



1979

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

North Dakota State Bar Association

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

**Minot, North Dakota
June 15-16, 1978**

OFFICERS

HAROLD L. ANDERSON	President
LAVERN C. NEFF	President-Elect
ORELL D. SCHMITZ	Secretary-Treasurer
ROBERT P. SCHULLER	Executive Director

**THURSDAY
JUNE 15, 1978**

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

PRESIDENT HAROLD L. ANDERSON: Ladies and gentlemen, I would like to call the Fifty-Seventh Annual Assembly of the integrated Bar of the State of North Dakota to order. This is the Seventy-Eighth Annual Meeting of our State Association.

At this time, I'd like to ask Past President Clinton Ottmar to come forward and lead us in the Pledge of Allegiance to the Flag.

IMMEDIATE PAST PRESIDENT CLINTON R. OTTMAR: Would you please rise and join me in the Pledge to the Flag?

(Whereupon, Immediate Past President Clinton R. Ottmar led the members in the Pledge of Allegiance to the Flag.)

PRESIDENT ANDERSON: Thank you. I'd like to again call on Past President Clinton Ottmar to give the invocation.

PAST PRESIDENT OTTMAR: Father, we thank Thee for this opportunity that is ours to come together and meet as an Association. As we meet for the next few days, we invoke that Divine Blessing, ask for guidance and direction that the things we might do might be pleasing unto You. Help us to be ever mindfull of the needs of others, and help that we might assist in alleviating those needs. Be with us, guide and direct. In Jesus' name. Amen.

PRESIDENT ANDERSON: Thank you, Clint.

This morning we are very pleased to have with us a man who probably is known to most of you, if not all of you. He's very active in community affairs here in the City of Minot, being its Mayor. He's a State Senator from this district in the legislative assembly. And without further ado, I'd like to ask the Mayor, Chester Reiten, to come forward. Mayor Reiten.

MAYOR CHESTER REITEN: I notice there's always a look of apprehension that comes over an audience when it's announced that the Mayor's going to get up to speak. As everybody knows, the Mayor's gonna spend all his time bragging about his city. Every city I know has the greatest of this and the biggest of this, and the world's largest something or other. Well, in Minot as soon as we start to brag too much somebody says, "Well, gee, don't you have some awful floods there in Minot?" And we do. Five out of eight years we were forced out of our homes because of floods. And if you go through the center of the city you can still see some of the dikes from our last flood.

Couple other things that Minot doesn't have. Minot as a city has no big industry. Minot is not a capital city. Minot isn't a big university town. We are the only major city in the state that doesn't have a four-lane interstate highway going by us. And our river, bless it, doesn't float a battle ship at low tide, it will ground it in the rubble.

Minot always progresses. And sometimes even spectacularly. It's been said that as a city Minot always reaches its goals, but that the people of the city have to work so much harder to reach these goals. And I think it's

because of this that we appreciate so much when people like you come into our city and use our facilities.

I don't want to be completely negative. There was a man from Minot that was honored last year by GNDA. He goes to work every morning. He was born the same year as Minot was founded. He's 92 years old. His name, incidentally, is Hal Davies. Many of you know him. So Minot as a city is very young. We are just one man's lifetime old. And I think we've always tried to keep the enthusiasm and the vigor of youth. But as time's gone on I think we've changed some. We used to always brag about what I called a quantity of living. Gee, how fast we were growing, how much retail sales were up. Now we're talking about quality of living. Those things that give people a feeling of living a satisfying and useful life, those things that make life more enjoyable in the city.

Give you a couple examples, if you don't accuse me of bragging. On the southwest knolls of the city is a high school. It was the largest non-federal contract ever let in the State of North Dakota, because we in Minot feel that living means giving your children a good education. In the southeast corner of the city there is a vocational workshop where we take mentally handicapped people and train 'em to play their part as part of society. And it's been spectacular how you take people who have kind of been pushed in the closet at home, all of a sudden they are out working. And, incidentally, there are some working right here in this building. That's quality of living.

In the center of the city we have two high-rise apartments dedicated to the senior citizens. Because we think quality of living means security and companionship for the senior citizens. We talk about our parks, which are beautiful this time of year. We talk about our recreation. We talk about creating jobs. Because we feel that one of the most destructive things to family life is if the breadwinner doesn't have a job.

Just one comment on the law profession. And I think it would be in the form of asking you a favor. We always say that when cities start going down, anyway the smaller cities, that it's because of not enough economic activity. The real answer is, the reason they go down is, the loss or lack of leadership. My experience in Minot is that from within the law profession you get some tremendous leaders. And I think if we talk about building communities, we've got to talk about leadership. Maybe a little bit in the negative side, there's been criticism of lawyers. I'm primarily a businessman. There's been criticism of businessmen. I'm talking selfishly, because I'm looking for leaders. What is the best way to moot criticism? Working with people in leadership capacities within the community. If you're on the City Council, or you are on the Community Chest, or you are on the Industrial Development Corporation, look at the effect it has. And I as a businessman, or you as a lawyer, I think we fight for our rights to conduct our business as we see fit. And this is one way to do it.

I speak for all the people of Minot when I say thank you for coming. Come back again, Harold.

PRESIDENT-ELECT LAVERN C. NEFF: I expected Mayor Reiten to also invite us to inspect and visit the facilities of our state fair while we were in his city.

Mayor Reiten, on behalf of the more than one thousand members of the State Bar Association of North Dakota, please accept our thanks and sincere appreciation for your warm welcome. The invitation to conduct our Annual Meeting in Minot extended by you on behalf of your city administration, the Minot Chamber of Commerce, the Ward County Bar Association, and all of the people, is really sincerely appreciated. You've already made us feel most welcome.

As we begin the Seventy-Eighth Annual Meeting, I can assure you and also the people of North Dakota that the practicing lawyers and the members of the judiciary of this state are very concerned about the many complexities and the frequent vexations which are generated in our society. And as they relate to the delivery of legal services and of our responsibility to our clients and to the public. And so we thank you for participating in these opening ceremonies. And we extend an invitation to you or any member of your city administration to stay, and you are invited to come back and observe all of our sessions while we are in your city.

As a token of your appearance here, and of our appreciation for the invitation which you've extended, we'd like to give you a gift on behalf of the Bar Association. And it's a paper weight entitled "Appreciation Awards." Thank you very much.

Members of the State Bar Association of North Dakota, traditionally the first item of business of each Annual Meeting is the report of our President on the state of our Association. All of you know President Harold as a very able, and very capable lawyer. And those of us that have served on the Executive Committee and with him, and I'm sure I speak also for the Committee Chairmen and the various other bodies of the State Bar Association, also know him as a very able and a very capable President and leader. He has been unswerving in his dedication to tasks. He's been knowledgeable in all areas in which our Association is active in a very difficult year involving complex problems. But he has always had the best interests of our Association as his objective. We know him then as a capable and as a fair administrator, also. He has provided our Association with excellent leadership during a very difficult year. And it's my pleasure at this time to introduce to you and call upon our President to present to you his report on the state of our Association. President Harold Anderson.

PRESIDENT ANDERSON: Thank you, Vern.

I want to take this opportunity to thank all of you for giving me the privilege to serve as your President this last year. It's been a most enjoyable experience for me. As I come to the close of my year, however, I think I want to also thank my partners who will be, I hope, welcoming me back to the practice of law a little more hours of the day.

As Vern has said, the members of the working committees, the Executive Committee, really are the ones that do the work of the Association. I've always thought that the job of a good president is to make sure other people do the work. This year I've been very fortunate to have a lot of people doing all of the work.

As Vern pointed out, we have had a very interesting year. We've had some real interesting problems, we've had some interesting experiences. This assembly today or tomorrow afternoon is going to make a decision on probably one important aspect of our life to come as a lawyer, and that is on the question of lawyer advertising. But I would like to just for a couple of moments highlight a few of the things that have happened in this year that I think are significant for the future of our Association.

Number one, we had the first long-range planning retreat, to my knowledge, ever held in the United States by a group of lawyers wherein three-fourths of the people in attendance at that long-range planning retreat were lay people. Always in the past when we've had long-range planning retreats, at least fifty if not seventy-five percent of the participants in those long-range planning retreats have been the lawyers themselves. And, of course, we felt we were gonna try something different and try to find out what the public thought of us as lawyers and how we could better help the delivery of legal services to the public and find out also what did the public really think about us. It wasn't as fraught with danger as I thought it was going to be. I think we can safely say that we as lawyers enjoy a very high esteem in the eyes of the public. I came away from that retreat very proud of the fact that I'm a member of this profession. And I hope that you also feel proud of the fact that you are a practicing lawyer. Because I believe we do establish and have a very good rapport with the public. You know, lawyers have a tendency to be defensive. And I think this is a mistake. We hear so much criticism these days about lawyers, the law profession, and yet almost any person that you talk to will tell you that he likes his lawyer, it's those other s.o.b.'s that he doesn't like that he thinks are a bunch of crooks and so on. So everybody has somebody as his lawyer. And I think that speaks well of our Association or profession. And I'm proud of being a lawyer, and I hope that you will remain proud of being a lawyer and never be defensive about it. I don't think that we have any reason to feel that we are not well liked by the public. Certainly there are some that will feel antagonistic toward any group. But I think generally speaking lawyers have a very high place in society, they have a well thought of reputation, and I hope that you people will go out of here and continue to remain proud of your profession.

Another important thing that we did this year is we implemented the mandatory CLE Rule. This is not without its problems, also. Primarily administrative problems. We think that those problems have now been resolved. We hope that they have. And we think that — and we're sure that the CLE Committee will continue to do a top-notch job in providing legal education seminars for the members.

One of the items that I think, coming up, that's going to probably have the most long-range effect on the practice of law and the legal profession, the courts and everybody else in the State of North Dakota, is an exciting program that you're going to be given an opportunity to get just a glimpse of tomorrow afternoon, and that is this law-related education program that's been developed and is now being implemented and offered to the schools in the State of North Dakota. This is a program designed to teach the students in the fourth, fifth, sixth grade on up what the law is, how the courts function, all of this stuff that I think is going to be essential for us to again get the public aware of the problems facing the practicing lawyers, the problems facing the courts. And I think once this education is completed through the school systems we will again have people knowledgeable about our profession and more tolerant of some of the problems that we have. And the various criticisms we've heard, I'm sure, will be greatly displaced by the fact that these people will better understand how our organization, how our profession, works and how the courts work.

I could go on and list a number of things that our Association has done in its work this year, but I'm not going to take the time to do that. I would like to instead take just a very few moments of time here to challenge you just a little bit. To me, I think that we as lawyers have to become more deeply involved in the problems related to the delivery of legal services to the people in the state. There are still some people, I'm sure, that do not have or do not feel that they can have the services of a lawyer because they are too expensive. I think that this is one area where this advertising question can serve a purpose. And whether we like it or not, we're going to have advertising. And I challenge all of you tomorrow afternoon when you vote on this very important issue that you bear in mind one thing, and one thing only, that the Supreme Court said is the basis for allowing advertising, and that is how can we best deliver legal services to the public. You don't want to look at your pocketbook, you don't want to look at your own thoughts on the subject. But that should be the primary consideration when we vote on that issue tomorrow, is how can we best serve in the area of delivering legal services to everybody. And that's one of the criteria I'd like to ask all of you to use in your deliberations tomorrow afternoon. Because meaningful advertising by lawyers will contribute to that improvement of the quality of justice. And if we don't take the forefront, somebody's gonna do it for us. And I think that's something that we have to look forward to.

I would also point out to you and ask you to become more involved in the affairs of your Association. We have many programs, on-going programs, in our Association. If you have any interest in any of those activities, we hope, and I'm sure Vern would hope, that you'd make those interests known, because there are many projects that we could conduct if we had people to do them. I'm sure there are many projects that we have not thought of that might be worthwhile for our Association. And if you have such a project in mind, make your wishes known, and I'm sure that if it's worthy of some effort on behalf of the Association that that effort will be put forth.

There is one area that gives me great concern, and I would ask each of you to give very serious consideration to becoming more involved in the legislative process. You know, we have something like 2,000 bills a year introduced into our legislature; some of them are trivia, some of them are important. But I would challenge each and every one of you to become aware of what's going on in the legislature. Make it a point to know what bills are being introduced down there. And there are services available to give that to you. And I would challenge every one of you to contact your legislators three, five, seven, ten times between now and the end of the next legislative session and tell them what you think about some of the legislation that's going through the legislative hoppers. You know what the issues are going to be. You see them in the newspapers all the time. Legislative leaders are now telling you what the issues are going to be in the next legislative session. I say we as lawyers should get involved in that. We should not be ashamed of the fact that once in awhile when they want to kill a bill they call it a "lawyers' bill." I'm paraphrasing an attorney that stood before a legislative committee a couple years ago. And I thought he made a very excellent point. Every bill that goes through that legislature, every enactment of that legislature, is a "lawyers' bill." We're going to be involved in the interpretation or the administration of that particular law. I don't think we have anything to be ashamed of when people say that's a "lawyers' bill." Because every bill is a "lawyers' bill." And they are not designed by lawyers. I am totally amused when I hear people say it's all the lawyers that draw all the bills. I think in the legislature we had something like ten or twelve lawyers in

both House and the Senate out of 150. I am amused. But maybe I should be proud of the fact that those people have that much influence that they wrote every piece of legislation that came out of there. They don't. As a person who works up there, I can honestly tell you that we have some very dedicated people in that legislature. I will say this; they cannot possibly become knowledgeable about every piece of legislation that's going through the hopper up there. They depend upon people to give them advice as to what the ramifications of that particular piece of legislation will be. They welcome it. This is in an area of essentially lobbying. Yes, it is. But I think most legislators welcome lobbyists, those whom they can trust, to tell them what the ramification of that bill is going to be or what the effect of this bill or that bill is going to be. Because it's just a physical impossibility for them to become that knowledgeable about all those pieces of legislation that they have to vote upon.

Every law that is passed up there has some effect, obviously, upon the life of all of us. So I again urge each and every one of you to become involved in this process. Talk to your local legislator. After all, you may be his lawyer. You may be the one lawyer that he'll listen to. And, if so, you can have an influence and try to get legislation passed that will be meaningful. It's amazing the number of bills that come out of that legislature that are passed not because of any inactivity on the part of the legislators, but because it wasn't explained to them exactly what the effect of that bill would be. There are many laws that are passed by the legislature that are ineffective, unenforceable, unconstitutional. I don't think that any of the legislators want to pass that type of legislation. And I think it behooves us as lawyers to come out and be in the forefront in this area and to actually get involved in the workings of the legislature and attempt to get the legislators there informed on any piece — every piece of legislation that goes through there. This is one of the things that our Bar Association is going to try to do this coming legislative session, is to make people, lawyers, if you will, that are intelligible in certain areas of law available to committees so that committee chairmen, if they want an outside opinion, or if they would like to have the pros and cons of a bill presented to their committee, we're going to attempt to get people there to tell them that. But we can't do it alone, it's going to take the work of every one of you to have sustenance in that process. And I ask you all to become more involved in that total process of law making so that we can have the benefit of better laws for the citizens of the state.

I guess, as I pointed out in my newsletter, as you approach the end of a term you do so with certain mixed emotions — and I certainly do. It's been a most enjoyable year for me to serve as your President. I am certain that when I see Vern Neff coming up, the work that he has done in preparation for his year, that this Association is going to be in good hands in the coming year. And I want to again take this opportunity to thank each and every one of you for giving me this privilege to be your President this past year. Thank you very much.

PRESIDENT-ELECT NEFF: Thank you, President Harold, for that report and also for challenging us. It was nice for all of us to hear that the majority of the public regards lawyers in a good light. But there's always a minority point of view. And I was reminded of that some weeks ago when I read that in one of the eastern states a lady had brought an action to annul her marriage on the grounds of fraud, because she thought she had married an electrician and after marriage she found out he was a lawyer. So there is a minority point of view that's in our country.

At this time I'll call on Bob Schuller, our Executive Director, for some announcements that he has.
(Whereupon, announcements were made by Executive Director Robert P. Schuller.)

PRESIDENT ANDERSON: I would like to announce that I have made the following appointments to work through the convention: Past President Patrick Conmy is going to be the Parliamentarian. I have appointed John Hjellum, Dick McGee and Bob Dahl as the Resolutions Committee. If any of you have any resolutions that you want presented to this assembly, I would remind you that they must be presented today and then they will be acted upon tomorrow afternoon.

The Court Reporter for this meeting is Mr. Norman Mark from Fargo. Mr. Mark has asked, and we ask, that if you get up to make a presentation or to ask a question or whatever, we ask that you please identify yourselves so that Mr. Mark can get your name into the record, and make the reporting of this proceedings accurate so we know who is involved. And he would appreciate it very much if you would announce your name before you speak.

I would like to at this point entertain a motion that the rules be suspended and that the minutes of the mid-winter meeting and the last Annual Meeting be not read, but that they be accepted as filed in the executive office of the State Bar Association and as published in the Law Review last fall. Would somebody please make that motion?

MR. JOHN HJELLUM: I will move it.

PRESIDENT ANDERSON: Is there a second?

MR. HARRIS P. KENNER: Harris Kenner, Minot.

PRESIDENT ANDERSON: All in favor of that motion please signify by saying aye. Contrary? Motion is carried.

I would also like to entertain a motion at this time that the rules be suspended and that committee reports be not read, but be accepted as published here. And you have copies of them here. And we ask that they not be taken up to the rostrum here and read, and we can save some time that way. Will somebody make that motion?

JUDGE WILLIAM M. BEEDE: So move.

PRESIDENT ANDERSON: Second?

MR. JOSEPH C. MCINTEE: Second.

PRESIDENT ANDERSON: Any further discussion? All those in favor of that motion please signify by saying aye. Contrary? Motion is carried.

I would also like to entertain a motion at this time that the past practice of resolutions and new business calling for positive action by this General Assembly be offered today, and that they will be laid over and acted upon at the session tomorrow afternoon, and that this be adopted as a house rule for this convention. Is there a motion to that effect?

JUDGE LAWRENCE O'CONNELL: So move.

PRESIDENT ANDERSON: Is there a second?

MR. DANIEL J. CHAPMAN: Second.

PRESIDENT ANDERSON: All those in favor of that motion signify by saying aye. Contrary? Carried.

At this time it's my pleasure to introduce to you the Honorable Chief Justice Ralph Erickstad for a report on the state of the judiciary. Judge Erickstad I am sure needs no introduction to this group. So without further ado, I will give you Judge Erickstad.

CHIEF JUSTICE RALPH J. ERICKSTAD: I thank you very much, President Harold, and President-Elect Vern Neff, Past President and ex officio chaplain Clint Ottmar, Mayor Reiten, members of the Bar Association of the State of North Dakota, guests, ladies and gentlemen, friends all.

I am very pleased that you have invited me to speak to you on the state of the united and unified judicial system of the State of North Dakota. We are now at a very crucial stage in the improvement of our system. Before I attempt to discuss the progress we all have made together this last year, to describe some continuing present problems, and to outline future plans affecting the law and the judiciary in our state, I would like to acknowledge the great hospitality which has been shown us at this great meeting of the Bar Association. The members of the Bar Association here in Minot have shown us all a special hospitality for which they are well known. This is a beautiful part of our state. It is a pleasure to gather here. Would you join me in showing our appreciation now to the Ward County Bar Association and the people of Minot who have been so kind to us?

(Applause.)

And now if you will turn with me to the broad perspective of North Dakota and our judicial system, you will remember that North Dakota has not yet seen one hundred years as a state. Our land and its people have more ancient roots, but our government as a state is relatively new. Ours is a dynamic state. We have a tradition of careful responsiveness to conditions and realities. You will recall that in 1975 the legislature, and in 1976 the voters, approved a new judicial article for the North Dakota Constitution. The new judicial article establishes a unified judicial system consisting of, and I quote a part of the article, "... 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 and administrative authority. The acts of the legislature in making structural changes in the future may assist us in implementing that mandate.

A unified judicial system is intended to be a single provider of court services. A unified system is one that is accountable for quality services delivered in an efficient and effective manner. The public looks to us for fairness, reasonable access, reasonable procedures, and reasonable service. We will be judged as a unified team, and we must strengthen ourselves as a team. A unified judicial system in North Dakota must be characterized by wisdom. Our decisions must be just and appear to be just. It must be characterized by openness. Our procedures and hearings must be open to public scrutiny and participation. It must be characterized by economy. Our expenditure of public funds, whether from state, county or municipality, must be effective. And it must be characterized by efficiency. Our services at each level of court must be effectively provided in a prompt and orderly manner.

Now these are the characteristics of a unified judicial system. And we believe they are the characteristics of our unified judicial system. Now let me review with you some of the steps taken in our progress in improving court services during this last year.

The Citizens Committee on the New Judicial Article, chaired by Attorney Dick McGee of this city, appointed two subcommittees to assist in the implementation of the new judicial article: a Legislative Subcommittee and Rules Subcommittee. The Legislative Subcommittee was established to assist in the legislative implementation of the new judicial article. It is chaired by Attorney Harry Pearce of Bismarck, and consists of representatives of the bar, the bench, court constituencies, and other citizens. Its study has produced a series of proposals which were presented to the Interim Judicial System Committee of the Legislative Council and the Judicial Council. In major part, its proposals have become the basic legislative structure of the proposal presently under consideration by the Interim Judicial System Committee. Its recommendations concern the structure of trial courts, financing of judicial services, judicial retirement, and a judicial vacancy nominating process, which is similar in some respects to that employed by Governor Link in seeking candidates for a judgeship in the First Judicial District and in the Supreme Court. The Interim Judicial System Committee of the Judicial Council and the Legislative Council under the chairmanship of Senator and Attorney Howard Freed has reviewed the proposals of the Legislative Subcommittee of the Citizens Committee and has prepared legislative drafts for the further implementation of the new judicial article. I will not take your time today to attempt to outline the features of the legislative proposals presently under consideration by the Interim Judicial System Committee which will, however, be presented to you during this meeting by Harry Pearce. I would urge you to read and study these proposals, and to make your comments and suggestions known to the committee members. Copies of the legislative proposals may be obtained from the Legislative Council in Bismarck. Your comments and suggestions for the improvement and the revision of these proposals are eagerly solicited now by both the Legislative Subcommittee and the Interim Judicial

System Committee. Later you may contribute to a robust discussion of the issues involved during the next legislative session. It is only with your participation and suggestions that the most effective statutory structure will be forthcoming through which court services will be provided to all of the people of North Dakota.

The second subcommittee of the Citizens Committee, the Rules Subcommittee, 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 is chaired by Attorney William Strutz of Bismarck, and also consists of representatives of the bar, bench, court constituencies, and other citizens. To date, this subcommittee has proposed a new and more effective state-wide, rule-making process, and a local rule-making process. These rules were approved by our court effective April 1, 1978. Those of you who attended the breakfast this morning heard the Director of Research, James Alfini of the American Judicature Society, discussing the function of rule-making in the nation today. He also acknowledged the fact that we are struggling with the rule-making process in North Dakota, and recognized our step and the new approach that we have taken in rule-making. I think a great deal of credit must go to that committee chaired by Mr. Strutz and by our staff, particularly Larry Spears and Christine Hogan, who have rendered great service. A Rules Subcommittee proposed rule relating to the duties of the State Court Administrator was also approved by our court effective May 12, 1978. A proposed rule relating to the duties of presiding judges is presently pending before our court. The hearing has been set for July 6th of this year.

A Rules Subcommittee suggestions for administrative action to relieve the apparent caseload problem in the First Judicial District was implemented after a representative meeting of the bar, judiciary, and court personnel was called by Presiding Judge Bakken. At his request three judges were assigned to that district this spring to assist him in disposing of cases in that district. The result of this effort is being evaluated at the present time.

Of particular interest to attorneys is a proposed judicial redistricting map which has been prepared by the Rules Subcommittee after a full comment process. Section 93 of the new judicial article provides authority to the Supreme Court to set judicial district boundaries. The Rules Subcommittee has sought the comment of every judge, attorney, and governmental agency in North Dakota. It has sought the views of the public. Our court has now received the proposal from the committee, and in the near future we will provide opportunity for written comment and set a public hearing on the proposal. Pleasure be assured that our court will consider all views and all possible problems before adopting a redistricting plan. But any such plan would be effective before July 1, 1979, is unlikely. But it is the hope of the committee that we resolve the district boundary lines before the next session of the legislature. Some legislators have suggested that we resolve the boundaries before the next legislative session.

Let me say here that these proposals reflect two concepts which are fundamental to our unified judicial system; the judicial district and the presiding judge. The judicial district can no longer be viewed only 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 the primary administrative unit of the unified judicial system. Similarly, the presiding judge is a 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 with responsibility for local judicial planning and membership on the Judicial Planning Committee are becoming central to the administration of the unified judicial system. In reflecting on this 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 attorneys of the local bars, the delegation of Supreme Court authority may be ineffectively administered and constitute a burden on a single individual. With such 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.

Turning to another area in which we see progress, the Joint Procedure Committee has continued to advance the cause of effective procedural rules. Justice Sand is chairman of this 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. With these goals, the committee has incorporated appropriate statutory material in the rules and prepared a list of superseded statutes related to appellate procedure. These proposals have now been submitted to our court, and a hearing will be held on these proposals on August 3, 1978, at 10:00 o'clock A. M. After a careful study of the appellate process, the committee has prepared proposals for amendments to the Appellate Rules, including Rule 10 of the North Dakota Rules of Appellate Procedure regarding the preparation of the transcript, and Rule 11 of the North Dakota Rules of Appellate Procedure regarding transmission of the record. During this next year I am told that the Joint Procedure Committee will, among other things, 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.

Now you can readily see how important this committee is to our judicial system. A single source of procedural rules representatively developed, carefully studied, continuously updated and corrected, and effectively published and distributed, is a monumental improvement over the procedural rules situation under which many of you practiced not too long ago. To Justice Sand as chairman, and to these attorneys and judges who serve on this committee, and to the staff, go our thanks.

Incidentally, as I have experience to visit with other judges in connection with the conferences that I attend, I come out of those visits and conferences with a feeling of great pride over the fact that we have this continuing study group that is doing such a magnificent job for us.

Let me turn to a different subject, to the subject of training and education programs for judges and court personnel within the unified judicial system. This continuing career and vocational development program is an important mark of our unified judicial system, and an important source of institutional strength and quality. The

special Committee on Judicial Training, chaired by Judge Eugene Burdick, oversees a program of regular training activities for all levels of judges and all categories of court personnel, including clerks of court, juvenile court officials, and court reporters. Each year the task is as large as it is important. The quality of the judges and court personnel, and their morale and interest, are essential to those elusive qualities of justice and service on which our society depends. We strengthen those qualities best in providing quality training opportunities. I will not discuss today in detail your great efforts and the great progress you have made in providing continuing legal education, but I believe that it has been exemplary.

The general public has very little knowledge or understanding of court services. And this is a national problem. You wish to read about this specifically, and I'm sure you have read about it, you may look to the National Center for State Courts, the article "The Public Image of the Courts (March 1978)" and "(The North Dakota State Bar Association Long-Range Planning Retreat (November 1977))" Priority No. 4. This is also a North Dakota problem. Court services exist at the edge between order and anarchy. Public knowledge of the services and public perception of familiarity and confidence in them is essential. As a unified judicial system, we are working together to improve the services. We must also be partners in informing the public about these services and their use.

The judicial information system is an important function of our unified judicial system. Those of you who serve in the Judicial Council know by listening to Dr. Reiman yesterday morning that the North Dakota information system has been selected as the outstanding example of simplicity and effectiveness in securing valuable, important information. Now our system provides — and a great deal of credit there must go to Associate Justice Vernon R. Pederson, who headed up the committee consisting of judges, lawyers, clerks of court, and people from business and industry. It provides regular case status reports for every district court judge and a quantity of data which will assist judges in their administration of court services within each judicial district. The district court information system was redesigned and implemented in November of 1977. In response to suggestions, as I indicated, from judges and court personnel to expand and update its services. The juvenile court information system was tested this spring and will soon be providing statistical reports to judges and juvenile supervisors on all formal and informal juvenile cases.

A new manual, "Appellate Information System," is being implemented this year. The judicial information system is a useful tool for judges in a unified judicial system, one which assists them in their daily tasks and can be more greatly used in the future.

That judicial planning is essential, I think is a fact of life. The Judicial Planning Committee is chaired by Justice Vernon Pederson, and includes all presiding judges and representatives of the bar, all levels of the judiciary, court constituencies, and members of the public. This committee has prepared the North Dakota Judicial Master Program for the fiscal year 1977 to 1979 biennium which was reviewed and adopted by our court in June of 1977. In this document the Judicial Planning Committee described every part of the unified judicial system and identified its problems and needs. This committee has set broad goals, specific objectives, and itemized tasks for the biennium period and continues to review its progressive implementation with the State Court Administrator Bill Bye.

Justice Pederson has described the state-wide planning process for the unified judicial system in a recent North Dakota Law Review article entitled and authored by V. R. Pederson and A. L. Spears entitled "Judicial Planning in North Dakota—Systemized Anticipation for Balanced Process." For those of you who are interested, I refer you to 54 North Dakota Law Review at Page 47, which is a 1977 publication.

An essential part of the planning process for the unified judicial system is local judicial district planning. And the Judicial Planning Committee is intent on encouraging this process. The Fourth Judicial District has taken the lead in this regard with the establishment of an advisory board to Presiding Judge Graff, which includes all full-time judges within the judicial district from all court levels, and representatives of the bar. Presiding Judge Ivedson in the Fifth Judicial District, and Presiding Judge Bakken in the First Judicial District have also initiated informal meetings with these groups to discuss issues of common interest. We believe that the other presiding judges, Judges Hatch, Heen and Muggli, are experimenting and thinking with the possible use of such an approach to the administration as well. Broad participation in judicial planning is essential in the unified judicial system. Many unified judicial systems have failed to develop effective judicial district planning locally. And this is a mistake which we hope to avoid.

Let me call your attention here to a further step which should facilitate the local judicial district planning process. The newly-effective rule on local court procedural and administrative rules provides in Section 8 for the establishment of a standing advisory committee in each judicial district to assist the presiding judge in the review and study of local rules. We trust that this will be a practical forum for the review, updating, and revision of local rules which are so very important, and yet which have been somewhat neglected in the past. This advisory committee may become a representative forum for local judicial district discussion of issues of common concern in the improvement of local court services.

Now much of this or much of the initiative must come from the members of the local bar. Here is a practical opportunity for local bar associations to participate in this planning process of a unified judicial system. I invite you to contact the presiding judge in your judicial district if you think this is an approach that is worthwhile in our efforts to improve local court services.

Now let me say a word about the efforts of the Sentencing Guidelines Committee of the Judicial Council. Judges Smith, Glaser and Vogel have been meeting to develop a simple, practical sentencing guideline procedure or program. As you know, there is a national mood of frustration with a criminal sentencing process which is based in large part, in my view, on misunderstanding. The legislatures of many states are considering various reform programs, all of which reduce judicial sentencing discretion. Some of these programs essentially remove the judge from the sentencing process and transfer the important discretionary decisions in the criminal process to

the earlier charge and plea determining process. I think that the public must understand that the sentencing process is a sensitive, fair, and effectively-managed process.

We have some distance to go in this education process. But I am pleased to say that our people are working to resolve the problem. And you can be sure that we are not ignoring it.

Now let me review also the work of three very important committees related to the legal profession: the Bar Board, the Disciplinary Board, and the Judicial Qualifications Commission.

The Bar Board, chaired by Attorney William Pearce of Bismarck, supervises, as you know, the admission of attorneys to the practice of law. During 1977 alone 99 new attorneys were examined. And of those 97 were found qualified and 91 were admitted to the bar of our court. We welcome John D. Kelly of Fargo who was recently appointed as a new member of the Bar Board, joining Hugh McCutcheon and Mr. Pearce.

The Disciplinary Board is chaired by Henry Ruemmele of Grand Forks. With the reorganization following the change in the Rules of Disciplinary Procedure, the Disciplinary Board now consists of Henry G. Ruemmele, Jake C. Hodny of Grafton, Maurice E. Cook of Bismarck, 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, and Bea Peterson of New England. I think that the addition of three lay people has had a very beneficial effect, and I am so informed by the lawyer members of this commission.

The Judicial Qualifications Commission is chaired by lay person Jane Knecht of Bismarck. The other current members of the commission are Lowell Lundberg of Fargo, Irene Dodge of Fargo, William Beede of Minot, Dr. Glenn Smith of Grand Forks, Harold B. Herseeth of Jamestown, and Ronald Klecker of Minot. Here, again, the lay people are contributing greatly to the work of this commission. The importance of the activities of these bodies to the public credibility of our profession cannot be over-emphasized. Let me say that I have the greatest respect for the work of these groups. Luella Dunn, Clerk of the Supreme Court, who acts as executive secretary to all three groups, and the professional counsel Gregory D. Morris, who serves the Judicial Qualifications Commission and the Disciplinary Board. Their efforts have contributed substantially to the new strength and credibility of these processes. I would urge you in the strongest possible terms to continue to pool your financial support as the Bar Association with that appropriated by the legislature to enable staff service to continue. Across the nation today bar associations and judicial leaders have increasingly recognized the importance of professional staff services to the effectiveness and credibility of their disciplinary processes. Your continued support of joint staff for the Juvenile Qualifications Commission and the Disciplinary Board is, in my view, crucial to the efficient and fair administration of these entities.

Now many of you have become acquainted as prosecutors or as indigent criminal defense counsel with the research services provided by Central Legal Research in the Law School at the University of North Dakota. I can tell you that judges at all levels have utilized these services with satisfaction. Basically the four lower tiers have utilized the services. These are services of which Dean Rushing and members of the Law School faculty can take pride as a practical service linkage between the Law School and the legal practitioners in North Dakota. The future of these services, however, to the attorneys and judges rests with the legislature. I hope you will lend your voice to the support of these services.

As you know, Lou Becker is the present Director of Central Legal Research. And if she is present, I would like to have her stand so that she may be recognized and so that we may all get to know her. Lou.

On a different subject, as you know, we have two new district court judges in Fargo. Judge Roy K. Redetzke is retired, although working with no compensation to help that judicial district. And Judge Ralph Maxwell resigned to accept a federal Administrative Judgeship. Judge Garaas and Judge Backes were appointed by Governor Link to fill these vacancies. Justice Vogel contemplates leaving our court as of the 15th of August to take a senior teaching position at the Law School. I need not point out to you the importance which financial considerations played in the decision of these men to retire or resign, nor can I tell you that there will not be increasing numbers of such decisions in the future. Some of the features of the present judicial salary and retirement provisions are depleting the ranks of our judges and may affect the decisions of members of the bar to choose judicial service. These results appear unavoidable under our present retirement statutes. If you are interested in improving this situation, please offer your support to Justice Paulson, who is the chairman of the Ways and Means Committee of the Judicial Council, and Judge Heen, who is the chairman of the Salary and Retirement Committee of the Council. To the judges who have retired or resigned, we are grateful for their dedicated service and contributions to North Dakota, and we welcome those members of the bar who are beginning their judicial service.

In 1977 the National Center for State Courts commissioned a major survey of public attitudes towards the judicial system in America by Yankelovich, Skelly and White. And this is nearing the conclusion, so I hope you bear with me. The general public, judges, lawyers, and community were surveyed. The preliminary analysis of this survey data provides us with a picture of the social context within which we work for improvement in court services.

Now I would like to be as optimistic as my friend Harold, but I'm not able to be so in talking about the judicial system. The study drew six conclusions. These are not my conclusions, these are the conclusions of Yankelovich, Skelly and White.

(1) There is a profound difference in view — between the general public and community leaders on the one hand, and judges and lawyers on the other hand — with respect to what the courts do and should do in our society.

(2) The general public and community leaders are dissatisfied with the performance of courts and rank courts lower than many other major American institutions.

(3) The general public's knowledge of and direct experience with courts is low.

And (4). But, a very sobering fact is that those who consider themselves as having knowledge and experience with courts voice greatest dissatisfaction and criticism. And there may be obvious reasons for that which you and I would understand and analysis might not.

But nevertheless, No. 5, in spite of the limited knowledge and dissatisfaction, the general public is interested in

courts and there is impressive support for reform and improvement.

And (6) the attitudes of the general public on crime and punishment are far less simplistic than previous, more limited studies have indicated. While anxiety about security of persons and property is almost pervasive, there is considerable difference of opinion about how to achieve that security. For example, "more and better judges" are given much greater support than "more prisons" as a way to address the country's problems. End of quote.

In light of these conclusions, I think it is especially important that we who are a part of the judicial system continue to make every effort necessary to improve our system. This is the beginning of a new era for the judicial system in North Dakota. The new judicial article established a unified judicial system. It is being implemented carefully and cooperatively by the members of the bar, judges, court personnel, and other public citizens. I believe that this cooperation founded on the principles of openness, participation, and delegation of authority which has served our unified judicial system thus far will remain the characteristics of the unified judicial system in the future. We can take satisfaction in this cooperation, and particularly in the willing participation, thoughtful suggestions, and initiative which members of the bar have contributed. That resource of good will is one of our most important assets in North Dakota. I hope you will recognize as a source of personal and bar association satisfaction as well. I thank you for this opportunity to share these views on the progress of our unified judicial system. With your 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.

PRESIDENT ANDERSON: Thank you, Mr. Chief Justice. We appreciate those remarks.

(Memorials to deceased members of the bar have been deleted from the proceedings and have been inserted in a separate portion of this issue.)

At this time I would like to call Jack McDonald up. He's going to give us a very brief update on the Continuing Legal Education Committee and its work. Jack is the Executive Director.

MR. JOHN T. McDONALD: Thank you very much. Just a couple brief comments about CLE, what's coming up and what's planned. First of all, we have two more sessions coming up this year; that's one in October at Homecoming, be a one-day CLE. We haven't got the exact number of hours yet, but it will be approximately six hours. Six hours of CLE credit. The other traditional CLE program will be in early December in Fargo. It will be day and a half program. It will be on some aspect of probate administration. It will probably be about nine or ten hours of CLE credit. There is a possibility for two other CLE programs, and I say this is just tentative, that you might be thinking about them. They are not firm by any means, they are in the thinking stage yet. One is a possibility of a cooperative program with the North Dakota Trial Attorneys Association sometime in November, and will be on some defense, some aspect of defense trial work. And there's another possibility. We haven't even started negotiations yet on it. But another CLE in November, perhaps in Grand Forks at the UND Law School, in conjunction with the regional moot court competition up there in mid to late November. So there's a possibility of two in November. One in October for sure, one in December for sure.

Like to solicit your support, understanding, suggestions, et cetera, for topics. As you know, we have over a thousand attorneys now and it's getting more difficult to try to program, get ideas, that will be of interest and satisfy all the new attorneys that come into the field, the attorneys with, let's say, five years or less of experience, plus the great number of attorneys that we have that are more experienced. We'd like your suggestions and ideas for topics. We are going to shift our emphasis a little bit and in the next year go toward a system where we pick one topic for a seminar and try to go into that in depth. In other words, we are going to take one subject, whatever that is, and instead of trying to hold many general sessions, hold a number of smaller sessions that will be of interest to those who are very experienced in the field, those who might be inexperienced in that field. For instance, trial work or probate or real estate or any subject you might have. So we're going to go in that direction from now on.

There have been many questions about how you report your CLE hours. Your credits earned. The CLE Commission has just approved a form to use. It will be published in The Gavel within the next couple months. Everybody A through H, you have to report this year, will receive a reporting form in the mail in late November or early December. And on that reporting form you will report your CLE credits and hours earned. If you have any questions, you can call Bob Schuller or myself in Bismarck on how to report. But you will get information in The Gavel and individually in a mailing on how to report your CLE credits. I would just suggest as a personal matter that if you go to CLE courses out of state, save the program or the agenda, whatever there is, a brochure, that tells how many hours there were, who the instructors were, the dates and the times and the places. Just save that in a file or something for your future reference.

And, finally, I will be on hand, Bob Schuller, any other members of the CLE Commission, CLE Committee, will be on hand, during the rest of this convention. If you have any questions about CLE, please feel free to ask us.

Again, I solicit your suggestions and ideas and criticisms concerning CLE topics.

Thank you very much.

MR. JOHN HJELLUM: Jack, you said we have over a thousand attorneys now. How many practicing attorneys do we have? Or don't you know?

MR. McDONALD: I don't know. 200. I don't know.

Thank you very much.

PRESIDENT ANDERSON: Thank you, Jack.

Next I'd like to call on Marshall Bergerud to give us the proposed resolution concerning lawyers advertising that will be acted upon tomorrow afternoon. Marshall is the new chairman of our Ethics Committee and will be in the saddle, so to speak, on drafting the final wording of the proposed changes in our canons. At this time I'd like to introduce Marsh Bergerud from Killdeer.

MR. MARSHALL BERGERUD: Thank you, Harold.
It's a resolution dated June 16, 1978.

RESOLUTION

WHEREAS, The general membership assembled at the midwinter meeting of the State Bar Association directed that the membership of that association be polled by mail as to its opinions on four possible amending policies of the Code of Professional Responsibility regarding advertising by lawyers in North Dakota, such poll to be advisory to the Executive Committee, and

WHEREAS, the results of the said poll indicated a significant support for "Proposal A" as included in the poll, and,

WHEREAS, "Proposal A" included in the poll was essentially "Proposal A" considered by the general assembly of the midwinter meeting as proposed by the Ethics Committee of the State Bar Association setting forth certain limitations of information permitted in advertising by North Dakota lawyers and prohibiting the use of electronic media in such advertising, and

WHEREAS, the Executive Committee of the State Bar Association at its regular meeting held June 14, 1978, voted to recommend "Proposal A" as a basis for amending the Code of Professional Responsibility regarding advertising by North Dakota lawyers.

BE IT HEREBY RESOLVED, that the State Bar Association of North Dakota adopts "Proposal A" as recommended by the Ethics Committee of that Association as its policy regarding advertising by North Dakota lawyers.

Mr. Chairman.

PRESIDENT ANDERSON: Thank you, Marsh.

And according to the rule adopted here earlier this morning, this will be brought up for discussion and action tomorrow afternoon at the assembly.

I will call on Maurice Cook to give you a brief presentation on some of the problems confronting the Disciplinary Board in the whole area of discipline in the State of North Dakota.

MR. MAURICE COOK: Thank you, Harold.

One of the first problems may be to determine whether or not the preparation of the report and the failure to show up to deliver that report constitutes a basis for discipline. But since Henry isn't here, I'll do my best with his report.

Some of the most significant changes since you were exposed to the Disciplinary Board last is that we are no longer the Grievance Commission, we are the Disciplinary Board. It's now six lawyer members with three lay members and the appointment of full-time disciplinary counsel. One of the significant changes at the investigative committee level is that that committee level now has the power to dismiss complaints that they believe contain no merit. This is, I think, thanks to many years of agitation by Bob Dahl insisting that frivolous complaints should be handled summarily. Also we now have available the public reprimand.

Since July 1, '76, through May 31st of '78, there have been sixty-six complaints filed. One of the reasons this Association, as I understand it, presented the recommendation for full-time counsel was delay in handling of the grievance complaints. Since we've had disciplinary counsel assisting, and I think that's important to emphasize that it is an assist to the committee, the committee chairman still has control for processing and which ones are assigned to his members, the period of time for processing complaints has been lowered from 5.4 months to 3 months per complaint.

Again, I'm glossing over a lot of his report. And you can tell him and see if I came close to what he wanted to tell you.

The increase in the dues from \$100.00 to \$150.00 enabled the funding of a joint venture between the Disciplinary Board and the Judicial Qualifications Commission in sharing one attorney as a co-counsel. That counsel, in case no one knows, is Greg Morris. And I think he's in the room. He drove me up here, so I know he's around somplace.

In Bud's opinion, one of the extremely important things that your Executive Committee considered yesterday, and will be considering, is the continued funding or partial funding of a full-time grievance staff. Bud feels that the issue of self-regulation and self-discipline or the bar is at stake. He feels very strongly about this. I believe that some of these feelings come from the attendance at a recent ABA disciplinary meeting in which apparently the sentiment was expressed that we should conclude that there is a great deal of public dissatisfaction with the manner in which the bar regulates itself. Whether that's justified or not, I don't know. But, again, I guess what we're talking about are what the public's impressions seem to be.

If you have any questions that I might answer, I'd be delighted. But that's a very short capsule of Bud Ruemmele's report. Thank you.

PRESIDENT ANDERSON: Thank you, Maurice.

PRESIDENT ANDERSON: If any of you want copies of that report, and it's quite an extensive report, make your request to Mr. Schuller and I'm sure you will be able to get a copy of it.

At this time I would like to call again on our Past President Clint Ottmar, who is chairman of our Long-Range Planning Committee, to present a resolution concerning changes in the constitution of our Association. Mr. Ottmar.

MR. CLINTON R. OTTMAR: Thank you, President Harold.
The resolution dated June 15, 1978, reads as follows:

RESOLUTION

BE IT HEREBY RESOLVED: That the constitution and bylaws of the State Bar Association of North Dakota

be amended pursuant to Article X thereof as follows: that Article V of the constitution of the State Bar Association of North Dakota and all other articles of said constitution be amended by deleting the words "executive committee" wherever the same appear in the constitution and bylaws and substituting therefor the words "board of governors."

BE IT FURTHER RESOLVED: That a copy of this resolution be filed with the secretary-treasurer of this association for final action at the next annual meeting of this association.

I present this for filing and holding over until tomorrow for action, Mr. Chairman.

PRESIDENT ANDERSON: Thank you, Mr. Ottmar.

PRESIDENT ANDERSON: One announcement I'd like to make at the request of Marie Feidler, the chairman of our Law-Related Education Committee, is that there are out in the foyer, in the hallway out here, some materials that have been prepared relating to this Law-Related Education. And it is in a sense textbook material. And we urge you to just browse through that to give you some idea of what this program is all about, what the proposal is. And if you want further information on it I think you can sign up out there or see Marie Feidler and she will see that you get any information you want.

I'll call on Bob Schuller to make the rest of the announcements at this time.

(Whereupon, announcements were made by Executive Director Robert P. Schuller.)

PRESIDENT ANDERSON: I see the chairman of our hardworking Resolutions Committee has returned. We have a report, John?

MR. JOHN HJELLUM: Believe me, when you appoint the right kind of a committee you get action.

Now one resolution's already been presented, and that's the one with reference to "Proposal A." And, as I understand it, that's going to come up tomorrow afternoon.

MR. ROBERT P. SCHULLER: Right.

MR. HJELLUM: And then there is another resolution I believe that's just been read. And I don't know who is trying to take all the obligations that we have here, but anyway it's all right with us. And that's with reference to the changing of the "Executive Committee" to read "Board of Governors." And I understand somebody just read that.

MR. HJELLUM: And that's coming up tomorrow, right?

Then here's the most important one.

RESOLUTION

WHEREAS, Harold L. Anderson, President of the State Bar Association as its 77th president during his term as president of this association for the period of the year 1977-78, and,

WHEREAS, he has given unstintingly of his time to matters affecting our association and in the best interests of this association,

NOW, THEREFORE, BE IT RESOLVED, by the members of the State Bar Association of North Dakota at annual meeting assembled, that we extend our sincere gratitude and appreciation for outstanding service to the State Bar Association of North Dakota during his term as president, and,

BE IT FURTHER RESOLVED, that we further express our gratitude and appreciation to Corynne Anderson for the support and encouragement which she has given Harold and the association.

Now there is no need to bring this up tomorrow. So I ask that somebody make a motion that we adopt it.

PRESIDENT ANDERSON: Limit the debate on it, will you?

MR. HJELLUM: And limit the debate on it.

MR. ROBERT E. DAHL: So move.

PRESIDENT ANDERSON: Bob Dahl has moved it. Seconded by Raymond Rund. Those in favor say aye. Those opposed nay. Carried.

MR. HJELLUM: We have one more resolution.

RESOLUTION

WHEREAS, this 78th annual meeting of the State Bar Association of North Dakota has been hosted by the Ward County Bar Association, 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 Ward County Bar Association and the members of its special annual meeting arrangements committee.

Anyone want to make a motion to that?

JUDGE LAWRENCE O'CONNELL: So move.

PRESIDENT ANDERSON: Second?

MR. ROLLIE SEUSS: Rollie Seuss.

PRESIDENT ANDERSON: All those in favor say aye. Carried.

PRESIDENT ANDERSON: Thank you, John, and your committee.

With that report of that fine committee, I'd like to recess this meeting until tomorrow afternoon at 1:45 right back in this room.

So we will stand in recess until then.

(Whereupon, the proceedings were recessed at 11:25 o'clock A. M.)

FRIDAY

JUNE 16, 1978

(Whereupon, the following proceedings commenced at 1:45 o'clock P. M., to-wit:)

PRESIDENT ANDERSON: We're going to call the session to order.

I want to thank all of you for coming. It's nice to see as big a turnout as we have here this afternoon.

Because we have elections, and we're going to have motions and what have you made on the floor this afternoon, I want to take the President's prerogative and appoint a couple of proctors to help handle the balloting. And the two that I've named, unless they stand up and publicly renounce the position, will be so appointed Irv Nodland and Dick Gallagher. Okay? They will be appointed, then, as the two proctors to handle the ballot counting or the votes this afternoon.

You probably will recall, if any of you have read my President's messages in The Gavel, we have a program that I'm particularly excited about, and that is this law related education. It's something relatively new in the State of North Dakota. It's been in existence for a few years, but it's really starting now to take on a greater emphasis, both in the field of education and I hope with our Association. I have asked Lynn Davidson from the State Department of Public Education or Public Instruction to come here this afternoon and give you a very brief report and demonstration of what this is about. And I'm sure once you've seen this you will have a little better idea what it is that we are promoting. With that, I would like to ask Lynn Davidson, who is Coordinator for Curriculum for the State Department of Public Instruction, to make this presentation. Lynn.

MR. LYNN DAVIDSON: Thank you, Harold.

This is the first time that I've had an opportunity to address a group of attorneys. I know that educators like to start out with a little story, so I thought I'd carry that over and see if attorneys like to start the same way. Since I'm not sure exactly as to whether this is a supportive audience or not, I decided that I wouldn't tell a story about attorneys, but instead I'd be fairly safe and pick on educators.

There was a little boy came from the farm. He was attending a small school. One day he brought in a bunch of manure that he had picked up in the cow yard. And he sat there, he was forming this manure like you would clay. The teacher asked him, "What are you doing?" He didn't say anything. She said, "Well, what are you making?" And he looks up at her and he says, "A teacher." And she was a little upset by that, as you can imagine. So she went down the hall to the principal and said, "You better talk to little Johnny. Something's definitely wrong there." So the principal called the youngster in. And he still had his manure. And he was still forming it. And the principals said, "Well, what are you doing there?" Johnny didn't answer. He kept forming his manure. And the principal said, "Well, what are you making?" And little Johnny said, "Principal." Well, he reacted quite negatively to that. But he didn't know what to do. So he called on somebody from the State Department of Public Instruction. And I'm not going to identify who that was that came out to the school. But this consultant came out. Sat little Johnny down. And, sure enough, that day he had a bunch of manure and he was forming it. And the consultant said, "Well, what are you doing?" He didn't say anything. He said, "Well, what are you making?" And little Johnny looked up at him and said, "A teacher." Well, this set the consultant back a little bit. And he said, "Well, when the teacher asked you what you were making, you said, 'A teacher.' When the principal asked you what you were making you said, 'A principal.' But when I asked you what you were making you said, 'A teacher.' How come?" And little Johnny just looked up and said, "Not enough."

Well, I think perhaps that Harold had that in mind when he advised me not to talk too much, but to show you a film strip. I'll do that. It will take about thirteen minutes. So I've decided to steal a couple minutes before it and a couple minutes after it to say a few things.

This is the season for strawberries. I am an avid grower of strawberries. And, believe it or not, I heard a couple of them speaking to each other the other day. One of 'em said to the other, "You know, if we hadn't been in that bed together we wouldn't be in this jam now." I do want to talk about a jam, but not in a negative sense; Something which the Bar Association is cooperating with educators in. We are a mixture of education and attorneys. I want to digress a moment before I speak directly to the thing that the Bar Association has been involved in, and just give you a capsule summary of law education in North Dakota.

In 1972 there was no law education in any of the schools in the state. There was, of course, some instruction on American government and political science and things of that nature. The Department of Public Instruction was approached in that year by two districts, and they said, "Our students have a need for this. The legal structure is so complex that students have to have more knowledge about it." As a result of that request for help, a cooperative effort was launched involving the Attorney General's office, the Supreme Court, the Director of Institutions, my agency, and the combined Law Enforcement Council. I noted in the audience here two of the people that were prime writers on that project and who helped to get it off the ground, Jerry Vande Walle and Ed Zuern. The end result of that is the book available out on the table in the hallway, "Law and Justice in North Dakota." It's a regular high school course for students in grades 10 through 12. It involves four sections discussing the development of law, law enforcement, the courts and court structure, and the correction system. Dealing primarily with the criminal justice element of law rather than civil law. It was revised last fall to include the

recent changes. It has enrolled more than 8,000 students since it was distributed. Last year it enrolled 2200 students. And when this is viewed against sort of an average figure of enrollment in each grade in North Dakota, the 11,000, it means that about one senior in five is completing a specific course dealing with law and justice in North Dakota. I might draw a comparison here with the State of New York which last year reported that 9,000 students were enrolled in similar programs at the secondary level. Long Island alone, which is considered the flagship of the New York program, and easily has three times the population of North Dakota, enrolled the same number of students as our state did.

About the same time, in 1973, several communities produced junior high police relations programs. And this was established for grades 7 through 9. Outstanding programs are in Minot, Bismarck, Dickinson, Belcourt and Devils Lake. They are still blossoming and going. They have formed into excellent diversion programs and police youth bureaus. There, again, they generally depend upon uniformed officers in the school, and so are only available in larger communities.

The Department of Public Instruction received reports of further need. Many people, not only teachers, were telling us that these programs were good, but they arrived too late in the school system after students already had negative contact with the legal system. As a result of that, a cooperative project involving my agency, Devils Lake Public Schools, and other schools, including Napoleon, Richardton, Reeder, Dickinson, and other schools in Ramsey County, developed and tested an elementary program designed for grades 4, 5 and 6. This resulted in the background material for the book which is on display out on the table "Elementary Law Related Activities for North Dakota Schools." After we had it, we didn't quite know what to do, because we had problems with financing and attempting to provide it to teachers around the state. This is where the State Bar Association got directly involved. The State Bar and my agency and the Law Enforcement Council shouldered this financial burden. And at this point in time every fourth, fifth and sixth grade teacher in the State of North Dakota, both public and non-public schools, have a copy of this book. The teachers' guide book contains strong units on the importance of law, rights and responsibilities of a citizen, law-related careers, offenses and their consequences, law regulations affecting youth, due process of law, justice, values and decisions, and a small unit on television violence. It's available for any of you who are interested. I won't try to give you any details. It's out on the table in the hallway.

The same grant also funded the production of eight audio-visual aids to help teachers in teaching the course and to standardize to some degree the instruction that students receive. These are so new, they are just being completed now, that I only have the one copy. And I must take it with me to an elementary principals' workshop which starts Monday. I'll comment more on that workshop later. The film strips cover eight areas. First, justice. What is justice? Be a smart shopper. Bringing in consumer elements. Fun within the law. Covering recreation that fourth, fifth and sixth graders would be involved in. You, your pet and the law. The shoplifting problem. Law careers in North Dakota. A tour of a law enforcement center. And the one which I have selected for you to see today, government of North Dakota. So I'd like to get on with viewing it. Keep in mind, if you would, a couple things; one is that this is an amateur production. Each of these film strips was completely filmed and the script written for it for a total investment of \$200.00. And might compare that to a commercial film strip that you receive through an educational company and the standard fee is \$50.00 per frame just for the photography. And the entire work on this was done for \$200.00. Naturally I selected one that I thought was the best. Some of them are even more amateur than this one. The voice on this one is a radio announcer. Some of you may recognize him. I can't possibly embarrass him by telling you what he was paid for the job. Suffice it to say it was probably five percent or less of what he would get for doing a commercial. Again, it's intended for fourth graders. It's an introduction to government. At several points it's intended that the teacher could stop the film strip and continue discussion. And I won't do that. We'll run it straight through. But at several points you will see maps displayed and it will talk about election of officials and the like. A teacher at that point would stop it and start a discussion with the children about where are we, where do we fit in, who is our representative, who is our senator, things of that nature. I will just run it straight through for you.

(Whereupon, the film strip "Government of North Dakota" was viewed by the General Assembly.)

(Applause.)

MR. DAVIDSON: That is one of eight similar film strips. And by next fall they will be in the offices of your County Superintendent of Schools so that every school can borrow them just by traveling a few miles or having it mailed from the County Superintendent's office rather than some central office in Bismarck. Larger school systems will have their own set in their immediate centers.

In my opinion, North Dakota has an excellent law education program, and the materials are very excellent. They are fairly readily available in that the books have been presented to each school and the audio-visuals are on easy loan. In this respect I think we are leading the nation.

An obvious question is where do we go from here, and where does the State Bar intersect with the educational community is this respect? We as educators, I think, want more from you than just financial assistance. ALTHOUGH THAT IS A VERY IMPORTANT PART. We want you as individuals in the classrooms. We want you to talk with students, share yourselves and your expertise in the area of legal education. I certainly urge all of you to go into classrooms whenever you are asked to. In your positions as community leaders, many of you I know may even be on school boards, but I hope you go to principals, superintendents and school board members and ask them, "Are we using these materials that are available or are they on the shelf? Does our school teach law education at the elementary level? Does it have a police relations program at the junior high level? Do we have the law and justice program at the senior high level?" Perhaps the most important question that you could ask 'em is the simple question, "Is there some way that I can help with this instruction on law education?" There are gaps in the program. There is a need for more materials, especially at the high school level on the civil end or the civil half, civil house, whatever you refer to it as. The wing of law covering the civil cases.

There are two workshops this summer funded jointly by my agency and the Law Enforcement Council. At them we will have 84 elementary principals representing about 80 schools in North Dakota. I've been in contact with Harold Anderson. I believe he will speak at one of these workshops. And Marie Feidler will speak at the other one. Perhaps a chance for them to get even with me for today, I don't know. But, at any rate, hopefully at least 84 of you are going to be contacted by these principals and they will ask you to participate in various units of instruction when the students are studying law education. I do ask one thing; that you not discourage them. If you are busy, if you can't appear in the classroom, if you don't think that you want to appear in the classroom, maybe you just don't like children, whatever, if you would, if you could recommend one of your colleagues rather than completely discouraging these teachers. We're working hard to try to get them to involve more of you, to bring you into the classroom.

I hope that we can work together to improve the citizen knowledge of the legal and criminal justice systems. I'm running well overtime, but want to close with a comment by a gentleman by the name of Isador Starr. You may be acquainted with him. He bridges the gap I think very well between attorneys and educators. And when asked why should we teach children about the law, he had this response. He said, "To make the world a little more civil, a little more defined, a little more sensitive to liberty, justice and equality, and hopefully a little more honest." I hope that we could work together toward that. I've worn out my welcome and stayed overtime, so I won't give you the opportunity to ask me any questions. But I will remain in the hallway outside for a few minutes if you do have any questions or comments for me. Thank you very much.

PRESIDENT ANDERSON: Thank you very much, Lynn.

I think this will give you a little glimpse as to what we have in store for us in this law related education. This morning Marie Feidler's committee, the Law Education Committee, met. It's decided that there will be some articles in *The Gavel* on this subject, to come out in the coming months. I'd just like to echo what Lynn has said; "Participate." This is one of the challenges I think that faces our organization; that we do become participatory members of this education process. And I hope that all of you will give it serious consideration. And, if necessary, become a leader in your community to see that this program is adopted in your district.

At this time I'd like to introduce to you a man who needs little, if any, introduction to you. Our President-Elect will present to you the proposed budget for the coming fiscal year. Vern Neff, our President-Elect.

PRESIDENT-ELECT NEFF: Thank you, President Harold, members of the bar. I trust that the chill in the air in this room is not indicative of how you are going to receive this budget.

The responsibility of your President-Elect is to present to the Annual Meeting a budget for the next ensuing fiscal year for our Association, and that would be the fiscal year starting July 1, '78, concluding June 30, 1979. The budget building process which is followed by your Association is that the President-Elect working with your Executive Director, working with various committees, working with historical information from committee work and functions and their expenses in prior years, are then formulated, put into a budget that is then presented to the Budget Committee. The Budget Committee is composed of the President of your Association, the Immediate Past President of your Association, the President and President-Elect. That budget then when it is approved by the Budget Committee is then presented to the Executive Committee for their approval. That process has been followed in the preparation of this budget.

The Executive Committee considered the budget and approved it at their meeting on May 13, 1978. There were some changes made because of some additional information that was received from the Continuing Legal Education Committee, some amendments were made to it. And those modifications and amendments were then incorporated into the budget. And that was then approved by the Executive Committee at their meeting Wednesday morning, June 14th. And I am now here to present the budget to you for your consideration.

The budget breaks down into various categories. Under Administration we have budgeted \$97,650.00. And that is composed of the following elements: Office expense and officers' expense, Law School and Law Review, Law School liaison committee, scholarships and Annual Meeting. The total of those items under Administration total \$97,650.00.

The next category is Public Affairs. And under that category we have grouped information and service, legislative, unauthorized practice, uniform laws, law related education — and you heard from that committee through Mr. Davidson — and interprofessional relations. The total grouping in the budget for that group is \$9,850.00.

Under the next grouping, Disciplinary, we include Ethics Committee, Inquiry Committee East, Inquiry Committee West and the Disciplinary Board. And the total of those items under that category is \$27,650.00. The largest item, incidentally, under that category is the Disciplinary Board which we support to the extent of \$25,000.00 a year.

The next category is Continuing Legal Education and Internal Affairs. The total for that category is \$32,350.00. And that includes the CLE Committee, the Law Office Management and Procedures Committee, Memorials, Patterned Jury Instructions, Professional Liability and Insurance, Long-Range Planning, and Lawyers Liaison with the Internal Revenue Service. And the total of those is \$32,350.00.

And then we have a Contingency Fund of \$10,000.00.

And the total of all of these categories is a budget of \$177,500.00 for your Association for the ensuing year. That budget that I am proposing to you for your adoption is \$47,500.00 larger than the budget last year. The reason for the increase is that it incorporates into the budget \$31,000 for the CLE Committee, it contemplates \$7,500.00 for the expenditure and the purchase of audio equipment, having in mind that that if those funds are available then we can begin to acquire audio equipment, eventually perhaps the equipment which will supplement it, so that we can have televised presentations and records made of the CLE seminars so that they can be sent around the state and used

over and over. And then, of course, also because we are going into a legislative year we have included and budgeted \$10,000.00 for legislative.

The budget as it is being presented to you really carries a deficit of \$19,700.00. This is perhaps not a realistic deficit, but it perhaps is because we have been somewhat realistic in what we anticipate will be the income to your Association during the ensuing year. And I can assure you that there are items in the budget that will be watched very closely so that I think we can come back to you a year from now and we can tell you that we have not expended more funds than the income warranted. That cannot, however, be a strict assurance, because we simply do not know. We have several things in the budget that are impossible to calculate with any accuracy. One is, as you know, our very able Executive Director Bob Schuller has tendered his resignation effective October 1. This will entail that — and a search committee has been appointed to find a replacement for Bob Schuller. That being the case, we are going to have some additional office expense, because we are hoping that we can have his replacement hired and in place so that he can at least cycle himself through at least a month or more to see how the office functions. And so we'll have some duplication in that area. The other item of uncertainty in this budget insofar as income is concerned is that we have not completed one full year of CLE, and so we do not know with any historical accuracy what the income will be from CLE. But we have incorporated into this budget an anticipated amount that will be received through Continuing Legal Education. And we have budgeted for expenditures the same amount. So those items will then balance out. Hopefully that may not necessarily occur. And the last item, of course, is we simply do not know what our expenses will be or what costs will be incurred by the Association in this legislative year.

In terms of the increased budget of \$47,500.00, which is the amount of the increase over the preceding year, those amounts, as I mentioned, are made up of the three items; 31,000 for CLE, 7,500 for equipment, and 10,000 budgeted for legislative efforts.

At this time, Mr. President, I would move that we adopt a budget for this Association for the fiscal year 1978-79 of \$177,500.00 as submitted.

PRESIDENT ANDERSON: Thank you, Vern.
Is there a second to that motion?

MR. FRANK J. MAGILL: Second.

PRESIDENT ANDERSON: Is there any discussion about the budget, the proposed budget? Any questions anyone would like to ask or any discussion? Hearing none, I'll call for the question. All those in favor of approving this budget for the coming year signify by saying aye. Contrary no. Motion carried.

PRESIDENT ANDERSON: We now have Bill Neumann with us. And we'll ask Bill to give us a report of the Insurance Committee on an update on our insurance programs. Bill.

MR. WILLIAM A. NEUMANN: Thank you, Harold.

The chairman, George Dynes, asked me to talk to you about three points quickly about insurance. The first is for those of you who don't know it, there is a State Bar sponsored Blue Cross-Blue Shield group. We found that a number of lawyers are unaware of that fact. It's cheaper than most bank depositor groups, but it's more expensive than almost any other thing you can imagine. If you could get into any other group, you probably would be well advised to do so. Other than bank depositors.

Mr. Dynes asked me to discuss the State Bar Association sponsored group life program just a little bit. This program in the past has paid dividends to the State Bar, but the amount of the payment has been dropping quite significantly the past few years. In the meantime we find that the rates are very high for the coverage that is afforded. And the committee is searching for alternative carriers for the bar sponsored group life program.

That brings us to the professional liability program, which will take a couple more minutes. As a good many of you know, the State Bar sponsored or endorsed program went into operation on September 1, 1976, and is administered by the Harold Diers Agency. The carrier is Shand-Morahan. It went into effect at a rate of \$146.00 per lawyer for a \$1 million coverage with a \$1,000.00 deductible. At that time we were discovering that most carriers were trying to get out of professional liability. The primary carrier in North Dakota was the St. Paul. And it appeared that they were canceling some of their insureds and raising their rates for all of the others. The carrier for the newly-endorsed State Bar plan, Shand-Morahan, almost immediately raised their rates from \$146.00 to \$329.00, and raised it again in the fall of 1977 to \$464.00 per lawyer, with certain adjustments depending upon the nature of your practice. For essentially the same coverage as what was being afforded for \$146.00 on September 1 of '76, Shand-Morahan has now announced another rate increase this fall. We don't know what the extent of the increase will be for North Dakota. There will be a separate adjustment made for every state that they cover. However, the nation-wide average for all of these increases will be 25 percent. We assume ours will be somewhat less than that, but we don't know what.

Mr. Robert Diers of Harold Diers Agency says that he can see justification for a 7 percent or 8 percent increase based on inflation or cost of living increase, whatever, but that anything over that probably can't be justified. He also reports that at least three other companies are now eager to insure North Dakota if we should decide to drop Shand-Morahan. I guess the difference between \$146.00 and \$464.00 has piqued the interest of several carriers over the past year. Right now the committee is waiting for the rate increase announcement. And depending on what that is the committee may have to shop for another insurance carrier.

Finally, sort of a historic thing happened on Wednesday of this week. For the first time ever we have gotten a report of a professional liability carrier's loss experience for North Dakota. This from Shand-Morahan. They have 142 insureds in this state as of January 1, '78. During calendar year '77 they collected \$42,250.00 in premiums. Between September 1, '76, and December 31, '77, seven claims were filed, three were covered by prior carriers,

two were handled by the insureds themselves, and one was settled for \$3,350.00, one was settled for \$10,350.00. So during that, what, 16-month period they settled for \$13,000 — two claims for \$13,700.00. I understand they've settled them and set aside a reserve, but they haven't paid them yet. Five potential claims have been reported for '78, but none has actually been filed. But this is the first time that we've ever gotten this kind of information from an insurance carrier for the state.

Finally, Diers Agency likes to point out to us that in spite of our rate increase of all the programs carried by Shand-Morahan North Dakota still has the third lowest average premium per lawyer in the country. Apparently we don't get after each other very much yet.

PRESIDENT ANDERSON: Thank you, Bill.

Are there any questions of Bill?

MR. MALCOLM H. BROWN: Well, this is for Mr. Neumann. But would it be possible for that committee to try to get that same type of information, for instance, from the St. Paul about, you know, claims in North Dakota?

MR. NEUMANN: Sure, there is a state law passed by the last legislative sessions that requires all carriers to report this information to the State Insurance Commissioner. As of last week the Insurance Commissioner had not received any of this information, but I don't believe he had advised any of the carriers of the filing requirement, either.

It should be forthcoming, eventually.

PRESIDENT ANDERSON: Any other comments or questions?

Okay, hearing none, I will ask for old business. Anybody have any old business they would like to bring up before the assembly?

Any new business to be brought up? Anyone have anything new they would like to bring up before we go on to the elections? Any old or new business?

If not, John Hjellum, Chairman of the Resolutions Committee, have you got any resolutions you want to bring up at this point? All of the resolutions that were presented yesterday I guess are up for consideration.

While we are waiting for John, I will go ahead and I will just read these. We act on these. When John comes in, I'll turn it over to him.

The first resolution is the one — I will read it to you.

RESOLUTION

BE IT HEREBY RESOLVED: That the constitution and bylaws of the State Bar Association of North Dakota be amended pursuant to Article X thereof as follows: that Article V of the constitution of the State Bar Association of North Dakota and all other articles of said constitution be amended by deleting the words "executive committee" wherever the same appear in the constitution and bylaws and substituting therefor the words "board of governors."

BE IT FURTHER RESOLVED: That a copy of this resolution be filed with the secretary-treasurer of this association for final action at the next annual meeting of this association.

That has been moved, it's on the floor. Is there any discussion?

MR. DAVID DREY: What's the point of it?

PRESIDENT ANDERSON: You had a point?

MR. DREY: Yeah. I was wondering why the name change? What's the point of it?

PRESIDENT ANDERSON: Give you a little background. This last year with the weather and what have you there was a time period involved where we had scheduled executive meetings and we were unable to hold the same. The thought was that we were going to present to the assembly perhaps a constitutional change whereby we would have an Executive Committee in a sense of the Executive Committee to handle any administrative problems that might arise if we had future problems getting the whole Executive Committee together. As a result of that, and because most other states call their Executive Committee a "Board of Governors" rather than "Executive Committee," it's basically a cosmetic change at this point — to call the "Executive Committee" a "Board of Governors." And that's the main idea behind it. Perhaps in the future sometime we may want to again amend the constitution to authorize an Executive Committee of the Board of Governors. But it's felt that right now we just change the name and worry about that later, I guess. That's about the sum and substance of it.

MR. DREY: I thought maybe we could get a federal grant or something.

PRESIDENT ANDERSON: No, there's no federal grant money involved.
Any further questions or discussion?

PRESIDENT ANDERSON: If not, all in favor of placing this on the agenda for the next annual meeting signify by saying aye. Contrary no. Motion is carried.

PRESIDENT ANDERSON: Here's the next resolution.

RESOLUTION

WHEREAS, the general membership assembled at the midwinter meeting of the State Bar Association directed that the membership of that association be polled by mail as to its opinions on four possible amending policies of the Code of Professional Responsibility regarding advertising by lawyers in North Dakota, such poll to be advisory to the Executive Committee, and,

WHEREAS, the results of the said poll indicated a significant support for "Proposal A" as included in the poll, and

WHEREAS, "Proposal A" included in the poll was essentially "Proposal A" considered by the general assembly of the midwinter meeting as proposed by the Ethics Committee of the State Bar Association setting forth certain limitations of information permitted in advertising by North Dakota lawyers and prohibiting the use of electronic media in such advertising, and

WHEREAS, the Executive Committee of the State Bar Association at its regular meeting held June 14, 1978, voted to recommend "Proposal A" as a basis for amending the Code of Professional Responsibility regarding advertising by North Dakota lawyers.

BE IT HEREBY RESOLVED, that the State Bar Association of North Dakota adopts "Proposal A" as recommended by the Ethics Committee of that Association as its policy regarding advertising by North Dakota lawyers.

That's on the floor for discussion. Any discussion?

MR. MYER R. SHARK: Would you briefly outline "Proposal A"?

PRESIDENT ANDERSON: Well, Myer, the "Proposal A" as proposed by the Ethics Committee consists of about fifty pages, or thereabouts. —

MR. SHARK: Okay.

PRESIDENT ANDERSON: — with a number of changes in the Code of Professional Responsibility. It, frankly, would be too long to try to give you every detail on it. But basically "Proposal A" — and this I will read. We put it out in the mailing. — "The SBAND Ethics Committee proposes a limiting rule whereby only certain information may be used in lawyer advertising, such as name, address, telephone, law practice concentration, education, client references, hourly fees, charges for specific legal services, the description of which would not be misunderstood or be deceptive. The use of electronic media would be prohibited."

So that basically it's a limiting type proposal.

Anybody interested in the results of the poll?

Attorneys. . . : Yes.

PRESIDENT ANDERSON: There were 444 replies out of a thousand, basically a thousand, mailed out. "Proposal A" received an affirmative vote of 193, a negative vote of 143; "Proposal B," which was the one that would have allowed electronic advertising basically, had an affirmative vote of 151, and a negative vote of 175; the other two, "Proposal C," which was to do nothing or leave it as it is, both went down very solidly to defeat — 217 to 71 in one instance, and 228 to 58 in the other.

Anybody want to have any discussion or give us your views on it?

MR. KENT A. HIGGINS: Do we have any copies of either "Proposal A" or "Proposal B" available for dissemination?

PRESIDENT ANDERSON: I think I have a copy in my room, but it's not reproduced. If you would like, I can go and get it or have somebody go and get it.

MR. HIGGINS: I was just wondering if we are going to have to do this by our recollection of those materials or whether they were available.

PRESIDENT ANDERSON: No, they have not been reproduced in detail.

MR. HIGGINS: In that case I move a substitute motion that this body adopt "Proposal B" as our standard on legal advertising.

MR. TERRY ERIKSMOEN: Second.

PRESIDENT ANDERSON: Okay. There is a substitute motion, then, that we adopt "Proposal B." I think, in substance, the difference between the two are whether or not we want to allow radio and TV advertising or whether we want to limit it to newspaper advertising or the print media. That's the basic difference between the two. Mr. Brown. Malcolm Brown from Mandan.

MR. BROWN: As some of you will recall, I spoke on behalf of "Proposal B" at the midwinter meeting. And I am not a hack for the radio and TV media. But I firmly believe that under the Bates and O'Steen decision we cannot restrict the type of media that we allow advertising in. And I think if we were to adopt "Proposal A" we would start getting people advertising on radio and TV anyway and we wouldn't know what to do with them. So I think we should recognize the fact that as long as the advertising falls within certain guidelines that we should permit any type of media, including radio and TV. And for that reason I also support "Proposal B," and ask your support on it, too.

PRESIDENT ANDERSON: Thank you, Malcolm.

Anyone else want to come up and make a presentation on this issue?

MR. PATRICK A. CONMY: Mr. Chairman.

PRESIDENT ANDERSON: Pat Conmy.

MR. CONMY: Was the initial thought of limiting "Proposal A" to nonelectronic media the availability of the document itself as evidence if, in fact, it was fraudulent or beyond the guidelines established of permissible content? Was that the rationalization for not having electronic media permitted?

PRESIDENT ANDERSON: I don't know, Bob Heinley chaired that Ethics Committee. I believe Marsh Bergerud was on that. Marsh made a report on that the other day.

Marsh, can you answer that?

MR. MARSHALL BERGERUD: I think the rationale was, if it was, in fact, a committee consensus on it, would be the difficulty in correcting errors that were made in electronic advertising. We felt basically — the committee felt that if you make an error in a printed ad there would be a good chance that you would reach nearly the same readership with a correction whereas it was felt that there might be some difficulty in reaching the same people that heard the original ad, whether it be radio or TV presentation.

PRESIDENT ANDERSON: Okay. Bob Dahl.

MR. ROBERT E. DAHL: Mr. President, I was chairman of the Special Committee on Advertising, as some of you may recollect, when "Proposal A" and "Proposal B" were considered by the House of Delegates of the American Bar Association, of which I'm also a member. I think there's a little misunderstanding by the membership as to the difference between "Proposal A" and "Proposal B." It is not the fact that electronic media may be used, that's not the difference. Because you can use that with either A or B. The difference basically between "Proposal A" and "Proposal B" is that "Proposal A" is a restrictive type of a guidance. In other words, the Ten Commandments; thou shalt not, you may not do these things. "Proposal B" allows almost anything, it's unrestricted. It puts the disciplinary committees in a position of having to determine whether each piece of advertising comes within the realms of the canons of professional responsibility as we now know them.

I am inclined to think I don't have an opinion on this, very frankly, because I am inclined to think this whole thing is moot. If you read some of the current comments and some of the writings that are coming out at the present time, there is a move going forward to change the canons completely. And the canons as we have known them for the last thirty-five years, as I have known them anyway, probably won't even be in existence in another five years. I think you're going to find that the restrictions are going to be much less limited than they are now. But basically I would want you to understand the difference between the two proposals is not that one authorizes electronic media use and the other one doesn't, because that isn't the difference.

PRESIDENT ANDERSON: If I may, maybe it will clarify it if I read "Proposal B" on this card.

"The ad hoc Committee on Electronic Advertising proposes a less restrictive ruling that would not restrict the use of any media, would provide content guidelines for all media, and would direct that every advertisement convey only information necessary to enable a lay person to select a lawyer. Advertising that is false, fraudulent, misleading or deceptive would be prohibited. Records would be required of all advertising for a designated period."

So that's the difference. I don't think you want to confuse our "Proposal A and B" with what basically I guess is the National A and B. Because we are not that far apart on this. I think basically there are differences between our A and B and the National A and B.

Jack McDonald.

MR. JOHN T. McDONALD: I just wanted to ask. My understanding, the way you read it the first time, though, was that you couldn't advertise on radio under A.

PRESIDENT ANDERSON: That's correct.

MR. McDONALD: Bob's just saying the opposite.

MR. PATRICK A. CONMY: He is talking National.

PRESIDENT ANDERSON: He is talking National.

MR. DOUGLAS A. CHRISTENSEN: Tell us what we have, Jack.

MR. DAHL: I don't disagree with what you are saying, Jack. The only point I wanted to make is don't confuse A and B with electronic and nonelectronic. It may be that in this particular situation B allowed the electronic. But that isn't the basic difference. The basic difference is as Harold has read it. You will notice that the restrictions are much less under B than they are under A. It also does include electronic media. But as far as I am concerned that's not the important difference. It's anything that is not false or fraudulent may be used under B. Under A it spells out very definitely these are the things that you can do. And Harold did mention those in the summary that he gave you.

MR. McDONALD: But under A you can't use radio.

PRESIDENT ANDERSON: No.

MR. McDONALD: Or any electronic media.

PRESIDENT ANDERSON: Or any electronic. Under our "Proposal A" no electronic media whatsoever. Now National I believe did authorize radio, did it not?

EXECUTIVE DIRECTOR SCHULLER: That's right.

PRESIDENT ANDERSON: So our "Proposal A" to that extent I believe is more restrictive than the National "Proposal A" or ABA "Proposal A."

EXECUTIVE DIRECTOR SCHULLER: That's correct.

PRESIDENT ANDERSON: Any further discussion?

MR. MICHAEL R. McINTEE: Harold, what is the case you cited? What was the decision in that case?

PRESIDENT ANDERSON: Bates vs. O'Steen.

MR. McINTEE: What was the decision?

PRESIDENT ANDERSON: Okay. Who is the constitutional lawyer that would like to explain that decision?

MR. PAUL G. KLOSTER: How about Ed Vinje?

PRESIDENT ANDERSON: It basically said we could no longer prohibit all advertising. It said that we have to allow some advertising. They left it up to the states to adopt regulations regarding the same. They specifically declined to make any ruling on electronic advertising, I believe, radio or TV.

EXECUTIVE DIRECTOR SCHULLER: That's right.

PRESIDENT ANDERSON: They left that for future consideration. I guess that's a summary. If anybody wants to expand on that, I'd sure welcome it.

MR. McINTEE: I thought there was an inference that case may have restricted A. I wanted to make sure as far as that case you are citing it didn't thwart the motives that you had in A.

PRESIDENT ANDERSON: No.

MR. McINTEE: In other words, that case doesn't conflict with your first proposal; is that right?

PRESIDENT ANDERSON: I don't think either A or B necessarily conflicts with the Bates-O'Steen ruling. Leonard Bucklin.

MR. LEONARD H. BUCKLIN: I would disagree on that. Both that and the previous case I think which came out of Virginia specified with some distinctness that the fear that the public might be misled is not a proper constitutional basis for prohibiting any form of advertising. And if the fear of television is that somebody might be misled, that's not a proper constitutional basis for prohibiting a type of advertising. According to the United States Supreme Court.

PRESIDENT ANDERSON: Dave Peterson.

MR. DAVID L. PETERSON: I just want to speak in favor of the motion. I think it would be ironic if the North Dakota State Bar Association passed a resolution which, in effect, allows discrimination in media, and that's just exactly what this would do; you are allowing the print media to be used and you are saying that TV and radio should not be. And that's not what Bates vs. O'Steen is talking about. I think that if it's going to be — if advertising is going to be allowed it can be policed, but don't put the Ethics Committee in a situation of nonpoliceable situation. And what you are doing is you're asking for a discriminatory resolution out of this body, the State Bar Association. I think that would be totally inappropriate.

PRESIDENT ANDERSON: Okay. Any others? John Hjellum from Jamestown.

MR. JOHN HJELLUM: Harold, you read B so beautifully, I wonder if you could read A again, please.

PRESIDENT ANDERSON: "The SBAND Ethics Committee proposes a limiting rule whereby only certain information may be used in lawyer advertising, such as name, address, telephone, law practice concentration, education, client references, hourly fees, charges for specific legal services, the description of which would not be misunderstood or be deceptive. The use of electronic media would be prohibited."

MR. SHARK: Perhaps, Harold, you should add that that's a condensation or a synopsis, it's not the rule itself.

PRESIDENT ANDERSON: Very much so. That's very much a condensation of a very lengthy document, complicated document, trying to amend our whole Code of Professional Responsibility in this area.
Harris Kenner.

MR. HARRIS P. KENNER: Yes. You know, I'm having a little difficulty trying to distinguish between A and B here. But am I wrong in that what the substitute motion really wants is "Proposal A" without the limitation on electronic media? If that could be done, I could see no problem in voting for it.

PRESIDENT ANDERSON: All right. Mr. Higgins, it's your motion.

MR. HIGGINS: Well, I would say that was only part of what I hoped to accomplish. One of the things I hoped to accomplish is to avoid having this group adopt a many-page regulation that none of us have before us on one of the

many merits of "Proposal B" in addition to allowing electronic and being considerably less restrictive as to the contents of those ads is that we at least will know as a group what our regulation is. Without any copies of Regulation A before us to examine that, we will not know if we adopt Proposition A.

PRESIDENT ANDERSON: Ed Vinje.

MR. EDMUND G. VINJE, II: First I want to give you the benefit of my views. Because I believe that both "Proposals A and B" go far beyond Bates and O'Steen. One example would be we say in A and B that a lawyer may indicate in which area of the law he concentrates his practice. And yet we have no guidelines from our profession as to how that can be stated or how the lawyer is going to determine that or how the public is going to be protected in the event that the lawyer does state that he concentrates in a certain area of practice.

The entire gist of Bates and O'Steen, and I have read it extremely carefully and I would disagree with some of the comments about it, is how can we protect the interests of the public? How can we inform the public? And then how can we protect the interests of the public once we have informed them? And there are permissible limitations that appear in Bates and O'Steen, and they are as follows: That there should be no false, deceptive or misleading advertising. And these are all very clearly stated in the case. And I would hope that all of you have read it so that you can make your decision as good lawyers would be based on the reading of the case.

Secondly, the case says because the public lacks sophistication, misstatements that might appear in other advertising and can be overlooked in other advertising may be inappropriate for lawyers. Because of this lack of sophistication.

Third, it says that advertising by lawyers might require a warning or a disclaimer even on those types of advertising that the court in Bates and O'Steen rules are approved. So they are being very cautious. They are talking about restraints, they are talking about protecting the public.

Fourth, it says there may be reasonable restrictions on time, place and manner of advertising. And then they also say that there are special problems of advertising on the electronic broadcast media which will warrant special consideration, and to which they do not speak.

I really don't think that we have given consideration to all of these matters. Because finally what they say in the case is that the only services that lend themselves to advertising are the routine ones. And "routine" is a question. And it seems to me we have not defined "routine." And that's going to be the serious question as to how you define this question of "routine services." But the court gave some examples. The court said the uncontested divorce — uncontested divorce — is routine, the simple change of name is routine, the simple adoption is routine, the uncontested — uncontested — personal bankruptcy is routine. And then they say "and the like." Now these are questions which we have not addressed. And it distresses me that we have not addressed them, because I do not believe that either "Proposal A" or "Proposal B" follows the decision, nor do I believe that they adequately protect the public. And that should be our concern here today, is whether or not we follow the decision and whether or not we are protecting the interests of the public.

PRESIDENT ANDERSON: Thank you, Ed.
Anyone else wishes to be heard on the subject?

MR. KENNER: I move that the matter be tabled and referred to the Executive Committee.

PRESIDENT ANDERSON: Okay. There's a motion. Is there a second?

MR. FRANK J. MAGILL: Second.

PRESIDENT ANDERSON: Frank Magill seconds it.

A tabling motion is without debate. So all those in favor of tabling this and referring it to the Executive Committee say aye. Contrary. Chair is in doubt. Proctors stand up. All those in favor of the tabling and referring to the Executive Committee please raise your hand.

MR. RICHARD P. GALLAGHER: I get 27 on this side.

MR. IRVIN B. NODLAND: I got 46 in all.

PRESIDENT ANDERSON: You counted both sides, Irv?

MR. NODLAND: Yes.

PRESIDENT ANDERSON: 27 from 46 is — all right, 46 that are in favor. All those opposed raise your hand.

MR. NODLAND: 55 total.

PRESIDENT ANDERSON: 55 total. Motion failed. Motion to table fails.
We are back to the substitute motion.

JUDGE EUGENE A. BURDICK: I think there's a middle ground here that ought to be considered, and that would be to have a laundry list in one draft and restricting the media as "Proposition A" does, another would be to have the laundry list without the restriction to the electronic media, and the third is, of course, "Proposal B." I would like to see a vote on all three. But I'd like to see a mail vote where we could look at the language of the three propositions and then whichever one carries 50 percent of those voting by mail would be the one that we would adopt. And if we didn't get a 50 percent vote, bring it back at the next meeting.

PRESIDENT ANDERSON: We already have one substitute motion, Mr. Parliamentarian?

JUDGE BURDICK: I am just telling you what I would like to see done.

PRESIDENT ANDERSON: Okay.

JUDGE BURDICK: I can't vote the way I want to on either of these propositions. And I can't vote without reading them.

PRESIDENT ANDERSON: Okay. Well, we have a substitute motion. It is on the floor now to adopt "Proposal B" as opposed to "Proposal A" as mailed out.

Harris Kenner. Speaking on that subject?

MR. HARRIS P. KENNER: Yes. Well, I'm in the same position as Judge Burdick. I can't vote on "Proposal A" the way it is, I can't vote on "Proposal B" the way it is. I think that A is all right if we include — if we permit electronic advertising then, too. But it seems to me that we've got to defeat the substitute motion before we can consider anything more. Because we can't very well amend the substitute.

PRESIDENT ANDERSON: I would like to point out to you, and I don't mean this in the form of criticism to either Judge Burdick or Harris, but "Proposal A" was available at the midwinter meeting. It was also published. If any of you wanted to read it it was available upon request from the Bar Association office. We determined as an Executive Committee the cost of publication and mailing to the general membership was almost prohibitive. And I sympathize with you if you haven't read it. But I would just like to point that out to you, that it was available upon request since January.

MR. FRANK F. JESTRAB: Question.

PRESIDENT ANDERSON: The present motion before the floor is a substitute motion that we adopt "Proposal B" as has been read here that was in the mail plebescite.

MR. HJELLUM: Obviously if we were to reject "Proposal B" we could still amend "Proposal A" to include the electronic media.

PRESIDENT ANDERSON: That's correct.

MR. JESTRAB: Question.

PRESIDENT ANDERSON: Question has been called. I am going to really follow parliamentary procedure here. And I am calling now for the motion on the question which is to limit further debate. All in favor of limiting debate say aye. Contrary. Passed.

Now the question before you is the substitute motion that we substitute "Proposal B" and adopt that as the policy of our Association. All those in favor of that motion signify by saying aye. Contrary.

I am going to rule that the noes have it.

MR. FRANK F. JESTRAB: Division.

PRESIDENT ANDERSON: Unless there is a division called. Anyone want a division?

MR. DWIGHT C. H. KAUTZMANN: Dewey Kautzmann, Division.

PRESIDENT ANDERSON: Okay. Dewey Kautzmann calls for a division. Those in favor of the substitute motion to substitute "Proposal B" raise your hand. Proctors arise.

MR. RICHARD P. GALLAGHER: I got 51.

MR. IRVIN B. NODLAND: 51.

PRESIDENT ANDERSON: There's 51 in favor. All those opposed raise your hand.

MR. GALLAGHER: I got 63.

MR. NODLAND: I got 68.

PRESIDENT ANDERSON: In either event, it's more than 51.

I am going to declare the motion has lost.

We now have "Proposal A" before us.

JUDGE EUGENE A. BURDICK: I would like to move that electronic media be included in Proposition A.

PRESIDENT ANDERSON: Are you moving to amend?

JUDGE BURDICK: Yeah. To amend it to include "to permit electronic media delivery."

PRESIDENT ANDERSON: Okay. Is there a second to that amendment?

MR. DOUGLAS A. CHRISTENSEN: Second.

PRESIDENT ANDERSON: Any discussion on the amendment?

MR. PATRICK A. CONMY: Question.

PRESIDENT ANDERSON: Question has been called, which limits debate. All in favor of limiting debate say aye. Contrary.

Motion is carried.

We now have before you "Proposal A" as amended. Any further discussion? Sparky Gierke.

All those in favor of the amendment to allow electronic media advertising in conjunction with "Proposal A" signify by saying aye. Contrary. Motion is carried.

MR. SPARKY GIERKE: Just one question. Does that have anything contained in it which requires them to keep any record of what had gone on over the electronic media?

PRESIDENT ANDERSON: No, it does not at the present time. We do have a motion before us which is available for amendment if somebody was so inclined to do that. But I'm not proposing that.

Mr. Higgins.

MR. KENT A. HIGGINS: My recollection of Proposition A is not complete or total. But my recollection is that there was a general requirement that attorneys keep available copies of their advertisements for later review. And it seems to me that if we allow electronic advertising that requirement would apply to that as well as printed advertising.

PRESIDENT ANDERSON: Perhaps Mr. Bergerud could respond to that. Do you recall the proposal by the Ethics Committee?

MR. MARSHALL BERGERUD: I can't recall what the committee discussed on that exact point. I think it could very well be permitted at this time.

I don't think it was discussed. I think the committee kicked it around. And they felt that in view of Bates and O'Steen and the fact the court had not addressed electronic advertising we did not discuss the length of time that the copies of your advertising should be retained. That was not discussed by the committee to my knowledge.

PRESIDENT ANDERSON: Mr. Conmy.

MR. PATRICK A. CONMY: Mr. Chairman, I am assuming that Judge Burdick's motion to include electronic media also carried with it the requirements and restrictions relating to electronic media which are set out in Proposition B.

Isn't that right, Judge Burdick?

JUDGE EUGENE A. BURDICK: He said it better than I could.

MR. HIGGINS: I am a little concerned. I wonder if we couldn't have somebody locate one copy of Proposition A so when some of these questions arise we might have an authoritative answer.

PRESIDENT ANDERSON: I will declare that we will be in recess for coffee at this point. And we will try to have a copy back here after the recess.

(A brief recess was had).

PRESIDENT ANDERSON: Kent Higgins, will you come forward, please?

Those of you in the back of the room, I have been asked to have you sit down so that the proctors can better count your hands as you raise them. So would you please come in and have a seat? It just makes it so much simpler when we have close vote like 100 to 50.

The Chair at this time will recognize Kent Higgins.

MR. KENT A. HIGGINS: At this time I would like to move to amend Proposition A. And for those of you who have your copy of the 50-page resolution from the midwinter seminar, the language I'm referring to appears at Page 18 and presently reads as follows. This is the only reference I can find to a record being kept of electronic advertising. At Page 18 at Section D, the present language reads:

"If the advertisement is communicated to the public over radio it shall be pre-recorded, approved for broadcast by the lawyer, and a recording of the actual transmission shall be retained by the lawyer."

You will notice that makes no provision, for example, as did Proposition B, for how long that record shall be retained.

I would therefore move to modify Proposition A at that point to read:

"Radio and television," and in addition to add the language "for a period of one year after transmission" to the present language of the proposition.

MR. JOHN HJELLUM: Can you read that as you just made the motion to amend?

PRESIDENT ANDERSON: Okay.

MR. HIGGINS: Consequently as amended that provision would read:

"If the advertisement is communicated to the public over radio or television it shall be pre-recorded, approved for broadcast by the lawyer, and a recording of the actual transmission shall be retained by the lawyer for a period of one year after transmission."

PRESIDENT ANDERSON: Is there a second to that motion to amend?

JUDGE EUGENE A. BURDICK: Second it.

MR. DAVID L. PETERSON: Question.

PRESIDENT ANDERSON: Any further discussion? I might point out that when we met with the electronic media on this question they indicated that copies of the transmission would not be automatically furnished to the attorney, but they would be available at a nominal cost, estimated to be somewhere between five and \$25.00 per recording. So it's not a prohibitive item, I guess, if you're going to use that type of advertising.

Any further discussion?

MR. FINTAN L. DOOLEY: We are talking about a tape of the sound?

PRESIDENT ANDERSON: No, I think when you are talking about a TV advertising you are talking about the entire video tape of it.

MR. MYER R. SHARK: Video and audio.

PRESIDENT ANDERSON: Video and audio.
Judge Burdick.

JUDGE EUGENE A. BURDICK: It seems to me that it may be a little bit burdensome to require the attorney to keep the entire video tape. If it's available at the media that ought to be sufficient.

PRESIDENT ANDERSON: The media advises us that they do not keep copies. They do in some instances, but not in all instances. In order to protect us they would suggest that we require the attorney to keep it.

JUDGE BURDICK: My suggestion is that it be one or the other. In other words, if the media would do it, fine; if they don't, why then the attorney would have to. The attorney must do it under the motion. I would like to ask Kent if he would accept — adding "or the media." "Be retained by the attorney or the media."

MR. HIGGINS: I am reluctant to do so only because I don't know what you do in the case where the lawyer says, "The studio has it," and the studio says, "We reran the tape to make a commercial." My personal feeling is it should be the lawyer's responsibility to keep the record. However he wants to discharge that is up to him.

JUDGE BURDICK: I am not making a motion, I am just calling attention to the problem.

PRESIDENT ANDERSON: Thank you, Judge Burdick.
Any further discussion?

MR. FRANK F. JESTRAB: Question.

PRESIDENT ANDERSON: Question has been called, which limits debate. All those in favor of wanting to limit debate say aye. Contrary. Motion is carried.

We now have an amendment to Proposition A as you have heard it read here by Mr. Higgins. All those in favor of that amendment signify by saying aye. Contrary.

We now have Proposition A before the house in its doubly-amended form. Any further discussion?

MR. MYER R. SHARK: I would just like to ask if we approve this motion are we adopting the full text of Proposition A or only the summary of it which was read earlier?

PRESIDENT ANDERSON: You will be adopting in a sense the full text as has been available before and as amended.

MR. SHARK: As I see it, it will be up to the Ethics Committee, if this is passed, the new Ethics Committee will have to make this proposal and represent it to the Executive Committee in its form as adopted here.

PRESIDENT ANDERSON: Mr. Kenner.

MR. HARRIS P. KENNER: I think we should further amend the motion. And my amendment would be that the Ethics Committee is authorized to amend or make changes in the text of Proposition A in any and all manners that would be consistent with the amendments that this body has made.

PRESIDENT ANDERSON: Okay. You are forming that in the form of a motion to further amend the adoption of Proposition A in its present amended form; is that correct?

MR. KENNER: Yes.

PRESIDENT ANDERSON: Is there a second to that, which is basically an authorization to the Ethics Committee to use their drafting abilities to conform to the wishes of this group adopted here today? Is there a second to that motion?

MR. RAYMOND R. RUND: I will so second it.

PRESIDENT ANDERSON: Any discussion on that motion? If not, all in favor signify by saying aye. Contrary, no. Rule the ayes have it unless somebody asks for a division.

Okay. We now have Proposition A before us in its triply amended form. Is there any further discussion on Proposition A?

MR. MYER R. SHARK: Question.

PRESIDENT ANDERSON: Question has been called, which limits debate. All in favor of limiting debate say aye. Contrary, no. Debate is limited. All in favor of Proposition A as amended say aye. Contrary, no. Motion is carried. Division can be called if anybody wishes it. If not, we will have the Ethics Committee prepare this. And I presume when we finally get it done in some manner or the other we will announce the fact that it's completed. Whether the new Executive Committee, your new President, will authorize the expense of mailing it out, or whether it will be just made available upon request, that decision will be made at a later date.

Okay. Any further new or old business before we go to the elections? If not, I would like to announce that we're gonna adopt as a rule, unless overruled by the assembly, that we will have a secret ballot system of voting in all instances where there are two or more candidates for an office. If there is only one, the Chair will entertain the "choo-choo" motion. I would like to also ask that you limit your nominating speeches to three minutes, and a two-minute limit to seconding speeches.

At this time I would like to call for a nomination for the office of ABA Delegate. Mr. McGee.

MR. RICHARD H. MCGEE: I would like to put in nomination Robert Dahl. He is the incumbent. I have observed him. He does go to the meeting. He does come down there with more knowledge of what the North Dakota Bar is concerned with and with the other matters with relation to the ABA problems, projects which we are concerned with at the time.

PRESIDENT ANDERSON: Okay. The name of Robert Dahl has been placed in nomination. Is there a second to that nomination?

MR. SWAIN BENSON: I will second it.

PRESIDENT ANDERSON: Seconded by Swain Benson. You're limited to two minutes to second it, Swain.

MR. BENSON: I will waive my two minutes.

PRESIDENT ANDERSON: Okay. Is there any further seconding for Mr. Dahl?
If not, are there any other nominations for ABA delegate?

MR. SWANSON: Glenn Swanson. Move the railroad.

PRESIDENT ANDERSON: The railroad has been moved. And I presume that the record will show the proper wording of that. Is there a second to that?

MR. RAYMOND R. RUND: Second.

PRESIDENT ANDERSON: All those in favor of closing nominations, and that the Secretary be instructed to cast a unanimous ballot for Bob Dahl, signify by saying aye. Contrary, Motion is carried. Congratulations, Bob.
The Chair will now call for nominations for the office of Secretary-Treasurer.

MR. MICHAEL G. STURDEVANT: Mr. President, I am Mike Sturdevant from Minot.

I am pleased to place the name of Alan J. Larivee of Grand Forks in nomination for the office of Secretary-Treasurer of this Association. Al is the outgoing Chairman of the Young Lawyers Section. Therefore, if not due to ability, certainly by tradition he's eminently qualified.

PRESIDENT ANDERSON: That sounds like a conning nomination. Is there a second to that?

MR. DAVID ENGEN: Dave Engen of Grand Forks. I am going into practice with Al, that's why I'm seconding him.

PRESIDENT ANDERSON: Dave Engen. Okay. Any other seconding speeches for Al?

MR. ROBERT A. FEIDLER: I will move the railroad motion, Mr. President.

PRESIDENT ANDERSON: All right. Mr. Feidler from Grand Forks moves the railroad motion. Is there a second to that?

MR. DAVID L. DREY: Drey from Minot. Second.

PRESIDENT ANDERSON: Second by Mr. Drey from Minot. All those in favor of the railroad say aye. Contrary, Motion is carried.

I will now call for nominations for the office of President-Elect. And the Chair will recognize Mr. Swain Benson from Bottineau. Swain.

MR. SWAIN BENSON: Thank you, Harold, members of the Assembly.

I would like to place the name of Jon Kerian as a nominee for President-Elect of our Association. Jon was born in Grafton, North Dakota, and received his education in Grand Forks, North Dakota, and graduated from the Law School, UND Law School, in 1957. He practiced in Grand Forks for some time and then was appointed as Assistant

Attorney General and served there for a period of about ten years with the State Highway Department, and then came to Minot and is presently in practice with the law firm of McCutcheon, as it used to be coined, and is one of the senior partners there now. Jon has been active in Bar Association activities for some time. He's been President of the Ward County Bar Association. He was President of the Fifth District Bar Association, a member of the Executive Committee in 1975 through 1977. And I had the pleasure of serving one year with Jon on the Executive Committee, so I speak with some knowledge of his ambition and his energy and his ideas in serving on the Executive Committee. He's presently Chairman of the Patterned Jury Instructions Committee and is a member of the CLE Committee. I would like to see Jon President of the Association for a number of reasons, but probably the prime reason would be that he could keep Bob Dahl under control. So, therefore, it is a real privilege and a pleasure to nominate Jon Kerian for the office of President-Elect. Thank you.

(Applause).

PRESIDENT ANDERSON: Thank you, Swain.

Is there a second to Mr. Kerian's nomination? Want to come forward?

MR. JAMES R. MAXSON: Mr. President. I am Jim Maxson from Minot, North Dakota. And I with great pleasure second Jon's nomination as President-Elect. I would like to point out to the people present that I have no ulterior motives since he is not my senior partner. I would also like to state for the record that the Ward County Bar Association has nominated — or endorsed, I should say, Jon unanimously. And I believe the Fifth District also has endorsed him unanimously. And in conclusion, with great pleasure I would like to second the nomination of Jon Kerian for President-Elect. And I certainly hope that he is elected, because if he isn't he certainly would have a Harold Stassen image, which he does not deserve.

PRESIDENT ANDERSON: Any further seconding for Mr. Kerian? Any other nominations for the office of President-Elect? Any other nominations?

PRESIDENT ANDERSON: I already have a request for the person to make the "choo-choo" motion.

MR. KESSEL: I didn't hear that. I thought possibly we could hear Tim Davies' nomination of a year ago to kind of fill in.

PRESIDENT ANDERSON: If the Chair may be allowed just an aside, I think that if Kerian can live up to that promise that he'd keep Bob Dahl in line, I think it's a good point.

The Chair at this time will recognize Dan Chapman from Bismarck.

MR. DANIEL J. CHAPMAN: Members of the Assembly, Mr. Chairman. I'm from the University class of 1952.

MR. CHAPMAN: I want to point out that our President is from the class of 1952, our President-Elect is from the class of 1952, the outgoing President of the Alumni Association, Mr. Mitch Mahoney, is from the class of 1952, his stand-in, Harris Kenner, is from the class of 1952, and the President-Elect, Mr. Benson, is from the class of 1952. In that connection, let me just point out a little aside. After that great speech by Mr. Benson, nobody on the nominating committee had the heart to tell him that it was actually his son Swain Benson that we nominated and that was elected. For that reason, members of the assembly, I would move that Jon Kerian be made an honorary member of the class of 1952; that the Rules be suspended, that nominations be closed, and that the Secretary cast a unanimous ballot for Mr. Kerian.

PRESIDENT ANDERSON: Thank you, class of '52.

MR. HARRIS P. KENNER: Second.

MR. RUSSELL G. NERISON: Second.

PRESIDENT ANDERSON: Seconded by Russ Nerison, also of the class of '52.

All those in favor of that motion signify by saying aye. Contrary, no.

Mr. Kerian, if you're present do you want to come up and say a couple of words?

PRESIDENT ANDERSON: I present Jon Kerian your new President-Elect.

PRESIDENT-ELECT JON R. KERIAN: I'd like to thank my handpicked people for moving my nomination and for seconding it. I would like to say that as far as the class of '52, if in my younger days I hadn't chosen the path of pleasure rather than the path of industry I would have been in the class of '52. The class of '52 left me behind only in getting into practice first. And with respect to the Stassen image, I was worried about that. Earlier this year when I told my partner Gary Holum I was going to run, he alluded to the Stassen image. And I couldn't see myself buying a cheap rug just to run for a job. I'll go along this way and not alter my image one whit.

I do thank you. And I hope to be of service to you for the next two years, I guess. And following the tradition of all the past great presidents that we've had, I can't remember one that wasn't great, and there may be room for the first. But I do thank you.

PRESIDENT ANDERSON: I would point out to you, of course, that the President is not elected at this meeting, contrary to the wishes of some a year ago that wanted to have it reconsidered. But the President-Elect automatically assumes the presidency, so there will be no election at this time. We're very fortunate, of course, I think to have Vern following in my footsteps. I'm sure we can't do anything but go up from here.

Anyone who has anything they'd like to bring before the assembly before we close this Annual Meeting?

MR. JOHN HJELLUM: Would it be out of order to move that all office-holders of the class of 1952 — was it '52?

PRESIDENT ANDERSON: Yes.

MR. HJELLUM: — be impeached or something?

PRESIDENT ANDERSON: Mr. Parliamentarian?

MR. PATRICK A. CONMY: Obviously it's always in order to impeach.

PRESIDENT ANDERSON: Mr. Benson. Swain. This is Swain Benson the Second.

MR. SWAIN BENSON: The misedlected one.

Mr. President, I would like to make a motion or a resolution for the record congratulating Bob Schuller on his new position, and thanking him for everything that he's done for the Bar Association during the time that he's been the Executive Director. I think Bob has done a tremendous job. And it's our loss and somebody else's gain that he's leaving us. And I make that in the form of a motion. I mean that very sincerely. Thank you.

PRESIDENT ANDERSON: Okay. Is there a second to that? Jerry Nilles.

MR. J. GERALD NILLES: I will second the motion.

PRESIDENT ANDERSON: I am going to limit debate and ask all of you in favor of that to stand up and give Bob big round of applause.
(Applause.)

EXECUTIVE DIRECTOR SCHULLER: Thank you. Thank you very much.

PRESIDENT ANDERSON: I declare the motion carried.

Bob, would you have any words of wisdom you'd like to say at this point, or would you like to save 'em for this evening, or would you like to not make 'em at all, or what would you like to do?

EXECUTIVE DIRECTOR SCHULLER: I will reserve time, I think.

PRESIDENT ANDERSON: Okay. Bob wants to reserve time. Maybe we'll get a few words from him this evening.

Anybody else have anything else that they'd like to bring up at this time before we recess?

MR. ROBERT E. DAHL: Was it determined that we wouldn't have to do anything with the constitution if we ended up with seven judicial districts?

PRESIDENT ANDERSON: No, I don't believe it was. Thank you, Bob, for bringing it up. We discussed that last evening. We forgot to discuss it at the Executive meeting. And I will just briefly review what's happening.

Our constitution provides for the president of each judicial district to be on the executive Committee of our Bar Association.

Bob, do you have a copy of the bylaws here?

EXECUTIVE DIRECTOR SCHULLER: I do not. Sorry.

PRESIDENT ANDERSON: And I'm not sure if our bylaws state that it will be six in number or whether it just states that every president of the judicial district will be a member of the Executive Committee. Perhaps we could have, and it might be prudent at this point, to have a motion to amend the constitution and-or bylaws in the event that we have a seventh judicial district as now proposed, and authorize the president of that district to become a member. I will say this; that I know that the recommendation to the Supreme Court on the redistricting is that it take effect July 1, 1979, which is over a year from now. We will have one Annual Meeting between now and then. However, our constitution provides that we must have it proposed at this meeting in order to vote on it at the next meeting. So it might be in order, even though it violates our rules adopted yesterday, to have a motion to that effect. Mr. Conmy.

MR. PATRICK A. CONMY: Mr. Chairman, I would move that the rules be suspended, and urge the adoption of a resolution authorizing the amendment of the constitution and bylaws of the Association to permit the inclusion of such additional districts as may be determined by the Supreme Court as included within members of the Executive Committee, and to provide for such changes as would be necessary to carry out that intent.

PRESIDENT ANDERSON: Well put. Is there a second to that motion?

MR. JOHN HJELLUM: Second.

PRESIDENT ANDERSON: Any discussion on that?

MR. RAYMOND R. RUND: Call that the Board of Governors?

PRESIDENT ANDERSON: That's right. We don't call it Board of Governors yet. It's still the Executive Committee until next June.

MR. RUND: Okay.

PRESIDENT ANDERSON: Obviously that's the intent if it's changed from "Executive Committee" to "Board of Governors."

All those in favor of that motion signify by saying aye. Contrary, no.

Motion is carried.

Anything else to be brought up? If not, I now declare the Seventy-eighth Annual Meeting of the State Bar Association adjourned. Thank you for being here. We will see you tonight.

(Whereupon, the proceedings were concluded at 4:02 o'clock P. M.)

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