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

North Dakota State Bar Association

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TRANSCRIPT OF PROCEEDINGS

OF

SEVENTY-SIXTH ANNUAL MEETING

OF

NORTH DAKOTA STATE BAR ASSOCIATION

BISMARCK, NORTH DAKOTA

JUNE 17-18, 1976

OFFICERS

ARMOND G. ERICKSON President
CLINTON R. OTTMAR President-Elect
GREGORY D. MORRIS Secretary-Treasurer
ROBERT P. SCHULLER Executive Director

(The general assembly of the Seventy-Sixth Annual Meeting of the State Bar Association of North Dakota was called to order at 9:28 a. m., Thursday, June 17, 1976, by President Armond G. Erickson at the Far West Room of the Holiday Inn, Bismarck, North Dakota, as follows:)

PRESIDENT ERICKSON:

I'd like to say good morning to all of you, and at this time it's my pleasure and privilege to call the Fifty-Fifth Annual Meeting of the General Assembly of the Integrated Bar of the State of North Dakota is now in session. This is also the Seventy-Sixth Annual Meeting of the State Bar Association.

At this time it's my pleasure to call upon Immediate Past President Ward M. Kirby, who will lead us in the Pledge of Allegiance.

(Pledge of Allegiance by the assembly.)

PRESIDENT ERICKSON:

I'd like to call on the Reverend Charles Hill, who will give us the invocation.

(Invocation by Reverend Charles Hill of Bismarck.)

PRESIDENT ERICKSON:

We are pleased at this time to introduce to you The Honorable Robert O. Heskin, the Mayor of Bismarck.

MAYOR ROBERT O. HESKIN:

Thank you very much, and a pleasant good morning to all of you.

I appreciate the invitation to stop by briefly this morning to extend a good morning and also an official welcome to all of you to the City of Bismarck. We're very honored that you are holding this convention in our City, and we trust that you will have a very productive meeting and a good time while you're with us. From the early reports I've received this morning, it sounds like you've started off with a bang and had a real good time yesterday playing golf and a good dinner and party last night at Apple Creek. We are pleased that the weather cooperated and that you could enjoy the evening outdoors.

I'd like to, if I might, just extend just a very brief personal comment about a gentleman that I think many of you know, a man of your profession who's practiced law here in Bismarck for many, many years. He's been our City Attorney for many years. I'm referring to Mr. John Zuger. Jack, about a month ago, became ill quite suddenly and he was in the hospital here in Bismarck for some weeks — what was diagnosed as pneumonia, and also some problem apparently developed with his heart. He is in the St. Mary's Hospital in Rochester, Minnesota, and tomorrow morning will undergo open heart surgery. He's doing quite well. We think that everything will come out fine. But I know that many of you know John personally, and I wanted to share that bit of news with you. We, of course, wish him a very, very speedy recovery. He's a very respected man of the Bar and a man who I know I have relied very heavily on here in our work in the City of Bismarck. I thought I would share that with you.

Again, welcome to all of you. If there's anything we can do to make your stay more enjoyable, I hope you'll make your wishes known to us, and we hope we'll see you back again real soon.

Thank you, Mr. President.

PRESIDENT-ELECT OTTMAR:

Mayor Heskin, we very much appreciate your words of welcome and thank you for the privilege and opportunity that is ours to meet in the Capital City in this Bicentennial Year. We have already been impressed with the efficiency and the very warm hospitality of the local people, and we look forward to the events yet before us.

This past year has been a very active and challenging year, and under the very able leadership of your President — our President — and the Executive Committee, your Association has attempted to keep abreast of the many facets of change that are coming about in the profession. These changes have been discussed, have been evaluated, have been modified, have been changed, have been rejected, but some action has been taken, or at least they have been acknowledged, and, of course, always have these things been decided on what is the best for the Bar Association as it tries to further the administration of justice to the public. To tell you more about this, it is now my pleasure and privilege to introduce our President again, Armond Erickson. Armond.

PRESIDENT ERICKSON:

It has become a custom at the Annual Meeting for your President to report to the membership. The past year has been a busy one, even though it was not a legislative year. I would like to spend a little time with you on some matters of concern to the Association which are either in process or that we can see ahead of us. Some of these items in more detail will be found in reports made available to you by chairmen of the various committees. Others will be covered in detail during the course of the meeting. Some of the reports you do not have, but they will be made available at the Executive Office, and they are not available to you today because of the lateness of filing the reports, but we had some of them even received yesterday, and some of them are yet to be received, but they will be available to you upon request at the Executive Director's office.

We have not scheduled a prepared report of the Executive Office of the Association; however, I am satisfied that the office is in extremely good hands with our Executive Director, Robert Schuller. With approximately two weeks left in this fiscal year, it appears that our expenditures will be well within the overall budget which you adopted a year ago. Of course, a new budget will be presented at this meeting. I think it would be well if we would consider for next year an Executive Director's report to be a part of our report booklet.

At the last Annual Meeting, the General Assembly unanimously approved a concept of compulsory continuing education of the Bar. The Association recommended to the Continuing Legal Education Committee some needed amendments with the understanding that the proposal would then be submitted to the Supreme Court for approval. At the writing of this, we were not aware as to its progress, but we were informed yesterday that that proposed resolution has now been submitted to the Supreme Court and, hopefully not too far down the road, they will set some hearings on it. It is the hope of the Continuing Legal Education people that that rule might be implemented as of January 1, 1977.

Following on: Reception of and participation in compulsory CLE in our neighboring states of Minnesota, Wisconsin and Iowa are in effect and they seem to be drawing record numbers of people to participate. I think that that's one of the reasons that we wish to start in this, to encourage some of our fellow members that have not heretofore participated in continuing legal education, that we might encourage them to do so. I would like to see us adopt this rule in North Dakota as soon as practicable, and then, following that, expedite the implementation of the same.

Before we meet again, the Association will be called upon directly or indirectly for input and participation in legislation and proposed changes in the North Dakota Constitution. You will have some of these items before you for consideration at this meeting, and I will briefly go over them at this time.

Since our last meeting, much has been said and written about medical malpractice. At the 1977 legislative session, there will be legislation presented on behalf of the medical profession which can have a significant effect on any such potential claims. It is too early to take a firm position on such matters, but we should and must be willing to work together with the medical profession and assist them as we can in their problem. However, in so doing, we must be willing to protect the rights of a person, rich or poor, to seek redress for a valid claim. It seems desirable that some sort of a screening panel would be helpful in weeding out unmeritorious claims. And pardon me for digressing. Just this morning I was reading in the most recent issue of the ABA Journal where in thinking along the better administration of justice, there is now the thought that in most cases there may be a predetermination of merit before a case is to be tried. I find it very difficult to assign a lesser value to an injury caused by medical malpractice than one caused by some other tort. However, it may well be that consideration should be given to some limits on tort injury awards as a whole.

On the topic of malpractice, we are finding that some attorneys are having a difficult time in securing or maintaining insurance for their malpractice problems. For that reason, and because of experience from other states tells us that significantly lower rates have been attainable under group insurance plans, we hope to be able to make available some price quotations on group attorney malpractice insurance to our members very shortly.

In the September primary election, the voters of North Dakota will vote on the proposed North Dakota judicial article, which is House Concurrent Resolution 3056. 3056 would repeal the present Article 4 of the Constitution and create a new Article 4. 3056 did not come about by way of any judiciary committee or special interest group. Without support of the Bar or Judiciary, it passed both houses of the Legislature by lopsided margins. What, if any, position your Association should take in this matter will be before you at this meeting. Your Executive Committee, well knowing that we are an integrated bar and should represent all members of the Bar and Judiciary, has taken a position of no position on the proposed judicial article. Our participation in the matter to date, we feel, is very well supported in our Code of Ethics, and I quote these particularly applicable, and I'm talking about Canon 8.

Canon 8-8: "Lawyers are uniquely qualified to make significant contributions to the improvement of the legal system."

8-9. "The advancement of our legal system is of vital importance in maintaining the rule of law and in facilitating orderly changes. Therefore, lawyers should encourage and should aid in making needed changes and improvements."

And going backwards, sort of:

8-1. "Changes in human affairs and imperfections in human institutions make necessary constant efforts to maintain and improve our legal system. This system would function in a manner that commands public respect and fosters the use of legal remedies to achieve redress of grievances. By reason of education and experience, lawyers are especially qualified to recognize deficiencies in the legal system and to initiate corrective measures therein. Thus they should participate in proposing and supporting legislation and programs to improve the system, without regard to the general interests or desires of their clients or former clients."

I am not advocating that the proposal should be supported by the Bar, but what I am saying is that we have a very clear responsibility to study the proposal to determine if it is an improvement in our legal system. You are

learned in the law. Your friends and neighbors have a right to look to you for guidance as they consider their vote in September. Therefore, you should fully inform yourselves of the provisions of the proposed resolution.

Due to some requests that the Bar take a position pro or con, I have appointed a committee which will report at this meeting, and you will be given an opportunity to state your position.

The proposed change is important and should be given your sincere study. Our conclusions should be based on that which is best for the North Dakota judicial system; not you as an individual.

You will also be considering the question of advertising by our members. The ABA midyear meeting passed a resolution relaxing to some extent the heretofore ban on lawyer advertising. The ABA resolution in and of itself does not affect the State Bar Association of North Dakota members. However, consideration must be given whether or not we should also permit some relaxation. With that thought in mind, I appointed a committee, headed by our ABA delegate, Bob Dahl, to report to you at this meeting and possibly make recommendations as to our course. Acknowledging that the need for or disadvantage of advertising may vary from large firm to single practitioner to rural attorney to urban attorney, there are on this committee representatives of all such groups and areas of the State. The cooperation of our Bar is exemplified by the prompt response of the committee to act on short notice. The problems I can foresee in any relaxation can run from: "Do we need it? If we open the door, where to next? The implementation and control over it, once it has been implemented." The one real concern that I have is that the public, now seeking to be better informed about lawyers' services and costs thereof, does not wind up being misled and suffer because of. We cannot permit an attorney's self-determination of his or her qualifications to produce or render a given service. To the public, at the onset a divorce is a divorce, a probate is a probate, and a trial is a trial. We must be able to ascertain qualifications and restrict the context of ads. It seems hard to conceive at the onset advertising of one's legal wares without some standard for determining who is qualified to do what and subsequently advertise the same. Though I have noted various concerns, they are merely my personal concerns. I do not wish to usurp any conclusion reached by the committee. The committee has given the matter serious and careful study. They have considered the ramifications which could occur if the ban is once lifted. Will the consumer of legal services really benefit? What limits should be imposed? These and other problems deserve your thoughtful consideration.

At this meeting you will also consider a resolution to adopt a trial specialty. The resolution has its roots in Chief Justice Burger's comments of the great incompetence which exists among lawyers who try lawsuits. In considering a specialty, our first reaction is that we are a general practice bar and specialization is more appropriate for larger metropolitan areas. However, the quality of a trial representative for one accused of a serious crime cannot necessarily be determined by the size of the community a lawyer comes from. The Second Federal Circuit has established standards for admission to practice in their courts which require a showing of trial competency over and above a law degree. Whether or not North Dakota is ready for a trial specialization is for your consideration. Whatever your decision is on that resolution, you should consider that we live in a claims-conscious society and should not undertake to do trial work for which we are not qualified by experience.

As I informed the Association when I took this office, I had two positive concerns of the Bar; one, to continue the efforts to broaden our public relations and improve the image of the Bar; two, that the Association should support our Law School in every way possible.

During the past year, in response to some solicitations on my part, I have visited most of the bar associations in your State. Specifically, I was privileged to meet with the Second Judicial Bar, the Grand Forks County Bar, Cass County, Burleigh County, Ward County, Stark County, Williston or Williams County Bar, Third Judicial District, Fourth Judicial District, as well as the Student Bar Association at the University of North Dakota in December, and with the ethics class of the University in April. You will be further informed by Karen Klein, who will appear before you a little later this morning on behalf of the Student Bar Association of North Dakota as to the student thoughts at the Law School and, of course, Dean Rushing will address us at the noon luncheon on Friday.

At these visits our message was what the Executive Committee was concerned with, problems we see and are working on; also, to solicit from these associations those areas in which the State Bar Association could be of help locally, and what questions they might or may wish to be concerned with. Finally, we did seek their financial support for the Law School. Though many of these visits were solicited, I am extremely thankful for the opportunity and, in some cases, that of my wife, to be their guests at these meetings.

We have talked of our image as a profession, and it is well at all times to be concerned with it. It's nothing new that we have been subject to criticism which goes back to biblical days. However, like all things, there are periods in which the criticism accelerates and we must counter with equal effort. Recent events, such as Watergate, no-fault insurance, medical malpractice and other matters which have been laid at our doorstep, prompted Justice Blackman to conclude the profession is in a valley.

Our Bar has a very fine public relations ambassador in our Executive Director, Robert Schuller. He has made many appearances before service clubs and is most willing to accept a call whenever solicited. He gives a fine message on the image of a bar and in a very tactful way. In this Bicentennial Year, we should reflect on our profession and rededicate ourselves to the work of improving the profession in this free Nation. You will recall that of the 58 drafters and framers of our Constitution and Bill of Rights, the great majority were lawyers and judges. As we move into the third century of a nation which has given us unsurpassed freedoms and privileges, let us not take it all for granted, but acknowledge that our training and experience carries with it a special responsibility to preserve our inheritance.

We hope this meeting will be for each of you an enjoyable and fruitful one, a meeting at which we can exchange ideas, philosophies and positions to the end that the conclusions reached here are well founded. These conclusions should not be to further our personal interests, but the best interests of all persons, especially the citizens of North Dakota. Our actions will then reflect credit to the State Bar Association of North Dakota.

At the close of this meeting, the leadership of this Association will pass to Clinton Ottmar. In the past year it has been most enjoyable and helpful to have Clint with us on the Executive Committee. His reserved composure and wise counsel has always been well received. I am satisfied he will be a fine leader for the work ahead in this Association.

You have also provided us with dedicated, high-quality personnel to serve with us on the Executive Committee.

For me, the past year has been busy and a real challenge. I am thankful to the Association for the privilege, honor and opportunity given me in this office. My hope is that this year has somewhat continued the work of this fine Association. My sincerest thanks and cooperation of the many hard-working people and committees which made this year an enjoyable experience.

I thank you.

PRESIDENT-ELECT OTTMAR:

Thank you, Mr. President..

PRESIDENT ERICKSON:

At this time I'd like to request a motion that the Rules be suspended and that the minutes of the last annual meeting not be read, but that they be accepted as published in Volume 52, No. 1, the fall of 1975 issue of the North Dakota Law Review.

MR. TELMAR ROLFSTAD:

I'll so move.

PRESIDENT ERICKSON:

Is there a second to the motion?

MR. J. GERALD NILLES:

Second the motion.

PRESIDENT ERICKSON:

Any discussion? All those in favor signify by saying "Aye." Opposed? Motion carried.

I would further request a motion that the Rules be suspended and that committee reports and section reports not requiring positive action from the general assembly may be accepted and adopted without formal motion from the floor upon filing of the report with either the President or the Executive Director. The reports received to date were included in the member's registration package, and you will recall that we received one yesterday. We are assured there's another one coming, and we received one a couple days ago. They were too late to be in there, but I'm sure they are available to you at the Executive Director's office merely upon request.

May I have such a motion?

MR. RAY McINTEE:

So move.

PRESIDENT ERICKSON:

Is there a second?

MR. JOHN HJELLUM:

Second.

PRESIDENT ERICKSON:

Is there any discussion on that motion? If not, all those in favor, say "Aye." Opposed? Motion carried.

I don't see Robert Dahl here yet this morning and I'm looking for a parliamentarian.

I would like to also request a motion that the past practice of resolutions and new business calling for positive action by the general assembly be offered on the first day — that is, this morning — and that they will be laid over and acted upon at the second business session, which is tomorrow afternoon, and that this be adopted as a house rule. If anyone has a question about what we—

MR. WARD KIRBY:

So move.

PRESIDENT ERICKSON:

Is there a second to that motion? Seconded by Tim Davies. Is there any further discussion?

If not, all those in favor signify by saying "Aye." Opposed? Motion carried.

At this time I'd like to further nominate as a Resolutions Committee Dale Moench as the Chairman, and to serve with him on the Committee, Timothy Q. Davies and Harold Anderson. And with that, I'd like to then call upon Dale. Would you come up and read what resolutions that you might have at this time?

MR. DALE MOENCH:

The Resolutions Committee has two resolutions that have been presented thus far. I'll read the first one, which deals with the State Penitentiary.

Resolution:

"WHEREAS, it has been brought to the attention of the North Dakota State Bar Association that the existing legal facilities at North Dakota State Penitentiary are grossly inadequate and do not provide minimal legal research materials which are available to inmates, and

"WHEREAS, it is a fundamental tenet of due process that the state provide such facilities, together with adequate legal research materials,

"NOW, THEREFORE, BE IT RESOLVED that the General Assembly of the State Bar Association go on record as requesting the Director of State Institutions to initiate a meaningful upgrading of the State Penitentiary legal facilities and to budget sufficient monies in order to provide for the replacement of outdated materials and the purchase of supplemental legal books and periodicals so that basic legal research can be performed within the Penitentiary setting."

The second one regards the Law School

"WHEREAS, the Law School Liaison Committee of the State Bar Association of North Dakota has submitted an annual report to the Association in which concern was expressed as to the of faculty which are presently authorized at the School of Law of the University of North Dakota, and

"WHEREAS, an adequate number of faculty is essential for the proper functioning of the educational program of the Law School, and

"WHEREAS, the Association is appreciative of the efforts of President Thomas J. Clifford and the administration of the University of North Dakota in support of the educational program of the Law School,

"NOW, THEREFORE, BE IT RESOLVED that the State Bar Association of North Dakota does request that priority be given to increasing the size of the faculty of the Law School, and

"BE IT FURTHER RESOLVED that the Association does offer its assistance and support in this effort."

The Resolutions Committee will have a resolution or two of its own which will be prepared regarding the customary resolutions of the general annual meeting.

I know of one other resolution, regarding memorials. I'd like to call on Floyd Sperry to present that resolution.

MR. FLOYD B. SPERRY:

Mr. President and members of the North Dakota State Bar Association.

The Committee on Memorials reports with deep regrets and sadness, the deaths of the following members of the Bar between June, 1975, and the time of this Convention:

Dean Olaf H. Thormodsgard, living in France at the time of his death.

Gordon Miller, at Minot.
 Alvin Fosaaen, of Cando.
 Chauncey T. Kaldor, of Hillsboro.
 Allen Hoffman, of Jamestown.
 Thomas M. Stannard, of Williston.
 Milton K. Higgins, of Bismarck.
 And Aloys Wartner, of Harvey.

Separate memorials for each of these deceased lawyers have been prepared and filed with the Secretary of the Association. You received copies of them with your registration material. These being eight altogether, it would take a long time to read them, and I'll dispense with that. But I would like to offer a resolution for your consideration, and due to the importance of the occasion, I'd like to read that. It's not going to be long.

The Committee offered this resolution:

"BE IT RESOLVED that in the deaths of these honored and outstanding members of our association, we express our deep appreciation of them, for the lives that they lived, and the services that they performed, in their areas of work, and also as earnest, loyal citizens and residents from their communities and our State. We deeply mourn, with the families, the friends, and the associates of these attorneys, these losses, and express our deepest sympathy to all from whom they have become separated.

"It runs in the blood of lawyers to be friendly and sympathetic personally, though their work makes them adversarial in behalf of their clients.

"It is observed that no matter what courtroom differences may cause temporary disruptions due to the nature of human beings, we also realize that no matter what has happened professionally, we join in sharing the better things, not only in the profession, but also in life.

"BE IT THEREFORE RESOLVED, that a copy of these biographies be sent to the families of the deceased members and that the originals be filed with the Secretary of the North Dakota State Bar Association, and printed in the NORTH DAKOTA LAW REVIEW with the proceedings of this Convention.

"Dated at Bismarck, North Dakota, this 17th day of June, 1976."

The Committee members are Robert Keogh, Lowell A. O'Grady, and Floyd B. Sperry as Chairman.

Now I'd like to, in memory and honor of these deceased members of the State Bar Association of North Dakota, ask all of you to rise and bow your heads in meditation, if you will please.

(Mementary standing silence observed.)

Thank you. You may be seated.

Mr. President, that completes our report.

(Memorials for each of the above-named deceased lawyers are appended hereto.)

PRESIDENT ERICKSON:

Thank you, Mr. Moench, and a special thanks to you, Mr. Sperry, for that kind additional resolution.

We have some resolutions and matters that will be specifically brought to the house that will be carried over till tomorrow afternoon, after the coffee break. But does anyone right now have a resolution that they want to bring before us? Let us have an understanding that it is not necessary to have a formal-type resolution to bring the matter on the floor tomorrow afternoon, but I think the gist of the matter is that there should be some thought and consideration given to matters coming up tomorrow afternoon, rather than sort of extemporaneously coming up at the general session late tomorrow afternoon when probably there may be a very small group there. So that's the purpose of it.

MR. DEAN WINKJER:

Mr. Chairman.

PRESIDENT ERICKSON:

Yes, Mr. Winkjer.

MR. WINKJER:

A point of order. May amendments be offered to these resolutions tomorrow?

PRESIDENT ERICKSON:

I'm quite sure that that is in order. It's merely the general context of what we are to talk about.

We got started a little bit late because of a Judicature breakfast, and we have the Chief Justice coming to speak to us after our coffee break, and here's a good time for us to get back on schedule. We are a little behind right now. They chose to meet this morning and enjoy yesterday afternoon's fine weather and be out themselves, and so they are meeting this morning, and the Chief Justice is coming over here at 10:15. So maybe we could adjourn till probably — just about ten minutes and come back at 10:20, and the Chief Justice will be here to speak.

(Recessed at 10:08 a. m. until 10:24 a. m., the same day.)

PRESIDENT ERICKSON:

As this time we have a couple of distinguished guests that we would like to recognize. We have Mr. LeRoy Jeffers with us from the Texas Bar. He will be our speaker at our annual banquet tomorrow evening. And I'd like to welcome Mr. Jeffers and welcome you to North Dakota. And Mr. Glenn Winters of Williamsburg, Virginia, is with us. He was at the Judicature meeting here this morning.

At this time it is a real privilege and pleasure for me to call on our good Chief Justice, Ralph Erickstad, who would like to give us a message on behalf of the Court. Justice Erickstad.

CHIEF JUSTICE RALPH J. ERICKSTAD:

Thank you very much, President Erickson.

President-Elect Ottmar, Mr. Emineth, Mr. Winters, Mr. Jeffers, Judges, practicing attorneys, other members and guests of the North Dakota Bar Association:

It's a pleasure to be invited to speak to you briefly on the activities and the health and welfare of the judicial branch of government.

First of all, I thank you for the great support you have given the judiciary of our State through your President, your Executive Committee, your Executive Director and special committees of your Association since your last annual meeting. Among other things, you have supported us in our effort to obtain a new Supreme Court Building, in our decision to help publicize the proposed new judicial article, in our desire to improve our rules relative to the Rules of Disciplinary Procedure of the Supreme Court, rules of procedure for a judicial qualifications commission, the North Dakota Rules of Civil Procedure, the North Dakota Rules of Appellate Procedure, the Code of Judicial Conduct and the Code of Professional Responsibility, as well as many other projects with which we have been in-

volved together. We are happy to report that Budget Committee "C" of the Legislative Council recommended and authorized the Director of the Department of Accounts and Purchases to make available to the Supreme Court from the preliminary planning revolving fund the sum of \$48,300 for the development of plans for a Supreme Court building and for the use of present space for legislative purposes.

On May 11th of this year, we held, as you know, our hearing on the proposed rule changes, and we hope by the end of the summer, or sooner, to have concluded our deliberations on the Rules and to have distributed to you the results of our combined efforts.

We thank you, also, for assisting us in our efforts by the contribution of funds to secure the first full-time staff to be used jointly by our new Judicial Qualifications Commission and our Grievance Commission.

There are many other things I would like to talk to you about, but since your time is limited and because of what I consider the timeliness of the subject, I would like to devote the balance of the time that you've allotted me to the subject of the proposed new judicial article, which will be Measure No. 3 on the ballot at our primary election in September. As you may have noted from the press or otherwise, I have, on behalf of our Court, appointed about 30 people throughout the State of North Dakota to an advisory committee on the proposed judicial article and court plan. The composition of this committee is bipartisan and it is intended to be representative of the various different interests and walks of life, as well as political views.

Incidentally, we have secured a planning grant through the Law Enforcement Assistance Administration and the assistance of the Combined Law Enforcement Council of our State to provide for advisory committee expenses, staff support and citizen input. To better insure that we receive input from those who are opposed to the proposed judicial article, as well as those who support it, I recommended to the chairman of the advisory committee on Tuesday of this week that he increase the membership of the committee to include those who in recent weeks have publicly or privately indicated an opposition to the new proposed judicial article. In this way, we hope — and this is all we can do, is hope — to insure that those who are opposed to the concept of a unified court, which, incidentally, this concept is at the heart of the proposed new judicial article, or those who are unhappy with the performance of the committee or the staff, are given an opportunity to influence the work of the committee and its product to insure as neutral a presentation of the issues as is humanly possible.

The new judicial article calls for a unified judicial system. Now what is a unified court system? The article does not define such a system, and perhaps wisely so, because in not doing so, it permits the legislature, with input from the lawyers, the Judiciary and the general public, to establish within the framework of the judicial article the best system possible. The article came into existence as a proposal for a change in the Constitution affecting the Judiciary of our State in House Concurrent Resolution No. 3056, which was introduced by Representatives Kretschmar and Knudson in the 1975 session of the State Legislature. This Resolution came into the Legislature, to our knowledge, apparently as a result of efforts of those who had previously served in the Second Constitutional Convention of our State. It is patterned after the judicial article which was contained in the Constitution adopted by the Second Constitutional Convention in 1972 and which was defeated at the polls by the people of our State. When we learned of the existence of the Resolution, it was in the House Judiciary Committee. I appeared before the House Judiciary Committee and suggested that consideration of the Resolution should perhaps await the results of the study being conducted by the 50-member Criminal Justice Commission appointed by the Governor, the Attorney General and myself, which was funded by a Law Enforcement Assistance Administration discretionary grant to study the various aspects of our law enforcement system in light of the five task-force reports of the National Advisory Commission on Standards and Goals. In other words, what I'm saying is I suggested that the Resolution be indefinitely postponed in that session of the Legislature. Notwithstanding my suggestion, the Resolution passed the House of Representatives by a final vote of 86 ayes, 5 nays, with 11 absent and not voting, and passed the Senate with 39 ayes, 3 nays, with 9 absent and not voting.

House Concurrent Resolution No. 3056 — and these are my personal views. I don't contend to say that every judge of our Court agrees with any of what I say here today. I would hope that generally they might approve of what I'm saying, but I certainly am not going to hold them or expect them to be supportive of what I say, especially that which may produce controversy or which you may disagree with. House Concurrent Resolution No. 3056 locks into the Constitution only two tiers of the present court system — that of the Supreme or District Courts. The rest of the court system must be provided by the Legislature — the Legislature. In other words, it sets up a skeleton. The skin and muscle must be provided by the Legislature. We hope to secure input as to what that should be through the Advisory Committee on the proposed judicial article, with the help of staff funded by the discretionary grant from the Law Enforcement Assistance Administration previously referred to.

Now, it's my personal view that unless some input is provided for that skin and muscle, the Legislature will receive little guidance and will be at a tremendous handicap should the people approve the judicial article. It is our hope that in publicizing the proposed new judicial article throughout the State, its pros and its cons can be discussed, thus enabling the people to decide for themselves whether its adoption will be beneficial. The adoption of the new judicial article will not necessarily — and I stress the word "necessarily" — mean that the other levels of the court system will be immediately or automatically or even eventually eliminated. I assume that the Legislature will want to study the judicial system in depth before making any changes, and that the changes would evolve slowly. Legislative action could include a grandfather clause protecting the incumbent judges for a reasonable time. I'm not saying it will. I'm not saying — I couldn't say — I cannot anticipate what the Legislature may do any more than any of you. What should be emphasized, I think, is that the Legislature, which draws its membership from throughout the State, where these judges or officials reside and where they live, will make the ultimate decision based upon what it as a body determines to be most reasonable, workable and fair, keeping in mind both the interest of the officers and the public. In the event that the article is defeated at the polls, which there is a great likelihood of, we must still attempt to improve the administration of justice in our State if we are to retain the support of our people for our system and thus preserve freedom and justice under law.

To meet the contingency of the defeat of the new judicial article, we must make plans in the alternative. For the formulation of these plans, we shall rely heavily on the advisory committee on the proposed judicial article and upon staff previously referred to.

Now, we invite your help and advice, as well. The components of our judicial system, in my view, are much the same as when our State came into the Union. Are we doing anything else the way it was done in 1889 today?

When our present State Capitol was newly erected, I was 12 years old and my father was still operating the steam threshing rig. It was a thrill for me to accompany my father into the grain fields to witness the feverish activity attendant with that process. At one time we had 14 bundle teams — there's some of you here are too young, to know much about the bundle teams; but they were an essential part of the threshing rig—two or three field pitchers who helped the bundle haulers load their racks with bundles, and three spike pitchers who worked at the separator and helped the bundle haulers unload from both sides of the feeder; one spikey assisted each teamster and one picked up the loose sheaves which fell to the ground. We had two or three grain haulers who hauled the

grain from the separator to the grainary in horse-drawn grain tanks. A separator man was responsible for keeping the grain separator functioning properly and, as I recall, he sometimes wore a red bandanna around his neck to keep the chaff out and goggles so that he could see through the dust as he proceeded to oil and grease the many moving parts. One of my brothers used to be the strawman and he would drive the straw team over next to the straw pile, turn the blower onto the rack until it was filled, and then unload the straw near the steam engine. Another brother drove the water team, which pulled the water tank that supplied the water that was needed to produce the steam for the engine. The fireman would take this straw and push it into the fire box to turn the water into steam. We had an engineer who constantly checked on the steam pressure to avoid an explosion and yet retain sufficient pressure to turn the flywheel, which was connected to the separator by a big belt, and who would sometimes sound the steam whistle for various types of assistance and for the thrill of the young boys like myself who happened to be present. We had the flunky, who ran errands, brought the lunch and went for repairs. We had the cook car and two ladies who worked from morning till night to provide the food for these hungry men. It was a thrilling thing and a very progressive thing. But today you will not see one of these rigs in operation, except at a fair. My father is gone and so is the steam rig, and in the place of the steam rig we have the huge self-propelled combines which do the work more efficiently. On the other hand — and this is my personal view — we are still trying to operate a judicial system of the vintage of the steam rig.

Now, in our State, we have a six-tier system. Now some say five tiers, and that's perhaps more correct because we have two within the county-judge system — the county justice without jurisdiction and the county judge with increased jurisdiction. Now these are the tiers, not counting the small claims court, which is under the county court with increased jurisdiction. We have approximately 195 municipal judges, 17 of whom are lawyers, 38 county justices, 32 of whom are lawyers, 38 county judges without increased jurisdiction, one of whom is a lawyer, and 15 county judges with increased jurisdiction, all of whom are lawyers. A number of municipal-judge positions are filled in name only and some are filled by a judge who travels from municipality to municipality. And there's nothing wrong with a traveling judge or that concept.

For the last few years we have attempted to schedule yearly judicial training sessions within our State for the four lower tiers of our court system. Those who attended this were usually quite pleased and complimentary of the training. But the attendance was disappointing. As a result, we suggested to the Judicial Council in December of 1974 that we seek legislation requiring the judges of the four lower tiers of our judicial system to attend seminars annually. When some of the judges thought that this was treating them less than equal, it was moved in the Judicial Council that legislation be secured requiring all judges, including the Supreme and District Judges, to attend judicial seminars annually. A bill along that line was introduced, but while in the Senate Judiciary Committee, it was amended to include only the four lower tiers. Since that bill became law, we have held three judicial seminars — one for the judges of the Supreme Court, District Courts, County Courts with Increased Jurisdiction, County Courts, State's Attorneys and Public Defenders in one; another for the Probate Court judges and another for the Municipal Court judges, and since I wrote these comments, we've held a special one for the Municipal Court judges newly elected.

Now, because the legislation required that a judge attend or secure an excuse lest his name be submitted to the new Judicial Qualifications Commission, the attendance has been much improved. Attendance of municipal judges at our last general seminar — when I say "last seminar," I'm speaking about the general one, not the most recent special one — the attendance was three times the number of previous seminars. Nevertheless, the attendance of the municipal judges was less than one-half of the number of judges who theoretically served as judges in our municipal court system. Some judges did secure excuses and some judges do serve multiple cities. But that still leaves a number of judges unaccounted for. We conclude from the lack of attendance and response that many of our less-populated cities have municipal judges in name only.

For about ten years now, I have been installing each June the newly elected officers of Boys' State, and I think I may have told some of you of this incident before, because it impressed me so deeply. Please bear with me if I have.

As you know, Boys' State is an American Legion-sponsored program designed to train the leaders of our youth in the mechanics of our government. Some years ago, after I had completed my talk and had invited students to visit with me thereafter concerning it, I was informed by one of the counselors that our system is all wrong, that, as a result, a revolution is coming in this country in ten years, and that there is nothing that we can do to stop it. I told him that I didn't think our system was perfect, but that we could and should work within it to improve it, to which he responded that that approach was too slow. Somehow or other, he believed that with the destruction of our present system, out of the ashes would come a new system where inequality and inequity would be unknown. I thought that young man was in error then, and I still think so. I believe that, with all its imperfections, our system is the best in the world; but that doesn't mean we should not be continuously alert to opportunities to improve it. Since the proposed judicial article seems to have aroused some controversy — and that's natural — I'll not ask you as an Association or as a judicial council to adopt a resolution supporting it. But, instead, I urge you to study it for your own benefit and so that you will be able to answer questions as you may receive from your clients or friends about its provisions. If you conclude after your study of it that it would be an improvement in our system, I hope you will personally support it and state your reasons for doing so. On the other hand — and I want to stress this today — on the other hand, should you conclude to the contrary, I would expect you to speak out against it and state your reasons for doing so. In this way, you will help our people decide how they should vote on this very, very crucial measure.

In analyzing the proposed article, I would hope that you would not require that its every provision meet with your complete satisfaction. This is my personal hope. I do not speak for the Court, again I stress, when I am speaking on these issues. Just as the individual framers of our United States Constitution had to accept something less than what they personally thought best, we must, if we are to attempt to improve our system, do the same.

On Monday, September 17th, 1787, the finished Constitution of the United States was read to the Convention. Dr. Benjamin Franklin, who was then 81 years of age, had written a speech for the occasion, which was read to the Convention by James Willson. Now, part of his speech, with Catherine Drinker Bowen's commentary from her book, *Miracle at Philadelphia*, follows, and I quote:

"Mr. President, I confess that there are several parts of this Constitution which I do not at present approve. But I am not sure that I shall never approve them, for having lived long, I have experienced many instances of being obliged by better information or fuller consideration to change opinions, even on important subjects which I once thought right but found to be otherwise. It is, therefore, that the older I grow, the more apt I am to doubt my own judgment and to pay more respect to the judgment of others."

Now, I have taken from this book. I have not quoted it completely. I trust you realize I could not do that in the time that's allotted to me.

In conclusion, I thank you for the many, many courtesies you have shown me personally and for the very kind attention and reception you have extended to me today and always.

Thank you.

PRESIDENT ERICKSON:

Thank you, Mr. Chief Justice, for those very learned and appropriate remarks. I'm sure I speak for the whole of the Bar when I talk about we are very appreciative of the Court's efficiency and your very current docket.

PRESIDENT ERICKSON:

We do have such a fine attendance that we have some thoughts we would like to get a show of hands on.

We have talked about some midyear meetings and with the oncoming of hoped-for CLE requirements — and even if not, we must continue CLE — we would like to consider a midyear meeting with a general session attached to it. There need not be any change in our bylaws. It's there right now that we can have such meetings as we determine necessary. We are thinking somewhere or in the middle or third week of January, and that is, of course, flexible.

How many of you could envision the real worthwhile of having a two-three-day very intense CLE session with a short business session with it in January sometime? Would you please raise your hands so we can get a show of hands?

I think there's a very extensive note of approval.

One further thing: The Executive Committee, of course, determines on Saturday morning — and it may well not come about this year — but as to where we meet the following year. There has from time to time been a thought that we might meet outside of the State, and specifically in Winnipeg, Manitoba. Most of you may or may not know that the Manitoba Bar Association met at Fargo this spring, and we have a most sincere open invitation to meet in Winnipeg.

May we please have a show of hands as to those persons that think that that might be something that we should consider?

We're very happy to have thought about it, and I thank you for your thoughts.

I'd like at this time to introduce our Past President, Ward Kirby, to make a presentation.

MR. WARD KIRBY:

Mr. President, Members of the Association:

I have two matters which I'd like to bring before you at this time. As you probably know from reading *The Gavel* and the minutes of the Executive Committee, the Executive Committee and members of the Committee have been working on amendments to the Constitution and Bylaws for the Association. The amendments to the Constitution are limited in the main to housekeeping amendments and, therefore, they are not extensive. However, the Constitution provides at the present time that in order to amend, that the proposed amendments must be filed at a meeting of the Association and that they be laid over and acted upon at the next meeting of the Association. I, therefore, announce to you now that we are filing proposed amendments to a Constitution of the State Bar Association with the Secretary, and I move, Mr. President, that this be placed on the agenda for action at the next annual meeting of the North Dakota State Bar Association.

PRESIDENT ERICKSON:

Can we have a second to that motion? Dale Moench seconded.

Is there any discussion on it? That's merely that we consider it. It must be read at this time. Any discussion? All those in favor say "Aye." Opposed? Motion carried. Thank you.

MR. KIRBY:

Now, it is also that the proposed amendments to the Bylaws will be brought before you at the next annual or special meeting of the Association, whichever first occurs. And, of course, you will be furnished with copies of those proposed amendments, as well.

The other matter, Mr. President, that I wish to bring before the Association is the matter of certification of specialists within the profession. Now, this is a matter which we have studied and discussed previously, and we are not going to act on it at this particular session. However, with your consent, we would like to have direction to the Executive Committee indicating whether or not you wish the Executive Committee to pursue studies of this particular subject.

As you are well aware, the matter of lawyer advertising has been approved and, in fact, I think has been ordered by our courts. In this regard, a specialization or certification of specialists would be very helpful in that anyone who wishes to advertise would first be required to show that he has been certified by some group or body as to his specialty.

Now, what are your wishes in this regard? In order to bring it to a head, Mr. President, I move that the Executive Committee be directed to study certification of specialists further and that the incoming president be directed to appoint a committee for that purpose.

PRESIDENT ERICKSON:

Can we have a second to that motion? Seconded by Dave Peterson. Is there any further discussion on the motion?

All those in favor signify by saying "Aye." Opposed? Motion carried.

At this time I'd like to call on Mr. Leonard Bucklin, who will give us a short report on a symposium that he recently attended on trial specialization.

MR. LEONARD BUCKLIN:

Frankly, I wasn't too sure exactly what I would be asked to be doing today. I was told that we would be discussing specialization somewhat.

Before discussing the particular symposium, I would like to make a few remarks about specialization as such. I think that this Bar Association and its members should realize perhaps we are not discussing a question of whether we should have some sort of certification of specialists, but the question is when and how we will have it. We will, I am sure, be having some sort of national associations furnishing certifications of one sort or another. The public is demanding that there be certifications of one sort or another, and I think that this demand that is coming from the public — a demand for a right to know those attorneys who have some particular expertise or experience in fields — is something that fits right in with our own canons of ethics, and I again urge all of you perhaps

to look at Canon 2 of our Rules of Ethics — the ABA Rules of Ethics — which start right out by saying, among other things, that the lawyer has a duty to facilitate the process of intelligent selection of lawyers. The articles that you are seeing now include such things as surveys by the American Bar Association of the legal needs of the public, and in that survey, for example, one will find that 80 percent of the laypeople surveyed responded that they felt strongly, or at least slightly, that they themselves had not contacted a lawyer because they did not know how to find a lawyer appropriate to their particular needs. The lawsuits that are now pending in various parts of the country by consumer groups saying that lawyers must be allowed to give their specialty — to give information that the public wants — are not items to be lightly discarded by the Bar. I think we have an ethical responsibility, as well as a responsibility to respond to what the public is talking about.

In regard to trial specialization, I would again bring you back to what Chief Justice Burger said several years ago now in his now-famous Sonnet Lectures, in which he said — and I would like to quote it simply because I think we bear an examination of those points again. Justice Burger said: "We must do four things. First, face up to and reject the notion that every law graduate and every lawyer is qualified simply by virtue of admission to the Bar to be an advocate in trial courts in matters of serious consequence. Second, lay aside the proposals for broad and comprehensive specialty certification, except where pilot programs are already underway, until we have positive progress in the certification of the one crucial specialty of trial advocacy that is so basic to a fair system of justice and that has had historic recognition in the common law systems. Third, develop means to evaluate qualifications of lawyers competent to render the effective assistance of counsel in the trial of cases."

We have seen those points made again and again, and I'm not going to rehash the reasons for them because I think that all of you who are reading any professional articles are reading articles on these subjects.

Now, at the present time, we may well find ourselves in the near future in a situation where the Supreme Court of the United States recognizes the First Amendment right of an attorney to say to the public "I sell my services at forty dollars an hour." The First Amendment right of an attorney to say "I have got considerable experience in probate law. I have got certain field of practice that I engage in primarily." The First Amendment right of the attorney to say "I graduated from the University of North Dakota." And when those rights are announced, one may soon find that we have a very disorganized situation regarding, if you will advertising, if you want to use that word, unless we have already embarked upon a program of certification with appropriation of certain words with certification programs, we might be able to save what I consider to be some of the needed dignity of the Bar.

Now, in this State, we have had for three years consideration of trial specialization as a certified specialty and, frankly, I'm getting a little tired of studying it. For three years, I say that's enough study. But I guess the motion has been made that we will study it some more.

We do have a good plan. It has been put forth to you again this year. It is slightly revised from what it was the year before, which was slightly revised from what it was the year prior to that.

I was invited to a conference that the Dean Roscoe Pound Foundation puts on annually. This year the subject was trial specialization as a needed thing for the public. The first question: Is it needed? And, secondly: What should be done? The persons invited were persons whose names you will recognize. They range from Al Cohen, who was for many years the Chairman of the Specialization Committee for the American Trial Lawyers Association, to Judge Frankel of the Second Circuit, who is opposed to certification. The scholars were many. Now, I was not paid by the Dean Roscoe Pound Foundation to appear simply because I was an erudite scholar. I was asked to appear because we do have in this State a good proposal. That proposal is before you. It has been gone over with care by a number of people. For example, I would point out to those of you who say the ABA says we go slow, that the ABA Board of Governors authorized the section on litigation to provide the written test questions which we have already. The Chairman, Bob Hanley of the ABA section on litigation, has written to me saying "I hope the plan will be adopted and that it will serve as a model for all the states." The comments from various scholars that have looked at this say that this is the way to go.

Now, when we talk about what other people are doing, and this is what I would like to discuss, if we're going to discuss about what national conferences have been doing, we start with the proposition that most states that have discussed specialization have discussed it on the broad range of "Let's get some sort of specialization for all fields," and they have started out in various and sundry things, except trial specialization, which contrary to what the judges seem to be talking about — or people such as Burger — and it is in some ways contrary to the philosophy that the final resolution of our rights does come in the court and that the public expects to have some sort of certification of those people perhaps down the line. Most states have done so. The only other state other than North Dakota that has concentrated on trial specialty is Colorado. Colorado has a plan which they are hopeful of adopting perhaps this year or the next, and it is interesting that Colorado's plan is not totally unlike the plan that North Dakota has. I think that in many respects those of us in the Midwest have got a situation that is different from that perhaps on the East Coast or the West Coast. The plans uniformly across the country talk about them being voluntary, and the plan which we have been discussing in North Dakota is a voluntary plan in the sense that you don't have to become a certified specialist. There is a distinction between the plans that are being developed outside of the Midwest and those that are being developed inside the Midwest. I think it is something that you should think about. The distinction is that of getting into court at all; that is, there is very serious consideration being given, as in the Second Judicial Circuit of the Federal Courts, to say that before you can even get in the courthouse door, you need something more than that ticket of passing the bar exam; that there must be something in additional experience, either by way of apprenticeship or education, and I think we want to avoid that in North Dakota, because I think we have a different situation. We want everybody perhaps to get into the courthouse door. But then we come right down to it: how do we identify for the public those people which the public wants to know about?

Now, I have been asked to say a few words about what the conference was about. I've said a few words about what the conference was about by describing these things and perhaps personal thoughts generally, because that's what these conferences are now nationally about — are how do we respond ethically and properly to what is going to be the inevitable and how do we properly perform our function under Canon 2 of "facilitating the intelligent selection of lawyers by the public?" I think that's something that we all need to think about and not just merely wait till the next general meeting of the Bar Association and then again vote to "Well, let's study it another year."

Thank you.

PRESIDENT ERICKSON:

Karen Klein is with us. She is the Editor of the Law Review at the University of North Dakota Law School, and she is going to appear before us and tell us a little bit about the Law School. And so we welcome Karen Klein.

MS. KAREN KLEIN:

Good morning, members and guests of the State Bar Association of North Dakota.

First of all, I would like to thank Mr. Erickson for allowing the student body to send a representative to speak with you this morning. I would also like to thank Mr. Schuller for rearranging the schedule to allow me this time this morning.

This morning I would just like to briefly review the activities of several of the organizations at the Law School. These are activities which need the cooperation and the support of the members of the Bar in order to be successful.

First, I'm sure that many of you are aware of the establishment of a job referral service at the Law School. Mr. Roger Sullivan, our Past President of the Student Bar Association, appeared before you last year and spoke of his hopes to establish such a service last fall. The service is now in operation and is administered by the Student Bar Association. There were two mailings this past year to the practicing attorneys in North Dakota, to government agencies, and to other likely employers of law students. I am pleased to report to you today that this past year has been very successful, and I would like to thank those of you who did utilize the service this past year and to get it off the ground. For those of you who are not aware of this service, this morning I would like to briefly outline the functions of the service.

First of all, it is important to point out that the job referral service is exactly what its name implies. It is not a placement office as such; rather, it is a referral service. It is staffed solely by students under the direction of a faculty advisor. Therefore, we cannot suggest qualified students to fill any positions, since we are students ourselves. Rather, we exist solely to collect and coordinate information about possible job opportunities in order to aid students in finding a position and in order to aid employers in disseminating information about available positions that they have. Secondly, the service is not designed merely to deal with permanent employment for graduates. Many of you are already aware of the value of hiring students as part-time or summer clerks and utilizing students to do in-office research or to do research through the mails on a particular problem. The library facilities at the school are very excellent and an overworked attorney can gain access to these facilities by hiring a student to do research on a particular question. Clerkships and research projects not only help the students academically and practically, but they also relieve attorneys of many of the time-consuming tasks which could be very competently handled by a student.

Again, I would like to thank those of you who did utilize the service in the past year, and I urge those of you who have just become aware of the existence of this service to utilize it in the upcoming academic year. We will be mailing another letter in the fall describing the service and its functions to you.

Next, I would like to announce that the Moot Court Association tentatively plans to host the regional runoffs for the national moot court competition next fall. I had hoped to report to you today that we would definitely be hosting the competition, but I am told that the final site selection will not be made until later this summer. However, if North Dakota is selected as a regional host, our president, Maggie Schreier, will be contacting many of you to help in serving as judges and in grading briefs that the advocates will submit.

I participated in a regional competition last spring in South Dakota, and I can assure you from my experience that it was very valuable for the judges and the spectators, as well as we advocates. Therefore, if we do host the competition, I urge all of you to participate in whatever capacity you can.

Now, the last organization that I would like to speak to you about this morning is the *North Dakota Law Review*, and as the Editor-in-Chief, I do have special interest in this organization. The title page of each issue of the *Law Review* states that the *North Dakota Law Review* is published in cooperation with the State Bar Association of North Dakota. I would like to extend an invitation this morning to each of you to make this cooperation more than a financial one. The Board of Editors of the *Law Review* solicits and selects articles for publication on the basis of what we feel would be relevant and of value to the practicing attorney in North Dakota. However, we can never be certain that we're attaining this goal unless we receive suggestions and comments from you. We are publishing an issue this fall which will focus primarily on the status of law in North Dakota and an issue in the spring on natural resources. I am sure that there are many accomplished writers among you that we are not even aware of. Therefore, if you are interested in writing for the *Law Review*, we urge you to please contact us, and if you are not interested in writing for the *Law Review*, but you do have a topic that you would like to see an article written about or you possibly have an author to suggest to us, we also urge you to relay this information to us. We cannot adequately serve your needs without input through you.

Therefore, I thank you for your support in the past and I look forward to closer cooperation during the next year.

Thank you again for allowing me this time this morning, and have a very successful convention.

PRESIDENT ERICKSON:

We thank you very much, Karen, for your interest and concern in coming all the way down here to make this presentation. It is our Law School and we are concerned about what goes on there.

Bill Zuger has asked for a few minutes to make a little bit of a brief explanation or presentation on behalf of the young lawyers. Would you please come forward? Bill is a past chairman of the Young Lawyers Section and has a few words for us.

MR. WILLIAM ZUGER:

As I believe most of you are probably aware, there has over a number of years developed a tradition that the Young Lawyers Section selects its chairman and that that chairman then traditionally goes on the same year to become the Secretary-Treasurer of the Bar Association at large. I've asked for some time to speak to you because those of us in the Young Lawyers Section have made some functional changes which, I think, ought to be explained so that there's some understanding tomorrow when the election of officers comes about as to what's going on.

I think one of the strengths of this Association has been that the Young Lawyers — those of us under 35 — have an entree into the Bar Association. In meeting with affiliates from other Young Lawyers Sections, we've found that this is not generally true in other states and that young lawyers are generally excluded, and I think it's one of the strengths of your Bar here. However, when I became Chairman of the Section this year, I found that I think the major cause for the decline in the Young Lawyers Section of the State is that the Secretary-Treasurer must, during the time that he has left over, try to organize and run that Section. I found it to be totally impossible. Therefore, in February I resigned my position and asked Greg Morris, who is Vice Chairman, to step up and to take over the Section, and the results have been gratifying. It's increased the participation in the Section. I think we had the largest turnout we've ever had this year, and there have been a lot of programs that have been undertaken successfully.

It is our belief that it's still a good idea that the Chairman of the Section should become the Secretary-Treasurer and have some input into the Executive Committee of this Association. And for that reason we have unanimously nominated our current Chairman, Greg Morris, to be the Secretary-Treasurer this year, and it is our belief that the tradition should continue changing in this fashion — that the Secretary-Treasurer step up from the

ranks of the Young Lawyers Section.

I wished to stand up and point this out so that there would not be confusion and so that you would not think that necessarily the Young Lawyers Section has abandoned its support of this concept.

Thank you.

MR. WILLIAM KRETCHMAR:

Mr. President. Members of the Assembly. I'd like to propose the following resolution for your consideration:

"WHEREAS, the voters of North Dakota will vote on September 7th, 1976, on a proposed new judicial article for the Constitution of the State of North Dakota, and

"WHEREAS, the proposed article will create a unified judicial system for the State to be implemented by statutes and court rules, and

"WHEREAS, the proposed judicial article will provide the constitutional basis for a modern judicial system with the necessary flexibility to meet the needs for the sound administration of justice in our fast-changing society, and

"WHEREAS, members of this Association must be leaders in their respective communities for the improvement of the system of justice and for informing the citizens of this State on these matters;

"NOW, THEREFORE, BE IT RESOLVED by the State Bar Association of North Dakota that they take a position in support of the proposed judicial article and urge its members to inform the North Dakota electorate on the merits of the plan."

PRESIDENT ERICKSON:

Thank you. That matter will be discussed tomorrow afternoon in our general session.

I'd be very pleased to call upon you, Mr. Dahl, and I would inform you in your absence you were reappointed as my Parliamentarian.

MR. ROBERT DAHL:

Well, first, I'd like to thank you, Mr. President, for the rather dubious honor of being appointed Parliamentarian. It seems to me in the past that I've been shot down more than upheld by the Chair.

I'm sure, if you read the publications of our Association, you will note that a special committee was appointed to consider the implementation of the amendments to Canon 2 of the Code of Professional Responsibility as they were adopted at the midwinter meeting of the House of Delegates of the American Bar Association. This Committee was appointed in April. We've had a considerable amount of correspondence, and this morning we met for approximately two or three hours.

Now, I would like to say, first of all, the popular name of these amendments is "Lawyer Advertising." Now this is a misnomer and our Committee agrees that it is a misnomer. If one reviews very briefly the history of the proposal to make these amendments, you can determine that the concern is the availability of legal services — the point that Leonard Bucklin made here just a few minutes ago. Everybody equates the availability of legal services with lawyer advertising, and this is not correct. If you examine the proposed amendments, you will find that all that those proposed amendments do is to allow advertising — I misuse the word myself — the listing of information in telephone directories and local legal directories of the same type of information that has been authorized in the past in the national legal directories, such as Martindale-Hubbell and some of the others.

Very briefly, this is the change in addition to that that would be authorized. One would be able to state whether credit cards or other credit arrangements are accepted, office and other hours of availability, a statement of legal fees for an initial consultation or the availability upon request of a written schedule of fees or an estimate of the fee to be charged for the specific services provided. All such published data shall be disseminated only to the extent and in such format and language uniformly applicable to all lawyers as prescribed by the authority having jurisdiction by state law over the subject, which in this case, would be a committee of SBAND.

The implications of the amendments are rather extensive, and having been in existence only for approximately six weeks, our Committee does not feel at this time that it wants to recommend either adoption of these amendments altogether, their rejection or their rejection in part.

Now, contrary to the opinions of some lawyers, I'm not as apprehensive about the application of some of the Supreme Court cases relative to other types of service professions as I am relative to lawyers, and I would quote to you a case which I'm sure Leonard was referring to. It's the case of Virginia State Board of Pharmacy, et al., v. the Virginia Citizens Consumer Council, Inc., which was handed down by the Supreme Court of the United States May 24th, 1976. Anybody who wants the citation, it's 44 Law Week 4686. But in his opinion, Justice Blackmun stated — in a footnote, incidentally:

"We stress that we have considered in this case the relation of commercial advertising by pharmacists. Although we express no opinion as to other professions, the distinctions, historical and functional, between professions, may require consideration of quite different factors. Physicians and lawyers, for example, do not dispense standardized products; they render professional services" — with the emphasis on "services" — "of almost infinite variety and nature, and the consequent enhanced possibility for confusion and deception if they were to undertake certain kinds of advertising."

Justice Burger, in a concurring opinion, stated:

"I think it is important to note also that the advertisement of professional services carries with quite different risks than the advertisement of standard products."

And he goes on to state: "I doubt that we know enough about evaluating the quality of medical and legal services to know which claims of superiority are 'misleading' and which are justifiable. Nor am I sure" — and I emphasize this statement by him — "Nor am I sure that even advertising the price of certain professional services is not inherently misleading, since what the professional must do will vary greatly in individual cases."

And this is not only the consensus of our Committee; it is the unanimous opinion of our Committee. As a result, our recommendations will be these, and we would like to have you consider them between now and tomorrow when you will act upon them.

First of all, we recommend that the State Bar Association of North Dakota commence institutional advertising on behalf of lawyers. Now, the method and the format would be determined by the Executive Committee of the Association, or a committee appointed by the President and, of course confirmed by the Executive Committee.

Secondly — and this is a very specific recommendation — the Committee unanimously recommends that the previous ban against the use of upper case or bold print, as you would in the alphabetical portion of the telephone directory, be eliminated, and the reasoning behind that is that when one looks into the alphabetical section of a telephone directory, he's looking for a specific name, and if the name is in bold print, it enables the person who's looking for that name to find it. He's not searching for lawyers in the alphabetical section; he's looking for lawyers in the yellow section, if he's just looking for any — or a group of lawyers. As a result, we do not feel that, and in line

with the increased importance of making services available, that bold print of one's name in the alphabetical section of the directory should be constituted unethical practice; and, again, I reiterate the recommendation of this Committee that the Committee be continued to report to the membership at the next meeting, whether it be annual or special, with recommendations for either completed option, partial option, or rejection completely of the amendments as adopted by the American Bar Association.

That's the substance of my report, Mr. President.

PRESIDENT ERICKSON:

Thank you, Mr. Dahl. It will come up for hearing and such further discussion and action as you deem proper tomorrow afternoon.

We have nothing further this morning, but I surely would ask if there's anyone that has any further resolutions or matters to lay on the table that will come up tomorrow afternoon.

All right. I note None.

The session is adjourned until 1:45 tomorrow afternoon.

(The General Assembly was recessed at 11:34 A. M., Thursday, June 17, 1976.)

GENERAL ASSEMBLY

1:45 P. M.

Friday, June 18, 1976

PRESIDENT ERICKSON:

I would like to call the final session back into order for such business as should properly come before us.

As I said yesterday noon, it is most refreshing to see the tremendous turnout we have here, and it was very, very refreshing to see the turnout we had yesterday morning at the general session here, and that with the Judicial Council going on, I think it was just a tremendous turnout. There is a fine turnout this afternoon, and I think we'll get right at our business so we can probably finish in a good time.

At this time it is my pleasure to call on your President-Elect, Clinton R. Ottmar, who will present the 1976-77 budget.

PRESIDENT-ELECT OTTMAR:

Members of the Association:

It is my responsibility, I guess, to stand before you to present the budget for the new year. The budget for last year, '75-'76, was \$98,430. The budget proposed for this year, '76-'77, I'm quite happy to say is still under \$100,000. It's \$98,940. Even though there were increases in various areas, as you know, compensating for various costs there were some areas that we could not a little chopping and consequently keep the budget within a very workable realm.

I might add the Executive Committee has reviewed the budget and approved it for recommendation at its last meeting, which was in May. We have sufficient resources available to cover the budget and, I guess, to get further discussion, if there be any, I would move the adoption of the proposed budget, Mr. President.

PRESIDENT ERICKSON:

Is there a second to that motion? Seconded by Mr. Tim Davies. Is there any discussion on the budget for '76-'77? Seeing no indication of that, all those in favor of said motion, signify by saying "Aye." Opposed? Motion carried.

At this time I'd like to call on Mr. Kermit Bye, who is the Vice Chairman of the special committee which was appointed to study the proposed judicial article for purposes of a recommendation or a consideration by that committee. The Executive Committee as such has taken a position on no position; however, has paid for some literature which we deemed as unbiased, and we feel we have a responsibility of trying to inform the electorate. Somewhere along the way there was some request that the Bar Association go on record or study it and consider whether or not a position should in fact be taken by the General Assembly and, therefore, I appointed a committee from kind of throughout the State to study it, and that committee has been doing that, and Mr. Bye will make a presentation on behalf of the committee.

MR. KERMIT BYE:

The Judicial Article Study Committee that Chairman Erickson was referring to is made up of Frank Jestrab, Hugh McCutcheon, Bill Lanier, myself, John Shaft, Allan Warcup, Robert McConn, Ward Kirby, Fred Saefke, Warren Stokes, Roy Holand, Herman Weiss, John Traynor and Rodney Webb. When this Committee was set up, they were charged with looking at the judicial article, determining and making a recommendation as to whether or not further study of it should be undertaken, and also consider the possibility of taking a position on it. The Committee has met and I can report, Mr. Chairman, that we feel, because of the constraints on time, the fact that the Association is not really going to be meeting between now and the time of the election, that any further study probably wouldn't be that helpful to the Association; and so, therefore, we are going to not study it further.

With reference to taking a position concerning the judicial article itself, I realize, by having talked to many of the people here, that there are obviously two sides to the question, and I guess the position of the study committee is that it has no position or it's recommending no position. We are urging though, and we do urge, that each of you speak out on it as you see fit and influence as you will, your clients and people in your communities. Lawyers are supposed to be somewhat the leaders in their various communities — the movers and shakers, so to speak — and you do have influence. So whatever your position is, speak out on it and let the people in your community know where you stand. I think this is consistent with what the Executive Committee of the Bar Association has done with reference to the financial support they have given to the printing up of these brochures, and if I read the disclaimer correctly in the brochures, the position up to this point has been that as far as taking a position, why the Association hasn't to this point.

Now, I might also point out that coming up in the resolutions portion of the meeting this afternoon, which is about the seventh order of business, I think there is going to be a discussion and there will be some resolutions offered on it.

So, with that, Mr. Chairman, that concludes the report, and the rest of it will be taken up at the time when resolutions are offered.

PRESIDENT ERICKSON:

It may seem appropriate to you that we might take it up now, but in that we have it further down, there may be some that may wish to come in at a later time and speak on this resolution, so it will come up in the resolutions section in a few minutes.

While I'm on it though, and, Bob Dahl, I'm wondering if you would readily sometime this afternoon have the names of the people that worked on your committee, I'd like to have them read into the record because not only the people that worked on the judicial article, but those people that worked on the — pardon me for saying so — advertising committee, worked very hard and on kind of a short notice, and I think that we should be most appreciative of that.

At this time I should call on the Chairman of the Resolutions Committee for the action on the resolutions which were filed — or the proposals which were filed yesterday. Now I don't readily see Dale Moench.

Then I'll maybe do the next best thing. And do you have your resolution here, Bob, so that we can talk about that one first?

You will recall that Mr. Dahl brought in a resolution on behalf of the committee that was appointed to consider the supposed relaxation on the heretofore ban on advertising, if you will, of the Bar Association, and he'll now come back and reread the resolution and we'll take up such discussion on it as is appropriate.

MR. ROBERT DAHL:

For the record, the members of this Committee were Robert Burke of Grafton, George Akre of Cando, Raymond Rund of Finley, E. T. Conmy, Jr., of Fargo, Robert Chesrown, Linton, Vern Johnson, Wahpeton, James Schlosser, Bismarck, Robert Heinley, Carrington, William Goetz of Hettinger, Mrs. Georgia Pope of Jamestown, Paul Kloster, Dickinson, Roger Herigstad, Minot, John Gordon, Williston, A. J. Pederson, Kenmare, and Ted Camrud of Grand Forks.

I express great appreciation to the members of the Committee for the work that they have done and the responses which they made. Except for a Committee meeting that we had this morning, all of our work was done by correspondence.

You heard my comments yesterday. On the basis of those comments, I have several motions, rather than resolutions.

At this time I would move that the ad hoc committee to consider amendments to Canon 2 of the Code of Professional Responsibility be continued until the next meeting of the Association, to report at that time its recommendations.

PRESIDENT ERICKSON:

Is there a second to that motion? Seconded by Mr. Pringle. And is there any discussion on the motion?

All those in favor of the motion, signify by saying "Aye." Opposed? The motion is carried.

MR. DAHL:

I have another motion, Mr. President.

This may affect the incoming President whose budget was just presented. But I would now move that a program of institutional advertising via the news media be implemented by the Executive Committee of the Association.

PRESIDENT ERICKSON:

Is there a second to that motion? Bill Zuger.

Is there any discussion on that motion?

MR. ROBERT WEFALD:

Mr. Chairman. Is there implied in that the ability of the various county bar associations to conduct institutional advertising on behalf of the members of the county association?

MR. DAHL:

Bob, I wouldn't see any objection to that. Obviously, it would save some money for the State Association; however, I would hope that any institutional advertising that is done would be on a common format. The type of institutional advertising that this Committee is thinking of, one sees in magazines and newspapers, sponsored by insurance agencies, banks, and things like that. It would be the general type of statement of what does your lawyer do, and possibly incorporate some of the things that people want to know, particularly in this matter of how much does it cost to see a lawyer. I envision some type of advertising that would state — I don't like that term "advertising," because we think of it in terms of merchandising, and we're not thinking in terms of merchandising. At least this Committee is not. It's public information. But an ad that would say in substance that a lawyer has no objection to tell you approximately how much it's going to cost to do a certain job and all you have to do is go and see him — and this kind of thing. And I don't see any reason why the larger county bars could not foster this kind of publication themselves.

MR. WEFALD:

My thought on that, Mr. Chairman, was simply that institutional advertising statewide is certainly going to make appropriate information available. In the smaller communities, attorneys would be readily identifiable. I think in the larger communities it certainly wouldn't hurt if we perhaps on occasion had some sort of institutional advertising format where we had semibiographical or take a supplement in the paper, like on Law Day, and these are lawyers in this area — these people are practicing law — not so much as selling it, but just to let them know who they are. And I think that I certainly would advocate that if we did this statewide, that the Burleigh County Bar Association have something like that to let the people in our area know just who is practicing law.

MR. DAHL:

Well I don't claim to be the expert or one of them, even, on the Canons of Professional Responsibility; however, I do think I have a fairly good comprehension of them, and as I understand them today, there's no prohibition against institutional advertising. As I think that anything that would comply with the Canons of the Code of Professional Responsibility would certainly be authorized.

MR. LEONARD BUCKLIN:

Mr. Chairman. There are two things that bother me about the resolution. The first that bothers me is why do we need it? In other words, it seems to me that don't we have such institutional advertising going on at the present time? Does the Executive Committee have the authority to spend funds in that way? And hasn't it in fact done so? Law Day being a prime example of that sort of thing. And I think we've had an ongoing public relations campaign.

The second thing that bothers me about the resolution is — or motion — is that it is simply a matter of voting in favor of truth and goodness. It is indefinite as to what we're voting for — either as to budget or as to specifics.

PRESIDENT ERICKSON:

Anyone wish to further comment on the proposed resolution? Does everyone understand the resolution? Now's the time to raise your questions.

MR. FRANK KOSANDA:

Well, first of all, we have a motion to do something; is that correct, Mr. President? That hasn't been fully explained as to what we're going to use this money — as to what the resolution itself would do relative to, quote, advertising, and now this present motion sets aside or appropriates some money — or am I going too far on that? At least it — you want it as part of the budget for advertising. Isn't that correct?

MR. DAHL:

Well, really, the motion is rather innocuous. All that it does is give a direction to the Executive Committee to go forward on institutional advertising probably to a greater extent than it has done thus far. I agree with Leonard that we have had somewhat of a program, but there hasn't been guidance provided by the Executive Committee itself. The Information and Public Service Committee has been in charge of whatever public information we've had. But, as I envision this motion, which was approved by the Committee in substance yesterday at its meeting, is that the Executive Committee will positively go forward with some kind of a program. It's a substitute for those who insist that there should be out-and-out advertising as we think of it as merchandising type. It's a sop, you might say. But I do think, as far as our own public image is concerned, it isn't going to be detrimental, obviously.

MR. HARRIS KENNER:

Mr. Chairman. Since there are no special funds appropriated and since this doesn't authorize anything that the Executive Committee cannot already do, I would move that the matter be tabled.

MR. BUCKLIN:

Second.

PRESIDENT ERICKSON:

Any discussion on the motion to table?

All those in favor, signify by saying "Aye." Opposed? The motion is carried.

MR. DAHL:

I have one more.

Mr. President, I would move that Canon 2 of the Code of Professional Responsibility be amended to permit the use of bold print in the alphabetical section of the telephone directories by lawyers.

PRESIDENT ERICKSON:

Is there a second to that one?

MR. DEAN WINKJER:

I'll second.

PRESIDENT ERICKSON:

Any discussion on the motion?

MR. J. PHILIP JOHNSON:

Just a point of order regarding the Code of Professional Responsibility.

So we have the Code as adopted by the State Bar or do we have the Code as adopted by the Supreme Court of North Dakota for disciplinary enforcement purposes? We've gotten into this question before.

MR. DAHL:

Yes. May I respond to that?

The Supreme Court has not adopted the Code of Professional Responsibility. The only place it makes reference to it is in the preamble to the Rules of Professional Grievances, and it merely states that any violation of the statutes or of the Canons of Professional Responsibility as adopted by the American Bar Association and approved by the State Bar Association. But the Supreme Court itself has not adopted the Canons as a rule of order or rule of ethics, or anything like that.

Now, if anybody wants to disagree with me, I'd be happy to debate the subject. But this is my understanding. The first time that reference was made at that time with the Canons of Professional Ethics was when the original Rules of Professional Grievance were adopted, which was about in 1965, I believe, or '66. Up to that time there had never been reference. And this is the only place where there is reference to the Canons in any of the rules of the Supreme Court.

MR. J. GERALD NILLES:

Mr. Chairman —

This organization, however, has adopted the ABA Code of Professional Responsibility. We did this about three or four years ago.

MR. DAHL:

That's correct, Jerry. But that doesn't mean that we can't amend the Canons as adopted by the American Bar Association and by us, and this is what this motion is intending to do. I didn't pick out any specific section of Canon 2 to insert this, and it would be inserted in the proper place. But this would be an amendment to the Canons of Professional Responsibility and would differ from those that are adopted by the ABA. This is not unusual. There are a number of states which have not adopted the Canons of Professional Responsibility in toto. For example, when the Canons were amended in Houston two years ago, I believe it was, in February, relative to — oh, it's attorneys working for public-service groups and this kind of thing — those Canons were not adopted by a number of states. I recollect the discussion that they had, and specifically, I think, North or South Carolina was one of them which did not adopt it, and I don't know — at this time I don't believe that all the states or state bar association have adopted the amendments to the Canon that we are discussing at this time — Canon 2. In fact I'm sure they have not.

Mr. Jeffers, if he's in the audience, might have more information than I on the number of states that have or have not adopted those Canons. There hasn't been any record published in the ABA Journal or other publications of the ABA that I know of.

PRESIDENT ERICKSON:

Mr. Zuger.

MR. WILLIAM P. ZUGER:

My question is this then: I question, if the Supreme Court grievance rules reference a version that's been adopted by both associations, what effect this is going to have, and if it has been adopted by ours only and not by the American Bar Association, because it is different, you can't just pick out a part or one subpart and put it in and have the same rules. That would be my question. I don't know if you have any comment on it other than that.

MR. NILLES:

Maybe I can clarify that.

The American Bar Association no longer has any disciplinary mechanism. The American Bar Association has made it very clear that a matter of Code of Professional Responsibility and Canons of Ethics is a matter of local adoption and local control and local enforcement, and the significant thing is that this Association a few years ago did adopt the Code of Professional Responsibility promulgated by the American Bar Association. Had we not adopted it, we would have had the old Canons of Ethics, and we updated — we adopted the new Code that they made up and distributed around and recommended. And so we're in a position to adopt such of the amendments which the ABA now recommends as we wish. This is our discretion and our choice. We can take them all, as they have suggested, or we can take part of it at such time as we wish.

I hope that will clarify the point that is our action that we take here which is the significant action.

MR. DAHL:

I might also say that a direct analogy between the Code of Professional Responsibility as really recommended — is what it is — recommended by the American Bar Association and adopted by us to, for example, any uniform law that is recommended by the National Commission of Uniform — or what it is? — National Uniform Law Commission — whatever the specific name is — but many times our Legislature will take that uniform law and throw in an amendment to it, and they can do that any time they want. Merely having adopted the uniform law doesn't mean they can't amend it at any legislative session.

(The question was called.)

MR. DAHL:

Mr. President, the question has been called.

PRESIDENT ERICKSON:

All those in favor of the motion signify by saying "Aye." Opposed? The motion is carried.

I'm wondering—I must say that the Chair is a little bit embarrassed because we do not have our Resolutions Committee chairman here to present the resolutions. So I would have to resort to the people that made the original resolutions from time to time to see if we can get them on the floor, and I'm wondering if I can call on Mr. Kretschmar to bring up the one he brought up yesterday.

MR. WILLIAM KRETSCHMAR:

I might read again the resolution which I introduced yesterday.

"WHEREAS, at the primary election on September 7, 1976, the voters of North Dakota will vote on a proposed new judicial article for the Constitution of the State of North Dakota, and

"WHEREAS, the proposed judicial article will create a unified judicial system for the State of North Dakota to be implemented by statute and court rules, and

"WHEREAS, the proposed judicial article will provide a constitutional basis for a modern judicial branch of government with the necessary flexibility to meet the needs of the sound administration of justice in our fast-changing society, and

"WHEREAS, the members of this Association must be leaders in their respective communities for improvement of the system of justice and in informing the citizens of North Dakota on these matters;

"NOW, THEREFORE, BE IT RESOLVED BY THE STATE BAR ASSOCIATION OF NORTH DAKOTA that it take a position in support of the proposed judicial article; and

"BE IT FURTHER RESOLVED that the Association urge its members to inform the North Dakota electorate on the merits of the plan."

And I would move to introduce that resolution, Mr. Chairman.

MR. DAVID PETERSON:

Second.

MR. KRETSCHMAR:

To adopt it.

PRESIDENT ERICKSON:

To adopt it. And that was your second, was it not, Dave?

MR. PETERSON:

That's right.

PRESIDENT ERICKSON:

Is there discussion on the motion or resolution?

JUSTICE HARVEY B. KNUDSON:

I have a substitute I would like to offer, Mr. President, if that's in order at this time.

PRESIDENT ERICKSON:

You have the floor.

JUSTICE KNUDSON:

I offer this substitute resolution in lieu of the resolution which has just been read. It reads — the "Whereas" clause is the same as before.

"WHEREAS, at the primary election on September 7, 1976, the voters of North Dakota will vote on a proposed new judicial article to the Constitution of the State of North Dakota, and

"WHEREAS, the proposed judicial article will create a unified judicial system for the State of North Dakota to be implemented by statute and court rule, and

"WHEREAS, the proposed judicial article will provide a constitutional basis for a modern judicial branch of

government with the flexibility to meet the needs for the sound administration of justice in our fast-changing society; and

"WHEREAS, the members of this Association must be leaders in their respective communities for improvement of the system of justice and informing the citizens of North Dakota on these matters;

"NOW, THEREFORE, BE IT RESOLVED BY THE STATE BAR ASSOCIATION OF NORTH DAKOTA that it urge its members to inform themselves on and study the provisions of the proposed judicial article; and

"BE IT FURTHER RESOLVED that the Association urge its members to express their views to the North Dakota electorate on the merits of the plan."

Mr. President, I move the adoption of the substitute resolution.

PRESIDENT ERICKSON:

Is there a second to the substitute resolution? Fred Saefke I see back there.

We are ready for some discussion on the substitute motion.

JUSTICE KNUDSON:

Mr. President.

I have considered this matter for quite some time. I have met with the Executive Committee and I have also met with the Special Committee, and the purpose of this substitute resolution is to afford the members of the Bar Association an opportunity on their own to express their opinion on the proposed judicial article. If they're for it, they are free to do so. If they are opposed to it, they are free to do so.

Under our statutory provisions, the North Dakota State Bar Association is an integrated bar. We are enforced by statute to become members of the State Bar Association by virtue of the fee for the annual license which we pay to the State Bar Board, eight percent of which goes to the State Bar Association, of which we then become members, and I feel that we ought not to be compelled to be forced to take a position whether we are for or against it at the annual meeting of the Bar Association.

By the Bar Association adopting the resolution as presented by Mr. Kretschmar, each and every one of us — I don't say "bound," but to the general public it says that the Bar Association speaks for all lawyers. I feel that those who are for or against that proposed judicial article should not have even any inference of being bound by whatever we do here as to our position on the proposed judicial article. I'm sure that many lawyers and, in fact, they say when there are two lawyers you will always have a divergence of opinion. Well, we have several hundred lawyers, so we may have several hundred different opinions on various clauses of that judicial article, and I think that the substitute resolution which has been presented will force each and every attorney to study this proposed judicial article and make up his own mind what he wants to do and then disseminate the information he has made through his study to the electorate.

Thank you.

MR. DAVID PETERSON:

Mr. Chairman, I seconded the motion for the resolution that Mr. Kretschmar just presented, and I oppose Judge Knudson's motion for the following reasons:

First of all, the judicial article that's being proposed is not, as has been stated by some, a complete adoption of the judicial article which was in the 1972 Constitutional Convention. A good lot of it comes from there, but there were some changes made by the authors of the new judicial article in the Legislative Assembly. The Legislature, as you were advised by the Chief Justice yesterday, passed the concurrent resolution with an overwhelming majority. The North Dakota Criminal Justice Commission, which consists of fifty persons that the Chief Justice mentioned yesterday, a body that was appointed by the Chief Justice, by the Governor of the State and by the Attorney General, have considered the unified court concept and have gone on record in their final report as being in favor of the concept. I think that this Bar Association as a bar association is obligated to take a position — to take a position either in favor of the article or against it.

The resolution that was presented by Mr. Kretschmar gives this Bar Association an opportunity to do just that. The resolution submitted as a substitute gives this Bar Association the opportunity to say nothing. In other words, it's saying "We're taking the position not to take a position." And, in my few years in this Bar Association, the area that I criticize the most is that we're too shy. We don't take positions on things that are important. And I think this judicial article is a very important thing. I don't think that the fact that the Bar Association, if it voted in favor of the resolution of Mr. Kretschmar's, is going to bind any lawyer in his opinion and it is not going to prevent him from opposing the adoption in the fall at all. It's simply an expression by the majority of this body that it is in favor of the concept, and I don't think that the Bar Association should dodge the issue. I think we ought to face it square away. I think we ought to have a vote on it. And I think that the substitute motion is simply a matter of evading the issue. I think the Bar Association of the State of North Dakota owes the public the duty of facing the issue square away and making its recommendation. We're just like any other organization; it's run by majority rule, and the majority does not dictate to the minority at all, but we run it by majority rule and that's what we're asking in this resolution — that this body go on record. If the group here that's voting today — and every member of the integrated bar that Mr. Knudson or Justice Knudson talked about could have been here today. No one is foreclosed from being here. He could be here to vote. And I would request that each of you consider it. I'm sure you've looked at the proposed article and I'm sure you're aware of the old—or of the present constitutional provisions, and I would respectfully request your support of the motion of Mr. Kretschmar's and to defeat the substitute motion which is now before the floor.

MR. RICHARD H. McGEE:

I speak opposed to the substitute motion and in favor of the original motion by Mr. Kretschmar.

Now, in the many years I've been in Bar work, every legislative session we've sat down in the Executive Committee and also along with the rest of the members of the Bar and we take down the measures that are going to be introduced up on the hill there and we sit and say the Bar is going to favor these or not favor them. And so with that we send our lobbyists up there with something, and in the past few years it's been Pat Conmy. And every year we've had somebody up there talk to the various committees when the bills are introduced and we say take a position if the North Dakota State Bar Association is in favor of this. And you'll recall certainly the Uniform Probate Code and other uniform matters that have come up to us in the session. We've always sent somebody up there. So this thing about us not taking a stand, this isn't right. I mean this constitutional amendment directly affects us and this is something we should take a stand on. And the principle is wrong if we're not going to take a stand on it. If you don't like it, vote against it. But as far as not taking it to a vote, that's wrong, and if we're going to send out to our constituents the fact that we sat here and did nothing on something that's so vital to us as lawyers

who are every day working with this, well, then we're just sitting back and shirking our job. It's time now to either fish or cut bait, and let's go ahead and defeat the substitute motion, and I'm in favor of the original motion.

PRESIDENT ERICKSON:

Anyone else wish to be hears on the substitute motion? Jerry Nilles.

MR. NILLES:

Mr. Chairman, Thank you. I think this Association should stand up and be counted. I think the general public is entitled to know if a majority of this Association is in favor of this constitutional amendment. I think they're entitled to know that. This does not bind anyone from speaking against it privately or even publicly or campaigning against it. This resolution — the main resolution — does not have the effect. I oppose the substitute resolution.

MR. DAHL:

A few minutes ago we discussed the matter of the Canons of Professional Responsibility. I would only like to read to you at this time Ethical Consideration 8-9, obviously under Canon 8, which the general subject is a lawyer should assist in improving the legal system, and EC8-9 says: "The advancement of our legal system is of vital importance in maintaining the rule of law and in facilitating orderly changes. Therefore, lawyers should encourage and should aid in making needed changes and improvements."

MR. FRANK JESTRAB:

Question.

MR. JON KERIAN:

SECOND.

PRESIDENT ERICKSON:

All those in favor of the motion that we cut off debate on the substitute motion signify by saying "Aye." Opposed? The motion is carried.

Now, we are ready to vote on the substitute motion. I am wondering if everyone is clear as to what the substitute motion is. I do not wish to misstate it, but my understanding, the substitute motion is that this Bar Association go on record as taking no position on the proposed judicial article, and that is what we are voting on. All right.

JUSTICE KNUDSON:

I'll leave my copy with you so you can — it's a little different than that, Mr. President, if I may — if you want to read the original.

PRESIDENT ERICKSON:

Is there any question on the substitute motion that you gentlemen want repeated for clarification? Hearing none, I'm going to ask that we vote on the substitute motion.

All those in favor of the substitute motion, signify by saying "Aye." Opposed? I guess I would rule that there's a division in the house and I'm going to ask that you raise your right hand, and for the purposes of being very certain that we have this vote right — I think this is a crucial vote in this group — I'm going to ask some tellers that I had sort of previously talked to to make a proper count. Burt Riskedahl of Bismarck, Georgia Pope of Jamestown and David Garaas of Fargo. I'd like to have you people count the votes for and against. And at this time, all those persons in favor of the substitute motion raise your right hand.

Seventeen in favor. All right. All those opposed to the substitute motion, raise your right hand.

The substitute motion has failed and I would now call if there's any further discussion on the original motion.

MR. FRED SAEFKE:

Mr. Chairman.

That's fine. We have enough railroads, gentlemen.

I appreciate what Mr. Dahl had to say about the Canons of Ethics and lawyers should assist in the judicial reform. I wonder how many of you are familiar with what this reform is going to be in the form of the judicial article that is being presented. I wonder how many of you realize that you are completely repealing Sections 85 through 120 of the Constitution and replacing it only with Sections 85 through 97. Granted, I think we're all in favor of assisting in needed judicial reform. I think the question is whether or not this particular judicial article is it.

Now, one more thing and I'll sit down.

Yesterday we had a message from the Chief Justice. And what was his statement to this Bar Association? And you may correct me if I'm mistaken. I believe he said "I am not asking for this Association to take — or to take a stand on this judicial article" — words to that effect. Rather, he did ask, however, that each member inform himself of the contents of the judicial article and then go home and use whatever position you may have to disseminate that information so that the electorate would be informed and vote intelligently on it. And it was in that light that I thought it would be more fair to everyone concerned that I supported the prior motion, and I think in this instance, since the Chief Justice has indicated himself, although he's obviously in favor of it, that he was not asking for any position by the Bar and that he was instructing each of us to go home and learn something about it, that we should defeat the resolution as presented.

MR. THEODORE F. KESSEL:

I was one of the unfortunates that was a member of the Judicial Committee that worked on the judicial article originally in the Constitutional Convention. There were many hearings, and I'm sure that many of you attorneys were at the hearing and presented your views; and, personally, I think that the article that is now before the voters is a good article, and I would like to see it carried by the public. What concerns me more than anything else at this stage of the game is if this particular body turns down this matter, they are going backwards. They're going backwards and not improving an article that has been in the Constitution for many, many years. If we turn it down, in the eyes of the public, the State Bar Association is against it, and I don't think that's the case. So, hopefully, for that reason, I would like to see this body carry the resolution. Thank you.

MR. HARRIS KENNER:

Thank you, Mr. Chairman. I'd just like to say that I'm in favor of this article, but I was in favor of the substitute motion and I don't think that that's inconsistent at all because it seems to me that this article that we're asked to vote on now is a lawyers' bill, or it can be denoted that to some extent by the public, because we make all courts a court of record and all courts the judges are going to have to be law-trained, and that's going to do away with a good number of municipal judges and county judges, and so on, that we have now, and it is for that

reason that I thought that the substitute motion might be in better order.

MR. ROBERT WEFALD:

Mr. Chairman, I move the previous question.

MR. WILLIAM ZUGER:

Second.

PRESIDENT ERICKSON:

All right. All those in favor, signify by saying "Aye." Opposed? The motion is carried, and we will now vote on the original motion.

All those in favor of the original motion as proposed by Mr. Kretschmar, signify by saying "Aye." Opposed? The motion is carried.

I think our Resolutions Chairman, Dale Moench, is standing back there, and I'd like to have him come forward and present such further resolutions as should properly come before you.

MR. DALE MOENCH:

Mr. President. Members of the Association:

We have three other resolutions, and the first one that I'll take up, I'll read in its entirety again.

"WHEREAS, it has been brought to the attention of the State Bar Association of North Dakota that the existing legal facilities at the North Dakota State Penitentiary are grossly inadequate and do not provide minimal legal research materials which are available to inmates, and

"WHEREAS, it is a fundamental tenet of due process that the state provide such facilities, together with adequate legal research materials;

"NOW, THEREFORE, BE IT RESOLVED that the General Assembly of the State Bar Association of North Dakota go on record as requesting the Director of State Institutions to initiate a meaningful upgrading of the State Penitentiary legal facilities and to budget sufficient moneys in order to provide for a replacement of outdated materials and the purchase of supplemental legal books and periodicals so that basic legal research can be performed within the Penitentiary setting."

That's the first resolution.

For the purpose of getting it on the floor, I move the adoption of the resolution.

PRESIDENT ERICKSON:

Is there a second to that resolution?

Seconded by Dwight Kautzmann. Discussion on the resolution at this time.

MR. KENT HIGGINS:

I should explain, first of all, that I am not the author of this particular resolution. It was proposed, as far as I know, by Ralph LePera, who, unfortunately, is not here today; perhaps prudence being the better part of valor. But he did ask me to explain briefly his position on this motion, and I'm glad to do so.

Ralph has conducted a survey of the legal materials currently available at the Penitentiary. The most comprehensive materials they have out there, I believe, is a set of *Corpus Juris*. There is a set of *Northwestern Reporter* 2d advance sheets covering, I think, less than a 10 year period. There are precisely four advance sheets on the *Pacific Reporter* 2d. There is a strange collection of materials. As a matter of fact, one of the completest sets they have is a set of circuit opinions for the State of Louisiana, complete up to about 1898, if memory serves.

Now, I'm not prepared to say what an adequate legal library for a penitentiary should be. I do know, however, that what they apparently have in the facilities there are hopelessly inadequate now, and I think it would be desirable for a number of reasons to have at least a minimally adequate research library at the Penitentiary.

PRESIDENT ERICKSON:

Any further discussion on the resolution?

MR. DEAN WINKJER:

As I understand it, the current federal law requires that an adequate legal library be at all penitentiaries, and I don't see anything wrong with his resolution. Simply we're telling the Director of Institutions "Do what you're already supposed to do."

MR. EDWIN F. ZUERN:

I'm Ed Zuern, the legal counsel for the Director of Institutions office.

I think we should know that the Supreme Court library has been very, very generous to give what we've got. We're working on getting more. We'd like to have even donations from where we can get them. Very often they get donations from firms and other people that go out of business and make books available, and so on. I know it's inadequate.

As far as law is concerned, as far as I know, there are some gray areas in the federal decisions. There's a recent one that said that a fully adequate library is not necessary and that they have access to writing to the courts and to other legal services; that they do not have to have a full-fledged library; and, of course, even the decisions that do exist, they don't really tell you what you need. The book sellers, they tell you! And I don't know. There are so many budget requirements and so many budget demands that it's going to be very difficult, I know from my experience with the Legislature, to convince them that we have to have a Supreme Court library and another law library at the Penitentiary. I think we're going to have to find other ways of getting that library, besides getting the funds to purchase a library. We will, however, consider, and we are considering, funds to buy some of these supplements of some of the materials that we feel are necessary and purposeful for the inmates.

PRESIDENT ERICKSON:

Thank you. Any further discussion on the motion or resolution?

Seeing none, all those in favor of the resolution as presented, signify by saying "Aye." Opposed?

Well, unless someone has a concern, I'm going to rule that the motion was carried.

MR. DALE MOENCH:

The next resolution regards the memorials and was prepared by the Committee on Memorials. I will read simply the resolution. The Committee on Memorials, I believe, has also prepared, however, a history for each of the individuals that we're honoring, and I understand that letters will go out, if this resolution is adopted.

"WHEREAS, The Committee on Memorials reports, with deep regrets and sadness, the deaths of the following members of the Bar between June, 1975, and this convention in 1976:

Olaf H. Thormodsgard, Bordeaux, France;

Gordon (Tom) Miller, Minot, N. D. ;
 Alvin Fosaaen, Cando, N. D. ;
 Chauncey T. Kaldor, Hillsboro, N. D. ;
 Allen Hoffman, Jamestown, N. D. ;
 Thomas M. Stannard, Williston, N. D. ;
 Milton K. Higgins, Bismarck, N. D. ;
 Aloys Wartner, Jr., Harvey, N. D. ;
 Edward J. Ward, Grand Forks, N. D., and

"WHEREAS, Separate memorials for each of these deceased lawyers have been prepared and filed with the Secretary of our Association. With this report we offer this Resolution.

"BE IT RESOLVED that in the deaths of these honored and outstanding members of our Association, we express our deep appreciation of them, for the lives that they lived, and the services that they performed, in their areas of work, and also as earnest, loyal citizens and residents from their communities and our State. We deeply mourn, with the families, the friends, and the associates of these attorneys, these losses, and express our deepest sympathy to all, from whom they have become separated.

"It runs in the blood of lawyers to be friendly and sympathetic personally, though their work makes them adversarial in behalf of their clients.

"It is observed that no matter what courtroom differences may cause temporary disruptions due to the nature of human beings, we also realize that no matter what has happened professionally, we join in sharing the better things, not only in the profession, but also in life.

"BE IT THEREFORE RESOLVED, that a copy of these biographies be sent to the families of the deceased members and that the originals be filed with the Secretary of the North Dakota State Bar Association, and printed in the North Dakota Law Review with the proceedings of this convention." That's our next resolution, and I move its adoption.

PRESIDENT ERICKSON:

Is there a second to that? Seconded by Raymond Rund.

Before we ask for any discussion, Mr. Sperry presented the resolutions yesterday morning and we did take an appropriate moment of silence for these gentlemen, for those of you that were not here.

Is there any discussion on the motion? All those in favor, signify by saying "Aye." Opposed? Motion carried. (Memorials as to each of the above-named appended hereto.)

MR. MOENCH:

I have one last resolution of the Resolutions Committee.

"WHEREAS, the Seventy-Sixth Annual Meeting of the State Bar Association of North Dakota has been hosted by the Burleigh County Bar Association in Bismarck, North Dakota, and

"WHEREAS, the efforts of the Burleigh County Bar Association have made the Seventy-Sixth Annual Meeting of the State Bar Association of North Dakota a successful meeting and a pleasant experience;

"NOW, THEREFORE, BE IT RESOLVED BY THE STATE BAR ASSOCIATION OF NORTH DAKOTA that the members of the Burleigh County Bar Association be commended for their excellent planning, arrangements and hospitality, which has made this annual meeting a successful one."

And I move this adoption, Mr. Chairman.

PRESIDENT ERICKSON:

Is there a second to that motion? Seconded by Clem Rohrich. And is there any discussion of the motion?

All those in favor, signify by saying "Aye." Opposed? Motion carried.

That is the report of your Resolutions Committee. Does anyone have any other resolutions that were brought yesterday morning that they do not carry in here? And along that light, if there is any old business that should come up at this time or resolutions that were presented yesterday, I'd like to hear them at this time.

Seeing none, I'd like to call for any new business that might come at this time. We'll have our new business. If there is none, we'll take a short coffee break and we'll come back for the election, and that should about be it.

Is there any new business?

We'll be in recess for ten minutes.

(Recessed at 2:49 p. m. until 3:08 p. m., the same day.)

PRESIDENT ERICKSON:

I will call the meeting back to order, and at this time we're going to proceed with the election of officers. I have already appointed three tellers. I hope and I think they're still here. If there is a contested election or two or more nominations, of course we will exercise a secret ballot.

The nomination speeches, I'd like to limit those to three minutes, if you please, and the seconding speeches I'd like to limit those to two minutes. And at this time I'd like to call for nominations for the office of our ABA delegate. Mr. Ward Kirby.

MR. WARD KIRBY:

Mr. President.

I rise to nominate — renominate — Robert E. Dahl as our Bar Association delegate to the House of Delegates of the American Bar Association. He's a Past President of this Association. You've had occasion to see his effectiveness as a delegate to the ABA. He's a hard worker, as you all know, and my personal observations are that it takes more than one term as an ABA delegate to be effective as a delegate. He, I think, represents this Association well, and he should be re-elected to serve an additional term as our ABA delegate. Thank You.

PRESIDENT ERICKSON:

Thank you, Ward.

Are there any seconds to that nomination?

MR. THOMAS RUTTEN:

Mr. Chairman, I'll second the nomination of Bob Dahl for ABA delegate.

PRESIDENT ERICKSON:

Thank you. Any further? Are there any other nominations for the ABA delegate?

MR. MICHAEL R. MCINTEE:

Mr. President, Alfred C. Schultz has indicated his desire to serve in this position, and it is an honor for me to place his name in nomination.

Al, I don't think, needs any introduction to anyone in this assembly. He served for many years as our Executive Director, has practiced law for a number of years prior to and subsequent to his serving as our Executive Director. He has been the president of the National Association of Bar Executives, an honor which was bestowed upon not only him, but also on our organization, has been a member of the Executive Council of the American Bar Association Section of Bar Activities. These are only a few of the many other outstanding contributions he has made toward our Association. Al, I'm sure, would do an excellent job in this position. He has a desire to serve, and that, I think, is one of the most important things or attributes that one should have in taking over a highly paid position as this is!

It is my honor to place his name in nomination.

PRESIDENT ERICKSON:

Thank you. Are there any seconds to that nomination?

MR. RUND:

I rise to second the nomination of Al Schultz for this position.

PRESIDENT ERICKSON:

Thank you. Are there any further seconds to that?

MR. ALAN GRINDBERG:

I've known Al Schultz for quite a long while. Not as long as some of you, perhaps. But I, too, wish to second his nomination.

PRESIDENT ERICKSON:

Thank you. Any further seconds?

Are there any further nominations for the ABA delegate from this Association? Noting none, I would seek a motion to ask that nominations cease.

MR. KERMIT BYE:

I would so move, Mr. Chairman.

MR. TIM DAVIES:

Second.

PRESIDENT ERICKSON:

All those in favor, signify by saying "Aye."

I'd like to have the tellers see that everyone gets a ballot.

While they are proceeding with the tally on that, I think we'll proceed with the other offices.

I'd like to call for nominations for the office of Secretary-Treasurer of this Association for the following year.

MR. DWIGHT KAUTZMANN:

Mr. President, I rise to nominate Greg Morris of Bismarck as Secretary-Treasurer of the Association.

Greg was born and raised at Wahpeton, North Dakota, is presently practicing with the firm of Christensen, Baer and Thompson in Bismarck, and he's been in private practice for the past two years. He is the outgoing Chairman of the Young Lawyers Section and, as many of you know, it has been a gentlemen's agreement in the Association for many years that the Chairman of the Young Lawyers Section sit as the Secretary-Treasurer of the Association. However, this year, due to the workload of the Secretary-Treasurer, and being Chairman of that Section, the Young Lawyers Section changed their bylaws to read that the outgoing Chairman, who is Greg, would serve in the position of Secretary-Treasurer, and I take great pride in nominating him for Secretary-Treasurer of the Association.

PRESIDENT ERICKSON:

All right. Are there any seconding speeches to that nomination?

MR. SAEFKE:

Mr. Chairman, I've known Greg since he's been in Bismarck. He's in the same building. He is a hard worker, a good young man, and I'm very happy to second the nomination.

PRESIDENT ERICKSON:

Thank you. Are there any further seconding speeches?

MR. R. W. WHEELER:

Mr. Chairman, I move that railroad motion.

MR. DALE MOENCH:

Second.

PRESIDENT ERICKSON:

Is there any discussion on that? All those in favor of signifying that a unanimous ballot be cast for Greg Morris, signify by saying "Aye." Opposed? Motion carried.

At this time I'd like to call for nominations for the office of President-Elect of this Association.

MR. WILLIAM R. PEARCE:

Mr. President,

I'm only unhappy with the three-minute limitation. It doesn't allow time for our parade of banner-holders and flag-wavers to get inside of the hall. So we may have to dispense with that.

I have never, in 42 years I've been a member of this Association, nominated anyone for office. But it is with a good deal of pleasure and pride that I do nominate a man who has been my partner for about the last twelve years, Harold Anderson, as President-Elect of this Association.

My only reservation at all about this is that Harold is such a hard-working organization man, that I know that there are going to be a lot of things that I'm going to have to look after that Harold ordinarily would in his office because he would be so busy tending to the affairs of the Association. I don't think I need to explain to you who Harold is. I know that many of the members of this Association, if not all, have seen his activities in the past. I think he would come into office at a time when the Bar Association and lawyers in general need the very best public relations with all of the people, as well as the courts. I know of no better man that would be able to do that for the Association and for all the lawyers that belong to it than Harold Anderson, and I place his name in nomination for President-Elect.

Thank you, Mr. President.

PRESIDENT ERICKSON:

Are there any seconding speeches to that nomination?

MR. DWIGHT KAUTZMANN:

I take pride in seconding the nomination of Harold Anderson. In the five years that I've practiced law in the State of North Dakota, I've found Harold to be a super attorney, a fantastic individual, and I say that he is a personal friend of mine. I've had the opportunity to work on bar committees with him and serve on the Executive Council, and he's done a fantastic job, in my opinion. As you know, I've been active in the State and nationally in the Young Lawyers Section, and Harold tells me that he qualifies for the Young Lawyers Section; that he's actually under 36. I don't know if that's true chronologically in age, but I know that he's got the heart of a young lawyer, and I think that the Association should elect him as President-Elect. I think he's deserving of the position and, more important than that, I really believe that the position deserves a man of the integrity and competence of Harold Anderson.

Thank you.

MR. HARRIS KENNER:

Mr. Chairman, I'm a member of the Class of 1952, and that was Harold Anderson's law class; and, of course, our Class of '52 helped get him through law school and we're proud at this point to second the nomination.

MR. RAYMOND RUND:

I gladly second this nomination.

PRESIDENT ERICKSON:

Any further seconding speeches?

Are there any further nominations for the office of President-Elect of this Association?

MR. JOHN HJELLUM:

I'll move that the nominations be closed and a unanimous ballot be cast for Harold Anderson.

MR. JACK McDONALD:

Second.

PRESIDENT ERICKSON:

All those in favor of that motion, signify by saying "Aye." Opposed? Thank you. Where is Mr. Anderson. I think Mr. Anderson should stand and we could give him a very welcome hand.

We did not wish to slight Mr. Morris. That hand was also for him.

I should tell you that the Balloting Committee has returned the vote, and the vote is Schultz 39, Dahl 71. I'll file that with the Reporter.

PRESIDENT ERICKSON:

I think that's about all the business we have, and I'm about ready to ask that you might consider a motion for adjournment. But, in conclusion, if that's about it, I most sincerely would like to take this opportunity to thank all of you for the courtesies which you have given me, not only at this meeting, but throughout the year and through the various cities that I've been to. The courtesies that you have extended to me and my wife, I have appreciated very much, and I thank you for the opportunity to have served.

Is there any further business that should come before this meeting? If not, I would like to have a motion of adjournment.

MR. TIM DAVIES:

You've got it.

PRESIDENT ERICKSON:

All right. Is there a second to that?

MR. TELMAR ROLFSTAD:

Second.

PRESIDENT ERICKSON:

All those in favor of the motion, signify by saying "Aye." The motion is carried.

(Concluded at 3:25 p. m., Friday, June 18, 1976.)



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