



1977

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

North Dakota State Bar Association

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# TRANSCRIPT OF PROCEEDINGS

OF THE  
SEVENTY-SEVENTH ANNUAL MEETING  
OF THE  
NORTH DAKOTA STATE BAR ASSOCIATION  
WINNIPEG, MANITOBA, CANADA

JUNE 16-17, 1977

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## OFFICERS

CLINTON R. OTTMAR .....	President
HAROLD L. ANDERSON .....	President-Elect
GREGORY D. MORRIS .....	Secretary-Treasurer
ROBERT P. SCHULLER .....	Executive Director

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THURSDAY, JUNE 16, 1977

(Whereupon, the following proceedings commenced at 2:00 o'clock p. m. as follows:)

PRESIDENT CLINTON R. OTTMAR:

The Fifty-sixth Annual General Assembly of the integrated bar of the State of North Dakota is now in session. This is the Seventy-seventh Annual Meeting of the State Bar Association.

It is now my pleasure to introduce immediate Past President Armond Erickson who will lead the pledge of allegiance to the flag (pledge of allegiance).

PRESIDENT OTTMAR:

It is now my pleasure to introduce the Right Reverend Monsgr. Norman J. Schartrand, Chancellor of the Archdiocese of Winnipeg, who will offer the invocation prayer.

MONSGNR. NORMAN J. SCHARTRAND:

Let us pray. Blessed are Thou, Oh Lord, our God, King of the universe, source of all law and justice. The people gathered here, partners in justice, recognize You as their senior partner. May You, the Lord of all true law, make us a little more like you today than we were yesterday.

We pray for your greater glory in the pursuit of your justice that we may be able in argument, accurate in analysis, strict in study, current in conclusion, candid with clients, honest with adversaries, faithful in details.

We ask you to sit at our desk and listen to our clients' tales, read with us in our libraries, and stand beside us in court so that in order to win a point we may not lose our souls.

And may we never forget that one day we shall stand before you, the Infinite Lord of Justice who will preside when we are to be tried. And may your Holy Spirit watch over us during these days of deliberations that we, as we leave this convention, may go back to our courts and our offices imbued with the spirit of Thy justice. Amen.

PRESIDENT OTTMAR:

I have before me a letter from the Mayor of the City of Winnipeg, The Honorable Mayor Stephen Juba, who was to be with us today for some words of welcome, but unfortunately found that his schedule did not permit this appearance. He did, however, send his very able representative, Counselor Robert Steen.

COUNSELOR ROBERT STEEN:

Mr. President, Monsignor Schartrand, distinguished guests, ladies and gentlemen. It is my pleasure on behalf of Mayor Stephen Juba to appear as his representative today and to extend to each of you the formal welcome of the citizens of the City of Winnipeg and our colleagues on the City Council.

I understand this is the first time in the lengthy history of your Association that you've had an Annual Meeting and Convention outside the borders of the lovely State of North Dakota. And we in Winnipeg are very proud that you saw fit to come to our city for this first in your historical achievements.

The people of Winnipeg and of the Province of Manitoba have always felt a very close kinship to the people of the State of North Dakota. We ignore the fact that we are in different countries, when we have one of these borders between us, because we have always looked upon you as a sister jurisdiction. And many of our various associations

find the people of Manitoba and the people of North Dakota lumped together with others in the midwestern organizations and jurisdictions that go north and south rather than east and west. And we have found in various organizations it has been my privilege to belong to that the North Dakotans and the Manitobans get together and kind of gang up to make up for our size and our lack of population when the people from some of the other jurisdictions decide that we don't count. So we're very glad that you saw fit to come to our city, because we've enjoyed the hospitality of your cities and towns and your state generally on so many occasions. Most Manitobans end up going to the State of North Dakota quite early in life, and on many and many occasions from there on. My own family, we make it a point of going into your state at least once a year. And we have between us this wonderful Peace Gardens which is of international fame and repute that is maintained jointly by our governments nationally and by our State and Provincial governments that I think is quite a tribute to the spirit of friendship and the harmony that our peoples in our two jurisdictions have existed.

Unfortunately, many of those of us who practice law in the Province of Manitoba and Canada are not too familiar with the organization and the method in which you practice in your country, particularly in your state. And we don't have as frequent intercourse in this field that we could and should have. And I would hope that this is only the forerunner of many such visits between our jurisdictions. That our Law Society and Bar Association will see fit to go down to either Grand Forks or Minot or Fargo or Bismarck and have one of our Annual Meetings. We have gone into the Province to the east of us, Ontario, to do so at Minaki and other resort areas fairly close to the border. But there's no reason why we don't go down to Grand Forks and other North Dakota sites for such Annual Meetings. We go down there for everything else. And why we don't go down there and to have many of you join with us and kind of compare notes and learn one from the other, because we can never stop learning.

Winnipeg particularly welcomes you, because I understand there's very close to 500 of you, including spouses. I hope that you enjoy the hospitality and the facilities for which I believe our city is justly noted. I hope that you get around and see the many fine restaurants that we have in this city. If you are like the lawyers of the Province of Manitoba in the City of Winnipeg, we enjoy the good fare that is offered by restaurants, and Winnipeg abounds with many of the finest. I hope that you have an opportunity to see some of the cultural things that we have in the city. And you might even come back to us on August the 14th, that week, when we have our famous Festival of the Nations in which the whole city just kind of takes the afternoon and evening off and visits the 30 various pavilions representing the many ethnic backgrounds and origins from which this city comes. There is no majority group in the City of Winnipeg. We are all minorities. Even the British or people from the British Isles, be they Irish, Scottish or English, because there is no such a thing as a majority any longer in this city because they come from all over. And that's what makes, I think, the city a very fine place to live. And we hope that during the next few days you will have an opportunity to experience this and to visit many parts of our city and see and meet many of its people. And so much so that you'll want to come back many times in the future.

But also I hope that your proceedings will be very educational and enlightening. That you will consider every aspect of this time that you're spending in our city and at this convention to be rewarding and successful in every way. With every good wish, I thank you.

#### PRESIDENT-ELECT HAROLD L. ANDERSON:

Thank you, Mr. Steen, for those kind words. And from the North Dakota Bar Association, we hope you will take back with you to Mayor Juba and through him to the people of Winnipeg our thank-you for the hospitality we have had here.

Surely we appreciate these kind words from you. And we thank you and the people of Winnipeg for the hospitality furnished. We are looking forward to a most enjoyable convention here. Thank you.

At this time, it is my pleasure to introduce to you for his annual address the President of our Bar Association. I think it's been a great privilege for me to have worked with Clint for the last year in preparation for my year coming up. But, more importantly, the direction that he's given the Bar Association this past year. Being as big as he is, he's a man of vision, you know. And he had the vision of taking the Bar Association out of the State of North Dakota for its convention and have it here. And I think this is not the least of his many accomplishments in his year as President of the State Bar Association. So at this time it's my pleasure to present to you Clint Ottmar. Clint.

#### PRESIDENT OTTMAR:

Thank you, President-Elect Harold.

Colleagues and guests, tradition mandates that the President report to the membership at the Annual Meeting. And although I was brave enough to break a tradition in a few instances, such as abolishing the Annual Banquet speaker, — (applause) — I wasn't quite bold enough to do away with the President's report.

I have enjoyed this past year as your President. I'm only sorry that I cannot stand here before you and wax eloquently about all the great things that we accomplished, because unfortunately I didn't. I can, however, assure you that with the help of many fine people in this organization we did accomplish some things and start others which I believe helped us achieve a bit more of our purpose and goals, namely: That the Association be of service to its members and that the members in turn be of service to the community or society in general.

I want to thank the members of the Executive Committee, a fine group of people who faithfully met the responsibility that was theirs. Thanks to Bob Schuller, our Executive Director, who constantly stands ready to guide and direct, but never shoves. And equally as important, the members of the committees who for the most part worked very hard to suggest and bring about areas of improvement within our Association with the ultimate objective to assist each of us to better meet our obligations and responsibilities to the people. I will not refer to each of those committees because of the time factor. But I do urge you to read the reports which you have in your packets. And I understand there are some available at the table.

This being a legislative year, several people spent much time on behalf of the Association. And certainly plaudits must be awarded to Tom Kelsch and our Executive Director who carried the brunt of this activity.

One of the highlights of my year was the statewide tour that President-Elect Harold, the Executive Director, and I took in the month of November. Although we had to readjust the program a bit, I, for one, was very grateful for the opportunity that we had to meet with many of you in an informal air and receive your thoughts and suggestions. And I might add a good number of which have been or will be incorporated in the Association's program. I'm also pleased to state that the financial status of the organization is sound, and that our expenditures for the year are within the boundary of the budget that you authorized at the last Annual Meeting. I certainly dare not forget to acknowledge the very fine cooperation we've had from the law school through the persons of Dean Rushing, Larry Kraft, Randy Lee and other members of the staff. By this time all of you should have received a summary of the 1977 North Dakota laws of particular significance to lawyers. I am told that the North Dakota Law Review is planning to include a cumulative index in the summer issue of the publication. There are some other ac-

tivities planned in this joint venture type situation. Your continued support of the law school can only result in further such cooperative efforts which unquestionably will aid and be of benefit to the practitioner.

Areas of concern of the Executive Committee and your Association this past year were seeking a solution to the legal malpractice insurance problem, implementing the continued legal education program, the matter of discussing specialization, employment of grievance counsel, the Association's position on legislation, legal services for the poor, and the low public confidence in the judicial system, just to name a few. Final solutions eluded us in many instances, hence many of these concerns, plus others, such as attacks on contingent fees, lawyer advertising, multiple bar examinations, and on and on, will continue to be with us in the future. I am confident, however, that President Harold and the Executive Committee are going to aggressively pursue these matters and hopefully bring many to a workable and practical conclusion.

Of the various challenges and problems that I just referred to, may I lift out one for just a bit of comment, that being the low public confidence in the judicial system. We as an Association do a lot of things well; however, we must improve and can improve by helping each other. In the January issue of "The Gavel" I asked each of you to stop and consider what your contribution has been to either lessen or enhance public confidence in the legal system or the legal profession. I'm not asking for any show of hands, but I would just like to pause briefly and ask I wonder how many of you did pause for just a bit? A condescending attitude obviously has no place within the order. Unfortunately, I've seen a bit of that this past year. Greed is another vice that we could ill afford. And I've seen a bit of that this past year. One of the disappointing aspects of my past year were the telephone calls that I received from generally very disturbed, some cases angry, people who said, "How do I report so-and-so lawyer?" These are the things that, as I say, have been just a bit disturbing. Obviously I only got one side of the story or one side of the problem. But it seems to me that in a good number of these cases a lack or a break in communication was one of the contributing factors.

I said a bit earlier I believe one of the purposes of the Association is to be of service to the members and the members in turn of service to society. To do this there has to be some talking and some listening, and not at the same time. The purpose of the President's tour was to listen to you, and your concerns. And I appreciated very much the willingness of those that attended to share your concerns with us. In turn, the Association tried to put out as much information as was practical to keep you posted on bar-related matters. Subsequent comments and inquiries, however, soon made it pretty obvious that this was not given the attention that many would have found helpful. President Harold I understand is going to continue, probably not in exact format, but going to continue the philosophy of trying to meet with as many of you as he can to again ask your concerns and give you an opportunity to make them known. Communication within the Association is probably one of the primary requirements if we're to become an effective instrument in bringing about a more favorable image of the bar. I believe once this is accomplished then we're ready to establish a real rapport with the people. But it was surprising, it was interesting, and little bit disturbing, to realize that we really don't communicate too well with each other. And this we must do. The long-range planning committee is going to try to be helpful in this area and with you hopefully will turn the tide of the unfavorable attitude or reputation that now exists and that we're unfortunately enjoying. Some of you will be called on to help out in the plans of the long-range planning committee. And I hope you will be willing to participate and help.

In conclusion, please accept my sincere thanks for the opportunity that was mine. And, again, may I urge and challenge each one of you to take an active part in this, your Association. Again, thank you to all of you.

#### PRESIDENT-ELECT ANDERSON:

Thank you, President Clint. I think I speak for the membership of the Bar Association when we express our thank-you for your work that you've done.

And, as Clint has pointed out, I look forward to continuing some of those efforts in the year to come.

#### EXECUTIVE DIRECTOR ROBERT P. SCHULLER:

The Resolutions Committee for this meeting will be chaired by Thomas Rutten. His committee members will include Donald J. Olson and John McClintock.

Parliamentarians, we are having two of them so that we'll never be without one. Our Parliamentarians are Robert Dahl and Al Wolf.

Tomorrow, or in case this afternoon they should be needed, at the election we will have the need of proctors. We are going to ask Paul Kloster, Ray McIntee, John Dwyer and Lynn Hoghaug if they would please act as proctors should they be called upon.

We'd like to say a special thanks to the trial lawyers for sponsoring the eye-opener at 11:45. The various types of refreshment were hosted by the North Dakota Trial Lawyers Association. By the way, many of you may not have met their new Executive Director, Bill Stern. Why don't you welcome him as one of our new officers.

President-Elect Anderson would like to meet with the following chairmen sometime this afternoon or sometime during the convention today and tomorrow: Swayne Benson, Robert Heinley, Lowell Lundberg, Carma Christensen, Harris Kenner, and David Peterson. If you'd make it a point sometime today or tomorrow to meet with Mr. Anderson, I know that he would appreciate that.

#### PRESIDENT OTTMAR:

The Court Reporter, for this meeting, is Mr. Norman E. Mark of Fargo.

The Chair will now entertain a motion that the Rules be suspended and that the minutes of the special meeting and the last Annual Meeting not be read, but that they be accepted as published in the North Dakota Law Review and on file in the Executive Office of the State Bar Association.

#### MR. TIMOTHY Q. DAVIES:

So move.

#### MR. DAVID R. BOSSART:

Second.

#### PRESIDENT OTTMAR:

All those in favor "say "aye." Opposed? Carried.

The Chair will now also entertain a motion that the Rules be suspended and that the 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 members' registration package.

MR. DAVID R. BAILLY:

I so move.

MR. TIMOTHY Q. DAVIES:

Second.

PRESIDENT OTTMAR:

Further comments or discussion? All those in favor say "aye." Opposed "nay." Carried. Thank you.

Chair will also entertain a motion that the past practice of resolutions and new business calling for positive action by the general assembly be offered on the first day, that is this afternoon, and that they will be laid over and acted upon at the second business session which will be tomorrow afternoon, and that this be adopted as a house rule. Is there such a motion?

MR. HARRIS P. KENNER:

I so move.

MR. EVERETT E. PALMER:

Second.

PRESIDENT OTTMAR:

All in favor say "aye." Opposed "nay." Carried. We will now call upon the Resolutions Committee, Mr. Tom Rutten, Chairman, to read the resolutions he has and to call for any other action or resolutions that call for general assembly action.

MR. THOMAS E. RUTTEN:

Bob Schuller previously announced that the Resolutions Committee consisted of myself, John McClintock from Rugby, and Don Olson from Grand Forks.

We have three resolutions that I would like to read and file with the Reporter and be submitted for approval at tomorrow's session pursuant to the rules that were just adopted.

The first resolution provides for some relatively minor changes in our Constitution and Bylaws, and I'll read the resolution at this time.

"WHEREAS, a motion was made at the 1976 Annual Meeting of the State Bar Association of North Dakota in Bismarck, North Dakota, to provide for certain housekeeping revisions in the Constitution and Bylaws and,

"WHEREAS, pursuant to the Bylaws of the State Bar Association, such motion with the proposed revisions in the Constitution and Bylaws were duly published in the September 1976 issue of 'The Gavel,' and

"WHEREAS, notice was given in the May 1977 issue of 'The Gavel' that these proposed housekeeping revisions in the Constitution and Bylaws would be voted upon at the 1977 Annual Meeting of the State Bar Association,

"NOW, THEREFORE, BE IT RESOLVED that the Constitution and Bylaws be amended to incorporate these housekeeping revisions."

Mr. Chairman, I would move that this Resolution be reported and filed and submitted for consideration at tomorrow's meeting of this session.

MR. TIMOTHY Q. DAVIES:

Second.

PRESIDENT OTTMAR:

Further comments or discussion? Hearing none, all those in favor say "aye." Opposed "nay." Carried.

MR. RUTTEN:

The second resolution was not prepared by our Resolutions Committee, this resolution was prepared by Roy Ployhar's Committee on Memorials. And the resolution is as follows:

"The Committee on Memorials reports, with deep regrets and sadness, the deaths of the following members of the State Bar Association of North Dakota during the past year:

Philip Vogel, Fargo, North Dakota.

Albert I. Johnson, Fargo, North Dakota.

V. Wayne Marsh, formerly of Minot, North Dakota.

W. T. Dillenberg, Napoleon, North Dakota.

John E. DeMots, formerly of Minot, North Dakota.

Walter O. Burk, Williston, North Dakota.

Thomas A. O'Shea, East Grand Forks, Minnesota.

Harry Malcolm Pippin, Williston, North Dakota.

Lynn W. Schwoebel, New Rockford, North Dakota.

Lyle E. Huseby, Fargo, North Dakota.

"Separate memorials for each of these deceased lawyers have been prepared and filed with the Executive Director of the Association. With this report, the following resolution is offered:

"BE IT RESOLVED, that in the deaths of these honored and outstanding members of this 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, those 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 State Bar Association, and printed in the North Dakota Law Review with the proceedings of this Annual meeting."

Mr. Chairman, I move that this resolution be filed and reported, and that it be submitted for consideration at tomorrow's meeting of this session.

MR. E. T. CONMY, III:

I second.

**PRESIDENT OTTMAR:**

Any further comments or discussion? Hearing none, all those in favor say "aye." Opposed "nay." Carried.

**MR. RUTTEN:**

The final resolution is a resolution recommending that the State Bar Association increase the annual license fee. And I'll read the resolution at this time:

"WHEREAS, the general membership of the State Bar Association of North Dakota at a special meeting held in Fargo, North Dakota, in January of 1976 approved an increase in the annual license fee for the purpose of financially supporting a budget for the staff position with Grievance Commission and the Judicial Qualifications Commission and for increased expenses of the Bar Association and the Bar Board.

"NOW, THEREFORE, BE IT RESOLVED by the membership of the State Bar Association of North Dakota that the annual license fee for attorneys in the State of North Dakota shall on and after January 1, 1978, be as follows: Attorneys in practice less than one year \$97.50; attorneys in practice more than one year but less than five years \$127.50; attorneys in practice five years or more \$150.00."

Mr. Chairman, I move the filing and reporting of this resolution, and that it be submitted for consideration at tomorrow's session of this meeting.

There was one mistake in the resolution. The special meeting was held January 6, 1977, not '76. So that should be corrected.

**PRESIDENT OTTMAR:**

Is there a second?

**MR. DAVID R. BOSSART:**

Second.

**PRESIDENT OTTMAR:**

Further comments of discussion? Hearing none, all those in favor say "aye." Opposed "nay." Carried.

It is now my privilege and our opportunity to have an address presentation from our Chief Justice, The Honorable Ralph J. Erickstad, Chief Justice of the North Dakota Supreme Court. Justice Erickstad.

**CHIEF JUSTICE RALPH J. ERICKSTAD:**

I wish to thank you, President Ottmar, President-Elect Anderson, Executive Director Mr. Schuller. Also would like to recognize President Arthur Rich, if he's here, of the Law Society of Manitoba. I know he was at the noon luncheon where he entertained the Judges of North Dakota and the executive officers of your Association. I'd like to recognize also the members of the Association who may be here or of the Law Society, members of the State Bar of our state, other guests, ladies and gentlemen.

I'm very pleased that you've invited me again to return to speak to you on the state of the law and the judiciary of the State of North Dakota. Before I attempt to recount the past successes and pinpoint present problems and outline future plans affecting the law and the judiciary in our state, I would like to briefly acknowledge the great hospitality which has been shown us by our Canadian friends in this great City, Province and Country. Especially would like to acknowledge the fine compliments paid us by Chief Justice Freedman at the noon luncheon.

On June 7th of this year, just a few days ago, in reading of Queen Elizabeth II's ride in the golden state coach from Buckingham Palace to a thanksgiving service in St. Paul's Cathedral, I couldn't help but be reminded on the occasion of the Silver Jubilee of her reign of my visit to St. Paul's Cathedral while on a three-day pass from our air base in Norwich in England to the City of London during the height of the V-Bomb attacks during World War II. In those days we learned to have great respect for the RAF and the RCAF, as well as for the ground and naval forces of Great Britain and Canada.

Notwithstanding the course of history and the great changes that have occurred down through the centuries, I think it is significant that in Canada and the United States we are still studying the common law of England which dates back to the Magna Carta which was granted by King John at Runnymede on June 15, 1215 A. D. And so with some nostalgia we say with all sincerity what we think should be obvious to you by now, that we are very pleased to be with you here in Winnipeg, Manitoba.

And now if I may turn to North Dakota matters, I would like, first of all, to express our great appreciation and thanks on behalf of the entire judiciary of our state for the great contribution the members of the State Bar Association of our state have made to progress and justice there. Last year at about this time at our Annual Meeting in Bismarck I asked you to study the proposed new judicial article which our people were to consider at the polls at the time of the primary election in September so that you would become familiar with it and so that you could take a position either for or against it as individual lawyers and leaders throughout our great state. You did that and more by voting to support the proposed judicial article. As I said to a seminar of the Law Society of Saskatchewan, and the Fifth Judicial District Bar Association of our state at a meeting in Minot recently, had it not been for the active participation of the lawyers of our state it is highly unlikely that that judicial article would have received enough publicity and discussion to generate the necessary interest for its approval by the people of our state at the polls. A lawyer was the chairman of the advisory committee on the judicial article, Mr. McGee of Minot, and lawyers, as well as other citizens, served on that committee with distinction. Subsequent to the approval of the judicial article, two subcommittees have been appointed: One on rules, and the other on legislative action. Both of these committees are led by lawyers, and many of the key members are lawyers.

To assist the Court in long-range planning, we have also appointed a Planning Committee which consists of lawyers, Judges, and lay people, the chairman being Justice Vernon R. Pederson of our Court. Senate Concurrent Resolution 4021 of the 1977 Session of our Legislature established a moratorium on structural change pending a joint study by the Legislature and the judiciary. Among the eight persons whom we have nominated to serve on that joint legislative judicial interim study committee are the Chairman of the Rules Committee of the advisory committee, Mr. William Strutz of Bismarck, and the Chairman of the Legislative Action Committee of the advisory committee, Mr. Harry Pearce of Bismarck. Among our other nominees are District Judges Eugene Burdick of Williston, Ralph Maxwell of Fargo, and Presiding Judge Douglas B. Hean of Devils Lake, County Judge with Increased Jurisdiction Joel Medd of Minnewaukan, Attorney Mildred Johnson of Wahpeton, and former member of the Second Constitutional Convention Lois Vogel of Fargo. These eight nominees from the judiciary will be joined by approximately twelve nominees from the Legislature. We expect great things from this joint committee.

I think that the Executive Committee of the Bar Association of the State of North Dakota is to be complimented for its decision to support Senate Bill No. 2529 which authorizes the Association to increase the license fees to a maximum of \$150.00 per year to be used partially for the joint staff of the Grievance Commission and the Judicial

Qualifications Commission to investigate complaints against lawyers and Judges.

We also appreciate the Bar Association's support of our efforts in the Legislature to secure an inclusion in our budget of approximately \$50,000 as the State's share of the joint staff for the biennium.

The two commissions will have for the first time in history, for the full period of time, the next biennium, a full-time staff funded jointly by the lawyers and the State. This should result in a more expeditious handling of complaints of all natures, and should inure to the benefit not only of the Judges and lawyers who are being investigated, but also to the benefit of the public. The support which your Association gave through its approval of the concept of funding a joint staff at its special meeting in Fargo of this year encouraged your officers who support Senate Bill 2529 which authorizes you to increase your license fee from \$100.00 to a maximum of \$150.00 per year. It is out of this increase in fees your contribution to one-half of the funding of the joint staff for the work of the Judicial Qualifications Commission and the new disciplinary board will be funded. I am hopeful that you will support a resolution at this convention calling for such an increase in your fees. Incidentally, that would cover the Judges of the State as well, as there is no longer any exception or reduction for the Judges of this State.

I was recently appointed to fill a vacancy on the Executive Committee of the National Conference of Chief Justices. And in conjunction with attending my first meeting of the Committee in Chicago, I had occasion to visit with a representative on the Committee from the State of Tennessee, Justice Pones. I learned from him that Tennessee has just recently established a staff for the investigation of its lawyers. And it appears that they are spending approximately the same amount of money per person as we contemplate spending, although they have over 4,000 lawyers and we have in the neighborhood of 850 lawyers, more or less. Perhaps the answer is that the bigger the membership, the more staff you need. In any case, I think that we can be pleased with the arrangement of having a joint staff serving these two very important Commissions.

As you know, we have approved rules, new rules, of disciplinary procedure after considerable study by many people, including a committee of the Bar Association, a subcommittee of our court, and finally an ad hoc committee chaired by Mr. LeRoy Loder, a former Chairman of the Grievance Commission who was and will be until July 4th the Chairman of the Judicial Qualifications Commission. The new rules include an expansion of the Commission to nine members, including three lay people. Since the lay people who make up four of the seven members of our Judicial Qualifications Commission, as distinguished from our Disciplinary Commission, have been complimented by the Chairman of that Commission for their outstanding contribution to the Commission, I fully expect that the lay members of the Disciplinary Board will be equally appreciated in the future.

The present members of the Disciplinary Board who are the past members of the Grievance Commission, Chairman Malcolm Brown of Mandan, Vice Chairman Henry Ruemmele of Grand Forks, Lowell Tjon of Lisbon, Maurice Cook of Bismarck, Frederick Whisenand of Williston, and Jake Hodny of Grafton, have rendered great service to the State Bar Association and our Court at great sacrifice to themselves.

Although I am reasonably satisfied with the legislation which was enacted during the last session of the Legislature affecting lawyers and Judges, I am somewhat concerned about the provisions of Sections 5, 9 and 10 of Senate Bill No. 2058, which bill relates to the licensing of various members of professions and occupations. The pertinent part of Section 9 reads quote: "Conviction of an offense shall not disqualify a person from a certificate of admission and licensure under this chapter unless the State Bar Board and the Supreme Court determine that the offense has a direct bearing upon a person's ability to serve the public as an attorney and counselor at law, or that the person following conviction of any offense is not sufficiently rehabilitated under 12.1-33-02.1 N. D. C. C." How this statute may affect our handling of disciplinary proceedings in the future, we are not certain. The statute is particularly significant in light of the provisions of Section 87 of the new judicial article which may — and I just say "may" — possibly give the Legislature the last word on this subject.

The Senate in the closing days of the most recent legislative session indefinitely postponed Senate Bill No. 2178 which would have established a Judicial Nominating Committee to submit lists of candidates to the Governor from which he was to fill vacancies on the Supreme and District Court pursuant to Section 97 of the new judicial article. It would appear that there is a possibility — and I just stress the word "possibility" — now in light of the provisions of Section 97 that in the event of vacancies on the Supreme or District Court that the Governor will be required to call a special election to fill such vacancies. We will, however, not attempt to decide that issue today, or at least I will not.

The Court was asked this last year to amend the senior practice rule which allows seniors in the law school to practice law under supervision. To amend that rule considerably. But in light of the inability of the faculty of the law school to agree on the direction the amendment should take, our Court declined to make any major changes in the rule. We did, however, authorize graduates of the law school, pending the announcement of the results of the bar examination, to practice law under supervision as they were previously entitled to do as students. This is especially significant as there now is a longer period of time between graduation and the time when the results of the bar examination are announced. This is because our Bar Board is now giving our applicants for admission to the bar the multistate tests, and the results of those tests are not available for a considerable period of time following the taking of the tests. I think we were the forty-fourth or so state in the nation to go to the multi-state test. And we are still doing it on a preliminary experimental basis. And when I say "we," I speak there of the Bar Board.

As you know, our Court has returned to your Association your request for a change in the Code of Professional Responsibility relating to the matter of carrying a deceased partner's name upon one's letterhead. This action is to encourage the Association to spell out with greater specificity the amendments to the Code itself. The amendments are to be submitted in legislative form. Those of us who have served in the Legislature or who have prepared bills for introduction in the Legislature amending current law will know what we mean when we say that we would prefer to have the amendments in the form of amendments proposed in the Legislature using triple parentheses for omissions and underlining for new material where appropriate.

And, finally, we come to the subject of the proposed rule for continuing legal education of the bar. As you know, our Court was divided on whether the proposed rule could be enacted, or even should be enacted by our Court. And because it was divided, that rule has also been returned to your Association for further study and action. Those members of our Court who were concerned about the authority of our Court to promulgate such a rule stressed the possible meaning of Section 87 of our new judicial article. And the first part of Section 186, the jackpot provision of our State Constitution. Neither Justice Paulson, nor myself, had any concern over the authority of our Court to promulgate such a rule, and would have favored such a rule. But inasmuch as no rule may be promulgated by our Court unless at least three Judges concur, it is necessary that changes be made in the rule which would secure the approval of the other members of our Court. One suggested change is that you as an association actually adopt the

rule, and that it thereafter be submitted to our Court for approval. And that is to be distinguished from merely asking the Court to promulgate the rule. It is possible that some difficulties might arise in administering such a rule. But I believe that with experience improvements can be made in the rule that you may adopt, and that it will result in ultimate benefit not only to the lawyers who are subjected to it, but to the people for whom the lawyers are employed. I hope that you will not become discouraged, but that you will even at this conference adopt a rule whereby we can make a beginning in the field of mandatory continuing legal education.

The States of Michigan and California have seemingly rejected such a rule for the time being. But the States of Minnesota, Iowa, Wisconsin, and Washington have adopted a rule for continuing legal education. Although the California State Bar Board of Governors released the State Bar Committee on Maintenance of Professional Competence from an order to develop a program of mandatory continuing legal education or re-examination, it instructed the committee to remain active in the field studying alternatives that would have sanctions far less severe than — and I'd like you to appreciate the next few words — less severe than periodic licensing. It apparently discharged its committee from its first order because it would have forced all California attorneys to periodically renew their professional licenses. Now it's my understanding of that statement, part of which is a quote from a release that was sent throughout the state and is apparently from a newspaper report, that the rule contemplated reexaminations of lawyers periodically. Now your proposed rule contains nothing of that nature. And I would suspect that any amendment to it perhaps would not include that approach, either.

There are many things that are taking place within the law and the judiciary that I will not have time to discuss with you today. There is one thing, however, that I would like to tell you about before closing, and that is that our Court has taken advantage of the authority given us under the new judicial article to utilize more fully the services of retired judges who are willing and able to contribute of their time. To utilize the talents and experience of these people, we have adopted Administrative Order No. 9, which allows the Chief Justice to make temporary assignments of Judges, including retired Judges, for temporary duty in any court or district in the state. Under that Administrative Order, we hope to take advantage of Judge Redetzke's offer, upon his retirement in November, to serve fifty per cent of his time, and to do it gratuitously, helping us combat the increasing workload in the First Judicial District.

We have previously utilized the services of other Judges, especially the services of Judge Jansonius, who has since his retirement been very willing to undertake difficult and important responsibilities for us anywhere in the State of North Dakota. At the present time he is helping us by being willing to be assigned cases in the Second Judicial District where Judge Friederich has been stricken with a heart attack and has been temporarily forced to refrain from judicial activity.

Especially during the next year and a half, we hope to learn what can be done and what needs to be done to improve our system. With your help and the help of the various committees that are now functioning and will be functioning in the future, we should be able to improve the judicial system and thus improve justice under law in our state. Because you are such a key factor in whether our system works or fails, I hope that each of you will individually express your views to our study committees, our Court, and our Legislature so that the right decisions may be made.

In conclusion, I wish you well. And I thank you very much.

**PRESIDENT OTTMAR:**

Thank you, Chief Justice.

(Whereupon, the proceedings were recessed from 3:00 o'clock p. m. to 3:23 o'clock p. m.)

**PRESIDENT OTTMAR:**

We will call this session to order.

Our next order of business is the matter of continuing legal education. And at this time it's my pleasure to introduce Ed Vinje of Jamestown, Chairman of the Continuing Legal Education.

**MR. EDMUND G. VINJE, II:**

Thank you, Mr. President, members of the Association.

You heard the Chief Justice's report in regard to mandatory continuing legal education. And I simply want to continue from that point to bring you up to date today on what has happened in regard to the proposed rule for mandatory continuing legal education for the members of our Association.

You, no doubt, recall that at the Annual Meeting in 1975 a resolution was adopted at that time, and that resolution approved for submission to the Supreme Court a rule for mandatory continuing legal education for the State Bar Association of North Dakota subject to review by the CLE Committee as finally amended by it. Since that time a proposed rule has been submitted to the Court. It was submitted approximately a year ago in June of 1976. And the Court has had it for review and study. And on May 10th resubmitted it, as you heard in the report of the Chief Justice, to our Association for further consideration.

Since that time the Executive Committee has met with all members of the Supreme Court, except Justice Vogel, and we discussed the matter at length at that meeting. Subsequent to that meeting the CLE Committee has reviewed the rule and made certain revisions in the rule and resubmitted it to the Executive Committee. The Executive Committee then has further studied the rule, and the CLE Committee again subsequent to that has made further revisions in the rule. And the rule is now in final form to propose to this Association for its adoption.

I'm going to yield the floor at this time to Jon Kerian, a member of our CLE Committee, who has a resolution to propose in regard to the mandatory continuing legal education rules.

**MR. JON R. KERIAN:**

"BE IT RESOLVED, that the following rule be adopted as the rules of the State Bar Association of North Dakota and submitted to the Supreme Court for its approval." I will now read the final form as promulgated or as approved by the Executive Committee of the North Dakota State Bar Association. I will read all of it so that the record is clear as to what the resolution completely entails.

**"RULES OF THE SUPREME COURT FOR CONTINUING PROFESSIONAL EDUCATION OF THE MEMBERS OF THE BAR**

**"RULE I. PURPOSE**

"It is of primary importance to the members of the Bar and to the public that attorneys continue their legal education throughout the period of their active practice of law, and that attorneys failing to do so should be subject to discipline.

**"RULE II. STATE COMMISSION FOR CONTINUING LEGAL EDUCATION**

"(a) There is hereby established a Commission for Continuing Legal Education consisting of seven (7) members, one of whom shall be a chairman. Each member shall be licensed to practice law in the State of North



Dakota. The members of the Commission shall be appointed by the Executive Committee of the State Bar Association of North Dakota.

"(b) Of the members initially appointed, two (2) shall be appointed for one year, two (2) for two years, and three (3) for three years. Thereafter, appointments shall be for a three-year term.

"(c) No member may serve more than two successive three-year terms. Each member shall serve until his successor is appointed and qualified. The chairman of the Commission shall be appointed annually by the Executive Committee of the State Bar Association of North Dakota. The Executive Committee shall designate the Secretary-Treasurer of the Commission who shall have no vote. The chairman and other members of the Commission shall serve without compensation, but shall be paid their reasonable and necessary expenses incurred in the performance of their duties. The Secretary-Treasurer shall be allowed such compensation for his services, staff and expenses as the Commission shall determine.

"(d) The Commission shall have general supervisory authority over the administration of these rules.

#### "RULE III. MANDATORY CONTINUING LEGAL EDUCATION

"(a) Each attorney duly admitted to practice in this State shall make a sworn written Report of Compliance to The Commission in the form the Commission prescribes. The report shall be filed with the Commission within 30 days after the close of the period within which the attorney is required to complete his Continuing Legal Education requirements.

"(b) Each attorney shall complete not less than 45 hours of approved course work in continuing legal education during each three-year period applicable under this rule. During the first three years, the Commission shall divide the attorneys subject to the rule into three equal segments. One-third shall file a report showing 15 hours or more of course work for the first year under this rule. One-third shall file a report showing 30 hours or more for the first two years under the rule. One-third shall file a report showing 45 hours or more for the first three years under the rule. Thereafter, all reports shall be at three-year intervals.

"(c) A fee of \$25.00 for payment of expenses incident to operation of the Commission shall be paid to the State Bar Association of North Dakota at the time of filing the Report of Compliance.

#### "RULE IV. PROCEDURES AND PENALTY FOR FAILURE TO SATISFY EDUCATIONAL REQUIREMENTS.

"(a) If an attorney fails to file a report, or the proof accompanying the report fails to establish to the satisfaction of the Commission that the attorney has complied with the minimum requirements for Continuing Legal Education, he shall be subject to suspension and the Commission shall serve upon the attorney notice that he has 60 days within which he must comply with these rules or the requirements of the Commission and that his failure to do so may result in a suspension of his right to practice law in this State. Unless good cause constituting extreme hardship be shown, the Commission shall issue and file with the Disciplinary Board its recommendation for suspension of the right to practice law.

"(b) All proceedings regarding the enforcement of this rule shall be governed by the North Dakota Rules of Disciplinary Procedure.

#### "RULE V. PAYMENT OF EXPENSES

"The employees and members of the Commission shall be entitled to reimbursement for all necessary expenses actually incurred in the performance of their official duties. Each claim must be certified by the individual seeking payment.

#### "RULE VI. APPROVED COURSE WORK

"(a) The Commission shall determine what shall constitute 'approved course work.' It may issue and publish advance guidelines or evaluate courses and supporting information as submitted for approval. It may also approve courses after they have been presented. Courses sponsored by the following organizations, and their associated entities, shall be presumptively approved:

- "1. State bar associations;
- "2. Accredited law schools;
- "3. American Bar Association;
- "4. American Law Institute;
- "5. Practising Law Institute.

"(b) The Commission shall cooperate with the Continuing Legal Education Committee of the State Bar Association of North Dakota, the University of North Dakota School of Law, and other educational institutions within the State to promote Continuing Legal Education within the State.

"(c) The Commission shall publish in the newsletter of the State Bar Association of North Dakota quarterly a list of Continuing Legal Education courses and activities that are available to attorneys within the State of North Dakota, and may include courses available elsewhere.

#### "RULE VII. INDIVIDUAL EXEMPTIONS

"(a) These rules do not apply to Judges, who, by reason of their position, are prohibited from engaging in the private practice of law.

"(b) Any attorney licensed in this State and not otherwise exempt from these rules, may file with this commission a declaration of inactive status. Upon such filing, the attorney shall forthwith be prohibited from engaging in the practice of law in this State, and shall be exempt from the requirements of Rule III. If an attorney having an inactive status desires to practice law actively in this State, he shall file an application for active status with this Commission stating that he will comply with these rules by completing not less than 15 hours of course work in a manner approved by the Commission in each of the succeeding three years following the approval of his application for active status. At the end of each year of the first three years following inactive status, the attorney shall file a certificate of compliance in a form approved by the Commission.

#### "RULE VIII. EFFECTIVE DATES

"The Commission for Continuing Legal Education shall be established on September 1, 1977.

"The remainder of these rules shall be effective January 1, 1978, and all applications of the same shall be prospective."

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

MR. RICHARD A. OHLSEN:

I will second the adoption.

PRESIDENT OTTMAR:

Further comments or discussion?

MR. ALPH J. OVERBY:

Clint, I might have missed it, but on Rule VI did they delete No. 6?

PRESIDENT OTTMAR:

Yes, they did.

MR. OVERBY:

Well, is there any reason why we can't have the National District Attorneys Association included in the list?

PRESIDENT OTTMAR:

Ed, do you want to take care of that?

MR. VINJE:

If you will look at the first sentence of Rule VI you will see that the Commission can approve such courses as it deems should be approved. And it is assumed that there will be many such courses, many such associations. It was impossible to list them all. And I am sure that association would be included.

MR. OVERBY:

Thank you.

MR. GEORGE M. UNRUH:

Will you have a reprint of this by tomorrow?

PRESIDENT OTTMAR:

I understand there will be a reprint in your hands by tomorrow before you vote on this.

MR. DWIGHT C. H. KAUTZMANN:

Can I rest assured that we can make the same assumption regarding the National College of Criminal Defense Attorneys and Public Defenders.

MR. VINJE:

The same assumption can be made for that association. It can be made for the American Trial Lawyers Association and many other associations.

MR. JERRY O. BRANTNER:

What's the effect of tapes that are secured of lectures that are put out by the ALI in which you would study and complete in your home on your own time?

MR. VINJE:

This has been a matter of discussion in the CLE Committee ever since we started talking about mandatory CLE, which has been for some time now, for years, literally. And no conclusion has been reached with regard to tapes of proceedings of continuing legal education programs other than that the Commission is going to have to consider that and decide what it wants to do. Because we realize that perhaps there are those who would study tapes and would certify to the fact that they have listened to the tapes. So all I can tell you is that we have not eliminated that, and we would consider that as something the Commission should determine as part of its work.

MR. BRANTNER:

Thank you.

MR. JOHN T. McDONALD:

Would there be a change in the fees that you paid if you are on inactive status, bar fees or yearly fees? In other words, any attorney licensed in the state not otherwise exempt may file for inactive status. If you are on inactive status, that's all it takes to get inactive status, then?

MR. VINJE:

The inactive status is with respect to this rule, which means that you would not have to comply with the rule and you would not have to make the filing or pay the filing fee as required by this rule. Now, as I understand it, if you want to be inactive in the State Bar Association it's not necessary for you to pay your fees, and you don't have to do that. But this rule does not apply to the Association in general, it applies specifically to the rule itself and to becoming inactive so that you don't have to comply with the mandatory CLE requirement.

MR. McDONALD:

But you are prohibited from practicing law?

MR. VINJE:

That's correct.

MR. KAUTZMANN:

Does that then apply — let's say we have a case where we are trying it and we bring in a hot shot from California and move the Court for — to allow him to practice in our courts for that one particular trial. Is that rule going to disbar him and the attorneys that would want to associate with the big city lawyer?

MR. VINJE:

As I understand that type of practice, that individual is allowed to practice before our courts for a specific purpose, and he does not become a member of the State Bar Association of North Dakota. Therefore, the rule would not apply to that particular individual.

MR. McDONALD:

One other question. On the 60 days to comply with the rules, how would you comply within 60 days to some CLE requirement that perhaps takes, you know, a long time, specifically months?

MR. VINJE:

It is possible to comply with the rules within 60 days. Because 45 hours of course work can be taken six hours a day. And it's possible to comply within the 60-day period. The reason the 60 days was put in was for people who perhaps are missing an hour, or maybe they are missing a couple of hours, or maybe they are missing a half day. And they find all of a sudden that despite the fact that they thought they might have the requisite number of hours, that they did not. It would be difficult for an attorney to comply with the 45 hours in 60 days, and it's contemplated that there will be sufficient notice so that he ought not to wait until the last minute.

MR. McDONALD:

But then your availability of things aren't always within a 60-day time limit, either. Courses are only offered at certain times of the year or in the summer or something.

MR. VINJE:

We anticipate increasing the number of programs in the State of North Dakota to at least seven per year distributed throughout the year, plus there are many other courses available; South Dakota, Montana and Minnesota. And I realize that might cause some problems with respect to time and money, but, again, we would expect the notice that's given to the attorneys would allow them to comply with the rule within the time requirements.

MR. DAVID R. BOSSART:

How does this compare in form to the Minnesota rule?

MR. VINJE:

The form of this rule is very close to the Minnesota rule. We have changed it administratively to comply with our particular Bar Association, and the size of our Bar Association, and the request of the Supreme Court with respect to administration. But as far as the basic requirements are concerned, they are substantially similar to the Minnesota rule.

MR. FRANK F. JESTRAB:

How many states have a rule like this, similar to this?

MR. VINJE:

As far as I know, there are only four at this time.

MR. JESTRAB:

Could you name them, please?

MR. VINJE:

The Chief Justice named them. There is Iowa, —

MR. BOSSART:

Wisconsin.

MR. VINJE:

— Wisconsin, Minnesota, —

MR. KERIAN:

Washington.

MR. VINJE:

— Washington. There are other states that are considering mandatory CLE rules. And there are at least two that I know of that have determined that they should not have mandatory CLE rules.

MR. UNRUH:

Yes. Is there a requirement that exams be taken, or is this just kind of an auditor course you take?

MR. VINJE:

There is no requirement for examinations.

MR. UNRUH:

It is an exposure system?

PRESIDENT OTTMAR:

Yes.

MR. KAUTZMANN:

Jack raised an interesting point from what you had said. What happens hypothetically if one of the attorneys in North Dakota within the three-year period takes his 45 hours and when he submits his material to you for the certification you find within that — within those hours two courses that he took that he assumed would meet with the Commission's approval but does not; is there any type of appeal procedure within the 60 days or any type of appeal procedure so he's not drug up on petition before the Supreme Court? Or your Commission.

MR. VINJE:

Well, first, let me speak to the facts as you stated them. What we anticipate is going to happen is that the Commission is going to make it very clear to all of the attorneys that are members of the Association that if they have any doubt whatsoever about a course and they question whether it would meet the requirements of the rule, that they can make application simply by asking the Commission whether or not the course conforms to its requirements. And that should alleviate the problem in the first place. Now if the problem arises anyway in spite of best efforts of the attorney and the best efforts of the Commission, then I would assume that it must be undue hardship at that point. And that is one of the considerations that the rules give for not submitting the attorney's name for disciplinary procedures.

MR. KAUTZMANN:

But because of the fact, from looking at the rule, that you don't have an appeal procedure, aren't you getting into problems with the federal government and the Supreme Court rules as to due process?

MR. VINJE:

Well, we have provided for notice, and we have provided for hearing. We feel that we have complied with the basic requirements of due process.

MR. KAUTZMANN:

Okay.

MR. KERIAN:

Mr. Vinje, additionally Rule VI says "It may also approve courses after they have been presented." Which gives the Committee a little leeway in case of hardship to actually approve a course that may have not been approved to begin with, but for good reasons the Committee could nevertheless approve it after the fact.

MR. ALBERT A. WOLF:

What happens in a situation — it says here they can be approved subsequently, or the Commission can approve any courses that they examine. Doesn't say anything about time. For example, what about a course that you'd be taking this year? Suppose we have somebody going to a two-week course; will that not be affected? Can that not be acknowledged as being one that's been taken and will fulfill the requirements? Or must we start January 1, '78, even though we've had extensive time in '77?

MR. VINJE:

This was discussed in committee, and it was determined that the rule should be effective January 1, 1978, and should be prospective only.

MR. WOLF:

What's the reason for that? What's the argument for that?

MR. VINJE:

Part of the problem that you have here is with the Commission working with courses which have occurred prior to the time that the Commission has actually come into being. So that they have not had an opportunity to review those courses, they haven't had an opportunity to review and certify hours. If you look at the requirements, you will see that the requirements for the one-third that's required to file the first year is only 15 hours. And that's not very much time, really. It amounts to approximately two and half days in session at a CLE seminar. We didn't feel that that was a sufficient reason to back up and go back perhaps six months or a year or two years and try to accept programs that had been attended prior to the actual rule being adopted and effective.

MR. WOLF:

I'm referring specifically to the five categories of the presumptively approved list.

MR. VINJE:

We still have the same problems with hours, certifying numbers of hours. That is the sort of thing that the Commission is going to have to deal with.

MR. TIMOTHY Q. DAVIES:

Question.

MR. WOLF:

Question.

PRESIDENT OTTMAR:

All right. The question being called for, all those in favor say "aye." Opposed "nay." Carried.

The next item of business was going to be a presentation by Leonard Bucklin on specialization. Unfortunately, at a very near hour to the beginning of this meeting, Mr. Bucklin sent word that he would not be able to be here because of circumstances beyond his control, apparently. So consequently we are not going to have that presentation. You do have some information in your packet. There apparently is some misunderstanding. This is not something that is in effect or even close to it, it is merely a proposal that was going to be submitted to you by Mr. Bucklin. Since he could not be here, it was felt to be of such special import that he present it at another time, possibly at a special meeting, or if we go to the winter meeting that it be presented at that time. So we will not have a presentation on specialization.

We next have on the program Roger Gette from Bismarck, Executive Director of the Legal Assistance of North Dakota. Mr. Gette.

MR. ROGER GETTE:

Good afternoon. I would like to thank everyone associated with the bar for giving me the opportunity to be here and make a presentation today about Legal Assistance of North Dakota, about where we are, and the directions we hope to head in the future, and to inform those of you who are not familiar with our organization about what has happened in the past, and to introduce myself and make some points about our relationship with the bar generally and how I would hope that relations would develop.

Presently there are four offices of Legal Assistance of North Dakota, or as we like to call ourselves, our acronym, LAND. There were two existing legal aid programs that have become a part of LAND that came under the umbrella of this statewide organization in January; one in Fargo and one in Devils Lake. Now in March and April two new offices have been set up serving county areas around them; one in Minot and one in Bismarck.

There exists another legal services program in the state, and that is the one at Newtown, which serves basically the residents of the Fort Berthold Indian Reservation, although in its grant it is designated as being able to serve all low income residents of McKenzie, Dunn, McLean and Mountrail Counties. But my understanding from communication with the people associated with that project is that about 98 per cent of their clients are native Americans who reside on or near that particular reservation.

It is our hope and the anticipation of our primary funding source, which is the National Legal Services Corporation, that LAND will become a statewide organization and provide services to indigent North Dakotans around the state within the next few years.

A little background about myself, perhaps. Up until the last — except for the last five years I have lived in North Dakota all my life. I went to law school at UND, and upon graduation went to Wisconsin with the Legal Services Program there. And when this opportunity arose, I put in my bid, and was selected by the Board of Directors of LAND to be the first Executive Director of the program.

There are immense challenges with this position. Coming into a state that — where the people generally have had little or no exposure to a legal services project, that principally due to the fact that what funding there was available for this type of venture has been mainly concentrated in the urban areas of our country on the East and West Coasts. But recently with the establishment of an independent corporation in Washington, and a large influx of new moneys, many formerly uncovered areas of the country have now seen the advent of legal services for poor people.

Now the medium that these legal services are delivered in North Dakota is through the staffed office. Each of these four cities that I have mentioned has a two-attorney staff, a paralegal assistant, and a secretarial person. We also are in the nature of developing some voluntary help in some of those offices, and perhaps expanding somewhat those staffs as our funding permits.

Besides the Legal Services Corporation which provides about two-thirds of our budget, we also have a grant from the North Dakota Social Services Board, Aging Services Division, to have a special concentration on delivering services to elderly persons. Our eligibility criteria for those persons are somewhat higher than for those persons under age 60.

Also a component of this grant, which was formerly administered by a separate agency called Legal Services for the Aged, is a program which we are working on now in which there will be notice to the bar coming out within the next few days about a project that was designed prior to my coming to LAND in which acceptance of the grant makes a commitment for us to follow through on, and that is to engage in the training of lawyers assistants who can be placed in private law offices, government settings, or be supervised by our organization to enable attorneys

to deliver more and better services to elderly people. And we are hopeful that a number of attorneys in the state will be able to have these trained individuals in their offices either on a compensation or a voluntary basis within the middle of this year or by the end of the year as the training of these persons proceeds.

The temporary scope of our program is one which follows through from the limitations placed by the federal regulations under which we obtain our funding, and that is to provide services to someone who is eligible income-wise in all civil non-fee generating cases. It is anticipated that as the demand for our services increases, without unnecessary increase in funding, that such a system will not be able to continue indefinitely. So in preparation for that day, we are now, through our Board of Directors, looking for means to set priorities on a local basis for how our resources ought to be used. For example, an advisory board in Fargo might determine that our resources there ought to be used on the public housing situation in that area, or that more resources ought to be used for dealing with family law matters. Another area of the state might decide that we might want to set as a priority dealing with public benefit cases. So this process will determine, then, some kind of ranking of how our staff should be involved and in what order we should attack the various problems that face low income people in this state.

Our program takes the position that the low income community of the State of North Dakota is our client. And we would analogize this situation somewhat to a private attorney who represents an institutional client. That attorney will advise that client on new developments in the law, will seek to advise that client on means that the law can be changed to benefit that client, and will also perhaps be involved in litigation on behalf of that client. But it is this same type of relationship through the representation of groups and individuals within the low income community that LAND purports to perform its role and provide its services.

And in order to be able to do this, LAND had developed the use of public information system which attempts to inform as many people as possible who are eligible for our services of the existence of the program and what help we can provide. And our ability to do this is sanctioned by a particular rule, DR 2-101 (b) of the Code of Professional Responsibility which permits the organization and attorneys working in the organization to, through the use of dignified commercial publicity, make known of our existence and the type of services that we provide.

We also have an obligation to refer non-eligible clients and non-eligible cases to an appropriate attorney or attorneys. Now other DR gives the legal services organization the ability to contact attorneys and to set up referral lists and do that. If it becomes necessary, we would do this across the state. But we would prefer that a referral system be one that is initiated and operated by either the State Bar Association or the various local Bar Associations across the state and would heartily support any efforts on the part of the Bar Association to set up such a referral system. We would perhaps lobby hardest for the type of system that would operate on a statewide basis through the use, perhaps, of a toll-free computerized system that would refer two or three lawyers to each individual seeking to use the referral system.

We would also be receptive to the option of our local offices operating a referral system in the areas which our programs presently provide services if such were done on a compensated basis. At present we do not have the resources, though, to operate referral systems without receiving some compensation for providing that.

As indicated in the material sent out to you, and I know that many of you have received our brochures and are aware of the wide variety of ways in which our staff can assist low income people, you will be aware that we are making plans for providing various training programs for lawyers and community action workers who assist low income people. And this is one area where we may be in contact with various members of the bar who are able for what fee we can provide or to the extent that services are offered on a low-cost or gratuitous basis, utilize the expertise in the bar for providing some measure of assistance in this manner.

Another purpose of my speaking here today is to encourage those of you who are aware of members of the profession in North Dakota who have an interest in this type of legal work to get in touch with me in Bismarck, as we now have an attorney vacancy in our Minot office and anticipate other vacancies coming up within the very near future, and are anxious to give preference to attorneys already practicing within the state for these vacancies over those from other states. So that if you are personally interested or know of someone who is interested, I would welcome your contacts with me as soon as you are able.

That would conclude the prepared remarks that I have for today's session. I would welcome any questions from the group as to our activities across the state, where our possible next moves might be, and any other matters that are of interest in the group here today.

MR. GORDON THOMPSON:

Is Judicare being used anywhere in the nation today?

MR. GETTE:

In the nation? Yes. There are a couple of established projects where Judicare is being used. And it is also being used on a pilot project basis. The one that might be familiar with many of you here is the Northwestern Minnesota Legal Services Corporation, which is a poor Judicare model. This type of delivery system is one that does not find great favor among the present staff of the National Legal Services Corporation. It may be that after the second round of pilot projects is completed next year, in which there will be somewhere in the neighborhood of five to seven Judicare projects that will have been tested, that some of those attitudes will change.

MR. THOMPSON:

Have you found the attitude to be rather favorable, though, among lawyers, Judicare?

MR. GETTE:

The attorneys who have had experience with Judicare it seems to me are quite divided. There are many who welcome this type of approach, especially in a rural area, who feel that this provides the best access to lawyers on the part of the low income people right there in that area. There are many other attorneys, though, who feel that in a rural area, because of conflict of interest situations, and because of a type of practice that may not get into the areas of specialties that concern low income people most often, that this type of a proposal does not find favor with them.

My own experience has been with a hybrid model where a good many of the services are delivered by the private bar, but which has a backup staff component to handle the complex matters and matters of special expertise to Legal Services lawyers, such as welfare law, for example. I personally think this type of a system is workable in North Dakota, but am not finding any funding sources now that are sharing that viewpoint.

MR. GEORGE M. UNRUH:

Would you give us some of the financial criteria that qualifies a person to get your services?

MR. GETTE:

We most recently revised our criteria to I think we are at the point now where a family of four, a net income

figure for a year would be something in the neighborhood of 5830, I believe. And something like 2810 for a family of two. The maximum to which we can go is set nationally at 125 percent of the Office of Management and Budget poverty threshold. Our program currently is not at that maximum. We are at the hundred percent level, and that is based principally on the fact that we do not have yet statistics which show if we went to the 125 percent whether our staff, present staff, could handle that kind of caseload. So since our funding was based on so many dollars per poor person at the 100 percent level, therefore our income criteria follows that same percentage for the time being.

MR. THOMAS E. RUTTEN:

Roger, I understand that you are not able to represent indigent defendants in criminal cases. And I'm just wondering why not. Or is that assumption incorrect?

MR. GETTE:

That assumption is correct. And that is because of the National Legal Services Corporation Act which prohibits even funding obtained from other sources by a corporation grantee to be used for representing criminal defendants. There are many projects, such as LAND, in other parts of the country, however, which operate a public defender system as a separate component and under a separate organizational structure. And some of our present staff attorneys are involved in efforts in North Dakota to explore a public defender possibility at least in some parts of the state. So although we cannot — where our hands are tied right now as far as direct representation is concerned, we do encourage and are involved in some activities to secure more and better representation for indigent criminal defendants.

JUDGE WILLIAM M. BEEDE:

LAND does represent on occasion, though, juveniles; true?

MR. GETTE:

Yes, that's true. Right now, as I stated earlier, we are providing as broad a possible representation in the civil area as permitted by federal law, because we have not yet set up the structure and established priorities, and because two of our offices particularly are new and were not that well known in the community yet. We are not getting really excessive caseloads. To give you an example, I think like for Bismarck each of our attorneys has a caseload of about 40 or 50 cases, some of which are not monumental cases by any stretch of the imagination, only a few of which involve an extensive amount of time. But there is a restriction, though, on juvenile representation in the federal regulations which state that in some instances the consent of a parent, guardian, or a court, is necessary for us to represent a juvenile. However, it is one of those rules where the exceptions outnumber the rule. And cases of institutional — possible institutionalization, possible — or receiving some benefits for the particular juvenile, it is permissible for us to represent the juvenile without permission of anyone else. But as our structure is set up right now we are able to accept those cases.

MR. RICHARD A. OHLSEN:

Is the Legal Services for the Aged group still in existence? If so, are you doing any joint work with them? Or have you assumed their responsibilities?

MR. GETTE:

Legal Services for the Aged is still in corporate existence. But they are in a state of dormancy. I guess they're holding back dissolution of the corporation to see how LAND administers the grant which now has been transferred to LAND. To administer and to spend money in particular for representing low income elderly persons.

If that's all the questions, again I thank you a lot for this opportunity. And I hope to be working with most of you, if not all of you, in the future in some endeavor. Thank you.

EXECUTIVE DIRECTOR SCHULLER:

Randy Lee gave me a short statement to pass on to you. He asked me to do this for you. He's asked that I make this addition to his report to you at the law school luncheon. Mrs. Jane Heinley, a 1976 honor graduate of the law school who this year has clerked for the Supreme Court of North Dakota, will be a visiting assistant professor of law for the specific purpose of teaching Professor Kraft's torts courses and a few others while he is gone.

PRESIDENT OTTMAR:

I was told by the Standard Titles Committee to make the announcement that these people have been working. They have had at least a couple of meetings. And hopefully there will be some title standards available in the near future.

Anything else to come before the order? If not, we stand in recess until tomorrow. Thank you so much.  
(Whereupon, the proceedings were recessed at 4:10 o'clock p. m.)

FRIDAY, JUNE 17, 1977

(Whereupon, the following proceedings commenced at 2:05 o'clock p. m. as follows:)

PRESIDENT OTTMAR:

We'll call the meeting to order, please.

And our first item of business this afternoon is that matter of the budget for 1977 and 1978. And here to tell you all about it is our good friend President-Elect Harold Anderson, soon, in a matter of a few hours, to be president.

PRESIDENT-ELECT ANDERSON:

Thank you, Clint. Members of the Association, I would just like to review with you a little bit the budgets that we've had in the past few years. Last year the budget for our Association was \$98,430.00. The year prior to that it was just under \$97,000.00, I believe it was. And we have proposed a new budget for the coming year of \$130,000.00. Now the budget for last year does not include the \$10,000.00 that the Association took out of its reserve fund and used for one-half year's funding for the Judicial Qualifications Commission. This year's budget that we are proposing here now does include \$25,000.00 for our commitment for one year of the two-year funding for the Judicial Qualifications Commission and the joint work with the Grievance Commission or the new Grievance Board.

We have in our budget a reserve fund of \$9,200.00. That is not committed. This fund, I will point out to you, is to be available for any new committees or additional funding for existing committees that might be necessary during the coming year. In this regard, I would like to point out to you that we have sort of adopted a sunset law in some of our committees this year. And we have drastically cut out the number of committees. We are hopefully going to

combine some of their activities. We'll wait and see how that works out. But, nevertheless, we have been about to cut out a good number of the committees this coming year. And I might add that I have yet to hear a single voice of complaint about this. And I think this speaks well for the Association, because I think you all recognize, as the Executive Committee did, and the Budget Committee did, that we did have some committees that were inactive, and that any activities, if any, to be found for them could be probably handled by an existing committee. So if you take out the \$25,000 out of our budget that we have approved for the coming year for the Judicial Qualifications Commission, Grievance Commission, plus \$9,200.00 that we have in the floating fund, actually in comparing it with the 1976-77 budget we're actually just slightly under the \$98,000.00 figure.

I would point out to you that in regard to these committees anyone that has a project that they feel is worthwhile and should be handled by a committee, we welcome any contact by anybody in the Association who thinks we should have a committee. And if they have a good program, if they have a plan of action, and they need some money, the money is there. And we will be happy to fund any activity that we think is justifiable and will work for the benefit of either the bar or the public. So I don't want anybody to feel that we're just arbitrarily cutting out functions of the Bar Association or of the committees. And I would encourage any of you that might have any activities that you think should be conducted or promoted by the Bar Association to let us know, because we're — we will be waiting with open arms and open mind, and not quite an open pocketbook, but almost, for any function or any work that we feel is justified.

The proposed budget that we have for the coming year has been approved by the Executive Committee at its May meeting. And unless there's some questions — or maybe in order to get some questions, if you have any, Mr. President, I'd like to move the approval of the budget for 1977-78 in the amount of \$130,000.00.

MR. RAYMOND R. RUND:

Second.

PRESIDENT OTTMAR:

Further comments or questions? Yes.

MS. JUDY ATKINSON:

Don't you think you should adopt the dues increase before you adopt the budget?

PRESIDENT-ELECT ANDERSON:

Well, in response to that, we did have a meeting in January where it was approved. And, of course, this budget is predicated upon the approval of that action, the January action at this meeting. I have to be optimistic enough to feel that this Bar Association is not going to go back on its action that it took in the January meeting and which was relied upon by the State Legislature and other people who were involved in that activity.

AN ATTORNEY:

Question.

PRESIDENT OTTMAR:

Question's been called for. All those in favor say "aye." Opposed "nay." Carried.

We have with us today Bob Diers, President of the Harold Diers Insurance Agency of Omaha, Nebraska, to bring the membership up to date on the professional liability insurance situation. It was felt that this might be an opportune time for him to appear and to personally explain to you some of the problems that have come up, plus there will be an opportunity to ask some questions.

MR. ROBERT DIERS:

This is not in the way of a formal presentation. So if there's any questions as we go along, please speak up, raise your hand. If I don't see you, why give me a shout. So we can answer the questions as they come along.

This is going to be brief, and I'd like to divide this into three separate parts: The background behind your professional liability program, where it stands currently, and a very candid view of where I think our professional liability market is going to go.

First of all, last summer I proposed to the North Dakota Bar Association a professional liability program. We did it for two reasons: Number one, the individual malpractice market in North Dakota had dwindled slightly to two companies; secondly, because we felt that the contracts that were being written the individual attorneys like yourselves did not have any say in the operation, they didn't have any say in the type of contracts. It was more on a take it or leave it basis.

I met with the Executive Committee in Devils Lake, at which time they approved this program. The program that we put in force has been in force in twenty states since 1974. It was put together by the Shand Morahan Company of Evanston, Illinois, who has a tremendous amount of expertise in this field. And after a proper amount of investigation we felt was the kind of organization we wanted to align our professional liability market with. It was and is a claims-made policy, which means simply that the claim must occur within the policy period. The claim — say if a policy's effective January 1, the claim must occur within January 1 to January 1. If the policy is canceled, there would be no coverage. The majority of the professional liability market has gone to a claims-made policy. Technically, I did not feel I could approach the North Dakota Bar Association on a straight claims-made policy. So in some negotiation we were able to put in discovery and recovery periods, which means simply this: Anyone enrolling in the program, should they have no prior occurrence insurance, or they had no knowledge of any prior acts, we do put in prior acts coverage so the fellows will be covered. I might just say that in other states where we have done this that there have been several claims that have popped up.

We also went with the Shand Morahan Company because of their expertise in the field of claims. Now let me say this: I feel responsible when the North Dakota Bar Association gives me their letter of approval, so to speak. And I want to make sure that these contracts are more than a piece of paper. Because someday you may have to use them. The Shand Morahan Company and American Bankers, who is the company the policy is issued in, has no claim adjusters handling malpractice claims. All the lawyers' professional liability claims are handled by lawyers. In North Dakota there will be a North Dakota law firm representing you in court.

Secondly, because we do cover defense costs, as well as claim expenses, and the actual physical claim against you, the minimum deductible we are writing is \$1,000.00. Because of that we have asked that every single person that is brought into litigation help with his own defense and help share in the processing of the suit. We will not assign any suit or go in without any agreement on the part of the individual lawyer.

These are several of the reasons that we picked the Shand Morahan Company. Quite frankly, they wanted the business, where other companies will say, "Well, I will do this, I will do this. And if you don't like it. . . ." They came in and said, "Yes, we would like to be in this particular market."

I'd like to give you just a little background into what's happened nationwide in the professional liability mar-

ket for lawyers. Now I'm not going to kid you, and I'm not going to paint a black cloud, either. We have not had, as I know so far, a lawyer's liability claim in North Dakota. But I want to give you some figures nationwide. Now why nationwide? We could not have enough premium in North Dakota from you as lawyers to put us on what we call a credible experience. We are not able to stand on our own up here yet. So they have pooled us with certain other states. And I don't mind telling you who they are. They have put us with Utah, Montana, Wyoming, Idaho, Mississippi, North Carolina. They are good states to be aligned in, because they have good malpractice exposure. But nationwide let me show you — just give you some figures here. Now in 1974 when this program started we were averaging five to six claims per hundred policies. For the first months of 1977 already we are averaging seven claims per hundred policies. That doesn't concern me as much. The frequency has gone up. Let me give you an idea. In 1964, 66.7 percent of our claims were below a thousand dollars. Below a thousand dollars on our professional lawyers liability is now 45 percent, and 25 percent is over \$5,000.00. Now these are not claims in North Dakota. The single biggest cause of claims, and I would like to read you this from the — from the claim adjuster — the claims company themselves, because I think this is for some of you that have applied, now that one of the things that we are very ticklish about is docket control. To us that is the single most important question on that application. And we do ask for some form of docket control in your office. In fact, any of you that apply from now on, we are going to send — you can't see this — but one of these, and it's a five-page little booklet written by a lawyer in Wisconsin saying, "Docket Control." And we're going to send these out to the people that request coverage on professional liability. We feel it is that important. And if I can find his exact wording here. Oh, by the way, the single largest claim since 1974 was a reserve claim of \$365,000.00. So far in this program. There's several claims pending now that vary from 25 to 50 million. One is an SEC and one is a radio station — a radio station lost their license. Here's where 99 and some percent of our claims are. It's the failure to start timely and commence an action prior to the statute of limitations. The administration of the law office has caused 95 percent of our professional liability claims. This is why we are so concerned at the present time with docket control.

Where's the future of the professional liability market, and where are we going to go from here? How do we stand on premiums? Can we expect to stay with the same premium level that we have now? Quite frankly, I don't have the answer to that. Let me say — let me give you an idea of how your premium is passed on once it comes to Harold Diers & Company. I pay the Shand Morahan people — let's say that you send me a premium of a dollar. Of a dollar. And I send this on to the Shand Morahan people. Out of that, as of today, they keep 12 cents. 88 cents is passed on to the reinsuring company. Now the reinsuring company in your program in North Dakota is all London. Some of it is through Lloyd's and some of it is through other reinsurers. Gentlemen and ladies, the reinsuring market is dry. The company's right now in London renegotiating your reinsuring market for professional liability for '78, '79 and '80. Now why has the market dried up? Number one, they are saying, "All right, if we are going to take — like currently in North Dakota, we have \$20 million of exposure. Right now. They are saying, "If I'm going to have that exposure. I want more money for reserves." Well, what is the only way to get more money for reserves? More premium. We hope that we can keep a realistic premium structure. And, believe me, we have met with the Association, your executive Committee. We are working on this. I personally would fight any rate adjustment on program at the present time.

Now you have a right to know where you stand in other states with relationship to your premium. I think that's only fair. Taking a \$100,000.00 occurrence policy, with a \$1,000.00 deductible, Minnesota \$544.00 a year per attorney, Nebraska \$317.00, Wyoming \$407.00, Colorado \$488.00, Montana \$297.00. The rate in North Dakota at the current time is \$243.00. This is the third lowest rate in the United States. So I think we're still got a very competitive rate, and we've got something we can still live with.

What about the contract itself? I can almost guarantee you there is going to be something removed from the contract. They are going to remove fiduciary responsibility. ERISA has scared the company. It has scared it, reassure yourself. I would say probably in '78 or '79 they would ask for a refiling of your state and remove any fiduciary responsibility. See, now under the contract we cover all paralegal, we cover an investigator, title people that you have working for you. Which means we take an awful lot of responsibility. Now I realize this would probably leave a gap in a lot of people's liability coverage. And we are proposing to the Association that they take on three additional programs to fit this: Number one, the natural fitting in some of the fellows indicate, and this is, quite frankly, with the TransAmerica, St. Paul Fire & Marine Company, where they have either canceled or raised the rates on the professional liability, have said, "Well, if you are going to go to the nearest people for your professional liability you just find someplace else for the rest of your coverage." So we are proposing in the next few months to the Association that we have a group rated premises liability policy, a group rated umbrella, both business and personal, plus a group office and liability program that will cover you for full fiduciary responsibility, any ERISA employee retirement responsibility, in the form of a bond. So I think with this we are able to close all the doors of any liability that you might be up against.

To give you an idea on these extra policies that I talked about, what we are talking premium, some of you that have shopped your malpractice market can just kind of eyeball these and see how much we have discounted these. The premises liability would be \$25; personal umbrella \$65 per attorney; and the business umbrella up to \$10 million, \$50 per attorney. So we do have the facility to do that. We have filed it in the State of North Dakota. It has been approved by the Insurance Commissioner. So it will be a question of working — my working with your Executive Committee to get the approval on the program.

Gentlemen, I thank you very much for your time. And I know we've gone through this very fast. I do want you to know that I certainly feel that there's a tremendous future in this market. I think you've got the best policy available on the market today. And I think working together and getting the participation in North Dakota we can get to the point we can go to the company and say, "Look, we took in \$500,000.00 up here in the last five years and we've had no claims. How about a dividend?" And I think we're only going to get that through a lot of numbers enrolling in the program.

And I'm going to be here through the rest of the convention, and also in the next months ahead I'll be talking to a lot of you on the telephone and through mailings. And if you've got any problems that I can be of assistance to you, why I appreciate it. Any questions? Thank you very much.

PRESIDENT OTTMAR:

At this time we'll call for any new items of business.

MR. EDMUND G. VINJE, II:

Yes. I have the rule I would like to distribute.

PRESIDENT OTTMAR:

Right now we are asking for any new items of business. And unless there are some, we will go into the matter



of resolutions. Apparently none. All right. I'll call on the Chairman of the Resolutions Committee for action on the resolutions and prefiled proposals for general assembly action. Tom Rutten.

MR. THOMAS E. RUTTEN:

The Resolutions Committee consisted of myself, John McClintock from Rugby, and Don Olson from Grand Forks.

We had three resolutions that we read yesterday at the afternoon session. And they were filed with the Court Reporter. And today I'm going to move for the adoption of these three resolutions.

Now unfortunately I don't have the written resolutions before me. And unless someone requested, I'm not going to read them all again, because if we had to read them all again I'd have to have Norman Mark go through his shorthand notes and read them from his notes. Because the originals, I understand, are in Norman's motel room at the Holiday Inn. So they aren't here available. But I could give you the substance of each of the three resolutions.

One was what we called a housekeeping resolution to provide for some relatively minor housekeeping revisions in the Constitution and Bylaws. There were read at the Annual Meeting last year. They were published in the — I believe it was the September—August or September issue of "The Gavel." And notice of the election or submission for approval of these housekeeping revisions was given in the May issue of "The Gavel." And at this time I would move for adoption of the resolution read yesterday and previously published, which provides for adoption — for revision of these minor housekeeping changes in the Constitution and Bylaws.

MR. TIMOTHY Q. DAVIES:

Second.

PRESIDENT OTTMAR:

Further comments or discussion? Hearing none, all of those in favor say "aye." Opposed "nay." Carried.

MR. RUTTEN:

The second — I'm not sure of the actual order, but the second resolution which I am going to submit for adoption at this time was the resolution which also was read into the record yesterday at the afternoon session for the memorials of deceased members for the past year which was prepared by Roy Ployhar and his Memorials Committee. And I would move for adoption of this resolution at this time.

MR. EVERETT E. PALMER:

Second.

PRESIDENT OTTMAR:

Any comments or questions? Hearing none, all those in favor say "aye." Opposed "nay." Carried.

MR. RUTTEN:

The third formal resolution that was read into the record yesterday, and which I am going to move for adoption, is the resolution providing for the increase in license fees pursuant to the action of the January, 1977, special meeting of the Bar Association at Fargo. And basically that resolution provides for an increase in the license fees for attorneys with less than one year or up to one year licensed in North Dakota for a fee of \$97.50, for attorneys from I believe one to five years the fee is \$127.50 per year, and for attorneys with more than five years as members of the bar the fee is \$150.00. And I would move for the adoption of this resolution.

MR. JON R. KERIAN:

Second.

MS. ATKINSON:

I would move to amend that the dues increase be delayed until a secret ballot can be taken by each member of the bar, and that a majority of the members of the bar approve such a dues increase.

MRS. OLSON:

Second.

PRESIDENT OTTMAR:

Further comments and questions?

MS. ATKINSON:

Yes, I would like to speak to that.

My name is Judy Atkinson, and I am a member of the bar. I speak to oppose the dues increase at this time for the simple reason that I, myself, never had notice of the January meeting. I do not feel that it's fair for those of us who can afford to attend bar conventions and who do come to speak for all the people who cannot afford to come and who do not come. Many of them do not choose not to come for their own volition. 200, I don't even think there's 200 in this room today, should not speak to such an important issue. There is nothing wrong with democracy ruling in this bar organization. And a simple secret ballot mailed to each member of this bar would not delay the adoption of the bar's increase if that is what the majority of the people wish. I see this happen in the bar time and time again, not only in this state but also in South Dakota, which is an integrated bar. It's that a few large law firms who can send their representatives, and some of the more affluent members of the bar, single practitioners, show up. The other people do not come for various reasons. But I do not think it's fair for those of us coming to take such an important step without a vote of all the members of the bar. And if it really is approved by all the members, we have nothing to fear. So I would urge your support of this amendment.

MR. FRANK F. JESTRAB:

Question.

PRESIDENT OTTMAR:

The question's been called for. All those in favor of the motion say "aye." Opposed? Motion fails.

PRESIDENT OTTMAR:

Motion to adopt then would be the main motion; as it was stated by the Resolutions Chairman?

AN ATTORNEY:

Question.

PRESIDENT OTTMAR:

Any further comments?

MR. JON R. KERIAN:

Question.

PRESIDENT OTTMAR:

Question. All those in favor of the motion as was proposed by Mr. Rutten say "aye." Opposed? The motion carries.

MR. RUTTEN:

The Resolutions Committee, and, in particular, John McClintock, has one other resolution. This resolution, incidentally, was not read into the record yesterday. But I would move not only for its adoption, but that we waive the formal rule requiring that it be read 24 hours before approval in regard to this one particular resolution. The resolution is as follows, If I can read John's writing:

"BE IT, AND IT HEREBY IS, RESOLVED by the State Bar Association of North Dakota and general assembly at its Annual Meeting on this 17th day of June, Anno Domini 1977 as follows:

"That the heartfelt thanks and gratitude of said Association in attendance at its Annual Meeting in the City of Winnipeg, Province of Manitoba, Canada, their spouses and families, be extended to the Manitoba Bar Association, the City of Winnipeg, Mayor Stephen Juba, the Winnipeg Inn, and all of the people of the great Province of MANITOBA, FOR THEIR KINDNESS, COURTESY, AND HOSPITALITY WHICH HAVE CONTRIBUTED SO GREATLY TO THE SUCCESS OF THIS ANNUAL MEETING.;

"That in the event that separation is contagious, and that the Province of Manitoba should determine to withdraw from the Dominion of Canada, that it be extended an invitation to apply for annexation to the State of North Dakota, and that such application be given serious consideration;

"That this resolution be spread upon the minutes of this Association, and true copies thereof be forwarded to the appropriate parties."

Mr. Chairman, I move the adoption of this resolution, and that we waive the formal requirement of reading 24 hours in advance.

MR. JOHN McCLINTOCK:

I will second that.

PRESIDENT OTTMAR:

Any comments or discussion? Hearing none, all those in favor say "aye." Opposed "nay." Carried.

MR. RUTTEN:

The only other resolution that was suggested, and that I think is very appropriate, although it isn't in written form, but I would like to move for adoption of a resolution giving our heartfelt thanks and appreciation to Bob Schuller for all he's done in connection with this convention. He doesn't have a host bar to assist him in any way, and I think he's just done a fantastic job. So I will move the adoption of the resolution commending Bob Schuller for the fine work he's done in regard to this convention.

MR. JON R. KERIAN:

Second.

PRESIDENT OTTMAR:

Any comments? All those in favor say "Aye." Opposed "nay." Carried.

Senate Appropriations Committee has come in with a \$175 million budget for the Legal Services Corporation. The American Bar Association is fighting for 217 million. Senator Young and Senator Burdick are both on the committee. And the budget was originally for the 217 million. So members are urged to contact Senators Young and Burdick before Monday and express your wishes on the matter.

MR. KERIAN:

I believe yesterday there was this matter of another resolution with respect to the rules of the Supreme Court for continuing professional education of members of the bar.

And so that was spread upon the records yesterday. And everybody's received a copy of the rules as amended by the Executive committee and proposed for adoption here. And so I would again move that the State Bar Association of North Dakota adopt the rules of the Supreme Court for continuing professional education of the members of the bar and send it to the Supreme Court for its approval.

MR. DAVID R. BOSSART:

Second.

PRESIDENT OTTMAR:

Further comments? Questions?

MS. JUDY ATKINSON:

I have a question. On 2; Page 2, Rule 3(c). Says a fee of \$25.00 for payment of expenses. Is that every year? Because (b) right before it shows each attorney files once every three years.

MR. EDMUND G. VINJE, III:

Every three years.

MS. ATKINSON:

I would also like to note that Iowa requires mandatory bar and their fee is only \$5.00 every year.

MR. ROBERT E. DAHL:

They have got more lawyers, Judy.

MS. ATKINSON:

I also would like to point out that this does not require anything of the Judges. Sometimes the Judges need continuing legal education as much as we do.

MR. DAHL:

More.

PRESIDENT OTTMAR:

For those of you who possibly didn't hear her, she was inquiring what about Judges.

JUDGE THOMAS W. NIELSEN:

Judges are already required by law, by statute.

MR. VINJE:

You will find on Page 3 in Rule IV(b) that there is a typographical error in the very last word. The word should be "procedure" rather than "proceedings."

PRESIDENT OTTMAR:

Will you note that typographical error? Correct that to "procedure."

MR. MALCOLM H. BROWN:

Mr. Chairman, there's been some discussion, of course, the last several weeks among the Executive Committee of the controversy on the Supreme Court with regard to this particular question. And I note that these are entitled "Rules of the Supreme Court" for continuing education of the members of the bar. Now are we proposing that once again these be submitted to the Supreme Court for their adoption?

PRESIDENT OTTMAR:

For their approval.

MR. BROWN:

For their approval. Then would it really be proper to have the words "of the Supreme Court" in the title?

MR. VINJE:

The Committee considered the name and took note of the fact that the name is "Rules of the Supreme Court for Continuing Professional Education of the Members of the Bar." We also took note of the fact that the rules were resubmitted to the bar by the Court with the name unchanged. And we left the name unchanged.

MR. HARRIS P. KENNER:

I just have a question. I notice that the requirement here is 15 hours per year. And, of course, that would be the first year of the program for some lawyers. And of course it's 45 hours every three years. It occurs to me that we probably wouldn't get 15 hours in on a good many of the seminars. So was it intended then that we'd have to go to at least two seminars a year or should the hours be reduced to 10 with the thought that one seminar would cover the requirements for this first year or what?

MR. VINJE:

The requirement of the rule is 45 hours every three years. So you would not have to attend seminars every year. You could comply by attending 45 hours in one year, if you so desired, within the three-year period. The first three years will be divided into three equal segments for the purposes of administration. And for the first three years there will be one-third of the bar the first year to take 15 hours, and the first two years one-third will be taking 30 hours, and the other third will take their 45 hours in three years. Thereafter, it's 45 hours every three years. You can obtain 15 hours in a two and a half day seminar. Most seminars are not two and a half days. So more than likely you would have to attend a seminar of perhaps a day and then another one of a day and a half. Although there are many seminars that do extend over a longer period of time, we don't have such seminars in North Dakota at this time.

MR. KENNER:

Then I understand from your answer to that question that one-third of the lawyers here in 1978 would have to attend at least two seminars during that calendar year. And if that's the situation, I would move that Rule III be amended so as to require 10 hours per year and a total of 30 hours over the three-year period.

PRESIDENT OTTMAR:

Is there a second to that motion?

MS. JUDY ATKINSON:

I will second it.

MR. TIMOTHY Q. DAVIES:

Question.

PRESIDENT OTTMAR:

Question's been called for. All those in favor of the motion say "aye." Opposed "nay." The motion fails.

MR. DAVID L. PETERSON:

Mr. President, the question was asked about this \$25 fee. Seems to me like on Page 2, Rule III(c) it says that a \$25.00 fee shall be filed at the time this certificate or this report of compliance is filed. But if you look on Page 4 under Rule VII(b), the last sentence contemplates the filing of — persons coming out of inactive status filing a report in each of the — each year. Does that person then have to pay the \$25.00 fee each of those three years.

MR. VINJE:

I will speak on the intent, and that is that that attorney would not have to file or pay the fee of \$25.00 each year.

PRESIDENT OTTMAR:

Any other questions?

MR. ROBERT O. WEFALD:

I have got a question, Ed. What are we talking of? Are we talking about self-certification here or are we going to get some sort of certificate each time we go to a course or what?

MR. VINJE:

The general nature of the question has been discussed by the Committee at length over a long period of time. And this is going to be a self-certification program. You will be certifying in a form proscribed by the Commission under oath that you have conformed to the requirements of the rule. And it is not the intention at this time to have signing in the record keeping of the nature that you have gone through for Internal Revenue Services for the purpose of this Annual Meeting. Now it could be at some time in the future the Commission may decide that it desires to have this kind of record keeping. And so I'm not telling you that it will never occur. But it is not the intention at this time according to the Committee's intention to have that type of record keeping.

MR. KENNETH G. PRINGLE:

Mr. President, I would raise a question on Page 2, Paragraph (c) of Rule III. It would appear under that Rule that one-third of the lawyers will pay a \$25.00 initial fee for a one-year period, one-third for a two-year period, and one-third for a three-year period, the same \$25.00. Is that correct?

MR VINJE:

Yes.

MR. JOHN M. RILEY:

I have two items; one is what precisely are the statutory requirements for Judges in CLE?

PRESIDENT OTTMAR:

Does anybody have those at hand? Is the Chief Justice here? Well, Chief Justice, do you want to speak on statutory requirements for Judges, continuing legal education?

CHIEF JUSTICE RALPH J. ERICKSTAD:

I didn't plan to speak this afternoon while you were voting on something. I thought perhaps that would be improper. But since you have asked me just to address myself to a statutory matter, the statute is mandatory, quotation marks around the word, for the four lower tiers of the court system. When the bill was first introduced, and that is that Judges of those four lower tiers be required to attend at least one educational seminar — I don't know if that's the exact language — but educational or instructional seminar once a year. When the bill was first introduced in the Legislature it covered all six tiers of the court system. This was as a result of some expression in the Judicial Council which considered the bill before it was introduced in the Legislature and the thought there expressed by some of the Judges that all the Judges should be required if any were required. So that's the way the bill was prepared, and it was submitted that way, but the Senate Judiciary Committee took out the requirement as to the Supreme and District Court Judges. I don't know their reasoning, but I suspect it is because of the fact that we do have a six-state conference now, we used to have a five-state conference, each year for the Judges of the Supreme and District Court at which time we are invited. And we have generally a very good attendance of Judges at the five- and hopefully this year the six-state conference. This year the six-state conference will be in North Dakota at Bismarck.

In addition to that fact, the Supreme and District Court Judges are eligible for instruction, training, at the National College of the State Judiciary at Reno. Many of our District Judges have attended the four-week courses there at the University of Nevada. But it's not put on by the University, it's put on by the National College of the State Judiciary. Even some of our Supreme Court Judges have attended that month-long course. Some of them more than once. Justice Paulson, who is here today, has attended at least two sessions there. If I'm correct.

Now we also have the national Appellate Judges Conference or Seminar which is held at New York University each year. And that's a selected conference at which 20 Judges, I don't know whether that's been expanded to a larger group or not, but when I attended it it involved 20 appellate court judges from across the country. And each of our Supreme Court Judges have been invited to attend that. Those who were interested in attending that have attended that. And we do have some other facilities and opportunities for the Judges of the Supreme and District Court. So that may be the reason why they did not establish so-called mandatory annual seminars for the Supreme and District Court Judges.

MR. RILEY:

Judge Erickstad, that doesn't exactly answer my question. I'm only concerned with the County Court Judges, Judges of Increased Jurisdiction. Are they not exempt?

JUDGE ERICKSTAD:

No, they are not exempt. The four tiers, other than the Supreme and District Court, it is my understanding, unless I am corrected by someone why may have the Code available, are required to attend one session a year. And someone has the Code available? And they are invited in addition and do attend on a voluntary basis a number of the other educational seminars which we put on for also the Supreme Court Judges outside of the five- or six-state conference. In fact, we have a committee which our Court has appointed, of which Judge Burdick is the Chairman and Judge Vogel is the member from our Court, consists of Judges of every tier of the system. And then a lawyer. I wonder if Bob Wefald isn't on that committee.

MR. ROBERT O. WEFALD:

I don't know anything about that.

MR. FREDERICK E. SAEFKE, JR.:

He may be.

JUDGE ERICKSTAD:

We have a committee. And Judge Burdick, who was here yesterday, could tell you a little bit more about that. That committee has the general supervision of all of our continuing education in the judiciary. It also covers Court Reporters and Juvenile Supervisors in a less formal way. But it assists the staff in providing educational seminars for them as well.

MR. RILEY:

I just tossed the matter out, Mr. President, for consideration as to whether or not the rules should not include the requirement that County Court Judges be included under these rules. I'm not going to make a motion to that effect, but I toss it out for your consideration.

MR. VINJE:

The County Court Judges would be included, as I understand it, would they not?

MR. ROBERT E. DAHL:

How about the non-lawyers?

MR. VINJE:

Non-lawyers would not be included.

MR. DWIGHT C. H. KAUTZMANN:

Wait a second now. The County Courts of Increased Jurisdiction Judges wouldn't be included in this, because the language says, "These rules do not apply to Judges who, by reason of their position, are prohibited from engaging in the private practice of law." And County Court of Increased Jurisdiction is, by their position, full-time. So they are excluded.

MR VINJE:

That's correct. The County Court Judges with Increased Jurisdiction would not be included. They are excluded from the rule. They are exempt.

MR. RILEY:

That's my question, whether they should be exempt. I would like to propose on behalf of the trust officers that are also attorneys that Rule 6(a) we add as an item of approved courses The American Bankers Association. I would so move.

MRS. ALICE OLSON:

Second.

PRESIDENT OTTMAR:

Further comments?

MR. J. PHILIP JOHNSON:

Mr. Chairman, we are going to sit down here and start enumerating every possible organization it could presumptively include, why we'd be here for a long time. I think at one point there was a provision in the rule that other national recognized attorney organizations would be.

But the idea was how specific do you get in terms of defining what is presumptively approved. And I think we have most of the national organizations that are engaged in continuing legal education listed there. And when you take the law schools, then it becomes a question of how many of these other groups do you specify? And the Commission can give guidelines, and presumably they will, as to the type of courses that would be approved. And I think most of these national organizations of lawyers that have an operating function would be presumptively approved. But we can't list every organization, because there's State's Attorneys Associations, there's all different types of specialized legal organizations that presumably could be included. So I appreciate Jack's concern, but I'm — I don't have any real doubt that American Banking Association legal programs would be included under this. So I would oppose the motion.

MR. DAVID L. PETERSON:

Mr. President, I would oppose the motion, too. And I think if it was defeated I was about to offer an amendment myself which would be that we strike all of those listings on Rule 6. The third sentence, which would read: "Courses sponsored by the following organizations, and their associated entities, shall be presumptively approved colon" and then 1, 2, 3, 4 and 5, strike them. Because I don't see any point in giving some an advantage over the others. I think they all should be considered on a one-on-one basis. And I would ask that you defeat this motion. And I will certainly offer the next one.

AN ATTORNEY:

Question.

PRESIDENT OTTMAR:

Question is called for.

All those in favor of that motion say "aye." Opposed "nay." The motion fails.

MR. DAVID L. PETERSON:

Mr. President, I would now offer an amendment that the language which I previously read in Rule VI be stricken, and that is: "Courses sponsored by the following organizations, and their associated entities, shall be presumptively approved colon" and 1, 2, 3, 4 and 5 therein.

MR. ROBERT E. DAHL:

Second.

MR. DWIGHT C. H. KAUTZMANN:

Second.

MR. DOUGLAS A. CHRISTENSEN:

I would like to speak to the motion. My name is Doug Christensen. And I, along with Phil and Ed, have worked on this rule for about four years. And the reason, to address myself to the proposal, the reason that this language is included in this rule that he now wants deleted is because generally all of these associations put on various CLE or Continuing Legal Education work which has been approved and the course content will have been approved by the ABA or the PLI or the ALI. So what we're doing is we will be using their work to take the work away from the Commission. Otherwise your Commission, which is going to be serving without pay, will have to review all of the course content put out by these organizations and these entities to determine if it's going to be approved or not. Now perhaps what will happen is that the Commission won't do that, they will presumptively approve this anyway. So we are just sanctioning their act in the first place. That's why I would move that the amended motion — I would speak in resistance to the amendment and ask the motion be defeated, and this language be included in this rule.

MR. VINJE:

I would also speak against the amendment. I would think that even though there may be some preference here given, because there is a presumption that you would want this preference, you would certainly want to have these organizations presumptively approved with respect to their Continuing Legal Education programs. That's to your advantage under the rules so you don't have to worry about it.

Secondly, the Commission is going to approve many other organizations blanket, I'm sure, they are going to approve many other courses. You will have ample notice of that. I don't see any harm in this language, and I oppose the amendment.

MR. DAVID R. BOSSART:

Question.

PRESIDENT OTTMAR:

Question's been called for. The amendment is that you strike in Rule VI(a) that part that starts "Courses sponsored by the following organizations . . ." on through Item 5. All those in favor of that motion say "aye." Opposed? Motion fails.

JUDGE HARVEY KNUDSON:

This relates to Page 4, Rule VII(b).

Provides that any attorney licensed in the state may file a declaration of inactive status. I have been retired now for about two and a half years. I am a licensed attorney in the state of North Dakota. However, it says that if an attorney who has been on inactive status desires to practice law actively in the state he shall file an application for active status, whereupon he shall abide by the rules by completing not less than 15 hours of course work in a manner approved by the Commission. I don't think I'd have any difficulty, in case I wanted to declare myself

inactive for a time, and then declare myself active, and get in the 15 hours by attending a conference, seminars. Even since I have been retired I think I could devote five hours in any one year for three years. But I'm wondering if this does not supersede the statute which provides that those licensed to practice law or have been admitted to the bar and pays the fee, if he's not authorized to practice law without some other resolution by the Bar Association which would bar him from practicing law. Resolution defies the statute.

MR. JOHNSON:

I would suggest that the matter has been at this point run by the Supreme Court at one time. And they have made certain modifications in this rule. And we have had discussions with members of the Court concerning their particular concern. This rule has been amended to meet the general concerns of the Court as have been expressed today. And the Court in final analysis determines who is authorized and who is not authorized to practice law in the state, whether they pay their license fee or not. But I would submit that this rule has had more legal research and review at this point than the great bulk of our statutes.

MR. DAVID R. BOSSART:

Question on the main motion.

PRESIDENT OTTMAR:

The question has been called for on the original motion, which is the proposal you have in your hand. All those in favor say "aye." Opposed "nay." Carried.

(Whereupon, the proceedings were recessed from 3:13 o'clock P. M. to 3:38 o'clock P. M.)

PRESIDENT OTTMAR:

We'll reconvene the assembly.

The next item of business is the election of officers. And will the proctors, who are again Paul Kloster, Ray McIntee, John Dwyer and Lynn Hoghaug, stand by, and a secret ballot system will be used in all instances where there are two or more candidates.

I would ask that a three-minute limit as far as the nominating speeches and a two-minute as far as the second speeches be adhered to.

The Chair will now call for nominations for the office of Secretary-Treasurer of the State Bar Association. It is my understanding that the tradition is that the Past President of the Young Lawyers Section—

MR. ALAN J. LARIVÉE:

At this point, Mr. President, in keeping with the policy of the Young Lawyers Section, we would wholly support and nominate Orell Schmitz to be the Secretary of the North Dakota State Bar Association for the new year.

PRESIDENT OTTMAR:

The name of Orell Schmitz has been nominated. Are there other nominations?

MR. WINKJER:

I move that the rules be suspended, that nominations be closed, and that the Secretary cast a unanimous ballot for Mr. Orell Schmitz.

MR. C. NICHOLAS VOGEL:

I will second that.

PRESIDENT OTTMAR:

Comment or discussion? All those in favor say "aye."

All right, the Chair will now call for nominations for the office of President-Elect.

MR. TIMOTHY Q. DAVIES:

I wanted to get up here first so that hopefully if I'm brief others may follow in the pattern.

I received a call from Minot about a month ago asking me to nominate someone for President-Elect of this Association. The first thing that ran through my mind was Bill Lanier's famous comment about Municipal Judges; "Any son-of-a-bitch who's dumb enough to run for that office deserves to be elected." However, I felt that this was the candidate's problem and not mine, so I said, "I will make a nomination. But I'm going to tell the truth." Well, that ended the conversation. But I did receive a call back and said, "It's all right if you tell the truth, but you don't have to tell all the truth."

My candidate is at a slight disadvantage. I'm sure that you've all read your copy of "The Gavel" in which the — sometimes I think it was obituaries — were printed. But, at any rate, instead of running his picture they have a passport photo of one of the Moluccan rebels.

Seriously, you may wonder why someone from Minot would want to be nominated by someone from Fargo. And we don't have the situation that I understand we had in Bismarck a few years ago when someone got up and gave a nominating speech and said, "I'm not in favor of this man and he wants to run, but I think somebody should nominate him."

Actually, I think one of the reasons Jon Kerian asked me to nominate him was that I have known him all my life. We were both — and, by the way, he's been very candid in his resume in "The Gavel" for those of you who have read it. He's admitted such things as being born in Grafton, and raised in Grand Forks. As a matter of fact, I don't intend to read this again, because he's got everything in there but the date he was circumcized. But really, seriously, now I find in the last couple years that Jon has changed. I think people are tempted to judge him by his appearance, and I think that's a mistake. That didn't come out the way I meant it.

I have been on the Executive Committee with Jon for the last two years. And a lot of the things that you've heard discussed today contain a lot of hard work on Jon's part. He has been on the CLE Committee and has worked hard in drafting and redrafting and redrafting the mandatory CLE Rule. He has worked hard on patterned jury instructions. And has been particularly active in working on the Procedures Committee, which I have been a part of for the last ten years.

And I think one thing that I hope you'll bear in mind is that if it appears to you that Jon plays hard, he does play hard, but when he works, he works just as hard. And it's a pleasure for me to submit the name of Jon Kerian as a candidate for President-Elect of this Association.

PRESIDENT OTTMAR:

The Chair will recognize seconding nominations, please.

MR. DWIGHT C. H. KAUTZMANN:

Mr. President, I would like to second, if I could, please.

Davies is a hard act to follow, I'm here to tell you. He was asked a little bit more ahead of time than I was to participate in this. I was asked earlier this morning. And I thought that was a pretty great honor, but after hearing Davies I was probably the only other Moluccan in the group. So then I was going to save to you that I've known Jon for six years, and I have. I've worked with him in the bar. And he's been a strong voice in behalf of the Young Lawyers. But I was going to tell you that in my association with him everything he's done, he's done well. And that includes the circumcision. I second the nomination.

**PRESIDENT OTTMAR:**

Are there any other seconding speeches?

There being none, we'll then call for nominations for the office of President Elect.

**MR. DEAN WINKJER:**

Mr. Chairman, what do you say about a colleague, to colleagues, who know and respect your friend as you do other than to repeat all of the commendations that you know that he deserves? Mr. Chairman, what do you say about a colleague who for 25 years has done all of the nice things for his community and his profession anyone would expect, and more? Mr. Chairman, what do you say about a colleague with whom there is no doubt he will perform any given task with diligence and dignity to the bar? What do you say, Mr. Chairman? You say, "I place in nomination for President-Elect of the North Dakota Bar Association Lavern Neff."

**MR. RUSSELL G. NERISON:**

Mr. Chairman, members of the bar, I can say that I'm sincerely honored and privileged to be able to second the nomination of Lavern Neff. I've known him for 27 years. We went through law school together. And I have run across him, well, every bar meeting you go to, every seminar you go to, he is there. He is diligent, he is sincere, he is competent, all the good adjectives you can think of. I've heard a lot about Lavern, and I've never heard a word about him that wasn't the very best. I think he is eminently qualified to be President of this Bar Association following the present President. I know that he can and will spend the time necessary to do the kind of a job that we want our President to do. And not only is Vern eminently qualified to be President, but his wife would be a terrific asset. She's not only good looking and intelligent and talented and all that, but she's also served the bar. She was president of the ladies' auxiliary. And probably one of the best things that I can say about Vern is he was a member of the class of '52. And I think he would be a real credit as President of the State Bar Association of North Dakota.

**PRESIDENT OTTMAR:**

Any other seconding speeches?

**MR. DANIEL J. CHAPMAN:**

Mr. Chairman, with great pleasure I rise to second the nomination of Lavern Neff.

**PRESIDENT OTTMAR:**

Any other seconding speeches? Any other nominations for the office of President-Elect?

**MR. DAVID R. BOSSART:**

Mr. Chairman, I move that nominations cease.

**MR. THOMAS E. RUTTEN:**

Second.

**PRESIDENT OTTMAR:**

Tom Rutten seconds. Comments, discussion? All those in favor say "aye." Opposed "nay." Carried.

Harold says that contrary to the wishes of many, the President is not elected under Article IV of the SBAND Constitution. We find the following provision: "The President-Elect shall be elected at the Annual Meeting of the Association and shall become President of the Association at the close of the next succeeding Annual Meeting of the Association."

**MR. DAHL:**

Is that in the old one or in the one we just recently adopted?

**PRESIDENT OTTMAR:**

Yes. The question was whether that was in the old one or the one we just adopted. And I said, "Yes."

**MR. NERISON:**

Positive answer.

**PRESIDENT OTTMAR:**

Is there anything else that anybody would like to bring before this body? Any comments? Any matter? Item?

**EXECUTIVE DIRECTOR SCHULLER:**

I would like to just take this minute while they are counting to say thank you to those of you that have been such great help, both in your patience and in your cooperation, through this meeting. We did not have a local committee to work with. It was a long ways from Bismarck. But I think if you have an opportunity before you check out, or sometime between now and the time you check out, if you see any of the management people remark to them how you found the Winnipeg Inn and our facilities for the Annual Meeting. Because without the management people, it would have been impossible. And I frankly think they just did a marvelous job of helping me put this thing together. Thank you.

**MR. GEORGE M. UNRUH:**

How many registrants?

**EXECUTIVE DIRECTOR SCHULLER:**

257 registrants and 230-some spouses.

**MR. WILLIAM P. ZUGER:**

Is that a record?

**EXECUTIVE DIRECTOR SCHULLER:**

No, sir. I think Bismarck had the record last year. Fargo had it the year before, couple years before.

**PRESIDENT OTTMAR:**

Mr. Gette would like to make a comment, I understand, about this appropriation, the Senate Appropriation Committee action. So, Mr. Gette.

MR. ROGER GETTE:

This was the first I'd heard about the appropriation, too. I'm informed by personnel in the Legal Services Corporation that at 175 million there would be no expansion of legal services for the indigent in North Dakota. So if you are in favor of seeing legal services for poor people into your area and you are not already served now, I would urge you to write to our Senators and support a higher appropriation. The corporation is asking for 217. And this has been approved in the House. So that the battleline is drawn in the Senate right now. So I would go along with President Ottmar in urging you to put your voice in in this matter. Thank you.

Senators Young and Burdick are both on the subcommittee. So they are very influential in this decision. And that's why it's most important why the voices of North Dakota are heard.

MR. VINJE:

Since we have a moment, I would just like to commend you as members of the Association and the Association for adopting the mandatory CLE Rules. You are to be commended, because it shows your devotion to the highest principles of the profession and to its improvement and to its service to the public. And I hope that you get the credit that you deserve for doing this. I would like to see it publicized well in the State of North Dakota. And you ought to tell your friends, neighbors, and clients what you have done for them.

If any of you have any suggestions for administration of the Rule or suggestions for seminars or for associations that should be approved, we'd be happy to hear from you.

PRESIDENT OTTMAR:

Congratulations, Mr. Neff.

MR. JON R. KERIAN:

Mr. Chairman, this is the point in political controversy when the loser rises to make a certain motion, and so I would like to make the motion that a unanimous ballot for Vern Neff be cast for the office of President-Elect.

And I would like to let you know that the telephone call that Mr. Davies received from Minot was not mine. It must have been the opposition's.

MR. RUSSELL G. NERISON:

Second the motion.

PRESIDENT OTTMAR:

Motion's been seconded. Comments? All those in favor say "aye." Opposed "nay." Carried.

MR. LAVERN C. NEFF:

Mr. President and members of the bar, I appreciate very much your electing me your President-Elect of our Association. I'm particularly appreciative of the early encouragement and the continued support that I got from the Upper Missouri Valley Bar Association which is the integrated bar we have in northwestern North Dakota, which is Williams, Divide and McKenzie Counties.

I really did not have a platform in seeking to be the President-Elect of this Association, except to make a commitment to myself that I would bring to this position whatever time it takes to do the work and whatever talents that I have. And I will do that. I also did not have any platform for running against anyone. I was running for the position. And I know from the work that Jon Kerian has done with this Association that he will continue to do that as all of the rest of you have. We are members of the finest small State Bar Association of the United States. And that's the tradition that I hope that I can continue as your President-Elect of your Association. Thank you very much.

PRESIDENT OTTMAR:

Thank you, Vern. Unless there's anything else to come before the order, a motion to adjourn is in order.

MR. TIMOTHY Q. DAVIES:

I so move.

MR. DWIGHT C. H. KAUTZMANN:

Second.

PRESIDENT OTTMAR:

All those in favor say "aye." Okay. The Seventy-seventh Annual Meeting of the State Bar Association of North Dakota is hereby adjourned. Thank you so much.

(Whereupon, the proceedings were adjourned at 4:07 o'clock P. M.)



