



2000

## Proceedings of the One-Hundredth Annual Meeting of the North Dakota State Bar Association

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PROCEEDINGS OF THE ONE-HUNDREDTH ANNUAL MEETING  
OF THE NORTH DAKOTA STATE BAR ASSOCIATION

OFFICERS

PAUL F. RICHARD ..... President  
LESTER H. LOBLE, II ..... President-Elect  
GRANT SHAFT ..... Secretary-Treasurer  
DANN GREENWOOD ..... Immediate Past President  
SANDRA TABOR ..... Executive Director

PROCEEDINGS

June 15, 2000

PRESIDENT PAUL F. RICHARD: We'll call the State Bar Association of 2000 to order. We'll begin our meeting with a presentation of the colors by the Honor Guard of Minot Air Force Base and the national anthem will be sung by Miss North Dakota 1999, Kay Picconatto.

(PRESENTATION OF COLORS) (NATIONAL ANTHEM)

PRESIDENT RICHARD: Please help us thank the Honor Guard and Miss Picconatto. (APPLAUSE)

PRESIDENT RICHARD: Before I introduce the local committee, I would like to take care of some housekeeping matters. Since this meeting will be running on a tight schedule and on time, Judge Ralph Erickson has graciously agreed to be parliamentarian to help me keep the meeting on track. Additionally, David Maring, Dick Olson, Jim Harris, and Gary Lee have agreed to serve as election proctors.

At this time, I'd like to call on Richard Hagar to welcome everyone to Minot. As Richard comes to the front, I'd like to thank everyone on the local committee, including Judith Howard, Todd Cresap, Tom Wentz Jr., Dick Olson, Jim Maxson, John Petrik, Carol Larson, and a special thanks to Margaret Lee, who not only helped with the children's program, but also has been instrumental in planning the silent auction. This is a big job. It takes a tremendous amount of energy. We appreciate their willingness to help.

MR. HAGAR: Anybody who's hosted these in their cities knows that the Bar Association does all the work, we just get all the credit. So I want to say thank you to the Association for all the work that's done there. (APPLAUSE)

MR. HAGAR: I'd like to thank Sandi for having it here. I appreciate all of you being here and we, hopefully, will run this on time and we again thank you very much for coming to Minot and we hope you spend some money here, which is always appreciated. Thank you. (APPLAUSE)

MR. LOBLE: Last year when I was elected president-elect, I said that Paul would be a great act to follow, and Paul has been a great act. He said the multi-disciplinary practice would be a concern of his, and it has been, and he has traveled the length and breadth of our great state to talk to all of the local bar associations about this matter, which is of concern to all of us.

He also expressed his desire to create an ombudsman within the staff of SBAND, as both a help to our consuming public, as well as to the lawyers, and he has done that. He's a man of his word. Please give Paul a great welcome for his president's address. (APPLAUSE)

PRESIDENT RICHARD: Thank you, Les. Chief Justice Vande-Walle, members of the Court, members of the Board of Governors, Association members, and any guests who happen to be here—I don't know if we allow guests, but if you're here, welcome.

When I started this venture a year ago, I didn't—you know, you don't know if you really know what you're getting yourself into, but I have to say 1999-2000 has been a very busy year and one that I have enjoyed tremendously. If any of you have bothered to read my president's pages, and I'm not going to ask for a show of hands, some of you remember my first president's page started out with an analogy to the Wizard of Oz which happens to be a movie I like. I know it's an old movie, but it was well done and I think it has some message in there you can take out of that.

But, you know, I started out with the idea that, you know, Dorothy wanted to go back home. And what brought her to Oz? A Kansas cyclone. And unlike the Kansas cyclone which came in, changed Dorothy's current reality, and she kept on trying to go home, the fact of the matter is that the winds have changed and I have sensed and I have felt blowing across the landscape that we call the legal profession in North Dakota and the country has not left. It is here and, quite frankly, folks, it will be blowing for quite some time.

Les said to me early on, "Paul, please have this MDP issue done when you're done," and I'm sorry it's not going to be done, it's not going to be done for anyone in this room either. The board of governors, Les, the court, and the Association is going to be dealing with this issue for quite some time.

And it's not just multi-disciplinary practice issues that have been occupying our time as the board of governors or myself as the president. I've enjoyed the great opportunity to travel this state. I have been in Williston, Minot, Grand Forks, Bismarck, Fargo, Devils Lake, and Carrington, and in each one of those meetings I have been enthralled with the fact that I've gotten to meet all of you, or many of you, and the reception I have received and your interest in the multi-disciplinary practice issue has been overwhelming.

I really didn't finish my tour with any strong consensus as to how some of you felt, but the reality is we had good dialogue. I think many of you are much more aware of the issue and you had an opportunity to share your feelings about it. I particularly want to thank Christine Hogan who wrote the piece that each of you got before those meetings. It's in your annual meeting book and it tells you a lot about MDP and, let's face it, MDP has been the hot button for everyone over the last year and, again, it's far from being over.

I have learned many things by traveling the state. I have learned that this Bar Association consists of lawyers of high integrity and people I am proud to say that I practice law with. One of the biggest joys I had was actually meeting lawyers that I had practiced with over the phone or by e-mail for the last twenty years, but never really saw a face or knew what they looked like. Now, I do. At least I'll know what they look like next time I see them on the street.

The thing that's interesting about MDP is also knowing it's coming up at the ABA meeting and what will the ABA do? We don't know. There's a lot of talk about how they'd like to postpone it. There's going to be a real effort by a significant number of states to just kill it, and will it? Who knows. We'll find out, and stay tuned for further developments. One of the biggest developments I've seen in just the last two weeks is the fact that the Minnesota Board of Governors has approved a resolution that will be going to their membership in, I believe, very soon supporting lawyer-controlled MDP's. We are kidding ourselves, if our neighbor state approves MDP's, particularly for those lawyers who practice in eastern North Dakota, that if Minnesota all of sudden either approves lawyer-controlled MDP's, it's not going to present a unique problem for the bar of North Dakota and the courts of North Dakota. So we will have to deal with that. The Court will have to deal with that, and that issue will be before us.

The resolution you'll be voting on later today deals with the Board of Governors' view or recommendation that, at this point, which is basically not to support any ABA resolutions as currently drafted, but at the same time we're not telling—we're not saying that this issue is done.

There will have to be studies and what is right for North Dakota will have to be decided at some point in time by the Court and with the efforts of the Bar Association, and full consultation of the Court and the lawyers in this state.

Another issue blowing across the landscape is multi-jurisdictional practice. This has begun to, if you want to call it, rear its ugly head. What does it mean? Lawyers living in other states, practicing in this state, what are their rights to do that? As lawyers become more mobile, as law firms become more multinational or just multi-state, their desire and the need and their want to practice and deliver legal services to the people who you have traditionally provided legal services to is going to be challenged. Again, that is an issue that we are starting to see develop and is one that will be debated for some time to come.

There is no doubt that what is driving much of this is the change in society, the change in the electronic life that we all live. Every one of you—I'm sure a lot of you, at least I'm sure when you started practicing law back in the '70s and early '80s probably didn't have a computer at your desk. How many of you can say you don't have a computer at your desk today? How many of you don't rely upon e-mail, palm pilots? Facts are, there's the old technology, but the reality is that all of us have had to embrace new technology in our practices, and the web has changed that monumentally.

I just happened to read in Time Magazine an article about how you can click on this website and get your will done. Hey, folks, there are people who may very well go have their will done by this website.

Who are they? Who are the lawyers doing it? And is it a lawyer in North Dakota? But yet they're delivering legal services to someone who may be physically located in North Dakota. And, again, we will have to deal with this.

But, again, just as this profession will have to struggle, all other professions, like the medical professions, have had to deal with the current realities that the electronic life that we live has created. The fact of the matter is that the lawyer, the doctor, the other professional doesn't have to be in the same room or even in the same state as the person seeking their assistance. Technology permits them to do that from New York, Arizona, from a lot of different locations.

I heard a lot of different stories as I was traveling the state about what was going on. And, again, these are things that we have to—we have to deal with. It isn't going to be—we're not going to be able to stick our heads in the sand and say it's not going to impact North Dakota, it won't impact my practice.

We also have to remember that while we are professionals today, we are also stewards of this profession for the future. We have to remember that it's not just going to be us. In ten years, I don't know what I'm going to be doing. Maybe I won't be practicing law. I don't know. The fact of the matter is that in ten years, I want—if it's my son or some other young lawyers graduating from law school this year, I want them to be able to enjoy this profession as a good means of life and also something that makes them proud.

And I think all of you should take from this is that, again, the practice of law is a noble profession. It is one we all should be proud to engage in and it is one that I have been proud to engage in for twenty years and I hope to do so for ten, fifteen, twenty, whatever it might be.

The other thing that kind of is a problem that we're going to have to address is truly the unclear definition of what it means to practice law. And that is at the core of the whole issue in regard to multidisciplinary practice. What is it and what isn't it? 'Cause many people want to do what you do on a daily basis. And should they be permitted to do so?

My point of view has always been, and I will not shrink from this, is that if you want to practice law, you had better be a lawyer, and you had better be licensed in the state in which you are practicing or delivering those services to the residents of that state. But, again, what does it mean and what does it encompass? Many people practice law under the guise of consulting or business services, but we have to remember that if it is legal services, they need to have—be licensed.

So our consumer protection committee will have to start looking at this issue and, quite frankly, may have to get tougher, may have to look at ways of enforcing that right which each of you possess because of the Court permitting you to possess a license. They do not have a license, they are not permitted to practice law, but we have to know what it is.

I recently was at a conference and, you know, you go to these conferences and, again, some of you, if you read my president's page, you'll note that I like the book called *Blur* and I talked about that in my regional meetings and that book is called *Blur, the Speed of Change in a Connected Society*, and, you know, you start reading these things—there are a lot of books out there that can tell you what is and why are things happening, and we all begin to think it's happening to us because somebody's out to get us.

And, folks, that's just the way life is. And this speaker—and I love the name of the company she's from because, you know, all of us should work for a group called this. It's called The Institute for the Future. It doesn't really matter what you say, because it's going to be in the future and if you're wrong, nobody's going to challenge you.

And, anyway, she talked about this, and this is based on a very detailed survey of young people today who they call the new consumer. The new consumer demands choice, control, customer service, brands, and information. And, folks, they want it in every—from every learned profession there is.

Many of the things that we struggle with as lawyers as to how we try to deal with the new technology and the new consumer, and their expectations of us, and how the things that we may have historically done as a profession no longer meet their needs are being faced by the other professions, such as medicine.

This is a challenge that we're going to have to face because traditional methods may not be adequate. We have to expand our thought processes, look for ways of making us a more responsive legal profession. And I think, quite frankly, you can feel good from the standpoint that the Bar Association recognizes that, the Board of Governors recognizes that, and that this Association is well versed on these issues and it's also prepared to take them on and to look at ways of being more responsive and helping this—the lawyers in North Dakota deal with the challenges that we are facing today and will face for the next several years.

Some of the very specific issues that we also had to try to address that are more local to us as North Dakota lawyers and as members of the Court of North Dakota and, again, these are resolutions that you will see this afternoon: judicial salaries. It is time for judges' salaries to be more equitable with other states in this country, and Judge Erickson will have a presentation on that. But the Board of Governors has advanced a resolution for your consideration to support legislative changes to make judicial compensation more equitable.

And for the first time, again, you know, I remember when I first got on the Board of Governors, there was—I heard that there wasn't a very good relationship between the legislature and lawyers, or the Board of Governors of the Bar Association, and I was quite taken when I heard that there was a joint group, the family law task force, which consists of the members of the Association and the interim judiciary committee working on family law issues, that is a first. I mean, it shows that there can be a very constructive dialogue between the legislature and the Bar Association. And their work will be coming out as to how it will impact the delivery of family law services in this states.

The other issue that has come up during my tenure has been the mail ballot issue. When I first took office, there was a feeling by some of the members that they wanted to have a way of being more actively involved in the election process without having to attend the annual meeting, and we debated as a Board of Governors and we have advanced

for your consideration this afternoon a resolution which basically will amend the bylaws and the constitution to mail balloting with respect to the election of officers and the constitution and bylaw amendments. Those are the only things that will be done by mail balloting.

So, in closing, it has been a busy year, and to all members who put in time, talent, resources, and energy, thank you. It's individuals such as you that will shape the legal profession for the nation and North Dakota. Our work as an association, committee, task force, whatever it might be, is not done, but as I also said in another president's page, we cannot overlook the importance of the individual.

Every one of you has what we call a point of contact with a client. It is at that point of contact and that point of service that that individual, that client, will always have a memory of the legal profession, and it will probably be the most lasting memory they will ever have, because for many people that is the only encounter they will ever have with the legal profession.

So, please, as you go out into your practices and you talk to members of the Association, always remember that you can do more positive good, have more impact on the Association and its members by your conduct and the way you deliver legal services at the point of service. So, thank you, and it's been a very enjoyable year. (APPLAUSE)

PRESIDENT RICHARD: At this time, I'd like to introduce Chief Justice Gerald VandeWalle to give the State of the Judiciary address. Chief Justice VandeWalle. (APPLAUSE)

CHIEF JUSTICE VANDEWALLE: Thank you very much, Paul, and officers, and members and guests of the State Bar Association of North Dakota. I do thank you for, again, allowing me the privilege to appear before you with a State of Judiciary message. As in past years, I've printed a message, it will either be distributed to you as soon as I'm through or it will be out at the front desk, but I hope you'll take it and read it and look at some of the statistics.

One of the things I hadn't planned on was having Judge Erickson as a parliamentarian, and it makes me a little nervous to see him sitting out there. Are you keeping time also, Judge Erickson? When I listened to Paul's message and I think about what I wrote, there's a lot of similarities. We have some issues that are very much in common. We also have some old friends that have been with us for a while, and I expect are going to be with us for some time into the future.

One of those is court unification. And we've talked about this for the last several years. I hope I don't have to appear before you again and talk about reducing the number of judges. We have reduced the number of judges to the number required by the legislature. I think it's



safe to say this last reduction was the most painful one the Court had to deal with. And we looked at it from every possible angle, and it took us hours and hours and hours of deciding, undecided, going one way, going another way. I hope we're done with that. I think we have cut as far as we possibly can cut, and I suggest to you that we need to take a firm stand against any more cuts in the judiciary of the State of North Dakota.

We also have—are dealing with state assumption of court costs—clerk of court costs, and actually this has gone better than I might have anticipated it would go. It's been a very sore spot, but due, I think, to the good services of the clerks of court of the State of North Dakota, we are making progress.

Eleven counties have opted to come into state employment. That means their employees will be employees of the State of North Dakota. Thirty-eight counties have decided to contract with the Court for clerk of court services. That means their employees will remain county employees, but they will receive compensation. Three counties have, in essence, said, "Keep your money. We're going to do it on our own," and I sort of admire them for that. And one county has not decided what to do.

We have—are working on personnel classifications. Those are—the personnel board has recommended classifications to us. Those are pending.

We are looking at staffing workload assignments, which is a big issue throughout this—throughout this whole process. We had assigned a rather arbitrary 600 cases per full-time equivalent. That was—did not sell particularly well in the counties. We've asked the National Center to come in and do a workload assessment, and that's in the process, and the clerks are very, very much in that.

A big issue that we will have to deal with is funding. The legislature did not give us adequate funding to implement this for the last three months of this biennium, which is the implementation. If that should continue into the next biennium, we're going to have serious problems operating the clerk of court offices. One of the new things that's come down the block and I think it's very exciting, we heard some reports on it this morning, and that's the drug court. Justice Mary Maring has been a wonderful leader in that regard. She's done a lot of work, along with Judge Erickson in Fargo, who is doing one of the pilot projects, and Judge Kleven in Grand Forks. Those projects are underway and I'm looking forward to seeing the results.

They're very, very popular, and there's a move on now to put an adult drug court into the State of North Dakota. Drug courts are judge intensive, time intensive, and if we're going to have drug courts—

although we heard from a judge from Minneapolis this morning that it doesn't take that much time, we don't have, quote, that much time to spare after the reduction in the number of judges, and I favor drug courts, but I think the legislature and the executive will have to recognize that if we're going to implement the full system of drug courts, it may require additional judicial resources. Justice Neumann has headed the public trust and confidence committee. That committee's made its report. We have now enacted a rule that will provide for the implementation committee to implement the recommendations of the public trust and confidence committee. It's a smaller group and they will be looking to implementing the recommendations.

One of the things that's going to be with us for some time is pro se. We had a team that attended the pro se conference. There are some disagreements perhaps on how we should proceed, to what extent we should proceed, but we cannot ignore it. They're here with us, and we are going to have to deal with it. I do not suggest that we develop a system of courts without lawyers, but I do think we have to develop some mechanism for handling the numbers of individuals—and they're increasing—that want to represent themselves, for whatever reason.

Some of them can't afford it, and the Bar Association, I think, is doing a good job in helping those. We have another group that can afford it, but says, "If I save my money, I can go to Acapulco next year, so I can do this myself," and then we have the third group that I'm not so worried about that really doesn't want a lawyer because no lawyer will espouse the position that they want, and so those—the first two groups I worry about. The third group we're going to have to deal with.

Technology is alive and well, and we're attempting to deal with that. We have a pilot project going on, a digital audio recording project, that's going on in Stark County. Judge Schmalenberger, one of the people that understands technology a great deal better than I do, is working with that.

Interactive television is a pilot project going on in the South Central Judicial District involving some of the counties in that district. In addition, Justice Sandstrom's website continues. It received the national—an award from the National Association of Law Librarians this past year, won the award from the Technology 6 Conference, which is a big, big conference, and whenever I go to the National Center, I'm asked about the North Dakota website, and I very honestly have to say, "Justice Sandstrom does all that." He's very good at what he does, and I congratulate him on the award. Case law management and filing trends. We're attempting to work with that through—trial court administrators are looking at docket currency standards.

Jury standards, attempting to reduce the number of jurors that are called for every case, not necessarily to save money, but that's part of it, but certainly to ease the burden on those people that are called, sit around all day, twiddle their thumbs, and nothing happens. And that does not give a good impression of the system. We—you've heard about the salary issue. I'm not going to talk very much about it, except to thank you for the resolution that's proposed and before you this afternoon. Judge Erickson has, as you will see later, I think he's done a tremendous job in preparing a presentation, along with Justice Neumann, who Judge Erickson and Justice Neumann are the co-chairs of the compensation committee for the judges.

One of the—another issue that we must absolutely deal with, and that's the ADR issue, and we have some proposals that we're working on now in the court and that are not yet ready to come out. But if we do not take some action on ADR, I'm firmly convinced that we will see legislation in this next session—and we may see it even if we do act—that will control ADR from the legislative rather than the judicial branch, and I suggest it's something that really should be within the judicial branch and we ought to put our house in order and not expect the legislature or allow the legislature to do that.

The Gender Fairness Implementation Committee has made a report to the Court. They have asked the Court to implement a rule that will provide for an informal complaint process concerning the judges, court personnel. It will not apply solely to gender issues. It will apply to other issues, such as judges' actions or employees' actions that might be offensive, and it's not meant to be a disciplinary process, it's not meant to be an evaluation, it's a method of informal complaint process. That rule is—has been adopted, but we have sent it to both the judicial conduct committee and to the disciplinary boards for their reactions to our proposal.

Paul mentioned the multi-state jurisdiction practice, and I'd like to wind up with that because I don't want to take any more of your time. I think that's something we really need to be on our toes. Multi-disciplinary practice, Paul's made you well aware of, Chris has done a good job on that issue, and I'm not going to speak to that issue anymore, but multi-jurisdictional practice is a big issue, and there's an agenda out there, and it's much more well developed than I might have thought.

I attended a conference at Fordham University in New York two months ago and there were about forty people there, and the articles that were distributed at that time, the tone of the articles indicates to me very strongly that this is a move, and it's a movement that comes, believe it or not, from the international law section, who really want foreign lawyers

admitted, and the transactional lawyers want freedom to move among the jurisdictions without any inhibitions on their right to practice. They have a point.

Unfortunately, what they've done is they have—what they suggest is that we will—we should pay our dues and be licensed in the jurisdiction where we live, and then we ought to be able to practice in any other jurisdiction in the country. All I could think of when I sat through that conference listening to them was that this is—we're going to be—we're going to be another colony. North Dakota will be the colony and they will fly in from Denver and Minneapolis and take—do what they want, practice, and then leave without any contribution to the legal system and the legal culture in the State of North Dakota.

Strangely enough, when I laid that before them and suggested it to them, they looked at me with sort of that blank look and I honestly believe some of them had never thought about it. And I said, "How do you propose that we maintain a disciplinary system, as an example, in the state of North Dakota?" They all agreed that they'd be subject to the North Dakota disciplinary system if they violated the code of conduct while they were here, but they had no suggestions on how we were to fund the discipline system or how we were to maintain a Bar Association that provided CLE and all those other things. They simply never thought about it.

And so I suggest this is something we really need to keep our eyes on and watch it very closely. It's moving much more rapidly than I thought it was going to. Finally, and I am going to close, I want to thank Sandi and Paul; they've been wonderful. The Board of Governors has been very cooperative. I think the relationship between judiciary and the Bar, we have our areas of disagreement, but we always are able to talk to one another, and we've been able to work it out, and I thank them and I thank you. (APPLAUSE)

**PRESIDENT RICHARD:** Thank you, Chief Justice VandeWalle. Every year we recognize outstanding service by a member in the communities. And at last year's meeting we honored the attorneys that participated in the 100 to 100, this year's campaign.

This year, we're honoring Sean Smith. His contribution to community service is phenomenal. He's a past president and current member of the Missouri Valley YMCA, but his involvement doesn't stop at the board level. He just served as chair to expand Bismarck's YMCA. The campaign was successful and completed in four months. Sean is also active on numerous school activities and recently retired from seventeen years of voluntary coaching for a variety of kids' programs. As is often the case with exceptional volunteers, the fact is he did all these things

without fanfare and without seeking any public recognition. Sean, today the Association would like to give you a little public recognition for all your good work. Please help me recognize and thank the 2000 Community Service Award Winner, Bismarck attorney Sean Smith. (APPLAUSE)

MR. SMITH: I just want to thank you all very much. There is one guest here. My wife came to support me. She also wanted to see how much fun we had at these meetings, and I'm not sure she'll be back next year. She didn't really say that. People that know me know I have a lot of fun with my wife when she's not around.

But truly this award means a lot to me. I find a great pride in our profession. I think we are one of the professions that really volunteer. I would encourage you all to keep your spirit of volunteerism as you go back to your communities. And I'm just very pleased. Thank you very much. (APPLAUSE)

PRESIDENT RICHARD: Congratulations, Sean. Community service comes in many forms. The Association's very proud of the efforts of its volunteer lawyer program and all of the individuals who donate hundreds of hours providing free legal time to those who otherwise would not be able to afford our civil justice system. Every year we recognize a group of individuals who donate an extraordinary amount of time to pro bono cases. This year twenty individuals donated twenty-five hours. With us today are Bruce Quick, Steve McCollough, Gary Euren, and Reed Soderstrom. If each of you would come up to the podium, we have a small gift of appreciation. (APPLAUSE)

PRESIDENT RICHARD: In addition, we have two individuals who have really gone above and beyond. Charlie Chinquist volunteered seventy-five hours. Charlie, please come forward. (APPLAUSE)

PRESIDENT RICHARD: And Kent Morrow from Bismarck, donated 186 hours. Kent, please come forward. (APPLAUSE)

PRESIDENT RICHARD: Thanks to each and every one of you for your diligent efforts. And now we'll hear the financial report from our treasurer, Grant Shaft.

MR. SHAFT: Well, I have a short version and a little longer version of this report. Unfortunately, I have to give you the longer version, but the short version is that in my first year as your treasurer, I managed to not run the Association into the hole. The longer version, I want to start out by pointing out that copies of the Gavel article concerning the 2000 budget and the 1999 audit are located behind the general assembly tab in your meeting material.

The Board of Governors was pleased with the findings of the 1999 audit in which we received a clean opinion from the auditors on all

statements. I'm happy to report that we continue to avoid spending more money than we generated. The 1999 management letter contained the annual note regarding the small size of the office staff. However, the auditor assures us the staff is doing everything possible to segregate accounting functions.

The 1999 audit reflected year-end assets of \$606,040, including \$269,578 in restrictive cash assets, \$24,838 in equipment, and inventory of \$22,491. The restrictive cash represents money held by the Association for the various sections, volunteer lawyer program grants, the lawyer discipline, client protection fund, and other public education grants and the CLE commission.

Our overall fund balance at December 31, 1999, was \$538,450; \$268,872 of which were unrestricted funds and the \$269,578 of which represented restrictive funds. The unrestricted fund balance for the Association's general fund gained approximately \$4,000 in 1999, which is significantly less than in the past few years. This is due in large part to the rebate of license fees that was paid in early 2000. During the year, the Association generated \$530,630 in unrestricted revenues and \$286,778 in restricted fund revenues, for a total of \$817,418. The increase in restricted revenues was related to an increase in grant moneys received from several law-related programs. At the end of the—at the end of 1999, the lawyer discipline account had a balance of \$24,537. It is expected that most, if not all, of the fund will be spent by this time next year. The unrestricted portion of license fees equaled \$302,626 or fifty-seven percent of the total unrestricted revenues.

Our total expenditures of \$762,359 included administrative expenses of \$525,392; disciplinary expenses of \$115,027. Included in the administrative expenses were CLE seminar costs and office overhead. The disciplinary expenses do not include the costs associated with the inquiry committees.

With that brief overview of the 1999 audit, I would like to now turn briefly to the 2000 budget. Our overall projected revenues for the year 2000 are \$808,815. Unrestricted license fee revenues represent thirty-six percent of this figure. The portion of the license fees restricted to the discipline program is projected to total \$100,000. The client protection fund will also receive restricted license fee moneys of \$36,000. Other sources of revenue would include CLE seminars, the annual meeting, and the Volunteer Lawyers Program.

Our total projected expenses for the year 2000 are \$773,023. In addition to salaries and employment taxes, other expenses included in this projection are expenditures associated with the operation of the CLE

seminars, the annual meeting, and the Volunteer Lawyer Program. Our goal is to ensure that these three programs are self-funding.

The Board is pleased with our operations to date this year, but we are continuing to review areas in which cost controls can be implemented. Hopefully, we'll—we will be able to continue to present good news in the years to come. Thank you. (APPLAUSE)

PRESIDENT RICHARD: Thanks, Grant. Before we hear from Mary Michael Guler, is it appropriate to take a moment to remember our colleagues who died in the last year. In the past, the president used to repeat a few lines written by the late Matt Murphy in speaking of the passing of a country lawyer. In token of respect for our departed friends, please stand as I repeat those lines now.

"Warm summer sun, shine friendly here, Warm western wind, blow kindly here, Green sod above, rest light, rest light, Good night, old friend, good night, Good night."

Thank you. And next on the agenda, please welcome the new president of the bar foundation, Mary Michael Guler. (APPLAUSE)

MS. GULER: The North Dakota Bar Foundation was formed as a nonprofit corporation to fulfill two roles. One of these roles is to administer the IOLTA program. The funds collected in this program are used to provide for civil legal services for the poor, provide public education about the law, and to improve the administration of justice.

As of December 31, 1999, there were 448 IOLTA accounts in 88 financial institutions across the state of North Dakota. The program generated \$118,970 in net IOLTA revenue, which was down from \$177,301 in 1998. Part of this difference is due to the fact that one Grand Forks bank delayed making part of its 1997 payment until 1998, thus increasing its 1998 contribution. And the reason for that payment delay was flood-related. Another reason for the decrease in funds is because we saw a number of interest rate decreases during 1999.

How were the funds from the IOLTA program distributed in 1999? The Legal Assistants of North Dakota received the lion's share. They received \$84,000; the Volunteer Lawyer Program received \$44,540; and the Southern Minnesota Regional Legal Services received \$3,500. So a total of \$132,040 were distributed to legal service providers. We distributed a total of \$28,420 for other programs sponsored by the North Dakota Council of Abused Women, the Statewide Planning Process, law-related education conference, publishing of the "Graduating into an Adult World" brochure, and the people's law school, which was held at several universities across the state.

You may also be aware that there is a lawsuit in Texas challenging the IOLTA program. The assertion is that the Texas program constitutes

a taking of private property for public use without just compensation. The federal district court in Texas has dismissed all of the plaintiffs' claims with prejudice, and the matter is currently on appeal to the U.S. Fifth Circuit Court of Appeals. All states are anxiously watching the outcome of this lawsuit and we'll keep you posted as to the outcome.

A second role our Bar Foundation fulfills is that of more of a general public service function. In this role, we use the money that we raise from our membership dues and from our silent auction to try and accomplish three things.

First, we recognize and support programs that improve the level of legal education and lawyer standards; we protect and preserve North Dakota legal history; and to encourage public service by lawyers and those involved with the justice system.

The Bar Foundation has consistently distributed most of the money it receives every year to these sorts of programs. We carry over just enough funds to provide for our office expenses for the upcoming year, and that's a pretty slim number of dollars.

Some of the grants that we've given are outlined in this brochure that you've received in your packet. And if any of your local bar associations have programs that you'd like to sponsor, such as law day programs, we would really encourage you to submit some applications to the Bar Foundation. We have budgeted some dollars for those kinds of programs.

During the last year, I'm happy to report that we had a new membership drive and we gained sixteen new members and we had thirty-two existing members upgrade to a higher membership level. If you are not a member, I would encourage you to join our foundation. We have various giving levels ranging from \$25 to \$500 per year, and they're all outlined again in the brochure. And if you are nearing the end of making an installment payment in a particular giving category, we would appreciate your continuing to make those annual contributions and we'll just move you up into the next level of giving. During these past years, we've been fortunate enough to draw the support of 230 members and we like to keep increasing that number.

Aside from our membership dues, our other big means of fund-raising is our silent auction, and that's going to be held tonight from 6:30 to 7:00 in the Executive Room at the International Inn. Please make it a point to attend and don't be shy about bidding. It's a really fun event.

Finally, I want to thank my fellow board members and recognize them today. Several of them are here in person. Dean Jeremy Davis, Gerald Galloway, Todd Haggart, Mike Halpern, Christine Hogan, Jay



Philip Johnson, Les Loble, Jack McDonald, Paul Richard, Alice Senechal, and Lisa Wheeler.

And also I want to extend a special thanks to Sandi Tabor, who is the secretary-treasurer of our Foundation and does a great job of keeping the foundation running smoothly. Thank you. (APPLAUSE)

PRESIDENT RICHARD: Thank you, Mary. Judicial compensation is the issue that is near and dear to our hearts, not only to our hearts, not only to judges, but also many members of the Bar—did I get that one wrong? Sandi wrote this script. The judicial conference judicial salary committee is working with an interim committee of the legislature and the Association on a pay equity plan for the 2001 legislature. To provide the details, please welcome Judge Ralph Erickson. (APPLAUSE)

JUDGE ERICKSON: Thank you. Can you all hear me? Can you hear me okay in the back? Is it all right? All right. My name is Ralph Erickson and I'm a district judge in Fargo, for those of you who don't know me. This reminds me of something that Manfred Ohnstad, my senior partner when I first practiced law, told me when I was about to make my first argument before the North Dakota Supreme Court. Manfred said, "There are only two things that you need to worry about. The first is that they don't understand what you're saying and the second is that they do."

Now, I'll see if the technology actually works. Ah, that's my name. All right. Maybe. Anyhow, I'm the co-chair of the judicial compensation committee. Judge Neumann is the other co-chair and, by default, I end up having to do this. It is hard to say no to any justice of the Supreme Court when they call and ask you to chair the committee begging for money, and so that's part of how I got here.

You'll be happy to know that this is the abbreviated version of this program. I made a longer presentation to the interim committee, the interim judiciary committee of the legislature, but Sandi said I should try and keep it to ten minutes. Now, imagine. Have we got ten minutes in yet? Just about. It takes me a long time to get things done, but we'll start at the beginning.

In 1989, there were fifty-four full-time trial judges in the state of North Dakota. And in 1991, the legislature enacted House Bill 1517, which created a unified trial court. And what that does is it abolished the county courts as of January 1, 1995. It ordered that the number of judges would begin to be reduced, ultimately setting a target date for forty-two district judges by January 2, 2001.

You're all familiar with that relatively painful history. I like to tell people I'm the only judge in the whole state that benefited by unification because I would not be a judge if they had continued with county

judges. In any event, in 1995, county—the county courts were merged into the district courts and unification arrived. All of the remaining county judges at that time had to stand for election as district judges. There were forty-six district judges at that time. So the attrition had reduced the number from fifty-four to forty-six, and I think it was safe to say that by that time the easy cuts were gone.

Now, this chart is about the number of cases disposed of per judge between 1989 and 1998, the last year for which statistics are currently available. In 1989, we disposed of, per trial judge, and that's both county judges and district judges combined, approximately 2,000 cases. By 1998, we were at 3,250 cases per judge. That's a fifty percent increase. I went to Jamestown College, they taught me that math stuff.

Okay. How are the courts functioning? Well, even though the number of judges is reduced, the people's business is really still current. Now, if you look at the docket currency statistics, one of the shocking things that you'll find is that we've reduced the number of judges from fifty-four to forty-six, but we're actually more current in disposing of our cases, and you may ask why that is, and I think that there are a couple of reasons.

First of all, efficiency has been mandated by the reduction of the number of judges. Frankly, the stuff piles up on your desk, you make the decision because you've just got to get it off your desk and move on.

Secondly, technology has really changed and so we're able to get out decisions and opinions with much more—in a much more timely fashion than we could before. It is interesting to note that even though we've reduced the number of judges, that the trial courts still sit in all fifty-three counties of North Dakota.

Now, what's happened to judicial compensation during that time? Well, it's failed to keep pace. In 1977, district judges were paid \$34,500. That's the equivalent of roughly \$98,000 in constant 1999 dollars. Now, in 1999, the district judges are being paid, well, in 2000, right now, \$77,340, which means that the district judges have lost approximately \$21,000 in purchasing power since the 1970s. And during that same time frame the number of cases that we're disposing of per judge has increased by fifty percent.

You might be interested in noting that in the late 1970s, North Dakota's judges were actually above the national average for salary. Where do we rank today? Well, wait. National averages in 1999 for courts of last resort, like our Supreme Court, approximately \$112,000. And for trial courts, approximately \$101,000. And if you compare what we earn to the national averages, you'll see that we're—the Supreme

Court is approximately \$32,000 below the national average and I think the trial courts are at \$26,000 behind.

Where do we rank? The district judges are currently 50th in the union in salary, but there's good news. On July 1, we will move \$100 a year ahead of the judges in Montana. We'll go to 49th and we'll stay there until January 1, when the Montana judges will get their raise, but we will not be last for at least—we will not be last for six months.

And the Supreme Court justices are already ahead of Montana, so they're going to stay at 49th until the Montana judges get their raise January 24th, and then they will go to 50th, and we'll both be firmly entrenched on the bottom. Now, where do North Dakotans as a whole rank? In 1997, North Dakota wage earners ranked 45th in the union, so those who actually got a paycheck ranked 45th. You'll be interested to know, including government payments, that North Dakotans actually ranked 34th. We use 45th because that's what you get before you get the government checks because maybe it wasn't too good to check all the Social Security recipients and the farmers who are getting price supports.

Now, why does it matter now? Well, unification has really limited the number of new district judges that have been taking the bench. That's because we keep abolishing the seats, right? There have only been two appointments to the bench since Governor Schafer took office, and right now forty-three percent of our district judges are fifty-five or older, nineteen percent are sixty and older, and twelve percent of all of our district judges are likely to retire before the legislature meets twice. So if you look like five years into the future, we're likely to lose twelve percent of our trial judges.

Now, more importantly is where are those judges chambered. This is judges over sixty, where are they? We currently have two in Grand Forks, two in Fargo, two in Minot, one in Bismarck, and one in Dickinson, and you realize those are the five largest cities in the state of North Dakota. Now, judges over the age of fifty-five, where are they chambered? There are four in Bismarck, three in Fargo, three in Grand Forks, two in Minot, one in Bottineau, one in Valley City, one in Dickinson, one in Williston, and one in Stanley.

And if you look at that, you'll see that the vast majority of those folks are also in urban areas where the salary pressure is the greatest. Where are those judges? Well, here's an interesting way of looking at it. Twelve of the judges, which is twenty-nine percent of the entire judiciary—and it would be a higher percentage of that, of the trial bench, but twenty-nine percent of the entire judiciary are both over fifty-five and chambered in Bismarck, Fargo, Grand Forks, and Minot.

Now, how could we measure where we are for salary purposes? We could look at—the legislature in the last legislative session compared executive branch salaries to ten states, and they came up with a ten-state average. We could use that average. We could take the average of the three states that are contiguous on our borders; the average of the states that have a population of less than a million, because sometimes we've told, well, we're a small state; and then we take the average of the states that are actually smaller than North Dakota.

But now, here's what we've got, what we're really paid, the chief justice makes \$86,172, which makes him the lowest paid chief justice in the United States, the justices of the Supreme Court are paid \$83,807, the presiding district judges make \$79,171, and the district judges make \$77,340. Now, if we look at those ten states, you'll see that it ranges from the low end in Montana, where they make a couple of hundred dollars a year more than we do right now, to the high, which is in Iowa at \$102,000.

When you look at the median for those states, the median is \$93,509 and the average of those ten states is \$91,117, and that's brought down significantly by Montana and us. How do we compare to the ten-state average? Well, like 91,000 to 77,000. That's like, what, a \$15,000 difference, roughly, fourteen?

Now, if we look at the three-state average, you'll see that they range from Minnesota, which currently pays their judges \$98,000, but I just saw that their legislature in the last legislative session approved an increase in their salaries to 104 or 105 thousand dollars, so that number will change; South Dakota, who currently pay their trial judges 86,000, but that's going to go up to 88,000—\$88,900 next—two weeks from now; and then there's us and Montana in that \$77,000 range. The current three-state average is 87,219, but if you were to use those new numbers from Minnesota and South Dakota, that average would be more like 91,000.

How do we compare? We're \$10,000 behind that three-state average. One of the things that was kind of interesting that we don't think of very often is that once you get past Montana and North Dakota and you say who's next? Who's next is Wyoming. How much do they make? About \$85,000. So there's this sort of huge gap between us and like everybody else.

States with a population of less than a million. You'll go to—if you look at those numbers, basically Montana is at 77,000 and it ranges at the high end to Delaware, I think, or Rhode Island—Rhode Island, and it's—I think that their judges make \$109,000. Rhode Island's are the highest paid trial judges in the country. For the average of those states,

it's \$93,502. And so how do we compare? That's roughly 16,000. States with a smaller population than North Dakota, there are only three. Alaska, Vermont, and Wyoming. Alaska pays their judges about \$104,000. Wyoming, like I said, is at that eighty. That number is old because they just got a raise, but they're like at \$84,000. And the average of those numbers is \$92,550. How do we compare? Once again, we're substantially below that.

South Dakota, now, we think it's pretty compelling to take a look at what judges in South Dakota get paid because historically our salaries have been similar. In 1997, North Dakota trial judges made \$180 a year more than South Dakota trial judges. Today, South Dakota trial judges make a little over \$10,000 more a year than we do. And that number is going to grow—go up because they're getting a substantial raise on July 1, which is significantly more than the raise that we'll get. I think their raise is four percent and we'll get two percent, so we'll lose that, whatever, two percent of \$77,000.

Now, the Supreme Court in North Dakota was getting paid almost \$2,000 a year more than the South Dakota Supreme Court in 1997. Today, there's about a \$9,000 difference in what they get paid and that's going to go to 10,000 after the first of July. If North Dakota had just kept pace with inflation, we would be making \$98,000, and that's if you take from 1977 forward. Instead, the judges are making 77,000. Here's what's interesting. If we kept pace with inflation, we'd be getting paid substantially more than every group we've talked about here today.

Instead, this is what's happened to us. We've fallen from what would have been more than that, to roughly, at best, like maybe two-thirds of what would be the regional average, okay? And we were well above the regional average twenty years ago. And, you know, for me it's not that big a deal. I ran for this job knowing what judges got paid, but we've had judges that have been on the bench since the '70s who have actually lost that kind of income, and it's probably a little more substantial for them.

Those are basically all the numbers that we've talked about here today. And that's really where this particular slide show ends. There's some more information that I gave to the legislature on unification and it was a lot more detailed. Really, what I wanted you to have was just the information that says basically this is what's happened to the salaries in the state of North Dakota and here's where we're at.

We would appreciate your support when the resolution comes before the Association and we would appreciate your support when we get before the legislature as well. If there are any questions, I'd answer them. Otherwise, thank you very much for your time. (APPLAUSE)

PRESIDENT RICHARD: Thank you, Judge Erickson. We are now at the resolution section of the agenda and first resolution happens to deal with judicial salaries. All the resolutions are in your general assembly book and extra copies are by the doorway in the back. Before we begin, just a brief procedural point. As a matter of courtesy for the court reporter, please state your name for the record when you make a motion or speak regarding an issue. Also, before we debate a resolution, I will call for a motion of action on the resolution, so please be prepared to bring a motion to the floor at that time.

The Chair will entertain a motion to dispense with the reading of all of the resolutions, including the Resolutions 4, 5, and 6, which thank the sponsors, exhibitors and local committee members.

MR. CROTHERS: Dan Crothers. So moved.

PRESIDENT RICHARD: Is there a second?

MR. HILL: Second; Jim Hill.

PRESIDENT RICHARD: Any discussion on the motion that's on the floor? Hearing none, all in favor? (The floor responded aye.)

PRESIDENT RICHARD: Opposed? Carried. I will now open the floor for a motion on Resolution No. 1 calling for the Association to support the efforts of the judiciary to seek equity during the 2001 legislative assembly. Do I have a motion regarding this resolution?

MR. HILL: I move the adoption of the Judicial Compensation Resolution 0001; Jim Hill.

MR. CROTHERS: I second that motion; Dan Crothers.

PRESIDENT RICHARD: I have a motion and a second. Is there any debate or discussion? Hearing none, I'll call for a vote. All in favor? (The floor responded aye.)

PRESIDENT RICHARD: All opposed? Carried. I will now open the floor for a motion on Resolution No. 3 calling for amendments to the Association's constitution and bylaws which will allow members to vote for officers and amendments to the constitution and bylaws by mail ballot. Do I have any motion on this resolution?

MR. PETERSON: So moved; Dave Peterson.

PRESIDENT RICHARD: Motion to support?

MR. PETERSON: Yes.

PRESIDENT RICHARD: Is there a second?

MR. PETRIK: Second.

PRESIDENT RICHARD: We have a second from John Petrik. Do I hear any debate on the motion? Hearing none, I'll call for a vote. All in favor of the motion to support Resolution No. 3, signify by saying aye. (The floor responded aye.)

PRESIDENT RICHARD: All opposed? Carried. I will now open the floor for a motion of Resolution No. 2 encouraging the North Dakota delegation to the ABA House of Delegates to vote against the current recommendations regarding multidisciplinary practice and directing the Board to have a committee monitor the future ABA delegates on this. Do I have a motion?

MR. MCCOLLOUGH: So moved, Paul.

PRESIDENT RICHARD: Steve McCollough has moved in support of the resolution, is there a second?

MR. GREENWOOD: Dann Greenwood.

PRESIDENT RICHARD: Dann Greenwood has seconded. Is there any debate on the motion to support the resolution? Hearing none, I'll call for a vote. All in favor of the motion on the floor, please signify by saying aye. (The floor responded aye.)

PRESIDENT RICHARD: Opposed? Carried. Do you know how much time we made up on that? That's good, Les. Good luck next year. We'll now conduct the elections for president-elect and ABA delegate. I open the floor for nominations for president-elect. The Chair recognizes David Reich. All right. Sorry. Let's go back. Remember all those motions we were going to dispense with reading on, 4, 5, and 6, we need a motion on those resolutions.

MR. DALEY: So moved; Mike Daley.

MR. OLSON: And Dick Olson.

PRESIDENT RICHARD: Any debate? Call for a motion? All in favor. (The floor responded aye.)

PRESIDENT RICHARD: Opposed? Carried. Okay. Now, Mr. Reich.

MR. REICH: Dan Crothers and I go back a lot of years. He hasn't seen the draft of my nominating speech and for a good reason; he was a little nervous. I've known Dan for nearly twenty-five years, dating back to our undergraduate days at UND back in the '70s. In addition to living in the same dorm suite, we took many of the same political science and prelaw classes.

Both of us were fueled by the same burning desire, not to mention enormous quantities of Red Pepper food, to become lawyers. We were law school classmates. I followed Dan's career from law clerk to a private practice in a small law firm to success in the appellate track and then with the Nilles firm in Fargo. Throughout his career, Dan has displayed those qualities which will serve him well as president-elect of State Bar Association: Honesty, hard work, and organization.

So when Dan asked me if I would give his nominating speech for president-elect of the Bar, I didn't ask him how many people had turned

him down before he asked me, I immediately said yes, it would be an honor. For those of you who don't know Dan very well, let me tell you a little bit about him. The love of the law runs deep in the Crothers family. Dan's father was a Fargo attorney and later U.S. district court judge. His brother, Dave, is an attorney in Bismarck. Although she doesn't have a law degree, Dan's mother, Marian, probably has the best legal mind in the family and deserves a great deal of credit for keeping the Crothers men in line.

Dan is a husband to his lovely wife, Holly, and father to their two young children, Danielle and Taylor. In his spare time, Dan enjoys family activities, time at the lake, fly fishing, and biking and skiing. Dan is a 1982 graduate of the University of North Dakota School of Law. After beginning his legal career as a law clerk for the New Mexico Court of Appeals, Dan returned to North Dakota where he worked for a private firm in Grafton for a couple of years, and at the same time served as assistant state's attorney for Walsh County. He then practiced in a two-person law firm in Fargo for a couple of years where he specialized in commercial law and litigation.

From 1987 to the present, Dan has been a member of the Nilles, Hansen & Davies law firm in Fargo in which he's a shareholder. Dan's practice at Nilles is concentrated in the area of commercial litigation. In addition to his law practice, Dan has served as an adjunct professor at Moorhead State University for five years where he taught real estate law.

Dan has always been very interested in computers. He's kept abreast of the latest changes in technology and is somewhat of a computer wizard. This experience will serve him well as he strives to expand the use and utility of the new and greater State Bar Association website to provide information and services to lawyers in North Dakota.

As Malcolm will tell you in greater detail in his seconding speech, Dan has been a very active member of the Bar throughout his career. He has expended an enormous amount of his time and talents serving on and chairing various committees. In all of these endeavors, Dan has shown the same commitment, drive, and work ethic I first observed back in our early days at UND. Dan's experience, leadership, and organizational skills make him uniquely qualified to serve as State Bar Association president and to address the challenges our association will face in the twenty-first century.

You've heard about some of these challenges earlier, including changes in the technology and the multi-disciplinary practice. Dan will work for ethics and civility among lawyers in North Dakota. For these reasons, it gives me great pleasure to nominate my friend and colleague,



Dan Crothers, as president-elect of the State Bar Association of North Dakota.

**PRESIDENT RICHARD:** Thank you. Is there a second to the nomination of Dan Crothers for the position of president-elect? The chair recognizes Malcolm Pippin.

**MR. PIPPIN:** Thank you, Paul. I am honored and pleased to second the nomination of president-elect of this Association a person who is a friend of mine, a partner of mine, and an attorney whom I deeply respect and admire: Dan Crothers.

Dan exemplifies all the qualities that I believe we should all strive for as attorneys. He is completely dedicated to his work, as well as his profession. Perhaps most importantly in the big picture, he is an extremely devoted husband to his wife, Holly, and father to his young children, Danielle and Taylor.

Since becoming licensed to practice in 1982, Dan has been actively involved in many State Bar Association activities, including the young attorney division as a member and chairman of the inquiry committee east. In 1995, Dan received the Association's outstanding chairperson award for his work on the inquiry east committee. He has also served as a member of the joint commission on attorney standards, was the past chair and current member of the joint committee on attorney standards, and also serves as an officer of the Davies Inn of Court of Fargo.

In addition to his numerous Bar Association activities, as well as his legal practice and his family time, Dan has also written several Law Review articles and has also presented numerous CLE seminars, many which involve professional responsibilities of attorneys.

Having been a partner of Dan's for the past ten years, I can tell each of you that Dan's work ethic has been unquestioned as he has been over the years one of, if not the hardest working attorney in the office. Dan has been involved in hundreds of cases, including being counsel to several multi-million dollar commercial litigation cases as well as being counsel to numerous appellate decisions, including the North Dakota Supreme Court, as well as the Eighth Circuit Court of Appeals.

Dan, as David mentioned earlier, is a computer wizard. He serves as the firm's unpaid computer guru and he has always addressed the firm's computer problems in a responsible and enthusiastic way. For example, in the middle of the Y2K scare, Dan felt the safest and most responsible manner to handle that was to run off to the middle of the Atlantic Ocean for two weeks on a forty-six-foot sailboat to ensure that nobody from the office could contact him in case the firm had computer problems. He is a fearless leader.

Dan wants to use his experience to promote professionalism, ethics, and civility for the lawyers of North Dakota. He also wants to expand the use of technology, not only to provide information and services to the attorneys of the state, but also to the public as well. I believe that Dan represents the best of our profession and would make an outstanding leader and president of the North Dakota State Bar Association. With this said, I proudly nominate my friend, partner, and colleague, Dan Crothers, as president-elect of this Association. (APPLAUSE)

PRESIDENT RICHARD: Thank you, Malcolm. Are there any other nominations for the position of president-elect? Are there any other nominations? Are there any other nominations for the office of president-elect? Hearing none, I would entertain the motion to close the nominations.

MR. HILL: So moved; Jim Hill.

MR. MARING: Second; Dave Maring.

PRESIDENT RICHARD: I have a motion and second. All in favor of the motion. (The floor responded aye.)

PRESIDENT RICHARD: Opposed? Since we have only one person nominated for that office, I will entertain a motion to suspend the rules and elect Dan Crothers by unanimous acclamation to the office of president-elect.

MR. OLSON: So moved; Dick Olson.

MS. THIEM: Second; Rebecca Thiem.

PRESIDENT RICHARD: I have a motion and second. And all in favor of the motion signify by saying aye. (The floor responded aye.)

PRESIDENT RICHARD: Opposed? Dan, would you like the floor for a point of personal privilege?

MR. CROTHERS: I merely wish to say thank you for the support. The nominating speeches sound strikingly like a eulogy, so I won't say anything more at this point. (APPLAUSE)

PRESIDENT RICHARD: I will now open the floor to nominations for the position of ABA delegate. The Chair recognizes Mike Sturdevant.

MR. STURDEVANT: Mr. President, I'm flattered to join the ever expanding number of lawyers in this Association that wastes the name of Jim Hill in nomination. That comment simply means that recognizing the fact that Jim has performed great service to the Association in many leadership capacities and in a number of unsung ways which culminated in the recognition of his donations of time and effort with the distinguished service award back in 1997. At this time, Jim is—and has been since 1994—our ABA delegate. Given the complexity of the issues now facing us as our profession evolves, I think it's very important that we

keep someone on board who has Jim's dedication and experience and thus it is my pleasure and honor, as a member of the class of '74, to nominate my friend and colleague, Jim Hill, for another term as our delegate to the ABA. Thank you. (APPLAUSE)

PRESIDENT RICHARD: Thank you, Mike. Is there a second to the nomination of Jim Hill for the position of ABA delegate? The Chair recognizes Becky Thiem.

MS. THIEM: Well, Jim told me we'd be out of time by now so I didn't have to worry about preparing anything. About that hard fought debate on multi-disciplinary practice and the mail ballots, since Jim kept quiet on those issues, we didn't have any debate. Thank you, Jim. (APPLAUSE)

MS. THIEM: President Richard, I rise to second the nomination of my partner and friend of almost twenty years, James Hill. Because I am the last speaker of the day, I promise to keep it short. Let's just say he wants the job, he likes the job, he'll do the job, and he practically needs this job, so, please vote for him. Thank you. (APPLAUSE)

PRESIDENT RICHARD: Thank you, Becky.

MS. THIEM: And we need him to have this job.

PRESIDENT RICHARD: Are there other nominations for the position of ABA delegate? Are there any other nominations? Are there any other nominations for the position of ABA delegate? Hearing none, I would entertain a motion to close nominations.

MR. OLSON: So moved.

PRESIDENT RICHARD: Dick Olson.

MS. MOORE: Second; Sherry Moore.

PRESIDENT RICHARD: I have a motion and a second. All in favor of the motion? (The floor responded aye.)

PRESIDENT RICHARD: Opposed? Carried. Since we have only one person nominated for the office, I will entertain a motion to suspend the rules and elect Jim Hill by unanimous acclamation to the office of president-elect? That's in the script. ABA delegate. I didn't catch that typo.

MS. TABOR: That's a big one.

PRESIDENT RICHARD: That's a huge one there. How about that motion?

MR. DAVIS: So moved; Jeremy Davis.

MR. CROTHERS: Second; Dan Crothers.

PRESIDENT RICHARD: All in favor of the motion signify by saying aye. (The floor responded aye.)

PRESIDENT RICHARD: Opposed? Carried. Congratulations, Jim.

MR. HILL: Thank you.

PRESIDENT RICHARD: Well, at this time, it's now the great pleasure that I get to hand this over to your new president, Les Loble. (APPLAUSE)

MR. LOBLE: I'm acutely aware that I'm the only one standing between you and the shower and the reception tonight, but I do want to say just a couple of things. One is that I notice I wasn't asked to be part of the people, part of the contingent that nominated Jim today. You may recall last year that Jim and Ron Reichert nominated me, and my career almost ended before it began.

In 1987, I moved here to—I moved to Bismarck from our state to the east—or to the west, the land of sheep and nuts. I was a stranger in a strange land, and I want to thank the members of the bench and of the bar here in North Dakota for welcoming me. Since those thirteen years have passed, I look out in this audience and see a number of friends and colleagues. I had not met Mary Michael Guler until I came to North Dakota, but her father, Joe Michael, who has been a member of our Association for over forty years, was the general counsel of MDU when I first started to do the work in Montana for MDU. Since I have taken over that position, I have had the opportunity to work with attorneys across the entire United States, and I want to echo what Judge Bright said about the quality of North Dakota attorneys.

They are the best, bar none, and when it's time to put my company's fame and fortune on the line, I have no hesitancy about going with our local talent. And I just want to mention a few of those people who have been my friends and my colleagues. One, of course, is Jim Hill, and Becky Thiem and Christine Hogan, and Dan Kuntz from the Zuger firm. Paul Kloster, Tim Priebe, and Paul Ebeltoft from the Dickinson firm. And I mention those because those are the same names of the people that are active in this Association. And I believe that excellence in law with commitment to the Association goes hand in hand. If there are members of the Pearce and Durick firm here in Bismarck, I have the same good feelings about them.

In addition, of course, I've made a number of friends here. One of them is Sean Smith, who was so rightfully honored today. You will soon receive your Gavel. The goofy picture of me at the top of my first president's column is all Sean Smith's fault and I'll let you find out why. I look forward to my presidency with excitement. I look forward to meeting more of you when I go about the state just as Paul did. And I know that whatever calls I've left, we've got a great guy batting cleanup who will come along next year. Thanks very much. See you this year. (APPLAUSE)

(The meeting was adjourned at 4:30 p.m., the same day.)

## STATE OF NORTH DAKOTA COUNTY OF WARD

I, Cindy J. Shearman, a Registered Merit Reporter, DO HEREBY CERTIFY that I recorded in shorthand (Stenotype) the foregoing proceedings had and made of record in the above-entitled matter at the time and place hereinbefore indicated.

I DO HEREBY FURTHER CERTIFY that the foregoing and attached typewritten pages contain a full, true, accurate, and correct transcript of my shorthand (Stenotype) notes, as they purport to contain, then and there taken.

Dated at Minot, North Dakota, this 27th day June, 2000.

Cindy J. Shearman  
Registered Merit Reporter

EMINETH & ASSOCIATES  
Registered Professional Reporters  
The Fair Building  
122 Main Street South  
Minot, ND 58701  
(701) 838-1537  
June 26, 2000  
Ms. Sandi Tabor  
Executive Director

SBAND

Post Office Box 2136  
Bismarck, ND 58502-2136

RE: SBAND General Assembly

DATE OF ASSEMBLY: June 15, 2000

Please find enclosed the original transcript of the above deposition.

  X   Mailed by certified mail # \_\_\_\_\_.

EMINETH & ASSOCIATES