



1979

Transcript of Proceedings of the Seventy-Ninth Annual Meeting of the North Dakota State Bar Association

North Dakota State Bar Association

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**TRANSCRIPT OF PROCEEDINGS
Of The
SEVENTY-NINTH ANNUAL MEETING
Of The
NORTH DAKOTA STATE BAR ASSOCIATION**

**Grand Forks, North Dakota
June 21-22, 1979**

OFFICERS

VERN C. NEFF	President
JON R. KERIAN	President-Elect
ALAN J. LARIVEE	Secretary-Treasurer
JOEL W. GILBERTSON	Executive Director

**THURSDAY
JUNE 21, 1979**

(Whereupon, the proceedings commenced at 9:30 o'clock A. M. as follows:)

PRESIDENT VERN C. NEFF: Ladies and gentlemen, I'd like to call to order the Fifty-Eighth Annual General Assembly of the integrated bar of the State of North Dakota. And this session is now in session. This is the Seventy-Ninth Annual Meeting of the State Bar Association.

At this time I'd ask that you stand, and I'll call on Colonel Robert Dahl, who will lead us in the Pledge of Allegiance. Would you please stand?

MR. ROBERT E. DAHL: This is one of the arduous duties of being the Bar Delegate to the ABA. Will you join me in the Pledge to our flag?

(Whereupon, the Pledge of Allegiance was led by Mr. Robert E. Dahl.)

PRESIDENT NEFF: At this time it's my privilege to call upon Reverend Terrence Anderson of Calvary Lutheran Church who will offer the invocation prayer. Will you stand again, please?

REVEREND TERENCE ANDERSON: Gracious Father, we thank you for this day and that we are alive to enjoy it, that we are well fed, well dressed, most of us generally satisfied. You remind us that the other side of things is that our society has a great number of large problems, the answers to which may dramatically change our life styles. For every satisfied one of us, there are many who are filled with disappointment, frustration and anger, people who are frightened by the problems that confront our society. As these people gathered here go about their business today, may they do it with an awareness of these problems, these struggles. Let their actions be blessed with a sense of integrity, a note of compassion and understanding, that what they do here may benefit the whole of society. Give them the spirit of honesty, of friendship, of openness, of humility. In Your name. Amen.

PRESIDENT NEFF: Thank you, Reverend Anderson.

All of us have a special affection and a fondness for Grand Forks because many of us spent some years of our life in this city. We are pleased this morning to have with us the Mayor of Grand Forks. Interestingly, when the invitation was extended to the Bar Association to have their Annual Meeting here this year, the Mayor of Grand Forks has a very wide-ranging constituency because we received a joint invitation from Mayor Murray of East Grand Forks. And even Colonel Holten, the Commander of the Grand Forks Air Base, which is a city the size of

15,000, also joined with him in extending the invitation. And so it's my pleasure this morning to introduce and would you welcome, please, the Honorable C. P. O'Neill, Mayor of the City of Grand Forks, for some words of welcome?

(Applause.)

MAYOR C. P. O'NEILL: Thank you. Ladies and gentlemen, it is a real pleasure to stand here to welcome such an august body as you people are. I guess over the years I have learned a few things about life, and one of them is never argue with an attorney. And I've also found that whenever I'm asked to appear on a program I should never follow attorneys, because they call me Silent Cy in Grand Forks. And when I get in back of people like our former Senator Longmire, as he did the other night with his golden tongue, I was almost afraid to get up.

Of course I guess it all stems back to a story that's true, an experience of mine in 1938, '39, just about that time. I was new in the labor movement at that time. And I was asked to appear in Bismarck at a hearing in behalf of the railroads as a witness. What the pipeline was going to do to the railroads and to the employees of the railroads if such a thing ever came into North Dakota. And one of your august members at that time, I believe he is deceased, God rest his soul, now, was questioning me. And he spent about ten minutes, maybe a little bit more, and the Referee, or whatever you call the man that was holding the hearing, he says, "Is there any more questions of this witness?" And he says, "Your Honor, no. He doesn't know anything anyhow." You know, I've never quite forgotten that. And I guess it was true.

But, anyway, it's a great pleasure to have you people here today. And I hope you enjoy your stay in Grand Forks. And we're building, building, and building. And some of my people say we're building too much. But we're keeping on building on the come. And I hope that — and I might also say that possibly I'm the most — not the most popular person among your group as a whole on account of my stand on an overpass at the University of North Dakota, which I know that many of you people spent your time at the University and you consider it real sacred ground. But I also attended the University, and I don't have quite that feeling that the ground is that sacred. I think we have the most beautiful University in the country, and I'm real proud of everybody that's come out of it. But I can assure you that we're not going to do anything to hurt the University of North Dakota. And welcome to Grand Forks.

(Applause.)

PRESIDENT-ELECT JON R. KERIAN: Thank you, Mayor O'Neill. I think it's significant, as President Neff indicated, that our invitation was extended not only by Grand Forks, but also East Grand Forks. And I think that's probably significant for members of the Bar who attended school here that probably spent as much time in East Grand Forks as they did in Grand Forks.

(Applause.)

With respect to the University and to this overpass controversy, when we came down earlier, I think it was for Mother's Day, my daughter, who is ten-years-old, saw a bumper sticker prominently displayed, with respect to the overpass, and she asked me — she saw that and she transposed the words, as sometimes you do when you read or when you have numbers, and she said, "Dad, what's this business about stop the passover?" But, Mayor, thank you very much for your remarks, thank you for your invitation. This is a homecoming for all of us ex-students here. And this is the home of the first North Dakota Bar Association seventy-nine years ago. And for your welcome and invitation and your hospitality we thank you.

MAYOR O'NEILL: Thank you, gentlemen.

PRESIDENT-ELECT KERIAN: Gentlemen, it now gives me pleasure to introduce for his message President Vern Neff of the North Dakota State Bar Association.

(Applause.)

PRESIDENT NEFF: Mayor O'Neill asked to be excused because he has some members of his family that will be leaving today for two years in Panama. And he wanted to be a part of the leave-taking.

President-Elect Jon, and ladies and gentlemen of the State Bar Association. First I want to take this opportunity to thank you for giving me the privilege and the honor of serving as your President-Elect and President for the past two years. It has been an interesting, enjoyable, and a challenging experience for me. I also want to acknowledge that my wife, Nita, and my partners and the staff in our office have been a great help and have been most understanding.

However, the work of our Association is actually performed by some nineteen standing committees and numerous special committees. Their dedication, their cooperation, and their hard work is most gratifying and sincerely appreciated, as is the time and the effort of the District Bar Presidents, the Law School Dean, the Association ABA Delegate, President-Elect, the Past President, and the Secretary-Treasurer that comprise your Executive Committee. And I also want to express a very special thanks to Joel Gilbertson, our Executive Director. Joel began his duties on September 1, 1978, and he stepped into some pretty big shoes that Bob Schuller had vacated. But in less than nine months Joel has proven to be a very able and a very capable Executive Director. He's a very able legislative observer, and a very efficient coordinator of all of our activities through our State Office. And in summary I can say that I'm sure, as are all of the Past Presidents that are in the room, that you cannot complete a year as President of the State Bar Association of North Dakota without developing a very warm feeling of pride in our Association. In every instance when I asked or called upon any of you to undertake a task for our Association, you did so. And that is without any exceptions whatsoever. And I hope that this dedication and this sense of duty, which is the hallmark of lawyers, instills itself into every class of new lawyers that join our Association not only this year, but in the years to come.

As Jon has mentioned, these sessions convene the 79th Annual Meeting of the State Bar Association of North Dakota. It also commemorates our fifty-eighth year as an integrated bar. We are therefore the oldest wholly-integrated Bar Association in the United States. And we can be justifiably proud of that record and of that tradition.

A part of that tradition requires that your President report to you on the state of your Association, and that is the purpose of these remarks this morning. And to ensure that I touch on important matters and do not digress, I reduced most of it to writing.

The Constitution of the State Bar Association of North Dakota sets out the purpose and the objective of our Association in four parts: first, to improve professional competence; second, to promote the administration of justice; third, to uphold the honor of the profession of law; and, fourth, to encourage cordial relations among the members of the State Bar.

In order to emphasize that all of the prominent and special committees of our Association are working to advance these objectives, I have grouped the committees under one or more of these objects, and the committee chairmen have filed their written reports, and they will be available to you. And so these will be summaries, only,

of some of the more important matters that these committees have touched on and worked on this past year.

But working to improve professional competence, which is the first objective of our Association, are the Continuing Legal Education Committee under Bruce Bohlman; the Ethics Committee under Marshall Bergerud; the Law Office Management and Procedures Committee, Chairman Bruce Howe; the Inquiry Committees, East and West, as well as the financial support which we give to a full-time Disciplinary Council and staff, a Long-Range Planning Committee, and, of course, the ten practicing lawyers and members of our Association who represent the practicing bar on the Joint Procedures Committee of the Supreme Court.

We have completed one full year under our mandatory CLE rule. The rule is working. The subject matter and the high quality of the presentations have, in my opinion, been well received by all of you. The work of the CLE Committee actually advances each and every one of the objectives and objects of the State Bar Association of North Dakota that I've just read to you.

The Ethics Committee and our Executive Director have finalized the proposed changes in our Code of Professional Responsibility relating to advertising. And the changes that you approved at our last Annual Meeting have been submitted to the Supreme Court for their consideration.

The Law School Liaison Committee has also been active. It has been involved in the search for a new Dean. The Committee has financially assisted the Law School to host the Regional Moot Court Competition. And the Committee members also provided much needed help in obtaining a legislative appropriation to continue the Central Legal Research Program at the Law School.

The Inquiry Committees, East and West, have met as frequently as necessary to investigate all complaints lodged against lawyers. I'm happy to report that the number of complaints does not appear to be increasing in proportion to our increasing membership.

The Law Office Management and Procedures Committee has begun work on preparing many procedure packets involving procedures which are somewhat standardized and which we hope will eventually be available for purchase to the Association office for a nominal charge. Procedures such as adoptions, collections of judgments from the Unsatisfied Judgment Fund, mechanic's lien filings are just some of the examples of matters that we become involved in in our offices from time to time. And if these many procedures can reduce our office time and permit you to render a service to the client quicker and more efficiently, we can contain our costs and thus continue to keep the fee to the client reasonable.

Working to promote the second objective of the State Bar Association, which is to promote the administration of justice, are the Information and Service Committee, Chairman Harold Anderson, which included the Law Day Committee and program this year; the Legislative Committee which our Executive Director chaired; the Uniform Laws Committee, Judge Eugene A. Burdick, Chairman this past year and for many years previous; the Pattern Jury Instructions Committee, Irv Nodland; the Professional Negligence and Liability Committee, M. R. McIntee; and the Law Related Education Committee, Marie Fiedler.

The Law Related Education Committee has completed plans for a pilot teacher training program in Grand Forks County. Through this pilot program teachers will be able to improve their knowledge of how our government and our legal system functions. They, in turn, will then be better equipped to share this knowledge with their students. We all agree that respect for law and especially personal and property rights, if installed in our children, will help perpetuate a free society capable of governing itself under our republic form of government. The work of this Committee will thereby promote the administration of justice.

The work of the Legislative Committee was one of our high priorities this past year. This Committee worked in support of the Judicial Article, a Judicial Nominating Commission, adequate appropriation for our Court system, judicial salaries, and funding for Central Legal Research and the Uniform Laws Committee. We won some and we lost some. But I believe we never lost the respect of the members of the Legislature. The bill to create a Judicial Nominating Commission unfortunately became involved in partisan politics and as passed was ultimately vetoed by the Governor. On this one year Executive Committee, which acted as a Policy Committee on Legislative Matters, decided we had to take a neutral stance on the composition of the Commission, although we were strong advocates of the creation of a Commission. I am pleased to report that Governor Link has created a Judicial Nominating Committee by Executive Order dated June 15, 1979. And by Executive Order the Bar Association will be requested to make two appointments to such a Committee. And under the Order the Governor would make two appointments, the Chief Justice two appointments, and the President of the State Bar two appointments. And then there would be a temporary appointment of one for each of the judicial districts in which a vacancy exists. This Commission will be involved in making nominations for five new District Judgeships and one or more Judgeships resulting from death or anticipated retirements. There will be more information on this Judicial Nominating Committee later in this session.

Lastly, I believe that we must be more vocal both in our offices and in our contacts with legislators to point out the frustrations that people often talk and complain about, and which is frequently directed against lawyers and the Courts, are the end link in a chain which begins with legislation, links with regulation and which then inevitably links with increased litigation. And we should take care to point out that while we are the focal point of the end result of that chain, we have very little input into the first two links.

Working to uphold the third objective of our Association, which is the honor of the profession of law, are four committees which include the Interprofessional Codes Committee, Bert Wheeler, Chairman; the Unauthorized Practice Committee, and the Ethics Committee, and the Law Day Committee with Dick Gross.

In this category, the Law Day Committee under the Chairmanship of Dick Gross deserves special comment and special thanks I think to the Chairman. And if Dick Gross is in the room, would he stand, please? Let's give Dick a hand.

(Applause.)

The Law Day program of free legal consultation in lawyers' offices on Law Day was a success. This was the first time that a State Bar Association undertook to do so on a state-wide basis. The news media gave the program wide publicity, the public thought it was a good idea, and the lawyers, at least 78 percent of you, responded to your questionnaires with positive comments. Interestingly, 78 percent of you thought it was a good project, and about 22 percent of you didn't like it. No one seemed to have any neutral reactions. This project has been submitted to the ABA for judging. And even if it doesn't win an award, we will have shown others that it can be done. We are receiving inquiries in the office weekly from Bar Associations around the country who have heard of the program and are requesting information so they can consider such a project for their own Bar Associations.

Fourth, working to encourage cordial relations among members of the Bar are the CLE Committee and the Memorials and the Fifty-Year Awards Committee. And I mentioned CLE Committee again, as I did earlier, because I think the work and the function of the CLE Committee crosses all of these objective lines. In my opinion, one of the beneficial side effects of our mandatory CLE program is that it encourages social contacts between our

members. And when we know each other better we can work with or against each other with less formality, without sacrificing client interests.

Some general matters that may be of interest to you are that the Western States Bar Conference, which consists of the Bar Associations of the Western United States, accepted our request for membership. And with the exception of California most of the Bars of the Western States are similar to ours in size and structure. We should be able to learn much through our participation in the Western States Bar Conference. And I believe also we can make a substantial contribution. These are times of rapid change in our profession, and we need to participate in as many Bar meetings around the country as possible. I have recommended to the Executive Committee, and I recommend to you, that the travel budgets be increased this next year to permit this on behalf of our officers.

Also this past year our Bar Association participated in the ceremonies held October 5, 1978, in the House Chambers welcoming new members to the Bar. For those new members who are here, we extend a very special welcome. And we invite you to become involved in the work of this Association. You are now a part of it. And it will become what you help to make it.

Also your Bar officers were invited to attend the Law School commencement on May 13, 1979, and the reception of the graduates and their families which followed. Participating in these functions as your representative was a most pleasant task. I can assure you. All of us should take advantage of every opportunity to visit the Law School and witness the students. And all of us should give consideration to increasing our financial support of the Law School Foundation.

An event not so pleasant, because of the occasion, was the recognition banquet held April 19 honoring Dean Rushing who will be stepping down as Dean of the Law School. He has made a significant contribution to the fine legal education which many of you have received under his tutelage. His leadership will be missed, and he will be hard to replace. I believe that Dean Rushing is here. And I would like to ask that he would stand at this time. Is Dean Rushing in the room?

(Applause.)

This has been a lengthy report. I approach the end of my term with a mixture of emotions. On balance, we have moved forward, and with Jon coming up and with the preparations which he has already made your Association will have good guidance and will be in good hands. Jon will give excellent leadership to our Association this coming year. I'm looking forward to serving on the Board of Governors this next year. And I have told Jon, and I will say so now, that I pledge whatever support and all of the support that I can give to him. I'll stay out of his way unless he asks for any comments.

Again I want to thank you for the privilege of serving as your President this past year. We have a truly great Association, and I'm really proud to be one of you. Thank you very much.

(Applause.)

PRESIDENT-ELECT KERIAN: Thank you very much, Vern. I don't know. I hope that my version of the Annual Report can be as inclusive as Vern Neff's. When he recited the litany of his accomplishments there doesn't seem to be much that anybody can do to follow. But every year demands new attitudes, new changes, new challenges. And hopefully we can meet those. And I do welcome your assistance and guidance. Thank you very much from the Bar Association.

Now I would like to call Joel for some announcements that he may have.

EXECUTIVE DIRECTOR GILBERTSON: Gentlemen, I just have three quick announcements.

First of all, tomorrow evening at the Annual Meeting banquet we are privileged to have a speaker, and that speaker is a good one. Justice Jim Carrigan from the Colorado Supreme Court, who is a native of Grand Forks and practiced law for some time in Williston, will be speaking. Justice Carrigan is also a recent nominee to the Federal Bench in Colorado.

Secondly, the Young Lawyers Section will have their annual fifteen-minute meeting at 11:45 tomorrow morning to elect officers. And that will be in the Amigo Room. And it will be after the District Bar Association meetings which are scheduled tomorrow morning for 11:30.

Finally, just a brief word about what's going to happen at noon today. As you are aware, the Annual Meeting luncheon and style show is going to be at the Grand Forks Auditorium. And buses will be leaving from the Ramada at 11:15. And following the luncheon and style show we will start our CLE sessions, and we will have concurrent sessions. One session will be here at the Ramada starting at 1:30. That will be taught by Professor Robert Vogel on recent amendments to the North Dakota Appellate Procedure. And the other session will be at the Auditorium. That will be a session on how to deal with stress taught by Dr. Robert Flint from Minneapolis.

That's all I have. Thank you.

PRESIDENT NEFF: Thank you, Joel.

I want to announce certain appointments that I have made for this Annual Meeting. I have appointed Ed Vinje, Jamestown, to act as Parliamentarian. I have appointed Joe McIntee, Towner; Jon Kerian, Minot; Mike Sturdevant, Minot; Garry Pearson, Grand Forks; Kermit Bye, Fargo, and Harold Anderson, Bismarck, to a Resolutions Committee, with Joe McIntee as Chairman. And I've appointed James Lamb from Grand Forks and Russ Nerison from Jamestown as Election Proctors. And if either of those cannot be in attendance or are absent at the time their services are needed, Bill Stern will be an alternate. And if he's absent we will press into service such others of you that may be present.

Court Reporter for this meeting is Mr. Norman E. Mark of Fargo. And in order that the reporter is able to credit remarks, he has asked, and we join in his request, that you state your name at the time that you rise to address the Chair or the Assembly so that he can get your name and the transcript of these proceedings will be accurate.

At this time the Chair will entertain a motion that the rules be suspended and that the minutes of the last Annual Meeting not be read, but that they be accepted as filed in the Executive Office of the State Bar Association and as published in the North Dakota Law Review. Do I hear such a motion?

MR. JOHN HJELLUM: John Hjellum, Jamestown.

PRESIDENT NEFF: Moved by John Hjellum. Is there a second?

JUDGE WILLIAM M. BEEDE: Second. William Beede, Williston.

PRESIDENT NEFF: Second by Judge Beede, Williston. Discussion? All those in favor of the motion signify by saying aye. Opposed. Carried.

(Whereupon, the motion was presented by President Neff and passed by the General Assembly.)

The Chair will entertain a motion that the rules be suspended and that Committee Reports and section reports

not requiring positive action from the General Assembly may be accepted and adopted without formal motion from the floor upon filing of the report with either the President or the Executive Director. Copies of the report were included in your registration packet. Do I hear anyone who is willing to make such a motion?

MR. JOSEPH C. MCINTEE: Joe McIntee, Towner.

PRESIDENT NEFF: Mr. McIntee, Towner. Is there a second to the motion?

MR. ALFRED C. SCHULTZ: Schultz.

PRESIDENT NEFF: Mr. Schultz, Bismarck. Mr. Al Schultz, Bismarck, seconds the motion. Discussion? All those in favor of the motion signify by saying aye. Those opposed nay. Motion is carried.

(Whereupon, the motion was presented by President Neff and passed by the General Assembly.)

The Chair will now entertain a motion that the past practice of resolutions and new business calling for positive action by the General Assembly be offered on the first day, that is this morning, and that they will be laid over and acted upon at the second business session, which will be tomorrow afternoon. And that this be adopted as a House rule.

MR. HAROLD L. ANDERSON: Harold Anderson, Bismarck.

PRESIDENT NEFF: Moved by Harold Anderson, Bismarck. Is there a second to the motion?

MR. JOSEPH L. MCINTEE: Joe McIntee, Towner.

PRESIDENT NEFF: Joe McIntee, Towner, seconds the motion. Discussion? All those in favor of the motion signify by saying aye. Those opposed nay. And the motion carries.

(Whereupon, the motion was presented by President Neff and passed by the General Assembly.)

One of the truly great traditions that we have in the State Bar Association is the appearance before the Association of the Chief Justice of the North Dakota Supreme Court to report to us on the State of the Judiciary. And would you stand and welcome, please, the Honorable Ralph J. Erickstad, Chief Justice, North Dakota Supreme Court, Bismarck.

CHIEF JUSTICE RALPH J. ERICKSTAD: I thank you very much, President Vern, President-Elect Jon, and Executive Director Joel, ladies and gentlemen of the Bar Association, and guests. I'm very pleased to have again been invited to speak to you on the State of the Unified Judicial System in North Dakota.

First I'd like to say, though, on behalf of all of us, I believe, that the members of the Grand Forks Bar Association have shown us great hospitality and an example of determination under stress in their great efforts to renew their lives after the recent devastating flood. It is a remarkable spirit with which North Dakotans face their problems and triumph over adversity. It's a pleasure to be with you all here today.

Now if you will turn with me to our Unified Judicial System, you will recall that in 1975 the Legislature, and in 1976 the voters, approved a New Judicial Article for the North Dakota Constitution. And I'd like to say that that would not have been accomplished had it not been for the support of this very Association and its convention. The New Judicial Article established a Unified Judicial System consisting of, and I quote, "A Supreme Court, A District Court and such other Courts as may be provided by law" end of quote. Thus through the approval by the people of the Judicial Article alone we have become a Unified Judicial System. It is unified in its present form and we are taking steps to implement the mandate of the people in the exercise of our rule-making the administrative authority. The acts of the Legislature in making structural changes in the future may greatly assist us in implementing that mandate.

Now let me review with you briefly some of the steps taken in our progress in improving Court services during this year.

The Interim Judicial System Committee of the Judicial Council and Legislative Council under the Chairmanship of Former Senator and Attorney Howard Freed, with the assistance of the Legislative Subcommittee of the Citizens Committee on the New Judicial Article, Chaired by Harry Pearce of Bismarck, prepared a legislative proposal for the implementation of the New Judicial Article.

The Central Proposal, which became known as House Bill 1066, was passed by the House of Representatives, but failed in the Senate by four votes.

Pursuant to Senate Concurrent Resolution 4089, the Legislative Council will undertake a second study of the legislative implementation of the New Judicial Article "to determine the structural changes necessary and the timetable for such changes," end of quote. The Interim Judicial Aid Committee is Chaired by Representative Dean Winkler of Williston, who is also a member of this Association. I urge you to follow the deliberation of Judiciary A Committee from whatever viewpoint you hold. With your participation and suggestions, the most effective statutory structure will be forthcoming through which Court services will be provided to the people of North Dakota.

The Rules Subcommittee of the Citizens Committee was established to assist the Supreme Court by providing recommendations for the implementation of the New Judicial Article by rule and administrative action. The Rules Subcommittee, Chaired by Attorney William Strutz of Bismarck, has now completed its present work.

The Rules Subcommittee proposed a rule relating to the duties of Presiding Judges which was approved by our Court on July 6, 1978.

The new rule (AR-2) represents a major step in delegating broad administrative authority to each Presiding Judge for all Court services within each Judicial District. The Court looks to each Presiding Judge for the efficient management and disposition of cases, and the effective management of Court services to the public as litigants, attorneys, witnesses, and jurors. This authority of each Presiding Judge includes the assignment of terms of court, assignment of cases among all the Judges of the Judicial District, assignment of Judges from within the Judicial District in cases of demand for change of Judge pursuant to Section 29-15-21, N. D. C. C., requests relating to local Judicial budget needs, and promulgation of local rules and administrative practices. There are very few local court problems to be resolved and local court improvements to be implemented for which the Presiding Judge does not have the authority to accomplish.

The administrative responsibilities of Presiding Judges are substantial. In Bismarck, Fargo, and Grand Forks, the Presiding Judges have the services of specialized administrative staff to assist them. The attorneys in these areas testify to the value of these services in improving Court services. These services can be made available to other districts as well.

During this next biennium the Presiding Judges will meet regularly with me and our administrative staff for the purpose of resolving problems of administration and adopting uniform procedures for the more efficient administration of our Court System.

Under the New Local Court Rulemaking Process, which is Section 8 of the North Dakota Local Court Rules, each Presiding Judge will establish an Advisory Committee to provide continuing study and review of existing Local Court rules. The Committee comments clearly intend and recommend that the Presiding Judge choose officials and members of the Judicial District Bar Association and Local Bar Associations for membership on the Advisory Committee. Presiding Judge Benny Graff of the former Fourth Judicial District, (now the South Central Judicial District) established the Advisory Committee, and its efforts have met with acclaim by the attorneys of that District.

Ladies and gentlemen, here is a practical mechanism for attorney and public participation in the improvement of Local Court services. Here is a forum for the discussion of Local Court problems and the development of Local Court service improvements. It is available. It is practical. It is local. When the new Judicial District Advisory Committees are established, with your support and participation Local Court services in your District can be improved. Local Court services in each Judicial District can be improved with the support and participation of attorneys and the public in these Advisory Committees.

It is my hope that the Advisory Committees will encourage wider communication among the Judges of different Courts within each District. The long-term improvement of local Court services depends upon open communication and mutual appreciation of the problems of others. Together the local Judicial District team can meet and solve many current local Court problems.

Similarly, let me say a word to encourage candor in communication between you as lawyers and the members of the Bench at all levels. We need greater communication within the judicial system. And we need greater candor in that communication. If you see a particular problem or identify a general problem, don't hide it under a bushel or allow it to fester in idle conversation. There are practical ways to address these problems at the local and state levels. You must take responsibility to bring these matters to the attention of the appropriate group. If you are in doubt about where to address a problem, drop me a line or a note, or give me a call. I'll do my best to be of help.

Communication is essential at all times and candor in communication conserves the time of everyone. North Dakotans are known for plain speaking. This plain speaking is based upon the belief that it promotes clear formulation of positions and encourages prompt and direct resolution of problems. The Unified Judicial System depends upon this candid communication. Candid communication depends upon you.

Let me summarize. The Presiding Judge is the key administrative official within the Judicial District within the Unified Judicial System, with responsibility for all Court services in that geographical area. The Presiding Judge is the channel for the broad, progressive delegation of Supreme Court authority and the focus of local Judicial planning and administration. The Presiding Judges have responsibility for local Judicial services, and substantial authority to carry out those plans.

Of particular present interest to attorneys are the new Judicial Districts which are effective on July 1 of this year. The Court held hearings in Grafton and Fargo on July 24, 1978, and in Bismarck on August 3, 1978, April 16, 1979, and June 1, 1979, and reviewed many letters and resolutions in the study of this very important matter. The new Judicial Districts are now set. Judicial chambers are now assigned, Presiding Judges are now designated and guidelines for the transfer of those cases is completed. This is the first effort that has ever been successful in over sixty years, and we do expect that you will not be completely happy. But we do hope that you will understand that we have conscientiously taken this step with the view in mind of improving the Judicial services within our State.

We anticipate a smooth transition to the new Judicial Districts. With your patience your cooperation with the Presiding Judges of your District, the transition will be satisfactory, I'm sure, to all concerned. The future convenience and Court service improvements anticipated during the next two years from these changes should become a source of satisfaction to us all.

As you know, the Judicial District can no longer be viewed as an area of the District Court. The Judicial District is now a geographical area in which all Court services, at all Court levels, should be administered. The Judicial District is, in fact, the primary administrative unit of the Unified Judicial System. These new Judicial District boundary lines should support the improvement and convenience of Court services in your area of the Unified Judicial System.

In reflecting on the developing concept of the Judicial District and the role of the Presiding Judge, the importance of an effective participatory local Judicial District planning process becomes evident. Without participation by Judges at all levels and the attorneys of the local Bars, the delegation of authority which the Supreme Court has made may be ineffectively administered and constitute a burden on a single individual. With representative participation, group wisdom can be harnessed, conflicting views can be weighed, and effective coordination and support for particular projects and local Court service improvements can be formed.

The members of the Supreme Court are making efforts to maintain a current appellate docket. As our case load increases, we may have to reexamine our internal operating procedures to shorten the time for the disposition of appeals. Already we have taken steps to expedite appellate disposition. The new amendments to the Rules of Appellate Procedure should expedite the preparation of cases for our Court. Certainly the assistance of a new Staff Counsel to the Court will be welcomed.

The new state-wide rulemaking process calls for the establishment of three standing committees, in addition to the distinguished Joint Procedure Committee, Chaired by Justice Paul M. Sand, to provide continuing study of the rules and administrative actions to improve Court services for consideration by the Supreme Court. These standing committees are:

- The Attorney Standards Committee, Chaired by Edmund Vinje II of Jamestown;
- The Judiciary Standards Committee, Chaired by Lowell Lundberg of Fargo; and
- The Court Services Administration Committee, Chaired by William Strutz of Bismarck.

The Court looks forward to receiving recommendations and suggestions from these Committees.

The Joint Procedure Committee has continued to advance the cause of effective procedural rules. Justice Paul Sand is Chairman of this Committee of Judges and Attorneys. One of the Committee's major efforts during this past year has been to codify all of appellate procedure within the Rules of Appellate Procedure, to clarify and simplify the Appellate Rules, and to reduce the number of time deadlines in the appellate process.

During this next year the Joint Procedure Committee will focus its attention on the review of the Rules of Criminal Procedure in light of present practice and amendments to the Federal Rules of Criminal Procedure. Other areas for consideration include Specialized Procedural Rules for Specialized Court Procedures.

The Attorney Standards Committee has initiated study, through three subcommittees, of Attorney Specialization, Rules for Bar Admission, The Status of the Non-Resident Attorney, and the Code of Professional Responsibility.

The Court Services Administration Committee, under the leadership of William Strutz, recently recommended to us a procedure for the assignment of cases during the transition to new Judicial Districts. The

Committee is also working on proposed Trial Court docket currency standards which are directed toward the goal of prompt disposition of civil and criminal cases within reasonable time periods and the placement of accountability for docket currency within each Judicial District.

The Judiciary Standards Committee is in the process of organization. The Chairman, Lowell Lundberg, has indicated that early study will focus on the implementation of procedures for the assignment of Temporary Judges and guidelines for Judicial election campaigns.

Each of these Committees provides an important part of a broad effort to assure regular review and improvement of rules and procedures in the Unified Judicial System. This effort is founded on the principle of full participation by the Judges, Attorneys, and citizens of North Dakota.

The morale and recognition of all Judges is a precious commodity in our Judicial system. I would like to call your attention to one particular area of concern to me — the salary disparity among the County Judges with Increased Jurisdiction in our State. These seventeen Judges are becoming increasingly important members of the Judicial team. The future, under whatever structure is adopted for the implementation of the New Judicial Article, will rely more heavily upon their wisdom and energy. Their compensation should be increased and become more uniform across the State in a way proportional to their important contribution to the Judicial services of the State.

If these Judges were made Associate District Judges with expanded jurisdiction as House Bill 1066 contemplated, our Judicial system could be immensely improved.

As you know, the Court has authorized an experimental period of twelve months of electronic and photographic coverage of Supreme Court proceedings. This occurred in response to a Petition by WDAY, Incorporated, and Mayer Broadcasting Company, pursuant to the New Rulemaking Procedure.

The purpose of this effort is to improve public information about Appellate Court proceedings and opinions. There is a need for better understanding of Court services and Trial and Appellate Court decisions to which we have only begun to address ourselves. We must develop information services which make the important elements of the trial and appellate decisions and Court services available to the public in clear and attractive ways.

By February of next year we will know better how this experiment has been received by our people. Initially, eighteen states presently permit such coverage on a temporary or permanent basis.

Planning for future Court service improvements is increasingly essential. The Judicial Planning Committee, chaired by Justice Vernon Pederson, continues its work in this area. It has just completed a planning proposal for the next biennium which has been presented to our Court for review and implementation, or will very shortly be presented to us.

The proposal before us includes recommendation to provide an inventory of law library facilities available in North Dakota, and a study of alternative ways to provide adequate Trial Court facilities and other things. We welcome this assistance in clarifying alternative choices and charting the direction of development for the Unified Judicial System.

Let me review, also, the recent work of two important committees related to the legal profession: The Bar Board and the Disciplinary Board.

The Bar Board, led by Attorney Hugh McCutcheon, supervises the admission of attorneys to the practice of law. We welcome Ward Kirby of Dickinson, a Past President of your Association, who was recently appointed as a new member of the Bar Board, joining Hugh McCutcheon and John Kelly.

Perhaps a somewhat longer than annual perspective on the Bar examinations of North Dakota would be of interest to you. During the six-year period, 1973 to 1978, 497 applicants took the North Dakota Bar Examination. Of these applicants 71 percent were University of North Dakota Law graduates, and 29 percent were out-of-state law school graduates. Of this total number, three percent failed the examination, for a passing rate of 97 percent over the six-year period.

The Attorney Standards Committee is presently studying the issues of an appellate procedure from adverse decisions of the Bar Board, and residency requirements. We look forward to receiving recommendations in these areas. I hope you will share your views on these subjects with the members of the Committee.

The Disciplinary Board is Chaired by Jake C. Hodny of Grafton. With reorganization following the change in the Rules of Disciplinary Procedure, the Disciplinary Board now consists of Henry G. Ruemmele of Grand Forks, State Representative Alice Olson of Cavalier, Frederick E. Whisenand, Jr., of Williston, State Representative Ruth Meiers of Ross, Malcolm H. Brown of Mandan, Ronald G. Splitt of LaMoure, David Peterson of Bismarck, and Bea Peterson of New England. These people, and the East and West Committees, are providing a very important service on behalf of us all.

Between 1974 and 1978 the Disciplinary Board has received 269 complaints against attorneys, of which 200, or 75 percent, were dismissed. Forty-four, or 16 percent, resulted in private reprimands. And 25, or nine percent, initiated disciplinary proceedings. Of these latter 25 complaints, 18 complaints resulted in nine suspensions and one public reprimand.

The public tide is changing, and we can expect greater demands for attorney accountability. The Disciplinary Board will be called upon to make even greater sacrifice to time and energy to meet these expectations.

The Attorney Standards Committee is presently studying the issue of possible expungement of disciplinary records in cases of unfounded and frivolous complaints as an additional protection against long-term, unnecessary embarrassment to professional reputations.

The Judicial Qualifications Commission of seven members is Chaired by Jane Knecht of Fargo. During the period October, 1975, to December 31, 1978, the Judicial Qualifications Commission has received 55 complaints, of which 45, or 82 percent, were dismissed, and 10, or 18 percent, resulted in disciplinary proceedings. Of these 10 complaints, one resulted in a public censure by the Supreme Court, and nine resulted in private censures by the Commission.

Jane Knecht has asked the Judiciary Standards Committee to consider developing guidelines and standards to govern the conduct of candidates for Judicial office. This kind of positive assistance to Judicial candidates and Judges can provide a positive guidance and suggestions can help Judges to avoid the causes of many complaints.

As you know, the 1979 Legislature has authorized five new District Court Judges to be allocated to four of our Judicial Districts.

As you also know, the Judicial Nominating Committee was approved by the 1979 Legislature, but vetoed by the Governor on the ground that the Governor was excluded from making appointments to the Committee. It is our understanding, and we have now been informed, that he has established a Judicial Nominating Committee by Executive Process.

Governor Link has a great responsibility in these appointments, for he will name more than 25 percent of the

Trial Court of general jurisdiction in North Dakota in the next few weeks. I urge you to consider this momentous fact and its impact on our practice and the future of North Dakota. I will urge you all to assist the Governor and his Committee in making these crucial appointments. He will be making, he will be filling, six positions.

In the Temporary Judge Bill, the 1979 Legislature acted innovatively on a small scale to improve Judicial services in North Dakota. The Temporary Judge Statute authorizes us or authorized us to appoint and compensate attorneys as Temporary Judges in any Court other than the Supreme Court. Whenever the Supreme Court determines that the appointment is reasonably necessary and will promote the more efficient administration of justice. As you know, the Supreme Court has recently established a temporary procedure for the appointment of Temporary Judges. We anticipate the development of procedures by the Judiciary Standards Committee for permanently implementing this important service.

I hope that the lawyers of North Dakota will offer their services in this program and consider this service as the professional duty and honor that it will be. We are grateful to the 1979 Legislature for providing this tool for the Unified Judicial System.

In conclusion, this is the beginning of a new era for the Judicial system of North Dakota. The New Judicial Article established a Unified Judicial System. It is being implemented carefully and cooperatively by members of the Bar, Judges, Court personnel, and other public citizens.

Let us break ground as a team, let us work together as partners, for the common good of the people of North Dakota.

I thank you again for this opportunity to share these views on the progress of our Unified Judicial System in North Dakota. With your great support, we know that we will be able to continue to improve our Judicial system to the ultimate benefit of all of our people. Thank you very much.

(Applause.)

PRESIDENT NEFF: Thank you, Chief Justice Erickstad. The applause is indicative of the appreciation we have for your remarks this morning.

One of the biographers of Mark Twain wrote that at one time in his autumn years he was seriously considering what would be the most appropriate obituary on his death. And he gave a great amount of consideration to accepting one that said: "He awoke, washed, and went to sleep." And it's a tradition of the State Bar Association that we make official record of those of our members who have left us this past year. The Chairman who had accepted the Chairmanship of this Committee at the beginning of the year was Catherine Morris, who is the oldest practicing lawyer in North Dakota, woman lawyer, and she became ill and is having a very difficult time with her illness. And during the course of the year I asked Dean Winkjer if he could assume the Chairmanship of that Committee, and he graciously consented to do so. At this time would you welcome, please, Dean Winkjer to the roster as Chairman of the Memorials Committee.

(Applause.)

MR. DEAN WINKJER: President Vern, ladies and gentlemen of the Bar. We had I believe the first of the ancient, and they accepted the second of the ancient to present this report. I do so, however, with the solemnity that the occasion is entitled to. The information that I present has been submitted to me by the office of the Executive Director.

LEONARD JOSEPH EID

Leonard Joseph Eid died on August 26, 1978, in Canada.

He was born April 10, 1913, at Neche, and married Ida C. Fraser March 8, 1939, at Moorhead.

He graduated from Walhalla High School in 1930 and from Concordia College in Moorhead in 1934. He studied law at the University of Minnesota at Minneapolis and UND in Grand Forks, where he received his degree in 1938. He also received a Juris Doctor Degree with distinction from UND in 1968.

Prior to 1948, Mr. Eid practiced law at Walhalla, where he was also engaged in potato and grain farming. He also had served as mayor and city attorney of Walhalla, and was on the park board. He had served as city auditor, city attorney and headed the Planning and Zoning Board and Charter Commission for the City of Riverside. He was a national director of the Fargo-Moorhead Home Builders Association and campaign chairman for the United Fund of Moorhead.

Survivors include his wife, Ida, three sons, Gerald, Luverne and Gordon, and a daughter, Carol Haukedahl.

JOSEPH P. FLECK

Joseph P. Fleck died on November 12, 1978, in Bismarck.

He was born at Richardton, North Dakota, the son of Raphael J. and Flora Fleck in 1895.

Mr. Fleck practiced law in Elgin before moving to Mandan where he continued his practice in law until his death.

He was a member of the board to trustees of St. John's University, Collegeville, Minnesota, as well as Mary College in Bismarck.

He is survived by one son, Ernest R. Fleck and was preceded in death by his wife, Gertrude Kennelly.

RAYMOND R. FRIEDERICH

Raymond R. Friederich was born in Fredonia on September 20, 1920, and died on the 18th day of May, 1979, at Rugby, North Dakota.

Mr. Friederich started practicing law in Rugby, North Dakota, in 1948, following his graduation from the University of North Dakota Law School in Grand Forks. He earlier had earned a Bachelor of Science Degree from the University of North Dakota School of Commerce and a Bachelor of Science Degree in law from the University of Minnesota, Minneapolis. He served as Pierce County State's Attorney for several years, starting in 1950, and was appointed District Judge on December 31, 1960.

He was well known for his work in dealing with juvenile problems and was honored by the North Dakota Congress of Parents and Teachers for his work with young people.

He was of German descent and was a director in the American Historical Society of Germans from Russia.

He served in the Army of the United States during World War II in the 10th Armored Division in Europe and was wounded twice in combat. He was discharged in 1946 as a First Lieutenant and continued to serve in the Army Reserve.

He was active in the Rugby American Legion, Veterans of Foreign Wars and Disabled American Veterans organizations serving as State DAV Commander.

He was active in the Rugby Chamber of Commerce and served as chairman of a committee of the Rugby

Economic Development Corporation. He was past president of the Lions Club and the North Dakota Peace Officers Association and a member of the Lutheran Brotherhood.

He was married on the 7th of November, 1948, to Irene C. Kruger who survives him.

He was past president of the Pierce County Bar Association. In 1969 he was awarded fellowship by the National College of State Trial Judges. The fellowship provided for his attendance at a seminar for Trial Judges at the University of Nebraska. In 1971 former Governor William L. Guy named him chairman of the Minto Regional Advisory Committee on Rehabilitation Services.

ARNOLD GOPLEN

Arnold Goplen died on March 6, 1978, at Sante Fe, New Mexico. He had served as high school principal, teacher and basketball coach at Northwood Public School.

Mr. Goplen was born July 15, 1907, in Binford, North Dakota. He was admitted to the North Dakota Bar in 1942 and served as a Special Assistant Attorney for the North Dakota Health Department from 1948-66. He was the director of the Legal Department of the Lutheran Hospitals and Homes Society of America.

He was married on August 14, 1933, to Beatrice Bean at Finley, North Dakota. Thereafter he taught in several North Dakota schools, having earned his Masters of Arts Degree in 1935.

Mr. Goplen authored several books including "The Career of Marquis de Mores in the Badlands of North Dakota" and "The Historical Significance of Fort Lincoln State Park." He was a past president of Bismarck Lions Club and Bismarck-Mandan Executive Club.

He is survived by his wife, Beatrice; a son, Arman; two brothers, Maynard and Joel, and a sister, Ida.

HARVEY KNUDSON

Harvey Knudson, retired North Dakota Supreme Court Associate Justice and former State Legislator, died June 29, 1978, at a Bismarck hospital.

Mr. Knudson was born June 26, 1903, at Finley, North Dakota, graduated from high school there in 1922. He received his law degree from the University of North Dakota in 1931. He practiced law at Finley and Mayville until 1937, when he was elected to the House of Representatives, representing Griggs and Steele Counties. He was elected as State Senator from Traill County in 1950 and reelected in 1954.

He was elected to the North Dakota Supreme Court in 1964 and retired in 1975.

His interest in government and the law were lifelong dedication that continued until his death.

Mr. Knudson married Pearl Pederson on June 17, 1933, at Fargo. She survives with two sons and two daughters, Harvey B., Jr., Daune, Mrs. Marion Heath and Mrs. Jerome Jacobs.

ROSS H. McENROE

Ross H. McEnroe of Grand Forks, North Dakota, formerly of Drayton, North Dakota, died October 10, 1978.

Mr. McEnroe was born on May 13, 1913, at Crookston, Minnesota, and married Elsie Norland on November 11, 1941, at Crookston. He was a graduate from the University of North Dakota Law School in 1939, and served in the U. S. Army for three years. He opened his own law practice in Drayton, North Dakota, in 1946, and retired in 1976. He was a member of the American Bar Association, North Dakota Bar Association, city attorney for St. Thomas, North Dakota.

He is survived by his wife and two daughters, Patricia Bernhoft and Mrs. C. K. Theel.

EDWARD N. O'CONNOR

Edward N. O'Connor died on the 10th of January, 1979.

Mr. O'Connor was born on October 6, 1930, Grafton, the son of Archie and Margaret (O'Sullivan) O'Connor. He graduated from St. Thomas High School in 1948, and after spending one year at Mayville College, attended El Camino Community College at Redondo Beach, California, until 1952. After a tenure with the U. S. Army as a medical corpsman in Korea, he entered the University of North Dakota in 1954, where he received his law degree in 1959. That year he joined the DePuy and Fair law firm in Grafton.

He was married to the former Beverly J. Preusse on October 15, 1955, at Devils Lake.

Mr. O'Connor was a member of the Knights of Columbus Council, the Grafton Lions Club, Eagles, American Legion Post, VFW, Elks Lodge, North Dakota Bar Association, Walsh County Bar Association and the American Trial Lawyers Association, and St. John's Catholic Church where he was presently serving on the church council. He also served as chairman of the 16th District Democratic-NPL Organization.

His survivors include his wife, three daughters, Mrs. Bruce (Kimberly) Gillespie, Colleen and Kelly; two sons, Thomas and Christopher J. O'Connor.

CLINTON R. OTTMAR

Clinton R. Ottmar, Jamestown, former president of the North Dakota Bar Association, died August 19, 1978, in Minneapolis.

Mr. Ottmar was born November 17, 1928, at Wishek, North Dakota. He attended schools there and graduated from the University of North Dakota in 1951.

He married Grace Gackle of Kulm on December 25, 1951. He graduated from University of North Dakota Law School in 1955 and practiced law at Jamestown since that time. He served his country in the United States Army during the Korean War.

Mr. Ottmar was past president of the Fourth Judicial District Bar Association and Stutsman County Bar Association. He served as president of the North Dakota Bar Association from 1976-77.

In addition to his wife, he leaves three sons, Timothy, Mark and Thomas, and one daughter, Gail.

WILLIAM R. PEARCE

William R. Pearce, 67, prominent Bismarck attorney, died August 26, 1978.

Mr. Pearce was born October 9, 1910, in Lafayette, Indiana. He attended grade school there, finished high school in Mott and attended the University of Kentucky. He studied law in the offices of H. P. Jacobsen at Mott and with A. P. Paulson in Valley City. He was admitted to the State Bar on October 1, 1934. He practiced in Valley City until 1941, serving as Barnes County States Attorney in 1939 and 1940.

In 1941 he came to Bismarck to become Assistant Attorney General under the late Alvin C. Strutz and held that position until 1944 when he joined the Bismarck law firm as he had been in continuous practice until his death.

Mr. Pearce belonged to the Order of the Coif, an honorary legal fraternity. He was also a member of the board of directors of Montana-Dakota Utilities and Ace Hardware, and the YMCA board of trustees. He served as a

member of the Bismarck Library Board, was a member of the Elks and Kiwanis Club.

On June 30, 1936, Pearce married Jean Katherine Murray, daughter of J. K. Murry, a longtime North Dakota lawyer. He leaves his wife, Jean, and three sons, Murry R., William P. and Harry J. Pearce.

Ladies and gentlemen of the Bar, these lawyers dedicated their lives to the establishment of justice. And only through the establishment of justice do we create domestic tranquility. Let us all stand and give honor to their memories. Thank you very much.

PRESIDENT NEFF: Thank you very much, Mr. Winkjer.

In accordance with the Assembly rule which you adopted earlier this morning, at this time I'll call on the Secretary-Treasurer Alan J. Larivee to read resolutions which have been filed with the Secretary-Treasurer. Alan.

MR. ALAN J. LARIVEE: Pursuant to Section 27-11-22 of the North Dakota Century Code the following resolution has been prepared.

Article X of the By-Laws of the State Bar Association of North Dakota states: "Any resolution proposed for consideration by the Association at any general or special meeting shall be filed with the Executive Director of the Association at least thirty days prior to the date of the meeting, and notice thereof shall be given to the membership by the Secretary with notice of the meeting."

Those rules have been followed and filed in accordance with the statute and our own Association By-Laws for this proposed resolution.

Be it hereby resolved by the members of the State Bar Association of North Dakota that the annual license fee for attorneys in the State of North Dakota shall be \$40 if the license is issued on or after September 1 of the year of admission of that attorney to the Bar of North Dakota.

Be it further resolved that this resolution shall become effective on July 1, 1979.

A second amendment and resolution has been promulgated according to the rules just stated. And this is the first reading for the amendment to the Constitution and By-Laws of the State Bar Association of North Dakota. The following amendments to the Constitution and By-Laws have been filed at the last Annual Meeting and are hereby submitted for final approval by this Association. If anyone is concerned with the text as these amendments would fulfill the changes that are required, we have copies here.

No. 1. Change the words "Executive Committee" to "Board of Governors" in Articles IV, V, VI, VII, VIII and IX of the Constitution, and Articles I, III, IV, V, VI, VII, VIII and IX of the By-Laws.

No. 2. Delete reference to "numbered districts" in Article V, (2) C of the Constitution and amend it to read as follows:

"Unless otherwise prescribed by the Constitution or By-Laws, the Presidents of the District Bar Associations shall serve for a term of two years. In the event of a vacancy in the office of the President of any District Bar Association, the Vice-President of that District Bar Association shall succeed to the term of office previously held by the President, if there be such a Vice-President, and if there be none, the President of the Association, with the concurrence of the Board of Governors, shall appoint a member of the Association from the District for which the vacancy exists to serve on the Board of Governors for the remainder of the unexpired term of the District Bar President. The terms of the office of District Bar Presidents shall commence at the closing of the Annual Meeting in the year in which they are elected."

PRESIDENT NEFF: Thank you very much, Alan.

There are copies of the proposed Constitution changes that have been prepared, and they are here at the head table. Are there any questions with regard to either of those Constitution or By-Laws changes that have been read? I expected some applause from the newly-admitted lawyers. In any event, we will hear from them next year.

MR. J. PHILLIP JOHNSON: I take it that doesn't mean that everybody's fees are reduced to \$40?

PRESIDENT NEFF: No, sir. Only in the initial year of admission if you're admitted on or after I think it's July the first year.

If there are no questions, we will move on to the next and last item of business on the agenda this morning, and that is to call on Joe McIntee, Chairman of the Resolutions Committee, to come forward with any resolutions which his Committee has for your consideration. And, again, in accordance with the Assembly rule adopted these resolutions will be laid over and acted on tomorrow. Joe McIntee, Chairman of the Resolutions Committee.

(Applause.)

MR. JOSEPH MCINTEE: Thank you, Mr. Chairman, other people at the front table, fellow lawyers.

There are the following members on our Committee: Garry Pearson from Grand Forks, Mike Sturdevant from Minot, Harold Anderson from Bismarck, and Kermit Bye from Fargo. I believe one more. Harold, who else is on that Committee?

PRESIDENT NEFF: Jon Kerian.

MR. MCINTEE: Jon Kerian. Excuse me, Jon. Jon is just a new member of the Bar, and I didn't know his name.

Incidentally, on our Committee yesterday we had a resolution that two of the members tried to put through. And we finally went down in defeat by the vote of your Chairman. And that was a resolution that there be absolutely no drinking at this meeting. It went down in defeat. And I trust that you appreciate your Chairman for voting "No" on that resolution.

The following resolutions are hereby submitted:

Whereas, the Honorable Robert A. Rushing, retired Dean of the School of Law, University of North Dakota, has served with distinction on the Executive Committee of the State Bar Association of North Dakota during his tenure as Dean of the Law School;

And, whereas, his rational guidance, wisdom and moderation has assisted in charting the course that the Bar Association has taken during the past ten years, and will take in the future;

And, whereas, his services were rendered to the Bar Association at great personal sacrifice;

Now, therefore be it resolved that the State Bar Association of North Dakota by these presents does express its heartfelt thanks and appreciation for his unstinting service as a member of the Executive Committee;

And be it resolved further that the Bar Association expresses to the Dean in its fervent wish for the continuation of a long and distinguished career.

Dated at Grand Forks, North Dakota, this 22nd day of June, 1979.

I would like to read to you the second resolution as being submitted by our Committee.

Whereas, the State Bar Association of North Dakota through its membership is concerned for the quality of justice and all citizens of North Dakota;

And whereas the citizens of North Dakota approved the New Judicial Article amending the Constitution of the State to update the delivery of legal services through the Court system under the guidance of the Judicial Council branch of government; and

Whereas, many hours have been spent by volunteer committees composed of the Judiciary, the Bar, and lay persons to implement the Revised Judicial Article to the Constitution; and

Whereas, the revised plan was submitted to the 1979 Legislature of the State of North Dakota, but failed to pass, which left the Judicial System the same as it has been since 1961 prior to the passage of the revision of the Judicial Article; and

Whereas, it appears to the members of the State Bar Association of North Dakota that funding the Judicial branch of the government at less than one percent of the total budget for all governmental services during the 1979-81 biennium is grossly inappropriate for the delivery of quality justice to the citizens of North Dakota who have need for access to the Courts to protect their interests; and

Whereas, the members of the Bar are firmly in the belief that the plan for restructuring the Court system as presented to the Legislature is and was in the best interests of the State of North Dakota;

Now, therefore, be it resolved by the State Bar Association of North Dakota that the meeting assembled in Grand Forks, North Dakota, on the 21st day of June, 1979, as follows:

(1) That the 1981 Legislature be urged to adopt the recommendations of the Citizens Committees composed of members of the Judiciary, the Bar, and concerned citizens to revamp the delivery of Judicial services to the citizens of North Dakota;

And (2) to adequately fund the Judicial branch of government to assist in the delivery of justice, including appropriate salary schedules to attract competent, qualified, and dedicated persons to serve as Judges and administrators of this important third branch of government;

And (3) that copies of this resolution be sent to the Governor of the State of North Dakota, the Chief Justice of the Supreme Court of North Dakota, the Majority and Minority leaders, Chairman of the Judiciary and Appropriations Committees of the House and the Senate of the 1979 session of the North Dakota Legislature.

Our Committee also would like to present to you for your consideration another resolution.

Whereas, the Honorable Arthur A. Link, Governor of the State of North Dakota, in order to improve the selective process for Judges at the Supreme Court and District Courts to aggressively seek out the best potential Judicial candidates through the participation of the Bench, Bar, and lay public, and to carry out the intentions of the people of the State who passed Section 97 of the North Dakota Constitution, a Judicial Nominating Committee has been created by the Governor by Executive Order No. 1979-6, which was issued June 15, 1979, and

Whereas, the Governor has expressed his appreciation for the participation of the State Bar Association in the Judicial nominating process in the past by asking the State Bar Association's cooperation and support in implementing the State-wide Judicial Nominating Committee by according to it the process of appointing two permanent members to the Committee, one of whom shall be a Judge or attorney authorized to practice law in the State, one citizen who is not a Judge, a former Judge, or an attorney, and one temporary member of each of the Judicial Districts in which a vacancy exists;

Now, therefore, be it resolved that the State Bar Association of North Dakota does hereby express its sincere appreciation and gratitude to the Honorable Arthur A. Link, Governor of the State of North Dakota, in furthering the cause of justice by his Executive Order No. 1979-6 issued June 15, 1979, which assures Judicial selection on a basis of merit.

Dated at Grand Forks, North Dakota, this 22nd day of June, 1979.

Another resolution which our Committee submits to the body is as follows:

Whereas, the 79th Annual Meeting of the State Bar Association of North Dakota has been hosted by the Grand Forks County Bar Association and the City of Grand Forks; and

Whereas, the arrangements, accommodations, and facilities have been handled in such a manner so as to make the Annual Meeting both pleasant and successful;

Be it hereby resolved that the State Bar Association extends its sincere appreciation to the Grand Forks County Bar Association, the members of the Special Annual Meeting Committee, and the City of Grand Forks.

Dated at Grand Forks, North Dakota, this 22nd day of June, 1979.

Is Garry Pearson here? Garry, do you have any more resolutions with you?

MR. GARRY A. PEARSON: I'll have mine later.

MR. JOSEPH McINTEE: Thank you. Thank you, Mr. Chairman.

PRESIDENT NEFF: Thank you very much, Joe.

Garry, you can't be much later, otherwise it will be too late.

MR. PEARSON: Is there a vote on that?

EXECUTIVE DIRECTOR GILBERTSON: Vern, I was just going to reiterate what I had mentioned earlier. The buses will be leaving approximately 11:15, that is in about ten minutes, for the Auditorium.

The eye opener is scheduled for 11:30 at the Auditorium, and the luncheon-style show will follow at 12:00 Noon. We will have buses returning to the Ramada Inn at 1:15 and at 2:15.

Thank you all for coming.

PRESIDENT NEFF: One last announcement. We have mimeographed off a limited number of Governor Link's Executive Order creating his Judicial Nominating Committee. If you've interested in having a copy and reviewing it, please come to the front desk.

This Assembly is recessed until 1:45 tomorrow afternoon. Stand in recess.

(Whereupon, the General Assembly meeting was recessed at 11:12 o'clock A. M.)

FRIDAY JUNE 22, 1979

(Whereupon, the proceedings commenced at 1:48 o'clock P. M. as follows:)

PRESIDENT NEFF: I now declare the second session of the 79th Annual General Assembly of the State Bar

Association of North Dakota in session.

Is Bruce Bohlman in the hall? We have some committee reports to receive which will be delivered orally. We've asked Mr. Bohlman to deliver the report of the CLE Committee, to be followed by the report of the CLE Commission. We would prefer to have it in that order if Bruce can be located.

MR. GEORGE LONGMIRE: Don't see him here, Mr. President.

PRESIDENT NEFF: At this time it's my pleasure to introduce Jack McDonald, the CLE Director for the CLE Committee for the State Bar Association of North Dakota for his report on Mandatory Continuing Legal Education in North Dakota in the past year. Jack, please.

(Applause.)

MR. JACK McDONALD, JR.: The 1978-79 report is the first report in the packet of reports that was in your registration folder. So I won't read the report. I will just mention very briefly that we did have in the last year, covering our year let's say from Bar Convention to Bar Convention, from May, 1978, to May, 1979, we had six CLE Committee meetings during that period and we sponsored five CLE seminars. We had a seminar June 14 and 16, 1978, at the Annual Meeting in Minot. There were 277 attorneys registered and attended those sessions. We gave 5.7 hours of CLE credit and we used seven North Dakota attorneys as faculty members.

We had the UND Homecoming CLE seminar in Grand Forks October 20, 1978. Ninety-seven registrations, six North Dakota lawyers as faculty members, six CLE credits given.

We co-sponsored the December 1, December 2, 1978, CLE seminar on Probate which the section on Real Property, Probate and Trust Law. We had 394 attorneys attend that. We used twelve North Dakota attorneys as faculty members. And we awarded nine CLE credits.

We had a seminar February 16 and 17, 1979, in Bismarck. Civil Trial Skills. We had twenty North Dakota attorneys as faculty members. We had 170 North Dakota attorneys attend. We had nine and a half CLE hours.

Last April, April 27, we had a Bankruptcy seminar in Jamestown. It was planned by Bob Fiedler, a North Dakota native who is now with the Senate Judiciary Committee as a legal counsel. We had 127 attorneys attend that, and 6.5 CLE credits were awarded.

We plan that the North Dakota CLE Committee will have at least three more CLE seminars this year, 1979. It has a tentative slate of at least seven seminars scheduled for 1980. The first in what we hope will become an annual seminar will be held in Bismarck September 27 and 28. I think this is going to be a very good seminar. This is going to be what we are going to call The Bench and Bar. North Dakota Bench and Bar CLE Seminar. And after this year we hope to add "Annual" to those words. So that it will be The Annual Bench and Bar CLE Seminar. This year it will feature a nationally-known CLE Professor, Professor Younger. Professor Younger is a Professor of Law at Cornell University. And this will be a two-day seminar, and we'll offer 13 CLE credits for those two days. The two days will be Thursday and Friday, September 27 and 28. In addition, that Wednesday evening we will be having some videotapes that will get you CLE credit on legal malpractice and on recent North Dakota Supreme Court decisions. There will be a total of two hours of CLE videotape shown on Wednesday night. So if you are in town on Wednesday night you can get those two hours, and you can get 13 hours on Thursday and Friday.

We're going to have some nationally-known speakers on Judicial policy setting, rulemaking, juvenile law, some recent trends from the U. S. Supreme Court decisions, on Thursday. And then on Friday will be Irv Younger. You will get brochures in the mail on that shortly. I think there's a brochure in your registration packet, also.

On October 19, 1979, that's our Annual Homecoming Seminar up here in Grand Forks, we will have Neil Harrell, Professor and lawyer from Iowa, who is a nationally-known speaker, on farm, estate, and business planning. And he'll give a one-day CLE seminar in Grand Forks on October 19 of this year. Garry Pearson and Bob Dahl will be participating with him on that.

Then we'll also have our usual Real Property, Probate, Trust Seminar in Fargo. This year it will be on December 7 and 8, December 7 and 8, 1979. The topic this year will be Real Estate.

We are also going to be planning for the next year something new over the winter. And we will be sending out information to you. And the exact details will depend upon the response. But we would try an out-of-state, so-called warm-weather CLE seminar. And through Joel Gilbertson and the Bar Association offices, and through the Nevada State Bar Association, we are tentatively planning on a seminar that will be in Furnace Creek, California. Furnace Creek is just a little ways outside of Las Vegas, and it is in the Death Valley area. And what we will have is two days of CLE seminars in Furnace Creek, and then two days in Las Vegas. This will be in January of 1980. And it will be in conjunction with the Nevada Bar Association. And we would be doing our CLE along with the Nevada Bar Association. Nevada attorneys would be attending it, also. We do not know the exact topic yet, but it will be something that would be compatible with both Nevada lawyers and North Dakota lawyers. Probably should be domestic relations and divorces. And we don't know yet if we are going to have a charter flight going out, if we are going to have commercial, or what the situation will be. A lot will depend on the response we get from North Dakota attorneys. We don't know if we are going to have twenty or a hundred or a hundred twenty or eighty or how many people would be interested in doing this. But we will send out some questionnaires to you, and we will find out and will let you know more about that later.

We are also planning on having some smaller seminars in some of the other towns around the state, perhaps out in the far western areas of Williston, Dickinson, and some of the other cities who have not had seminars. We hope to use portions of the seminars we gave earlier in those cities.

We are also conducting some tentative plans with the Wisconsin and Illinois Legal Education Associations to have some CLE programs through what is called The Educational Telephone Network. The University of North Dakota Medical School has what they call an ETN or Educational Telephone Network. They have telephone hookups in eighteen cities now in North Dakota. It's kind of a speaker phone, conference phone type of operation. They have medical seminars. These are in the hospitals and clinics. And they have medical education seminars on these where the Professors at UND Medical School lecture to the doctors and nurses and interns in the different towns. We can use that. Illinois and Wisconsin are going to conduct a series of CLE programs jointly in October and November on some common topics, not necessarily so specific to those states, on telephone network systems that are being set up in those two states. We're going to try to get into UND Medical School's telephone operation so that perhaps in October we'll be able to offer you an evening of probate law or tax law that you can maybe go to Rugby or Valley City, or even in some of the smaller towns, Hettinger has a hookup, for instance, as well as the big cities such as Dickinson, Bismarck, Minot, Grand Forks and Fargo. So there will be some different locations you can go and get some CLE credit perhaps in a specific subject area. And it would be a small amount of CLE. It would maybe be three hours of credit for one evening of listening.

We always appreciate the cooperation we receive from North Dakota attorneys, both in the attendance and

particularly in serving as faculty members. We hope you'll continue to give us your cooperation. And we hope, also, that you'll continue to give us any suggestions, criticisms, comments, ideas you might have about past CLE programs or any future CLE programs.

One last point, in that if you have any questions concerning CLE programming, myself or Bruce Bohlman would certainly be able to handle them for you. If you have questions concerning CLE credits, whether certain programs you are going to be accredited for North Dakota, you should address those questions to Joel Gilbertson through the Bar Association office. Joel is Secretary of the CLE Commission. And it's actually the North Dakota CLE Commission that decides how many hours of CLE credit you'll get for attending the seminar that you attended in Wisconsin or Illinois or someplace like that. So if you have those kinds of questions you should address those to Joel Gilbertson. If you have some questions about CLE programs in North Dakota, myself or Bruce Bohlman would be glad to answer them. Thank you very much.

(Applause.)

PRESIDENT NEFF: Thank you very much, Mr. McDonald. The CLE Committee and its Director are certainly to be commended for the prodigious amount of work that they have put in on our behalf in this past year.

Are there any questions? Having in mind that the same rule announced the first session yesterday still stands, and that is that you identify yourself for the record so that the reporter can get your name. Are there any questions of Mr. McDonald, the Director of the CLE Committee, or of any members of the Committee who are in the room?

If not, moving on, at this time it's my pleasure to introduce the Chairman of the Commission for Continuing Legal Education. And this individual has worked for a number of years in the field of CLE in North Dakota. And he and the Commission have acted on nearly 250 requests for course accreditation over the past year. And at this time it's my pleasure to introduce, and would you welcome, please, John Olsrud of Bismarck, Chairman of the Commission for Continuing Education. John.

(Applause.)

MR. JOHN D. OLSRUD: Thank you, Mr. President, members of the Bar.

I serve as a member of the Committee on Continuing Legal Education and as Chairman of the CLE Commission. And there's often a confusion of the two. But today I'm going to report for the Commission.

The Commission is charged with administering the rules which were adopted by this Association and approved by the Supreme Court. This last year has been our first year of implementing those rules. We have spent an awfully lot of time on mechanical aspects of implementing the rules. I don't want to bore you with that. I did include some of the details in the written report. If you're interested in that kind of thing, you can certainly look at that.

I thought I would take the time today to say what I thought would be of more interest to you and just give you a little idea as to how we proceed with the applications that you are sending in. When I got involved in this I had no idea of the ingenuity of the members of the Bar in seminars and so forth that they find around the country. I think that it's a common conception that members of the Bar are attending courses put on by this Association, and that is their CLE experience. Well, those of us who have served on the Commission have found out that that may be the rule in the majority of cases, but there are an awfully lot of you who are going all over the country attending seminars put on by a number of organizations.

The rules provided presumptive approval for courses put on by Bar Associations, accredited Law Schools, the American Bar Association, and the Practising Law Institute. If you attend a seminar put on by any of those organizations, you don't have to apply for credit. It's presumptively approved. The Commission has taken the position that we will not get involved with making judgments on those unless the issue comes to us. But we prefer, in fact, that you not apply for credit, because we have plenty to do without those kinds of applications.

There are seven members of the CLE Commission. And the members are listed in the report, on the letterhead in the report in your packet. I won't go into that. But those seven Commissioners have done the screening, the actual screening, of the reports as they come in. Now the reports come in to the Bar Association office, as Jack McDonald reported. And Joel Gilbertson has done some initial screening. And I guess in obvious cases if somebody attends a seminar put on by this Association he informs them that it is already approved. But the other members of the Commission have taken turns in screening applications. We all take a couple of months. And when applications come in to the Bar Association office, Joel sends that application to the assigned Commissioner for that period. That Commissioner then makes an initial determination. If he approves, if he or she approves, the course or says, "No problem," that Commissioner has the authority to notify the individual that his course had been approved. If he has a question, if he thinks it should not be approved, or it's doubtful, he or she sends copies to all the other members of the Commission. And it takes an absolute majority or four Commissioners to vote no to refuse credit. We try to make all the presumptions in favor of the applicant. If a majority of the Commissioners just don't bother to open their mail or they don't respond, the course will be approved. There are problems with that. There are problems of precedent being created of courses by inaction of the Commission. But the Commissioners we've had have been very good, very active. And as far as I know we haven't had that kind of thing happen.

If an application is turned down the applicant has the right to request a hearing. The rules don't require it. The members of the Commission established that in guidelines, that there will be a hearing if the applicant requests it. We have only had one hearing to date. There were something over or in the neighborhood of 250 applications the first year. The vast majority have been approved. Some were disapproved. I don't have the exact number, but I don't know how relevant that is.

Of 260 reports sent in, the people with last names beginning with A through G were required to report at the end of 1978 for 15 hours of credit. Of those 260 reports the Commission reviewed all of the reports and found only three that were lacking. And of those, one individual has met the deficiency, the other two claimed extreme hardship. There were problems, and they explained them. And the Commission has voted to give them additional time to meet the requirement as the rules permit for 1978.

In my opinion, the rules are working. And I believe there has been general acceptance of the concept of Mandatory Legal Education. I think the initial problems, the mechanical aspects, are going to work their way out. I foresee that the Commissions in the future will not spend nearly as much time as we have had to do on those aspects.

So I'd be happy to entertain any questions, if there are any.

PRESIDENT NEFF: Thank you very much, John, for that very fine report. And I think it indicates to all of us the great amount of work that they have put into this area. Are there any questions of Mr. Olsrud or members of the CLE Commission?

If not, Chairman of one of the Committees that I know has concerned all of us a great deal and past several

years is the Committee on Professional Responsibility and Insurance Chaired by Ray McIntee of Williston. And Ray and his Committee have devoted a great amount of time, have accumulated a great amount of material, have written a lot of letters, engaged in a lot of correspondence and telephone calls on our behalf in this very complicated area. And at this time would you welcome to the roster, please, for the report of his Committee, Ray McIntee, Chairman of the Professional Responsibility and Insurance Committee.

(Applause.)

MR. M. R. MCINTEE: Thank you, Mr. President. I was somewhat dismayed when I looked at my packet and discovered that my report was not in the packet and thought I was being discriminated against until I received a telephone call yesterday morning from my secretary and she says, "You remember that letter that went to Joel Gilbertson a couple weeks ago? It just came back." Because of a typographical error in the Zip Code, if you please, they brought the letter back from Bismarck unopened. I wasn't aware that there was more than one Bismarck in the state, but apparently there is. So the Special Delivery letter was shown to Joel to be sure that he knew I wasn't kidding.

We've had many meetings of our Committee. Unfortunately, I was the only one in attendance this past year. But we have had, as our President just indicated, a great deal of correspondence dealing primarily with the professional liability insurance area in malpractice. I'm happy to report to you that there is a move toward a more favorable climate for lawyers' professional liability insurance by the emergence of Bar Association captive insurance companies. As you all know, the Harold Diers Company, with Shand-Morhan as the carrier, has the insurance program for our Association. And that the 1979 rates have not been increased over those in 1978. As a matter of fact, Bob Diers, who is here today to support me on this, tells me that the rates for 1979 are going to be reduced retroactive to January 1 of '79. Those of you who have paid your premiums can expect a substantial reduction in your premiums. And you will receive a refund on it. I'm not sure just what that amounts to. Bob could probably explain that a little bit better. I would like to have him take a couple minutes and appear here before you in the event that there are some questions.

Also I'm pleased to tell you that the Harold Diers Company tells me that there have been no new claims reported for 1978 over that of the previous year. I did attempt to secure from our State Insurance Commissioner last week the information as to claims from any other carriers. My first inquiry they reported that they were surprised that they even had such a report to give. However, a check and they discovered that the new statute did provide for it. However, they did not call me back, so whether that indicates there were no other claims made, I am not sure.

For those of you who have St. Paul Fire & Marine coverage, I should also tell you that they have lifted the moratorium on new business in 19 of the states. North Dakota is not in that 19. However, the moratorium in North Dakota will be lifted as soon as the pending filings of prior endorsements have been approved. So I think the climate for our professional liability insurance is looking up. We can expect a number of other companies who are going to be interested in this. They've now got some experience these past years of the climate for coverage. And I think that we're going to see a reduction in rates across the board.

Also in another field, and that is our Blue Cross-Blue Shield, State Bar Association-sponsored insurance, there has been a rate reduction effective April 1 of this year. And I am sure all of you have received notice of that.

I know there's some that have felt that the premium is not much better than a bank group coverage. However, we feel that it is competitive for the quality of coverage that has been provided.

Your Committee has not seen fit to search for a different carrier for our State Bar Association-sponsored life insurance program. I think the prime reason was that we have gone through this many, many times in the past years. As you know, a substantial dividend is provided to the Bar Association. And in talking to Bob Diers here just before lunch it would appear that we're going to have in excess of \$5,000 refunded to the State Bar this year.

That pretty well covers our Insurance Committee report. Are the members of my Committee here? Tom Wentz I know I met with. I had a little difficulty finding Paul Pancratz and Russ Myhre here. But if they are, I want to thank them for their help. It was done primarily by correspondence this past year. And I think worked out very well. The necessity of expensive meetings was eliminated.

And that is my report, Mr. President.

If there are any questions, Bob Diers is here. And not only was he here, did he fly in from California to make this meeting this afternoon, but when he told me he was primarily concerned when we walked in the door about finding a check which he said was supposed to be delivered here to pay for the cocktail party this evening, and when he couldn't find it I was especially concerned. But he found it, he tells me.

So that is my report, Mr. President.

PRESIDENT NEFF: Thank you very much, Mr. McIntee, for that report.

Is Mr. Diers in the area of the room? Would you please stand, and everyone can now recognize you? And if you have any questions to direct to him, we'll ask him to come forward to the roster. Are there any questions of either the Chairman of this Committee or Mr. Diers?

MR. MCINTEE: You have something, Bob, you would like to convey to them at this time?

PRESIDENT NEFF: He flew a long distance, he's certainly entitled to a question or two.

MR. ROBERT DIERS: I will just back up the one thing about the malpractice rates. There was a great deal of time put in on everyone's part this year to get some relief from the escalating rates that we've all felt in the last three or four years. For those of you that heard me in Winnipeg, at that time we could see a trend that none of us liked, and I'm not sure was actually safe. We have gotten the Shand-Morhan Company to go along with a retroactive rate decrease. As soon as it is approved by the Commissioner in Bismarck. That may entail a trip by me to go up there and see what we can get done on the rates.

The one question that does come up is how do we rate a malpractice policy? And especially a claims made policy that is being sold in North Dakota. It is simply this; the claims made policy to your Association covers prior acts under two conditions: If you have no previous knowledge of any act that could cause a malpractice claim, or you have no other collectible insurance. If you're satisfied with either one of those two statements then we will cover all prior acts.

Now when I talk about a rate reduction, let me just make this one comment. Let's use the example of the 1978 rates which we are currently using; 100,000/300,000 aggregate, professional liability, \$1,000 deductible, annual premium \$292. The rate filed with the Commissioner for that same coverage now is \$225. Now for those of you that have million, half million, so on, so forth, you can see there is going to be a substantial decrease in the rates. There will be a letter sent out to everyone explaining how we came up with the premium. And if there is any question for

you, those of you that have called our office, we have a very competent staff full-time on lawyers' professional liability.

Thank you very much, Mr. Neff.

PRESIDENT NEFF: Thank you very much.

MR. HARRIS P. KENNER: I have a question of Mr. Diers. At the present time we have liability coverage that is not the claims made type. But we can't get our liability limits increased. Do you have an umbrella policy now or some policy so we don't have to drop what we have got and still add increased coverage?

MR. DIERS: Yes, sir. On your policy through the Association there is a personal and a business umbrella that will now go up to \$10 million.

MR. KENNER: Thank you.

PRESIDENT NEFF: Are there any other questions?

A few weeks ago I had an item that crossed my desk which indicated to me that when an innovative insurance industry combines with an innovative legal profession you can get some rather interesting results. But this information that passed my desk was to the effect that this insurance company was not providing malpractice insurance for the clergy. And this came about because a member of the clergy had advised this lady that she should get a divorce. And she went home and she told her husband that this was the advice she received. And he became so irate that he punched her in the nose and broke it. And wouldn't you know she sued the clergyman rather than her husband. And this was then, of course, one of the bases for now soliciting the clergy for this type of insurance.

Moving on to the next agenda item, I'm particularly pleased to introduce the Law Day Chairman who Chaired the very successful and innovative Law Day program that we had this past May 1. And at this time it's a pleasure for me to introduce, and would you welcome to the roster, please, Dick Gross, Chairman of the Law Day Committee for the State Bar for this past year. Dick.

(Applause.)

MR. RICHARD J. GROSS: Thank you, Mr. President.

Most of you have probably read President Neff's report in *The Gavel* indicating that of the responses we received about 78 percent of those who had anything good or bad to say thought the program was good, and about 22 percent had only negative comments to make. I went through those cards again last night to get a more specific reading for you. And I just want to report on that. We sent out somewhere around 900 cards to the attorneys in North Dakota and got around 300 responses. Of the 300 responses only 31, or about 10 percent, under 10 percent, were opposed to the concept. The remainder, even those giving mostly positive comments, had some negative comments in three areas that I want to address rather quickly. One is not adequate publicity. And I'll get into the other after that one.

In terms of the publicity, I think you have to get some sort of a time perspective on this. The whole concept was adopted by the Executive Committee in January of this year. In February I prepared an outline as to where we were going to go. By the end of February we had sent out a letter to all of the attorneys in the state asking them to respond if they would not participate. And by March 15 we had those responses. And only then could we start our advertising. We then started it in terms of a press conference at which the Governor, the Chief Justice, and President Neff were present. And it was at that time the Governor signed the Proclamation. The Chief Justice announced that the Courts of the State would be closed, at least as far as a hearing went, and our President announced to the public what the Bar had proposed for May 1.

We then sent three press releases out to be released each Monday for three Mondays prior to Law Day, which was Tuesday, May 1. So we did get quite a bit of press in that instance. We also sent out public service messages and asked the electronic media to cover during the week prior to Law Day as much as they could the fact that we were providing this service.

We wrote a series of letters to all District and Local Presidents, to Local Law Day Chairmen, indicating what they could do at the local level. And we offered help for any ads that any Local Bar Association might want to put in the papers or on television. Some of the Local Bar Associations took us up on that.

In addition President Neff was contacted by the media, as were many local Law Day Chairmen, Local Bar Presidents, District Presidents, and myself, for comments on the news both prior to and during Law Day. There was nation-wide and, in fact, a world-wide AP press release on our program. We know that because so far we have heard comments from the States of Washington, Colorado, Oregon, Minnesota, and from South China. There was an article on the front page of the *South China News*. And according to the information we have that's the largest English language newspaper in the Orient. So I guess my response, then, to those who felt that there was not enough publicity is that I really don't know, given the amount of time and the amount of money we had, how we could have gotten more. And if publicity was the problem in terms of some attorneys not having enough turnout then I don't know how to correct that problem. And I would appreciate some input from any of you.

Aside from that, when we did try to correlate the responses we received with the numbers of people seen there did not seem to be any correlation whatsoever between the amount of publicity in any particular area and the turnout. Some attorneys had no takers, and some had thirty-three. And it was not, again, from our indications, because some of the attorneys who did send their responses in did sign them, and so we knew where they were coming from at least. And when we compared that with the news releases that we saw, or the news items that we saw, at least, there didn't seem to be a relation between publicity in greater or lesser amounts.

A second comment made was that the program the way it was run misled the public into believing that attorneys did not do this on a fairly regular basis. My response to that is that I realize many attorneys do this type of a thing on a regular basis. But nobody knew about it. I submit no one in the public other than two percent of the people, maybe, knew that attorneys provide any free legal services or free legal consultations. And whenever any of the local Bar Presidents, local Law Day Chairmen, or myself, were questioned by the media, or in our press releases, we indicated in all of them that this was really something very commonly practiced by attorneys in the State. So it seems to me that rather than misleading the public, for the first time we have at least to a certain extent informed them that many lawyers do provide this on a fairly common basis.

And then the third comment I somewhat touched on already, and that is that there was not enough public response. Well, an additional remark in that context is that of the 300 evaluations we received back, if those are an accurate cross-section, — and I have no way of knowing that they are — 300 lawyers saw approximately 900 people. If you multiply that by three, 900 lawyers saw 2700 people. Three hundred lawyers donated 457 hours on Law Day. Multiplied by three, twelve, 1300 hours donated as a public service.

For your benefit, I have some visual aids over here which any of you are welcome to come and take a look at. They are all the responses we received on the post cards. All of the press releases and materials that were a part of the outline for Law Day is on another stack. And these are copies of some 60 different news or advertising items that appeared in the print media alone in North Dakota only. And these are just some of the items that appeared. So we did get an awful lot of publicity, both paid for, and mostly unpaid for. This is a copy of the front page of the South China News with our little article right in the middle indicating what we were doing on Law Day.

One other thing we're, obviously primarily because of many of the comments received, at least the favorable ones, we're considering doing something like this or maybe this same type of thing for next year. I would certainly, and I'm certain our Executive Committee members would, like to hear from the individual members of the bar to find out what their feelings are, whether we should do it next year again. And any suggestion you might have to improve it. This was an experiment, obviously. It's the first time any State Bar Association in the country has tried anything even close to it. And as far as I was concerned we got just a fantastic turnout. We got good public relations and an average of three people per attorney for the first time.

That's all I have. I'd be happy to answer any questions.

MR. M. R. MCINTEE: My experience was that we had more people than we had time. And then it became necessary to extend that into another day or two. And I wonder if any of the rest of the attorneys may have had an experience like that, and if they did extend it into another day in order to take care of all of the inquiries?

MR. GROSS: Okay. I don't know if all of you heard that. He indicated that they had more people than they had time for and had to extend it into another day, and were wondering whether any other attorneys had that same or a similar experience. Any comments?

EXECUTIVE DIRECTOR GILBERTSON: I have got a comment. There were several, there were about five, lawyers that mentioned on their cards they were out of the office on May 1 and they opened their office on a different day, either Monday or Wednesday, the day before or the day after Law Day. So apparently there were some that worked it that way.

MR. GROSS: I guess just one additional comment. Seeing Joel and hearing him made me think of it. While I prepared the materials and the press releases, that type of thing, that went out, the amount of materials that did go out and to all of the media and to the lawyers and District Bar Presidents, Local Bar Presidents, Local Law Day Chairmen, all went through Joel's office. They put out a tremendous amount of work in a very short amount of time with very little notice. And if you're wondering whether your new Executive Director is doing a good job, I think he's doing a heck of a job.

Anything else?

Thank you.

(Applause.)

PRESIDENT NEFF: Thank you very much, Mr. Gross, for that report, and for also doing a very fine job on that Committee.

It's also appropriate before we leave this subject that I express on behalf of all of us of the State Bar Association to Chief Justice Erickstad our thanks for the cooperation from the Judiciary on Law Day, and also to express our thanks collectively to Governor Link for his participation in making the day a unique and special one in North Dakota, and I think also for encouraging the members of our Association that are in government service to provide free consultation to other employees of State government on that day, and certainly for permitting Dick Gross, who is in government service, to be of service to our Association as State Chairman of this event. I think all of those are matters and items that we should recognize on the record of these proceedings.

For the past several months our Executive Director has been involved in working with members of the staff of the Governor's office in promulgating a workable form of Judicial Nominating Committee. And at this time I'll call on our Executive Director, Joel Gilbertson, for a report on this matter. Joel.

EXECUTIVE DIRECTOR GILBERTSON: Thank you, President Vern. I didn't get a chance to catch Dick. I just want to tell you, Dick, thank you for those comments. And your check is in the mail.

I've got the Order here, and we have copies of the Executive Order, which was — let's see — it's dated last Friday. And it was signed on Monday. So as far as the dates and times and so forth, they are counted from Friday, but the Order wasn't actually signed and released until Monday.

Before I read the Order, and as I say, I have got copies here, I want to give just a real quick background on the Judicial Nominating Commission, the problems and the rocky road, I guess, we have had. That road is far from over. But when Section 97 of the Constitution was passed, which was a part of the New Judicial Article, it called for a Judicial Nominating Commission. Subsequent to that in the 1977 Legislative Assembly a bill passed the House, and was defeated, killed, in the Senate, which would have set up the Committee. Subsequent to that an Interim Committee was set up, studied the matter for two years, refiled the Bill with the '79 Session. The '79 Session considered it, the Bill was submitted, it was amended by the House to include the Governor as one of the appointing authorities. The Bill then provided that the Chief Justice, the President of the State Bar, the Speaker of the House, would be appointing authorities, and the Governor was added. That got over to the Senate and did not receive a rousing welcome. In the Senate it was pretty much, I guess, a foregone conclusion that if they amended it back to the original form and took the Governor out it would be vetoed by the Governor. Indeed, that's what did happen; they amended it, the Bill passed by both Houses, and the Governor vetoed it. The Governor has a very strong feeling about — is very concerned about an effective, competent Judiciary. And so immediately began to study setting up a Judicial Nominating Commission.

The Commission itself would appear to be quite important. However, other events have made it appear even more important than one might think. And those events primarily are the fact that the Legislative Assembly authorized five new District Judges for the State of North Dakota. And then, of course, just recently a few weeks ago the untimely death of Judge F. Friederich in Rugby has added another to that list of Judgeships that's available. So we have quite a number.

Okay. I'll quickly read, with just a short editorial comment on some of the sections, the Executive Order.

In order to improve the selection process for Judges of the Supreme Court and the District Court, to aggressively seek out the best potential Judicial candidates through the participation of the Bench, the Bar, and the lay public, and to carry out the intentions of the people of this State to pass Section 97 of the North Dakota Constitution, a Judicial Nominating Committee is hereby appointed.

The purpose of the Judicial Nominating Committee is to secure high quality of persons for Judicial office through the process of recruiting, screening, nominating, and submitting to the Governor a slate of qualified

candidates eligible to fill Judicial vacancies.

I will reiterate part of this: "the process of recruiting, screening and nominating." We had — in discussing this with the Governor's staff, we had quite long discussions about the role of the Committee. And it was decided, and with no dissenting votes, it was decided that the Committee would not only interview and not only help select, but would actively seek Judicial candidates.

The Judicial Nominating Committee for vacancies in the office of District Court Judge shall be composed of six permanent members and three temporary members to be appointed as follows:

We have the ongoing problem with local input. Obviously selecting a District Judge that would be chambered in Grand Forks, for example, the Judicial District, which I guess is the Northeast Central Judicial District, is very concerned about who they get for a Judge. So establishing a state-wide committee, which is also important, to have an ongoing procedure for selecting candidates, we would miss something, we felt, if we did not have the local input. So the scheme that arose and came out of our discussions and is on the Order is a scheme whereby there are six permanent members on the Committee, that on a state-wide basis they have terms of — alternating terms of from one to three years, and there are also three in a District Judge position, there are three temporary members. Those three members, one appointed by each appointing authority, they are each taken and selected from the Judicial District involved. Okay.

The permanent members, the Governor of the State of North Dakota shall appoint two members to the Committee, one of whom shall be a Judge or an attorney authorized to practice law in the State, one citizen who is not a Judge, former Judge or attorney. The Chief Justice of the State of North Dakota shall appoint two permanent members. The same thing goes: one nonlawyer and one who is a Judge or attorney. And the President of the State Bar Association shall appoint two permanent members. The term of each permanent member shall be three years or until a Judicial Nominating Committee is established pursuant to Section 97 of the North Dakota Constitution, whichever comes first.

Initially, as determined by lot, two members shall serve for one year. At the end of the permanent member's term the appointing authority will appoint a successor. A vacancy in the permanent member's term shall be filled by the appointing authority for the remainder of the term. The Governor shall designate one of the permanent Committee members as Chairman.

Temporary members. Each appointing authority shall appoint an additional member from the Judicial District having a vacancy to serve on the Committee for the time necessary to fill the vacancy.

The Order deliberately does not state whether that person, that additional person, or the additional three, actually, on the Committee will be a lawyer or a nonlawyer. And, as I say, deliberately because we avoided the issue altogether and said it is up to the appointing authority if they want to appoint a lawyer, a Judge, or a citizen member, nonlawyer.

If two or more vacancies in the office of District Judge occur in one District at the same time one Committee composed of six permanent members and three temporary members from the District may submit a combined list of candidates to the Governor. Likewise, if two or more vacancies occur in the office of Supreme Court Judge at the same time one Committee composed of six permanent members may submit a combined list of candidates to the Governor.

Upon receiving written notice from the Governor that a vacancy in the office of Judge exists, the Chairman will convene the Committee within ten days. Executive Director of the State Bar Association or his designee will serve as nonvoting Secretary of the Committee. The Committee should submit a list of three names to the Governor for consideration within thirty days after its first meeting. Each nominee for Judge of the District Court must have the approval of seven of the members of the Committee. Each nominee for Judge of the Supreme Court must have the approval of five of the members of the Committee.

If there is an opening in the Supreme Court the Committee will consist of six members, because we won't have any temporary members. It will be the six permanent members. So therefore the number of votes is less.

No member of the Committee shall be considered as a candidate during the member's service on the Committee.

I urge the Committee to carry on a continuous program of attempting to identify candidates for the Bench. I recommend close cooperation between the Judicial Nominating Committee and the State Court Administrator, the Clerk of the Supreme Court, and the Officers and Executive Director of the State Bar Association. I ask that the expenses of the individual Committee members in conjunction with travel, lodging and food while attending the meetings be assumed by the offices which make the respective appointment and that the general expenses of the Committee be assumed by the Supreme Court. The minutes and records of the Committee shall be filed with the Clerk of the Supreme Court. This Order is effective Friday, June 15, 1979. Executed at Bismarck, North Dakota, this fifteenth day of June, 1979. Arthur A. Link, Governor.

I'll just conclude by stating that we ask your support and certainly urge local Bar Associations to take an extremely active role in identifying Judicial candidates. If there is anything that our office, the State Bar office, the Executive Committee, and the officers can do to assist you, by all means give us a call.

And now President Neff has this week been in consultation with President-Elect Jon Kerian concerning these appointments. And he will now, if there are no questions, will announce those appointments of the Judicial Nominating Committee subject to the approval of the Executive Committee, which will meet tomorrow morning. Are there any questions? Thank you.

(Applause.)

PRESIDENT NEFF: Thank you, Joel.

The letter which accompanied the Executive Order dated June 15, 1979, and addressed to the President of the State Bar Association said:

"By the attached Executive Order I'm establishing a state-wide Judicial Nominating Committee for North Dakota. I have appreciated the participation of the State Bar Association in the Judicial nominating process in the past, and I am again asking for your cooperation and support in setting up this state-wide committee. As you know, there were five new Judgeships authorized by the 46th Legislative Assembly. These appointments must be made by the Governor within ninety days of July 1, 1979. Also a Judicial vacancy exists in the Northeast Judicial District due to the recent and untimely death of Judge Ray R. Friederich. Because we are faced with such an unusual large number of appointments, the timetables set forth in the attached Executive Order may have to be speeded up in order to fill these vacancies as soon as possible. I urge you to make the indicated Committee appointments by June 25, 1979. As soon as the Committee members are appointed I intend to notify the Committee Chairman in order that the Chairman may convene the meeting. As stated in the Order, you should appoint two permanent members to the Committee and one temporary member for each of the following Judicial Districts: Northwest Judicial

District, new Judge to be chambered in Minot; Northeast Central Judicial District, new Judge to be chambered in Grand Forks; East Central Judicial District, two new Judges to be chambered in Fargo; South Central Judicial District, new Judge to be chambered in Bismarck; Northeast Judicial District, Judicial vacancy caused by death of Judge Ray R. Friederich. I deeply appreciate your cooperation in this matter."

And it is signed by Governor Arthur A. Link.

As Joel has indicated to you, this was received the first day of our Annual Meeting and was hand carried from Bismarck. I've been in consultation with your President-Elect Jon Kerian and members of the Executive Committee and other lawyers that are in attendance. And complying with the Governor's Executive Order, we have asked Joe McIntee of Towner to be the lawyer member of the state-wide Judicial Nominating Committee and be the permanent member, and Stella Fritzell from Grand Forks to be the other nonlawyer permanent member of the state-wide Committee. And both of those individuals have accepted that appointment. The temporary vacancies for the various Districts, for the Northwest District, Minot, Ella VanBerkom has accepted appointment as a temporary appointee to that Committee for that District, Robert L. McConn from Grand Forks to serve on the Northeast Central District, and the East Central District, Bismarck, Leonard Bucklin, and the Northeast District, Rugby, A. S. Benson. All of those individuals have been contacted, and all have agreed to serve. And with those announcements, then, as you have input and information that you desire to provide, these are the individuals who will comprise the Bar Association's nominees, both permanent and temporary, to the Judicial Nominating Committee as established by the Governor. As indicated by the Executive Director, these names will be submitted for confirmation at the Executive Committee meeting tomorrow morning.

Are there any further questions?

I'd anticipated some, and my response was going to be that perhaps it might be easier to nominate Judges than it would be members of the Committee.

Moving on to the next item of business, the American Bar Association, as you know, has been struggling with a number of difficult issues for many, many years. And our very able Association ABA Delegate has attended those sessions. He's our able spokesman and representative in deliberative bodies of the American Bar Association. And at this time would you welcome to the roster, please, our Association ABA Delegate Bob Dahl. Bob.

(Applause.)

MR. ROBERT E. DAHL: President Vern, President-Elect Jon, members of our illustrious Association. I think we get an application of Peter Principle here. How long do you want this meeting to last, Vern? I'll see that it does.

I was very interested in hearing the comment about the possibility of our going to Las Vegas. And the first thought that struck me is do you think part of the instruction may be how to fill an inside straight? That didn't go over worth a damn, did it?

A MAN: Don't know what a straight is.

MR. DAHL: I am not going to give you a lot of harrangue about what goes on at the ABA. I'd prefer to give you a little information on the ABA itself. North Dakota is one of the states in the union that has the largest percentage of membership in the ABA. And I would venture to guess that as I look over the audience here probably 80 or 90 percent of you do belong to the ABA. And for that I thank you, and also I congratulate you.

I think we have to accept the American Bar Association as a volunteer association of lawyers that does actually, whether we like it or not, speak for the American lawyer. As far as the public is concerned the American Bar Association does represent the American lawyer. And of those of you who belong to a political party or to a church or to almost any organization and you participate in it, I think you will all agree with me that there are many times you don't agree 100 percent with what that association or that religious group may do, but that doesn't really give us grounds to say, well, I am not going to be a Democrat or a Republican anymore, I am going to quit the Lutheran Church and join the Methodist Church or the Catholic Church or any other church or quit the Elks and join the Eagles or those kinds of things. We have that choice if we desire. But when we have one organization that represents us all, I think we have to accept it as a beneficial organization which is striving to improve the lot of lawyers in the United States, trying to present lawyers to the American public as a different type of people that many of you people think we are, and which is trying to keep abreast with all of the events that are occurring so rapidly in the United States.

Dick McGee has been in the House of Delegates for a much longer period than I and I'm sure could present you with more historical information. Dick is well respected in the House of Delegates and in the hierarchy of the American Bar Association because of his wisdom, first of all, and the fact that — incidentally, you must have noticed that over the period of the last thirty years Dick preceded me as President of this Association, you remember. I think I would have to admit that I'm much more loquacious than Dick is. And I think that's why he is getting further ahead in the American Bar Association. He speaks when spoken to, and they listen to Dick. And I would commend him to you as long as he desires to be our ABA Delegate that you continue to see that he's down there. This job is not a high-paying job. We try to do the best that we can there in representing the interests of North Dakota.

North Dakota is a small state. We are generally a group of sole practitioners in small firms. Had an opportunity to address the National Conference of Bar Presidents in Atlanta last February. And in preparing for it I went through Martindale as far as North Dakota lawyers are concerned. I think we had at that time one firm that had maybe fourteen lawyers, another that maybe had twelve, and then we dwindled down where over fifty percent of the lawyers in North Dakota are either sole practitioners or members of two-man partnerships. So the General Practice Section is probably more representative of the lawyers in North Dakota than the American Bar Association as a whole.

The House of Delegates and the American Bar Association itself, the House is a policy-making organization. Contrary to what many of you may think, those of you who are members of the Association, and those of you who read the journal fairly regularly, the House of Delegates is not what you'd call a radical organization by any means. But it, like the rest of our society, has to keep in some kind of step with the American public. And so when you see things like lawyer advertising approval and those kinds of things, these come as a necessity. Prior to making that presentation I also sent a little survey around to about 125 lawyers in North Dakota. And one of the several questions I asked was: "What do you think the ABA is doing that it shouldn't be doing, and what do you think they should be doing that they are not doing?" And I asked the same thing about our State Association. One lawyer, an older lawyer, commented: "They shouldn't be adopting rules on allowing lawyers to advertise." Well, I think you realize that Associations aren't adopting these rules. When the Supreme Court says, "So and so is what the situation is," obviously we have to adopt our Codes or adapt our Codes to the decisions of the Supreme Court. Many times it rather surprises me that people blame the Association — both our State Association and the ABA —

for actions that really are only the result of something that occurred someplace else.

You're all familiar. I'm sure, with what the Trade Commission is trying to do with the Bar Associations. That, I think, is going to be stymied. But these are the kinds of things that are happening all the time. We're getting pressure particularly from the United States. Attorney General's office on antitrust activities, alleged antitrust activities. I find it difficult myself to fit us into that category. But there was a fellow named Joel Simms who was an Assistant United States Attorney General who came to the American Bar Association itself and said, "Shape up, you guys, or we are going to take after you." This happens all the time. Then eventually somebody hires him away to work for a corporation and he disappears. That, I think, is the answer to some of these things.

I think the point that I'd like to make here and then sit down, since I've already indicated that I'm adequately loquacious, is that the American Bar Association needs the support of lawyers just as — I'm a Catholic, as most of you know, I don't necessarily agree with everything the Pope does. But that doesn't mean I'm going to cut down my contribution on Sunday because I don't agree with him. Likewise, I'm not gonna stop supporting our own Association or the American Bar Association because there are certain things that I may not agree with. We have to take a unanimous stand on certain subjects, and one of 'em, of course, is I think the continuation of the legal profession as we know it. And today it's particularly important, you may not be aware of the fact, but we have this National Legal Services organization which is funded this year I think to the tune of about \$410 million. I'm on a — you wonder what I do sometimes in the office. I'm on a Special Task Force of the General Practice Section that's overseeing the special project that that organization has and attempting to determine new means of providing legal services to the poor. And our observation thus far has been that if they had their way they would completely eliminate the private practitioner as a provider of legal services to these people. And you can expect that this is going to continue unless we as an organization, we as lawyers, try to provide legal services at a price that the public can afford.

One place that I think many members of the American Bar Association are losing an advantage is that they don't belong to the sections. You pay \$100. Those of us who have been out long enough pay \$100 annual dues. And yet the benefits are in the sections. You can belong to most sections for approximately \$15. Some of 'em I think are 17.50. There may be a few for twelve and a half. But I would recommend highly to you such sections as the Litigation Section, the Economics Section, the Section on Real Estate, Probate and Trust Law. These are sections that put out much more than the \$15 worth of information or material that you're paying for. I belong to about four or five of 'em, and because I'm a member of the House I receive publications from a number of the others. And every one of 'em is well worthwhile. If you belong to three or four sections it would cost you 140 or 50 dollars. But you divide that up it's actually only costing you maybe \$35 per section if you take the whole dues. And then you're really getting some — really fine advantages out of the American Bar Association. It's unbelievable the number of people, the number of volunteers, that work for the American Bar Association. Some of those of you that have been active, I know Floyd Sperry has run into Luther Avery. He's a lawyer from San Francisco. Every section when I pick up something here is Luther Avery doing something. And he's not just one of these guys that's looking for jobs. He actually works hard. He must have a firm that says, "Go ahead, Luther. We will pay you your \$150,000 a year and you work for American Bar Association." And there are countless numbers of people like that. So you are getting the benefit of some outstanding people. Litigation Section has some really fine trial lawyers who are contributing services. Perhaps I'm waxing too enthusiastic, but I really feel this. The more that I get to these Annual Meetings, the Midwinter meetings, I'm now a member of the Council of the General Practice Session, it's unbelievable the contributions these people are making. I can tell you in conclusion the American Bar Association is alive and well.

(Applause.)

PRESIDENT NEFF: Thank you very much, Bob. When I asked Bob to give this report I didn't really expect that he would make his report for the past seven years, only for the last year.

Let's just take a ninth inning stretch. We are indebted to Bancroft-Whitney for making a financial contribution to our Annual Meeting by presenting to the State Bar Association, and, in turn, to present to you three gift certificates for \$50 to be applied toward the purchase of publications offered by Bancroft-Whitney Company. Now underneath three of the chairs in the hall is a little sign that says "Door prize, North Dakota Bar Association." And if you're sitting on top of one of those little signs that says "Door prize, North Dakota Bar Association," you will be entitled to one of these \$50 gift certificates. But only under one chair, that's the one that you're now getting off. One has been located. Are there any others that have been located? The Supreme Court now has a \$50 gift certificate. Anyone else? If not, I'm sure the lost will be found. One gift certificate has been awarded to Ed Vinje, Jamestown, who was sitting on one of the door prize seats and Justice Vern Pederson was sitting on the other one. The third one has not yet been located, but I'm sure that it will be before the end of the session.

At this time I'd like to call upon and introduce, and this is our President-Elect Jon Kerian who will present the budget for the State Bar Association of North Dakota for the year 1979 and '80. Welcome, please, Jon Kerian, your President-Elect.

(Applause.)

PRESIDENT-ELECT JON R. KERIAN: Thank you, Mr. President. Bob Dahl waxed, I'll try to wane. We'll get out of here soon. And in waning, and evanescing, and ultimately disappearing, I will just read the budget summary.

The budget has been prominently displayed, perhaps in an old mayonnaise jar and endorsed by Funk & Wagnell's. But I think it has been put on the bulletin board.

EXECUTIVE DIRECTOR GILBERTSON: We have copies.

PRESIDENT-ELECT KERIAN: And there have been copies disseminated. I will read the budget report or this budget summary. The operation of the Association office \$73,231; Association officers \$13,000; comprehensive travel, all expenses for the soon-to-be Board of Governors, miscellaneous \$15,320; CLE and internal affairs \$18,200; discipline \$29,200; public affairs \$9,000; contingency fund \$8,500. For a total budget of \$166,000. The budget last year was \$177,000. We hope to continue paring this down in the future, spending less if we can, finding ways to cut. It is going to be relatively impossible with the costs of everything going up, of course. But I think that the budget is about as pared down as much as it can be. If anybody has any questions on individual items on the income, the projected income is \$153,850. Projected expenses \$166,000. We do anticipate a deficit, but less deficit than last year. And perhaps with the contingency funds we can retain some moneys in there and end up so we will not have the projected deficit of \$12,651.

We'll try to skip along and preserve sufficiently so there will not be that deficit or the deficit will be less or totally non-existent. Are there any questions on the budget? Any of the items?

I have created a new position or a new committee for prepaid legal insurance — prepaid legal services, rather. And I have also set forth, set out, a new committee for federal practice. It seems that the Chief Justice of the United States who never went into court doesn't seem to think that anybody's entitled to go into the Federal Court unless they are on the Supreme Court Bench. But they are thinking that they are going to have a, oh, perhaps a new method of getting into Federal Court. You have to pass a test. I don't know if it's every time you go in you have to pass a test or if one time is good enough until you get thrown out. But because of the Devitt Report and Chief Justice Berger's seemingly low opinion he holds of the lawyers, I thought that perhaps a Federal Practice Committee could be appointed. And on that are people who appear in Federal practice, Federal Courts, quite often, and also those persons who are employed by the Federal Court System. And so I have created those two new committees which are funded to \$1500 I think for the CLE — for the Prepaid and a lesser amount commensurate with other committees for the Federal Practice.

Budget, as I say, has been disseminated, has been posted, and it is in the records of the office of the State Bar Association. And if nobody has any questions on the budgets, I would move the adoption of this budget for the year July 1, '79, to June 30, 1980.

PRESIDENT NEFF: Thank you, Mr. Kerian.

The proposed budget as submitted to you by President-Elect Kerian has been submitted to the Budget Committee. It has been approved by that Committee. And it has been submitted to the Executive Committee, and approved by the Executive Committee. That complies with the By-Law provisions and requirements of our Association.

Mr. Kerian has moved the adoption of the budget as filed. Is there a second?

MR. EUGENE A. KRUGER: Second.

PRESIDENT NEFF: Thank you. Discussion? All those in favor of the motion signify by saying aye; those opposed nay. Hearing none, the motion is declared passed, and the budget adopted.

The next item of business are the proposed Constitutional changes and By-Law amendments that have been filed with the Secretary-Treasurer. Our Constitution requires that Constitutional changes be filed one year in advance. This has been complied with with regard to those that are to be submitted at this time. And the House rule which you adopted yesterday required that they be presented on the first day of the session, laid over and acted on on the second day, which is this afternoon. So at this time to present those proposed Constitutional changes and By-Law changes is President-Elect Jon Kerian, Jon.

PRESIDENT-ELECT KERIAN: Without reciting the total Constitutional change, I will give you the import of it. And basically this is the Constitutional and By-Law changes which changes the name of "Executive Committee" to "Board of Governors." This is perhaps in deference to the American Bar Association who calls its Board "Board of Governors." It also allows for a little more flexibility, because the Board of Governors can be a larger number and an Executive Committee can be created from within the Board of Governors. But basically this Constitutional change changes the name of "Executive Committee" to "Board of Governors" and amends Section (2) C of Article V of the Constitution to delete reference to districts by number and accommodates a new change of districting by relating to some geographical standpoint for Northwest, Northeast, Northeast Central, et cetera. I believe the actual import was given to you yesterday. The changes were read. And I would then move the adoption of the Constitutional and By-Law changes.

PRESIDENT NEFF: Mr. Kerian has moved that the proposed amendments to the Constitution and By-Laws of the State Bar Association of North Dakota as printed and as filed with the Secretary-Treasurer, as report to the Assembly at the first session yesterday, be adopted. Is there a second to that motion?

MR. M. R. MCINTEE: Second.

PRESIDENT NEFF: Seconded by Mr. McIntee, Williston. Discussion? All those in favor of the motion signify by saying aye; those opposed nay. The motion is carried. And the Constitutional and By-Law changes are declared adopted.

Is Mike Sturdevant in the House? Mike, would you come forward with the resolution that the Young Lawyers Section desires to present? It was presented yesterday, and will be presented again at this time. Welcome, please, Mike Sturdevant, the Past Chairman of the Young Lawyers Section. Mike.

MR. MIKE STURDEVANT: Mr. President, President-Elect. I have here a proposed Resolution regarding new admittees to the Bar which is being submitted by the Young Lawyers Section. It was given first reading yesterday by Mr. Larivee.

Be it hereby resolved by the members of the State Bar Association of North Dakota that the annual license fee for attorneys in the State of North Dakota shall be \$40 if a license is issued on or after September 1 of the year of admission of that attorney to the Bar of North Dakota;

Be it further resolved that this Resolution shall become effective on July 1, 1979.

The rationale for this Resolution is that in the normal course of events, up until about three years ago, new lawyers were admitted in July of each year after having taken the Bar exam. The adoption of the Multi-State Bar Exam as a part of the North Dakota Bar exam has now caused a delay of the admission of new attorneys until October. It seems simply a matter of fairness that rather than pay a full year's license fee for only two months' worth of practice that we reduce it from \$97.50 down to \$40. And that's the reason we have submitted it. And, Mr. President, I would move its adoption.

PRESIDENT NEFF: You've heard the motion. Is there a second?

MR. BOYD L. WRIGHT: Second.

PRESIDENT NEFF: Motion has been made and seconded. Discussion?

MR. WILLIAM C. KELSCH: What's the fiscal impact?

EXECUTIVE DIRECTOR GILBERTSON: About \$3,000.

PRESIDENT-ELECT KERIAN: About \$3,000.

PRESIDENT NEFF: \$3,000.

Mr. Dahl.

MR. ROBERT E. DAHL: I don't recollect, there is somebody that can probably indicate, is the license fee a statutory fee? I know that we established this thing. But the percentage was what I was concerned about. Is it a

percentage that the Bar Board gets or is it a flat figure that the Bar Board gets?

EXECUTIVE DIRECTOR GILBERTSON: It is established by statute, Section 27-11-22. States that the maximum shall be \$150. And the exact rates shall be as established by the State Bar Association at their last Annual Meeting.

MR. DAHL: I wasn't concerned about our setting it. I was concerned about the proportion that the Bar Board gets out of what we charge.

EXECUTIVE DIRECTOR GILBERTSON: That's set by statute, also, as 20 percent. They get 20 percent, and we get 80 percent.

MR. DAHL: Okay.

PRESIDENT NEFF: Any other questions? Are you ready for the question?

MR. RICHARD H. McGEE: What's it going to do for your budget?

PRESIDENT-ELECT KERIAN: We have accommodated for that, Dick, in the budget. It is reflected as less-income this year by about \$3,000. But that has been taken into account for the budget.

MR. JOSEPH McINTEE: Isn't going to break us up in business by any chance, is it?

PRESIDENT-ELECT KERIAN: We will be around to see if it does, Joe.

PRESIDENT NEFF: Complaint that the State office has received it is not breaking up the young lawyers, it's breaking up the senior partners.

Are you ready for the question?

MR. JOSEPH McINTEE: Question.

PRESIDENT NEFF: All those in favor of the motion signify by saying aye; those opposed nay. The motion is carried and declared adopted.

At this time we'll break for a fifteen-minute coffee break. Please return to the hall promptly in fifteen minutes. We have some resolutions to consider, and then proceed on into the elections.

(Whereupon, the General Assembly was recessed from 3:13 o'clock P. M. to 3:30 o'clock P. M.)

PRESIDENT NEFF: Ladies and gentlemen, while the members are assembling in the hall I would like to make several announcements. The first is that if the newly-elected District Bar Presidents are in the room they should be advised that the Executive Committee will meet, which is now the Board of Governors, will meet tomorrow morning. And they are requested to attend and participate, because they are now a member of the Board of Governors. If you voted for someone for a District Bar President and he is not here and you run into him elsewhere in Grand Forks between now and tomorrow morning, would you pass that information on to them? Nine o'clock in the morning here at the Ramada Inn.

The next item of business is the matter of disposition of resolutions which have been read, which were read yesterday, which were filed with the Secretary. They were presented by Mr. Joe McIntee, Chairman of the Resolutions Committee. There were four in number. Do you desire those resolutions read? If not, I will exercise the prerogative of the Chair and call for them in the sequence in which they were read and filed with the Secretary.

Resolution No. 1:

Whereas, the Honorable Robert K. Rushing, Retired Dean of the School of Law, University of North Dakota, has served with distinction on the Executive Committee of the State Bar Association of North Dakota; and

Whereas, his rational guidance, wisdom, and moderation has assisted in charting the course the Bar Association has taken during the past ten years and will take in the future; and

Whereas, his services were rendered to the Bar Association at great personal sacrifice;

Now therefore be it resolved, that the State Bar Association of North Dakota by these presents does express its heartfelt thanks and appreciation for his unstinting service as a member of the Executive Committee; and

Be it further resolved, that the Bar Association expresses to the Dean its fervent wish for the continuation of a long and distinguished career.

Is there a motion for the final adoption of that Resolution?

MR. JOE McINTEE: So moved.

PRESIDENT NEFF: Moved by Mr. McIntee.

MR. HERMAN WEISS: Second.

PRESIDENT NEFF: Seconded by Herman Weiss, Jamestown.

Discussion? All in favor signify by saying aye; those opposed nay. The Resolution is declared adopted and filed with the Secretary.

The second Resolution — incidentally, do you desire these read in full?

THE GENERAL ASSEMBLY: No.

PRESIDENT NEFF: In all Resolutions I will read only the "Be it resolved" portion.

Resolution No. 2 as read yesterday, filed with the Secretary, states:

Now, therefore, be it resolved by the State Bar Association of North Dakota in meeting assembled in Grand Forks, North Dakota, this 21st day of June, 1979.

(1) That the 1981 Legislature be urged to adopt the recommendations of the Citizens Committee composed of members of the Judiciary, the Bar, and concerned citizens to revamp the delivery of Judicial services to the citizens of North Dakota;

(2) To adequately fund the Judicial Branch of government to assist in the delivery of justice, including appropriate salary schedules to attract competent, qualified, and dedicated persons to serve as Judges and administrators of this important third branch of government;

(3) That copies of this Resolution be sent to the Governor of the State of North Dakota, the Chief Justice of the Supreme Court of North Dakota, the Majority and Minority leaders, and to the Chairmen of the Judiciary and Appropriations Committees of the House and Senate of the 1979 session of the North Dakota Legislature.

Is there a motion for the adoption of that Resolution?

MR. JOE McINTEE: I move its adoption, Mr. President.

PRESIDENT NEFF: Motion for adoption made by Mr. McIntee, Chairman of the Resolutions Committee. Seconded by —

MR. THEODORE F. KESSEL: Ted Kessel.

PRESIDENT NEFF: — Ted Kessel. Discussion? Yes.

MR. MICHAEL McINTEE: What is the meaning of the revamp on Mo. 1? Is that just an automatic push for the Judicial Article or is that revamp to provide some increase or some changes? Do we have an opinion or someone tell us what we are talking about here.

PRESIDENT NEFF: Mr. McIntee, would you turn to your left and ask your father? He's Chairman of the Resolutions Committee.

MR. MICHAEL McINTEE: I have asked him. And he hasn't been sure, either.

PRESIDENT NEFF: If I may respond, the Resolution is addressed to attempting to convince the Legislature to implement the Constitutional provision adopted by the people two years ago.

MR. MICHAEL McINTEE: Thank you.

PRESIDENT NEFF: Any further discussion? Are you ready for the question?

MR. RICHARD H. MCGEE: Question.

PRESIDENT NEFF: All those in favor of the adoption of the Resolution as read signify by saying aye; those opposed nay. Motion is carried. And the Resolution is declared adopted.

The third Resolution.

Now, therefore, be it resolved, that the State Bar Association of North Dakota does hereby express its sincere appreciation and gratitude to the Honorable Arthur A. Link, Governor of the State of North Dakota, in furthering the cause of justice by his Executive Order No. 1979-6 issued June 15, 1979, which assures Judicial selection on a basis of merit.

MR. JOE McINTEE: Mr. Chairman, as Chairman of the Committee I so move for the adoption.

PRESIDENT NEFF: Mr. McIntee, Chairman of the Resolutions Committee, moves for its adoption. Is there a second?

MR. J. PHILLIP JOHNSON: Second.

PRESIDENT NEFF: The Chair recognizes the second of Mr. Phil Johnson. Discussion? All those in favor of the adoption of the Resolution signify by saying aye; those opposed nay. Hearing none, the Resolution is declared carried, and the Resolution adopted.

Resolution No. 4.

Be it hereby resolved, that the State Bar Association extends its sincere appreciation to the Grand Forks County Bar Association, the members of its Special Annual Meeting Committee, and the City of Grand Forks.

MR. JOE McINTEE: I move its adoption, Mr. President.

PRESIDENT NEFF: Mr. McIntee of Towner, Chairman of the Resolutions Committee, moves the adoption of that Resolution. Is there a second?

MR. A. S. BENSON: Second.

PRESIDENT NEFF: Seconded by Mr. Benson, Bottineau. Discussion? All those in favor of the adoption of the Resolution signify by saying aye; those opposed nay. The Resolution is declared adopted.

I think at this time we should give a good round of applause to all of the members of the Grand Forks County Bar Association and their committee for the very, very fine job that they've done in making these arrangements.

(Applause.)

I understand the kids enjoyed their pizza party, they enjoyed their trip to Winnipeg. And it has just been an excellent, excellent meeting. And I think their work and effort have certainly lent a great deal to making this a very worthwhile session for us.

At this time the Chair will call for any other items of old business. Any other items of new business? Other than the election of officers. Hearing none, we will now move into the election of officers. I have appointed James Lamb of Grand Forks and Russ Nerison, if he's in the room, to be the election proctors. Should there be a contest for any of the elective offices of the Association. Our By-Laws require that in the event of a contested election that the ballot be by written ballot. Mr. Nerison is not in the room, and Dan Chapman is here. It's my prerogative to appoint a member of the Class of 1952. And, Dan, if you'd serve in Russ's place should your services be needed. I also would ask that as we proceed into the election of officers that those making nominations limit their nominating speeches to three minutes, and that the seconding nominations be limited to two minutes, and that there be not more than two seconding speeches for each candidate.

At this time the Chair calls for nominations for the office of Secretary-Treasurer. Secretary-Treasurer of the Association.

MR. BENSON: Mr. President, it is with great pride and a deep sense of tradition that I place in nomination for the office of Secretary-Treasurer Michael Sturdevant, the immediate Past President of the Young Lawyers Section. Less than three minutes, anyway.

PRESIDENT NEFF: Mr. Benson has nominated Mike Sturdevant, Past President or Chairman of the Young Lawyers Section for the office of Secretary-Treasurer.

MR. CARL O. FLAGSTAD, JR.: I will second the nomination of Mr. Sturdevant.

PRESIDENT NEFF: Any other seconds for the nomination of Mike Sturdevant for Secretary-Treasurer? Hearing none, are there any other nominations for the office of Secretary-Treasurer? I will ask for the third and last time are there any further nominations for office of Secretary-Treasurer?

MR. HERMAN WEISS: I'll move my favorite motion; rules be suspended and we elect by acclamation the nominee.

PRESIDENT NEFF: Mr. Weiss has moved his favorite motion—

JUDGE FRANK J. KOSANDA: Is the name Weiss or Weiss?

PRESIDENT NEFF: — that the Assembly move by acclamation on the nomination of Mike Sturdevant for the office of Secretary-Treasurer. Is there a second to that motion?

A MEMBER: Second.

PRESIDENT NEFF: Discussion? All in favor of the motion signify by saying aye; those opposed nay. Motion is carried. And the Secretary will cast a unanimous ballot for Mike Sturdevant for Secretary-Treasurer of this Association for the coming year. Congratulations, Mr. Sturdevant.

(Applause.)

PRESIDENT NEFF: Chair will now call for nominations for the office of President-Elect of the State Bar Association of North Dakota. And the Chair recognizes Mr. McGee of Minot.

MR. RICHARD H. MCGEE: Mr. President, members of the Association, ladies and gentlemen. It is certainly my privilege to place in nomination for the President-Elect, Vice-President of our Association for 1979-80, Phil Johnson of Fargo. They are engaged in private practice, practicing lawyer in Fargo, North Dakota. And I feel that he is eminently qualified for this.

And with your indulgence I will give you a little background as I know Phil and show you that I believe that he is a person that we should elect to this position. Suffice it to say not the least, he was born in Minot. He is a graduate of the Minot School System, Minot Model. He graduated from Minot State College. He is a graduate of the University of North Dakota School of Law.

Following his graduation from that he went into the military service. He was in the JAG. Coming back from his service in the military he went into private practice in Fargo, and has remained there ever since.

I would also say during the summers he interned at our office a couple years. So we kind of know him pretty well, and we think his education was brought along a little better.

I'd also say on his background he also served and finished up a term on the Supreme Court of the State of North Dakota as an Associate Justice. In Bar activities he's been very active. In 1966 and 1968 he was Secretary-Treasurer of our Bar Association. He served on the Procedures Committee, Chairman, 1970, 1972 on the Rules of Appellate Procedure. He was on the Organizational Committee of the CLE program that we're now so highly and deeply indebted to and so engrossed with at these meetings. He was CLE Chairman in 1977-1978. He has served on the Citizens Committee for the Judicial Article, that you heard one of the Resolutions again today on the urging of the Legislature to go ahead and implement that for us. He is also Immediate Past Chairman or Current Chairman of Real Property, Probate and Trust Section. And my notes show that 1977-1979 he was Chairman of it.

And sincerely, members, I don't think that we have a more qualified person that can carry on. And certainly as we've sat here the last few days we know the seriousness of our Bar Association and the problems that are facing it. And I think we have a man here who is dedicated, knowledgeable, and would certainly serve us well in this office. I earnestly ask you to support my nomination. Thank you.

(Applause.)

MR. JAMES D. SCHLOSSER: Mr. President, members of the Bar. I am Jim Schlosser from Bismarck. And I rise to second the nomination of Phil Johnson for President-Elect of the North Dakota Bar Association.

I'm a former classmate, Law School classmate, of Phil's. And I was going to expound at some length this afternoon on his many accomplishments in Law School, but in an effort to save some time I will not do that. But I understand that Phil does have a biographical sketch printed in his office. If you would just drop him a note, he will send that out to you.

I would like to say, though, that I think Phil's probably one of the more dedicated lawyers in the State of North Dakota. I think his track record in Bar Association activities speaks for itself. And I'm very pleased to second his nomination.

(Applause.)

SECRETARY-TREASURER ALAN J. LARIVEE: Mr. Chairman.

PRESIDENT NEFF: Chair recognizes Secretary-Treasurer.

SECRETARY-TREASURER LARIVEE: Al Larivee, Grand Forks.

And I, too, would like to rise in seconding the nomination of Phil Johnson to be the President-Elect of our Bar Association. When I realized that Mr. Johnson was running, and when he asked me if I would make this seconding speech, I asked him, "Why?" And he said, "Well, we'd like to interject a little comic relief." And I said, "Well the fact that you're running should satisfy that."

It's with mixed emotions that I stand before you in making this seconding speech. I asked him why didn't he have a couple of his friends nominate him. And he said he already had asked Dick McGee and Jim Schlosser, and that was the end of that. And he needed one more. The question that came to my mind is what's the political benefit of seconding a nomination of this sort when you've got the track record that Phil Johnson has for winning elections: he's a former member of the Supreme Court, he's a former candidate for State Legislator, and he's a former member of the State — or the Cass County Bar Association Players. So that doesn't tell you much.

In all seriousness, I had the privilege of working with Mr. Johnson, Phil, when he was a member of the Supreme Court as an Associate Justice. I've had the opportunity to work with him through the Bar Association. And as both Mr. McGee and Mr. Schlosser have mentioned, I don't believe there's anyone more dedicated to the advancement of the legal situation or the legal atmosphere in North Dakota than Phil Johnson. And I, too, would ask you to consider and accept my proposal that he, in fact, be elected to the President-Elect position on the ballot today. Thank you very much.

(Applause.)

PRESIDENT NEFF: Thank you, Al.

MR. ROBERT A. FIEDLER: Mr. President, I move that the rules be suspended and a unanimous ballot be cast for Mr. Johnson.

PRESIDENT NEFF: Before I recognize that motion, I will call again for any further nominations for the office of President-Elect. Are there any further nominations for the office of President-Elect of this Association? If not, I recognize the motion made by Mr. Fiedler that the rules be suspended, the Secretary-Treasurer cast a unanimous ballot for J. Phillip Johnson for the office of President-Elect of this Association for the ensuing year. Is there a second to that motion?

JUDGE FRANK J. KOSANDA: Second.

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