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THE NORTH CAROLINA STATE BAR

Meeting of the Council of the North Carolina State Bar
July 13, 1951

The regular quarterly meeting of the Council of the North Carolina State Bar was held in Raleigh on July 13, 1951, 408 Justice Building, with the following officers and members present:

Officers:

A. W. Sapp, President, Greensboro
E. L. Cannon, Secretary-Treasurer, Raleigh

Councillors:

J. D. Grimes, Washington, First District
Z. V. Norman, Plymouth, Second District
Julius Banzet, Warrenton, Third District
Albion Dunn, Greenville, Fifth District
R. P. Reade, Durham, Tenth District
G. H. Hastings, Winston-Salem, Eleventh District
Arch K. Schoch, High Point, Twelfth District
Jennings G. King, Laurinburg, Thirteenth District
B. F. Williams, Lenoir, Sixteenth District
W. H. McElwee, North Wilkesboro, Seventeenth District
R. W. Proctor, Marion, Eighteenth District
Edwin B. Whitaker, Bryson City, Twentieth District

The meeting was called to order by the President at 12 M. The Secretary read the minutes of the April meeting and the same were approved as read. The President introduced Mr. E. B. Whitaker of Bryson City who was elected Councillor from the Twentieth District replacing John M. Queen.

The President advised the Council that Charles W. Stevens, Carteret County, had filed a petition for restoration of license, the same having been revoked and the said Stevens disbarred in the Superior Court of Carteret County. The petitioner Stevens and his attorney, Leslie M. Davis of Beaufort, were present and both petitioner and his counsel made statements to the Council relative to the case and the facts connected therewith as set out in the record filed in this case. The record was examined by the Council. Following discussion, motion was offered to the effect that consideration of the petition of said Stevens go over until the next meeting of the Council and that in the meantime the Secretary was instructed to make inquiries in connection therewith. Following discussion, the motion was adopted.

The President called for the report of the Ethics Committee made by Judge Dunn, Chairman. The Committee reported an inquiry from an at-

torney requesting an opinion as to whether or not the solicitation of the support of local political officials by a member of the Bar, in applying for a position as county attorney, constituted a breach of ethics. The Committee adopted and recommended adoption by the Council of the answer of the Chairman to the effect that it was not improper for attorneys to make application to appointive offices to the board of commissioners and other agencies exercising powers of appointment. The recommendation of the Committee was adopted. The Committee further reported an inquiry of an attorney inquiring as to the propriety of forming a partnership with an attorney who is also a Certified Public Accountant, and whether or not such attorney and accountant would be allowed to continue the practice of accounting. The Committee adopted and recommended that the Council adopt the statement of the Chairman to the effect that it would be unethical to form such partnership as outlined, although there would be no objection to the present firm of attorneys forming a co-partnership with a third attorney, but that it would be unethical for the same to use letterheads or represent that the third attorney was a Certified Public Accountant or to engage in any advertising in connection therewith and that further, it would be improper for said third partner to continue the practice of general accounting. The report and recommendations of the Committee were adopted.

The report of the Membership Committee was made by Mr. Grimes in cases as follows :

1. The Committee recommended granting the petition of David G. Ball. The recommendation of the Committee was adopted.
2. The Committee recommended that the petition of Mabel C. Moysey be granted and the recommendation was duly adopted.

The report of the Executive Committee was made by Judge Hastings and the Committee advised that it had checked the receipts and disbursements for the quarter ending June 30 and found the same to be in order and correct. The Committee called the attention of the members of the Council to the list of applicants for the August bar examination and requested that members assist the Board of Law Examiners in making report on all applicants from their respective districts.

The report of the Grievance Committee was made by Mr. Reade, Chairman.

The Chairman of the Legislative Committee advised that said Committee had no report at this meeting.

Judge Hastings made the report for the Committee on Unauthorized Practice as follows :

1. In re activities of Peat, Marwick, Mitchell & Co., certified Public Accountants of Greensboro, the Committee recommended that President Sapp look into activities and make further report. The recommendation was adopted.

2. In re inquiry of attorney as to preparation of legal instruments by realtors, the Committee recommended the adoption of a letter of the Secretary to said attorney indicating that such activities were a violation of Chapter 84, Section 2.1 and that the preparation of such instruments was illegal irrespective of whether a fee were charged therefor.

3. In re inquiry of the Rutherford County Bar as to activities of one Wilkie in drawing legal instruments, the Committee recommended that the same be referred to the Solicitor for the District to take such action as might be proper. The recommendation was adopted.

The President advised the Council that he had appointed Robert Moseley of Greensboro to the General Statutes Commission replacing Dan K. Edwards, resigned. The Council upon motion adopted the action of the President in making said appointment.

The President called the attention of the Council to certain correspondence and conversation with one Eller who objected to the lateness of receipt of his license from the Board of Law Examiners. The reply of the President to said Eller was fully approved and adopted. The President called the attention of the Council to the death of I. M. Bailey, member of the Council from the Seventh District and former President of the State Bar, and designated the following committee to prepare the proper memorial and resolutions to be presented at the next meeting of the Council: J. D. Grimes, Chairman, Messrs. Hastings, Dunn, Reade, McLean and Poisson.

The attention of the Council was called to the death of Mrs. P. W. Glidewell, wife of the Councillor from the Twenty-first District, and motion was made that the Secretary advise Mr. Glidewell of the sympathies and condolences of the Council. Motion was adopted.

The Secretary made a statement to the Council in connection with the Eller matter previously referred to by the President.

There being no further business, the Council adjourned.

Meeting of the Council of the North Carolina State Bar October 25, 1951

The meeting of the Council was called to order by the President with the following officers and members present:

Officers:

A. W. Sapp, President, Greensboro
L. J. Poisson, First Vice President, Wilmington
Don A. Walser, Second Vice President, Lexington
E. L. Cannon, Secretary-Treasurer, Raleigh

Councillors:

J. D. Grimes, First District, Washington
Z. V. Norman, Second District, Plymouth
Julius Banzet, Third District, Warrenton

I. R. Williams, Fourth District, Dunn
 Albion Dunn, Fifth District, Greenville
 John D. Warlick, Sixth District, Jacksonville
 R. P. Reade, Tenth District, Durham
 Arch K. Schoch, Twelfth District, High Point
 Jennings G. King, Thirteenth District, Laurinburg
 J. Spencer Bell, Fourteenth District, Charlotte
 H. M. Robins, Fifteenth District, Asheboro
 W. H. McElwee, Seventeenth District, North Wilkesboro
 R. W. Proctor, Eighteenth District, Marion
 P. W. Glidewell, Sr., Twenty-first District, Reidsville

The minutes of the July meeting were read by the Secretary and approved. President Sapp introduced Mr. J. Spencer Bell, newly elected Councillor from the Fourteenth District succeeding Mr. J. Laurence Jones.

Mr. J. D. Grimes presented memorial to Mr. I. M. Bailey, former President of the State Bar and member of the Council from the Seventh District. The following memorial was ordered spread upon the minutes of the Council:

RESOLUTIONS OF ADMIRATION AND RESPECT BY THE COUNCIL OF THE
 NORTH CAROLINA STATE BAR UPON THE DEATH OF THE
 HONORABLE I. M. BAILEY, COUNCILLOR FROM THE
 SEVENTH JUDICIAL DISTRICT

On the 4th day of July, 1951, Isaac Mayo Bailey entered into the Broader Life at his home in Raleigh, North Carolina. His home life was ideal. He is survived by a devoted wife, Mrs. Ida Thompson Bailey and affectionate children, J. Ruffin Bailey, a junior member of his firm, Ida Bailey Lavin, Dr. Jean Bailey Brooks and I. M. Bailey, Jr.

Statistically his life illustrates the heights to which a North Carolina boy, imbued with a desire for higher position and a willingness to work, can rise. He was born in Johnston County, North Carolina, in 1891; graduated in the class of 1914 from the University of North Carolina; married Miss Ida Thompson, December 31, 1914; admitted to the North Carolina Bar, August, 1916; practiced his profession in Jacksonville, North Carolina, until 1925 when he became General Counsel to the North Carolina Corporation Commission and served as such, and later as assistant Corporation Commissioner, until 1931 when he entered into the general practice of law at Raleigh and continued his practice until his death. He was interested in different activities of the civic life of his State, such as Vestryman in the Good Shepherd Episcopal Church in Raleigh; director of the Raleigh Chamber of Commerce; President of the Raleigh Community Chest; Chairman of the Wake County War Finance Commission; General Counsel for the North Carolina Bankers Association from 1939 until his death. He held many other high offices, including a very active and prominent part in the Rotary organization in the State.

But to our minds, the work for which he will be longest remembered was his part in the creation of the North Carolina State Bar. He was

chairman of the committee of the North Carolina Bar on incorporating a North Carolina State Bar from 1926 to 1934, and took a prominent part in the preparation of the law and its passage by the North Carolina Legislature as the State Bar Act of 1933. His knowledge and service made him the logical choice for the first President of the State Bar and his guiding hand started all of us on the road which we have since followed; after his retirement as President he came back to us as Councilor from the Seventh District and was serving as such at the time of his death.

A few days ago a superior court judge called a member of this Council to the bench during a lull in a land suit, in order to give the lawyer time to arrange his papers and said, "The best presentation of evidence by a lawyer I have ever seen was by Ike Bailey of Raleigh, in which he presented over forty books and records in a trial before me and did not hesitate a minute in finding the evidence that was germane to the controversy." This judge was one of great wisdom and wide experience on the bench for more than twenty-five years. Mr. Bailey's name had not been previously mentioned.

Isaac Mayo Bailey was a lawyer of a high degree of ability, broad learning, untiring energy and unimpeachable integrity. The North Carolina State Bar and the lawyers of the State owe him a debt of gratitude which should never be forgotten for the part he took in the creation and carrying on of this organization.

The Council proceeded to consider the petition for reinstatement to the practice of law submitted by Charles W. Stevens of Morehead City. The petitioner and his counsel had appeared in person at the July meeting. Following reports in this matter and consideration and discussion, motion was made and seconded that the petition for reinstatement be granted. The same was unanimously adopted and order was entered in accordance with the motion.

Mr. J. D. Grimes made the report of the Executive Committee covering the statement of receipts and disbursements for the quarter and the annual audit for the year ending December 31, 1950, the same being found to be correct. Before adoption of the report of the Committee, the Council heard from Dean Henry Brandis of the University of North Carolina Law School as to changes in the procedure for handling of LAW REVIEW subscriptions and as to the increase in price of the LAW REVIEW. Following discussion the Council adopted the proposals of the Executive Committee, Dean Brandis and the Secretary providing for subscriptions to the LAW REVIEW to be sent direct to the LAW REVIEW by members of the Bar with remittances therefor and found no objection to the LAW REVIEW raising its subscription price. The Council further directed that such notices as might be sent out through the Bar office in connection with this matter should be approved by the President and the Secretary. The report of the Executive Committee was thereupon adopted.

The Council heard the report of the Trial Committee in the matter of disbarment of Herman L. Taylor of Raleigh. The report of the Trial Committee was heard and said Committee recommended that the charges be dismissed. Following discussion and consideration, motion was adopted that the report of the Trial Committee be adopted and accepted by the Council.

The Council received the report of the Ethics Committee made by the Chairman and adopted the recommendations of the Committee as indicated from the following inquiries:

1. It is improper for a solicitor of an inferior court to appear for a defendant in a court of a justice of the peace even though if convicted defendant's appeal would go direct to the Superior Court. See Canon D.

2. An attorney is guilty of unprofessional conduct if he undertakes settlement between his client and plaintiff in an action where both parties are represented by counsel and makes such settlement without notice of any kind to attorney for plaintiff.

3. It is proper for attorneys to allow their names to be published in a directory when such listings are all in the same character of type and show only name, address and telephone number.

4. In cases where an attorney is also a Certified Public Accountant:

a. It would not be improper for attorney to practice law and also do such accounting work as necessary for preparation of tax returns and tax cases so long as attorney does not solicit or advertise for clients of any kind.

b. It would not be improper to include in accounting services, book-keeping, designing and installing of accounting systems so long as the same was for facilitation and preparation of tax returns or tax cases.

c. It would not be improper for attorney to prepare financial statements for client for use other than tax purposes so long as same did not bear attorney's name or letterhead.

d. It would not be improper for attorney to prepare such statements and certify to them so long as said statement did not indicate that inquirer was an attorney.

e. It is proper for attorney to practice law and accounting at one and the same time provided he does not advertise himself as an accountant and thereby draw clientele and engage in legal work arising out of accountancy. The line of demarcation is closely drawn and it is always difficult to determine where accountancy ends and legal service begins.

f. There is no objection to an accountant submitting a bid for particular accounting work but if such advertising and bidding results in legal services, an embarrassing and unethical situation is likely to arise.

- g.* It would be improper for attorney to practice law and do accounting work such as preparation of tax returns and handling of tax cases in the courts if such legal work is the result of advertising upon the part of inquirer as an accountant.
- h.* It would not be improper for attorney who is also an accountant to employ persons who are not attorneys to assist him in accounting work so long as such employees do not perform any acts which would constitute the practice of law.
- i.* It would be improper for attorney who is also an accountant to display on his office door both the words "Attorney at Law" and "Certified Public Accountant."
- j.* It would be proper for attorney to display in his office such certificates, diplomas, etc., as he might have received by virtue of licenses or membership in various organizations.
- k.* It would be proper to have listed in telephone directories the name of inquirer under the section classified as attorneys where such listing is carried in the same type as all other attorneys, but such listing should not refer to any listing under accountants or like designation and likewise, if any listing is made under accountants, it should not refer to inquirer as also appearing under attorneys listed.

The Committee and the Council were of the opinion that while there does not appear to be anything preventing a person qualifying as both an attorney at law and an accountant, it is quite perplexing to know how the party can engage in both occupations without entanglement in the matter of solicitation of business eventually leading to serious embarrassment.

Two other matters brought to the attention of the Council by the President were reported as having been satisfactorily disposed of without being included in the formal report of the Committee.

The Committee heard the report of the Grievance Committee made by Mr. Reade, the Chairman. The Committee reported a number of matters under consideration by it which would be the subject of further study and further report to the Council.

The Council instructed the Secretary to advise the press that the Council had received certain papers and communications from the Attorney General relating to activities in connection with parole matters by attorney and further, that any matters heretofore appearing in the press were based on information furnished by parties other than the Council or any member thereof and further, that any or all actions in connection therewith would be taken in accordance with the rules of the Council.

The Committee on Unauthorized Practice presented several matters

for the information of the Council and their further study in connection with the activities of trust companies.

Mr. Thomas H. Leath of Rockingham was nominated and duly elected a member of the Board of Law Examiners for a three-year term succeeding Mr. Roy L. Deal, resigned.

The Council re-elected Edward L. Cannon as Secretary-Treasurer and voted a salary increase of \$50.00 per month.

Resolution was adopted in appreciation of the services of President Sapp during the year.

The Council adjourned at 6 P.M.

**Eighteenth Annual Meeting of the North Carolina State Bar
October 26, 1951**

The Eighteenth Annual Meeting of the North Carolina State Bar was held at the Hotel Sir Walter, Raleigh, North Carolina, on October 26, 1951, with some 450 members in attendance. The following program was presented:

MORNING SESSION, 10 A.M.

ARMISTEAD W. SAPP, *President*, Greensboro, Presiding

Invocation.....THE REV. JAMES BECKWITH
Rector, Saint Michael's Episcopal Church, Raleigh

Welcome.....A. L. PURRINGTON, JR.
Wake County Bar, Raleigh

Response.....FRED B. HELMS
Charlotte

Remarks.....CHIEF JUSTICE W. A. DEVIN

Address: "Internal Security Act".....SENATOR WILLIS SMITH

Address: "A New Judge Looks at the Bar".....JUDGE SUSIE SHARP

AFTERNOON SESSION, 2:30 P.M.

Greetings from the North Carolina Bar

Association.....W. A. L. MCKEITHEN
President, Pinehurst

"Observations After Fifty-eight Years at
the Bar".....HON. HALLETT S. WARD
Washington

Work of the General Statutes

Commission.....HARRY W. MCGALLIARD
Raleigh

Discussion

Election of Officers

Adjournment

Louis J. Poisson of Wilmington, North Carolina, was elected President for the ensuing year. Don A. Walser of Lexington was elected First Vice President and Z. V. Norman of Plymouth was elected Second Vice President.

EXHIBIT "A"

NORTH CAROLINA STATE BAR
Raleigh, North Carolina

COMPARATIVE BALANCE SHEET—DECEMBER 31, 1950 AND 1949

	December, 31 1950	December, 31 1949	Increase Decrease
ASSETS			
CASH:			
First Citizens Bank & Trust Company			
Checking Account—Exhibit "D".....	\$ 423.80	\$ 110.17	\$313.63
Certificates of Deposits.....	3,000.00	3,000.00	—
INVESTMENTS:			
First Federal Savings & Loan.....	2,000.00	2,000.00	—
FURNITURE AND FIXTURES:			
After Reserve for Depreciation of \$939.67 at December 31, 1950 and \$883.17 at Decem- ber 31, 1949.....	403.78	460.28	56.50
TOTAL	<u>\$5,827.58</u>	<u>\$5,570.45</u>	<u>\$257.13</u>
LIABILITIES			
ACCOUNTS PAYABLE.....	\$ 670.03	\$ 565.12	\$104.91
DUES COLLECTED IN ADVANCE.....	80.00	50.00	30.00
SURPLUS—EXHIBIT "B".....	5,077.55	4,955.33	122.22
TOTAL	<u>\$5,827.58</u>	<u>\$5,570.45</u>	<u>\$257.13</u>

EXHIBIT "B"

NORTH CAROLINA STATE BAR
Raleigh, North CarolinaSTATEMENT OF SURPLUS FOR THE YEAR ENDED
DECEMBER 31, 1950

BALANCE—December 31, 1949.....	\$4,955.33
Add: Excess of Revenues over Expenses—Exhibit "C".....	122.22
BALANCE—December 31, 1950—Exhibit "A".....	<u>\$5,077.55</u>

EXHIBIT "C"

NORTH CAROLINA STATE BAR
Raleigh, North CarolinaSTATEMENT OF REVENUES AND EXPENSES FOR THE YEAR
ENDED DECEMBER 31, 1950

REVENUES:	
Dues Collected	\$12,093.00
Law Reviews	1,654.00
From North Carolina Law Examiners	240.00
From North Carolina Bar Association	145.85
Interest on Certificates of Deposit	60.00
Dividends	50.00
Refund on Printing	28.30
Refund on Telephone	8.05
Redeposit of Returned Checks	7.00
Overpayment of Dues	5.00
TOTAL REVENUES	<u>\$14,291.20</u>

EXPENSES:

Salaries:

Secretary (Includes Overpayment of \$200.00)	\$ 5,800.00
Secretarial	2,200.00
Extra Clerical	180.00
Council Expense	2,193.68
Law Reviews	1,654.00
Committee Expense	543.92
Telephone and Telegraph	440.59
Investigations	268.25
Bar Meetings	212.22
Audit	200.00
Postage	195.45
Supplies	70.68
Depreciation	56.50
Bank Charges	44.44
Printing	39.60
Reporting	35.15
Bond Premiums	17.50
Bad Checks	12.00
Refunds on Overpayment of Dues	5.00

TOTAL EXPENSES 14,168.98

EXCESS OF REVENUES OVER EXPENSES—EXHIBIT "B" \$ 122.22

EXHIBIT "d"

NORTH CAROLINA STATE BAR
Raleigh, North Carolina

CONDENSED STATEMENT OF CASH RECEIPTS AND
DISBURSEMENTS FOR THE YEAR ENDED
DECEMBER 31, 1950

CASH BALANCE—December 31, 1949 \$ 110.17

RECEIPTS:

Revenue—Exhibit "C"	\$14,291.20
Less: Dues for 1950 Collected in 1949	40.00
Revenue Collected for 1950	\$14,251.20
Add: Dues for 1951 Collected in 1950	70.00

TOTAL RECEIPTS \$14,321.20

TOTAL \$14,431.37

DISBURSEMENTS:

Expenses—Exhibit "C"	\$14,168.98
Less: Unpaid Expenses for 1950	\$670.03
Depreciation	56.50

\$13,442.45

Add: Expenses for 1949 Paid in 1950 565.12

TOTAL DISBURSEMENTS \$14,007.57

CASH BALANCE—December 31, 1950 \$ 423.80

EXHIBIT "E"

THE BOARD OF LAW EXAMINERS

Raleigh, North Carolina

COMPARATIVE BALANCE SHEET—DECEMBER 31, 1950 AND 1949

	December 31		Increase <i>Decrease</i>
	1950	1949	
ASSETS			
CASH:			
First Citizens Bank and Trust Company—			
Checking Account—Exhibit "H"	\$1,709.47	\$626.66	\$1,082.81
FURNITURE AND FIXTURES:			
After Reserve for Depreciation of \$42.99 at			
December 31, 1950 and \$15.12 at Decem-			
ber 31, 1949	300.55	198.74	101.81
TOTAL	<u>\$2,010.02</u>	<u>\$825.40</u>	<u>\$1,184.62</u>
LIABILITIES			
ACCOUNTS PAYABLE	\$ 596.50	\$ —	\$ 596.50
SURPLUS—EXHIBIT "F"	1,413.52	825.40	588.12
TOTAL	<u>\$2,010.02</u>	<u>\$825.40</u>	<u>\$1,184.62</u>

EXHIBIT "F"

THE BOARD OF LAW EXAMINERS

Raleigh, North Carolina

STATEMENT OF SURPLUS FOR THE YEAR ENDED

DECEMBER 31, 1950

BALANCE—December 31, 1949.....	\$ 825.40
Add: Excess of Revenues over Expenses—Exhibit "G"	588.12
BALANCE—December 31, 1950—Exhibit "E".....	<u>\$1,413.52</u>

EXHIBIT "G"

THE BOARD OF LAW EXAMINERS

Raleigh, North Carolina

STATEMENT OF REVENUES AND EXPENSES FOR THE YEAR

ENDED DECEMBER 31, 1950

REVENUES

Bar Examination Fees:

232 @ \$ 23.50	\$5,452.00	
7 @ 25.00	175.00	
2 @ 23.00	46.00	
2 @ 22.50	45.00	
2 @ 1.50	3.00	
1 @ .5050	\$5,721.50

Registration Fees:

219 @ 1.00	219.00
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Comity Fees:

2 @ 100.00	200.00
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TOTAL REVENUES \$6,140.50

EXPENSES:

Clerical Salaries	\$ 745.00
Board Meeting Expense	1,488.17
Refunds	1,014.50

Law Licenses	648.75	
Investigations	432.90	
Supplies	309.28	
North Carolina State Bar	240.00	
Reporting	185.30	
Proctoring Examinations	180.00	
Postage	97.41	
Registration of Applicants	87.50	
Bad Checks	48.00	
Examination Expense	45.00	
Depreciation	27.87	
Bank Charges	2.70	
		<hr/>
TOTAL EXPENSES		\$5,552.38
EXCESS OF REVENUES OVER EXPENSES—EXHIBIT "F"		<u>\$ 588.12</u>

EXHIBIT "H"

THE BOARD OF LAW EXAMINERS

Raleigh, North Carolina

CONDENSED STATEMENT OF CASH RECEIPTS AND
DISBURSEMENTS FOR THE YEAR ENDED
DECEMBER 31, 1950

CASH BALANCE—December 31, 1949.....		\$ 626.66
RECEIPTS:		
Revenue—Exhibit "G"		6,140.50
TOTAL		<u>\$6,767.16</u>
DISBURSEMENTS:		
Expenses—Exhibit "G"	\$5,552.38	
Less: Unpaid Expenses for 1950	\$596.50	
Depreciation	27.87	624.37
		<hr/>
	\$4,928.01	
Add: Equipment Purchased	129.68	
TOTAL CASH DISBURSEMENTS		<u>\$5,057.69</u>
CASH BALANCE—December 31, 1950		<u>\$1,709.47</u>

