report for the Committee on Solicitation of Litigation.

Mr. Norman advised the President that there was no report from the Committee on Post War Work.

The President called for the report from the Special Committee to Confer with the Industrial Commission. Judge Dunn advised the Council that he had received a letter from the members of the Industrial Commission advising that they were unable to accept the recommendation of the Council as to schedule of minimum fees in matters before the Commission. Following discussion, motion was made that the Committee be continued and motion was adopted.

The Secretary called the attention of the Council to request from attorneys concerning securing of originals from the files in the matter of restoration of license of Spencer T. Thorne. The Secretary was instructed to advise attorneys that upon provision for supplying copies for the file, the originals would be returned to Mr. Thorne.

The Secretary further advised the Council that he had received a telephone call from Mr. Pat Kimzey of the Industrial Commission advising that the Commission did not feel that it could accept the minimum schedule of fees submitted by the Committee from the Council but that he was of the opinion that a discussion between the Committee and the Commission would result in substantial agreement as to some policy relative to the matter of fees.

The Secretary further advised the Council as to the status of the John C. Wallace case.

Mr. R. P. Reade advised the Council that the attorney whose inquiry regarding employment with accounting firms had been discussed at the morning session was present in person and desired to appear before the Council and seek the advice and discussion of the Council regarding his situation. Motion was made that attorney be heard. He appeared before the Council and considerable discussion was had relative to his

case and problems presented by his desire to abide by the actions of the Council.

Mr. Hayes presented a proposal for addition to the Canons of Ethics, consideration and thought of the Council between now and the July meeting. The proposal was upon motion referred to the Ethics Committee for study.

There being no further business, the Council adjourned at 4:20 P.M.

