



1961

Proceedings of 1961 Annual Meeting of State Bar Association of North Dakota

North Dakota State Bar Association

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PROCEEDINGS
OF 1961 ANNUAL MEETING OF
STATE BAR ASSOCIATION OF NORTH DAKOTA

MR. DEGNAN: We'll call to order the first Session of our Sixty-first Annual meeting of the State Bar Association of North Dakota.

ADDRESS OF PRESIDENT DEGNAN

PRESIDENT DEGNAN: Perhaps the most important, single essential of good Bar Association work is the cooperation of each individual member with the officers of your Association in any given year. I should like to go on record here as saying that I have had the cooperation and assistance from every member of this Bar Association during the past year. We have accomplished everything we had set out to do.

Next to each individual members, the most important people are the committee heads. Without them no President or no group of officers could accomplish anything. I should like publicly here to acknowledge my thanks and indebtedness to each of these committee chairmen who served so well and so eagerly during the past year and I should like to name them for you, so the names are firm in your memory. Mr. Oehlert, of course, the Vice-President and Chairman of the Budget Committee has not only done everything that I asked him to but has volunteered for many jobs that he didn't have to. The Association couldn't have had a better Vice-President. I should like also to commend Herman Weiss of Jamestown for his leadership of the Continued Legal Education Committee. I should like to congratulate Mr. E. T. Conmy, Jr., Chairman of the Ethics and Internal Affairs Committee and for handling a very difficult job. John Shaft of Grand Forks, Chairman of the Information and Service Committee and the sub-committee men who worked very actively under him. John Traynor, Chairman of the Judicial Selections Committee for the second consecutive year and doing a very good job. Great thanks also go to Albert J. Greffenius of Valley City, Chairman of the Legal Economics Committee for his work on that Committee. I think that service performed by that Committee in the past two and a half years has been something that we could all be proud of. It may be of interest to you that our new fee schedule promulgated by this Committee in the past couple of years is an article of comment by every bar association meeting in the United States. There is hardly a month that goes by that we don't receive requests for additional copies, and in the original printing one hundred additional copies were supplied to the American Bar Association on the

same subject. My thanks also to Dean Thormodsgard of the University of North Dakota, Chairman of the Legal Education and Admission to the Bar Committee. To Norbert J. Muggli for handling our Legislative Committee for the legislative year. To Everett Palmer of Williston, Chairman of the Memorials and Fifty Year Awards Committee who performed a very valuable service. Our thanks also to Mr. William S. Murray of Bismarck for his handling of the Procedure Committee, and to Paul Pancratz, Chairman of the Title Standards Committee, and to Odin J. Strandness, Chairman of the Traffic Safety Committee. For the Traffic Safety Committee I would say their handling of the meeting for the magistrates, persons interested in the new County Justice positions, and for police officers that was held in Bismarck, was the best attended school or conference that they have had in several years. Our thanks to A. J. Pederson, Kenmare, Chairman of the Unauthorized Practice of Law Committee. Under Mr. Pederson the Committee has had the busiest year for many years. It was very much appreciated. And last, Eugene A. Burdick, Williston, Chairman of the Uniform Law Committee. Judge Burdick's pet did not get through the Legislature but most of our programs did, and we have had an outstanding record in the State of North Dakota with the adoption of the Uniform Codes.

This has been the first full year of our operation as an Association with a full-time Executive Director, and I should like to make a few observations in regard to how that has worked out. I am sure that Mr. Schultz and myself have been guilty of innumerable mistakes, but I am likewise certain that in his first full year as Executive Director Mr. Schultz has produced much that will be of lasting improvement and permanent benefit to our Association. This past year has been in the nature of a shakedown cruise for a new ship. I would like each of you to know that Mr. Schultz has never skimped of his time and his willingness has been ever present. Never once has he been too busy or said, "That's not my job." He has labored very hard for our Association and I think the results of that year and his efforts are obvious to each of you. The Executive Committee and the officers of our Association are fully aware of the efficient work Mr. Schultz has performed and we would like to publicly commend him.

This year we concluded several very successful Institutes; our best attended traffic courts conference and police officers school, and some very outstanding work in the field of unauthorized law practice. We went through a successful legislative campaign in which our score, although not 100 per cent, was certainly a very respectable percentage. Our Law Day and constitution awards was the best we have ever had. We have maintained contact with the Armed Services, the

press, radio and television. Each committee has performed outstanding work. Rather than look back at these events, however, I should like to look forward a bit to several concepts of Bar Association work that I have striven to begin with the assistance of the present officers and the Executive Director. The first of these broad concepts was in the field of legal economics. On this score, Mr. Schultz has been available for eight months of the year to city, county and district bar associations. He has frequently appeared around the state. I went with him as many times as I could. It is difficult to evaluate this type of educational work as the results are not immediately apparent. I do feel, however, that a beginning has been made. Many of you have taken time to express favorable oral or written opinions to me, so that I know that the thoughts promulgated have made some impression.

Another broad concept for our profession is in the field of professional dignity and in personal integrity. There are two fields here. The first is our attitude toward the public and the public's attitude toward us, and the second is our dealings with each other. There is no place in a profession, with the standing that we have, for men who refuse to stand up and be counted on the issue of principle. There is no place for men without sound moral backgrounds. There is no place for competition on any phase of our work except merit and knowledge.

The next broad concept that I visualize for the advancement of our profession is in the field of public relations. This is something rather new to all of us and perhaps on the mysterious side, since we know so little about it. Because each individual lawyer is the best public relations expert a Bar Association can have, we are devoting a considerable portion of the time of this assembly to this subject matter. You will hear a nationally known public relations speaker, Mr. Hugh Breneman, who operates almost exclusively for professional groups. You will likewise hear the results of our economic survey, which touches in this same field. You will also hear of our study on judicial selections and tenure and of our committee on clients' security fund, a new and very active field. I can also inform you that we have made arrangements for our Executive Director to attend a public relations meeting at St. Louis in August.

Gentlemen, it has been a great pleasure for me to serve as your President during the past year. I am certainly not unmindful of the great honor that you conferred upon me in electing me to this, the highest office in your Association. This year has been a busy one for me and the work of your Association has taken a considerable portion of my time. In leaving office, however, to each of you I extend my great thanks for having had the opportunity to serve you.

Now, passing along to the regular order of business. The Court Reporter has asked me to make the request of each man addressing the chair to give his name and city of residence. It is customary for the President to appoint a couple committees that are necessary in this type of meeting. For the Auditing Committee—is Mr. K. S. Peterson of Minot here? (Mr. Peterson stands) I would like you to be Chairman of the Auditing Committee. And on your Committee, Mr. F. Reichtert, Mr. J. McClintock, and Mr. C. A. Waldron. I would suggest that at the coffee break these committeemen get in touch with George Dynes and he will see that the necessary work is laid out.

MR. KENNER: Harris P. Kenner, Minot. Mr. President, C. A. Waldron will not be here.

MR. DEGNAN: Thank you. I shall ask Mr. Peterson to report back to the General Assembly on Friday.

I should also like to appoint a Resolutions Committee. I should like to appoint as Chairman of this Committee, George Soule of Fargo. And to assist him, John Gunness of Bismarck, Max Rosenberg of Bismarck, Joe McIntee of Towner.

MR. SOULE: Mr. President, I would be very happy to serve on the Resolutions Committee but I have some very important things to do this year and I am afraid I will not be able to serve as Chairman.

MR. DEGNAN: Mr. Soule, I will adhere to your wishes. I will name as Chairman, Lynn Grimson of Grafton. Mr. Soule will remain on as a member.

MR. SOULE: Thank you, Mr. Grimson.

MR. DEGNAN: I would suggest that this committee contact Mr. Schultz during the first coffee recess. In addition to the usual resolutions that the committee has, there have been a couple of resolutions referred to the Executive Director, Mr. Schultz. He will have all the details for you.

I should also like to announce the present status of the filing fee case so that all of you may be aware of this. That was John Zuger that just walked in, but John informed me just a couple of days ago that the case has been fully argued in the District Court, briefs have been submitted on both sides, and the memorandum is before the District Court for its determination and opinion.

The next item of business is the report of a special committee which was set up to study the matter of Judicial selection, not with reference to improving the liaison between this Association and the government, but rather to review the entire situation and to express to this group the different methods of judicial selection used in various states and to ex-

plain them to us and make the recommendation that the chairman of that committee so desires. I will introduce at this time Roy Ilvedson who will make the report as chairman of the Special Activities Committee regarding Judicial Selections.

REPORT OF SPECIAL ACTIVITIES COMMITTEE

MR. ILVEDSON: In the early part of this year a resolution from the Fourth Judicial District Bar Association was presented to the Executive Committee of the State Bar Association requesting that some action be taken to set in motion necessary statutory and constitutional machinery to change the present method of selection of judges in our state. This matter was referred to the undersigned committee by President Degnan for consideration and to report back to you members of the Bar Association at this annual meeting.

The members of this special committee are Bruce Van Sickle, Francis Breidenbach, Judge Tiegen, Judge Lynch, and myself.

We believe it is well for our Bar Association to consider this request. There may be members of the bar who are content with our present system of the election of judges by popular vote as well as the filling of vacancies in judicial offices by the Governor. We have been appreciative of the fact that on the whole we have had cooperation from our Governors during the past decade or more in regard to the appointments. Nevertheless, these appointments were only when vacancies occurred.

It is our sincere belief that if our Bar Association is to keep pace with the progress it has made in recent years in the improvement of the administration of justice, a thorough study should be undertaken of the various methods of judicial selection.

This is no easy task. A number of states have been working on similar projects. Most of you have heard about or are acquainted with the so-called Missouri Plan for the selection and tenure of state judges. Some states after a study of the Missouri plan believe they can improve upon that plan.

If our Bar Association were to promote a substitute method for our present method of direct election of judges, a constitutional change would be necessary in addition to statutory amendments. Public support will be needed for such a change and much work in that direction will eventually have to be done.

However, the first step is a thorough study as to what should be done. It is our recommendation that the next President of this Association, with the advice of the Executive Committee, appoint a special committee that will be fairly representative of all sections of the state. This committee would be

directed to study the problem of selection of judges and to seek the method of selection which would: First, be most conducive to the maintenance of a thoroughly qualified and independent judiciary; second, take state judgeships out of politics as much as possible, and yet preserve in the electorate control over such judicial selections.

To expeditiously promote the objectives of this report, we further recommend that the special committee appointed pursuant to the foregoing paragraph prepare and submit its report of findings and recommendations, including proposed drafts of necessary constitutional and statutory amendments to accomplish any changes recommended; that the same be submitted to the Executive Secretary of the Bar Association at least thirty days before the next annual meeting of the Association and he shall be in charge of distribution as hereinafter provided; and that at the next annual Bar Association meeting, there be presented to the membership the report of the committee with its recommendations for appropriate action. Further, to afford an opportunity to the Association members to intelligently consider the report and recommendations of the special committee, a full report thereof, together with copies of the proposed constitutional and statutory amendments, if any, shall be mailed to each member of the Association not less than fifteen days before the next annual meeting.

Respectfully submitted, Honorable Obert C. Tiegen, Honorable W. C. Lynch, Bruce Van Sickle, Francis Breidenbach, Roy A. Ilvedson.

Mr. President, I move that this report be received.

MR. CONMY: (J.F.X. Conmy of Bismarck) I want to second the motion for the reception and approval of the report. I want to add that I am doing this not only as an individual but as the President of the Fourth Judicial District because I do believe that it was the request of that group that this matter was pushed to the extent that it has been pushed. And I do hope that it will be followed as forcibly as it was recommended in this report.

MR. DEGNAN: It has been moved and seconded that the report of the Special Committee on Judicial Selections be placed on file and the recommendations therein be acted upon. Is there any further discussion? All those in favor of the motion signify by the usual sign. (Aye). Contrary, same sign. Motion carried.

At this time we will hear Dean Thormodsgard on a report from the Committee on Legal Education and Admission to the Bar. Dean Thormodsgard.

REPORT OF COMMITTEE ON LEGAL EDUCATION AND ADMISSION TO THE BAR

DEAN THORMODSGARD: The Committee on Legal Education and Admission to the Bar begs leave to submit the following report:

The Section of Legal Education and Admission to the Bar of the American Bar Association reported in 1960 that there are in the United States 132 law schools on the list of approved law schools and 26 law schools on the list of unapproved law schools. There were 40,042 students enrolled in law schools which were on the approved list in 1960-61.

The minimum requirements for being classified as an approved law school are as follows:

- (1) That all law school applicants should first complete three years of acceptable college work;
- (2) That law students should study law as a resident law student for three academic years;
- (3) That the law schools should arrange the curriculum and schedule of work so that the full working time of the students is devoted to his school activities.

In 1950 the University of North Dakota School of Law required for admission to the Law School at least three years of acceptable college work. This Law School has in good faith complied with the standards of the American Bar Association since 1923 and with the standards of the Association of American Law Schools since 1905. This Law School changed its requirements whenever the American Bar Association modified its requirements. The North Dakota Legislative Assembly in 1931 enacted Chapter 90 which in part required all bar applicants to have completed two years of college work in some reputable college and to have completed at least three calendar years of law office study in this state or under immediate direction of a judge or in some reputable law school for three school years or partly in a law school or partly in such law office.

In 1952 the Committee on Legal Education and Admission to the Bar of the State Bar Association of North Dakota recommended that the 1950 standards of the American Bar Association as to legal education and admission to the bar be enacted into law. This recommendation was approved at the annual meeting in 1952. A similar resolution was approved in 1958 and in 1959. The 1959 report also included the recommendation that if the standards, rules and regulations of the American Bar Association were not enacted into law, that this Committee would recommend to the Supreme Court of North Dakota that it should exercise its rule-making power as authorized by the North Dakota Century Code, Section 27-02-07.

The Executive Committee of the State Bar Association appointed Mr. Arley R. Bjella of Williston, Mr. Floyd B. Sperry of Bismarck and Dean O. H. Thormodsgard of Grand Forks to appear before the Supreme Court of North Dakota and present recommendations why the Supreme Court ought to exercise its rule-making powers and promulgate "Rules of the Supreme Court for Admission to the Bar" similar to the "Rules of the Supreme Court for the Admission to the Bar of the State of Minnesota." A "Memorandum on Law Admission to Practice" was filed by Attorney Bjella and Attorney Sperry with the Supreme Court on December 14, 1960. A hearing was held on December 15, 1960, before the Supreme Court in which the Special Committee members were present. The members of the Executive Committee of the State Bar Association of North Dakota and the Committee on Legal Education and Admission to the Bar have confidence that the Supreme Court of this state will act in accordance with the terms of the petition of the Special Committee and to the thrice approved resolution of the State Bar Association of North Dakota.

There are merits in having the Law School of this state comply with the educational standards sponsored by the American Bar Association. There is a need that these approved standards be adopted and promulgated as Rules of the Supreme Court of North Dakota for Admission to the Bar.

The members of the Committee on Legal Education and Admission to the Bar of the State Bar Association of North Dakota have considered the recommended amendments to the rules for admission to the bar, including those recommendations to the Supreme Court, which were deemed advisable by the Special Committee at the hearing before the Supreme Court on December 15, 1960.

We recommend that the Supreme Court of North Dakota give thoughtful consideration to the petition so that North Dakota will comply with better standards as approved by the American Bar Association in 1950.

Respectfully submitted, Arley R. Bjella of Williston, Lyle E. Huseby of Fargo, Herbert G. Nilles of Fargo, Mack V. Traynor of Devils Lake, Roy A. Ilvedson of Minot, Richard Gallagher of Mandan, Theodore Kellogg of Dickinson, Floyd B. Sperry of Bismarck, and O. H. Thormodsgard, Chairman. I move that this report be accepted.

MR. BJELLA: (Arley A. Bjella of Williston) Mr. President. I would like to second the motion for the adoption of this report.

MR. DEGNAN: It has been moved and seconded that this report be adopted. Is there any discussion? If not, all those in favor signify by the usual sign (Aye). Contrary, same sign. Motion carried. (Break for coffee).

The next order of business on our program is discussion of the new County Justice Act. This will be in panel forum and I will just mention the names of the men on the panel. The Honorable W. C. Lynch of Bismarck, the Honorable A. G. Porter, James White of the University of North Dakota, and Floyd Sperry of Bismarck. Mr. Sperry who is practically the father of that bill will give you more information about the panel members. At this time we will turn the microphone over to Floyd Sperry. Mr. Sperry, being a law competitor, a past President of this organization and our present delegate to the A.B.A. Mr. Sperry.

COUNTY JUSTICE PANEL

MR. SPERRY: We are going to start the discussion with a general talk in regard to the background. Now each of you should have before you a copy of the Act, which contains all of the amendments up to date. You should also have before you a copy of an outline prepared by me which, I think, boils the law down to the simplest form and terms. And in addition to that, you should have before you a list of questions. We shall appreciate all of the questions that occur to you in the course of the discussion, but we also want to have the questions which we do feel we can answer. We aren't sure we can do that with questions that aren't written down, but we have been asked these questions a number of different times and are quite familiar with them.

With those brief remarks I would like to introduce the first speaker who will talk to you about the background of the justices of the peace and the justice court system. This will be Professor James P. White who is now on the faculty at our University of North Dakota Law School. Jim White has a Bachelor of Arts degree, an L. L. M. and a Juris Doctor's degree. He came from the Iowa Law School. He was in the Air Force two years. He was a teaching fellow at the George Washington University and he has a Master of Law degree from that School. He is now teaching Taxation, Legal Bibliography, Equity, and Legislation at the University. Last year James had a special grant from the Ford Foundation for the purpose of permitting him to do some legal writing, and while he was doing that, he taught in the Law School during the summer session at Berkeley, California. Jim has written a number of articles, including an excellent one on the County Justice Act; and I think that when you get back home it will pay you to look that up. It came out in one of the Law Reviews of last year. It will not only give you a very fine background on the justices of the peace, but it will also give you an excellent understanding of this law as it is. Jim recently wrote a very excellent paper on farm tenancy problems, and most of the lawyers practicing in rural areas will find that a

most helpful and interesting one. I have read it. It just recently came out. It contains many authorities and is a well-prepared paper. At the present time Jim is associated with a law firm in Iowa City but he came back here at my request to help us with this discussion this morning. I am very happy to present to you at this time, Professor James P. White.

PROFESSOR WHITE: Thank you very much, lawyers. I am following the admonition in President Degnan's report, who indicated in his report that he was most concerned about the public relations aspect of the Bar Association and that perhaps more could be done in that regard. Now in regard to my own public relations I might tell you that the October, 1960 issue of the "Law Review" contains the article about the County Justice Act. So if you have any occasion to look it up, it will be in that issue; and it discusses the Act as it was prior to the amendments passed by the last Session of the Legislature.

Well, my assignment this morning, very briefly is to discuss the history of the justice of the peace court as it operated in our judicial system, as it operated in the judicial system of common law countries and why the justice of the peace as an office became somewhat outmoded, and why an Act such as our County Justice Act, this type of Act is being introduced in legislative assemblies throughout the United States, and Connecticut and Ohio have abolished justices of the peace and substituted something more like the county justice in lieu thereof.

Justices of the peace probably originated in England about 1200 or 1195, to be exact, when the particular king appointed knights in each of the various countries to act as conservatories of the peace and they did this, roughly, for two centuries, until sometime in either 1358 or 1360 when the actual office of the justice of the peace was created. It was essentially the duty of the justice of the peace to keep the king's peace within the particular county of England and see that peace was enforced, if necessary, to keep the king's peace. They didn't have a great deal of power until some time later with the decline of the Norman system, probably in the Tudor era, perhaps in the 16th century when the 'J. P.s' as we actually know them came into being. At this time they had the power to punish mayors, award damages and promulgate regulations concerning wages in industry and commerce. They even had some jurisdiction over the conservatory of the king's peace. They acted at that time over the conservatory and were charged with overseeing the construction and maintenance of highways and bridges, jails, etc.

This overseeing of the construction and maintenance of highways probably is why justices of the peace

had become as important in the United States as they did toward the end of the 19th century and the beginning of the 20th century. This office of the justice of the peace was transferred into the United States and primarily acted as a police officer in many of the early colonies, that is, Virginia and the Carolinas and they were probably landed men of gentry. They did very little except act as sort of a country squire. Generally they had powers to determine all controversies concerning land, claims, widows and orphans. Probably the justices of peace courts as it came into being in the American judiciary system prior to the War of Revolution and subsequent to the War of Revolution and the establishment of the U. S. as a sovereign country probably acted in three areas: First of all, they could punish petty criminal offenses. Secondly, they had jurisdiction over small claims, to adjudicate small claims. Thirdly, they had administrative powers over carrying the mail, paving of roads, etcetera. In North Dakota under the Territorial Laws of 1885 the Justice of the Peace could act as a member of the Township County Board, could act as a coroner, had minor jurisdiction in matters under two hundred dollars, have jurisdiction of the highways, jurisdiction over stray animals, could send juveniles to reform school, and minor privileges of jurisdiction, etcetera. Well, this is common and you will find this in all states of the U. S. with the exception perhaps of California, Texas and Florida where the Spanish system somewhat prevailed. In most other states you had township government, county government, and justices of the peace acting either as a township or a county officer. This, roughly, was the operation of this office at the beginning of the 20th century generally through the United States and it fell into a great deal of misuse.

In North Dakota, in 1913, there was adopted a law whereby supervision of the highways, which had become the principal function of the justice of the peace, was transferred to another public official, so the justice of the peace lost a primary function. With the advent of the automobile it became quite logical that you needed some minor court to deal with petty infractions of traffic regulations and other laws concerning justices of the peace, and this is why justices of the peace took over traffic violations and this is why they grew to power to the point where you know them today. And that is why the public has been concerned by the misuse of powers by members of its judiciary, justices of the peace being members of the judiciary, even though not a lawyer, and the abuse of power by these justices of the peace. A number of states have attempted to remedy this. As I mentioned, Ohio and Connecticut were two. North Dakota, certainly, with its very forward looking County Justice Act of 1959, and very recently has gone on in an attempt to improve this legislation.

Well, this very briefly is the background why something was done, why the County Justice Act was enacted, and what it is supposed to do in performing the functions formerly performed by the justices of the peace.

MR. SPERRY: Thank you, Jim. I'd like to plunge right into the law now and if you have the copies of the Act before you, I am going to start in telling you about the changes that were made at the last Session of the Legislature in it. Then I'll go into an outline which explains the working provisions of the law. If you will turn to the second page of the Act and refer to Section 27-18-01. That is where the first change was made by the 1961 Legislature. And it simply provides that the law would not apply in counties that have courts of increased jurisdiction. If you will indicate that, which is not shown in this particular draft, then that part of it will be up to date. That is the only change in that part of the law.

Now the rest of the change is found on the very last sheet. If you will turn to the back, I'll show you what they are. Starting in about one-quarter of the way down, you will notice that they refer to Senate Bill 123 passed by the 1961 Legislature, and through that provision—which is entirely new, it is an addition to the original Act—there is provided—and we'll be talking about that as we go along—that counties, where a law trained man is not available for the office of county justice, either in the county or in an adjoining county where it wouldn't be feasible to appoint one from an adjoining county because of business, accessibility, and other factors; therefore the County Commissioners submit three names to the senior judge of the District and two of those people could be named as county justices. Obviously if there is only going to be one office of county justice, then only one person would be named. That is one of the major changes in the law and I just briefly tell you about it now so that you will have it in mind when we get back to it again.

The third change made in the 1961 Legislative Session only provided that more than one county justice may be elected. That's toward the bottom of that page. That will only apply where you have only one office.

That takes us to the outline which consists of two pages, and I think that I have set out on that just about every feature of the law which will come to your attention. I am going down the list, however, because I have a feeling that there are still a number of lawyers who have not read this Act. I think that this is a good time to briefly get into the simplest aspects of it. It won't take very long. The first thing to keep in mind is that on July 1, 1961, which is only a short time away, you will no longer have any justices of the peace in the State. The office of justices of the peace will then be eliminated. We then come to certain things that happen, that take

place at that time. The first point is that in county courts that have increased jurisdiction, the powers formerly exercised by the justice of the peace will be disposed of there. The county judge with increased jurisdiction will take the place, in addition to his other work, of the office of the justice of the peace. The second thing to remember is that the county judge in other counties will have nothing to do with the law unless he is in a county where they don't have a court of increased jurisdiction. Or in the event that he is in a county where there is no county justice, if a county justice is appointed, then the average county judge will be completely out of the law. In the event that a county justice is not appointed and you don't have increased jurisdiction, then the county judge—and that applies to most of the counties in this State—will have to serve in place of a justice of the peace. He will have the same jurisdiction that a justice of the peace formerly had. That will not be as great as the jurisdiction of the county justice, as we will observe as we go along. But he will have jurisdiction in criminal matters the same as the justice of the peace formerly had and he will also have civil jurisdiction; and he won't get any extra pay for any of that work.

That takes us down to the County Justice office. This may be created by the Board of County Commissioners under the 1959 law. The office doesn't come into existence automatically. It must be done by a board of county commissioners. To do so it is a simple operation. It only requires the adoption of a resolution of the simplest kind. We have prepared a proposed form that you will find on the second page of the outline. The County Justice would then be appointed until the next election comes along. His pay wouldn't exceed thirty-six hundred dollars. He could serve more than one county, there being no limit on the number of counties that he may serve. Should he serve more than one county, then his salary will be apportioned. A number of basis have been suggested for working out that apportionment. We think the most logical one would be to consider it from the basis of the population of the different counties served. He would then occupy that office until the next election and then, of course, that particular office would appear on the ballot along with other county offices. He will serve as a committing magistrate. He will have the power to preside over all misdemeanors, and that should be kept in mind, he probably would have occasion to preside over a lot of jury trials. His jurisdiction is not going to be limited to that formerly available to a justice of the peace. Except in civil cases, there he will have the same jurisdiction that a justice of the peace formerly had. But in criminal matters, he can make a final disposition of every violation under a felony. He can also act as a committing magistrate in cases of felonies. And it will be observed there that state's attorneys will have a choice. They can start their criminal action—as-

suming that it does involve a felony—he may apply before a committing magistrate, or he may do so before a county justice where you have one, and from there, of course, it will move into the District Court. In the case of a misdemeanor which could finally be disposed of before a county justice, it could not be done by a police magistrate. If you start out before a police magistrate, then, of course, the procedure will be a little bit different. You will not fully dispose of the case before him. You will do that when the case is transferred to the District Court, when we have the defendant bound over. I think that is a very important position of the law to be kept in mind.

Now going on very briefly we will go into these more important features. The appeal procedure has not been changed; that's the same as it was before. Your right to a change of venue has been materially changed. I think this points out one of the most important features of the County Justice Act. If you don't have in this County Justice Act the right to a change in venue, that's a very important part, it is going to be defeated, because we simply didn't provide for it except when you are brought before a police magistrate acting as a committing magistrate or when the case started before the county justice. And I think that should be kept in mind. In fact, when I've explained that before different boards of county commissioners, we found that they were quite agreeable for setting up the office of County Justice. That brings to mind that a police magistrate serving in a certain county will not be available for the appointment of a county justice in that county because it would be incompatible in that there would be no place to go for a change of venue in the event that you undertook one. So we have drawn that conclusion that a police magistrate could not be appointed as a county justice in his resident county although he could be for another county. And we came to the same conclusion with regard to the state's attorneys. They obviously wouldn't be available for appointment to the office in their resident counties but they would be in other counties. The county judge acting as a lawyer, if he so happens to be a lawyer, would be available for the appointment. There isn't anything incompatible about that. Not only that but he would be entitled to be paid both a salary as a county judge and also as a county justice. And that is consistent with the ruling handed down by the Attorney-General's office handed down back in 1951 wherein it was decided at that time that a county judge as a juvenile commissioner and also as a county justice of the peace and could be paid for all three. The only obligation is to see that he does his work properly in all three departments. I would now like to go into the list of questions before we get to hear some. Some of these are very fundamental. We only included them because they came up in the infancy of the law. We made a list of all of

the questions that everybody called to our attention and then we added to that from time to time. I'll pass up the first two. Professor White has discussed the first one, the second one I discussed. It isn't necessary to create the office. The board of county commissioners may do so but they aren't required to. I've answered the third question and also the fourth one. I've likewise answered the fifth question and I believe, also the sixth one. Likewise, I've talked to you about number seven. In regard to number eight. We have had a lot of argument about that, particularly in regard to the county judge. There isn't any question but what they have to serve in the place of justices of the peace up until county justices are appointed, in counties where you don't have county courts of increased jurisdiction and they won't get any pay for it. Now that is going to provide the way for a 'gap' in some places before the law becomes fully organized. In regard to number nine, a county justice will not be able to charge fees. His salary is going to take the place of that. In the civil case, of course, service fees and statutory attorney fees provided for in the justice part of the Code can still be taxed and included in the business. But justices of the peace cannot charge any fees. Number ten has been answered by the 1961 amendment to the law, and I have talked to you about number eleven. In regard to number twelve, that caused quite a lot of discussion before our conference but I think the answer to it is very simple. As to police magistrates, we didn't change the fee schedule, that is still there; nor did we change the schedule that determined their charges for their acting as committing magistrates. That procedure is the same as it was before. It wasn't very clear before and it isn't clear now, but we didn't change it so we are not responsible for any worry that you might be entertaining when you get into that aspect of it. When we come to number thirteen, I am very glad to have the Honorable Judges A. G. Porter and W. C. Lynch here with me because I think that's a question which the District Court Judges will have to decide pretty much as to the requirements. My personal opinion is, if there is a lawyer available for appointment as county justice at a reasonable salary—and I want to confess that here we get out on a limb just a little bit because we don't think some counties can afford to pay them. I think the office should be pretty much self supporting, and that has certainly worked out in some of the county courts of increased jurisdiction and it surely can here. We'll get around to the question of costs that we can assess in criminal cases in this county justice court just a little bit later. But my position has been that if a lawyer is available for appointment, it would be improper for a board of county commissioners to undertake, frankly, the circumventing of that law by hiring some laymen, somebody who has formerly acted as the justice of the peace or somebody who is willing to work at a ridiculous-

ly low salary to discourage a lawyer from being interested. I think a lawyer should also be reasonable. We have an obligation to make the law work and I think if lawyers will start out on that basis which may require them to accept a lower salary to begin with, hoping that their services can prove to justify an increase later on, it will work out quite well that way.

Let me briefly talk about the record. We have changed that. I think that the loose-leaf system will work out somewhat better, and a short time ago we wrote to some people down at Wahpeton who have been very up-to-date and provided forms, business forms, especially, and started providing some kind of a workable docket. The fee part, of course, of the old docket won't have any application and some of the other printed portions of it won't either; but if you don't have anything else, you certainly can get along with the old type as a justice court docket. There is a requirement that a docket be kept. We haven't changed that provision in the law.

Someone asked this question number fifteen: "May a filing fee or other costs be charged in civil actions handled in the county justice court?" Obviously that wouldn't be proper. The law doesn't provide for it. There are a lot of imperfections in this County Justice Act, and there were a great deal more, I submit to you, in the old Justice Court Code. But that old Justice Court Code is now taking a closer look, in my opinion, than they ever did before; because now they are obtaining a careful look at this new law and since that's tied into the old law they are going back into this law and trying to find out all kinds of things that will make it impossible for this law to work properly. I think that is very destructive. But anyway there is no provision in there for a civil filing fee. It just can't be charged. The only charges that can be included in the judgment that I know of would be the statutory attorney fees, and they serve as fees. And then, of course, you might run into other costs such as Depositions, in the event that they are taken, depending upon the procedures that become involved. In a criminal action, that's where I think the law can be made especially effective from a standpoint of making it almost self-supporting. We will not have any provision in the Justice Court Code providing for costs in a criminal case. The result is that you will go back to the provision in the District Court Code and that provides—and I'll be glad to give you the section number just a little bit later—that costs may be assessed; and many of you who are State's Attorneys especially find that your District Court Judges generally impose an assessment or costs. Now I'll give you the exact case, I think it is stated in the case of State vs. Simpson in 50 NW 2d, wherein the Supreme Court upheld a general assessment of costs in a criminal case and the added costs there were pretty sizeable—in fact they were about six hundred and fif-

ty dollars. Some of you lawyers from Minot probably know something about it because it did involve somebody living there. The Supreme Court pointed out that where a general assessment for costs is made, the burden is not upon the State to show cause why they are not excessive. So I would submit to you that generally if you are reasonable in the assessment of costs and where they probably don't exceed more than fifty per cent of the amount of the fine, you won't have any trouble with it. Those costs go into the general fund out of which your salary is paid. All bail forfeitures go into the general fund and those are the two sources of income which we think will go a long ways—if they're not entirely sufficient—to pay the salaries of the county justices.

Another question that came up was: "In the event that a board of county commissioners found that a lawyer was unavailable either in the resident county or reasonably accessible from another county and a layman was appointed, would he be eligible if he ran for that office in the following election?" We don't think so for the reason that before he can qualify for that office, the board of county commissioners must make the findings that there is not a qualified man, a law-trained man available. And that would require a finding every time that tenure expired. So I don't think that a layman can ever qualify under the law for election.

Another question that came up is in regard to instructing jurors. Joe Potter from Bismarck called that to my attention. While I have tried a lot of cases in the justice court and have had a great deal of experience with it, I had forgotten about the statute which provides that the justice of the peace cannot instruct juries in jury trials in justice court on the law. Neither is he to render any opinion as to facts. Now that provision was put into the Justice Court Code for the reason that justices of the peace were not considered capable of instructing juries on the law. It will no longer apply as to—that is there is no justification for it—where you have a law-trained county justice. But the statutes show that. I think you can get around this satisfactorily by having clients stipulate that the county justice may do that, and where you have the layman county justices there will still be the same justification for having it.

Some of you, I think, saw in the press just recently that there might be an action brought to have determined the question of whether justices of the peace elected in 1960, irrespective of this law, would have the right to complete their term of office. When that came out in the press, we immediately started researching it and we found a case which we think will very much apply. We not only found this decision but we went on to Shepardize it and it appears to be the final word on that particular point. The case is O'Laughlin vs. Carlson

and it is found in 152 NW 675. I want to give you the punch line from it because, to me, it leaves the question no longer in doubt whatsoever. Reading from the syllabus you find on page 676 where the Court said this: "In the absence of a constitutional prohibition, your legislature may change the term of an office even after the election or the appointment of the incumbent thereof." The Constitution, Section 112 provides that the office of the justice of the peace may be eliminated by the legislature and its jurisdiction placed elsewhere. Not only that, but when these gentlemen ran for these offices, the 1959 law was in effect so we don't think there is any basis left for that kind of litigation. I think that generally covers the proposition. I do want Judge Porter and Judge Lynch to also talk to you briefly about the organization of county justices in their respective Districts and I'll ask them to come to the microphone, respectively, and perhaps you will want to ask them some questions while they are here. The more questions that you can give us, the better we'll like it. We may not be able to answer them to your satisfaction, but we think that we can pretty much to ours, because we have spent quite a little bit of time on this.

So, I'd like to at this time ask the Honorable A. G. Porter, District Court Judge from LaMoure, to step up to the microphone and say a few words about the organization of the County Justice system in his District.

JUDGE PORTER: I'll be very brief. As far as our District is concerned, we have counties with increased jurisdiction, Ramsey County and LaMoure County. We have two counties in our District that have no lawyers that are not State's Attorneys; therefore we are going to find the difficulty of in one county, Sargent County, they have already passed a resolution and have already certified to me the names of very capable laymen. They have also fixed his salary. Over in Emons County we have an attorney that will be appointed there. Over in Richland County the present County Judge without increased jurisdiction would be appointed County Justice, I believe.

The thing that I would like to impress upon you, not necessarily to all of you, but the fact that the law has been one of the most progressive actions that the Bar Association has taken. It means that in a short period of time that we will have all of our Courts staffed by trained lawyers. And the act to become effective depends entirely upon the work you do when you get back home. The boys in the Third Judicial District have been very effective with their County Commissioners. The question, naturally, often asked is how much salary is going to be paid. I have always found the Board of County Commissioners very reasonable in all matters. So when you go back home, refer to your State's Attorney, meet with your

County Commissioners and urge them to create the office and I doubt that you will have any difficulty at all. I am satisfied that in a very short time that the office will be created in most of these counties and they will be staffed where you have the lawyers that can qualify.

Another thing that occurs to me is that this Act ought to induce some of these graduates to come to smaller towns to practice. At least the salary will be adequate for office expense, and a cup of coffee, and things like that. We need them in our district. Sargent County presents a good opening. Dickey County presents a good opening. Logan County presents a good opening. And if you can get these boys in as they pass their examinations, as they pass the Bar, if you can get them into these counties, then you will be doing a good service to your Bar by staffing these offices with these lawyers. One county has adopted two hundred dollars a month, another county has adopted a salary of fourteen hundred dollars a year, and I think some of the other counties possibly will start out at a hundred dollars and run that way for about four, five, six months, and from time to time they will probably change that salary. I don't think you will have any difficulty at all, and as Floyd Sperry says, you can't tax costs in criminal matters which will make your office practically self sufficient. Thank you.

MR. SPERRY: Thank you, Judge Porter. I now would like to call on the Honorable W. C. Lynch, District Court Judge of the Fourth Judicial District and ask him to say a few words about the organizational work done in his District under the law. Judge Lynch.

JUDGE LYNCH: Judge Thom is the senior Judge and the Presiding Judge in our District and through his efforts the three Judges of the Fourth Judicial District sent letters to all the County Commissioners of the counties within our District. In that letter we very briefly pointed out the most important aspects of the County Justice law, we got in a little propaganda in the fact that it was an improvement of the justice system and the entire judicial system. And in that letter we also sent them a sample resolution such as you have in the outline that Floyd Sperry has given you. Just to make it as simple as possible and also to explain in some detail the County Justice Act for the County Commissioners. In that letter, you might be interested to know, that we also recommended that all of the County Justices of the Counties within our district be paid the maximum salary of three hundred dollars a month. We did that for what we thought were good reasons. It was Judge Thom's thought that this is going to be a very important office in our judicial system and it is his idea that to give these Courts the stature that they must have, that we must pay a lawyer accordingly. The thought was that if you

make it less than the maximum, you are going to get less than maximum in efficiency and improvement of justice. While, from the latest reports that we have had from our counties, not all of the counties have seen fit to give the maximum provided by the law, nonetheless I think it is Judge Thom's idea, and it has borne fruit, because in those instances where we did not get the maximum salary provided by law, we have come very close to it. In Burleigh County, of course, there was no problem whatsoever, the County Commissioners appointed the County Justice and gave him the maximum salary of thirty-six hundred dollars a year. In McLean County the average salary was fixed at twenty-five hundred dollars a year, and to my knowledge that is the lowest that any of the counties have fixed the salaries as of this day. I believe that in Eddy County and in Foster County, I believe the salary was fixed at two hundred and fifty dollars per month. You see, we did get some of the desired results. Our thought is that as time goes on the lawyers themselves will become aware of the use of the new County Justice and will use the County Justice more than they have in the past; and also as the County Commissioners of these Counties observe that these Courts are to a large extent self-supporting, I think that a lot of the problems that you have been worrying about will entirely disappear.

I also think that, at least in our District, we will not have the problem that is anticipated by "question number 13," where you have a situation where the commissioners for some reason or other do not approve of the lawyer in their county, or by some manipulation keep him out of office by setting the salary so ridiculously low that he could not accept. We say that for two reasons, number one, that in the Fourth Judicial District we have a very fine caliber of lawyers. Secondly, we have Judge Thom, who I believe can go out to any County Commissioner in our District and sit down at the table with him, and I believe that after he has explained the Act, that we will have no trouble whatsoever. We have never had any trouble with any of the County Commissioners throughout our entire District, in matters of this kind or any other kind. There may be some cases where the senior judge will have to sit down with the lawyer rather than the county commissioners. I say that because there may be cases where some lawyer may feel—and rightly so I believe—that he should receive the maximum salary if he is going to take this county justice office and make it operative. But perhaps until this matter gets off the ground, until we see how the Act is going to operate, we would ask—and would probably have to ask some of the lawyers—to co-operate with the County Commissioners, and take less salary just to get this matter going. Because it is a bold new concept entirely changed our judicial system, these lower courts. And I have heard over the last ten years law-

yers constantly criticizing the brand of justice, and rightly so, in the justice of the peace courts. Now is our chance. We have the Act. We have the framework. We are changing this judicial system in the lower courts, I think for the better, and if we have the co-operation of all the lawyers, I think—I am sure—that this will be a great step forward.

MR. SPERRY: Thank you very much, Judge Lynch. I have found that when you anticipate questions at a time like this, some of which can give you a lot of trouble, it is better to just talk out your time so nobody will have an opportunity to ask them. And I think that we have just about done that. I know Tom Degnan likes to proceed on schedule. He is a little used to my overstepping the bounds as to time, however, and if any of you do have a few questions or any questions that you would like to ask, perhaps we could impose a little bit on Tom's time to go into them.

MR. J. F. X. CONMY: I have one question because I had a letter actually from an old lawyer back in Richland County, and it involves question six in the list. Now as I understood your answer, the county judge who is a lawyer may of course be appointed as county justice and if he is a county judge and a lawyer but not in a county of increased jurisdiction, then he may receive extra pay as a county justice, but if he is a lawyer and a county judge in a county of increased jurisdiction, then he may not receive additional compensation. Am I right?

MR. SPERRY: That's entirely right, Jim.

MR. DEGNAN: I would like to give you a couple of sections of the law on this subject. One is Section 12-01-13 of the Century Code providing that these costs are paid into the general fund. The other one is Section 29-26-22 of the Century Code providing for the assessment of costs in criminal cases.

If there are any other questions I would like to get them right now.

A VOICE: Can a county justice set certain days or would his court be available at any time?

MR. DEGNAN: The question is, "Can a county justice set certain days for the holding of court or must that court be open at all times?"

MR. SPERRY: Well, of course, generally the county justice is going to be subject to the same provisions of the statutes on this as the old justice of the peace court did. We didn't have any problem there. I think that with judgment and discretion the county justice will have no trouble if he does set aside certain days for the holding of court for the

disposal of whatever work he may have. That is the interpretation that we have placed on it after a great deal of consideration. Well, I think Tom wants to get the microphone back. I still think that we have a lot of public relations work to do to make the law permanent. Whether the law is going to be justified or not depends upon the interpretation of the law and the work of public relations that are done by the bar during the interim between now and the next legislative session. I think that is all we have time for now. I certainly want to thank you in behalf of the members of the panel and myself for your courteous attention.

MR. DEGNAN: I would like to thank Mr. Sperry and the other members of the panel for such a wonderful presentation on this subject that is new to all of us and on which we must have knowledge within a few weeks. Thank you very much, gentlemen.

MR. DEGNAN: Will the representative of the Legal Secretaries come forward. While she is doing that, I will make this announcement. The Resolution Committee has asked me to announce that concerning the resolution for redistricting, that this resolution will be drawn in the affirmative and in favor of establishment of two Federal Judicial Districts in North Dakota. This resolution will not be presented until tomorrow but they wanted you to know about this. They also asked me to announce that if you have any resolutions that you care to have presented to this meeting, they will be meeting during the coffee break this afternoon and you may present your matters to them at that time. Now we have a pretty young lady that I would like to introduce at this time. She is Mrs. Millie Lorenz, immediate past President of the Williston Association of Legal Secretaries. You may not be aware of it but we have a very fine legal secretaries association. We would like to have Millie Lorenz tell you about it now.

MRS. LORENZ—LEGAL SECRETARY ASSOCIATION

MRS. LORENZ: Mr. Degnan, and members of the bar. As Mr. Degnan told you, I am the Secretary and the Office Manager for Davidson & Whisenand here in Williston. I am going to direct my remarks to the attorneys from Jamestown and Dickinson, Valley City, and—well, let's see—on second thought I think I will direct my remarks to all of the attorneys of the Association who do not belong to the Legal Secretaries Association. First of all, I would like to read you our Code of Ethics.

I

"The first duty of every secretary is loyalty to her employer."

II

"It shall be the duty of every legal secretary to maintain at all times a high standard of courtesy in all contacts with law officers, clients, courts and any and all persons."

III

"It shall be unethical for any legal secretary to violate any statute now in effect or to be enacted governing privileged communications."

IV

"It shall be unethical for any secretary or any employee of any law office to divulge the contents of any documents in the possession of her employer without first having obtained from her employer, or to discuss maliciously or otherwise, with any person, matters of a confidential nature, knowledge of which may come to her by virtue of her employment."

V

"It shall be her duty to maintain harmonious co-operation with her associates."

Now, isn't that what you expect and demand of your secretary? The Association of Legal Secretaries is not a social club nor is it a service club. It is a nonsectarian, nonpartisan, non-profit organization and one of our purposes is to carry on a program for the further education of legal secretaries. In many states much has been accomplished and we feel that through added membership and your interest we, too, could carry on a successful educational program here in North Dakota. Secondly, to cooperate with attorneys, judges and bar associations in stimulating a high order of professional standards and ethics among those persons engaged as secretaries, and clerks in private law offices. Another important purpose is that of employment. A member of our Association who moves to another city may seek and obtain placement through our organization which, of course, benefits the attorney as well as the secretary. Earlier this year our state convention was held here in Williston with the four existing associations participating. These are Bismarck, Fargo, Minot and Williston. Now, there are only four in the State of North Dakota. Although a great amount of enthusiasm was had at our convention, we feel that many more should have shared with us the benefits that we derived at this convention. Membership in the Association is open to all persons licensed to practice law or engaged as secretaries in a law office, persons employed in the court, trust departments of banks or in any public or private institutions directly engaged in work of a legal nature. However, the Williams County Bar Association has asked us, the Williston Association of Legal Secretaries, to

limit our membership to legal secretaries and to members of the court. Anyone desiring information concerning our Association can contact Mrs. Clark Monroe, employed by the North Dakota Highway Patrol in Bismarck, Mrs. Dorothea Jorde, employed by Ilvedson, Pringle, Herigstad & Meschke in Minot, Lucille Campbell, employed by Wattam, Vogel, Vogel, Bright & Peterson of Fargo, or myself here in Williston.

Did you know that you probably have more influence over your secretary than her own husband or sweetheart or father? Why don't you use your influence for what it is worth. Urge your secretary to become a member of our Association. You will be glad you did.

MR. DEGNAN: Thank you very much, Mrs. Lorenz. It brightens our meeting a little bit.

It is a very distinct pleasure for me to present our next speaker. Mr. Hugh Brenneman of East Lansing, Michigan, forty-five years of age and a father like most of you. He has been active in the field of communication even before he graduated from Alma College in 1936. While he was a student in college, he was correspondent for several newspapers and several wire services. In his senior year he became the first public relations director for the college. Upon graduation he became an Administrator of Secondary Schools and a coast-to-coast radio and network analyst and a communications officer in the United States Navy. Upon his return from service abroad a destroyer in the Pacific Theatre in 1945, he entered upon his present profession of public relations work and he has limited his consultive work to the field of professional organizations. He is presently employed by a number of these organizations and he is directly affiliated with twenty-nine state-wide organizations in Michigan. In his current capacity as a public relations consultant Mr. Brenneman is counsel for the Michigan State Medical Society, consultant to the State Bar in Michigan, Consultant to the Michigan Society of Architects, Executive Director of the Michigan Association of Professions, and Secretary and Trustee of the Michigan Health Council. We welcome you to North Dakota. Mr. Brenneman.

ADDRESS OF HUGH BRENNEMAN (Professional Public Relations)

MR. BRENNEMAN: President Degnan, ladies and gentlemen. Once upon a time there lived in the South a small colored fellow, a little boy that just loved molasses. Every day he used to go down to the grocery store and he'd climb up on a little stool and he'd look down into the big barrel of molasses that they had at the back of the grocery store and he just dreamed of the day that he could have all the molasses that he could eat; and one day he was looking down into that

beautiful brown liquid and dreaming of the deliciousness of it when he looked a little too long and a little too hard and he fell in and they pulled him out and stood him on his feet; and he was heard to mutter, "Lawdy, lawdy, make my tongue equal to this occasion." I feel very much like that today because you spent a lot of time getting to Williston, and I spent some time, and if we don't together accomplish something, then we have wasted a great deal of earnest effort. So, consequently I feel a very deep and abiding responsibility to try to do something which will be of value to you. As a matter of fact, I learned a long time ago that you have to get with an audience quickly to find out what is their interest and see if we can get together. You know, I learned that when I used to sell magazines house-to-house. I don't know if any of you fellows used to sell magazines house-to-house, but if you have, you know that you've got to get with that lady real fast because otherwise she is going to close the door in your face and you're not going to make any sale. So I learned this very quickly that I had to get with her. So, consequently I worked out a little gimmick at that time and the way we did it was this. We'd knock on the door and the lady would come to the door and we would look inside and if there was any kind of motto on the wall, like "God Bless this Home" or some other biblical quotation like that, we would say, "Lady, to what church do you belong?" Well, this was the last thing she expected a house-to-house salesman to ask her so she'd undoubtedly tell the truth and she'd say, "Well, I'm a Methodist," and so I'd say, "Well, isn't that unusual, my father's a Methodist minister in Alma, Michigan. You know where Alma is, don't you?" And immediately, you see, we had established a rapport. I was the son of a pastor of her faith! And if she said, "Baptist", I'd say, "My father's a Baptist minister in Alma, Michigan," and if she'd say "Presbyterian", I'd say, "My father's a Presbyterian minister in Alma, Michigan." Actually my father was a Baptist minister and he preached in these other churches so I didn't feel too bad. Only trouble is, one day I knocked on the door, she opened the door, I looked up on the wall and noticed a crucifix there and I said, "You're a Catholic, aren't you?", and she said, "Yes," and I said, "My father's a Catholic priest in Alma, Michigan." I told her more about myself in that thirty seconds than I meant to. So you have to tell the truth as well as get with them in a hurry.

I want to try to follow that line today. As a matter of fact, you know, it is important that we follow the same language and this is a thing that is true of all the professions. I think by and large the professions are getting together a little bit more since they do talk the same language. I know, my son gave me a lesson in that when he had been attending Sunday school. It seems that when his mother had sent him to Sun-

day school, why she would give him fifteen, twenty cents to put in the collection and he got the idea it might be better to buy a little ice cream with that fifteen, twenty instead of putting it in the collection. So he'd make his appearance just as some folks do at conventions and then he'd slip out and buy himself an ice cream cone and then wait long enough so it would be reasonable and then he would return home. So one day his mother caught on to this and she said, "Tommy," she said, "did you go to Sunday school today?" and he said, "Yes mother," and she said, "Well, Tommy, what did your teacher tell you?" and Tommy said, "Well, she told us a story." "Well, what was the story?" "Well," Tommy said, "she told us about a general named Moses, and he had had an army called the Israelites and they were in the country called Egypt and they were going down the road and he had his guns and his tanks and his mechanized cavalry and they were going pretty good and they came to an ocean and when they got to this ocean, why Moses didn't exactly know what to do, but then he solved the problem, he threw a pontoon bridge across and he got his army out on that pontoon bridge and they were going along all right but they were chased by an army called the Egyptians and the Egyptians were giving Moses and his army a lot of trouble and God saw what was happening and he sent down an atomic bomb with a B-59 and blasted the Egyptians and Moses got across o.k." His mother said, "Did your teacher tell you that story, Tommy?" He said, "Yes, mother, she did." "Well, did she tell it to you in just that way?" "No," he said, "but the way she told it, you'd never believe it." So, you've got to talk the right language and of course you can't talk too long.

You know, I had an opportunity to talk in Iowa the other day and they told me the story of a Rotary Club in Iowa and, as a matter of fact, it was in Keokuk. And they have in this Rotary Club as they do in so many service clubs, they had a bell that sits right out in front. And this club is very zealous of the fact that they want to get out at one-thirty. They meet at noon and they put the speaker on about one o'clock and they want to be through and out of there at one-thirty, and so they have a rule that at one-thirty that bell rings and if the fellow isn't through, he sits down anyway because everybody is going to leave. So, this particular occasion they had a fellow that had been sort of a home town boy made good. He had been a foreign correspondent and he had returned and was talking to this Rotary Club where they had this bell. So he was telling this story and he told that he had been with the army that had fought Rommel in Africa, he had been with the group that had struck at the soft underbelly of Europe, and he had been at the "Battle of the Bulge".

"Finally," he said, "I came to Paris, and when I got to Paris,

I found a message there from my home office, a cable, that gave me two weeks off with pay in Paris. Beautiful Paris, one of the most beautiful cities in the world," he said. "I didn't know it very well, but I thought I would explore it a little bit. I walked down the Rue de la Pais and I came to a small sidewalk cafe. I stopped and sat down. You know, that cafe was one of the most delightful little cafes that you'd ever see. It was as delightful as any restaurant in Keokuk, Davenport, Chicago, New York or New Orleans, and," he said, "you know, I hadn't been sitting there very long, when a lovely young lady came down and sat down across from me at my table. You know, she was one of the most beautiful young ladies that I've ever seen. She was probably as beautiful as any girl as you'd find in Keokuk or Davenport or Chicago, New York or New Orleans. And we had a couple of drinks together and she said, 'How would you like to have dinner with me?' And I said, 'I would be very happy to.' So we went up to her apartment, and you know, she had one of those little French apartments and it was one of those delightful apartments, one of those apartments that's furnished so beautifully with such lovely taste, probably as nice an apartment as you would find in Keokuk, Davenport, Chicago, New York or New Orleans. And we had a dinner together and this was one of those fine French dinners and finished up with some of those fine French pastries, probably as fine a meal as you would find in Keokuk, Davenport, Chicago, New York or New Orleans. After we had finished the meal, my hostess asked me if I'd mind if she'd go into the other room and change into something more comfortable and I said, 'I wouldn't mind.' So she went in the other room and a little while later she said, 'Won't you come in?' and I walked in and she was in something more comfortable all right! It was kind of diaphanous and she was kind of silhouetted against the window there, as nice a sight as you'd see in Keokuk, Davenport, Chicago, New York or New Orleans."

And just then the bell rang and, well, he sat down. Well, the president took his place and he said, "I'll entertain a motion," and someone said, "I move that we suspend the rules for the purpose of hearing the remainder of this talk." So the president said, "All those in favor say aye, opposed same sign, motion passed. Will you kindly continue, please?" Well, the fellow stood up again and he said, "That's the end of my talk, after that it was just like it is in Keokuk, Davenport, Chicago, New York or New Orleans."

That's the way it goes, it's all summed up in—you know that little bit about the "Fellow that receives from some thoughtful relations, a spittoon with gorgeous decorations, when asked was he pleased, he grimaced and wheezed, 'it's beyond all my expectorations!'"

I appreciate very much, truly, the opportunity to be here.

I thought I heard some news on the radio last night. It seems that they found Patrice Lumumba. They x-rayed Kasavubu.

The truth of it is, I think, that we should get down into this field of public relations. And when I say, "get down into" it, I mean that there is a depth to which you can go into this sometimes, if you don't go too far. I just want you to know, public relations is not just a brand new thing. It's been with us for quite a long time. As a matter of fact, public relations started back in the land of Zambogi when the king fought his way to the throne with his good right arm and when he got to the throne, he thought he ought to have somebody to tell him what to say and what to do and how to act so that he could make a good impression on his subjects; so he said, "I want somebody that knows all the answers." So he searched his kingdom and he found a man who said he knew all the answers. So one day he was going to go hunting and he called in his public relations counsel and he said, "Now, you know all the answers, and I'd like to have you tell me what to wear today because I want to make an impression on my subjects." Well, the counsel took a quick look out the window and the sun was shining as it is today and he said, "Well, King, if I were you," he said, "if I were you, I'd put on my best king suit and I'd dress my courtiers in their very best and I'd go out there and make an impression upon those subjects." So the king said, "I will if you're very sure it won't rain, because, you know, I've got a good king suit and I don't want to get it all wet," and the public relations counsel said, "Well, you know, I know all the answers, and you do like I tell you, it's not going to rain." So the king dressed in his best and he dressed his courtiers in their very best. So they went down the road toward the hunting preserve and they came upon a peasant riding on a jackass and the peasant stopped the king and he said, "Oh, King, don't go any further in your beautiful raiment because it's going to rain and you'll get all wet." And the king said, "Oh, no, stand aside. My public relations counsel knows all the answers, and he said it's not going to rain." So the peasant pulled his jackass off the road to one side and he was heard to mutter. "Well, it's going to rain, I'm sure it is." So the king went hunting and he hadn't been hunting very long and the rain came down in torrents and it drenched him to the skin. So the king and his courtiers returned to the castle and so he then cut off his public relations counsel's head. Well, that was very near the end of public relations counseling. But the king was a stubborn individual and he said, "Well, somebody must know all the answers and can advise me," and he said, "That peasant, he knew it was going to rain, he knows all the answers." So he called in the peasant and he said, "I want to make you my public relations counsel, you seem to know all the answers." The peasant said, "Oh, no, King, I don't know all the answers." Well, the king said, "you

knew it was going to rain." And the peasant said, "Oh, no, it wasn't I that knew that it was going to rain, it was my jackass. My jackass's ears are pointed upright like that when it is sunshiny and he likes to bounce along the road then, but when they're lopped down forward like this, it means he's discouraged and he wants to go back to the barn; and so," he said, "his ears were lopped down forward and he knew it was going to rain." So the king said, "I'll make your jackass my public relations counsel." And he did. But the only difficulty is, since that time every jackass wants to be a public relations counsel. (Laughter). And quite often one of them make it.

I just want you to know, and I cite that story simply to indicate that only jackasses claim to know all the solutions on public relations problems and various other problems that confront the various professions, various businesses and industries today. You know, this world today is a very complicated thing. They talk about this population explosion. Well, you know it really is. They figured out at the University of Minnesota the other day that there are more people living today than have died since Adam. Three-fifths of all the people ever born are living today. You've got a tremendous problem here in the fact that your population is growing tremendously rapidly and every time you have a tremendous growth in population, you have tremendous factors of sociology that are bound to affect the practice of law, the practice of medicine, the practice of engineering and the practice of architecture and all these various things. So, consequently we are in a situation where if anyone claims to know all the answers, you can, seriously, call him to one side and send for the little car that takes him to the building on the hill which has bars on it to keep him from escaping.

I assure you that nobody knows all the answers, but we can, I think, seek to try to get some exploration of how those people who are responsible for all the people of the state and all the people of the nation can work together. And only the professional people are responsible for all the people. As you know, a professional man has to place as his primary objective of his work service to the public. Public welfare is his primary concern. This is true of all the professional people. First, this makes it necessary that he realize that he has a unique ability to serve. This is where he is vitally contrasted with, let's say, a union man. A professional man cannot be a member of a union. A professional man derives his strength and his privileges from his unique ability to serve. The union man gets his strength and ability from his right to strike. So you have the opposite ends of the spectrum, when you consider the union man and the professional man. So, consequently the professional man must be recognized as having a re-

sponsibility since he is given the privilege of serving in his particular field and he has that unique ability to serve in that field that nobody else can serve in that field. Now, this is one of the reasons why we can state that the professions have certainly much in common. In fact, when I refer to the professions in this instance, I am referring to law and to medicine, dentistry and architecture, engineering, and perhaps education and the ministry. The truth I want to point out is that all the professions are today in the same boat so far as the public is concerned. For the public ties up in its collective mind, and sometimes in an intangible way, all the professions. Now, we see this reflected in the colloquialism of the day. People often use the term, "lawyers and doctors," you've heard this many times. Or if they are being nasty, they say, "shysters and quacks." This is about the same way they use the term, "damn yankees" in the South. Just one word. A doctor in an eastern state, for example, charges an outrageous fee for his service and the episode happens to be publicized and a lady on the West Coast hears it and wonders if her lawyer didn't overcharge her for getting her divorce. Good public relations by one profession extends to all the professions just as bad public relations. Public relations of one profession is the public relations of all the professions. And you can be sure of that. Just look at the similarity in the basic problem that reflect on public relations. For example, all professions have problems in ethics. The enforcement of ethics, the setting of a professional standard, their enforcement. The unauthorized practice of law, for example, has as its balance in the medical profession the substandard practitioners of healing. The establishment of a fair fee, fee schedules, the fee schedules of a governmental agency and all these problems are pretty much the same among all the professions. And interestingly enough as each new profession comes into being it looks to law and medicine for professional guidance. So you are the standard setters. And I think we can go one step further to say that the public relations of a lawyer is not only that but also the public relations of professionalism across the board. And that is the concept that has been missing because so many times we have thought that we are a group of lawyers. Here's a group of doctors, here's a group of engineers, here's a group of architects, and they have each different things but they have all one single thing in common, and that is professionalism, and that professionalism reflects so much on their public relations that they have to work together in this field as in no other field. It is important, for certainly unless people do understand professionalism, professional people in each of the professions will suffer. No profession can stand alone today in today's complex society, anymore than any nation can stand alone today in today's world.

So I'd like to take a look at professionalism itself for just a

few minutes and then we will see how some of these factors are reflected specifically in the legal profession and then search for some answers using the legal profession for our crucible. As you know, professionalism is based on tradition, and traditions are important for their part as the warp and woof of our civilization. Indeed, they carry with them legal privileges as you gentlemen know more than I. You are familiar with the right of privileged communication between lawyer and client or between doctor and patient. Just one legal privilege. But these are conditions which in their essence boil down to a professionalism that might run to something like this. Number one, a profession accepts as its main purpose contribution to human welfare. A profession seeks the truth. It bases its application on scientific knowledge and changes applications as necessary upon discovery of scientific findings. A profession limits its service and its claim to credit to its own area of competency. A profession acknowledges its responsibility of making its service available to all the public. A profession maintains a progressive code of ethics to those it serves and secondarily to insure maximum freedom for co-operation between its members. It freely exchanges within its ranks its knowledge. This can't be said, for example, about business groups or any other group other than a profession. A profession establishes standards of excellence for those who seek entrance or wish to continue as members of the profession based on knowledge, character and achievement without regard to race, color or creed. And a profession carries on responsibility. Think about public relations for a minute. A profession carries out the responsibility of interpreting itself to the public and expressing its social conscience by cooperating with other ethical professions, groups and persons. And a profession offers members, by tradition of the United States the right to render service to whom he pleases and the place and time he chooses and the price he wishes to charge, providing that all of these are consistent with the ethics of the profession, the law of the land, and the public interest generally.

Now, this is a pretty good concept of professionalism and properly kept you might term it the pearl of free price. But I assure you that not everybody holds this concept of professionalism. As a matter of fact, Life magazine proclaimed a couple of years ago the new profession, "baby-sitting". And we've heard the referral to the "banking" profession, or the "insurance" profession and the "advertising" profession. Well, now obviously the word profession used with these groups is a trading upon the term which your group has made meaningful to the public. Banking can never be a profession. I used to be in it and still am. I am technically the public relations counsel to the Michigan Bankers Association and they were using this term for members of the banking profession and I told them, "You can't be a profession; you buy and

sell money." I told them "You can't charge for your advice as a service. You're not a profession, you're a business, and you should say that you are a business. And make it good, because a business can be equally ethical, equally honorable to being a profession. But it isn't a profession. A banker if he is asked for advice cannot advise the investment of securities and collect a fee for that service. In other words, he must advise in his own interest, 'Borrow your money from me,' he's got to say, 'Put your money in our account.'"

Now, on the contrary, of course, the professionally ethical lawyer must advise his clients against a lawsuit even though the lawyer personally might profit financially from trying the suit. And in the same vein a doctor must not take out your stomach when what you need is a pill to cure the tummy ache that you got as a result of drinking too much last night. So, consequently you've got to recognize that a professional person is different than a business person. Now, some members of the professions are not aware of these things, and they too damage the reputation of the word profession and with it the meaning of professionalism itself. A fine doctor of medicine, a roentgenologist, said to me, he said, "The medical profession is a business. Why don't we act like one and forget this professional nonsense?" And I heard an attorney say to me, "I'm in business for myself. I'll make a buck wherever I can and whenever I can, from whomever hires me. There are two sets of ethics, one for the big boys who can get away with it and one for the little guys who have to do it the hard way. Professional, nuts!" And an architect said to me, "Hugh, let's face it, I'm in business. If a customer wants it, I give it to him; if it's wrong, that's his hard luck. I can't let so called professional standards keep me from making a living."

Now, while the word professional is mangled by the outsiders and the concept weakened from within, who seeks to provide the knockout punch? Well, strangely enough, it's both industry and labor. In spite of the fact that both industry and labor appreciate the value of the skills of the professional man, they have informally and perhaps unwittingly teamed up to destroy the professionalism of the men they admire. The professional men can never be a union man because, as I pointed out, he is in direct contrast with them. The unions recognize that they can't control the professionals by forcing them into union membership, so they seek to gain influence over them through legislation which would place professions in the same categories as public utilities. That's what they are trying to do in certain medical bills in the medical profession at the present time by placing them in a situation where the government would control the services of the profession. It isn't as if the doctors seem to mind that it is under social security, but the problem seems to be this, they want the people to be

given the money so they can make the choice of the professional man they want. "We don't want to work directly for the government with the government setting our standards, telling us what to do." In other words, they don't want to be a public utility. And that is one of the ways the unions feel they can control the professional people. Now industry, on the other hand, considers professional skills among the costs of production and it wants to predict and if possible control those costs. So industry places professional men in salaried positions where it can control the costs and in doing so, unfortunately, control the professional judgment as well and thereby rob the lawyer or the doctor or the architect or whoever is placed in that position of the *sine que non* of professionalists; namely, the right to render service without being second-guessed.

Now, this whole thing I have painted isn't a very pretty picture. I have used sort of finger-painting language and some colloquial cliches but it is reasonably accurate. I haven't put the frame on this picture either. What will happen if this trend continues? Well, the results are already apparent, and you can check these yourself. The fees of all professional people will be set by someone else. Either by wage negotiations or legislative fiat. There is a larger percentage of lawyers today and other professional men under salary than ever before, and fees for certain services have been set by legislatures for every one of the professions. Now, you can recognize this yourself. I know in Michigan we have lawyers that practice before workmen's compensations—have their fees set. Architects working on state and county buildings, doctors for public health procedures. These are just a few examples. And if this trend continues, we are going to see more and more where it violates the right of the professional man to set his own fee, to work for whom he chooses, where he pleases, at the time he chooses to work.

Now, what about the right to make professional decisions based upon his own professional judgment? Well, I'll show you administrators of government today and other groups are insisting upon two and three professional opinions on the same case and then they check these opinions against so-called 'norms' to see whether the decisions are right. Well, you know very well that a professional man has to act upon a professional problem for a person in the light of that person, in the light of that particular problem for a person, and norms don't have a way of adapting themselves to the individual. So consequently here we are losing the right of making professional decisions based on professional judgment. And today—and you can check me on this if you are a legislator—and many of you might be, and I have worked with them for years—they recognize the power of the union and they recognize the power of industry but except for the amenities of lip service, all too many of them don't give a damn what the professions

think or say, just so the professional man is around when they need him. The professions are losing their traditional rights and privileges and doing little about it, and you and I know it. It is the people who will ultimately suffer, first, by a shortage of professional services, and secondly, by lessening their skill and their integrity. And by the time the people get around to realizing that, the professions will be long gone down the road of no return.

So there we have the problem facing you as lawyers because you are the leaders among the professions and the problems of the professions, as I said earlier, are yours, and yours, theirs. The professions are losing their traditional pants and what are you going to do about it? That's why I say that the lawyer today must be a practitioner successful in the court of law, but persuasive in the court of public opinion as well. Now, how can you do this? The answer is in ways too numerous to mention. Except in general categories. But it could hardly be questioned that his first task is to win the confidence of the people. Let me illustrate this in the words of a friend of mine named Earl Stanley Gardner who happened to be the one who originated "Perry Mason." Earl Stanley Gardner is a friend of a friend of mine and we got together and he wrote this to me.

"There has been a steady deterioration in public relations as far as the bar is concerned over the past fifty years and regardless of how this is disguised or explained statistically, the fact remains that the basic underlying thought is that the people as a whole don't feel that friendly respect toward the lawyers as a whole which is the basic foundation of good public relations. If we express it another way, the lawyers as a unit are not living up to the expectations of the population as a unit. Therefore I think we should find out what it is the people want from the lawyers and the extent to which the lawyers are not giving the people what they want. As I see it, the people as a whole want from the lawyers as a whole safeguards as to the administration of justice. I think the people look to the lawyers to administer justice in all its branches just as the people look to the medical profession to safeguard the public."

And I also wrote to Mr. Roscoe Pound and Mr. Roscoe Pound wrote to me as follows. He phrased it a little bit differently. He said: "I think the most important public relations problem facing the legal profession is to make the public thoroughly conscious of what can be done to bring the law and the administration of justice, according to law, abreast of, and keep it abreast of its tasks in the increasingly complex and mechanized society and economy of today. We need to make the public thoroughly aware of the call for a law of the world and law in our time and place equal to the demands of

such an economy and the increasing demands of the development of atomic energy. While everybody is thinking about abuse of that energy in international aggression, we need also be prepared to meet the extension of the whole system, from the administration of justice to the manifold problems which about." This comes from a man of great judicial and legal learning.

the revolution of our industrial system is likely to bring

On the one hand it is a reflection of what the people want in order to give their confidence to the legal profession, and on the other hand, what the professions should do to earn the public's confidence through the discharge of its responsibilities. The question then remains as to the specific means of accomplishing these things—if they are accomplished. If they do, they will go far to erase the feeling of distrust and suspicion which has been generated in the minds of the common people as to the motives and activities of the lawyers. Now, it's not my role to give all the answers on this, as I said earlier, but I can reflect some of the thoughts of the little guys of your fraternity. The practicing lawyer in the smallest towns and the largest cities who each day goes about the routine tasks of a lawyer, the practicing, the interpreting of leases, the drafting of deeds and advancing defenses, collecting accounts and determining of tax; and the thoughts of these people and their recommendations, I think I can interpret. They sum up into about four basic ideas for action. And I assure you these are said in all sincerity. I know sometimes we think that folks are trying to give us a snow job. I have no intention of doing that. The only intention I have is trying to work with you to bring some of these things into focus, because you can do things about it.

One: a re-emphasis of the concept that everyone is entitled to be defended in a criminal case and it is the duty of the court and the bar especially to furnish counsel for indigent defendants. And hand-in-glove with this must go far greater emphasis towards the solution of problems pertaining to the administration of justice in the field of crime. I'm told that the defense of a person accused of crime is a branch of law in itself and certainly is one of the most effective means of portraying the lawyer as a servant of justice. And, two: representations to the people of the services that lawyers have to offer in a manner which makes those services more immediately desirable and necessary. Now, those instances when a lawyer advocates a great constitutional right of man or in a court of last resort or in a case of intense national import are rare, according to the average lawyer, as you gentlemen know. And he can and indeed he does offer services which permit people to enjoy those rights under the law which the legal profession has helped them gain and is stubbornly defending in their behalf. Now, this is sometimes called preventive law

practice. You see, when we started in the field of public relations with the State Bar of Michigan—and we did this in Iowa too—we made the survey and we found out that people like lawyers who use lawyers, and the people that are suspicious of lawyers are those people who don't use lawyers. Ergo, the answer is, the more people who use lawyers, the better lawyers will be liked, the more important their work will become, the more recognition and admiration that is their due will be given. So consequently we started which is known as the 'annual legal checkup,' in Michigan, and this has since gone throughout the United States. Several states have developed it and have used it and are adopting it. The American Bar Association Journal will carry an article about this which I wrote in the next issue of the A. B. A. Journal. The American Bar Association is adopting it and it is being pushed by Mr. Satterfield, the President of the A. B. A. The 'annual legal checkup', what is it? Well, it corresponds to the annual physical checkup given by a doctor to his patient. The annual legal checkup a lawyer can give his client, and indeed, add to his clientele by doing so. It's a packaging of preventive law in other words. The bar association says to these people, "Go to these lawyers and get an annual legal checkup." They come to the lawyer and we have developed a checklist which is in the form of a manual which the lawyer can use to go over the legal entity, the legal health, so to speak, of his client when he comes into his office. Once this is done, he gives opinions and recommendations in written form to his client and says, "This is what I would do if I were you, and I think you should do this, and this, and this, in order to get into proper situation, insofar as your legal protection is concerned." And then, he says, "You can have me do this if you want or you can have any other lawyer that is in the area or any other place do this for you; but you should have these things done." Well, what does it do? The very fact that he goes over this entire spectrum shows to the client, and particularly to new clients who have never used lawyers, shows to them what the lawyer's services are and how far and how much broader they are than is common knowledge among the people generally. So it does offer two things. Number one, it increases the public relations—and these are not in order of importance—it improves the public relations of the lawyer because it acquaints him with more people and more people are acquainted with him. Number two, it emphasizes preventive law which is in the public interest. Prevention is the key word now in all the professions. And, number three, it does increase his business. And what is wrong about increasing the economics and the business of the lawyer? Certainly since the lawyers are working in the public's interest, in itself is a contribution to the public to increase his services.

Now coupled with the annual legal checkup and compliment-

ing it is—this would be the constant research to answer questions such as, “Why is it that some people who could use legal advice to good advantage don’t see lawyers? What are the problems people have which might lead them to visit a lawyer? How do people handle these problems? What encourages or deters them from seeking legal advice? What leads them to shift for themselves or seek help elsewhere? In other words you have to do a continual research job too. And I think sometimes we admire research in medicine or in this science or in that science, and then in our own practice and in the aspects of the private practice of law we don’t do any research. We even regard it with suspicion when somebody else does it. But there is certainly a changing attitude constantly, there’s a changing population, a changing knowledge on the part of the people, and this has to be researched from time to time to find out the answers to these things in order that you can build your program. Knowing the answers to these questions and with proper study by merchandising authorities, there’s no doubt that your services could be improved by packaging. Now, I don’t know whether you are familiar with the packaging industry or not but in our state we have the Michigan State University, and they are building a new building on that campus—and a large building—for one reason only, to train in the field of packaging. Packaging products. Packaging is concerned with the size of the container, the shape of the container, the artwork, how these products shall be packaged in order to sell better. What does packaging do? Packaging increases the value of the product that is packaged. It also improves the value of the product that is packaged. For instance, you used to sell apples in a barrel. Well, you could have a lot of bad apples in a barrel and still sell the barrel of apples by having the top layer or so packed with good apples. But you put those same apples in fifty packages of cellophane and they’ve got to be all good apples, you see. So consequently, it improves the product when you package it right. Now, you can do the same thing with ideas. Here’s the packaging of preventive law, in the annual legal checkup. People can understand it. In going through the procedure of an annual legal checkup, it’s a better means of practicing preventive law than we have ever had before because it’s built on a solid review of the entire aspect, the entire legal entity, of the client, where previously it was done in a hit-or-miss fashion. In other words, the packaging of it in an annual legal checkup, people can understand it and the lawyers can give a better service. Now, this can be done in any number of different ways. Let me cite an example. So often we talk about wills. Wills are fine. What do you do for wills? Well, the reason you draw up a will—the reason a person gets a will—is because a person’s going to die. Nobody likes to die, they don’t like to think about that. So when you say, “Have you had your will drafted?” this is

like an undertaker saying, "Well, I'm looking forward to seeing you professionally." But when you say, "Can I help you plan your estate?" or, "Your estate needs planning," "Come in and we'll plan your estate," or "We're about to plan your estate," rather than "plan your will," well, you've got a much better picture. Everybody wants to "plan an estate." That's a nice thing to do, and furthermore, planning an estate is a far bigger legal service and a better legal service than a simple drafting of a will. It's a better service, you get paid more, the public is better served, and everybody is happier. Why? Because you packaged it.

Now, here's another example. You have fee schedules, you have minimum fee schedules, you have maximum fee schedules and what do you do? You always put them in terms of dollars. Why? Because that's the easiest thing to do. You have this service worth \$60, this service worth \$1,500, this service is worth \$10, this service is worth \$75. Now, why don't you take the same fee schedule and instead of putting a dollar sign, put a unit sign. This is '50 units', this is '70 units', this is '150 units'; and then—you in your law office, you in your bar association in your area—put a dollar value on your unit. So if you say, this has '60 units', this has '150 units', this has '50 units', then you put a value of, say, a dollar and a quarter on the unit value. So you multiply a dollar and a quarter times 60 units and you have the \$75 which you charge. But you don't say to the public, "I'm going to charge you \$60," or "\$75." And then you have to charge this thing all the time. The relative value is always the same between legal services. Or at least as it changes, it is the same in one area of the state as well as another. So why not call it a unit value? And then in your law office put that particular dollar value on the unit that you want to. And you'll find that this will help out in grievous matters, and you can show to the client, "Well, this is what we get for our unit value in our office, and this is the number of units that the state bar has said this is worth in comparison with other legal procedures." And so when you publicize this, you can see that the public has an idea, "Well, this is more difficult than that. He charges 60 units for this, and this unit value is so much, so his charge is reasonable." It is a packaging. I'm merely pointing this out as being one means whereby a state bar itself can be of help to the local bar and to the individual lawyer.

Well, now I think I would like to go on to the next category; that is, the establishing of a working rapport between the professions and a mechanism. A working rapport and a mechanism for the promotion and defense of professionalism. All legislative and public relations and business matters of common interest to the professions need this type of joint treatment, and to this end we have established in Michigan—

and it is going all over the country—they just finished establishing one in New York State, they've had their initial meetings in California, Iowa's had some meetings, Missouri's had some meetings, Florida's had some meetings—an association of the professions, so that one voice can speak for the professions in Michigan supported by the myriad voices of its separate professional organizations and practitioners. What does this mean? We are starting an American Association of the Professions. It is being incorporated, the machinery is being worked on now. Why? Because in these fields of legislation, public relations, education, and business services, all the professions have a great deal in common. Let me cite one in the field of public relations. It is almost impossible for any single profession with the amount of money that it has to have a television program on a weekly basis or a radio series. Why? Because it takes so much time and money that you can't afford to do it. But all the professions together can, and together they can show why professional people do what they do and the way that they do it, and why this is best for the public. All the professions together can do that. It makes it much more entertaining, because one time they're citing an example of a lawyer doing this, and another time of a doctor, and another time of an architect doing it. And what do you emphasize in these things? You emphasize not that the lawyers draft wills and the doctor passes out prescriptions and the engineers and architects make blueprints, you point out that these professional people make decisions and it's based on these decisions that they have the right and privilege of living in this society and rendering these services and of having the services that they render limited to them because they're the only ones that can make good decisions in behalf of the patient or in behalf of the client. So consequently, you can work together because you have the one thing in common, the fact that you make valuable, important, vital decisions in their interest. You can point this out by example, and by an example in each of the different professions.

Let's take the field of legislation. Lawyers are particularly interested in this field because they feel the results of it. But I assure you that professionalism of the various different professions often is challenged. So the Michigan Association of Professions, and I'm sure the American Association of Professions—when it gets going—will be interested, not in lobbying for any one single profession but lobbying for professionalism. Anything that affects two or more of the professions is what they are interested in. If it affects the professional people as a broad group. In other words—and you've seen this happen for years. You've seen the continual change from the vertical type of organization to the horizontal type. I'm citing now, for example, the unions. You know the craft union which later became the A.F.L. They were in vertical organiza-

tion. The carpenters, the bricklayers, and so on and so forth. And now the C.I.O. came along and they cut along on a horizontal basis and so as a result now they have them all working together and they have the C.I.O. and the A.F.L., and they speak as a single voice. Well, what is happening among the professions? Well, as science has grown—if you have observed this—as your science has grown, you have segmented. The greater the science, the greater you have to segment. Because one person can't know it all. So you tend to segment down into smaller and smaller organizations, of narrower and narrower interests. This is fine scientifically, but sociologically, legislatively, public relations speaking, educationalwise, it isn't fine because you lose the strength and the ability and the right and the privilege and the mechanism to speak as a single voice. So you're not heard if you don't work together. So what we are trying to do is put the professions together, not above the professions but below the professions as a working mechanism to advance the professionalism of these professions and to work in those fields of education, public relations, legislation and business services. In education it is for the activity below the professional school level. I've talked about public relations and legislation and the business services. Many people in private practice don't have the advantages of being a member of a corporation; consequently, the individual himself has to buy his insurance at an individual fee, has to buy his health insurance as an individual, has to buy his furniture—and he's got an investment there, a capital investment. But working together you can get group term life insurance, you can get group disability, you can get the same privileges, pensionwise, and so forth that can the person working for a corporation. Now, they are working on this in legislation to try to help this out insofar as pensions are concerned but in these other services, group term life insurance, major medical services, these things, business services can be rendered by an association that works together.

Well, I've cited some of these answers. I've talked much too long. But I want to say to you, that there is much opportunity in this field that to fail to go in and to do something about it, is entirely criminal upon your part, because you're not rendering to the maximum number of people the maximum you can render. You are not interpreting to the public those things you should interpret so they can get maximum value out of what you have to offer. I say to you, the positive answer must be supposedly based upon, however, the very fundamental basis of professionalism, namely—and I again want to quote from Mr. Pound's letter to me, "The development of the idea of making clear to the public by thorough performance by each individual lawyer his duty of advising his clients and advocating their causes that the lawyer is a builder of the law in everyday work, that without the law our complex social

and economic civilization could not exist."

Dean Wright Sach, who many of you know is with the Foundation of the American Bar Association, said this. "First, we must so direct our thinking and so impart to the next generation of lawyers a manner of thinking that we shall materially upgrade the ethical standards of our activities. If our conduct toward our clients, toward the public, toward the courts, and toward our fellow lawyers can possibly be guided by the Golden Rule as well as the canons of ethics, we will build a better edifice for the protection of the social order. And, second, as we contribute to the growth of jurisprudence of process constantly in progress in our legislatures, our courts, and our administrative agencies, we should use our best efforts to the end that each new legal building block that is laid shall make the community or the world a little better place in which to live. Narrow and selfish interests must give way to the larger good."

Well, that is plain, good, common sense and it's the best public relations for any profession. I recommend it to you. I urge your continued support of the public relations program, and I thank you very much for the interest that you have given today as I tried to go over some of these matters with you. Thank you very much.

MR. DEGNAN: Well, you certainly can tell from that applause how much we lawyers of North Dakota appreciate your coming here. Something I think our members should know is the tremendous effort you made in getting here. Mr. Brenne-man spoke yesterday noon in Michigan, arrived here at two o'clock this morning, leaves immediately after this and has to be in New York this evening. Again, our thanks for coming to North Dakota, and come back soon.

Is Bob Langford here? We'll hear you for about two minutes, Bob. Mr. Langford is appearing on behalf of the Student, or Junior Bar Association. Mr. Brenneman has to leave immediately.

Mr. Robert Langford, President of the University of North Dakota's graduating class this year.

ROBERT LANGFORD—UND STUDENT BAR

MR. LANGFORD: President Degnan, members of the State Bar Association of North Dakota. On behalf of the University of North Dakota, the American Law Student Association, and the Student Bar of the University of North Dakota, we would like to thank the members of the State Bar for their continued support. You have been most kind and cordial in your help, both financially and in your own personal experience. We have gained a great deal in the past few years from those of you

who have come to impart to us a small bit of your knowledge. We urge your continued support in the future for we need it. As many of you probably know, there is a great need for lawyers in the State of North Dakota. In the near future we anticipate there will be a greater need. Now is the time when the State Bar can do far more for the State University of North Dakota and the Law School, and in doing so will build up its own Bar Association. Again we would like to thank you for the many fine things you have done in the past, both financially and for your own personal appearances and we urge that you continue your support and increase it if possible. Thank you very much.

MR. DEGNAN: I would like to tell you a few things about this group. Last year was the first time your Association appropriated to the Junior Conference, and you appropriated the magnificent sum of \$150. Now on that \$150 eight delegates went to the A. B. C. meeting in Washington, D. C. They drove from Grand Forks to Washington without sleeping. All arrived in fine shape, and don't you wish you could do that? Mr. Langford, by the way, was elected a Regional Vice President of the Association.

Now we will have a coffee break, and immediately after the coffee break we will have the election of officers.

ELECTIONS

MR. DEGNAN: (After coffee break) The resident Judge, the Honorable Eugene A. Burdick, has asked me to extend to all of you an invitation to visit his Chambers if you haven't seen it. Before we proceed to the election of officers, I would first of all like to lay down a few ground rules. We will elect first the Secretary Treasurer, next the Vice President, and last, the President. In each instance I should like all seconding speeches to be held up until all nominating speeches for all candidates have been made. Nominating speeches should be made from the platform; seconding speeches can be made from the platform or floor, as desired. I should like a nominating speech to be held within four minutes, if possible, and seconding speeches to two minutes, if possible. In the event there are more than two candidates for any office, we will hold a primary and a final ballot, with the low two on the final ballot. For Tellers, I will nominate James O'Keefe, Dan Letnes, and Mark Purdy. Are all those gentlemen here? (The last three men indicate they are present.) We are now open for nominations for the office of Secretary Treasurer for the next ensuing year.

MR. MALLOY: Mr. President, I am Harry Malloy, from Halliday, North Dakota. It is my pleasure to place in nomina-

tion for the position of Secretary Treasurer of the State Bar Association, Harry M. Pippin, of the law firm of Bjella, Jestrab, Neff and Pippin in Williston, North Dakota. I have known Mr. Pippin all my life. We were both raised at Halliday, North Dakota, went to school together, attended college together and served together in the army. Mr. Pippin was a very fine student in college, he graduated Order of Coif and also Editor of the North Dakota Law Review. In addition to these accomplishments, Mr. Pippin has also been president of the Junior Bar Conference of the American Bar Association, and also has been Secretary Treasurer of the Williams County Bar Association. I know this is a working position and I believe that Mr. Pippin has displayed by his past performance that he is capable of this position. Therefore, sir, I would like to place his name in nomination. Thank you.

MR. DEGNAN: The name of Harry M. Pippin of Williston has been received in nomination for Secretary Treasurer. I will hear further nominations for the office of Secretary Treasurer. (Pause) Hearing none, is there anyone that would like to speak in behalf of Harry Pippin. (Pause) Hearing none, we will entertain the usual motion to second. The motion is seconded. A motion is made that the nominations be closed and that the President cast a unanimous ballot for Harry M. Pippin for Secretary Treasurer of this Association. All those in favor signify by the usual sign (Aye). Opposed, same sign. As President I cast a unanimous ballot for Harry M. Pippin as Secretary Treasurer of this Association for the ensuing year.

Mr. Pippin, will you just stand, please? (Mr. Pippin stands.)

We will hear nominations for candidates for Vice President. The Chair recognizes John Zuger of Bismarck.

MR. ZUGER: Mr. President, Members of the Association. Jim Conmy was born in Pembina County some years ago. He was amply endowed with names, James Francis Xavier Conmy. There was a rumor going around that he even has another name, Aloysius. However, Jim quickly started after he went to the University of North Dakota and trained there. He entered the practice of law at Fargo. During the time he was at Fargo he was active in the Bar Association. He was elected President of the Cass County Bar. Jim moved them to Bismarck and we were glad to welcome him to our Bar, and he quickly took an active and a dominant part in our Bar Association. He was elected President of the Fourth Judicial District Bar and at this time he has completed a tenure on the Executive Committee of the State Bar Association. He is in practice in Bismarck with his son, Pat; he is married and has raised a large and fine family. Jim has been very active in the community in Bismarck. He is highly regarded by both

the profession and by the public. I think it should also be recalled that one of the prime qualifications for a man to head the Bar Association today is that he is interested in working in it. I think you all know that Jim Conmy has in the past, in addition to his official office, has prepared papers at sectional meetings, he has acted as chairman of Bar committees, one of the most notable being the initial work on the revision of our fee schedule which you all recall. He is, as you all know from association and competition, an experienced and qualified lawyer. In addition he is a gentleman of high moral character, and indeed it is my privilege to nominate him for Vice-President of the State Bar Association of North Dakota.

MR. DEGNAN: The name of James Conmy of Bismarck is received in nomination for the office of Vice-President. We will now entertain any further nominations for the office of Vice-President. The chair will recognize Clifford Jansonius at this time.

MR. JANSONIUS: Mr. President, members of the Bar. I am appearing here today on behalf of someone who is absent because of previous commitments in that legal olympics known as "Lenders Advance Fee case." His name has been mentioned prominently as a candidate for Vice-President. He, however, wanted me to take this time to advise you that he is not a candidate, cannot be a candidate, and were he here he would be very happy to second the nomination of Mr. "Jim", J.F.X. Conmy. (Pause) I believe I forgot to mention, this is Mr. William Murray.

MR. DEGNAN: We will hear further nominations for the office of Vice-President if there are any to be presented. Hearing none, the Chair will entertain the usual motion.

A VOICE: So move.

MR. DEGNAN: I will now hear seconds for the office of Vice-Presidents. The Chair will recognize Mr. Herb Nilles.

MR. NILLES: I didn't hear what you asked me to do.

MR. DEGNAN: I believe you wished to second the nomination of Mr. Conmy. At least that's what I had in my notes.

MR. NILLES: I don't think there is a lawyer in the State who wouldn't wish to do the same; but not withstanding, I second the nomination. Jim Conmy is one of our fine boys, and one of the ones I have had the most trouble with, and I am very pleased that he is nominated.

MR. PLOYHAR: Mr. President, I feel just as Herb feels. You didn't mention Jim's age, but nevertheless, I have known him for many, many years and I have known him as friend and as a lawyer. Now, seriously speaking, I feel that we

should make these commendatory remarks not for Jim's benefit but for the benefit of all of you. In the first place I feel myself that we have had wonderful leadership, and this year particularly under Tom's administration. It really has been fine, Tom. Let's give him a hand. Another thing I want to say is, too, I assume that by rules and regulations here that we will be led this next year by a competent lawyer, and I am not going to mention his name because he'll be elected pretty soon. And he again will lend credence to our organization. And I really mean that because I know that Louie will do a wonderful job. And why shouldn't we follow up with a man like Jim, who'll do exactly the same thing. Fellows, that's what we need, and I am very happy to second the nomination of Jim Conmy.

MR. DEGNAN: Any further seconding speeches? Mr. Frank Jestrab of Williston.

MR. JESTRAB: I can echo Herb's statement that I have never met anybody that I have had more trouble with than Jim Conmy. I can't think of anyone that I would rather have represent us in the City of Bismarck in a legislative year than Jim Conmy. I know he will be motivated only by the best interests of this Association and it is a great pleasure to second the nomination of Jim Conmy.

MR. DEGNAN: Mr. John Hjellum of Jamestown.

MR. HJELLUM: Mr. President, before Jim gets the 'big head', I'll move the nominations be closed and have a unanimous ballot be cast for Jim Conmy.

MR. DEGNAN: All those in favor of the motion signify by the usual sign. (Aye) Contrary, same sign. Will the Secretary cast the ballot.

MR. DEGNAN: As President of this Association I cast the unanimous ballot of this Association for James Conmy of Bismarck for Vice-President for the forthcoming year. Mr. Conmy, would you like to add your voice to this group?

MR. CONMY: You don't want a speech?

MR. DEGNAN: No, we don't want a speech but we have to give you the opportunity.

MR. CONMY: I do thank you all very much, and do promise that in what means I have had made available to me, I will try to have this organization help our younger men—the older men are beyond help. These younger men are attending these conventions in volume. So many of our past presidents are here. They are loyal members of this Association giving us the benefit of their experience. There are a few past presidents who, of course, could not come, but there are some who,

I believe, just use the organization to benefit themselves and then lose interest. But I do want to say that I think if all of us who have had experience in this organization in the past hang on and help as many of them here are doing, then we can help the organization and help the younger men in the organization in their relation with the public and with the Bar and we will be doing a job for them and making the organization that is much more worthwhile.

MR. DEGNAN: It sounds like Mr. Conmy has the right concept of his office. It is a working position. I can assure him that it is. We will now hear nominations for the office of President of this Association.

MR. SOULE: Mr. President.

MR. DEGNAN: Mr. George Soule of Fargo.

MR. SOULE: Mr. President and members of the Bar. As I walked up here, I sort of thought over what Roy Ployhar said and it seemed to me that I am up here more or less making a seconding speech to his nomination. At the same time I do want to say for Louis Oehlert; I had the pleasure last year in Grand Forks of nominating Louis H. Oehlert for the office of Vice-President. I told you at that time that he had come to Fargo, North Dakota in 1929 and that during that time he has developed into one of our leading lawyers. He has always been an outstanding citizen of Fargo. He has taken a great part in our civic enterprises and I particularly noted that when I listened to our speaker of this morning in regard to our responsibility for public relations. Since last year when you elected Mr. Oehlert as Vice-President, I kept sort of a check on him because I made certain promises of things that I assumed he would do and I wanted to be sure that he did them. As a result of that I can report that he attended the meeting of the American Bar Association, the annual meetings; he attended the Conference in Chicago of the American Bar Association, that organization that helps the Presidents to do their duties. He attended all meetings of our Executive Committee. He has acted as Chairman of the Budget Committee and I know when he makes the report to that Committee, you will recognize that he has done an outstanding job. He also attended most of our institutes. He's here today and he participated in a radio and television panel on "Law Day." So I know that Oehlert is a man of excellent ability on every line and he will make us an excellent president. I therefore, Mr. President, nominate Louis H. Oehlert for President of the North Dakota State Bar Association for the coming year.

MR. DEGNAN: The name of L. H. Oehlert is placed in nomination for the office of President of this Association. Are there further nominations? Hearing none, we will hear sec-

onds. Anyone care to talk in Mr. Oehlert's behalf. Mr. Schulte. Mr. Q. R. Schulte of Stanley, North Dakota.

MR. SCHULTE: It is fairly early in the morning considering last night, and first of all I would personally like to thank the Williston Bar for the wonderful entertainment that we had. It is my privilege to second the nomination of Louis H. Oehlert for President of the North Dakota Bar Association. I've known Mr. Oehlert a long, long time. And in keeping with the traditions of our Bar Association, in choosing a respected attorney and a good fellow, I am sure that Louie will amply fill the shoes of those who have walked before him. You know, Louie is young enough to have the drive and yet he is old enough to lead us wisely. He is a respected attorney and we all recognize his leadership ability. But we will need more than that. I think one of our greatest tasks is public relations. And after last night, I'm sure that Louie more than amply fills the bill. But that's just the type of fellow he is. I'm sure that on this election he will continue to increase the stature of our Bar Association. Thank you.

MR. DEGNAN: Anyone else who would like to second the nomination? The chair will recognize John Hjellum of Jamestown.

MR. HJELLUM: I too would like to second the nomination of L. H. Oehlert for President.

MR. DEGNAN: Anyone else? If not, the chair will entertain the usual motion.

A VOICE: So move.

MR. DEGNAN: It is moved and seconded that the President cast the unanimous ballot of the Association for Mr. L. H. Oehlert for President. All those in favor signify by the usual sign. (Aye) Contrary, same sign. As impartial President of this Association, I cast a unanimous ballot for the greatest Vice-President we ever had for President of this Association, Louis H. Oehlert. Mr. Oehlert, you may have the floor if you desire. The new President, Gentlemen.

MR. OEHLERT: Well, fellows, I'm going to heed somewhat the admonition that was given to our new illustrious Vice-President, Jim Conmy, and say just a few words. First of all, you fellows all know, those of you who know me, that I am deeply appreciative of this honor and that I am fully cognizant of the fact that with this honor goes full responsibility. And your new administration with the new team members that you set up with me. Jim Conmy, our good friend and fine adversary in lawsuits, and your new executive committee, we are going to do everything that we can, full steam ahead for the State Bar Association of North Dakota. There's going

to be no resting on past laurels. This is a young Bar Association. It may be that some of its members are older in years, but those who attend are young in ideas, well expressed by Jim Conmy. It's an Association that you can all be proud of. On the A. B. A. level you are right at the top of associations of our size and members. And so I bespeak for each of you this thought, this is not the President's honor or the executives' honor, this is merely a symbolism of what the North Dakota Bar Association stands for in this state and in our nation. We intend to proceed in building our standing on the A. B. A. level. You will soon hear a report of the Clients' Security Fund. We hope to establish that this year, and I am sure it will be established, and a foundation that each of you can give to with its ultimate objective the scholastic standings, the assistance of worthy students at the University, and things of this kind. And we'll carry on the ordinary work of the Association and we'll watch your finances. Bear in mind that the strength of this Association is not because, necessarily, of its past Presidents' contributions that they made, and the past officers, and its past executives. In your quiet thinking you must recognize that the strength of this Association is no greater than the sum total of each of the contributions that you make to this Association. And so I earnestly solicit your personal contributions this year. We will call on you. And we have already established the adage that we must accept the responsibility. No one will ask you to do the impossible. So let us continue full speed ahead with quiet judgment, good consideration. Again, thanking you very much.

MR. DEGNAN: Will Mr. H. G. Nilles please come to the platform. (Pause) I would like to present to you gentlemen, Mr. Nilles, whom all of you know so well. He is going to talk to us on Clients' Security, something new to our Association. Many of you know that he is extremely well qualified. Herb is a past President of this Association. He has been North Dakota's delegate to the A. B. A. for a long time. He's a Chairman of the Credentials and Admissions Committee, he is a Fellow of the American Bar Association and he is also a member of the Clients' Security Fund of the American Bar Association. At this time I will turn the platform over to Mr. Nilles.

REPORT OF SPECIAL COMMITTEE ON CLIENTS SECURITY FUND

MR. NILLES: Thank you, Mr. President. Members of the Association, as your President has mentioned briefly, Lowell and I were appointed by the President as a Special Committee to study and make recommendations to this Association as to

the advisability of establishing a Clients' Security Fund in this State.

The first question that comes to mind is, "What is a Clients' Security Fund?" The answer, briefly, is, "It is a plan whereby the State Bar Association provides a fund or means whereby Clients of North Dakota Lawyers will be indemnified against embezzlement or defalcation of money or property by any member of the Association where such arises out of the relationship of attorney and client. In other words, it's a plan whereby the Association underwrites the fidelity and integrity of its members."

You've heard today about public relations, and this is one of the elements of public relations.

This plan to some may seem to be a startling innovation. However, the idea is not new. As a matter of fact it's been in operation in foreign countries, some of them, for a considerable length of time. Particularly England, Ireland, that is, the British Possessions and parts of Canada. As far as the United States is concerned, it came first to the forefront at the 1959 Mid-Winter meeting of the American Bar Association House of Delegates which approved a resolution declaring that the Clients' Security Fund deserved the strong support of the legal profession and should be studied by local and state bar associations throughout the country. As of this time, there are nine such Funds in actual operation in the United States, namely, Arizona, Colorado, Connecticut, New Hampshire, New Mexico, Ohio, Pennsylvania, Vermont and Washington; five more states have approved the establishment of the Fund but no steps have been taken to activate it, namely, Illinois, Kentucky, Louisiana, Oregon and Virginia; and there are a number of local bar associations, notably those of Philadelphia and Baltimore, who have also determined to set up the funds but who have not got to the actual setting up thereof.

Now there are two methods which have been studied which are in use for the establishment of the Fund out of which claims are paid, as follows:

1. A method whereby members of the bar pay in annually an assessment of money so as to build up a fund sufficient in amount to take care of reported defalcations; and
2. The purchase of what amounts to a blanket fidelity or bond from an insurance company for a stated premium, prescribing, of course, certain limits of liability.

In either case it is obvious that the establishment of this fund for protection is paid for by the members of the bar at large through the expenditure of a substantial sum of money involving personal sacrifice on the part of each member of the bar.

The Chairman of your Committee happens to be a member

of the Special Committee on Clients' Security Fund of the A. B. A. and has had access to all of the statistical material possessed by that committee.

It is obvious that a plan of this kind is a much simpler operation in an integrated bar state than in a state where the bar is not integrated, where possibly one-half or less of the lawyers of the State belong to the State Bar Association.

Since North Dakota has an integrated bar, the whole business can be handled as to all of the lawyers in the State in a relatively simple operation through the State Bar Association, and from a study of its various plans which have been suggested and adopted, your Committee feels that such a plan, and we don't feel too strongly on this, but we are perfectly willing to suggest it as a guide, after all it is your plan, but if adopted, it could be handled easier and cheaper in this way.

1. We think presently that the purchase of a blanket fidelity bond of suggested limits of ten thousand dollars per lawyer per year, with a limit of one hundred thousand dollars for all lawyers during any one year, such bond to cover all practicing lawyers in this State.

2. The premium to be paid by the State Bar Association, and if the present funds or future funds are inadequate, ask the Legislature to increase the license fee in sufficient amounts to take care of the premium.

3. And that all claims against the bond be handled and adjusted by the Executive Committee of the State Bar Association in cooperation with the insurer, including subrogation against the defaulting lawyer.)

Now we don't feel too strongly that you should go all out insurancewise on this, but if you don't the risk is that in the first year of operation you might have to process a claim, or a number of claims, which are way beyond the money available and it might present a very embarrassing situation. But I don't think we have to decide that today, but I thought I would mention it for future consideration.

Vermont is presently proceeding along the lines outlined above, that is, the insurance claim. It was the first state which proceeded in this fashion. They were fortunate enough to get a contract with the insurer at an annual cost of \$2.00 per year, per lawyer, but recent negotiations with a surety company made by the A. B. A. committee indicate that this can't be duplicated. To obtain a bond or a policy of this kind would now cost in the neighborhood of between four and five dollars per year, per lawyer. Probably judges and other lawyers not engaged in active practice could be eliminated so far as cost is concerned, but as a practical matter, we are looking

at a probable expenditure insurancewise of about twenty-five hundred dollars per year.

Practically every state in the Union is giving consideration to the subject of a Clients' Security Fund. In some places there is opposition. A number of arguments have been made against the idea. First, the most frequent, and some of the answers to them, are as follows:

(1) Why should lawyers who are not guilty of embezzlement pay the debts of those who are? The fact is that whether or not a fund is adopted, the overwhelming majority of honorable lawyers will in fact pay for the defalcations made by their erring brothers, since they will pay in terms of loss of respect and honor to the profession as a whole. The public will hold us accountable for the guilty few and while the loss to the other members of the bar may not be immediate, it will be certain and it will be great in the long run. The Clients' Security Fund is a debt of honor of our profession.

(2) Is the Fund really needed? Are there enough cases of embezzlement to warrant its adoption? The figures for the past three years indicate that disbarments in the whole country average a little more than one lawyer for each state each year. While only .031% of the total membership of the bar was disbarred in 1960, the figures do indicate a need for the fund which is country wide. The damage which is done to the good name of the profession whenever an embezzlement by a lawyer occurs is out of all proportion to the size or frequency of the event.

(3) Would the establishment of such a fund be considered by the public to be an admission of guilt along this line by the legal profession? Well, all I can say is, that the experience of the banking profession with F.D.I.C. should show the lack of basis for this fear. It has also been pointed out that the airlines advertise that planes are equipped with radar and do not fear the public will take panic with the thought of blind landings.

(4) Would a fund be too expensive? Studies which have been made indicate that a five dollar annual contribution should prove large enough to provide for the establishment of the fund, although experience will, of course, differ from state to state.

(4) Would a limitation on the amount paid to a claimant out of the fund offset the benefits to be derived from it because of disappointment that the claim was not paid in full? Obviously, the best public relations will be achieved when all legitimate claims are paid in full. However, there is no reason to suppose that the public would be resentful over part payments, particularly in the early years of a fund. Statistics from every part of the country show that the vast majority

of embezzlements by lawyers do not involve large amounts, and the main purpose of the fund should be to protect people of modest means whose losses, though relatively small, are often disastrous to them. Their claims would be paid in full.

(6) Is the fund socialistic? This argument has been made against virtually every worthwhile co-operative effort that the bar has made in the past twenty-five years. The same assertion has been made against Legal Aid and the Lawyer Referral Service. The idea of the fund is no more socialistic than workmen's compensation or any other group indemnification plan.

Your Committee feels that each practicing lawyer has an interest in and responsibility for his fellow-practitioners and for the noble profession to which he belongs. The truth about the legal profession is that with a few tragic exceptions, its members are scrupulously honest and loyal to their clients; nevertheless a substantial number of our fellow-citizens think lawyers are dishonest, unfaithful sharp rascals. How can this paradox be explained?

One basic reason for popular distrust is that literature, drama, radio, television and the like give a false picture which sinks into and conditions the public consciousness. As Roscoe Pound has said: "In novels lawyers are expected to be bigoted and pedantic or else dishonest. Otherwise much dramatic interest will be lost."

Lincoln said, "There is a vague popular belief that lawyers are necessarily dishonest. I say vague, because when we consider to what extent confidence and honors are reposed in and conferred upon lawyers by the people, it appears improbable that their impression of dishonesty is very distinct and vivid. Yet the impression is common, almost universal. Let no young man choosing the law for a calling for a moment yield to the popular belief."

This thought was carried forward by Dean Griswold of the Harvard Law School in an address to the Cleveland Bar Association in 1953, where he said: "There is nothing that would be so impressive on law students as to know for certain that the profession they are entering is one in which misconduct will not be tolerated . . . I am thoroughly aware of the fact that the overwhelming proportion of lawyers are scrupulously honest . . . Would it not be a fine thing if bar associations . . . established an insurance fund, which would guarantee, as a professional and association matter, that no client would suffer loss through the defalcation of his lawyer?"

That fund, to be established by the organized bar, we call Clients' Security Fund. The logic that supports this plan was given classic expression by Chief Justice Vanderbilt of New Jersey, and now deceased, and report in 80 American Bar Association Reports 328 (1955):

"It is in the public interest that the legal profession which includes the judges and law teachers as well as the practicing lawyers should control legal education and admissions to the Bar.

"It is in the public interest that the legal profession should control the discipline and disbarment of lawyers.

"The public holds the organized bar responsible for the conduct of all members of the legal profession so long as they are members of the legal profession."

Logic can win the support of lawyers because they have been disciplined in Law School. But to win public opinion something more is needed. Our case must be rooted in morals. Our appeal to the American people must be emotional, indeed spiritual, not legalistic, in nature. As Father Drinan, Dean of Boston College Law School, stated in his address to the Vermont Bar Association in 1959, "It is impossible to seek to establish the reign of justice or work in the public service unless one labors for the fulfillment of the moral law."

The Clients' Security Fund is a debt of honor. When the American people see their legal profession accepting that responsibility unequivocally, an indelible impression will result. The lawyers of America wish to be servants of all, to secure for the people their individual and collective rights and to protect them against oppressors, cheats and criminals. To do this work most effectively the American bar needs the understanding, support, and respect of the people. The establishment of this fund is an unselfish act of affirmation. It will quickly be understood and appreciated by the people who prefer deeds to words.

This Committee does not expect the membership of this Association, upon this presentation, to adopt this report and make it immediately effective; we think further investigation is required, particularly in reference to financial burdens and the method of handling and also, you might say, the limitations. Possibly the limitations of the bond which I have suggested are greater than we need.

And I might say parenthetically that North Dakota has a wonderful record on this particular subject, that is, in embezzlement and defalcation. I just can't think of any case of defalcation or embezzlement within the past five, six, or seven years. It might even be longer than that. However, we have had in earlier years such cases. This is not the report, which most of us in some way have adjusted in some manner or other. But, you never know. I attribute our good record to the good state of economy which has existed in the State of North Dakota in the past ten years. Let things get tough again and who knows when one of our brothers may find it necessary to use some of his client's money for his own purposes.

For a general discussion of the matter, the Committee recommends the reading of an article by Murray Teigh Bloom entitled "THE DEBT OF HONOR OUR LAWYERS WANT TO PAY", found in the March, 1961 Readers Digest.

It is the recommendation of the Committee that this report be received and filed; that the existence of the Committee be continued; that the subject of the report be referred to the Executive Committee for its study, consideration and further report, to the end that the matter of the establishment of a Clients' Security Fund for North Dakota be submitted for final determination at the next annual meeting of this Association.

Appended hereto, are quotations from leaders of the Bar in the United States, Ireland and England on this subject. Respectfully submitted, Lyle Huseby, Lowell Lundberg, Herbert G. Nilles, Chairman.

MR. DEGNAN: Gentlemen, we have heard probably one of the finest reports anybody has submitted to this Association on this subject of such tremendous interest. It is recommended by this Committee that the report be placed on the bill, that it be referred to the Executive Committee for further action, that the Special Committee be continued and that a further report on this subject be presented with recommendations to the next annual meeting of this Association.

MR. HJELLUM: I so move.

MR. DEGNAN: I assume there will be no discussion. If not, all those in favor signify by the usual sign. (Aye) Contrary, same sign. Motion is carried. Will Mr. Pringle come to the platform. I might at this time, gentlemen, introduce to you Mr. Kenneth G. Pringle of Minot who has been active in the State Bar Association in his capacity as Chairman of the American Citizenship Committee. He has served on several State-wide panels of this Association. He is Chairman of the Sub-Committee on Economic Survey. At this time he would like to give this meeting his report.

REPORT OF SUB-COMMITTEE ON ECONOMIC SURVEY*

MR. PRINGLE: President Tom, members of the Bar. I think that clock is a little slow. I don't know how much time Tom will give me here this morning but at the outset let me say that my report is reduced to writing, it has been mimeographed and my purpose here this morning is to highlight that report and call your attention to some of the things that

*EDITOR'S NOTE:—"There is nothing does a young lawyer so much good as to be half starved; it has a fine effect."

Lord Eldon, 1 Twiss, Life of Eldon 134

we think are important. Copies of this report will be passed out but before any of you look at the report, I would like to experiment just a moment here. We have come up with responses from 70% of the lawyers who are actively engaged in the practice of law or who are using their law training in an employed status. Don't open the report, please. I am interested in knowing what the opinion of the group is on the results of one phase here. We came up with a median figure as to the average net incomes and also an average figure of net incomes. The average income was determined by totaling the reported earnings and dividing this figure by the number of individuals reporting within each category. The median figure was determined by sorting the incomes reported from highest to lowest and selecting the income which had an equal number of respondents above and below within each category. I would like to know what your opinion is as to what the results of this survey show. How much of you would say that the median—this is practicing lawyers only—the median figure would be in the neighborhood of seven thousand dollars? (A show of hands) How many would say it would be in the neighborhood of eight thousand dollars? (A few hands) How many, nine thousand dollars? (A few hands) How many, ten thousand dollars? (Two hands) How many, eleven thousand dollars or above? (One hand) Well, gentlemen, it is ten thousand dollars in North Dakota.

Before getting into the items that I would like to call your attention to in the report, I would like to briefly tell you what this represents. We sent out some four hundred and fifty-eight questionnaires. We got a list of the lawyers by sending copies of the licensed attorneys to the members of the Bar in the communities and counties over the State and eliminated those that were known to be non-practicing, and we did not circulate the Judges. We did send out to all the practicing lawyers and all who are employed full time, either by corporation, lawyer firms or by governmental agencies. The response was excellent with some seventy percent of the lawyers circulated returning their questionnaires, so the figures here are reasonably accurate. It is a reflection of the entire Bar of the State. On behalf of the Committee I would like to thank everybody in the room and I am sure that everybody here responded one hundred percent to the circulation of the questionnaires and that your own personal data is included in the report that is before you. Some of the figures that you find in this report may not add up exactly. For example, some indicated they did answer some questions that were meant for non-salaried lawyers, so there are a few of these figures that might not be exactly accurate but they are pretty close. The I.B.M. machine that was used to sort out the data didn't pick out some of these little discrepancies but they are minor. Another thing I might point out before I get into the report is

that it amazed me that about, oh, roughly, seven or eight percent of the non-salaried practicing lawyers responded did not seem to know what their gross income was, or reported gross or net incomes exactly. So we had to go through it again to sort out some of those figures in order to give the report more accuracy than would have been reflected if we would have included those figures. Now, going into the survey. Sixty salaried lawyers responded to the survey and of this number 31.7% were employed by a law firm and almost 48.3% were employed by a governmental agency. That means there are approximately 85 lawyers who are employed full time in the State, if you take the 70 percent figure and apply it to the total number.

Now, turning to page two, you will get into the 'meat' of the report from the standpoint of salaried income figures. Question 2 at the top indicates a North Dakota Statewide average salary of \$7,607.00. And if you look below, you will note that in 1959 Minnesota's statewide average was \$7,000.00. We're above there. I think that's only place where we are above the Minnesota, Illinois or Missouri surveys. The Committee had the surveys of these states made available to them. You will note that Illinois, outside of Chicago, had an average of \$8,200.00 and Missouri back in 1957 had an average of \$9,500.00. We don't have a great breakdown or very much of a breakdown on those salary figures because the I.B.M. sorting that we did, did not include, for instance, the breakdown as to the age groups; but we do have some of those breakdowns in the report on the practicing lawyer group.

Now in Question 3 answered only by non-salaried lawyers you will find that 263 responded and, again, that might be wrong by three, four or five figures. That would reflect about 375 practicing lawyers if you apply again the 70% figure. You will note the breakdown that almost half of those lawyers are "solo" practicing lawyers, the largest group, and almost 29% are in the two partner firm. I will try to pick a spot to close with until after lunch. I think that will be at the end of the next page.

The next page gets us into the average annual gross income and annual median gross income and also the average net income and the median net income of non-salaried lawyers in the State of North Dakota. The gross figure is a report from about twenty-two less than the net figure because of the discrepancy that I reported here earlier. You will note the gross income for North Dakota is \$17,721.00, that is, the average gross income; and the median, that is, half above and half below, is \$15,450.00. If you compare the average figures with the Minnesota and the Missouri average figures, you will notice that they are, that is, the Minnesota and the Missouri figures, they are about three thousand dollars higher than

ours. For Minnesota in 1959 it was \$20,580.00 and something over a thousand dollars higher in Missouri three years previous. Then you get down into the net figures which are the important ones to everyone. The average is \$11,653.00, which is the figure that seems to have surprised most people that I have given the figure to prior to today and \$10,000.00 median obviously is a surprise to many of you who guessed "seven" or "eight" or "nine" thousand. Now if you note the Minnesota and Missouri figures, you will note that we are below again. In Minnesota you will note it was \$14,120.00 and in Missouri in 1957 \$12,753.00. I am not going to go into these next tables. I think maybe you will find a little opportunity to look at it a little in the remaining portion of the report and our recommendations from the Sub-Committee as to what we might do with these things. Thank you very much.

MR. DEGNAN: My apologies to Mr. Pringle for not getting the time straight. It will be the first order of business in the meeting after lunch. We will now adjourn to the Plainsmen Hotel for our main luncheon and we will be back here right after lunch is over.

(After Lunch)

MR. DEGNAN: The Third Judicial District has elected James B. Graham as President, Robert Eckert as Vice-President. The Fifth Judicial District has elected Richard H. McGee as President. I should like to extend a credit now to Robert Vaaler of Grand Forks for assisting this meeting by being a standby speaker for the sectional meeting. Now we will start the afternoon session and we will return the microphone to Mr. Pringle.

MR. PRINGLE: Thank you, Tom. In picking up where I left off just before lunch in this report of the Economic Survey that was conducted. Before I give you again some of these figures, highlighting the report that we will go through briefly with you, I might just mention again that the information was actually tabulated from the questionnaires with the assistance of I.B.M. machines from a firm in Minneapolis that did the work for us. The questionnaire itself was adapted from questionnaires that have been used in other states. Minnesota, in particular; Missouri and Illinois as well. They were adapted to our own local North Dakota state situation as concerns population group and so on. Some of the questions and the breakdown of the questions in other states did not fit our own State of North Dakota situation.

Now going on to the questions and the tabulated information. I'll ask you in your report to go to page 3, where we left off this morning. Noting under question 4 and 5 which were answered by non-salaried lawyers only, the gross and the net

income figures for those non-salaried groups. The average or the mean average net under Question 5 being \$11,653.00 compared, you will note, to the \$14,120.00 for Minnesota in 1959 and \$12,753.00 for Missouri for 1957. I could not quote a comparable figure from the Illinois tabulation that would mean anything to us primarily because of the Chicago figures. Now compare that if you will to the \$7,607.00 average and the \$7,000 median figure for employed lawyers in the State. It seems to point up the fact that while we are below other states in terms of our non-salaried group, we are above in the salaried group; and I think it also points up the need for an emphasis in getting an increase in salaries for the employed lawyers, both governmental, corporation, and in law firms over the State.

On the bottom of Page 3 you will find a table which shows the breakdown by population groups. The breakdown is different than some of the other states like Minnesota, Missouri, and so on, so that we cannot make comparisons. But I think the net income figures and the gross income figures by population groups may be of interest to you. You will note that in the "under 1000," "1000-2500," "2500-5000," groups that the net income figures are quite similar and there is a jump in the "5000-10,000" and "over 10,000" group to over 13,000, and 13,260. I am at a loss to understand the figures in the "2500-5000" grouping where you will note the overhead percentage is up to 43.7%. I have no explanation for that. That is what the questionnaires show. Why that particular group should have such a high overhead compared to the average of the State, I don't know. Maybe some of you in that "2500-5000" group will have the answer.

Then jumping over to page 4, I think you will find that table of considerable interest because we have included there the nationwide figures from 1954. Now those figures are based on the Internal Revenue Service gross and net incomes figures from the income tax returns. It is the only nationwide figure that could be used here to compare with our own North Dakota figures for 1960, and I have also thrown in the Minnesota 1959 figures and the percent of overhead, in the far right column, you will note does not vary too much from the solo, the 2 partner, the 3 partner, the 4 partner, the 5 thru 8 and the 9 & over partner firms. The solo being somewhat higher and the rest of them being somewhat on par, that is, about one-third of our gross being overhead and our net being about two-thirds of gross. The figures in the second from the right column show the individual average net income arranged accordingly by size of firm and we find that the solo is \$9,020, the 2 partner firm is \$10,570 and the 3 partner firm being over \$17,000, and when you compare those with the Minnesota and the U. S. figures, 1959 and the U. S. in 1954, you will note

that we still have some to go. But, interestingly enough, the 3 partner firms in North Dakota have a higher average net than Minnesota. The per cent figures, that is the per cent of our lawyers, practicing lawyers, who are practicing solo compared to the Minnesota and the U. S. figures, I think they are interesting. We are higher in percentage in the 3 partner firms than either Minnesota or the U. S. figures and we are somewhat below on the solo, particularly below on the 1954 U. S. figures, nationwide figures.

Jumping over again to the next page, Page 5, you will note that we have set up a table showing the same data, both net and overhead by the number of years of practice. I think, again, that shows an interesting comparison. The net income, of course, goes up as we would assume with years of practice. The overhead goes down the same way. You will note that with 20 or more years of practice it goes down to 29.8% of overhead; whereas the under 5 years group has 39.6% overhead which is above the statewide average or which is about one-third.

The next question, Number 6, I'm not going to dwell on it at length. I have no tabulated breakdown on the type of practice. We did not include the term "general practice" in that breakdown, but you will note the "Probate & Trust Law" on Page 6 has the largest number. They indicated that as the number one item of their practice, accounting for the largest part of their practice.

Question 7 on Page 6, the replies indicate that there are an average of 1.4 full time salaried lawyer assistants employed in the offices of those 36 who replied and they were paid an average salary of \$5,502.00. Now that is lower than the average salary for lawyers employed by law firms as shown on Page 2. The figure on Page 2 comes from the employed lawyers themselves; the figure on Page 6, Question 7, coming from the employer lawyer. He's got it lower here than the actual average figure for those salaried lawyers in law offices. Likewise you will notice the average pay for secretarial and other help was \$2,915.00 as compared to—well, you can compare that with your own average in your own office with that figure.

Question 9 on Page 6, there's an interesting breakdown there. The number of lawyers reporting in each of these several years of practice categories. I was somewhat surprised at the number of lawyers in the 20 or more years category.

Then going over to the next page, I am going to touch only on a couple points on these because there are just a few points of emphasis that I want to make. Question 10, of course, the breakdown is according to age of the practicing lawyer. The highest number comes in that 31 to 35 bracket and the lowest, of course, in the over 65 group.

Question 11, the population of the municipality, you will notice that 173 out of a—I don't know what the exact total is here, it would be somewhere around 250 or so—report practicing in a community over 10,000.

The average lawyer in North Dakota as you will note in Question 12 has 3.3 dependents—that includes wife and children, parents, and so forth.

Questions 13 at the top of page 8 amazed me to find that 171 of those reporting did not carry any type of malpractice insurance. Finally in the last paragraph of the report you will find that this is one of the points that the Committee believes should be emphasized in the future. Malpractice insurance, do not confuse it with the report that was given this morning on the Clients' Security Fund because the one will not do what the other will do. I think we need this malpractice insurance. Note under that same question 13 how few have very high limits of coverage. There's only 19 in the hundred thousand, 7 in the seventy-five thousand, 3, two hundred or more. Frankly, in our own office when I got these figures, I checked on our own coverage and we increased the limits on the policy. We found it was very reasonable to increase the limits, also.

Question 14 makes an interesting study with a hundred and twenty-two out of the reporting lawyers—I presume there are about two hundred and fifty in that group—reporting that they had net estates, excluding life insurance of twenty-five thousand or less, with nine reporting over two hundred thousand. So note the average life insurance in effect would be about thirty-eight thousand dollars.

Table IV gives the breakdown of the net personal estates of lawyers by population groups, which is rather interesting. I am not going to dwell on it, but I think if you will study that you will find it a little bit startling to you. Two hundred and nine lawyers reported that they were able to add to their net estates from income from their law practice.

Now getting down to Question 16 we are getting into some of the meat of this report. Please note that only fifty-eight of some two hundred and eighty lawyers that were practicing, knew how many chargeable hours of practice they had in 1960. That fifty-eight reported an average of some seventeen hundred and thirty-seven chargeable hours which was to me, from my own personal experience, is suspect. I don't think we can count on that figure of 1737 hours. I believe that if we had accurate figures from the majority of the lawyers across the State, that it would probably be close to thirteen, fourteen, or fifteen hundred annual maximum chargeable hours on the average for the lawyers in North Dakota. So don't be misled by that 1737 reported as the average number by 58 lawyers. I think it is suspect. One hundred and eighty-four said they didn't know how many chargeable hours. Yet over on Page 10

in Question 18, we find that 120 lawyers did say that they keep time records for billing purposes. One hundred and thirty-three did not keep time records. There we are getting into some real important statistics from this report. Note in Table IV on Page 10 where we have set up the percentage of timekeepers by three different categories. First you will note the solo, 2 partner, 3 partner, 4 partner and 5 and over partner, and then by population groups and then by age groups. The three partner firms and the four partner firms had the highest percentage of timekeepers. The solo and five or more—the five or more is a surprise to me—shows the smallest percentage of timekeepers. Then when you get into the population groups, the five thousand-ten thousand group shows 70.6 per cent timekeepers compared to a much smaller—and I am not surprised, but this is the place where I would like to say that I think it is just as important for a lawyer in a 1000 or under community to keep time records as a lawyer in a larger community. The age grouping was a surprise to me—and maybe it shouldn't be—but the 61-65 grouping was 64.3% timekeepers and next to that is your "under 30" group, your younger lawyers, who are 55.2% timekeepers.

Then when we get over to this next page, I think this table VI outside of the average and median figures on income that have already been covered, is probably as important an aspect in this report as anything. They are broken down to Timekeepers, Non-timekeepers by gross and net income and then compared to the average gross and the average net income and you will notice that the timekeepers are way ahead of the non-timekeepers on the statewide average and there is a big gap in both the gross and the net figures for timekeepers and non-timekeepers; while the overhead is pretty much the same in all groups. In other words, timekeeping pays. That has been shown by other statewide surveys and I think it is shown even more dramatically in our own North Dakota survey and in some of the others that have been conducted previously. Someone has asked me, "Who is the person who wants over '\$40,000.00 as a minimum income to maintain a decent proper standard of living' " and I don't know. But it is one person in the 30 to 35 age group, gentlemen. I looked it up. I had to go through quite a few questionnaires to find the answer to that because I was interested in knowing whether it was someone that was making about that right now or was it someone else. I frankly think it was somebody else. Because as I recall in going through the some 320 questionnaires to get a preliminary average figure, I think the highest net income recorded was just under forty thousand, as I recall. The lowest net income that I recall was something like twenty-four hundred. We don't know where that came from. It might have been from someone who had worked only part of the year.

Question 20 on the last page rather surprised me. Particu-

larly in view of some information that has come before this meeting earlier about the number of vacancies for lawyers that could not be filled out of the current graduating class. Two hundred and thirty-nine of us said that there was no need for an additional lawyer or lawyers in my area in the near future. I believe that figure, probably, is subject to some question.

Interesting enough in Question 21, there were thirty-six lawyers honest enough to admit that they do generally charge fees below the minimum fee schedule. I would like to know who they are and have an opportunity to sit down and talk with those fellows, but here is another point of interest, there are two hundred and fifty who do not generally charge fees below minimum suggested fee schedule; and yet if we take the average chargeable hours and our minimum hourly rate of fifteen dollars, and even if we reduce that 1737 average chargeable hours to what I believe, from contact with other offices and our own statistics from the last two years, it would be a more accurate figure of around 1400 average chargeable hours. If you multiply that out you are going to get an average of about \$21,000.00 gross and if we apply our average statewide overhead to that, we are going to come up with a net figure, average, of about \$13,800.00, which is a couple thousand above the statewide average for 1960, which to me, if you take your average 1400 chargeable hours, all of us had applied at least the minimum of fifteen dollars per hour, we would be a couple of thousand dollars above the average income as reported by lawyers in 1960. So I think that we are probably are generally charging fees in line with the minimum fee schedule but a lot of us obviously aren't charging the minimum fee all the time, which I think is an item that can stand some correction.

On the last page of the report and bringing this to a conclusion you will note in the next to the last paragraph where it says this:

"Everyone studying this report will undoubtedly reach certain obvious conclusions. Among these are the need for more and better time records, more lawyers covered by malpractice insurance with higher limits, great efficiency in our office operations, more complete and general adherence to the minimum fee schedule, and our continued efforts to raise the overall economic status of the North Dakota lawyer, both salaried and non-salaried."

And then coming back in conclusion to this question of timekeeping. The facts speak for themselves on the importance of it. I can speak from personal knowledge of having in our own firm the Sans-copy system of bookkeeping and timekeeping installed for some time over two years. Several have asked, "What is the cost of that timekeeping bookkeeping system?"

In 1960 the cost per man in our office for the timekeeping records was \$36.50. The total cost, including the bookkeeping, checks and other supplies for the entire use of the Sans-copy system was \$92.00 per man. The cost of the system, that is, the annual operating cost of using that system is more than offset several times just by the time saved of the bookkeeper, because she spends just a very small fraction of the time she used to spend in keeping just our books. Timekeeping pays. I have investigated several different timekeeping systems. Sans-copy is what we are using, it works, it is easy to operate, it's not costly and whether you are a one-man firm or whether a two or a five or a ten-man firm—I don't think it makes a bit of difference, it's equally applicable—you need a system like that or you need some other system that is equally as good so that you keep track of your time and get paid for what you do for your time. I think that is the main point for emphasis that should be made from this report because there has been most dramatic evidence—the report brings out that most dramatically—that the difference between the timekeeping and the non-timekeeping lawyers is there. It's there in good, big, round dollars, and I think if we were to start there as an Association in addition to emphasis and continued emphasis on adhering to the minimum fee schedule or higher, that we would see a year from now, two years from now, a great change in the figures that come up on another survey. Thank you very much.*

MR. DEGNAN: Certainly the Sub-Committee headed by Mr. Pringle and the Legal Economics Committee headed by Mr. Greffenius, we are indebted to both of them, a vote of thanks to both of them for this splendid report. Now, it is slightly out of order because he had a hearing today, but I should like Judge Eugene Burdick to come to the platform on the matter involving the Uniform Laws Committee.

REPORT OF UNIFORM LAWS COMMITTEE

JUDGE BURDICK: Your Committee begs leave to report that progress in the field of Uniform Laws was made during the past year. Several Uniform State Laws promulgated by the Conference of Commissioners on Uniform State Laws were enacted.

By the passage of House Bill 875 the Legislature enacted the Uniform Securities Ownership by Minors Act and it goes into effect July 1, 1961.

By the passage of House Bill 915 the Legislature enacted the Uniform Testamentary Additions to Trusts Act.

By the passage of House Bill 821 the Legislature enacted

* The Economic Survey will be printed in a subsequent issue due to considerations of space.

the Uniform Simplification of Fiduciary Security Transfers Act.

The Legislature defeated House Bill 918 which would have enacted the Model Unauthorized Practice Act.

The Legislature defeated House Bill 747 which would have enacted the Uniform Commercial Code.

Your Committee recommends that efforts be continued to secure passage of the Uniform Commercial Code. By the end of 1961 it is estimated that one-fourth of the several States will have enacted the Uniform Commercial Code. While House Bill 747 was passed by the House, it was killed by a motion to table on the floor of the Senate after the Senate Judiciary Committee had favorably reported the Bill for passage.

Respectfully submitted, Eugene A. Burdick, Chairman, Myron Bright, Frederick Wm. Greenagel, Donald C. Holand, Dean O. H. Thormodsgard, Richard H. McGee, Frederick E. Whisenand, Jr., C. Emerson Murray, L. T. Proul.

MR. DEGNAN: Thank you, Judge Burdick, and the motion is that the report be received and adopted. Is there a second?

MR. JESTRAB: Second that.

MR. DEGNAN: Hearing no requests for discussion, all those in favor signify by the usual sign (aye) contrary, same sign. I would like at this time to ask unanimous consent for the purpose of the President stipulating that all reports of committees which are on file and which will be published in the bulletin become a part of the record of this session of the General Assembly and as a part of its permanent records, including those that have not been read. Hearing no dissent, the chair declares that all filed reports are a part of the permanent record of this Assembly.

The chair now recognizes the newly-elected President, Mr. Oehlert, on the Budget.

REPORT OF BUDGET COMMITTEE

MR. OEHLERT: President Tom, ladies and gentlemen. We are very happy to report on behalf of your Budget Committee. This will be in the nature of two summarizations, the first is to report what has occurred last year or the ensuing fiscal year. You may be interested to know, some of those who don't recall, that our fiscal year runs from June 15. So our fiscal year has been concluded on June 15 and there is always a little rush to get the final figures in and get them embodied in a summarization of this kind. The Auditing Committee will make a subsequent report, I assume, while I haven't had a chance to talk to Mr. Peterson, but he will merely indicate whether the thing has been found accurate, and I see no necessity to repeat all these figures unless Mr. Peterson feels it is necessary to do so. Now, first after the completion of your

fiscal year as budgeted which was completed on June 15, 1961 last, we had a total actual income of \$39,461.20. These are general totals. I'm not going to give you all these categories. From that we must deduct the actual out-of-pocket expenses of \$36,445.56 leaving an excess of income over expenses of \$3,015.44. That is reconciled with our actual cash. Now, for fear that some of you may draw some false conclusions from this fact that we have operated in the 'blue' this year compared to the year before, this is the first full year of which we have had a full time Executive Director. Obviously, this was the year that we had sort of a shake-down cruise, you might say. It turned up very well. But I don't want to deceive you, the reason that it turned up well, was because your Committee, while they continued to do their work, were under the admonition somewhat, that is the officers and the Budget Committee and by consolidating their cars, getting together in cars, riding together in cars and keeping down mileage; your officers not expending the full budgetary allowances allowed in the budget. This figure of excess of income over expenses was due to those two main categories. So I don't want anyone leaving this room or this Annual Meeting to say, "Well, it looks like our voluntary assessment deal is working out fine." On that score I would say it is only a fair representation of what our voluntary assessment should be. Now, on that particular item, unless somebody has some inquiries on particular items, I thought you would like to know, on that voluntary assessment, we actually took in on that \$9,285.00. These figures, of course, will appear in the report of the annual convention proceedings. You may be interested further to know that—to know—how many members contributed to that, so if you will divide the two, it won't come out quite even because of a little disparity in allocation but it amounts to 371 voluntary payments of the requested voluntary assessment. Now, we had hoped that that would be 500 instead of 371, and so one of the objectives of the new administration will be to try to increase that. Now, if it were not for these savings of the committees and your officers, we would have run in the red because we did not receive the anticipated income from the voluntary assessments. Now, that briefly gives you a report of our finances for the completed fiscal year and summarizing the amount in the blue, the \$3,015.44. After all, we are concerned with actions and not so much the specific items. If anyone has any inquiries on the specific items, you can refer to the report as it appears in the meeting's report of Annual Meeting, and get them there; otherwise, unless I hear some inquiries, I will proceed on to the report, the so-called second part, what our budgetary requirements will be for the new fiscal year which commenced on June 15, 1961 last. Now in the light of the fact that we now have a full year's experience with a full time Executive Director, this Committee is rec-

ommending—ultimately I will move for its adoption—a tentative budget in the light of the categories that have been enumerated before in previous reports of this Committee, an overall expenditure of \$42,945.00. Now you may well inquire, “Well, Mr. Chairman, of the Budget Committee, if your income last year was only actually \$39,461.20 and you are going to spend approximately three thousand dollars more this year, so far as any anticipated budget, where is the money going to come from?” Well, frankly, it will be the policy of your new administration to balance the budget. If necessary, we will have to cut on the committees’ and the officers’ budgetary allowances again, like we did recently, and ask for the chairmen to meet and try to remain under the budget allowed to them without in any way reflecting on the quality of the work of the committee. But like everything else costs are advancing. Two items that we just had recommended at the completion of the last Executive Council meeting which concluded Wednesday evening, they are recommending to the new Executive Committee. One, that the Judicial Council send an emissary to the National Conference of Juvenile Commissioners at San Francisco. We are recommending an allowance there of \$350.00 which has never been in the budget before as an item. That was fully discussed and the old Executive Committee are recommending that it be included in the budget which will be adopted by the new Executive Committee tomorrow morning. Incidentally that meeting starts at nine o’clock tomorrow morning at the Plainsmen Hotel. Now we also had an item for the Junior Bar Conference which we are including as a new item in the new budget of a \$150.00. Coupled with what looks like a realistic appraisal of our budgetary requirement next fiscal year, we arrive at this grand total of \$42,945.00. Our income at the present time as anticipated is approximately \$3,000.00 less than that, but somehow, someway, we hope to balance that budget and we hope to—that’s one avenue of approach—the voluntary assessments from the 371, we hope to push that up closer to the figure of 500 which will take care of the balance; and the administration hopes to carry on a very thorough solicitation in that regard.

Now, Mr. Chairman, at this time then, this is your report of your Budget Committee and we move that the report be accepted and filed and, if necessary, adopted; and then after this motion, I have another motion with respect to the continuation of the \$25.00 voluntary assessment.

MR. DEGNAN: It has been moved that the report be adopted. Is there a second?

A VOICE: I will second it.

JUDGE BURDICK: Just a correction, Mr. Oehlert, you have indicated that it was the National Conference of Juvenile Commissioners; actually it is the National Conference of Juvenile Court Judges, and I understand that Judge Lynch has been designated to go.

MR. DEGNAN: The motion is so corrected. Hearing no further comment, all those in favor signify by the usual sign (aye). Contrary same sign. The motion is carried.

MR. OEHLERT: We have the further motion to make, that the \$25.00 voluntary assessment of all licensed lawyers in the State Bar Association be continued for the new fiscal year which is now ensuing June 15, 1961, 1962, on the same basis of \$25.00 per capita.

MR. DEGNAN: You have heard the motion, is there a second?

MR. DAHL: I'll second it.

MR. DEGNAN: All those in favor signify by the usual sign (aye). Contrary, same sign. Motion carried. Now, on this same line I would like to introduce Mr. K. S. Peterson of Minot on the Auditing Committee report.

REPORT OF AUDITING COMMITTEE

MR. PETERSON: Mr. President, members of the Bar, our report is prepared and filed. We have examined the statement made by Harvard L. Babcock of Dickinson. The audit appears to be complete, detailed and a true statement of the financial status of our Association. It is true, as has been said, that we have had an increase in our net worth, however there are some items, as he has discussed, that will possibly decrease our net worth this next year. We feel that it is difficult, if not impossible, to examine the audit overnight and to give a complete report. We feel therefore, and it is the recommendation of the Committee that the Audit Committee be appointed in advance of the Annual Meeting and that it have an opportunity to fully analyze and review the report for the Association. Mr. President, I move the adoption of the report.

MR. DEGNAN: Is there a second to the motion?

MR. PRINGLE: It is moved and seconded that the Audit report be adopted. I think Mr. Peterson neglected to tell you that this was the first time we have employed a C.P.A. to make the audit of this Association so the material supplied to his Committee did have a C.P.A.'s certification on it. Any further questions? All those in favor of adopting the Audit report signify by the usual sign (aye). Contrary same sign. Motion carried.

The chair now recognizes Lynn Grimson, Chairman of the Resolutions Committee. Mr. Grimson.

REPORT OF RESOLUTIONS COMMITTEE

MR. GRIMSON: President Tom, members of the Bar Association. The Executive Committee referred to the Resolutions Committee three matters which had been presented to it for resolution. The first matter, I'll read the resolution and then move its adoption and then open it up for discussion from the floor.

Resolution 1. WHEREAS, Senate Bill 1855 and House Bill 7533 have been introduced in the Congress of the United States; and

WHEREAS, said bills provide for dividing North Dakota into two judicial districts to be known as the Eastern and Western districts of North Dakota; and

WHEREAS, The industrial and agriculture growth and resource development within the state has caused increased litigation in the Federal Court; and

WHEREAS, Having a limited number of authorized places for the holding of Court in North Dakota resulted in great hardship, inconvenience and expense to litigants; and

WHEREAS, the best interests of justice will be served by dividing the State of North Dakota into two districts;

NOW THEREFORE, be it resolved that the State Bar Association of North Dakota in annual meeting assembled go on record in support of Senate Bill 1855 and House Bill 7533;

BE IT FURTHER RESOLVED that the Congressional Delegation of the State of North Dakota be and hereby is respectfully requested and urged to support such legislation;

BE IT FURTHER RESOLVED that copies of this Resolution be sent by the Executive Director to the members of the North Dakota Congressional Delegation, the Chairman of the Senate Judiciary Committee, the Chairman of the House Judiciary Committee and to the administrative office of the United States Courts.

I move the adoption of the Resolution.

MR. DEGNAN: You have heard the Resolution. Is there any discussion?

MR. JESTRAB: Mr. Chairman, this Resolution represents another step in a continuing battle that we in western North Dakota have carried on for about six years. The history of it is that Court is held in our section of the country only in Minot and Bismarck. Whenever we have litigation, it means

that we have to go to Minot or we have to go to Bismarck. If we have to go to Bismarck, it is a day going and a day coming back. With regard to Minot, it's at least three or four hours, and that's the same thing for the witnesses, they have to stay there. You fellows who practice in the east or in some place where they have Federal Court can't appreciate the great inconvenience and so on. We are hopeful that if the bill is passed, facilities will be provided here so that we can have a term of Court here and in Dickinson, Devils Lake and in Jamestown. A little background on this. Mr. President, could I be off the record for just a moment on this? (Statements made off the record)

MR. DEGNAN: Thank you for your discussion. Any further discussion? The chair recognizes John Hjellum of Jamestown.

MR. HJELLUM: I also speak for this Resolution and off the record. (Statements made off the record)

MR. DEGNAN: Any further discussion?

MR. GEORGE SOULE: I would like to ask Mr. Jestrab, how much of a study has been made of this whole project. (Mr. Soule comes to the platform)

MR. DEGNAN: In view of the fact that we are running short of time, if you will permit me, I would request that all speakers limit their remarks to two minutes.

MR. SOULE: Mr. President. I am from the eastern part of the State, as some of you well know, and I hate to speak on this in view of the great hospitality we have had out here, but it does seem to me in a small State like that that we are undertaking a very serious proposition when we come on short notice like this and without any previous information to be confronted with a Resolution of this kind. I think it would be better if we could have some committee, the Executive Committee, or some other committee study it and then come back next year with the report giving us a report on the whole thing and what has been done in other states and why it should be done here. I think it should be referred to the Executive Committee or to a committee appointed by the Executive Committee to consider this matter and report at the next meeting.

MR. DEGNAN: The motion is out of order. There is a motion before the house that the Resolution be adopted.

MR. SOULE: I will now move that the substitute motion be considered for discussion by the Bar.

MR. JESTRAB: I would like to answer the question.

MR. DEGNAN: Well, let's get this substitute motion first.

There is a substitute motion, that the matter of the original motion be referred to the Executive Committee for report at the next Annual Meeting. Is there a second to the substitute motion?

A VOICE: I'll second it. (Possibly Robert Eckert of Wahpeton.

MR. DEGNAN: The motion is seconded. Have we a good parliamentarian in the house. Brother Shaft, is a substitute motion debatable?

MR. SHAFT: Yes.

MR. DEGNAN: That would be my rule, too. You may now speak on the motion. Mr. Jestrab, you are limited to two minutes.

MR. JESTRAB: The two things, the question is, "Why are we suddenly confronted with this?" This isn't anything sudden. We have been working on it for at least five years or six years that I know of. Number two, the reason why we need action on it is because the Congressional delegation from North Dakota asked for action now from this Association in convention assembled so they can use that before the committee. It is our understanding that this matter will come out of committee favorably reported and furthermore that our problem is identical with that in two other states, and it is because of this unity of interest, again, as we understand it, that our request is going to be favorably considered and we do need action now; and I ask that you vote against the substitute motion.

MR. WALTON: (Ray Walton of Williston) Mr. President, I move that the substitute motion be tabled.

MR. DEGNAN: You are making this thing all complicated.

A VOICE: I'll second it.

MR. DEGNAN: The chair will rule that the motion to table the substitute motion is in order. A motion to table is not debatable, therefore, in voting on a motion to table, you are, in effect, knocking out the substitute motion and reinstating the original motion. There is a motion to table. All those in favor signify by the usual sign (aye). Contrary, same sign. (Some nos). The motion on table has passed and we are now back on the original motion. Is there any further discussion? All those in favor of the original motion, which is to adopt the resolution of the Committee signify by the usual sign. (Aye) Contrary, same sign. Resolution is adopted.

MR. SOULE: I would like my "no" vote entered in the minutes.

MR. GRIMSON: The next resolution we have from the Resolutions Committee:

"WHEREAS, legislation has been introduced in the Congress of the United States providing for the appointment of a public defender in the public courts; and

WHEREAS legislation has been introduced in the Congress of the United States providing for compensation to be paid to attorneys to defend indigent defendants; and

WHEREAS a substantial and real hardship has been worked upon the attorneys of this State by reason of serving without compensation in extended and costly defenses; and

WHEREAS the practice of law in North Dakota is largely on an individual or small partnership basis and serving without compensation is a substantial financial hardship to the individual attorney involved;

NOW THEREFORE BE IT RESOLVED by the State Bar Association of North Dakota in annual meeting assembled that the provisions of aforesaid legislation are fair and equitable to both the defendants and the attorneys of North Dakota and would eliminate needless hardship upon individual attorneys; and

BE IT FURTHER RESOLVED That either the appointment of a public defender or compensation for attorneys appointed to defense of indigent defendants within the discretion of the Court would eliminate hardships such as have arisen among the attorneys in North Dakota; and

BE IT FURTHER RESOLVED that the Congressional Delegation of the State of North Dakota be and hereby is respectfully requested to actively support such legislation providing for the appointment of a public defender in the Federal Courts or compensation in the discretion of the Court for lawyers appointed to the defense of indigents; and

BE IT FURTHER RESOLVED that copies of this Resolution be sent by the Executive Director to members of the North Dakota Congressional Delegation, the Chairman of the Senate Judiciary Committee and to the Chairman of the House Judiciary Committee and to the administrative office of the United States Courts."

Mr. President: I move the adoption of this Resolution.

MR. DEGNAN: You have heard the motion, is there a second?

MR. LETNESS: I second it.

MR. DEGNAN: Any discussion? All those in favor of the motion signify by the usual sign (Aye). Contrary, same sign. Motion carried.

MR. GRIMSON: The next Resolution arises from a request

from the North Dakota State Medical Association to adopt the Resolution opposing legislation—I believe it was the Smith Bill—relative to payment of sickness costs of the aged. Your Resolutions Committee submits the following Resolution.

“WHEREAS there have been introduced in the Congress of the United States various bills relative to providing for the sickness costs of the aged; and

WHEREAS this matter has been considered by the American Bar Association; and

WHEREAS the American Bar Association has adopted a policy on alternatives of such types of legislation to be determined by the following principles:

1. If the voluntary insurance and prepayment plans are adequately available to those who desire them, the medical care of the aged can be adequately financed thereby, supplemented by old-age assistance and state, county, and municipal programs.

2. If, however, a new government program becomes imperative, a state program would be preferable to a joint federal-state program, and a joint federal-state program would be preferable to a federal program.

3. If a new government program of medical care of the aged is initiated, a program more closely resembling grants-in-aid for old-age assistance would be preferable to an extension of old-age and survivors insurance.

4. It would be desirable to include in any program of medical care the “contracting out” or administration through such prepayment and insurance organizations as Blue Cross-Blue Shield, group practice plans, and private insurance companies.

5. It would be desirable to make any government program of medical care for the aged that becomes imperative optional rather than compulsory for the aged individual.

NOW THEREFORE, BE IT RESOLVED by the State Bar Association of North Dakota in annual meeting assembled that the policy of the American Bar Association as above set forth be adopted by this Bar Association.

BE IT FURTHER RESOLVED that copies of the Resolution be sent to members of the North Dakota Congressional Delegation.”

I move the adoption of this resolution.

MR. DEGNAN: You have heard the motion, is there a second?

MR. LETNESS: I second it.

MR. DEGNAN: Is there any discussion?

MR. JESTRAB: It seems to me that—I hate to oppose anything the American Bar Association does—but it seems to me that this is a political matter. It is fraught with all sorts of political implications, I think.

MR. DEGNAN: Is there any further discussion?

MR. LASHKOWITZ: Mr. President, how many members are on this Resolutions Committee?

MR. DEGNAN: There are three members.

MR. LASHKOWITZ: I think this involves a great deal of research, a great deal of study and at least reserve discussion as to whether we as a body want to approve or dissent from it. I think it ought to be done by Committee. I think a committee ought to study it. I do see some political implications.

MR. DEGNAN: You have heard the motion. Is there any further discussion? All those in favor signify with the usual sign. (Aye) Contrary, same sign. (Mixed ayes and nos) The negatives have it. The Resolution is defeated.

MR. GRIMSON: Mr. President there was one Resolution submitted by an individual to the Resolution Committee that had to do with the matter of the plebiscite of vacancies in judicial office. Since this matter is before the Association, we are not presenting any resolution on that matter. If the individual concerned wishes to present it himself, he may. This Resolution, also, may create much argument:

“WHEREAS, superior entertainment and spacious accommodations have been provided the State Bar Association of North Dakota by the City of Williston, the Williams County Bar Association and the Attorneys of Divide and McKenzie County, and the annual meeting has been an outstanding event.

THEREFORE, be it resolved by the State Bar Association of North Dakota, that we express our sincere appreciation to the City of Williston and the County Bar Association for the superior arrangements for this annual meeting.

BE IT FURTHER RESOLVED that we express appreciation to the Honorable Sylvester C. Smith, Jr., President-Elect, American Bar Association, for his visit to the North Dakota Bar and for his inspirational remarks at the luncheon meeting.

FURTHER, that we express appreciation to Hugh Brenne-
man, Public Relations Consultant, Lansing, Michigan, for his report in a field in which we attorneys are often found wanting; to Ted Halvorson and Walter J. Bean, Trust Department,

Northwestern National Bank of Minneapolis, and to Marcel Learned, C. P. A., Boise, Idaho, for the excellent sectional meetings presented by them; as well as to all of our own North Dakota attorneys for their part in this annual meeting.

FURTHER, that we express appreciation to the law book publishers and all others who contributed to our enjoyment and learning at this sixty-first annual meeting. Joseph McIntee, Towner; John Gunness, Bismarck; L. G. Grimson, Grafton.

MR. WINKJER: (Dean Winkjer, of Williston) Mr. President, rather than referring to these two fine bar associations, I would prefer the record to show the McKenzie County Bar Association and Divide County Bar Association.

MR. DEGNAN: The record will so show.

MR. GRIMSON: In defense of the Resolutions Committee I believe that in the first paragraph we did refer to the "county associations". I wasn't sufficiently superlative.

MR. DAHL: Mr. President, the only comment I'd like to make on that last Resolution is that the adjectives used in reference to those Associations were not sufficiently superlative.

MR. SJAASTAD: (Edwin O. Sjaastad of Williston) I move the adoption of the following Resolution. Be it resolved that this Association go on record reaffirming the principle of a plebiscite of the Bar as a valuable adjunct to the process of filling vacancies in judicial office under existing law, and

BE IT FURTHER RESOLVED that this assembly go on record favoring the continued use of this plebiscite until further study is made and appropriate legislation enacted.

MR. GRIMSON: Mr. President, the Resolutions Committee has had a similar Resolution presented to it which is the one that I previously referred to as not being presented. We feel that the existing rules adopted by this Association already provide for a plebiscite. We thought that it was an unnecessary resolution and also that the entire matter of judicial selection has been referred to a special committee which is considering it and which will report at a later meeting. I believe—it was the belief of our Committee, the other two members and I—but we felt that the existing status of the judicial selection was the same as it had always been and that there was no need for any further resolution.

MR. SPERRY: Mr. President, with that explanation and the terminology of the Resolution offered, I'd like to at this time move that the Resolution be tabled.

MR. DEGNAN: The motion is to table. Is there a second?

MR. PRINGLE: I second it.

MR. DEGNAN: Mr. Pringle of Minot seconded it. All those in favor signify by the usual sign. (Aye) Contrary, same sign. (Aye) The Ayes have it.

I have an announcement that there will be a cocktail party at six p. m. this evening in the Auditorium. I am also to announce when we get to the Sectional Meeting portion of the program—which will be shortly—that Marshall Learned's meeting will be held in the Chamber of Commerce board room in this building.

As soon as we finish, we will present the award, so if Mr. John Davidson wants to get those awards ready at this time we could probably start with that.

MR. NILLES: I am following the suggestion made by Mr. Lashkowitz with reference to Resolution Number 3 relative to this matter of the consideration of sickness costs to the aged by Congress. I am not too well informed on this and yet I think that it has merit and believe that this subject should be referred to committee. I am mindful of the fact that we had Hugh Brenneman on our program this morning who spoke on the subject of public relations and the efforts of the various professions in this country and that their aims and their purposes and their objects and ethics should be considered as one and it seems to me that with this request from the medical profession such as we have here, certainly it should have some consideration and thought, and I personally do not know whether it should be adopted or not, but I think we should at least accord them the courtesy of a consideration of it. And I therefore move that the contents of this Resolution Number 3 be referred to a special committee to be set up by the incoming administration for the consideration and for recommendation for action or non-action to this body.

MR. DEGNAN: Is there a second to this motion that Resolution Number 3 be referred to a special committee for consideration.

A VOICE: I second the motion.

MR. DEGNAN: Any discussion? It has been moved and seconded. All those in favor signify with the usual sign. (Aye) Contrary, same sign. Motion carried. If there is no further business, that is the end of my tenure, believe it or not.

MR. CHARLES TIGHE: I should have brought this up earlier but economic survey has shown that there are now 136 lawyers covered by malpractice insurance. I have this insurance myself. I was told that the rates are probably going to go up. Has this organization ever been approached?

MR. DEGNAN: Not in the past five years.

REPORT OF THE TITLE STANDARDS COMMITTEE

The committee met on December 16, 1960, at Bismarck, North Dakota, and on May 26, 1961, at Bismarck, North Dakota.

Following enactment of the North Dakota Century Code, the committee completed its work on the task of revising existing title standards. All title standards amended, corrected or modified have been prepared for re-printing along with a new index and Marketable Record Title Act for insertion in the title standards volume. The committee hopes that the re-printing job can be completed and distribution of the re-printed standards made to all subscribers before the end of this summer.

Most of the title standards being re-printed incorporate minor corrections and additions along with new citations to the North Dakota Century Code, Patton on Titles, second edition, and recent case citations. Major amendments or modifications have been made to title standards 1.021; 1.022; 1.024; and 1.06, however, and Executive Committee approval of such revisions will be obtained. Title Standards 3.01; 3.05; and 3.051 have been rendered obsolete by recent legislation and subscribers will be advised to remove them from the title standards volume.

Current projects and subjects under study and consideration by the Title Standards committee include the following:

1. Limitation on foreclosure of real estate mortgages, as enacted by Section 28-01-43, North Dakota Century Code. The committee is considering the adoption of a new title standard to implement the statute, although it appears that statutory amendments may be necessary in order to make the limitation workable.
2. Severance of joint tenancy estate by execution of a contract for deed. The committee is undertaking a comparison of statutes enacted in other states which rule out severance of the joint tenancy. At present, the committee is of the opinion that a severance does occur in North Dakota in the absence of a specific statute or Supreme Court ruling on the point.
3. Constructive notice of bankruptcy proceedings. Following enactment of a conformity statute (Senate Bill 133) by the 1961 Legislature, the committee is studying the possibility of further treatment of existing title standard 3.04 and is making a comparison study of Minnesota Title Standards 29 and 30.
4. Limitation on cancellation or enforcement of contract for deed, as enacted by Section 28-01-42, North Dakota Cen-

tury Code. The committee is studying this subject with interest and will consider the adoption of a new title standard to implement the statute.

5. The committee was notified of a proposal made by the Legal Economics Committee that standard conveyancing forms be prepared and adopted. The Title Standards Committee began such a project some years ago and the committee has decided to revive the project.
6. Possible implementation of title standard 1.06 in the light of enactment of House Bill 777 by the 1961 Legislature providing for notification to the state tax commissioner by the register of deeds of the recording of deeds more than six months after date of acknowledgement. The committee intends to confer with a representative of the state tax commissioner on the subject at its next meeting.
7. Uniform Partnership Act and Limited Partnership Act. During the next year, the committee will undertake study of the need and desirability of a new title standard to implement statutes governing conveyances to and by partnerships.
8. Corporate conveyances. The committee will study the need for title standards that might be necessary or desirable to achieve uniformity and clarity in connection with requirements for corporate conveyances.

The committee has obtained a new and valuable reference "A Handbook For More Efficient Conveyancing" by Professor Lewis M. Simes, published by the University of Michigan Law School (1961).

Respectfully submitted, Daniel J. Chapman, John Doerr, Jonathan C. Eaton, Jr., Ernest R. Fleck, Edward M. Peterson, John A. Richardson, Henry G. Ruemmele, Lyle W. Selbo, Paul K. Pancratz, Chairman.

REPORT OF COMMITTEE ON UNAUTHORIZED PRACTICE OF LAW*

The Committee on Unauthorized Practice of Law has held two full committee meetings during the past year and has considered a great number of cases which involved the unauthorized practice of law in greater or less degree. Much of the work of the Committee has been accomplished by correspondence and telephone calls between members of the Committee and other interested lawyers.

*EDITOR'S NOTE: "He who is his own lawyer has a fool for a client."
Proverb

The lawyers of North Dakota have indicated an interest in the work of the Committee and in the public welfare by reporting to the Committee most of the cases which were considered. It is only with the cooperation of the lawyers that the work of the Committee can be effective.

Most of the cases referred to above were disposed of by the Committee by direct action. Several cases require further investigation. One case has been referred to the Executive Committee with the recommendation that appropriate action be taken by our association to prevent further unauthorized practice by one individual who appears to be a flagrant violator.

It would be in bad taste and most unwise to make public the names of persons and corporations whose activities have been scrutinized by this Committee. Those of you who have reported instances of unauthorized practice may be assured that your report has been given due consideration, and that in each instance of possible unauthorized practice of law there has been an investigation at least to the extent that facts have been developed which have enabled the Committee to come to a conclusion.

All of the investigations involving travel and extensive interviews have been done by our Executive Secretary, Alfred Schultz. Without his help the work of the Committee would have been much more difficult and the cost to the Association would have been greater.

It is apparent that the work of this Committee on Unauthorized Practice of Law will never be finished. The continued cooperation of the members of the profession will be needed as long as the profession continues. Please continue to report to this Committee any and all instances of what you think might be unauthorized practice of law.

Respectfully submitted, A. J. Pederson, Chairman, Quentin R. Schultz, Leslie Forsgren, J. Q. Thorson, J. C. Blaisdell, John F. Lord, John B. Hart, Kermit S. Peterson, W. J. Austin, J. F. X. Conmy, Marshall T. Bergerud, Robert M. Fair, Lowell O'Grady.

REPORT OF LEGISLATIVE COMMITTEE

The Legislative Committee of our North Dakota State Bar Association approached the 1961 Session of the North Dakota Legislative Assembly with intentions to follow the recommendation made by the Bar Association's Legislative Committee of the preceding year. This recommendation provided that the Bar Association should not sponsor any major legislation for the 1961 Legislative Session. The reason for this recommendation was that the Bar Association undertook a very ambitious program in the 1959 Session and enjoyed unusual good-will and success. The old Committee felt that another

strong legislative program could easily cause us to lose the Legislative good-will that was found in the 1959 Session and could possibly antagonize many of the legislators.

With this thought in mind, your Legislative Committee invited letters from all the members of the Association concerning legislation that should be sponsored by the Bar Association. A deadline was set for these letters and your Committee met and processed them. Following this, your Committee met with the Executive Committee of our State Bar Association and presented to the State Association the different items of proposed legislation for approval by the Executive Committee. The items of proposed legislation were as follows:

1. A resolution requesting the Legislative Research Committee to make a study of the Uniform Traffic Safety Code for introduction at the 1963 Session of the North Dakota Legislature.

2. A law to permit an administrator of an estate to give various types of easements over real estate by using the procedure now used by administrators in giving oil and gas leases.

3. To amend the laws of succession, raising the limitation from \$50,000 to \$100,000 to the surviving wife when a deceased person dies without leaving issue or mother or father and is survived only by his wife.

4. A resolution directing the Research Committee to make a study of our parole and pardon system with the thought in mind of drafting corrective legislation for submission at the 1963 Legislature.

5. Raising the exemption of children and surviving spouses in North Dakota Estate Tax Returns.

6. A bill to require that estate taxes be prorated among counties where real estate belonging to the estate is located.

7. A bill to streamline the partial distribution of an estate, doing away with the requirement of a bond in cases where all taxes have been cleared and all claims paid.

Your Committee then arranged to have bills and resolutions drafted for introduction at the Session. At a meeting of your Committee during the first few days of the Legislative Session, the foregoing bills and resolutions were distributed among members of the Committee who are serving in the Legislature. The bill increasing the exemptions for estate tax purposes in North Dakota was discouraged by the member legislators. After a full discussion on this particular bill, it was decided by your Committee to forego introducing this bill at this Session.

Mr. Alfred C. Schultz, the Executive Director of our Association, was soon swamped with requests that the Bar Association sponsor and appear on many different bills. The Judicial Council had a number of bills prepared and introduced

and Mr. Schultz and other members of our Committee appeared and helped along with these bills.

House Bill No. 649 was introduced shortly after the beginning of the Session. This bill provided for the repeal of our filing fee law. Your Committee, with the help of Attorneys John Lord, Floyd Sperry, John Zuger and Alfred Schultz, were successful in defeating this bill. The constitutionality of the filing fee law is presently undergoing a Court test. This test is being financed on the one side by the Bar Association and on the other side by individual contributions from several lawyers and law firms in our State. The fact that the filing fee law is undergoing Court test was our main argument for bringing about a defeat of the bill. If the constitutionality of the law is upheld, we are almost assured of another attempt to have this law repealed at the next Legislative Session. We would, therefore, recommend that our Association somehow segregate its income and finances so that we will be better able to show the legislators exactly how this filing fee money is used and that it is used for a public purpose.

House Bill No. 870 was introduced which would have limited attorneys fees for handling probate matters. Your committee with the help of attorneys John Lord, J. F. X. Conmy, and Mr. Schultz appeared at the Committee hearing on this bill and we were successful in having it defeated. In our opinion, this type of legislation must be watched very closely in the future. The reason given for the introduction of this particular bill was that some attorneys in the McKenzie County area had overcharged and received some exorbitant fees in several probate matters. Your chairman feels that the Association should complete an investigation of the fees charged in probate matters in the McKenzie County area and a report made to the Executive Committee concerning the results of such investigation.

Several bills were introduced trying to do away with or radically amend the present County Justice of the Peace law. Mr. Floyd Sperry, with the assistance of Mr. Schultz, appeared at several committee meetings opposing these attempts to change the present County Justice law. Their efforts were successful and as of July 1, the new County Justice of the Peace law will go into effect.

The Uniform Commercial Code was introduced and Judge Eugene Burdick of Williston appeared before the committees. It appeared that the bill would pass until it ran into sudden opposition in the Senate and was killed.

A new Court Administrators Act was introduced and supported by your Committee. This bill differs from the bill that was introduced two years ago in that it provided for an appropriation from the State's general fund for the salaries and expenses of a Court administrator. It was hoped that if this

bill could be passed it would help remove some of the delays in our court system and provide a means of keeping record of the number of undecided cases, the dates that they were tried, and the time the decision was rendered. This bill had to be referred to the committee on appropriations and was killed.

Members of your Committee appeared on many other bills of interest to the Bar Association and the public generally. The greatest effort, however, was expended by your committee on the filing fee bill, the bill to limit attorneys fees in probate matters, and the County Justice of the Peace law. Judge Burdick and several other members of the Bar Association put in a great deal of time and effort in preparing and presenting the Uniform Commercial Code Act. Your chairman is grateful to all of these persons for their help and assistance. Special mention should be made at this time of the lawyer members of the Legislature who were very helpful in all these matters and without whose help and cooperation we would have been unable to accomplish the results set forth in this report.

Your chairman enjoyed working with the different members of his Committee and is especially grateful to Mr. Schultz, the Executive Director, for his time and efforts in helping with this Committee's work. A special vote of thanks from the Association is due to Attorneys Floyd Sperry, John Lord, J. F. X. Conmy, and John Zuger, who were particularly helpful on the filing fee bill and the bill attempting to limit attorneys fees in probate matters.

Respectfully submitted, Norbert J. Muggli, Chairman, John O. Garass, Walter O. Burk, Jacque G. Stockman, Robert L. Eckert, George Longmire, Harold R. Jensen, Roy A. Holand, Donald C. Holand, Elton W. Ringsak, Lee F. Brooks, Ronald W. Wheeler, Adam Gefreh, Floyd B. Sperry, Howard A. Freed, Charles L. Murphy, Ralph G. Beede, Ralph Erickson, Aloys Wartner, Jr., John Hjellum.

TRAFFIC SAFETY COMMITTEE

The Traffic Safety Committee gave a program for the League of Municipalities at Wahpeton, North Dakota, on the 10th day of October, 1960, during their annual meeting. David Kessler of Grand Forks and Odin J. Strandness of Fargo presented the program. It consisted of a talk on the problems of traffic courts and police magistrate courts and a film was shown on Court Procedure. Following the program a spirited question and answer session ensued which indicated a very interested group. The program sought to stimulate interest in our traffic court conference.

The first general meeting of the Committee was held at Grand Forks on the 30th day of September, 1960. At this time preliminary plans were made for the annual traffic

Court Conference. Discussions and plans for increasing the attendance at the traffic conference were discussed. It was especially stressed that Local Municipal governments should be encouraged to send their Court Judges, Prosecutors, Police Officers and all law enforcement officers. There were no plans made for Law and Laymen's conference as the committee felt this project needed further study. Floyd Upham of the Public Safety Division of the State was requested to make recommendations for a wider participation in the Traffic Court Inventory. The Committee also urged a wider distribution of the Pamphlet on Traffic Laws.

A meeting was held at Bismarck on the 11th day of February, 1961, to make final plans for the Traffic Court Conference. George T. Dynes was appointed Chairman of the Traffic Conference to be assisted by Eugene Anthony and Odin J. Strandness. Alfred Schultz, executive director, also was of major importance in planning and executing the conference.

The Conference was held at Bismarck on the 4, 5, and 6th of May, 1961. A new innovation this year was the police school in conjunction with the regular conference. This was very well attended by an interested group and instructed by Robert H. Reeder, Assistant Counsel of the Traffic Institute of Northwestern University. We were again indebted to the American Bar's Traffic Program for their help in promoting a successful conference and especially to Milton Moskau. A very interested group of 105 persons attended the Conference which was held at the Municipal Country Club in Bismarck. The prize for the most man miles went to Williams County who had the greatest number attending in proportion to distance. The Committee owes special thanks to our Executive Director, Al Schultz, for all his work in making arrangements, mailing, and handling many details in connection with the conference. We also owe special recognition to Floyd Upham of the State Responsibility Division who did so much to make the conference a success.

The Committee expressed dissatisfaction with the driver's license status. There generally is long delay in securing of the license and also the return of license after suspension is subject to considerable delay. Views were expressed for a County Examining Officer who would have direct charge of all licenses. It still is the feeling of the members that minimum age for driver's license should be increased.

The responsibility of this Committee is growing day by day, due to the great number of new drivers every year and the continual increase in traffic accidents resulting in deaths and injuries.

The members of this Committee are grateful to all members of the Bar and all other persons who took an interest in traffic safety in our State during the past year.

Respectfully submitted, Odin J. Strandness, Chairman, David Kessler, Carlton G. Nelson, Edward C. Gillig, Martin C. Fredericks, Jr., A. T. Hackenberg, Joseph C. McIntee, Eugene K. Anthony, Wallace L. Herreid, David Garcia, George T. Dynes, Rueben J. Bloedau, Fred Arneson, William Lanier.

REPORT OF ETHICS AND INTERNAL AFFAIRS COMMITTEE*

The Committee has met twice during the past year with almost all of the Committee members in attendance. Eighteen separate matters were considered at a meeting lasting 7½ hours and held on October 11th, 1960. The minutes of this meeting covered six single-spaced pages. At the second meeting held on March 25th, 1961, fourteen different matters were considered during a four hour session, and again the minutes covered six single-spaced pages. These minutes go only to Committee members.

A considerable number of opinions have been prepared for lawyers and local Bar Associations and there has been much correspondence—well over 200 letters and copies of letters have been written. We have conducted numerous investigations both in connection with disbarment complaints and other serious matters and in connection with less serious and sometimes unfounded complaints. Letters of reprint have been written when the circumstances warranted this and we have appeared before the Executive Committee with various recommendations.

Because of the new by-laws and on account of the North Dakota statutes, and for other reasons, the Committee feels that disbarment and disciplinary procedures in North Dakota are far too slow and cumbersome. Many of us feel that the profession is not doing the proper job on these matters in this state.

In addition to the other time—concerning work of this Committee, we are continuing with our project of publishing an annotation of the Canons of Ethics with the hope that the complete draft may be ready for the printer sometime during the coming year.

Respectfully submitted, Gordon Caldis, Robert E. Dahl, Richard L. Healy, Milton K. Higgins, William C. Kelsch, Daniel S. Letnes, Francis J. Magill, Patrick T. Milloy, L. T. Sproul, Mart R. Vogel, E. T. Conmy, Jr., Chairman.

*EDITOR'S NOTE:—"An eminent lawyer cannot be a dishonest man. Tell me a man is dishonest, and I will answer he is no lawyer. He cannot be, because he is careless and reckless of justice; the law is not in his heart, is not the standard and rule of his conduct."

Daniel Webster—Speech, May 10, 1847.

REPORT OF COMMITTEE ON JUDICIAL SELECTIONS

During the past year, your Committee on Judicial Selections conducted one district plebiscite for nominations for appointment of district judge in the Second Judicial District.

A preliminary letter was sent to all lawyers of the Second Judicial District advising them of the request of the Governor to the Bar Association for a plebiscite and requesting that anyone interested who would accept the appointment might have his name printed upon the first or nominating ballot by advising the Committee. Four attorneys indicated their interest and their names were printed upon the nominating ballot. After the nomination ballot was tabulated, the names of five attorneys were submitted to the attorneys in the District involved under instructions to vote on an order of preference. Upon canvas of the final ballot, three names, together with the weighted total of each, were submitted to the President of the Association and he in turn submitted the results to the Governor. The Governor chose one of the three nominees for the appointment.

The plebiscite system seems to be well established in North Dakota and the procedure used by the Committee operated very smoothly during the one plebiscite conducted by the Committee in 1961.

Respectfully submitted, T. P. McElroy, Jr., Alton R. Kringlie, Paul L. Agneberg, Olaf M. Thorsen, John C. Haugland, Harold D. Shaft, Neil Thompson, Ralph Erickstad, John T. Traynor, Chairman.

REPORT OF COMMITTEE ON PROCEDURE

This Committee held one meeting which was shortly before the opening of the 1961 Legislative Session. At that time we went over all pertinent legislative topics which relate to our Committee and its functions. Prior to and during the Legislature, we worked closely in conjunction with the Legislative Committee of this Association. The Chairman of this Committee did appear at one Committee hearing, which was on the subject of a change in the number of judicial districts.

A number of suggestions and propositions were suggested by members of the Bar to this Committee during the year. None of these advocated any profound change in the rules. Surveys during the past two to three years of all members of the Bar have failed to uncover many major changes that are desired.

One change in Federal rules was proposed which pertained to the newly adopted rule in the District of North Dakota pertaining to advance filing of depositions. The Chairman of this Committee, having had it called to his attention by the Cass County Bar Association, did personally take this up with the

senior United States District Judge, Hon. Geo. S. Register, and also by mail with the Hon. Ronald N. Davies of Fargo, United States District Judge. It is indicated that there will not be a change in this newly adopted rule.

Although the matters taken up with the Legislative Committee will not be mentioned in detail here, they concerned such topics as the new Justice of the Peace Act, and mechanical changes in rules and procedure.

At the direction of the State Bar Association, the Chairman of this Committee did appear before the Legislative Research Subcommittee which was holding a hearing in Bismarck late in May, 1961, on the subject of Pardon and Parole Board Procedures. The Chairman of the Committee appeared as a representative of this Association. Others appearing included Hon. P. O. Sathre, Chief Justice of the Supreme Court and Ex-officio Member of the Pardon Board, the State Parole Officer, Hon. A. J. Vandal, and the Governor's Administrative Assistant, Lloyd Omdahl.

During the year interest has been shown, especially in the Burleigh County Bar Association and more recently in a letter originating with a member of the Ramsey County Bar, in the problem of unpaid appointments in Federal criminal cases. During the year the Chairman of this Committee has been in direct touch with Hon. Estes Kefauver, United States Senator from Tennessee, who is currently Chairman of the Senate Judiciary Committee. Senator Kefauver has furnished us with a copy of an excellent Public Defender bill which he has introduced. In the past, the success of such bills has been notably lacking. This matter falls into another one of the topics covered by this Committee, which is criminal law.

In February 1961 the Chairman of this Committee participated in a seminar at the University of North Dakota Law School. His topic was "Criminal Procedure". Also appearing and participating were Hon. Robert Vogel, United States District Attorney; Mr. LaVern Neff of Williston and Mr. Kenneth Pringle of Minot spoke on other topics at the same meeting.

Respectfully submitted, William S. Murray, Chairman, Francis Breiderbach, Linn Sherman, Bruce B. Bair, Jr., Frank J. Kosanda, John A. Zuger, Kenneth M. Jakes, Vernon R. Pederson, Myron H. Atkinson, Jr., Arthur Culper, Raymond Hager, James Lamb.

REPORT OF THE INFORMATION AND SERVICE COMMITTEE

The Information and Service Committee of the State Bar Association wishes to report the following activities for the year 1961:

Subcommittee on Military Law: This is the first year that this subcommittee has functioned, and little is to be reported except that Lynn Grimson, Idean Locken and Robert Burke, as members of the subcommittee, met several times and discussed generally the problems of the lawyer in military service, the legal problems of members of the military service, and the possibility of submitting articles for publication in the North Dakota Law Review or SBAND News. This subcommittee seems to have made a fair start on a worthwhile project.

Newsletter: The SBAND Newsletter has again been published and distributed directly through the Executive Director's office, and for the first time the Newsletter has gone out regularly every month during the year. It is contemplated that in the future the Newsletters will be set up in a manner whereby they will be punched in order to assemble them in a folder for the benefit of those attorneys wishing to keep a file of the Newsletters.

Subcommittee on Publication of Legal Pamphlets: This subcommittee was composed of Donald R. Hansen, Frank T. Knox, with its chairman, Charles A. Feste. The first function of the subcommittee was to revise the present pamphlet distributed by district courts to jurors at the opening of the jury term. Numerous pamphlets from other states were obtained and studied and compiled, and a revised pamphlet has been prepared. However, no funds were available this year for printing and publication of this pamphlet, and it is hoped that such publication may be made next year. Consideration was given by the subcommittee in joining with the North Dakota State Savings and Loan Association or the North Dakota Bankers' Association in printing various types of pamphlets in order to apportion and defray the cost of printing and distribution. Some progress was made along these lines, and it is indicated that such a plan might be feasible. The subcommittee also studied various systems used in other states in the distribution of pamphlets as a medium to give the public a better understanding of the legal profession. North Dakota's limited population creates certain difficulties in such distribution. At the time of this report the committee has scheduled a meeting to consider a booklet entitled "District Court Oaths" which was prepared by C. J. Schmidt, Clerk of the District Court of Morton County.

Subcommittee on World Peace Through Law: The chairman of this subcommittee is Harold W. Bangert, assisted by Honorable Thomas Burke, Myron Atkinson, Jr., John Hjellum, Norman G. Tenneson, and Mart R. Vogel. The committee designated John Hjellum as its representative at the meeting of the International Law Association at Salsburg, Austria. The committee presented a petition addressed to the North

Dakota members of the House of Delegates of the ABA with reference to the Connally Amendment. A copy of the petition is on file with the Executive Director. The committee proposed to the North Dakota television stations the use of the film "World Peace Through Law". This film has not yet been made available. Distribution to 28 members of SBAND of a special edition of the ABA Newsletter on World Peace Through Law was made.

Subcommittee on ABA Membership: This subcommittee consists of Robert McConn as chairman, assisted by Carlton G. Nelson. The program this year was changed, and the present plan consists solely of contacting all graduating law students upon admission to the bar and arranging a dinner for them at the time of their admission to the bar wherein an officer of the ABA will be the guest speaker. The subcommittee has been ably assisted by T. L. Secrest and Russell Mather of the Junior Bar Conference.

Law Day: Dale Jensen was chairman of this subcommittee, assisted by Clinton Ottmar. Displays, posters, stickers, and other advertising matter were distributed throughout the state. The proclamation was signed by the governor, and all news media were notified, and spot announcements were made on May 1. A panel of lawyers appeared over the North Dakota Broadcasting Company Network discussing Law Day. It is the opinion of the committee that additional funds are necessary for this committee to continue to function effectively in the distribution of literature and in the proper celebration and acknowledgment of the day as such. The committee is of the opinion that the program for Law Day should be greatly extended and that contacts should be made with church groups, civic groups and school groups throughout all of the cities in the state. The program for Law Day has increased each year since its beginning, and it appears that this subcommittee is growing rapidly each year in its functions and effectiveness.

Subcommittee on Courtroom Radio and TV: Roy A. Ployhar was named as chairman of this subcommittee, assisted by Francis Reichert and Robert Palda. This committee was not changed from the previous year. The previous annual meeting adopted a resolution whereby a joint committee of the Judicial Council and the State Bar Association were to meet with a committee of the North Dakota Broadcasters Association. The Bar Association committee stands ready to act at any time, but no action has been taken by the Judicial

Council, nor have any further communications been received from the Broadcasters Association. It is expected that a meeting of this committee will be held at the time of the annual meeting of SBAND.

Subcommittee on American Citizenship: This committee was headed by Mark F. Purdy and assisted by Herbert L.

Meschke and LeRoy A. Loder. The Constitutional Award program ended its thirteenth year. All North Dakota high schools are contacted in advance, and such schools select a student to be awarded the Constitutional Award. Some schools make such selections by competitive examinations. Three hundred seventy-one (371) high schools were contacted, and of 192 participating schools, 146 requested attorneys to make the presentation. This year the work of the committee was greatly relieved by the assistance of the Executive Director's office in preparing and handling the mailing of the announcements as well as other phases of the program. As in the past, this program has met with considerable favorable comment and appears to be one program that should definitely be continued.

Respectfully submitted, John G. Shaft, Chairman, Myron Atkinson, Jr., Harold W. Bangert, Robert Burke, Thomas Burke, Charles A. Feste, Lynn Grimson, Donald R. Hansen, John Hjellum, Dale H. Jensen, Frank T. Knox, Idean Locken, Leroy A. Loder, Robert McConn, Russell Mather, Herbert L. Meschke, Carlton G. Nelson, Clinton R. Ottmar, Robert Palda, Roy A. Ployhar, Mark F. Purdy, Francis Reichert, T. L. Secrest, Norman G. Tenneson, Mart R. Vogel.

REPORT OF CONTINUED LEGAL EDUCATION COMMITTEE

Activities for the committee commenced with a general committee meeting held at Jamestown, North Dakota, on October 7, 1960, at which meeting tentative plans were established for the ensuing year. Numerous topics were discussed for proposed institutes and at the organizational meeting it was decided that two institutes would be arranged. The first Institute to be held was decided to be in the nature of a Tax Institute in keeping with the pattern established in preceding years. The Tax Institute was to be held in December of 1960. A second Institute was planned for early 1961 which would be in the nature of a Medical-Legal Conference. Every effort would be made to obtain the fullest participation and cooperation from the Medical Association in the presentation of this second Institute. Recognition was also given to the fact that the committee would be responsible for the sectional meetings at the annual Convention in June of 1961.

The Tax Institute was held at Minot, North Dakota, on December 9th and 10th, 1960, this being a Friday and Saturday morning Institute. Opening the Institute was registration and a presentation by Mr. Kenneth Jakes, Assistant Attorney General, State of North Dakota, who gave comments on North Dakota Income Tax Returns. Following the morning coffee break, Mr. Clement M. Ford, District Manager of the Social

Security Administration of Fargo, North Dakota, spoke on recent developments in Social Security laws. Mr. James Russell of Washington, D. C. opened the afternoon session with his presentation entitled "Taxwise Use of Term Trusts and Family Planning". Following the afternoon coffee break, Mr. Mark Hanna of New York City, New York, gave his presentation entitled "Dollars for Client". The Saturday session was opened by Mr. Baldwin Martz, CPA, of Minot, North Dakota, who spoke on "Fully Utilizing the Operating Loss Carry-Back and Carry-Over". Following the mid-morning coffee break the session terminated with the presentation by Mr. Marcel Learned of Boise, Idaho (CPA), who spoke on the "Tax Consequences of Corporate and Partnership Liquidation". We are fortunate to again have Mr. Learned with us for the annual meeting when he will speak on "Tax Consequences of Partnership Liquidation".

Prior to the Tax Institute at Minot, North Dakota, the committee had made preliminary plans to meet with a committee from the Medical Association through the efforts of our own Executive Director, Alfred Schultz, and Mr. Lyle Limond, Executive Director of the Medical Association. Accordingly, a meeting was held at Bismarck, North Dakota, on the afternoon preceding the Tax Institute, at which time the chairman of the committee, Mr. Schultz, and committee members, Leland Ulmer and John Gunness, met with Mr. Limond and discussed a range of topics that might be of joint interest to both professions for the planned forthcoming Medical-Legal Conference. A committee meeting was held at Minot, North Dakota, immediately preceding the tax institute on Thursday evening, December 8th, at which time a tentative program was ratified by the committee for the proposed Medical-Legal conference. The chairman, executive director and Bismarck members of the committee were authorized to formulate final plans with the Medical Association for the Medical-Legal Conference. A follow-up meeting was arranged in Bismarck, North Dakota, whereat Mr. Schultz and the chairman met with Mr. Limond and Drs. Paul Johnson and C. H. Peters, representing the medical profession. Final plans were formulated at this meeting, after which your chairman proceeded to finalize with various guest speakers, the program that would be presented at Fargo, North Dakota, for the Medical-Legal Conference. The date was established as March 24, 1961, and at the request of the medical profession the Institute was held to a one-day conference. Accordingly the conference opened at the Gardner Hotel in Fargo by registration, followed by a panel discussion on the Legal-Medical code by Dr. Paul Johnson of Bismarck, North Dakota, and John Lord of Mandan, North Dakota. Following the morning coffee break, Messrs. Wm. McCauliff and Warren White of the legal staff of the American Medical Association of Chicago, Illinois, presented a panel discussion

with a film covering the topic "Problems and the Law-Medical Malpractice". During the noon hour those in attendance were entertained by a humorous talk presented by Mr. Grant Heganres of Moorhead, Minnesota, at a luncheon. Following the noon luncheon, Mr. Frank S. Longan, of Billings, Montana, presented an interesting lecture on "Preparation of Medical Testimony". Following the afternoon coffee break, E. T. Conmy, Jr. of Fargo, representing the Bar Association, and Dr. C. H. Peters of Bismarck, representing the Medical Association, gave their presentation on "Discussion on the Duties of the Grievance Committee of the Medical Association and the Ethics Committee of the Bar Association". Immediately following and concluding the day's program was a presentation by Mr. Sidney P. Gislason of New Ulm, Minnesota, entitled "Evaluation of a Personal Injury Case". The conference was well received by those in attendance and the committee feels that such a conference is one well worth the endeavor of the committee and the type of conference which should be continued to foster a better relationship between the North Dakota Medical Association and our Bar Association.

During the evening preceding the Medical-Legal Conference, the committee again met and planned for the sectional meetings to be held at our annual meeting. Topics outlined in a questionnaire form had been previously circularized throughout the Bar Association and these questionnaires were evaluated by the committee. Thereupon the committee obtained the services of T. M. Halvorson and Walter J. Bean, Trust Department, Northwestern National Bank of Minneapolis, Minnesota, to present a section on "Profit Sharing Plans"; Mr. Marcel Learned of Boise, Idaho, to present a section on "Tax Consequences of Partnership Liquidation"; Mr. Harold Shaft of Grand Forks to present a section on "Real Estate Mortgage Foreclosures"; and Mr. Roy A. Ployhar of Valley City, North Dakota, to present a selection on "Conditional Sales, Rights and Remedies".

This report would not be complete without an expression of appreciation for the fine cooperation the chairman has received from his committee. The committee has been a hard-working committee and the members have exhibited frequent willingness to accept any responsibility requested of them by the chairman. Expression of appreciation should also be given to the many lawyers of the Bar for their willingness to participate in the various programs of the Continued Legal Education Committee by rendering their service and time to further educate their fellow lawyers. Particular appreciation should be shown various North Dakota lawyers who have taken precious time away from their busy practice to present the papers for the various Institutes and sectional meetings. Their names are as follows: Kenneth Jakes, John Lord, E. T. Conmy, Jr., Harold Shaft and Roy A. Ployhar.

Dated this 22nd day of May, 1961.

Respectfully submitted, John E. Rilling, James R. Jungroth, A. C. Bakken, James H. O'Keefe, A. F. Arneson, Harold M. Hager, Cyrus N. Lyche, Warren A. Tripp, William J. Daner, Leland G. Ulmer, John C. Gunness, Herman Weiss, Chairman.

REPORT OF THE LEGAL ECONOMICS COMMITTEE

Your committee met in Fargo, North Dakota on two occasions, October 15, 1960, and January 16, 1961. At the first meeting there were discussed final arrangements relative to publication of the fee schedule which was then in the galley proof stage; other projects, including an economic survey, were started. At the second meeting, the committee approved the final form of the economic survey questionnaire and the procedures to be followed.

Sub-committee members are as follows: Norman G. Tenneson and A. J. Greffenius, to recommend revisions in the fee schedule on the basis of continued study and on the basis of suggestions from the bar; Richard L. Healy, Norman G. Tenneson and Ralph B. Maxwell, to complete and make ready for distribution all of the checklists and worksheets now in the final stage of preparation; Alfred C. Schultz, Richard L. Healy and Kirk Smith, to encourage the use of time records; Kenneth G. Pringle, to handle and oversee all phases of an economic survey, including the collecting of information gained from questionnaires. (Mr. Pringle will make a separate report which will set forth the results of the work of his sub-committee and the members thereof.) The general work of your committee was assisted by George E. Sorlie and Gordon Charles Thompson.

Fee Schedule: Upon request, copies of your fee schedule have been forwarded to committees of American Bar Association and District of Columbia Bar Association. At this writing, no suggestions for changes have been received. It is contemplated that any future revisions will be made by letter or by providing a mimeographed sheet that can be clipped or stapled to the inside of the schedule at the appropriate place.

Checklists and Worksheets: Work has been completed on the subjects of Actions to Quiet Title, Probate Proceedings, Real Estate Mortgage Foreclosure, Real Estate Sales, Appeals, Auto Accident, Partnerships, Adoption, Chattel Mortgage Foreclosure, Bankruptcy, and Corporations. With this beginning, it is appropriate that efforts to prepare and distribute a desk manual should continue.

Time Records: During the past year appearances have been made to encourage the use of various methods for noting the time devoted to a matter and to discuss the use of such records in the setting of a fee that is fair to the client and to the

attorney. Further work to this end is desirable and it is recommended that such remain a committee project.

Economic Survey: After careful consideration of various types of information that should be obtained, a questionnaire was prepared. It was later discussed by the full committee and approved. The subcommittee in charge will complete its analysis and make available to the bar the results thereof and the conclusions reached.

It is not presumed that the approach of the Legal Economics Committee can solve all of the problems of our profession. However, to the extent that this approach has been neglected, a committee of this type can provide a valuable service, especially if it directs itself to the particular problems of the Bar in North Dakota. The committee hopes that its work thus far has been of assistance and that it will continue to receive the support and cooperation that has enabled it to serve its function in the past.

Respectfully submitted, A. J. Greffenius, Chairman, Ralph B. Maxwell, Norman G. Tenness, T. L. Secrest, Gordon C. Thompson, George E. Sorlie, Roy A. Holand, Kenneth M. Moran, James H. Williams, Kirk Smith, Robert Vaaler, Fred A. McKennett, Hugh McCutcheon, John R. Davidson, Kenneth G. Pringle, Richard L. Healy.

REPORT OF COMMITTEE ON MEMORIALS

Your Committee on Memorials has to report that since our last annual session, memorials have been prepared for fourteen deceased members of the bench and bar of North Dakota. These memorials have been prepared for inclusion in the North Dakota Law Review, and the report will not be read from the convention floor.

A list of the departed members of our profession is as follows:

C. W. Burnham	Carrington
Usher L. Burdick	Williston
Joseph G. Forbes	Wahpeton
Thomas G. Johnson	Hillsboro
Hon. Harold B. Nelson	Rugby
Hon. Ray G. McFarland	Jamestown
Hon. Roland A. Heringer	Rugby
Joseph A. Donahue	Bismarck
Hon. W. C. Crawford	Dickinson
Torger Siness	Devils Lake
Hon. P. G. Swenson	Grand Forks
Frank E. Packard	Evanston, Ill., formerly Valley City
L. S. B. Ritchie	Los Angeles, Calif., formerly Valley City
S. E. Halpern	Glen Ullin

The members of the Bar who have practiced fifty years in the State are as follows:

Leo C. Lindemann	-----	Minot
J. E. Hendrickson	-----	Fargo
Christian Wadel Almklov	-----	Cooperstown Hospital
Tim A. Francis	-----	Enderlin

Presentation of Certificates of Fifty Year Awards will be made by:

Everett E. Palmer at the Banquet Friday evening.

Respectfully submitted, Everett E. Palmer, Chairman, James A. Hyland, Robert A. Buttz, Clyde Duffy, Russell G. Nerison, Robert Q. Price, Herschel I. Lashkowitz, W. F. Burnett, Hon. J. H. Newton, Einar Johnson, Roy A. Ployhar, W. F. Reichert, George A. Soule, August Doerr, R. G. Beede.

MEMORIALS

"The quest is greater than what is sought, the effort finer than the prize, or, rather, that the effort is the prize—the victory cheap and hollow were it not for the rigor of the game."

BENJAMIN N. CARDOZO, *Law and Literature* 164 (1931)

ROLAND A. HERINGER

Roland A. Heringer, of Rugby, passed away unexpectedly on December 23, 1960. His untimely death was a tragic loss to his family, and a severe blow to the Bar of North Dakota. Mr. Heringer was dedicated to the legal profession, not just as a means of livelihood, but as a way of life. He was a scholar, a student of the law and strove always toward attainment of the highest ideals of the profession. He had reached one of the goals of all such dedicated men when he was elected Judge of the Second Judicial District on November 8, 1960. He died before entering upon the duties of his office. Had he lived, the people, the judiciary and the bar of North Dakota would surely have benefited from his services as District Judge. No one can say how far his abilities and integrity would have carried him. Roland was loved and respected by all who knew him. His booming laugh and infectious smile were ever admissible evidence of his love of life, his family, and his friends.

Roland Arthur Heringer was born on May 28, 1914 at Wish-ek, North Dakota. His parents were Rev. August Heringer and Katherine Melhoff Heringer. He attended school at Wish-ek and Ashley, North Dakota, where he graduated from high school in 1933. He attended the University of North Dakota and was graduated from the University Law School in June, 1937. Shortly after his graduation he opened his first law

practice in Rugby. In 1938 he joined the office of Harold B. Nelson, and shortly thereafter became a partner in the firm known as Nelson and Heringer. The partnership continued to practice as such until September, 1949, when H. B. Nelson was appointed to the bench of the Second Judicial District. Mr. Heringer worked alone for a while, until Emerson Murray joined him for about one year. After Mr. Murray had left the firm to become Director of the Legislative Research Committee for the State Legislature, in Bismarck, North Dakota, John C. McClintock, a lifelong resident of Rugby, North Dakota, became an associate of Mr. Heringer's in 1952.

On February 25, 1954, Mr. Heringer was stricken with a severe heart attack. As soon as he could wind up matters pending before him as District Judge, Mr. Heringer's father-in-law, Judge H. B. Nelson, resigned from the bench and rejoined the firm to assist in carrying on the practice. In October, 1954, Mr. McClintock became a partner of the firm and thereafter it was known as Heringer, Nelson and McClintock, which it remained until the death of Mr. Nelson and Mr. Heringer on December 21 and December 23, 1960 respectively.

Mr. Heringer served as States Attorney in and for Pierce County, North Dakota, from 1939 to 1942, and again from 1947 to 1951. He interrupted his practice of law to enter service in the United States Navy on January 9, 1943. He trained at the naval training station in Tucson, Arizona and also at stations in California and Florida. He was assigned to the U.S.S. Bracket for fleet maneuvers and thereafter participated in both the American and Asiatic Pacific theaters of operation. His ship was engaged in three major engagements. He was honorably discharged from the Navy with a rank of Lieutenant Senior Grade on December 8, 1945.

Mr. Heringer was a member of the American Bar Association and the State Bar Association. He was elected to the office of Vice President of the State Bar Association of North Dakota in 1954, and was elected to the office of President of the Association in 1955. Due to recurrent heart and gall bladder attacks he resigned from the office of President of the State Bar Association before completing his term. He was a member of the State Bar Association Executive Committee from 1947 to 1948 and from 1954 to 1956.

Among his many civic and community activities, he was a former President of the Home Folks Service Club; Past Commander of the Veterans of Foreign Wars Post in Rugby; Past President of the Lake Region Bar Association; he was a Mason, a Shriner, and a member of the Royal Order of Jesters; he had served on the Rugby Planning Commission; was a member and Past President of the Lions Club; he was an active member of the First Lutheran Church and took part in many church organizations and activities, including the choir, and often sang in a quartet at local functions. He was very in-

terested in scouting and helped in such activities whenever possible.

He was married to the former Margery Ruth Nelson of Rugby in 1940. The family was blessed with four children, Jane, John, William and Wendy. He is survived by his widow and the four children; one brother, Dr. W. C. Heringer of Salem, Oregon; two sisters, Mrs. Abia (Eleanor) Haas, of Dallas, Oregon, and Elizabeth Heringer of Milwaukee, Oregon. A brother, Dr. W. W. Heringer passed away in 1956.

C. W. BURNHAM

C. W. Burnham passed away on the 13th day of August, 1960 after a long and active life as a citizen of Carrington, North Dakota. He was born on a farm in Vermont in 1879 and came with his parents to Carrington in 1883. His father took up a homestead near the present town of Melville in Foster County in 1883 which was the family home for many years thereafter. Chilo was graduated with a B. A. Degree from the University of Minnesota in 1905, and on January 29th, 1907 married Jemima Buchanan who was born in Glasgow, Scotland and came with her parents to Carrington in 1883. Mr. Burnham served as County Auditor of Foster County for six years, and was admitted to the Bar of this State in 1913. He then entered the active practice of law at Carrington where he served as State's Attorney for 28 years. He also served as a member of the Board of Education of Carrington for 15 years and as City Attorney of Carrington for four years. He loved his association with the Kiwanis Club. He was a charter member of the Carrington Club which was organized in 1923, and was Governor of the Minnesota-Dakota District in 1931. Mrs. Burnham painted as a hobby for which art she had genuine talent, and for many years assisted her husband as clerk and stenographer in his law office. Three children were born to this couple, Jeanette, Lucile, and Chilo W. Jr., all whom are married, the son being a lawyer now residing in Pittsburg, Pa. Mrs. Burnham will continue to reside in the old home in Carrington where she and Chilo spent their entire married life. C. W. Burnham will be remembered as a good counselor to his clients, a friendly man with many friends, a good family man, and an all around good citizen.

R. G. McFARLAND

Judge R. G. McFarland died on the 10th day of December, 1961, in Jamestown, North Dakota, at the age of eighty years. He was a native of Iowa, having been born at Bunch, Iowa on April 4th, 1880 where he later graduated from the Blomfield Normal School. He later attended Highland Park

College in Des Moines, and he studied law as a registered law student in the office of Judge McLean then a member of the Supreme Court of Iowa. He came to North Dakota in 1905 and for some time was associated with S. L. Glaspell in law practice and was for a time Assistant to State's Attorney John W. Carr. Upon coming to Jamestown in 1905 he took up a homestead near Cleveland, North Dakota, which he still owned at the time of his death. His marriage to Amanda O. Mickelson occurred at Lake Mills, Iowa, October 11th, 1911. He served as court stenographer for Judge J. A. Coffey in the then Fifth Judicial District for a period of five years, when he was elected County Judge of Stutsman County. He served ten years in that office. He was elected Judge of the Fourth Judicial District in 1928, and retired due to sickness September 1, 1953. A member of the North Dakota State Bar Association, he was emeritus member of the North Dakota Judicial Council, and a 50 year member of the Jamestown Masonic Lodge and of Lodge 995 BPO Elks. He affiliated with the First Methodist Church of Jamestown. Surviving besides his widow, is a son Dr. Corley B. McFarland of South Bend, Indiana, two brothers, Corley B. McFarland of Oakridge, Oregon, and Lowery L. McFarland of Brighton, Iowa, and a sister Mrs. Lillian Shafer, of Brighton, Iowa. He was preceded in death by an infant son, Ray G. McFarland, Jr.

JUDGE HAROLD B. NELSON

Judge Harold B. Nelson, a member of the North Dakota Bar for forty-six years, died at Rugby, North Dakota on December 21, 1960.

Judge Nelson's death was followed by the death of his son-in-law, Roland A. Heringer, two days later. The community of Rugby was stunned by the death of these two respected, beloved and prominent men of that community.

Judge Nelson was born February 10, 1885 at Eau Claire, Wisconsin, a son of Louis and Dorothea Hanson Nelson. The family lived on a small, unproductive farm and as a boy in his teens Judge Nelson found it necessary to leave home to earn a living. After working in a logging camp, he attended a business college in St. Paul, Minnesota. In 1905 he became an instructor in a business college in Minot, North Dakota. In 1909 he became court reporter for Judge A. G. Burr of Rugby. While he was court reporter he studied law by clerkship under Judge Burr and was admitted to the bar in 1914.

In 1916 Judge Nelson opened his law offices in Rugby, North Dakota, and was actively engaged in the practice of law in that community until 1949 when he was appointed judge of the second judicial district to fill the unexpired term of Judge G. Grimson who had been appointed to the Supreme

Court. At the time of his appointment to the district bench Judge Nelson was a partner in the law firm of Nelson & Heringer.

After serving five distinguished years on the bench as district judge, Judge Nelson resigned from his judgeship in the summer of 1954 to re-join his son-in-law in the practice of law. It was self-evident that a heart attack suffered by Roland A. Heringer in the spring of 1954 caused Judge Nelson to decide that he was needed in the law office which had on hand many urgent legal matters. Shortly afterwards John McClintock joined the firm as a partner and the firm name of Heringer, Nelson, and McClintock was adopted.

During his years in the practice of law at Rugby, North Dakota, Judge Nelson served several terms as States Attorney of Pierce County. He took a keen interest in community affairs and was a member of school and hospital boards for many terms. He was a charter member of the Rugby Lions Club, a member of Odin Lodge No. 87 Sons of Norway, a Mason and a Shriner. He was local attorney for the Great Northern Railroad for more than two decades.

Judge Nelson was elected to the board of directors of the Citizens State Bank of Rugby in 1926 and held the position of Vice President for approximately 25 years until his death. He was a stockholder in the bank. He was instrumental in the organizing of the American State Bank of Minot in 1936 and served as its counsel and a member of its board of directors until 1949.

He was ever diligent and forthright in his work, and was highly regarded by the judges before whom he practiced as a member of the Bar and with whom he worked as a member of the judiciary. In the comparatively short time that he was on the district bench, he was frequently called to sit as a member of the Supreme Court. He wrote opinions for the Court in *Stark v. Irrigation District*, 47 N.W. 2d 126; *Kershaw v. Burleigh County*, 47 N.W. 2d 132; *Kopplin v. Burleigh County*, 47 N.W. 2d 137; and *Nicholson v. Roop*, 62 N.W. 2d 473. The latter case is annotated in 43 A.L.R. 2d 1031. All of the members of the Supreme Court keenly regretted the circumstances that forced the retirement of Judge Nelson from the bench, and felt that his return to private practice was a distinct loss to the judiciary of North Dakota. He was patient, kind, and considerate of both litigants and the lawyers. His keen legal mind was self-evident in his decisions and rulings.

Judge Nelson enjoyed fishing and hunting until his health caused him to abandon these sports.

The Pierce County Tribune in a front page editorial on December 29, 1960 eulogized Judge Nelson and Roland Heringer. It can plainly be seen that the community of Rugby was shocked in the loss of these two prominent men within a

space of a few days. The Tribune stated in regard to Judge Nelson:

"He was like a father to all of us in times of trouble . . . We will always remember his droll sense of humor and wit . . . His razor sharp mind and knowledge of the law was widely acknowledged. He will be sorely missed by this community and his death will be a loss to areas far beyond Rugby. We are thankful he lived a full life."

Judge Nelson is survived by his wife, the former Theresa Jacobson; two daughters, Helen Claire Ferguson and Margery Heringer of Rugby, North Dakota, and a son, Harold B. Nelson, Jr., of Natick, Massachusetts. There are ten grandchildren. Mrs. Nelson will continue to make her home in Rugby. Also surviving Judge Nelson are two sisters: Mrs. William Peterson of Eau Claire, Wisconsin, and Mrs. Jerome Van Dreser of Fairchild, Wisconsin.

Funeral services were held at the First Lutheran Church of Rugby on December 23, 1960. Many of the state's District Judges, and Supreme Court Justices and members of the bar from all parts of North Dakota were in attendance in respect to Judge Nelson.

JOSEPH G. FORBES

Mr. Joseph G. Forbes, of Wahpeton, died on August 31, 1960. He had been active in the practice of law, at Wahpeton, for almost sixty years. Mr. Forbes was one of the outstanding attorneys in the State of North Dakota during his lifetime, and was 92 years of age at the time of his death.

Mr. Forbes had two sons, who attended local schools in Wahpeton, and both were also very prominent in the law practice. One of them, Mr. Arnold Forbes, is now a District Court Judge in the State of Minnesota, residing at Bemidji. The other, Vernon D. Forbes, also practiced in Wahpeton with his father for many years, subsequently being appointed a U. S. District Judge at Fairbanks, Alaska, and is now President of the Alaska National Bank there.

Mr. Joseph G. Forbes was born at Wingham, Ontario, March 19, 1868 and was admitted to the bar in Minnesota in 1893 and in North Dakota in 1899. He served as County Attorney at Lincoln County, Minnesota from 1896-1899 leaving Lake Benton, Minnesota in 1899 to join the law firm of Porter J. McCumber and Dan R. Jones at Wahpeton, during that year. Later, he formed the law firm of Forbes and Forbes, with his sons. Mr. Forbes was States Attorney of Richland County, North Dakota from 1915-1920, and also served for several years as City Attorney of Wahpeton. He also served in the North Dakota Senate during the 20th session of the legisla-

tive assembly in 1927 at Bismarck. In addition to being an eminent attorney and highly successful in his practice in Wahpeton, Mr. Forbes participated in the social and fraternal life of the community. He served as President of the Leach Public Library at Wahpeton for many years. During his lifetime in Wahpeton he was a member of the Commercial Club, Chamber of Commerce, Independent Order of Odd Fellows, Masons, and other business, social and fraternal groups. He was a member of the Richland County Bar Association.

Mr. Forbes and his wife, whom he married October 21, 1893, were outstanding members of the Wahpeton community. He served his community, and the State of North Dakota, including the North Dakota Bar with industry, honesty and dignity, and the history of his professional life is well recorded.

Both of the sons of Mr. Forbes, Arnold Forbes and Vernon D. Forbes, also followed their father's foot steps in professional practice and public service. Each of them, during his years of practice in Wahpeton, also served as States Attorney of Richland County.

TORGER SINNESS

Torger Sinness, a leading member of the North Dakota bar for nearly half a century, passed away at North Hollywood, California, on August 12, 1960. He had made his home in California after his retirement from active practice in 1952.

Mr. Sinness was born near Hemme, Norway, on September 27, 1873, the son of Ole Johnson Sinness and Gunhild Bjerkan Sinness. He came to America at the age of 13 and made his home with an uncle at Sauk Centre, Minnesota.

He graduated from Augsburg Seminary and came to Benson County, North Dakota, to teach school. When 21 years of age he was elected county superintendent. He retired from that position in order to study law. He graduated from the law school of the University of Minnesota in 1905. After practicing for a short time at Bellingham, Washington, he returned to Minnewaukan, where he remained in practice until moving to Devils Lake in 1920.

He was associated in practice with the late C. W. Buttz until Mr. Buttz became judge of the second judicial district. A few years later Clyde Duffy entered the office and that association continued at Minnewaukan and Devils Lake until Mr. Sinness retired.

On December 31, Mr. Sinness was united in marriage with Isabel Martha Sheldon. Mrs. Sinness preceded him in death, but the five children born to the marriage survive, namely, Norman of Old Hickory, Tenn., Lester of Wilmington, Del., Jean and Elizabeth (Mrs. Lloyd Kohl) of North Hollywood, California, and Ruth (Mrs. John Haugland) of Devils Lake.

Mr. Sinness was long active in education, political and civic affairs. He served for six years as county superintendent of schools and four years as states attorney of Benson county. He served on the school board both at Minnewaukan and at Devils Lake.

While never a candidate for state office, he was long active in progressive Republican circles and managed several political campaigns.

He was a member of the various Masonic bodies, including Kem Temple of the Shrine. He was also a member of the Elks and the Episcopal church.

FRANK E. PACKARD

Frank E. Packard died at his home in suburban Oak Hill, Illinois, on February 9, 1961, at the age of 87 years. He had a long and distinguished career as an attorney, public official and tax specialist. Mr. Packard served as North Dakota State Tax Commissioner from 1912 to 1918 and was Attorney General for the State of North Dakota from 1918 to 1920. In 1946 he retired after serving for twenty-six years as General Counsel and Tax Attorney for the Standard Oil Co. (Indiana). He had been Executive Director for the Western Tax Council since 1948 and was a leader in the campaign to set a twenty-five per cent limit on federal income tax. He was a Trustee Emeritus of Hamline University in St. Paul, Minnesota, which awarded him a Doctor of Laws degree in 1951 for his work as "The Taxpayers' Friend."

Mr. Packard originally was a part owner and partner of the late Senator Frank E. Ployhar, as publishers of the Valley City Times Record and in that capacity commenced his career as an attorney and tax counsel.

L. S. B. RITCHIE

L. S. B. Ritchie, formerly of Valley City, North Dakota, died at his home in Beverly Hills, California, on July 17, 1959. He was a graduate of the Valley City High School and the art department of the University of Michigan, receiving his B. A. degree in 1905. Thereafter he studied law in the office of Lee Combs and was admitted to the North Dakota Bar in 1907. He served as States Attorney of Barnes County, North Dakota, for several terms and was engaged in an active practice in Valley City, North Dakota, until he moved to California in 1929. He was admitted to the California Bar and practiced law with Lee Combs, his former Valley City partner. After the death of Mr. Combs, he practiced law with Mr. Edward Winterer who was also a native of Valley City, North Dakota.

Mr. Ritchie was born August 2, 1882, in Valley City, North

Dakota, and the son of Mr. and Mrs. Thomas N. Ritchie, pioneer citizens of Valley City, North Dakota. He was married to Florence W. Winterer to which union two children were born; namely, Ann R. Klinefelter and David W. Ritchie. His widow and children survive him.

Mr. Ritchie was a very active and well informed practitioner and highly respected while a member of the Valley City community. He took an active part in all civic affairs and was considered one of the outstanding citizens.

JOSEPH A. DONAHUE

In the death of Joseph A. Donahue, this Association lost a member who was a native-born North Dakotan, whose entire professional career was spent in the City of Bismarck. He was born at Edmore, North Dakota, on December 8, 1910, a son of Albert J. and Winifred Duffy Donahue. He attended Starkweather High School, St. Mary's College of Winona, Minnesota, University of Minnesota, and was a graduate of the University of North Dakota School of Law in 1935. In 1938 he married Regina Oliva of New York City, and their only child, Mary, is a court reporter there.

He served as a volunteer with the Canadian Army overseas from 1941 to 1945, and after his release from service, took post graduate legal training at Columbia University and the Practicing Law Institute in New York City.

From 1947 to 1951 he served as director of the Legislative Research Committee and accomplished a great deal in obtaining public recognition of the value and importance of this group. He resigned in 1951 to enter private practice in Bismarck.

From 1953 to 1960 he served as a representative of the State Bar Association on the Legislative Subcommittee of the Legislative Research Committee on Judiciary and Code Revision, and much of the law now appearing in the North Dakota Century Code was clarified and improved through his efforts in that work.

In the course of his work with the legislature he probably acquired the most complete and exact knowledge relative to the statutes of this state of any member of our Bar.

He was a man of great sympathy and understanding for the problems of the less fortunate, and possessed the highest personal integrity both as a citizen and a lawyer. He loved both man and beast, and when either invoked his sympathies he found no task too difficult to perform.

He had a brilliant, logical and precise mind, and all that he did in the practice of his profession was done well. Clarification and improvement of the law was his constant concern and delight as a statutory draftsman. He had a great capacity for friendship and loyalty.

NOTICE

There are two vacancies on the State Bar Board. Article X of the by-Laws of the State Bar Association of North Dakota provides the procedure for handling nominations for positions on the State Bar Board. The By-Laws provide that the Executive Committee shall select the names of three members of the Association in good standing for submission to the Supreme Court for each vacancy. At the June 24, 1961, meeting in Williston, the Executive Committee selected Mr. Robert W. Palda, R. J. Bloedau, and Richard P. Gallagher, as nominees for the position now held through temporary appointment by William R. Pearce. The Executive Committee has further selected Vernon Johnson, Mack Traynor, and Francis E. Foughty, as names of members to be submitted as nominees to fill the expired term of Mack Traynor.

Article X provides that members of the Association may make additional nominations by a petition signed by ten members of the Association which shall be timely filed with the Secretary. If additional nominations are made by petition, the Secretary will poll the membership of the Association and the names of those receiving the highest number of votes, "up to the number of nominees to be chosen shall be presented to the Supreme Court as nominees of this Association for members of the State Bar Board".

Pursuant to the section of Article X of the By-Laws requiring reasonable notice in the N. D. Law Review, you are hereby notified that nominations may be made by petition for the vacancy on the State Bar Board. You are further notified that such nominations must be filed with the Secretary of this Association not later than December 20, 1961.