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## Report of Committee on Unauthorized Practices - Colorado Bar Association

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## REPORT OF COMMITTEE ON UNAUTHORIZED PRACTICES—COLORADO BAR ASSOCIATION\*

LAWRENCE A. LONG, *Chairman*

*People v. William G. Newer*—March 1952

*People v. Lloyd L. Brown*—August 1952

*People v. D. W. Schmidt dba Nat. Pure Trust Serv.*—December, 1952

*People v. N. Mark Hanna*—June 1953

*People v. Lucas Woodall*—July 1953

The foregoing cases are all actions taken on original proceedings in the Colorado Supreme Court. Citations were issued and in the first four instances the court found the offender guilty and assessed either reprimand or fine, or both. As of the date of this report, the Woodall action is undisposed of and one similar such action is being studied.

Surely the above should tend to discourage the unauthorized practice of law in Colorado. All of these cases were brought by the Attorney General's office, whose cooperation and assistance has been a source of strength to the Committee. While we have won these there is no assurance that we can win everyone that we bring. These are only a few of the items handled; they represent only actions in our Supreme Court. Other complaints have been successfully handled by the Committee without the necessity of court intervention. This has been accomplished by correspondence or personal contact or both. In most instances reasoning produces cooperation and results. The Committee feels that excellent progress has been accomplished, especially towards enjoining the unauthorized practices of certain Justices of the Peace, realtors, morticians, accountants and others. Recently a better understanding was reached between the Committee and a number of bond and brokerage houses resulting in their voluntarily withdrawing objectionable language used in magazine advertisements. They had advertised that they would furnish *all legal services* for municipal bond work, etc. The practice has been eliminated and, we believe, some goodwill established.

We are pleased to report that after much delay we have received a trial date for the five cases brought jointly by the Colorado and Denver Bar Associations' Committees on unauthorized practice against the abstract and real estate companies.<sup>1</sup> The week of

\* Published at the direction of the Board of Governors of the Colorado Bar Association.

<sup>1</sup> Bar Assn. v. Record Abstr. & Title Co.—Civil No. A69765, Div. 5.

Bar Assn. v. The Title Guarantee Co.—Civil No. A69766, Div. 1.

Bar Assn. v. Conway-Bogue Rlty. Invest. Co.—Civil No. A76392, Div. 5.

Bar Assn. v. Van Schaack & Co.—Civil No. A76393, Div. 3.

Bar Assn. v. John F. Bruno—Civil No. A76394, Div. 4.

November 30, December 1, 2, 3 and 4 has been assigned. The cases will be tried in Denver by Judge J. Arthur Phelps, of the Tenth Judicial District. The first two of these five cases were started in April, 1950. We are anxious to have these cases, or even one of them before the Supreme Court before another year has elapsed. There now begins to look as if such might be possible.

A word of warning and the attention of all lawyers in Colorado should be directed to another and comparatively new encroachment. Since oil has become of increasing importance locally, instruments known as "Certificates of Title", "Memorandum of Title" and the like, have been cropping up. These are actually a type of mail-order, title opinion in modified, printed or mimeographed form. They sell for an average of \$10.00, are generally provided by abstract or title companies and are intended to give a quick, thumb-nail, condensed form of opinion without the expense of either an abstract or a lawyer's opinion. A letter stating that in general these "Certificates" were "opinion" and should not be used by corporations or laymen went out to all seventy-five abstract companies in Colorado. Some complied, some ignored, some volunteered cooperation and some submitted other forms asking for approval. These inquiries have been referred to our Real Estate Standards Committee. We are further concerned lest the use of these "Certificates of Title" or "Memorandums of Title" might spread to the general public resulting in cut-rate, inadequate and worthless title opinions. We predict that unless this phase of the Committee's work is pursued vigorously during the coming year the use of the "Certificates" will become wide-spread, resulting in what should be apparent to every lawyer.

Another problem of increasing importance is the program of propaganda apparently initiated by some title insurance companies and circulated through real estate channels to the effect that attorney's title opinions are obsolete, of no value, unacceptable to the better leading agencies, banks and insurance companies; that they are an antiquated way of doing business and are greatly inferior to a title insurance policy. Of course, the innocent victim does not realize that when an abstract is demanded of him in the future he may have to produce one or lose his sale; nor does he realize that a title insurance company may not insure his title until he perfects it for them himself and all but guarantees the title. To classify title insurance as a "racket" would be going too far, but when title insurance companies openly try to mislead the public it is past time for our Association to strike back.

Statistically, more complaints were serviced this year than in the past several years and this is significant. It points to the fact that interest, cooperation and effort have been focused by the lawyer on this problem. It does not necessarily mean that the number of offenses are increasing. It is the belief of this Committee that the most effective way to stamp out the unauthorized practice of law is to drive home with certainty and action, a con-

tinuous, well-publicized effort. Every publicized result, whether partially or wholly successful, is a warning and *deterrent* to all who would venture into our profession. As a matter of *public interest*, we must stop the unqualified from misleading, misinforming and duping the public. From what we know of the offenses we see we have reason to believe that a matter of concern would be the offenses of which we have no knowledge or do not see.

Accordingly, your Committee recommends that our Public Relations Committee carry to the public by every media at its command a program designed to:

- (a) Make the public realize that our activities are in the public interest.
- (b) Make the public continually aware of our interest and activity.
- (c) Correct and explain with truth that propaganda concerning title insurance versus legal opinions on abstract examinations as hereinbefore mentioned.

Perhaps the writer tends to emphasize too greatly the unauthorized practice phase of the Association's activities, but I believe it is indisputable that continued encroachments, new types of offenses, accelerated business methods, and an increasing awareness of the problem present a direct threat to our profession. The volume of work of this Committee is too great to expect satisfactory results from them without the assistance of an assistant or special investigator. If such an employment cannot be secured on at least a part-time basis then surely funds should be made available for the employment when needed. His services could be used in conjunction with the Grievance Committee, which I am reliably informed has possible access to funds accumulated under Rule 229 of the Rules for Admission To The Bar. That rule allows expenditures from the fund for "disciplinary" matters, and includes, in my judgment, unauthorized practice of law offenses. Quite often there is a connection between matters of unauthorized practice and grievance offenses.

In conclusion the Committee wishes to extend its sincere thanks to the members of the Bar throughout the State not only for their interest but, in many instances, for their active assistance.

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#### JEFFERSON COUNTY LAWYERS COMPLAIN

The following appeal has been made by the Jefferson County Bar Association; "The Jefferson County District Court Library needs Colorado Reports volumes 3, 10, 43, 82, and 104 and also Colorado Digest volume 13, all of which probably have been swiped or borrowed by Denver lawyers, we out here in Jefferson County all being innocent country lambs." Donors or sellers are invited to contact Judge Osmer E. Smith who was not the author of this libelous request.