



1957

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

North Dakota State Bar Association

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

THURSDAY, JUNE 27, 1957, 9:30 O'CLOCK, A. M.

PRESIDENT SPERRY: I now call the 1957 Annual Convention of the North Dakota State Bar Association to order, and will open our deliberations this morning with a message from Father L. T. Duffy from the Cathedral of the Holy Spirit in Bismarck:

FATHER DUFFY: In the name of the Father, Son, and the Holy Spirit: Come Holy Ghost to the hearts of Thy faithful and enkindle in them the fire of Thy love. Send forth Thy spirit and they shall be created and Thou shalt renew the face of the earth. In the name of the Father, Son, and Holy Spirit. Amen.

PRESIDENT SPERRY: At this time I would like to make some appointments to a committee. The first will be the Auditing Committee, to which I appoint Roy A. Ployhar of Valley City; Mack Traynor of Devils Lake, and Roy A. Ilvedson of Minot; and I would like to designate Roy A. Ilvedson as the chairman of that committee. At this time I would like to call upon John Hjellum, Vice-President of the Bar Association.

VICE-PRESIDENT HJELLUM: It's my pleasure and privilege to present to you our president, Floyd B. Sperry, who will make his annual report at this time, and in doing so I would like to pay tribute to what I believe is the most hardworking president we have ever had. As vice-president, the correspondence goes over my desk that both he and the executive secretary send out, and I don't believe that a person could have done more work for the Bar Association than our present president. I've made the remark a few times to various people that wherever Floyd saw responsibility come at him, he faced up to it and didn't try to avoid it in any way but tried to do the best possible job he could. And he has done a whale of a job for this Bar Association this year. It has culminated in an application for an Award of Merit to the American Bar Association. That gives us some idea of the things he has accomplished, and, of course, he is going to touch on that in his annual report. And I am very happy to present to you what I believe is one of the finest presidents this State Bar Association has ever had: Floyd B. Sperry.

PRESIDENT SPERRY: Thank you very much, John. I didn't expect you to be so good to me when I called upon you, or I think I would have looked forward to it with a great deal more enthusiasm.

PRESIDENT'S ANNUAL ADDRESS AND REPORT

At the outset, I would like to state that I have thoroughly appreciated the honor and privilege of having served as the President of the North Dakota State Bar Association during the last year.

The purpose of this report is to inform you as to the accomplishments of the Association during this period, to advise you of some pending projects of interest to the members and to leave with you some recommendations for the future. I shall not duplicate the reports to be made by our various committees.

It was my privilege to attend a meeting of the American Bar Association at Dallas, Texas, last August, and also a mid-winter meeting of the House of Delegates, in Chicago, in February, this year. Upon those occasions I learned a great deal about bar association work, that was new to me, and particularly about some of the problems, in addition to the work that has been accomplished through the American Bar Association and the state associations, for lawyers. I observed that many states do not have integrated bars, as we have had since the year of 1921 in North Dakota, and which brings all of the members of the association together, as a self-governing body. Many other states are working towards this objective, it being evident that this permits the members to be served in a way which they could not, individually, or voluntarily, accomplish.

We have seen great changes in our association since the year of 1921, when the license fee was as low as \$3.00, meaning very little money for the purpose of carrying out a program. Since that time the association has grown to where its work is being carried on by many committees, which now include twenty-nine, altogether, many of which have held special meetings, worked out their own programs and recommendations, and which will be shown by their individual reports, a number of which will be read and discussed during the course of our convention. Through the executive committee, and these special committees, we now have an unusual degree of cooperative fellowship, in working for the best interests of the association and our members. Credit for all of our achievements must be spread over a broad base. The bulk of our work is carried on through the offices of our executive-director, Lynn G. Grimson, and our secretary-treasurer, Elver T. Pearson, both very capable gentlemen, the assistance and guidance of Dean O. H. Thormodsgard of the University Law School, being very valuable, in addition to the help of the members of his faculty, in addition to all of the chairmen and members of our committees, and the members of our association, all of whom have acted with enthusiasm and ability in behalf of our best interests.

It would be physically impossible for me to give you a complete review of all of our projects and activities during the time that I am going to take, but during the course of this convention, I hope that you will quite thoroughly learn just what they have consisted of, through the reports and our general program. I should like, however, to sketch a few of the high lights. While the year has been a relatively short one, because of the early meeting of the American Bar Association in New York City, to be followed by a London meeting, it has been a year of achievement.

I would first like to mention our application for an Award of Merit, based upon three principal activities. The first of these was the adoption of our new federalized rules of civil procedure into state practice by our Supreme Court. This was, of course, by no means a new project, as this association has been working for a number of years to simplify and modernize the rules of procedure in our district courts, to provide the profession with a modern system of procedure for expediting the ends of justice. It is the culmination of a task conceived prior to the year of 1953, and studied and approved by many of the ablest men in the North Dakota State Bar Association, including our state judicial council. This procedure is very similar to the pattern followed by the United States Supreme Court in adopting rules of procedure for the United States District Courts, and in my opinion the courts can best decide the procedure that should be followed in the determination of substantive legal rights. The legislature of North Dakota has given that power to the Supreme Court, as Congress gave it to the Supreme Court of the United States, and this will make it possible for our high court, when changes appear to be advisable, to bring them about without delay.

Many other states have adopted similar rules of procedure, though we are the thirteenth in that category, and I think that the ideal goal will be reached when they are adopted in every state, so that lawyers and clients going into the federal or state courts, irrespective of the location, will have a better understanding of legal procedure, through uniformity, and which will make it possible to eliminate unnecessary technicalities and to avoid delays. I shall not burden you with the details of the new procedure to be followed under these rules, as that will be the subject for an entire day's discussion by a group of competent and well informed panelists.

The second activity upon which we based our application for an Award of Merit, was our legislative program, directed by Attorney Joseph A. Donahue of Bismarck. Here again we have seen our efforts crowned with success, as the legislature approved of reforms in the judiciary retirement act. Under the new legislation, it is now possible for judges to retire at the age of 65 with 20 years of service, and at the age of 70 with ten years of service, upon fifty percent of their salaries, with additional graduated benefits in between. Other provisions of this new law will be set forth in the report of our judiciary committee. I should mention also that under our legislative program, with the cooperation of our legislative research committee, we now have a new business corporations act; we also have new acts to modernize title standards, statutes to increase the salaries of court reporters, to raise the license fees of attorneys for adequate support of the State Bar Board, and statutes to provide for suitable fees for jurors, justice courts, police magistrate courts, and the taxation of expert witness fees. We are indebted, also, to our legislative research committee and our members in the state legislature, for their fine work and their coopera-

tion with the State Bar Association, and its officers, in making this a highly successful legislative year for the association.

The third activity which supports our application for an Award of Merit, consists of our institutes and sectional meeting programs. Your association, through its Committee on Continued Legal Education, which has been headed by Attorney Roy A. Ilvedson, of Minot, during the last year, working in conjunction with a similar committee of the American Law Institute, collaborating with the American Bar Association, conducted two medical-legal institutes, with the participation of the State Medical Association. These institutes have led to the approval of an inter-professional code, by committees representing the two associations, and which will be submitted to you for your action at this convention by Frank Kosanda, Chairman of our Committee upon Professional Cooperation. That code has been approved by a committee representing the State Medical Association and also its House of Delegates.

Our application also cites our activities in public relations work, carried on under the able direction of Herbert L. Meschke, of Minot, a group life insurance plan, extended coverage under our special disability group insurance plan, in addition to a number of other matters that you will hear discussed during the convention.

You will observe that while some new projects were developed and carried out during the past year, many of these projects, upon which our application is based, were conceived some years back, and have just recently become realities. I want to assure you, however, that we have by no means cleared the calendar of pending projects, and that there will be plenty of work for our new officers and committees during the coming year.

Centuries ago an old Greek philosopher remarked, "You can never step into the same river twice." It is a little difficult to appreciate that now, literally, but he meant to illustrate the fact that movement is the first law of our universe. Neither the individual, nor society, nor even the world stands still, and that is true of our profession and our association's activities. There is always some new problem that needs our study and a new plan that requires our support. There can never be a time when we can allow ourselves to become complacent, either as individuals or as a profession. In that respect, I would like to digress a bit, and tell you a story I heard about this character O'Leary. This one lived in New York City and used to climb upon a soap box in Union Square about every day and talk and rave and rant. And his particular theme was the ten cent fare that was being charged for the transit company service, and after that had gone on for a long time the legislature finally passed a bill making the fare five cents. Everybody wondered what O'Leary would do now that his big mission in life had been achieved, but he showed up as usual, climbed upon his soap box and said, "Folks, things are going from bad to worse. Yesterday a poor man could walk home and save ten cents, now, today, he can walk home but he will only save a nickle."

There are still many problems and anomalies that challenge our

sense of professional responsibilities. Happily, we have an excellent working organization, with a very fine record, and one that compares favorably with the best bar associations in the whole nation. Being the first integrated bar in the nation, having won the Award of Merit of the American Bar Association twice, with an excellent showing in our application pending at the present time, with a standing of seventh in American Bar Association memberships, and leaders in many activities including a program of institutes, the adoption of a fee schedule, and a sound insurance program, among others, we are highly regarded by the national association; and I am confident that those who make up this body will at all times prove more than equal to the task that we have before us, of providing ever widening services to our membership. I would like to say, too, that it was really a pleasure to attend a national convention and enjoy the respect and the admiration that our State Bar Association in North Dakota has received.

We must always think of the law and of lawyers as instruments of human justice, and any shortcomings in either should be to us a profanation of sacred things. As lawyers and as an association, we have an obligation to our profession and to society to consecrate ourselves to the principles of justice enunciated in the constitution of our state and nation. It is to this end that your association has been, and will continue to be zealous in policing the profession and keeping it on a high educational and ethical level. Our program of legal education and our drive to eliminate the unauthorized practice of law, are but two sides to a single coin—the protection of the public against practitioners who may be either incompetent or unscrupulous, or both. We now have two lawsuits pending to enjoin the unauthorized practice of law, and we are confident that examples will be set and established to help eliminate this besetting evil.

Those of you who have participated in the numerous institutes sponsored by the association, are aware of their value in extending our knowledge of tax matters, gas and oil law, social security problems, and the relationship between law and medicine. It is with this latter class of problems that your association has been especially concerned because of the fact that personal injury actions represent a large percentage of the litigation now tried in the courts, and our medical-legal institutes have been of inestimable value to those engaged in the trial of tort cases where medical considerations play an important role.

It is hardly a new opinion that I express when I say that these past few years of invention and scientific progress have created great difficulties for the legal profession, and have made it necessary for the lawyers to become versed in and prepared to deal with, on elevated levels, countless questions involving science and medicine. It is this situation that imposes the necessity for greater cooperation between the legal and medical professions. We have long conceded that the scientific and legal traditions have much in common, in that both must deal with situations which they did

not create. In medicine, facts are needed for diagnosis and treatment. Judicial processes can move only on the bases of facts, an increasing number of which must come from the medical profession. So it is that the lawyer and the doctor are coming into closer contact, and it is up to us to see that the relationship is accompanied by complete harmony. I think this is one case where we can say mixed marriages just must work out. Progressive elements in both professions must see to it that the relationship does "work out to a maximum social advantage." It is for this purpose that committees representing the State Medical Association, and the State Bar Association have approved of an inter-professional code, to be submitted to you, and which will also be submitted to the State Medical Association at the time of its convention.

In commenting upon the activities of the association during the past year, I would also like to briefly discuss the appointment of a new committee upon administrative law. In every common law country, administrative bodies are created to take over some specialized legislative work. At one time they were regarded as the phenomenon of the twentieth century, but they are undoubtedly here to stay. Many of these agencies have resulted from actual need to bring about more speedy results. They are a legislative creation, and I believe that they can be more fully controlled through legislative means. Complaints have been frequent and furious in recent years that law is not only interpreted but actually made by inadequately controlled or uncontrolled administrative agencies and commissions. Some of you know that the House of Delegates of the American Bar Association asked Congress to establish a permanent committee on administrative processes and a measure providing for the study of administrative procedures has been introduced in Congress. The work of this committee would be to study and consider the procedures of administrative bodies, to publish rules, orders, policies and information for such agencies, to study rules of practice and to provide in general for greater protection of public and private rights. Speedy trials, with the prompt administration of justice in courts, will help a great deal in protecting the rights of litigants to jury and court trials.

It was decided that a committee of our own association can carry out many of the objectives of the national association, upon a state level, and our committee, which was created in the fall of 1956, has made a study of administrative agencies, their functions, and the procedures controlling them. These steps, I believe, will arouse public interest in this branch of law, and permit our organized bar to give direction to mobilize public opinion, demonstrating once more that the legal profession is both desirous and capable of serving society as society deserves to be served.

All that we attempt to accomplish, in the long run, depends upon the degree of confidence that we inspire in the public. Where public support is lacking, the bar's hands are tied, in major court and government agency reform. The public will be informed, or misinformed, depending on how well we do our public relations

job. It is up to us to give them complete and accurate information, and for this purpose we take full advantage of all available media for public contact, consisting of the press, radio, television, magazines, and public forums. The report upon our public relations work, which will be read to you, will give you a very good idea as to our efforts to carry out a constructive program to serve the public, during this last year, and which has also been a continuation of a similar program commenced a number of years past.

In a larger sense, the quality of a profession's public relations may be gauged by its total effect on the community life. The best possible public relations is right principles, and the determination to fight for them. This part of our program should go a long way, not only in helping the bar association in its relations with the public, but it will also lead to better terms with other professions.

I would like to offer several specific recommendations, some of which have been made to me by other members of the bar. I suggest the adoption of more uniform laws and model codes, and recommend that our legislative committees make a special study of all of those submitted at our last legislative session. This, with our new rules of procedure, would help simplify the practice of law in both the federal and state courts. I recommend especially that a committee be appointed to make a special study of the model American Bar Association partnership act, in cooperation with the subcommittee on judiciary and code revision of the legislative research committee, under the chairmanship of Adam Gefreh, similar to the manner in which the business corporations act was studied until the time of its adoption.

Also I recommend the adoption of more inter-professional codes, which in addition to the medical profession, may include accountants, engineers, and those in other professions and trades.

Since many of our benefits enjoyed by our members come through our close alliance with the American Bar Association, I would recommend all possible contact with the national association. In that respect I hope that we will see the time when the association will have a full time executive director, with a full-time secretary, who could more directly contact the district and local bar associations in the state, bringing to them the benefits of all existing facilities and opportunities made available by the American Bar Association, and by our state association.

Wherever possible, I would suggest that committees be chosen from members who are located close enough, geographically, to enable them to have better attended meetings, as well as to operate at less expense. Our statute providing for the use of certain funds received by the association, requires us to use those in part for the supervision and improvement of our judicial system, and as I see it, a part of that program should include further legislation to increase the salaries of judges of the Supreme Court and our State District Courts. Judicial salaries at the present time are considerably below par, and while the new judicial retirement act is a step in the right direction, I am convinced that salaries should be boost-

ed to at least \$14,000 for Supreme Court Judges and \$10,000 for District Court Judges. Upon comparing the salaries of our judges with those in other states, we find that we are next to the very lowest and that the salaries in practically all of the states are much greater. I might add that, except for the retirement provisions, members of the judiciary did not share the salary increases that were authorized for nearly all state officials at the last session of the legislature.

I would also like to recommend that a special study be made of the matter of providing public defenders for those unfortunate people charged with crime, without the ability to employ lawyers of their choice. This has been done in other states, and would also assist in avoiding situations where parties are deprived of their immediate legal rights. And I think that should apply both to the federal and the state courts, including the justice and police magistrates courts. In this manner defendants in such actions could be represented by counsel with ability equal to that of the prosecutors, resulting in trials that are more fair.

As this active year comes to a close, I must observe that many of the things that I hoped we could accomplish have not been fully achieved. That is one of the reasons I left a rather long list of recommendations for my successor. I know that he is going to be very capable and going to be in a position to carry many of them out. I know that some of our committees have made some exceptionally fine progress, especially new committees, but it will take more time for their programs to become sufficiently firm to be of real service. Many of these objectives remain for new leadership to add to the pattern of progressive development that has characterized our North Dakota State Bar Association since its integration.

I want to add that we are in sound financial condition, our expenditures having all been carefully budgeted and we have stayed in the black during the last year. Incidentally, a copy of the audit prepared by the certified public accountants will be on display here and you can all look it over if you want to. In addition to that there will be a report by the Auditing Committee. Our present balance of operating capital is approximately \$14,000. This would indicate that we are in a position to explore some new undertakings.

In conclusion, I would like to remind you, to show my appreciation, of an old proverb, "Praise the bridge that carries you over." Certainly no one ever felt a greater sense of gratitude than I feel towards the people who took part in the bar association work during the last year. To the other officers of this association, all of the members of the executive committee, the chairmen and the members who served upon our various committees, and all of you, for your cooperation with, and encouragement of our efforts towards continuing growth, progress and prestige for your association, I extend my sincerest heartfelt thanks and appreciation. Thank you.

Mr. Hjellum, I am not going to move that this report be adopted.

There might be some recommendations here that will not meet with wholehearted approval. I realize some of them sound a little bit overly ambitious, but I do make a motion that the report be accepted, filed, and that it be included in the proceedings of the convention.

VICE-PRESIDENT HJELLUM: Is there a second?

(Motion seconded and carried unanimously.)

PRESIDENT SPERRY: I think we will get right into our committee reports. We have a lot of them. And at this time I would like to have the Public Relations report which will be given by Herbert L. Meschke, chairman of that committee.

1957 REPORT OF THE PUBLIC RELATIONS COMMITTEE

Public relations is a process, not a project. The effect of all Bar Association activities together with the deportment and efforts of individual members determine the quality of our public relations. The role of this committee in that process is the initiation, continuation, and implementation of specific projects that can contribute to the quality of our professional relations with the public.

Thus, during the past year, the Public Relations Committee has carried on the following activities:

(1) *Lawyer Referral Services*: Under arrangements made by this committee, through Dave Kessler of Grand Forks, meetings have been held with local bar associations in Grand Forks, Bismarck and Minot, to aid them in establishing a lawyer referral service, similar to that in operation in Fargo. Don Hanson of Fargo, chairman of the Cass County Lawyers Referral Service, appeared at each of these meetings to explain the operation of the Fargo system. Similar meetings are planned for Valley City and Dickinson. The Public Relations Committee is eager to assist in getting the service established and publicized throughout the state.

(2) *Speakers Service*: The ground work has been laid for a State Bar Association Speaker's Service to make available to lay groups, through representatives of the State Bar Association, timely speeches concerning citizenship, government, and the nature and availability of legal services. Under the guidance of Ralph B. Maxwell, of Fargo, a looseleaf manual has been prepared to assist officers and members of SBAND who volunteer to participate in the Speaker's Service. We believe that officers of the Association should consider it a part of their responsibility to engage fully in this project, since, as officers of the Bar Association, they most appropriately speak for the legal profession.

(3.) *Newspaper Publicity*: A complete mailing list of all weekly newspapers in the state is being compiled by W. C. Lynch of Bismarck for wider dissemination of newspaper publicity of Bar Association activities and projects. The first release being distributed relates to the adoption of the new Civil Rules of Procedure. Incidentally, an editorial and article concerning the adoption of the Rules were published in a Sunday newspaper widely

read in this state, through the cooperation of this committee with one of its reporters.

(4.) *Newsletter*: Continuing a project commenced in February, 1954, the State Bar Newsletter has been published, bi-monthly, for the purpose of keeping lawyers informed about the public activities of other lawyers, individually, and through the association.

Other committee activities during the past year included: (a) handling of the scheduling of the tape recording of Judge Medina's 1956 banquet speech, which has been played for a number of groups in many of our North Dakota communities; and (b) the Speakers Service Chairman gave a great deal of assistance to the Constitutional Awards Committee in obtaining participation of members of the Bar in presenting the awards in our state's high schools.

But, there are also several other important projects that should have a good deal of attention in the immediate years ahead. Concentrated effort must be made to achieve desirable goals in securing thorough distribution of pamphlets, institutional advertising, and television programs to inform and educate the public on the nature and availability of legal services and the public benefits that accrue from Bar Association activities.

Public misconceptions of lawyers and legal processes challenge our collective efforts to educate and inform the public. This challenge was succinctly outlined in our newly prepared Speaker's Service Manual:

"In order to sample the general regard for attorneys and to learn something about popular notions held regarding our functions, the Bar Associations of Texas, Iowa and Michigan caused Public opinion polls to be taken. Any assumption that we enjoy the lofty estimation of an informed and charitable public must be rudely jarred by some of the results. Here are some typical examples:

—Dishonesty and unethical conduct is singled out by 25 per cent of the public as the thing they dislike about lawyers.

—Four out of ten believe some or most lawyers will "sell out" to the other side.

—Three out of four persons knew of no source of low-cost legal services.

—Few think lawyers are the best leaders in the community.

—Thirty-seven per cent of those who had hired lawyers considered their work less honest than other professional people.

—The public doubted the legal profession can be trusted to expose and punish dishonest attorneys.

—A principal reason why people don't go to a lawyer when they need one is fear of being gouged.

—Eighty-six per cent did not know of any organization that sought to encourage and enforce proper conduct by lawyers.

These are disturbing reflections of distrust, suspicion and misconception by much too large a proportion of the public. The

fact that such opinions are unwarranted is small comfort. It means one thing—that we have a big and important public relations job to do.”

All bar association activities designed to improve the standards of legal profession and the administration of justice bear upon our public relations. A vigorous program of enforcing professional ethics and protecting the public from the hazards of unauthorized practice of law; of course, ranks foremost in any conscious public relations effort. But the development of the projects outlined earlier in this report, supplementing these key activities of our Bar Association, will effectively contribute to the growth of our good public relations.

Respectfully submitted,

DAVID KESSLER

JOHN F. LORD

W. C. LYNCH

RALPH B. MAXWELL

MICHEAL R. McINTEE

FRED A. McKENNETT

OLAF M. THORSEN

MART R. VOGEL

CONRAD J. ZIEGLER

HERBERT L. MESCHKE, Chairman.

Mr. Chairman, I move the report be received and filed.

PRESIDENT SPERRY: Is there a second to the motion?

(Motion seconded and carried unanimously.)

PRESIDENT SPERRY: The next report will be that of our Legislative Committee, and which will be made by Joseph A. Donahue.

JOSEPH A. DONAHUE: This will be a brief account of our stewardship, some consideration of legislation sponsored by the Bar Association in the last session, and could include, if time permits—which it will not—some consideration of other legislation of interest to the Bar of this state; plus some recommendations.

To begin with we spent no money. I think we could have and perhaps should have. However, the Patterson Hotel has apparently donated to us the use of the committee meeting room, which we used twice. At least we have not received a bill. We donate the postage, and the clerical expense and necessary telephone calls were uniformly applied on President Sperry's bill, and we, therefore, got by without the expenditure of a single dime.

The work of the Legislative Committee is done by the members of the legislature who are members of the Bar Association. They are all automatically and ex-officio members of the committee, and they do the work and are entitled to the credit. Now, when I get over to recommendations I don't think that that should be quite as much of a burden on them as it is, but that is the way that the committee has functioned and always has in the past and definitely did this year.

Our chief task in this session, as we were reminded by the Executive Committee, was the Judicial Retirement Act. This act was not drafted by the committee, but it had been well coordinated in advance by the Judicial Council and with the Executive Committee and with the Executive Committee of the Bar Association.

We frankly anticipated some slight trouble, not on the basic act or the passage of it, but on certain minor features. We were guided in that very largely by experienced lawyers in the legislature who have, if anyone can have, the concept of the possibility in this legislature; and no one knows for sure what may break out and what may not. In this case no opposition whatsoever developed — not in the slightest — the bill went through without any amendments. We now recognize that under the circumstances, as they did result, we could have gone farther. I think we are unquestionably now committed and in an excellent position to ask for a salary increase for the judges of the District and Supreme Court in the next session. However, in this one we did, and the members of the legislature particularly did, lay it on the line that it was not under consideration at the beginning, so we are satisfied with the bill as introduced. In addition to that we had an obligation between the Bar Association and the Bar Board to straighten out the attorney's fees and the adjustments for diversion of those fees between the two agencies. That was an understanding since the last legislative session at which time an amendment had been made with a commitment that it would be re-amended in the session. The result, as you probably know, is that your bar fees will go up again. Fortunately for those of you who have paid it at this time that increase will not take effect until the first of 1958. I will have to leave it to the Bar Association and J. Henry Newton to wrestle with the problem as to what to do with those boys that passed the bar examination yesterday, and I am rather hopeful that they will be able to interpret the law to a degree that they can let them through on the same scale as we paid in January of this year.

On a somewhat informal basis — and this is a field in which the chief credit should go to Judge Foster — we provided for a salary increase for court reporters. If the situation develops that you find yourself with a reporter from your district at this convention, let him buy. He is getting additional compensation and you are partly entitled to the credit.

Of course, of very great importance to the Bar Association in general in this last legislation was the Corporations Act and other associated acts. That was coordinated with the legislative committee of the Bar, but frankly we are not entitled to any credit whatsoever. It was beautifully handled by the Corporation Committee and the Legislative Research Committee and it was, as you know, completely successful. A slight atmosphere of politics broke out at one time with one of the related acts having to do with cooperatives, but fundamentally that went through beautifully. There were also a large number of Title Standard Acts from the Title Standards Committee, only five of which passed. This also

was not handled by the Legislative Committee of the Bar Association, and I think we owe our very deep thanks to the Title Standards Committee for not loading us with the task of handling the Title Standards bills. I think they left us out of that in recognition of the fact that we did not have time to do it. However, the result was rather unfortunate; there were more bills slaughtered than passed. Now, of course, all acts that affect the Bar Association are largely fought for and sometimes against by members of the Bar. That happened inevitably to the Title Standards Acts. Those that passed were those that evidently attracted the least opposition from individual members of the Bar. One that Prof. Crum of the University has been interested in for some years is to the effect of an unrecorded instrument. If I understand it correctly now, although the basic statute remains, you may ignore an unrecorded instrument out of the chain of title when a connecting instrument is subsequently filed. I believe it now zips back and ties it up.

The Estate Tax Lien Limitation Title Standards Bill passed without trouble, as did also the *lis pendens* limitation making it roughly relative to the situation in regard to the ten years for judgments; also a bill requiring, or not requiring, but requiring it as notice the recording in the register of deeds office the judgments affecting real property. Some of us will have to watch that. Now, as to existing judgments which have been noticed without being recorded, there is a short time left in which we may place those of record.

Also, as a Title Standards Bill — I suppose I am encroaching on somebody else's field — is the basic adjustment of the Marketable Title Act itself, which, however, will not take effect until January 1st, 1958.

Now, I happened to be present when that bill was being considered in the committee, and a rather weird situation developed. There was a good deal of discussion. Much to my surprise and to the surprise of an awful lot of other people there, we found that there are places in this state where the Marketable Title Act has been understood to the degree that attorneys examining an abstract only go back 30 years. I certainly hesitate to do that, and I do not think that is the intent of the act. There is also a large quantity of proposals advanced to the Legislative Committee of the Bar Association by individual members, and, of course, a large number of them have very considerable merit. After all, they all have sufficient merit to justify at least one member of our association sitting down and writing a letter saying, "I noticed this, and I think something should be done with it." Senator Knutson, who has been chairman of the Legislative Committee for quite a few sessions, turned over to me a really substantial file, and we got a lot more.

Now, we brought up in the two meetings of the committee most of those proposals, and it was obviously impossible for us to handle them on a committee basis. The result was that those that were taken on by the committee were handled by individual members of

the committee who were legislative members. They did it in their spare time. By the way, we have made no special identification of any bills whatsoever; there is really no way in which that can be done; we cannot introduce them. There was no special identification of a bill as being sponsored by the Bar Association. So all of these came in individually, but my very deep thanks are owing to the individual members of the legislature. The lawyer in the legislature is overworked. He is asked by other members for a tremendous amount of help or advice on other legislation. But, that is the way that these bills came in.

Now, included in those were two uniform acts. There were more recommended, but only two were introduced and passed. Those being passed, of course, being on endorsement by former students to Dean Thormodsgard to a large part. They were the Joint Tort Feasor Bill, which had been considered and defeated in the Senate after passing the House some years ago, has now passed both houses; and the Uniform Gift to Minors Act which attracted no opposition whatsoever, and did provide a certain tax savings to some estates.

The Expert Witness Bill is probably somewhat similar to that. We also adjusted the fees of jurors in police magistrates courts, and I'm sure it's a surprise to those people who have practiced in police magistrate courts that the jurors' fees have been fifty cents. They have been paying them four dollars in many places. It now is four dollars, and is also true that that four dollars is charged back against the defendant; so, he is risking a little more than he has in the past. But also streamlines, to a large degree, the justices' fees and got away from the ten cent and twenty-five cent for individual activities.

Also, I think probably I should recognize as coming out of the Legislative Committee as a Williams County proposal, and handled by Representative Burk of Williams County, a method of making it more simple to create a county of increased jurisdiction.

Well, I had anticipated that there would be a certain conflict in this session between the new rules which have been adopted and legislative activities on the statutes that would be superceded. The legislature has in the past amended some sections, and I am fairly well sure they felt free to go ahead to do it again this time, and I don't know what the result will be. Fortunately, the conflict, if any, would be minor. I have checked the two parallel tables from the rules and the statutes superceded and the parallel tables in the Session Laws, and I believe that there are only two very minor conflicts. Section 10-1401 and Section 28-2606 probably are somewhat affected by both the rules changes and by the last legislature. But I doubt if there is anything of any great seriousness. I think we got by very luckily.

The Session Laws, by the way, are available. I received my copy just yesterday, but I was able to borrow one of the red-bound State properties. I have had a chance to look at it and they are bigger than ever. They now sell for eight dollars a copy. I believe

that a booth has or will be established in the convention hall where you can pick them up now. If not, you can pick them up at the Secretary of State's office at the Capitol.

Now, I suppose that I should make a confession that what was probably the only mandate we had from this association was not followed through in the Legislative Committee of the Bar Association. I do recall that on the very closing of the Minot convention a resolution was passed asking for trial de novo in workmen's compensation cases. There was no bill; that is, no bill submitted to the committee. The resolution was taken up in the Legislative Committee of the Bar Association and no bill was introduced by the committee as such, as I pointed out. No bill at all was introduced even by the Judiciary Committee primarily as a Bar Association measure. They were all submitted with individual sponsorship. A bill did come in in large part because of the resolution. It, by the way, did include all administrative agencies, not only the Workmen's Compensation Act. It was an amendment of a section of the Uniform Administrative Partners Act. It was bitterly opposed by every administrative agency in the Capitol, as might be expected, and it did suffer defeat. I'll admit that my heart was not in that bill.

I would strongly recommend, and I am not making this in the form of a motion, because there will be another session of this Bar Association and another Legislative Committee meeting before there is another legislative session. So, I think I am making this recommendation primarily to the Executive Committee. We had perfect assistance from them. As I say, we spent no money, but I am sure we could have. I do believe that we should attempt to work out some manner of coordination. We have a rather bad reputation in the legislature for the type of legislation that we have submitted at various times. I am positive of one that very nearly went to the floor a few years ago and was in the legislative section of the Bar Association, I believe, for two years, and I believe in that we stated that in addition to being able to use the deposition of a witness if the witness were out of a county we could also use it if he were out of the state. I have never been yet able to understand how a man could be out of the state without also being out of the particular county. And I haven't the slightest idea what we did intend to do under that, but we caught it before it got to the farmer members of the legislature. I have at times in the past written bills for particular committees of the legislature and then had the pleasure of showing up at the next convention, after the bill had passed some time, and hearing one section of the Bar Association, bitter criticism of that particular bill; and some of them express the temerity of those farmers in the legislature that would dare to monkey with that highly technical law while in another panel of the committee they were taking credit for passing our bill. I do strongly recommend that we try to provide, and I am just suggesting that to the next Executive Committee, a greater coordination of all legislation that may develop from any phase of

the Bar Association, and some method of handling these individual proposals that do come in; and I do think that we should employ draftsmen, and we have quite a group around the state now. I'm not volunteering my service either with compensation or without, but we do have quite a backing of people who have experience at drafting legislation; and I believe before any legislation is introduced it should be coordinated so that we do present somewhat more of a united front. I remember that even our bill of two years ago in which we got a third judge in this district the only opposition was within the Bar Association itself, not much in the legislature. But the committees of the legislature did receive communications from lawyers expressing some opposition, and that had been endorsed by the State Bar some time before, I mean, it had been up more than once. So, I do recommend that we try. I think that could be handled just by the Executive Committee to provide for a higher degree of coordination so that we are all aware of what we are doing; and if we are to act at the last minute, as we have been acting on individual recommendations, of course, we cannot commit each and every member of the Bar, and particularly those who are in the legislature. But, I think that possibly some better coordination could be worked out. It cannot be left to either the chairman or the members of the legislature who are on the committee to do it in their spare time. Even the uniform act takes a good evening of checking before it is ready to be turned over to the stenographer for typing. And then, I think that some who have had experience in legislative drafting should be employed either by the Legislative Committee or by the individual committees to process those indicated for introduction.

I am making no motion except that I do now move the acceptance of this report.

PRESIDENT SPERRY: Thank you very much. That was a very fine report. No one knows better than I the amount of work that you have put into your Legislative Committee work, and I think we had a highly successful legislative year for the State Bar Association.

You have heard the motion, now, is there a second to it? The motion was that the report of the Legislative Committee be accepted.

(Motion seconded and carried unanimously.)

PRESIDENT SPERRY: Now, the next report on the agenda is the one on Professional Cooperation. This committee is a relatively new one. It's been a lot of hard work under the able direction of its chairman, Frank Kosanda, and we have had wonderful cooperation from the State Medical Association in carrying out that program. We are also going to have a few words from Mr. Limond, the executive director of the Medical Association following the report which will be given by Frank Kosanda.

FRANK KOSANDA: Thank you, Mr. President, and members of the Bar Association.

COMMITTEE REPORT ON PROFESSIONAL COOPERATION

Your committee on Professional Cooperation for the year 1956-1957 begs leave to report:

During the formative stages of the Committee on Professional Cooperation for the year 1956-1957 certain steps were taken to make the committee a more active and effective part of our association. It was felt that the duties of the committee were not clear and that there was a potential which should be developed. You will recall, Mr. President, that three main suggestions were made by yourself, namely: 1. That the committee draw an Interprofessional Code as a means of improving the lawyer-doctor relationship with a view towards approval by both the Bar and the Medical Associations for the State of North Dakota. 2. That if the medico-legal code proved successful, the committee should continue its work by drawing similar codes for the relationship which exists between the lawyer and the accountant, the engineer, the contractor, etc. 3. That the arranging for the annual medico-legal institute of the Bar Association be transferred from the Committee on Continuing Legal Education to the Committee on Professional Cooperation.

As a result of the first suggestion, the committee has drawn a code for interprofessional cooperation between the legal and medical profession. Copies of this code have been made available to you so that it will not be necessary to read it at this time. The medico-legal code has been approved by the Liaison Committee of the North Dakota Medical Association to the North Dakota State Bar Association of which Dr. Paul Johnson is Representative and by the House of Delegates of the State Medical Association, with the recommendation that copies be sent to all members of the Medical Association. This giant step forward would not have been possible without the assistance of Mr. Lyle Limond, the Executive Director of the State Medical Association, Dr. Paul Johnson and Dr. R. H. Waldschmidt, the President of the State Medical Association. The Medical Association has indicated that they intend to keep active the committee of which Dr. Paul Johnson is Representative and that said committee continue to work with the corresponding committee of the Bar Association. Your committee recommends the approval and adoption of the medico-legal code on Interprofessional Cooperation.

Some liaison work has been done with the accountants and with the engineers with a view towards Interprofessional Codes with their associations. No codes have been drawn because the committee was desirous of seeing how the proposed medico-legal code would be received. The drawing of these codes and the final approval by both Associations takes about a year because of the liaison work and the necessity of obtaining approval of both Associations. Your committee recommends continued work on these Interprofessional Codes.

One of the difficulties prior to this year seemed to be the lack of specific tasks for the committee. By transferring the medico-legal

institute to the Committee on Professional Cooperation, an annual project would be established which would give the committee one specific task. This committee recommends the transfer of the medico-legal institute to the Committee on Professional Cooperation.

At one of our state-wide meetings between the two professions, Dr. R. H. Waldschmidt suggested that the lawyers attempt to provide the doctors with some attraction at the medico-legal institute such as a discussion on estate planning, which he felt would be of great value to the doctors as some of them were aging and have accumulated certain wealth. Dr. Waldschmidt also suggested more medico-legal meetings be held on a local or district basis and that there be lecturers supplied by the Bar Association at such meetings. Your committee recommends more medico-legal meetings on a local basis and that the Bar attempt to supply lecturers for such meetings.

Because some difficulty was experienced in obtaining the attendance of all the members of the committee at a state-wide meeting, it is suggested that the incoming President have the nucleus of the committee concentrated in a certain area with some but fewer members located at a distance and that some attempt be made to have a member located where there is a corresponding member in the Medical Association, for example, a member should be located in Bismarck where the Executive Director of the Medical Association has an office and that a member should be located at Dickinson where the new President, Dr. R. W. Rodgers has his office.

On behalf of the members of the committee on Professional Cooperation, I would like to express my appreciation to President Floyd Sperry, and Executive Secretary Lynn Grimson, and to Lyle Limond, Dr. Paul Johnson, and Dr. R. H. Waldschmidt of the Medical Association for their assistance and cooperation, and on my own behalf, I would like to thank the members of the Committee on Professional Cooperation for their sincere, aggressive and diligent work.

Respectfully submitted,

HARRY SCHWENKE
FRED A. McKENNETT
JOHN C. McCLINTOCK
JOHN F. LORD
THOMAS L. DEGNAN
ROBERT E. DAHL
FRANK J. KOSANDA, Chairman.

Now, at this point I would move the adoption of this report with the understanding that that motion not include the adoption of the proposed code on which I will make a separate motion in a few moments.

PRESIDENT SPERRY: You have heard the motion, is there a second?

JOHN LORD: Second the motion.

PRESIDENT SPERRY: Is there any further discussion?

(No response.)

PRESIDENT SPERRY: Before you take a vote on the adoption of the code I would like to say that it was submitted to the Executive Committee and that we have approved of it. Now, you have heard the motion, and if there is no discussion I think you are ready for the question on it.

(Motion carried unanimously.)

FRANK KOSANDA: Before I make the other motion I am going to make a few remarks here, impromptu as they are, and after I am through I believe Mr. Limond has a few things he would like to say in behalf of the Medical Association.

Now as you know, this report has been adopted by the Medical Association, and we have their approval; of course, before its acceptance we will need the approval of the Bar Association. I understand that the Medical Association hopes this will be adopted and that they have something definite for a guide, and we should feel the same way as attorneys. The Bar Association, I should think, would want to take the same stand. Incidentally, this code was made a part of the application for an Award of Merit as a proposed code, not as a final code, and it is part of that application.

Now, some of these remarks I'm going to make will be reinforced by Mr. Limond; they are concerned with the Medical-Legal Institute. The Medical Association has, and I think one of their questions would probably be, that if we have it again that it be not at Grand Forks this time but that it be moved around some; and I believe because there are many doctors and many medical officials located in Bismarck that the Medical Association is desirous of having it in Bismarck this year — that is food for thought. I believe Mr. Limond will echo those remarks. They also suggest the last time it was held in Grand Forks it was in conflict, all of you will remember, with the World Series and also right during the hunting season. They suggest that we be a little more careful in picking our date so that we can have a better attendance to that. And, of course, the president has suggested that we have some attraction for the doctors too, like he suggested, the State Final. The Medical Association has some film. They have one now which has just been premiered which is entitled "The Doctor Defendant," and they have some definite understanding that there is going to be a medical-legal institute. It is their intention to arrange for some of this material for the institute.

Now, I believe that is about all I have, Mr. President. If you want to call on Mr. Limond.

PRESIDENT SPERRY: I would like to say that it was through the cooperation of Lyle Limond, Executive Director of the State Medical Association, that we were able to conduct two medical-legal institutes, both of which were conducted at the University of North Dakota, and both of them were a success, financially and

otherwise. It's been a pleasure to work with him, and I think that through his cooperation that we have gone a long ways in building up better relations between the two associations; and I'm happy that he is here, and I'm going to ask him to say a few words to you at this time. Lyle Limond.

LYLE LIMOND: Thank you, Mr. Sperry, Mr. Kosanda, Mr. Grimson, members of the North Dakota Bar Association. It's very nice to have the words in the light of a bouquet that my services were of some value, being a non-legal and non-medical person, that is quite something. I sincerely feel since I have arrived in North Dakota some five years ago that this code is a definite step forward in the right direction. It may not be the best code, I have no way of judging that, but I feel that if we can live under it for two, three years, and if the committees will cooperate as they have in the past year we can make changes, maybe strengthen it as needed and so on. Incidentally, my people do feel that when you started out with your legal-medical institute that they are wonderful, that they are an educational vehicle. And my folks feel that they are worthy of having them held in several areas rather than going back to one particular community each year. And we would urge, we urge graciously, that you would consider moving the institute to another community if your plans are for one this coming fall. Once again considering the conflict of interest in the two groups as to following the World Series, hunting and so on. I also feel, that one of your speakers last October mentioned the interest that should be taken in the Jenkins-Kehoe Bills. Those are House Representative bills nine and ten for tax relief for the self-employed, and the North Dakota State Medical Association is on record supporting passage of the Jenkins-Kehoe Bill as of May this year. So we took that message home after hearing it from one of your members last year and have now acted. I do not know what you folks will do. Also, we feel that we are once again willing to cooperate. If you have any directives as to how our committee — Liaison Committee with the North Dakota Bar, can improve its activities we welcome such suggestions.

For me and on behalf of my group I want to say thank you for the invitation of appearing before you, and we sincerely feel that the code is the step in the right direction. Thank you.

PRESIDENT SPERRY: Thank you very much, Mr. Limond. And, Mr. Kosanda, did you want to make your other motion at this time?

FRANK KOSANDA: Yes, Mr. President, and thank you. I might say concerning Mr. Limond and his colleagues that they have been very helpful and very pleasant to work with, and I couldn't emphasize that too much, the cooperation has been tremendous. At this time, then, I would move concerning the Medical-Legal Code that the State Bar Association approve and adopt it as a guide for both professions.

(Motion seconded.)

JOHN LORD: Mr. President, I would like to say in connection with this code that while it has been gleaned from a study of about 12 other codes it is the initial step that we have taken. We do not regard it as final, but we believe that in its present condition it is worthy of adoption by the association as it has been adopted by the Medical Association as the first step and a guide for future relations.

PRESIDENT SPERRY: Thank you. Does anybody else want to be heard?

(No response.)

(Motion carried unanimously.)

PRESIDENT SPERRY: Thank you, gentlemen. Now, the next reports will be upon the Rules of Procedure and Administrative Law. We are going to try and save a little time by having these reports given very closely together. Both committees having been chaired by Frank Jestrab. And I want to say in presenting Frank to you that he accomplishes more work and comes up with more new ideas than anyone I have ever knew.

FRANK JESTRAB: Mr. President, and members of the Association. This will be an informal report — two informal reports, and it's a little hard for me to be formal anyway so they will be very short ones.

With regard to the Rules of Civil Procedure, they have now been adopted. Monday they are effective so there isn't much to say about that. The committee has one recommendation, and that is that the Joint Committee of the Judicial Council and the State Bar Association be continued. We believe that that is a plan superior to the plan of the Supreme Court of appointing a committee to act as a Continuing Revision Committee. We believe in that way every lawyer and every judge in the state of North Dakota is represented and will have a feeling that he is represented by the committee; and that this committee will do two things. It will entertain suggestions for the amendment of the rules as time shows need of such, and it will cooperate with the Supreme Court in the ultimate promulgation of those amendments or such of them as the Supreme Court sees fit to adopt. The second thing that this Continuing Committee will do is to act as a watch dog in the legislature and to keep the legislature advised of changes that are being made so that there will be no duplication of effort, and so that we can be sure that the legislature will not feel called upon to make changes in procedure. That is a matter that the legislature will be interested in from time to time. Constituents will make suggestions, and it is only proper that the legislature be kept fully informed of what is going on. So, those two things — or, they show — the committee recommends that this Continuing Committee go on as it has in the past. The Judicial Council has already agreed to that program.

And accordingly, Mr. Chairman, I move the adoption of the report of the Rules Committee of the State Bar Association which will contain that recommendation.

PRESIDENT SPERRY: Thank you. You have heard the motion, is there a second?

(Motion seconded and carried unanimously.)

FRANK JESTRAB: The second report I want to make is the report of the Administrative Law Committee of the State Bar Association. As you know, that is a new committee that has only recently begun to function. The people on the committee are extremely hard workers; there is a tremendous amount of material that must be covered. Mr. Donahue referred to a couple of bills in the last legislature that had to do with administrative procedures, notably, the bill providing for trial de novo. We were done the courtesy of an inquiry as to our position on the bill, and we stated we didn't have any; that we didn't know anything about it, and that our study was in progress, and that we would prefer not to take an official position on the bills. I gave as my own personal feeling at that particular time that it seemed to me to be a step backward; but other than that we took no position whatsoever. The committee is now making a study of all the administrative agencies and the rules which they have promulgated pursuant to statute. Another group in the committee is making a study of the Administrative Practices Act which was adopted, I think, in 1943. That's a very notable statute because it's the first Administrative Procedure Act passed by any state or any governmental body in the entire United States, and I believe that the moving spirits behind that were Clyde Duffy and Milton Higgins and Clem Kelsch. They did a tremendous service for our state in drafting that statute and nursing it through the legislature, and the committee is now in the process of studying the effect that the statute has had and investigating the possibility of making any necessary amendments. The only recommendation that we have is that the committee be continued, and that you be indulgent with the committee because the amount of work that they have to do is tremendous. But we hope that in the next two or three years the committee will have something productive to offer.

Mr. Chairman, I move the adoption of the report of the committee on Administrative Law of the State Bar Association.

PRESIDENT SPERRY: Thank you, Frank. Is there a second to the motion?

(Motion seconded and carried unanimously.)

PRESIDENT SPERRY: At this time we would like to have the report of the committee on Uniform Laws by the Honorable John C. Pollock.

JUDGE POLLOCK: Mr. President, with your permission I would like to ask that the reading of the report be waived inasmuch as Mr. Donahue has largely covered what we would report, and that the report of the Uniform Laws Committee of the Association be adopted.

ANNUAL REPORT OF COMMITTEE ON UNIFORM LAWS
STATE BAR ASSOCIATION OF NORTH DAKOTA
FOR THE YEAR 1956-1957

Mr. President, your Committee on Uniform Laws for the year 1956-1957 begs leave to report:

There was an unusual volume of Uniform Laws considered by the Legislature at its 1957 Session. Eight Uniform Acts were presented to the Legislature of which two were adopted as laws of this state, three were referred to the Legislative Research Committee for study and adaption to our State conditions. The two Acts adopted are:

Uniform Gifts to Minors Act; and,

Uniform Contribution Among Tortfeasors Act;

Acts which were introduced and referred for further study are:

Uniform Partnership Act;

Uniform Limited Partnership Act; and

Uniform Motor Vehicle Certificate of Title and Anti-Theft Act;

Other Acts introduced but failed of passage are:

Uniform Arbitration Act;

Uniform Post-Conviction Procedure Act; and

Uniform Adoption Act;

The section of the Legislature in 1957 now gives our State thirty-eight Uniform Acts which have been adopted since 1899 when the Uniform Negotiable Instruments Act became the law of North Dakota.

Your committee would again like to express its thanks to the Legislature and to the members of our Association who constitute the Legislative Committee for their support and cooperation in procuring the adoption of the Uniform Acts.

It is the hope of your committee that the Acts referred to the Legislative Research Committee will be given due consideration and that they may be introduced at the next Session of our Legislature.

We would urge that our Legislative Committee give attention to the Uniform Securities Act which was approved by the American Bar Association House of Delegates at its 1956 meetings. This act is drawn so that only such parts as are adaptable to the conditions of a particular state need be adopted. The Act would supplant our present "Blue Sky Law" and would be administered by the Secretary of State. It contains provisions for protection against fraud for registration of either securities or brokers, or both, and the general administrative provisions to effect the purposes of the Act. With the increasing ownership of stocks and securities by members of the public as our nation and state progress economically this act is necessary for the protection of our North Dakota citizens.

Respectfully submitted,

O. H. THORMODSGARD

C. EMERSON MURRY

WILLIAM J. DANER

FRANK F. JESTRAB

JOHN C. POLLOCK, Chairman.

PRESIDENT SPERRY: Any discussion?
(Motion seconded and carried unanimously.)

PRESIDENT SPERRY: We will have time for the report on Legal Education and Admissions to the Bar to be given by Dean O. H. Thormodsgard of the University Law School.

MR. THORMODSGARD: Mr. President, I would like to follow suit and recommend that the reading of the report be suspended, and that it be adopted for the reason that it deals with the question of Bar examinations and University Law School examinations presenting their methods and distinctions; and since it will be printed in the North Dakota Law Review I doubt if it is necessary that it be read at this time.

ANNUAL REPORT OF COMMITTEE ON LEGAL
EDUCATION AND ADMISSION TO THE
BAR FOR 1956-57

Your committee on Legal Education and Admission to the Bar for 1956-57 begs leave to report:

AIMS AND OBJECTIVES OF LAW SCHOOL AND
BAR EXAMINATIONS

Practically all of the law students have either received a college degree or have completed three years of acceptable college work. While in law school, several educational methods are used in preparing the students for the practice of law. The case method of teaching law has special merits provided the students actually read the cases with understanding. The critical case method of reading law is of aid to students in teaching them how to think as lawyers. Law students are advised to supplement their case studies by reading recommended text books. Having access to the law library, diligent law students find it worth while to read selected law review articles in all the courses in which they are registered. During the first year and thereafter statutory materials are assigned to the classes for analysis and comparison with the common law. In some of the courses, special law problems are given the students for solution. Certain phases of the law may be effectively taught by the problem method. For years, law schools have offered courses in Legal Bibliography and Legal Research. In recent years, courses in Legal Writing have been added to the curriculum. Formerly only law review men, approximately five to ten per cent of the students, received this valuable training. At present, the program has for its objective that this training should be available for all law students. By the time law students have completed three years of school work, they ought to have acquired the techniques of legal analysis and the power to exercise independent judgment as to what ought to be done in a particular situation under a given set of facts.

Law teachers apply several methods to measure the professional growth of their students. The essay type examination is primarily used by teachers. This method is good where the person who prepares the questions has time to grade the essay type questions.

Questions which require the definitions of words and phrases are not highly regarded by teachers or law students. Definition questions may be proper for beginning students as a method of emphasizing the importance of using the law dictionary.

In recent years the true and false questions have been used by some of the instructors. Better than the true and false questions are the multiple choice questions. The answers to these types of examinations may be graded by machines or by clerks. These types of examinations are suitable where the classes are large. Likewise they are adaptable for covering in detail a larger segment of the subject matter.

Law teachers have a right to expect that law school applicants have a reasonable cultural background and they have the capacity to learn something while in school. Law teachers may expect that after three years of law school work, the law graduates will be adequately prepared to write the Bar Examination.

The National Conference of Bar Examiners was organized in 1931. The primary objective of the Conference is to improve the quality of bar examinations and their "reliability as test of the legal knowledge of the candidates." Since that time, there has been progress by the law examining boards of the several states in giving examinations. Greater care is being taken in preparing bar examination questions. In states where there are several hundred applicants, it becomes impracticable to use an examination with fifty to a hundred essay type questions. For law examining boards which deal with large numbers of applicants, true and false questions are not only desirable but are essential. Those who have made use of yes or no questions have found that it is more difficult to prepare them than the old, long-term essay questions. Whatever type of questions are used, the bar applicants should be assured that the answers will be read with care, graded accurately and that fair treatment will be given them.

In law schools, four hours are allowed the students to answer ten essay questions. This gives the students twenty-four minutes on the average for each question. It would be practically impossible for the bar examiners to allow so great a length of time. For that reason, the bar examination questions should be different than law school examinations. Since the time allotted to applicants for the bar is limited, the statement of facts in a bar examination question should be brief and clear. If the question is brief and clear, the answer may also be brief and to the point. Whatever type of questions are used, the bar applicants should be assured the answers will be read with care and graded accurately and that fair treatment will be given them.

In 1921, the American Bar Association set up "Minimum Standards for Approval of Law Schools," with the benefit to many law schools throughout the United States. The Section of Legal Education and Admission to the Bar of the American Bar Association has prepared "Minimum Standards for Bar Examiners and Bar Examinations," which were approved by the House of Dele-

gates of the American Bar Association in 1955. These standards will in time be gradually incorporated in laws, rules or regulations by the several states. There will be a trend toward greater uniformity as to bar examinations in the several states. One of the objectives common to the law schools and bar examiners is to improve the quality of law school examinations and bar examinations.

Respectfully submitted,
C. L. FOSTER
HERBERT G. NILLES
MACK V. TRAYNOR
O. H. THORMODSGARD, Chairman

PRESIDENT SPERRY: Any discussion, gentlemen?
(Motion seconded and carried unanimously.)

PRESIDENT SPERRY: I wonder if we could actually get someone to make one more report before we adjourn for lunch, and possibly we could have the report on Business Corporations which will be given by Leonard Stephan.

L. STEPHAN: Mr. President, this report was prepared by the chairman of the committee, Mr. L. T. Sproul, of Valley City, who has requested that I read it; it's very short—I think it's shorter than Lincoln's Gettysburg Address—so it will not take very much time.

REPORT OF COMMITTEE ON BUSINESS CORPORATIONS

Following the report of this committee to this Association in August, 1956, and the Association's approval thereof, the committee continued to cooperate with the Legislative Research Committee and Code Revisor, William J. Daner, in presenting the new Business Corporations Act to the 1957 Legislative Assembly. The committee's views on various questions raised by members of the Legislature were, during the season, promptly presented and the act passed both Houses and has been approved by the Governor and has now become law effective at the times provided therein.

The general corporation law itself, which is the Model Business Corporation Act prepared and published by the Committee on Corporate Laws of the American Bar Association, was introduced as H.B. 537. With this bill two other bills were also introduced as necessary to properly integrate the new law into the existing Code. These two additional bills were H.B. 538 relating to special corporations which refer to the general corporation law, and H.B. 539 which refers to fees payable to the Secretary of State's office and incorporates in that bill the portion of the general corporation law relating to fees payable by corporations. These three bills have been passed and approved. H.B. 538 and H.B. 539 go into effect July 1, 1957.

Because the new corporation law and its affect upon existing corporations will be fully covered and explained in one of the sectional meetings at the 1957 meeting of the North Dakota Bar Association, this report will not go into further detail on the new

corporation law. We ask that the Association approve the work of the committee and that the Association authorize the Business Corporations Committee to continue to cooperate with the Legislative Research Committee in working out any problems that may arise out of the application and operation of the new law and in preparing any amendments or changes that may appear necessary and proper for consideration by the 1959 Legislative Assembly.

Respectfully submitted,
 PHILIP B. VOGEL
 FRANKLIN J. VAN OSDEL
 DEAN WINKJER
 JOHN R. DAVIDSON
 CLYDE DUFFY
 THEODORE KELLOGG
 W. T. DE PUY
 L. A. W. STEPHAN
 L. T. SPROUL, Chairman

Mr. President, I move the acceptance of this report.

PRESIDENT SPERRY: Thank you. Is there a second to the motion?

(Motion seconded and carried unanimously.)

The convention adjourned until 1:30 o'clock, p.m., same day.

MORNING SESSION, FRIDAY, JUNE 28, 1957

VICE-PRESIDENT HJELLUM: Mr. President.

PRESIDENT SPERRY: Mr. Hjellum.

VICE-PRESIDENT HJELLUM: In accordance to the usual practice I would like to move that the Honorable E. R. Selnes be made an honorable member of this Bar Association.

PRESIDENT SPERRY: Thank you, Mr. Hjellum. Is there a second?

(Motion seconded and carried unanimously.)

PRESIDENT SPERRY: Now, I understand that Judge Selnes and Mrs. Selnes will be at our banquet tonight, and at that time I will present to him a certificate as a token of the appreciation of our Bar Association for his fine work here.

Now, before we leave the matter of the work on the New Rules, I would like to say that our chairman on Continued Legal Education, of which Roy Ilvedson is the chairman, has been planning an institute upon that for some time, and that will take place this fall. I think that will be a good time for it. By that time we will know how they are going to work out, and we'll probably all have a lot of questions which we can sit down at a seminar and work out.

I think that we are now ready to proceed with the election of officers unless someone has some new announcements to make. The first office to be filled is that of the president of the State Bar Association, and nominations are now in order for that office.

DUDLEY BUTTS: I have the pleasure of nominating a man

whom most of you know—I'm sure all of you know. He has been practicing in the State of North Dakota for 23 years. He is the past president of the Stutsman County Bar Association, past president of the Fourth Judicial Bar Association, and has served in many capacities with our North Dakota Bar Association and with the American Bar Association. He has been very active in the continued education program of the North Dakota Bar Association; and in the past few years since I have been practicing I have had the pleasure of being in the same community with him, and I know him to be a capable lawyer and a very successful lawyer. It is our opinion in Jamestown and Stutsman County that should he be elected president of the North Dakota Bar Association that he would be a definite credit to our grand association, and it is with a great deal of pleasure that I nominate John Hjellum of Jamestown for the office of president of the North Dakota Bar Association. Thank you.

PRESIDENT SPERRY: Thank you, Mr. Butts.

VERN JOHNSON: Mr. Chairman, it gives me pleasure to second the name of John Hjellum. I think he is really deserving of it, and I would like to say that if he does one half the work for the Bar Association as he has in trying to get fellows to go to London we are going to have a damn fine administration.

C. W. BURNHAM: As the senior member of the Foster County Bar I want to second the nomination of John Hjellum as president of the North Dakota Bar Association. As some of you know, Carrington, in Foster County, is John's home place. His parents have lived there since 1905, and John really should have been born in Foster County, but the fact that he wasn't born there we are not holding against him. His mother happened to be in Norway at the time of his birth. We all think a lot of John up there in Foster County. I know him personally, ever since he was in swadling clothes, and we are proud of the success that he has made in the profession of law at Jamestown. I know that he will make a wonderful president. I understand his heart is in the association work; and it's a great pleasure for me to second the nomination of John Hjellum for president of the North Dakota Bar Association.

L. R. NOSTDAL: Mr. President, I haven't noticed anything in the New Rules requiring the notice to any of the opposition candidates; so I don't suppose the New Rules govern the election of the president of the Bar Association—so, maybe they want to amend that—So, on behalf of the Pierce County Bar I wish to second the nomination of John Hjellum. We have heard his history now clear from the time he was born in Norway, so I guess it's not necessary to repeat that.

PAUL AGNEBERG: I move that nominations be closed.

PRESIDENT SPERRY: There is a motion pending that the nominations be closed.

(Motion seconded and carried unanimously.)

PRESIDENT SPERRY: The motion is carried, and the Secretary of the Bar Association will cast a unanimous ballot. I think probably that should have been included in the motion, and I think that was the intention for John Hjellum as president of the North Dakota State Bar Association.

E. PEARSON: Mr. President, as secretary I so cast a unanimous ballot for John Hjellum as president of this organization.

PRESIDENT SPERRY: To complete the record I hereby declare John Hjellum elected to the office of president of the North Dakota State Bar Association; but, I want to say that we don't have any time this forenoon and none until tomorrow forenoon for our speeches.

We will now have to proceed with the election of a vice-president of the North Dakota State Bar Association, and nominations are now in order for that office.

E. PALMER: Mr. President, I just heard your directive that we would not have time for speeches, and, of course, that embarrasses me because I spent much time last night securing my information of material and thought that it would be a great opportunity to expound myself here this morning, but I'm afraid you will apply the new rules to me. I am going to make my remarks quite brief because the subject of my remarks, I believe, is quite well known to all of you. But, I have been asked to submit on behalf of the Williams County Bar Association to place the nomination of one of our leading and young attorneys in the city for the office of vice-president, and the lawyer that I refer to is one Arley R. Bjella. Mr. Bjella has been a practicing attorney in Williston since he was admitted to the bar; has been very active in the pursuit of his chosen profession; has been quite successful, as I think you all know, not only in the law practice but in the oil business. Arley has been also very active in bar activities. He has been the president of the Northwest Bar Group, in that capacity, and acted on the Executive Committee, and taken a very active part in some of the programs of the State Bar Association. He has been the president of our local bar association group. He heads a large firm of lawyers, and does have adequate help in his own firm to be able to devote time that is necessary now to carry out the active practice of our association with his bar work.

Now, I started out to say that I was going to make it short, so I, therefore, will terminate by saying I place into nomination for vice-president the name of Arley R. Bjella from Williston.

PRESIDENT SPERRY: I didn't mean to apply the rule against speeches insofar as nominations are concerned. I meant that the acceptance and inauguration speeches ought to be made tomorrow. I was afraid if some of the newly elected officers got started on their "state of the union" addresses we might be here quite a long time.

Are there any further nominations?

R. PLOYHAR: Mr. President and members of the Bar Associa-

tion. I presume you are wondering why I'm up here to place a nomination for one, I think, of the outstanding attorneys of North Dakota. Unfortunately, we have so many outstanding attorneys here that it's hard to believe one from the other. I was very much impressed with the nomination just made, and I certainly have no objection to it. On the other hand, I think we should consider two or possibly three candidates as a matter of selecting our next incoming vice-president. We have a man that I think we should give a good deal of consideration to, that I understand, and has told me, that he would be willing to consider this nomination and this honor if it was bestowed upon him. This man is none other than John Lord of Mandan. Now, most of you know John Lord. John has been a very active member of our Bar Association for a good many years. In fact, John is probably one of the outstanding members of our association; has done a good deal of work in many ways to promoting the welfare of our association. Not only is John a very active lawyer—knows practically all of the lawyers in the country, I believe—and even though he has probably tangled with you across the bench or across the bar once in awhile I'm sure you have always learned to love and respect John as an ideal lawyer and a fellow very interested in the welfare of our association from one end to the other. In addition to that I think it has been some time since Mandan has had the privilege of having someone slated for the vice-president of our association. I think that's a great deal of credit to have John come up here and be willing to take on that weighty responsibility. I'm not going to mention too much about John's activities because you all know—you know he is qualified. You know he would make an excellent officer. You know he would do everything in his power to carry out the work of this association; as a matter of fact, he is well fortified with office personnel so that he could take on this work and do an excellent job. I again on behalf of myself and some others that have been about here for sometime place the nomination of John Lord of Mandan, North Dakota, as vice-president.

PRESIDENT SPERRY: Are there any further nominations? The way the record stands, Arley Bjella, Williston, and John Lord of Mandan have been nominated for election to the office of vice-president.

R. KING: Mr. Chairman, I move that the nominations be closed.

PRESIDENT SPERRY: Is there a second?

(Motion seconded and carried unanimously.)

PRESIDENT SPERRY: The motion is carried. Now, we'll have to appoint some ballot men.

L. R. NOSTDAL: Mr. President, the time is short, and it takes a long time to vote by ballot. I move that we vote by standing instead of by ballot.

PRESIDENT SPERRY: I don't believe that would be proper,

Mr. Nostdal, in view of the fact that we have two candidates. Our rules apply for a secret ballot.

While the ballots are being distributed, while you are voting, and while the ballots are being counted we'll take time for a report. I think Dan Letnes from Grand Forks is here, and I would like to have him come up and give his report on Probate Forms and Practice.

D. LETNES: Mr. President, members of the North Dakota Bar.
REPORT OF COMMITTEE ON PROBATE FORMS
AND PRACTICE

The members of the 1955 and 1956 Committee worked on the problem of achieving uniformity and simplification of the probate forms and much was accomplished. This Committee commends the work of the previous committees and the several County Judges who assisted and there is little to be added in the way of suggestions for further improvement. However, this Committee feels that the following suggestions might be put into practice by the different printing firms:

1. All printed forms to be uniform in all counties in North Dakota.
2. Forms can be further shortened by eliminating obvious repetitious references to the representative, the county and state.
3. Provide a blank for the fee allowed to appraisers since the allowance of such fee is in the discretion of the County Court.
4. Provide for at least two lines for signatures where there is more than one petitioner or representative.
5. Provide spaces for officers of banks and trust companies to properly execute the documents in their respective capacities.
6. Increase number of forms which can be used interchangeably in estates and guardianships .

I would like to also add, and in talking over these problems with some of the county judges and the attorneys who do quite a bit of probate work, that all of us should cooperate in securing the cooperation of all printing firms to make the forms uniform. I believe you all agree that the different printing firms have different ideas about what should go in the forms, and as a result we run into this problem. In counties where they buy books which fit certain forms the judges look with disfavor upon an attorney who brings in a form from another printing firm. So, we can do a lot in that respect. Secondly, this matter of simplification will help to eliminate the cost of printing, and if some of you have noticed the forms that they use in Ramsey County, Minnesota, you will know what I mean. Some of those forms only have seven or eight lines of printed matter, and they have really shortened the forms in that county; and I think we can do still more along those lines in North Dakota. And, of course, it takes the cooperation of all the attorneys to do these things. So, that by the time we

have another meeting or convention we hope there can be further improvements, and if you will send these suggestions to the president or the executive director then the committee who is appointed next year can do some more work on this.

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

PRESIDENT SPERRY: Thank you, Mr. Letnes. Is there a second to the motion?

(Motion seconded and carried unanimously.)

PRESIDENT SPERRY: Now, is the Auditing Committee ready to report? Roy Ilvedson is the chairman of that committee.

R. ILVEDSON: Mr. Chairman, your Auditing Committee consisting of Mack Traynor, Roy Ployhar and myself considered the audit report of June 15, 1957, by Person and Gustin, public accountants, and do hereby approve same and recommend that the report be approved.

PRESIDENT SPERRY: Thank you, Mr. Ilvedson, for a very short and a very satisfactory report, insofar as the officers of the association are concerned, at least. I might say that copies of the audit are available to you should you want to look at them.

Is there a second to the motion?

(Motion seconded and carried unanimously.)

PRESIDENT SPERRY: We would like to get the election of officers out of the way before we adjourn for lunch if we can, so I think we'll proceed with the election of the secretary-treasurer of the organization, and nominations for that office are now in order at this time.

J. MCINTEE: Gentlemen, I am about to nominate for the office of secretary-treasurer a man who has had some experience in that office. He has held the office for one term, and it is my belief—and I'm sure that you will also consider he should have another term. The man's name is Elver Pearson. I would like to place that name in nomination for the second term as secretary-treasurer of this association.

JUDGE FOSTER: You know, this man beat me to the punch, but I had another announcement that I want to make; it's the only chance I'm going to get. I'm very pleased to second the nomination of Elver Pearson. He tried his first law suit in my court, and I have very fond recollections of it because he made one great long objection, and when he got all through he knew there was something wrong with the darn question but he didn't know just what it was; and when he got all through I said, "If you will just add to that that it is leading and suggestive I might sustain the objection." He did that and got by with it very nicely. And then Elver and another lawyer came into the office just before the argument and I said, "How long are you fellows going to argue?" Well, they didn't want to be limited. I said, "Heck, either one of you guys can do damage enough to your lawsuit in 15 minutes." But, Elver has made us a fine secretary; he is a fine young man; he is a developing lawyer, and he is going

to be a good one; and it's a pleasure for me to second the nomination of Elver Pearson.

J. GUNNESS: Mr. Chairman, as chairman of the Burleigh County Bar it gives me a great deal of pleasure to second the nomination of Elver Pearson.

J. CONMY: I am not going to place another name in nomination because it would entail a lot of time in taking a vote thereon, but I did promise my old classmate and friend, Sam Paletz of Grand Forks, to bring his name before this convention. I appreciate that this job has gone to younger men from year to year. I also appreciate that Elver Pearson has been a good man on the job; and we, that is, Sam Paletz and I, concede that he should have it for another year. It may not be good politics to bring this matter up in this way, but just the same, Sam Paletz has been a faithful member of this organization since 1924. He is interested in the organization. He wants to participate in the organization, and I'm simply taking this time now to put his name in your minds so that you may seriously consider him for this job next year. In doing so, I also second the nomination of Elver Pearson.

J. RILLING: Mr. President, I would like to move that the nominations be closed, and that the president be instructed to cast a unanimous ballot for Elver Pearson as secretary-treasurer.

(Motion seconded and carried unanimously.)

PRESIDENT SPERRY: The nominations are closed for the office of secretary-treasurer of the association and the secretary is instructed to cast a unanimous ballot for his own election to that office.

L. SHERMAN: The president was instructed to cast the unanimous ballot.

PRESIDENT SPERRY: I realize now that the motion was to that effect. I hereby direct that a unanimous ballot be cast for Elver Pearson as secretary-treasurer of the Bar Association, and that he be declared elected to that office.

Do we have time for another report while we are waiting for the ballots? Do you want to make your report at this time, John? This is the report on the Memorials.

J. WILLIAMS: Mr. Chairman, we have filed a written report, and have written memorials for all of the lawyers who have died during the past year; and this report is on file with the executive director, and I move that it be approved.

(Motion seconded and carried unanimously.)

REPORT OF COMMITTEE ON MEMORIALS

Your Committee on Memorials has to report that since our last annual session Memorials have been prepared for nine 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 and their North Dakota addresses are as follows:

L. L. Butterwick, Minnewaukan, North Dakota
 William Henry McCormick, Mandan, North Dakota
 John J. Kehoe, Rugby, North Dakota
 Fred J. Traynor, Devils Lake, North Dakota
 W. A. Carns, Halliday, North Dakota
 Fred Snowfield, Cavalier, North Dakota
 Charles J. Murphy, Grand Forks, North Dakota
 John A. Layne, Fessenden, North Dakota
 Clara W. Wilcox, Center, North Dakota

Respectfully Submitted,
 Committee on Memorials
 JOHN E. WILLIAMS
 ASMUNDUR S. BENSON
 J. P. FLECK
 JAMES A. HYLAND
 CATHERINE E. MORRIS
 L. R. NOSTDAL

John E. Williams, Chairman of the Committee on Memorials, moves that the report be adopted and included in the *North Dakota Law Review*.

(s) John E. Williams, Chairman

PRESIDENT SPERRY: Perhaps we could have the report on Sectional Meetings at this time. I was assured that it would be short. So, if Everett Palmer will come up I think we can dispose of that now.

E. PALMER: Mr. President. I said to the president that I would like to make a remark or two on Sectional Meetings. You fellows have all secured your books, and I'm sure you have thumbed through them, and if you come to the same conclusion as I have—and I trust that you have—that we have some very excellent papers and topics for this year. But, I'd like to pay the thanks to the men who prepared the topics and the men on the committee who helped with this work: Judge John Pollock, Edward Gillig, L. T. Sproul, James T. Leahy and Milton Higgins, who prepared some very fine papers. And then we had the Practical Office Management Section that I believe will be Saturday morning, and from what I have learned from the practice, or the dry run, it will be very educational, and will be well worth attending. But I would like to thank these gentlemen who prepared the papers, who have given so much time to adding to the work of our State Bar Association, and I think that the convention here should go on record for the work that they have done. It may be a little premature but the work has already been published, and I'm sure that it's only fair to give a thanks because it's the only compensation that they will receive; and with that I would, of course, report again to the president that my written report on the Sectional Committee work has been filed, and I move that the same be accepted as filed.

SECTIONAL COMMITTEE FINAL REPORT

Your committee held a program meeting with the Executive Committee last fall, at which time the type of program was approved and arrangements were then made for mailing questionnaires to all members of the Bar Association on topic preference for this year's sectional meetings. After tallying the returns, and reviewing the program with you, contracts were made with persons who have prepared the papers for these meetings.

The following are the topics with speakers and section moderators for the convention sectional meetings:

1. Pre-trial Procedure
Speaker—Judge John C. Pollock
Moderator—George A. Soule
2. New Rules of Civil Procedure
Speaker—to be handled by Executive Committee
3. Legal Status of Automobile Occupants
Speaker—Arthur Stokes
Moderator—Robert A. Alphson
4. New Corporation Law with Reference to Existing Corporations
Speaker—L. T. Sproul
Moderator—John T. Traynor
5. How to Unscramble Joint Tenancy Interest and Preparing a Marital Deduction Will
Speaker—James T. Leahy
Moderator—Theodore J. Boutrous
6. Cancellation of Chattel Mortgage Contracts, Repossession and Chattel Mortgage Foreclosure
Speaker—Milton Higgins
Moderator—LaVern C. Neff
7. Practical Office Management Problems
Speaker—1 man office—Robert Chesrown
2 man office—Dick Gallagher
4 man office—Norbert Muggli
6 man office—Alvin Strutz
Moderator—John Zuger

The sectional papers are being printed in pamphlet form and will be available for distribution at the convention. These arrangements for the printing have been handled by our Executive Director.

This committee was composed of the following lawyers who have all worked and made this assignment very pleasant for the Chairman.

Paul L. Agneberg	Robert A. Alphson
Theodore J. Boutrous	Robert L. Burk
Richard H. McGee	Lavern C. Neff
George A. Soule	John T. Traynor
John Zuger	

In addition to this committee, I wish to thank yourself, our Exec-

utive Director, Lynn Grimson, and the members of the Executive Committee who so generously aided and assisted in securing the speakers for the sectional topic papers.

PRESIDENT SPERRY: I think the work of that committee has been pretty well shown by the very fine booklet that has been put out.

You have heard the motion, is there a second to it?

(Motion seconded and carried unanimously.)

PRESIDENT SPERRY: The ballots have now been counted and Arley Bjella of Williston has been elected to the office of vice-president of the North Dakota State Bar Association.

We will now stand recessed until 1:30.

(Convention adjourned until 1:30 p.m., same day.)

AFTERNOON SESSION, FRIDAY, JUNE 28, 1957

PRESIDENT SPERRY: At this time I will call upon George Soule, Chairman of the Committee of Presentation of 50-Year Certificates.

G. SOULE: Mr. President and members of the State Bar Association of North Dakota. Your 50-Year Lawyer Committee is now ready to report. We greatly appreciate having so many of these men with us today that have been practicing for 50 years, and in order to edit what they—explain our feelings toward them we have asked Mr. Roy Ployhar of Valley City, a member of our committee and a former president of our association, to address you for a few moments.

Mr. Ployhar, will you come forward.

R. PLOYHAR: Mr. President, George Soule, members of the Class of 1907, and also members of the State Bar Association. I consider this one of the greatest honors ever bestowed upon me to have the privilege of saying a few words of this distinguished group of lawyers sitting down there before me. I say that advisedly because I say anyone that has weathered the legal storms of North Dakota for the last 50 years has certainly reached that commendable stage in life when they should be and are justly honored by the State Bar Association. As I look back at some of the experiences that these men must have had it appears to me they have had more to do with the formation of the legal history and background of North Dakota than probably any other single factor we could bring about here today including the adoption of the New Rules. It is my happy privilege to know most of these men and some of them intimately. You will notice that we have not only distinguished members of the bar in this group, but have also distinguished members of the bench, and it's people like this that do a great deal of credit not only to the bar of North Dakota but to the bar of the nation as a whole because they exemplify what some of the rest of us would like to be if we ever had the opportunity. These men have been stalwarts in the legal profession. They have been men who have tried and brought about some of the finer things that we know now in your State Bar Asso-

ciation. These are men who have worked diligently in the association for a good many years trying to bring it to the point where it is today, and I know some of them sitting down there are some of the first ones to bring about the theory and of the thought and final culmination of the integrated bar of North Dakota, which in my opinion, is one of the greatest things that was ever accomplished as far as the Bar Association is concerned; and I look forward to the time when we not only have an integrated bar in North Dakota, such as we have, but an integrated American Bar Association as well because after all that is the only way that the lawyer can accomplish what he should accomplish in the nature of public opinion and for his own good. Now, these men are being honored here today. You gentlemen are being honored by this association because we know you justly deserve honor by this association. We want you to know, and I am trying to say as your spokesman for this association, that we reverently, if you please, mark these men as being the distinguished men of our association who for the last 50 years have done everything that a good lawyer or judge could do to promote our interests and promote the welfare of the people of our state. And with those few remarks, gentlemen, and particularly Mr. Soule, at this time may I have the privilege as a member of the committee and on behalf of this Bar Association to present, if I may, to you and to this association and that distinguished class of 1907, and incidentally, of 1905—that to be Judge McFarland—and I will ask you to please present to them an appropriate award to show that this association justly honors them for the attainments which they have accomplished in the practice of law. Mr. Soule.

50-YEAR MEMBERSHIP AWARDS

Mr. A. W. Aylmer
 Hon. Olger B. Burtness
 Mr. John P. Conmy (absent)
 Mr. O. S. Gunderson (absent)
 Mr. George P. Homnes (absent)
 Mr. Wm. H. Hutchinson
 Hon. R. G. McFarland
 Mr. J. K. Murray
 Hon. Geo. Tom, Jr.
 Mr. E. C. Thomas (absent)
 Mr. Earl Walter

R. PLOYHAR: Thank you very, very much, and thank you, gentlemen, for coming here. We appreciate it very much, and we hope this little certificate might be some indication of our admiration for you, and we want you to know that we justly feel that we are being honored by your presence rather than we honoring you.

J. K. MURRAY: Mr. Ployhar and members of this committee. Us old folks would highly appreciate it if you would get to the press the fact we got certificates is no evidence of our age.

PRESIDENT SPERRY: Thank you very much, George Soule and Mr. Ployhar, for that fine presentation. I think that is one of the nicest things in the work of our State Bar Association.

Now, I think at this time we will have the report of the committee on Tax Laws, which will be given by W. L. Eckes, and the next report following will be Title Standards to be given by Henry Ruemmele. Mr. Eckes.

W. L. ECKES: Mr. President and members. I want to say first that this report was prepared by the chairman of this committee, Mr. Pederson of Kenmare. I am reading it for him as he was unable to attend the bar meeting, as much as he wanted to.

REPORT OF COMMITTEE ON TAX LAWS

The Committee on Tax Laws held one meeting at Minot, North Dakota, on May 11, 1957. Prior to the meeting a considerable amount of work had been done by the members by correspondence. There are many items proposed for discussion and all of the proposed items were discussed at the meeting. The Committee took action as follows:

1. The Committee recommends that the Bar Association of North Dakota urge the passage of the Jenkins-Keogh Bills by Congress. This legislation would provide that any self-employed person could set aside 10 per cent of his income, or \$5,000.00, whichever is the lesser, into an approved pension plan fund upon which federal income taxes would be deferred until the beneficiary reaches the age of retirement, or until earlier withdrawal of the accumulations. This legislation would help equate the position of self-employed persons with the position of persons working for corporations which have established pension and profit-sharing plans.

2. The Committee recommends that there be a clarification of the law with respect to estate tax treatment of joint tenancies and that the law provide for establishing the contribution of the parties to the joint property, with the provision that the presumption be that married persons contributed equally.

2a. The Committee recommends that for estate tax purposes, in order to prevent continued failure to tax certain transfers, a "stale deed" be defined as one not presented for recording until more than six months after the date of its execution and that the county auditor or the register of deeds report the recording of such "stale deed" to the state tax commissioner.

3. The Committee recommends that consideration be given to amendment of Section 57-3822, Subsection 3 of the North Dakota Revised Code of 1943. This section provides that federal income tax may be deducted to the extent that such taxes represent taxes paid on income taxable under Chapter 57-38. The problem that results is that when husband and wife file joint returns under federal law and separate returns to the state, the state tax commissioner does not allow the husband to deduct all of the income tax paid to the federal government even though he did in fact pay it.

Present law requires that these taxes be prorated on a percentage basis between the husband and wife.

4. The Committee recommends enactment of a law requiring the payment of interest on refunds in cases where estate and income taxes have been overpaid to the state of North Dakota. The interest would begin to accrue after a specified time following submission of the refund application had elapsed in those cases where the refund was not approved and paid before that specified date. The Committee recommends that the necessary appropriation be provided to enable the tax commissioner to pay such interest.

5. It is the recommendation of the Committee that a thorough study be made of the federalization and simplification of our state income tax law. This problem received more attention from the Committee than all other problems combined. Members of the Bar Association who attended the Tax Institute at Bismarck on January 4th and 5th, 1957, will recall that Mr. Jack Miller discussed the matter at length and was enthusiastic in his recommendation that North Dakota federalize its income tax law. The Committee has corresponded with the tax departments of Montana and Iowa where the state income tax laws are federalized. The Committee has concluded that while federalization brings new problems, the benefits of federalization outweigh the disadvantages. The Committee recommends that consideration be given to the possibility of giving taxpayers an option of filing income tax returns under the present law of filing under the provisions of a new federalized law. This would permit taxpayers to file under the old law during the transition period in order to take advantage of carry-over losses and other items that might be lost to them when the change is made.

Respectfully submitted,

Paul Benson	E. J. McIlraith
Eugene E. Coyne	F. J. Smith
W. L. Eckes	Kenneth M. Jakes
Robert A. Birdzell	Ward M. Kirby
J. Kenneth Eckes	James L. Lamb
F. E. Foughty	Paul J. McCann
Arnold Ginnow	Adrian McLellan
James W. Krause	Bruce M. Van Sickle
John F. LaQua	A. J. Pederson, Chairman

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

PRESIDENT SPERRY: Thank you, Mr. Eckes. Is there a second to the motion?

(Motion seconded and carried unanimously.)

PRESIDENT SPERRY: Now, I have the report of the committee on Title Standards which will be given by Henry Ruemmele of Grand Forks.

H. RUEMMELE: Mr. President and members of the bar.

1957 REPORT OF COMMITTEE ON TITLE STANDARDS

At the time of this writing there were outstanding 182 sets of Title Standards adopted by the Association and in the past year \$110.00 has been turned over to the treasury through sales. The cost of keeping the outstanding Standards up-to-date has been met by the additional sales.

Pursuant to the report of this Committee to the last annual meeting the committee limited itself this past year to the drafting of bills for introduction into the Legislature, the expediting of the introduction of the bills, and appearances before legislative committees on their behalf.

Through the Committee there were drafted and introduced in the Senate, 12 bills to carry out the recommended statutory changes embodied in the 1956 Report of this committee. These bills were Senate Bills 105 through 115, and Senate Bill 119. Of these bills 5 were passed.

Senate Bill No. 107 amended Section 47-1946 NDRC 1943 to provide a change so that "the record of a mortgage, deed or other conveyance prior to the recording of a deed or other conveyance vesting title of record in the mortgagor or grantor, shall not be considered out of the chain of title after the recording of a deed or other conveyance vesting title in the mortgagor or grantor in such first recorded mortgage, deed or other conveyance." This change was intended to do away with the uncertainty of whether an instrument out of the chain of title would be put back into the chain of title by a subsequent recording.

Senate Bill No. 110 amended Section 57-3723 NDRC 1943 to limit the lien of North Dakota estate taxes to 10 years from the date of death of the decedent or until paid, whichever occurs first. Any unpaid taxes imposed prior to the effective date of the Act, which we presume will be July 1, 1957, will remain a lien for 10 years or one year from the effective date of the Act, whichever event is the latest in the point of time.

Senate Bill No. 112 provides that on and after January 1, 1953, no lis pendens now of record or hereafter filed for record shall be notice, either actual or constructive, of the pendency of any action or of any of the matters referred to in the Court files and records pertaining to the action noticed by such lis pendens, after it has been of record for 10 years, unless a new notice is recorded.

Senate Bill No. 114 amends Chapter 47-19A of the 1953 Supplement NDRC 1943 (the so-called Marketable Record Title Act) to change the necessary chain of title period to 20 years from 31 years.

Senate Bill No. 115 amends Section 28-2011 NDRC 1943 to overcome the decision of *Casey v. Corwin*, 71 NW2d 553, providing that the entry of a judgment affecting the title or possession of real property shall not be notice until a certified copy of the judgment is recorded in the office of the register of deeds.

Senate Bills Nos. 105, 106, 108, and 109 were designed to

change the status of the record as found by the Supreme Court in *Messersmith v. Smith*, 60 NW2d 676, and *Northwestern Improvement Co. v. Norris*, 74 NW2d 497, but failed of passage. The passage of such legislation would have made a basic change in the recording system.

Senate Bill No. 111 was designed to place an absolute bar against any action or proceeding to foreclose a real estate mortgage where the record showed that it was more than 10 years past due from the final due date expressed in the recorded mortgage. It also failed of passage.

Senate Bill No. 113 was designed to place an absolute bar against the enforcement or cancellation of a contract for deed which had been of record for 20 years and contained no due date, or if it contained a due date more than 10 years had passed since the time for its performance. It also failed of passage.

Senate Bill No. 119 was designed to amend subsection 1 of Section 47-19A11 of the 1953 Supplement to NDRC 1943, relating to the marketable record title, to eliminate from the exceptions to the Marketable Record Title Act a mere possibility not coupled with an interest and a mere right of entry or repossession for breach of a condition subsequent created by a conveyance of record more than 40 years last past. The problem of possibility of reverters, rights of re-entry for condition broken, and equitable restrictions has been the main subject of the Committee on the Improvement of Conveyancing and Recording Practices, of the Section of Real Property, Probate and Trust Law, of the American Bar Association for the year 1956-57. The conclusions of that Committee include a recommendation "that the duration of all rights of entry after condition broken and all rights of reverter after determinable fees thereafter created be limited to 30 years (or to some similar period in gross) with the provision that upon the expiration of that period the fees upon which such interests depend become absolute" and with the further recommendation that the rights of the holders of such possibilities and rights of re-entry be permitted to extend their rights by a re-recording of the same within the 30 year period. The recommendation of your Title Standards Committee met this recommendation but extended the period to 40 years. This bill also failed of passage.

It is recommended by your Committee, if this Association sees fit to continue the Committee on Title Standards, that

- (1) The Committee continue its study of the recording system and the record and make recommendations to the 1958 meeting of the Association;

- (2) The Committee, as soon as the laws passed by the 1957 Session of the Legislature are published and given a proper chapter identification number, publish the changes in the statutes relating to real property and point out the changes made by the new enactments;

- (3) The Association give serious consideration to the forma-

tion of a real property section, within which proper discussion can take place of the problems relating to the evidencing of title to real property and from which recommendations can be made to the Association.

Respectfully submitted,

Robert A. Birdzell
Charles L. Crum
Paul K. Pancratz
Scott T. Rex
Linn Sherman
Victor V. Stiehm
W. Fulton Burnett

August Doerr
Edward M. Peterson
John G. Shaft
Charles H. Shure
Leland G. Ulmer
H. G. Ruemmele, Chairman

Mr. Chairman, I move that the report be accepted and placed on file, and that the recommendations contained therein be given consideration by the Executive Committee.

PRESIDENT SPERRY: Thank you, Mr. Ruemmele, for your very fine report. You have heard the motion, is there a second to it?

(Motion seconded and carried unanimously.)

PRESIDENT SPERRY: At this time I'd like to refer the report that was filed by the Committee upon Memorials. The report was not read; it was referred to; it is a very fine report, and as has been customary in the past, I think it would be in order for all of us to stand and bow our heads in silence for one minute in respect to those members of the profession who have passed on in the past year.

(Convention stood in silence for one minute.)

PRESIDENT SPERRY: Thank you, gentlemen. I'd like to call on Robert Vogel for a report on the Indian Laws Committee. Following that we will have a report on Unauthorized Practice of Law.

R. VOGEL: Mr. Chairman, fellow members of the Bar. I haven't met with the Committee on Indian Laws, but through correspondence and personal contact with individuals I think we are all pretty much in agreement on the few remarks I have to make. For one thing, I think we are agreed that one project—that isn't really a bar association project since I can have the Federal Government pay for it—should be continued, and that is the series of meetings that have been held on the various reservations in the past year, where the local Indian people themselves, their officers and local and state and federal officials having to do with the enforcement of laws all get together and discuss their problems and arrive, I think, at a better understanding of them; and I intend to make such a trip again next month. The second thing is this. You may recall at the last general or special election, I forget which, there was a constitutional amendment up and it was defeated, one that would permit the state of North Dakota to take over jurisdiction whenever the legislature thought that satisfactory arrangements had been made. Now, that measure

was defeated, and I think because of lack of public understanding, and the last legislature again arranged to have that measure on the ballot at one of the next elections; and I think it would be the recommendation of the committee that the committee that succeeds us take an active interest in having that measure passed and getting out the proper publicity so the people will understand it; and perhaps if the committee even has some funds available to it for that purpose.

Mr. Chairman, I move the acceptance of the report.

PRESIDENT SPERRY: Thank you, Mr. Vogel. Is there a second to the motion?

(Motion seconded and carried unanimously.)

PRESIDENT SPERRY: We will have time for one more report, that will be on the Unauthorized Practice of Law by J. O. Thorson of McClusky.

J. O. THORSON: Mr. President and members of the Bar.

COMMITTEE REPORT ON UNAUTHORIZED PRACTICE OF LAW — 1957

This committee has held one meeting during the past year at which time the chairman brought committee members present up to date on the work of the committee. The whole subject of Unauthorized Practice of Law was discussed by the committee at a day-long session. The matter of violations by two persons previously investigated, was considered, and the committee voted in favor of immediate legal action in each case by the association to join the further activities of these persons in this field.

The chairman of the committee has contacted the president of the association relative to hiring attorneys at association expense to bring the actions, and has been given the "green light" in the matter. Attorneys have been engaged and are now proceeding against these offenders.

The committee wishes not to repeat the reports of the 1956 committee, but wishes to call the same again to the attention of the membership of the association. The material and procedure outlined in our last report is still the basic method of the association in handling such matters. However, the committee wishes to ask for and secure the whole-hearted support of the membership in bringing the message contained in the pamphlet, "Do You Know" to laymen who encroach in this field. We ask that the names of such persons be forwarded either to the executive director of the association or to the chairman of the committee, for the further attention of the association.

The committee recommended the following additional procedures to the association for approval by the association.

1. The use of a sign to be made up at the expense of the association which sign would have appropriate information to the effect that county officials are not permitted by law to give legal advice, prepare legal instruments or discuss legal problems with laymen, and such signs to be displayed in each county

courthouse in the state of North Dakota, especially in the offices of the Register of Deeds, the County Auditor and the County Judge.

2. That the association pamphlet, "Do You Know" be printed in all papers in the state of North Dakota.

3. The increased use of the injunction against old and persistent violators.

4. The detailment of association speakers to address annual meetings of other associations in the state with related interests with our membership, such as bankers, real estate and county officials.

5. That the State Bar Association of North Dakota authorize the committee to review the present North Dakota statute law on Unauthorized Practice of Law during the year 1957-8, and present to the 1958 annual meeting a new, more comprehensive, more concrete law on the subject, and if the same is approved at the annual meeting, that the same be presented to the 1959 North Dakota Legislature as approved for further consideration.

Since this report was made we had one further meeting and several more investigations have been started in the eastern part of the state.

Respectfully submitted,

Charles G. Bangert

E. T. Conmy, Jr.

Samuel H. Dolve

David L. Drey

J. E. Hendrickson

Russell R. Mather

James L. Taylor

J. O. Thorson, Chairman

Mr. President, I move adoption of the report.

PRESIDENT SPERRY: Thank you, Mr. Thorson. Is there a second to the motion?

(Motion seconded and carried unanimously.)

MORNING SESSION, SATURDAY, JUNE 29, 1957, 11 A.M.

PRESIDENT SPERRY: I think we'll proceed, gentlemen. We have a very fine report to start out our program this morning, and it's that of the Committee on Juvenile Problems. I'm going to ask the Honorable Mark H. Amundson, District Judge at Mandan, to give that to us. Judge Amundson.

REPORT OF COMMITTEE ON JUVENILE PROBLEMS

The publicity given juvenile delinquency in recent years seems to indicate that there are a great many people who have just discovered juvenile delinquency, however, the juvenile delinquent has been with us since practically the beginning of time. Socrates, who lived long before Christ, wrote as follows: "The children now love luxury; they have bad manners, contempt for authority; they show disrespect for elders and love chatter in place of

exercise. Children are tyrants not the servants of their households. They no longer rise when elders enter a room. They contradict their parents, chatter before company, gobble up dainties at the table, cross their legs and tyrannize their teachers," and so we have an old problem.

Section 27-1608 defines a delinquent child as one who has violated any city or village ordinance or law of the State or the United States; deserted his home without sufficient cause; habitually disobedient to the reasonable and lawful demands of his parents, guardians and other custodians; habitually associates with dissolute, vicious or immoral persons or who is leading a vicious or immoral life; wilfully failing to attend school or habitually violating the rules and regulations of such school; lack of support or abandonment by parents or others who have proper custody or guardianship; where the home of the parents is an unfit place for such child to live; and engaging in an occupation or in a situation dangerous or injurious to the health, safety or morals of himself or others. "A child" shall mean a person less than eighteen years of age.

Due to the fact that there are no courses with reference to juvenile law in any law school, except possibly the University of Southern California, and due to the fact of the necessary lack of publicity in juvenile court hearings, the public and lawyers are, in general, not well informed on this court.

The juvenile court seeks the remedy rather than punishment. The court operates on the theory of rehabilitation of the child and to protect society. These proceedings are not criminal. It is the theory of the court that proceedings in juvenile court should be more or less informal.

The responsibility in rehabilitation and in preventing delinquency lies in: (1) The community; (2) The family; (3) The schools; (4) The church; and (5) The courts. There are many and diverse opinions as to the extent of the responsibility of each; however, in trying not to make this report unduly long, it will be necessary for the committee to consider but two of these agencies, the family and the courts.

There is an inclination to put the greatest blame on the family. It seems that the American people demand both a scapegoat and a formula to deal with any situation. The parents who have brought the children into the world are blamed for most of the delinquencies. However, there are causes and effects arising out of our present way of life, concerning the family, which makes family life extremely difficult. In the first place the automobile has given extreme mobility to the family in its place of residence and in change of the same. There are a great many seasonal workers and the shifting of population since World War II at intervals in order to see if they cannot find greater opportunities "over the hill" rather than in their regular place of abode. The family life of the past, the family gatherings and work and play together, is fading away. The fact that the family is so extremely mobile

subjects the child to assimilating new environments and making new friends, which leads to his more complete confusion. There has always been a difficult transition and adjustment of the child to adult life.

The second cause of the complexity of family life is the employment of the wife in industry, which is due in part to the high cost of living and in part to keeping up with the Jones'. All this has a direct bearing on the rearing of children. Children are left with strangers or baby sitters who are hired to take care of the children and with a tired mother and father the child does not receive full parental care and attention.

There is another phase of a strange indifference and lack of parental responsibility.

The broken home, caused by divorce and death, also tend to make the lot of the child harder. In every divorce case apparently there is not enough money to cover the expenses of the husband and the children and the wife living apart from him. This results in the mother being compelled to go to work and thus her children have a lack of supervision and control and they tend to become delinquents.

Many solutions are offered, mostly seeking punishment of the parents. The thought is rampant that, (1) publicity; (2) criminal responsibility on parents; and (3) financial responsibility for the torts of the children will solve the responsibility as far as children are concerned, by forcing the attention of the parents. While there is something to be said with reference to these measures, there are evils attendant upon the solution which might and can overcome whatever good might arise from these measures.

In the matter of publicity, we must consider that the juvenile court act was enacted for the purpose of rehabilitating the child. Under our law the parents are cited into court along with the alleged delinquent. The problems and the acts of the child are, therefore, well known to the parents. We have a statute prohibiting newspapers from publishing the names of children appearing in juvenile court. The same does not apply to TV or radio stations but, in view of the fact the statements are made over the air, statements made over the air have such widespread publicity some courts have held that the statements so made are libel and not slander. Publicity does not seem to stop crime among adults, as there are many repeaters in our penitentiaries.

Proceedings in juvenile court are not criminal. The theory is that the only interest of the public is rehabilitation. Publishing the names would only effect the innocent members of the family and would likely do more harm to them than to the delinquent, as he might feel that he was a "big shot" by getting his name in the papers for the perpetrating of some crime and it might also give him a certain standing in the eyes of his young unthinking friends.

In States where there is no statute, Judges of such states have said that they have good relations with the press and that there is no publication against the court's desires.

Some states have laws providing for the criminal punishment of parents of delinquents. Your chairman has had occasion to discuss such matters with Judges from twenty-one (21) states. These judges, where such laws are on the books, ignore them for the reason that such law puts too much power in the hands of a delinquent for blackmailing his parents into permitting him to do as he pleases, as a delinquent, by his acts, may jeopardize the freedom of his parents. A vengeful delinquent could turn this law against the parents, thus defeating the purposes of the law. As one judge put it, the delinquent says to his parents, "either you let me take the car or I will do thus and so and you will be arrested." This law acts as a boomerang.

At the last legislature a financial responsibility law, making the parents liable up to \$300.00 for the damage caused by the tortious acts of their children was passed. What has been said with reference to the evils of the criminal statute will apply equally to this law, though we have not tried the same out.

The juvenile court is the one branch of our law which deals exclusively with delinquent children. It operates under equitable rather than criminal powers. The court studies the situation and seeks to remedy the evils thereof. The officers of the court and particularly the Juvenile Commissioner must be familiar with the law and also be familiar with social sciences. The Juvenile Commissioner must have a good understanding of children and adults as contacts that the Commissioner makes are paramount in remedying the situation the child is in. A good Juvenile Commissioner will take a great part of the load off the District Judge, who is the Judge of the Juvenile Court in this state. In many of our states the Juvenile Court is exclusively a Juvenile Court. The Commissioner may have hearings and these hearings are very informal. When the District Court acts the child is brought into court for a formal hearing. The hearings before the court may be informal but the rules of evidence in proving or disproving delinquency or unsuitability of the parents are in full force and effect. In other words, the court should be a court and not an administrative agency.

The statute gives a court the power to waive its jurisdiction and subject a minor to the criminal courts. A grave question arises in that instance and the discretionary powers of the court are called into being. The determination of whether or not a child who has committed a serious crime should be prosecuted under the juvenile or criminal procedure is a grave question. In order that the juvenile court may waive its jurisdiction the child concerned must be of the age of fourteen years. If the crime is grave then the rights of the minor would seem to be more fully protected in the criminal courts than in the juvenile courts.

The statute provides no procedure for waiver and the question could arise that there is no adequate or proper waiver unless the delinquent child shall be first brought into juvenile court and a formal order of the waiver executed by the judge. This cumber-

some method would cause unnecessary expense, time and delay in the hearing on the offense, particularly in the enforcement of traffic violations.

Traffic violations are in a class by themselves and a waiver in such cases should be freely given. If a child is old enough to drive a car, he is old enough to be punished for his traffic violations. If the juvenile court had exclusive jurisdiction in these matters, the docket of the juvenile court would be crowded with offenses. There would be no speedy action and punishment and the child would get the opinion that the policemen have no power over him because he is a minor, thereupon causing more and more traffic offenses. A car driven by a child in a reckless manner can kill as fully as one driven by an adult. It might be well that traffic offenses be excluded from juvenile court authority.

The child may not be taken from its parental home unless it is first proven that he is a delinquent and secondly that the parents are not fit and proper persons to care for such child. At that point the court has two choices, either to provide a foster home away from his parents or commit the child to the Training School. Both should be considered last resorts.

The great theory of many social workers and others is that it is the love and affection of the parents for the child that makes for a lack of delinquency. A child is entitled to protection and devotion from its parents and a child needs such affection and devotion but in putting a child in a foster home this is a transitory relationship. Foster parents, knowing that this is but a temporary arrangement are careful not to permit themselves to go all out in showering affection and love on such child. The conclusion is inevitable that the child should be left in the parental home if in any way possible, under proper probation.

The last legislative session passed a law increasing the compensation of juvenile commissioners, with the hope of obtaining the best possible personnel for this important office, and in order that a competent commissioner should be attached to the staff of every juvenile court in the State of North Dakota. The juvenile officer in our sparsely settled community is the executive officer and usually sole officer of the court who deals with delinquent children. In larger communities there is a full and specialized staff, we, however, are dependent for investigation and probation almost wholly upon the juvenile commissioner and possibly the Welfare setup.

Our laws provide that the delinquent, if taken into custody, must be detained at a place separate and apart from other adult offenders. There are no detention homes in this State, however, in view of the fact that in most counties there are adequate jails, there should be a room removed from the regular jail and fit for a child to occupy, if it is necessary to detain such child. Due to the fact that we have no such detention homes or detention places in North Dakota, except at Fargo, the child is usually paroled to his parents while awaiting hearing on his delinquency.

R E C O M M E N D A T I O N S

We make the following recommendations:

- (1) That a competent person be appointed by every District Judge to act as a Juvenile Commissioner;
- (2) We further recommend that suitable records be kept which may be exchanged between the various juvenile courts, in order that the disposition of delinquent children may be had to their greatest benefit;
- (3) That, in order to acquaint the public with the function of the Juvenile Court that a manual be published, in lay language, with reference to the laws and the functions of the Juvenile Court;
- (4) That a detention room be provided in each jail to be used only for the care of delinquent children, if it is necessary to detain them;
- (5) We recommend that the lawyers and the law school acquaint themselves and others with the functions, powers and duties of a juvenile court.

COMMITTEE ON JUVENILE PROBLEMS:

MARK H. AMUNDSON, Chairman, Mandan
 ELLA J. VAN BERKOM, Minot
 J. KENNETH ECKES, Killdeer
 MARIE M. FEIDLER, Grand Forks
 ADAM GEFREH, Linton
 ARTHUR H. LIEB, Fargo
 HON. ALBERT LUNDBERG, Grafton
 HON. INGOMAR M. OSETH, Bismarck
 CLINTON R. OTTMAR, Jamestown.

We move the adoption of the report.

PRESIDENT SPERRY: Thank you Judge Amundson. You have heard the motion is there a second?

J. LORD: Second.

L. NOSTDAL: This is in connection with the court, and I don't intend to know enough about it to say anything here until we have had a chance to study it. For that reason, I'm going to offer an amendment to that motion that the report be accepted and placed on file for such further action by the Executive Committee as may seem advisable to submit it to the next meeting a year from now. Now, we will not have a legislative session until a year after our next meeting so we have a chance to study that report.

PRESIDENT SPERRY: Would you consent to that amendment to your motion, Judge Amundson, with the understanding that the report be included in the proceedings of the convention?

JUDGE AMUNDSON: Yes, I will accept the amendment.

PRESIDENT SPERRY: Thank you, Judge. Is there a second to the motion now as amended?

(Motion seconded and carried unanimously.)

PRESIDENT SPERRY: In regard to that report I would like to add an observation of my own. Judge Amundson just assumed the

chairmanship of that committee about a month before the holding of this convention upon my request. I made that after learning of the fine meetings that he attended in Philadelphia and which was followed by another meeting that he attended in Milwaukee. I think that Judge Amundson runs one of the best juvenile courts in the whole state. And I want to say too, that I think he has one of the best, if not the best, juvenile commissioners in the whole state, and I'm sure that you can look forward to some great progress in regard to our juvenile work during the course of the next year.

Now, the following reports have been filed and they will not be read: The report of the committee on Continued Legal Education, the report of the committee on Traffic Safety, Legal Service to Armed Forces, the Judiciary, Jurisprudence and Law Reform, American Citizenship and Constitutional Awards, American Bar Membership, and Mineral Laws. And I would like to say that we have the motion that the reports of those committees which are on file be filed and that they be included in the proceedings of the convention.

Do we have a second to that motion which has been made by the chairman of the committees upon those reports?

R. VOGEL: Second.

(Motion carried unanimously.)

REPORT OF COMMITTEE ON CONTINUED LEGAL EDUCATION

An interesting and educational Institute on "Basic Federal Income Tax Problems, Social Security for the Self-Employed and Social Security Generally" was held at Bismarck, North Dakota, on January 4 and 5, 1957. The speakers were Jack R. Miller, Sioux City, Iowa, and Everett H. Dunaway, Omaha, Nebraska. Mr. Miller has previously appeared before the North Dakota Bar on several occasions on matters pertaining to federal taxation. His practical and interesting presentation of the subject is always well-received and appreciated by North Dakota lawyers. Mr. Dunaway has been District Manager of the Social Security Administration at Omaha, Nebraska, and very ably handled his subject of Social Security. The question and answer part of the institute proved itself as popular as ever with the lawyers in having current problems discussed.

For several years the North Dakota Bar Association has sponsored similar institutes for the continued legal education of the members of the Bar. It is felt that North Dakota probably comes close to leading the field in continued legal education. There has been an average of more than one institute held each year for the past seven years on various subjects and phases of the practice of law. A medico-legal institute was held in December, 1955, and a second annual medico-legal institute was held at Grand Forks, North Dakota, on October 6, 7 and 8, 1956.

The new rules of civil procedure, just adopted and promulgated

by the Supreme Court of North Dakota, are effective July 1, 1957. It is the intentions of your committee to hold an institute in the fall of 1957 pertaining to these rules.

Respectfully submitted,

ROY A. ILVEDSON, Chairman
ROLAND A. HERINGER
LEWIS H. OEHLERT
HAROLD HAGER
JOHN T. TRAYNOR
H. G. RUEMMELE
O. H. THORMODSGARD
JOHN F. LORD.

REPORT OF COMMITTEE ON TRAFFIC SAFETY

Your committee respectfully submits the following report of its activities. The chairman after discussion with several of the members of the committee suggested seven ways in which this committee might be of service to the public and to the members of the Bar of North Dakota, they are:

1. Offer our services to the State Traffic Division of the Highway Department, to be used in such manner as it deemed advisable.
2. With the assistance of the State Safety Division of the Highway Department organize Safety Councils in every county.
3. Sponsor or jointly sponsor a clinic covering many or at least some of the problems involved in traffic safety.
4. In conjunction with Judges, particularly of Traffic Courts and Police Officers, Seminars on various phases of the problems confronting both the Judge and Police Officers, might be held and prosecuting attorneys might be included.
5. Assist the aid of the National Safety Council in making available Automobile Safety films and pamphlets.
6. Contact each Superintendent of High Schools and ask to assist them in the Teen-Age Driver Problem by making films available or by furnishing speakers on any given phase of that problem.
7. By making a recommendation to the State Bar Association that it go on record as favoring a law making periodic inspection of automobiles mandatory.

Correspondence was had with the National Safety Council and early in April a list of available films was furnished to your committee. Correspondence was also had with Mr. Floyd J. Upham, Secretary of the North Dakota Safety Council. As well as with Mr. James B. Connolly, President of that council.

It became apparent that the North Dakota State Safety Council is doing a great deal in the field of safety and particularly automotive safety. It was felt by your committee that any activities

should be cleared through and directed by the State Safety Council. Your chairman attended the Governors Conference on Safety held June 3rd and 4th in Bismarck. At that time it was your chairman's opinion that anything our committee could or should do should be carefully screened with the State Safety Council and that perhaps the best thing to do in the future would be to offer the services not only of this committee but of the entire Bar of North Dakota to assist the council in any matter which it feels our services would be advantageous.

Traffic safety being a matter of public concern and of public relation insofar as our association is concerned, should in the opinion of this committee be tied in some manner with the public relations committee of the State Bar Association. It is suggested by the committee that a Traffic Safety Committee be continued in 1958, but that it should contain no more than five members. The cost of meetings of a large committee makes it prohibitive and unwieldy. It is further recommended that the new committee act largely under the guidance of the North Dakota State Safety Council. All of the matters here and before suggested by this committee have been given consideration by the State Council and most of them are either being studied or acted upon.

Respectfully submitted,

Traffic Safety Committee,

DANIEL J. CHAPMAN, Bismarck
 A. T. HACKENBERG, Williston
 SAMUEL D. KRAUSE, Fessenden
 HERSCHEL LASHKOWITZ, Fargo
 JOSEPH C. McINTEE, Towner
 T. F. MURTHA, Dickinson
 HON. INGOMAR M. OSETH, Bismarck
 PETER C. TANGEN, Aneta
 FRED A. McKENNETT, Williston, Chm.

REPORT OF JUDICIARY COMMITTEE

During the past year the Judiciary Committee of the State Bar Association took an active part in rewriting the Judicial Retirement Act concerning retirement salaries for supreme court judges and district court judges. This act was passed by the 35th Legislative Assembly of the State of North Dakota as House Bill No. 631 and was approved March 7, 1957, as an emergency measure. A copy of House Bill No. 631 is attached to this report for filing with the secretary.

The Judicial Retirement Act as enacted was in the form recommended by the Executive Committee of the State Bar Association. The executive committee had under consideration a number of suggestions and proposed drafts of a judicial retirement bill and the best features of the various proposals were consolidated and incorporated into a single proposal. The proposed legislation was introduced, passed and approved without change.

The new retirement act is significant in that it provides for a sliding scale of years of service for retirement of supreme court and district court judges commensurate with their retirement ages so that a younger judge, for example, who had 20 years of service could retire with the same increments at age 65 as an older judge with 10 years of service at age 70. The new act makes it possible for the judge to select the age at which he will retire depending on the years of service requisite at any given retirement age. The new act also provides for proportionate retirement salary where the years of service of the retired judge is less than the minimum number of years of service required for retirement at any given retirement age.

The new act also provides that the district judge or supreme court judge, upon payment of assessments into the judicial retirement fund, secures a vested right to receive the retirement at retirement age, even though he may cease to become judge for any reason prior to reaching retirement age. The new act also makes it possible for a judge who has retired to reinstate his years of service by restoring to the retirement fund any retirement assessments which he has withdrawn.

The new act also provides that judicial retirement assessments shall be refunded to the judge's widow to the extent that he has paid judicial retirement assessments in excess of judicial retirement salary received by him.

The act also provides, as did the former statute, that a judge, upon ceasing to be such judge, may withdraw judicial retirement assessments at any time prior to his receiving judicial retirement salary.

To the best knowledge of your committee, many of these features have not been found in any of the judicial retirement acts studied and appear to provide an equitable plan for all of such judges.

There was also considerable discussion among members of the judiciary committee and the legislative committee of the state bar association with respect to increased salary of supreme court judges and district court judges but no organized effort was made by the judiciary committee to propose salary increases to the recent legislative assembly. The committee, however, did assist in securing the introduction and support of legislation to increase the salaries of the court reporters from \$5,000 per annum to \$6,000 per annum which measure was adopted without controversy.

A number of the members of the judiciary committee feel that it may be appropriate to propose to the next legislative assembly increases for supreme court judges and district court judges. It is noteworthy in this respect that the Minnesota Legislature, which recently adjourned, increased judicial salaries in substantial measure exceeding salaries heretofore payable in the federal court system. Judicial salaries in North Dakota continue to remain among the lowest in the nation. It is the recommendation of your committee

that this matter be given further consideration by the succeeding judiciary committee.

Respectfully submitted,

HON. EUGENE A. BURDICK, Williston, Chairman
 HON. LESLIE R. BURGUM, Bismarck
 T. I. DAHL, Grafton
 AUGUST E. DRAEB, Hebron
 HON. A. J. GRONNA, Minot
 ROLAND A. HERINGER, Rugby
 HON. A. G. PORTER, LaMoure
 RAYMOND R. RUND, Hope
 GEORGE E. SORLIE, Hillsboro.

REPORT OF COMMITTEE ON JURISPRUDENCE AND LAW REFORM

Your committee recommends the following:

(1) That Section 28-2502, which provides:

EXAMINATION, WHERE HELD. The examination shall be had in the *county* where the judgment debtor resides, if he is a resident of State. Otherwise it may be held where ordered by the Court.

The amendment of this section should be, the elimination of the word, "county," and the insertion of the words "judicial district." This is to save the time of the court where a referee is not readily available. The fees for referees are so small that it is an imposition to compel attorneys to accept the office.

There are a large number of cases involving the examination of debtors in the Sixth Judicial District and the distances are long.

(2) That Section 12-5319, 1953 Supplement, be amended to eliminate the finality of a criminal judgment where probation has been granted, or information or indictment dismissed. This reform has been rendered necessary by the Supreme Court decision in *Thompson v. Thompson*, 78 N.W.2d 395.

(3) An enactment to provide that one who *wilfully* encourages, causes or contributes to the delinquency of a person on parole, so that such person violates his parole, is guilty of a misdemeanor.

Attention is called to the 1956 report of this committee to supplement this report.

MARK H. AMUNDSON, Mandan, Chairman.
 JONATHAN C. EATON, JR., Minot
 LEROY A. LODER, Minot
 HON. ALBERT LUNDBERG, Grafton
 RUSSELL G. NERISON, Jamestown
 HON. A. G. PORTER, LaMoure.

COMMITTEE REPORT ON AMERICAN CITIZENSHIP AND CONSTITUTION AWARDS

Hon. Floyd B. Sperry, President, and members of the State Bar Association of North Dakota:

Your committee on American Citizenship and Constitution Awards makes the following report:

The Committee's activity was limited to the Constitution Award Program. Two hundred forty-three Bar Association keys were awarded to North Dakota high school students. Two hundred thirty-five lawyers participated in making these awards. The number of keys awarded is substantially larger than in any other year of the program and the number of attorneys who participated is more than twice as large as any other year of the program.

The increase in the number of keys awarded can be attributed to the increase in the number of schools who are interested in the program. The increase in the number of attorneys participating can be attributed to the cooperation of your Committee on Public Relations. The Committee on Public Relations designated Mr. Ralph B. Maxwell of Fargo as Chairman of the Sub-committee on Speaker's Service. Mr. Maxwell made assignments to the participating lawyers who in turn made personal arrangement for the presentation of the awards.

In preparation for the tenth annual award program your Committee is now surveying both lawyers and schools with the view to assembling data upon which an even greater program can be based in 1957-58.

As in past years your Committee has received many letters from teachers, superintendents of schools and lawyers commenting on the substantial value of the Constitution Award Program.

Respectfully submitted,

JOHN A. AMUNDSON
D. W. BUTTS
CLAIR M. GHYLIN
SAMUEL D. KRAUSE
HERSCHEL LASHKOWITZ
GEORGE LONGMIRE
WALLACE E. WARNER
JOHN C. WILLIAMS
HAROLD W. BANGERT, Chairman.

REPORT OF COMMITTEE ON AMERICAN BAR MEMBERSHIP, NORTH DAKOTA BAR ASSOCIATION

During the past year, the Committee on American Bar Membership has not met formally and efforts of the Committee were devoted principally to extension of the drive for membership in the American Bar Association commenced during the preceding year.

Mr. Frank J. Jestrab of the law firm of Bjeila, Jestrab and Neff, Williston, North Dakota, was instrumental in securing applications for membership from the entire graduating senior class at the University of North Dakota, which applications will be sent in as soon as these gentlemen have been admitted to the Bar of the State of North Dakota. We expect also to have a representative of the Committee present at the time set for swearing in ceremonies

after the annual Bar examinations, so that applications may be obtained from graduates of other schools and others applying for admission to practice before the courts of the State of North Dakota, when the annual bar examinations are given this year.

Respectfully submitted,

COMMITTEE ON AMERICAN BAR MEMBERSHIP,

WARD M. KIRBY, Chairman

J. P. FLECK

VERNON M. JOHNSON

FRANCIS J. MAGILL

JOHN C. McCLINTOCK

RICHARD H. McGEE

EVERETT E. PALMER

A. J. PEDERSON

HARRY PIPPIN.

MINERAL LAWS COMMITTEE REPORT

On December 8, 1956, at 2:00 P. M. a meeting was held of the Mineral Laws Committee at the office of Strutz, Jansonius and Fleck in Bismarck.

ABSENT WERE.

O. B. Benson, of Bottineau, North Dakota, (who called) could not come due to weather conditions.

Art Bauer, who was in Minot on business.

John Smith, who was in Grand Forks on business.

PRESENT WERE:

J. K. Eckes of Killdeer, Russell R. Mather, Myron Atkinson, Robert Birdzell and William S. Murray of Bismarck.

According to the agenda prepared for the meeting, the following proceedings were had after the meeting was called to order at 2:00 P. M.

The proposals of Arthur Bauer, member of the committee, submitted some months ago, were taken up in detail except for suggestion No. 5 which was not reached due to lack of time.

Proposal No. 1, relating to a ratifying act on private sales by the Bank of North Dakota or state. Mr. Birdzell, who is attorney for the Bank of North Dakota, noted that in practice, there are no private sales by the Bank—that there is a category of instances going back to before the *Herr v. Rudolph* decision in 1947 which Mr. Bauer probably had in mind. *Herr v. Rudolph* held unconstitutional the preference buyer statute.

After considerable discussion, it was decided to refer this matter to the office of the Statutory Revisor to determine and reconcile the two statutes mentioned by Mr. Bauer, namely 6-0931 and 54-3023, and one point presented by Mr. Birdzell is that the later statute may likely be an implementing statute for the previous general one and that the two statutes may not be inconsistent.

Mr. Birdzell noted that possibly the preference statutes which have been held unconstitutional, should be specifically cleared from the books by legislative action.

The motion to refer this to Statutory Revisor was made by Myron Atkinson, Jr.

Proposal No. 2, by Mr. Bauer, relates to the need for a certain validation act. It was noted that this general subject is included in the article by the head of the SBAND Title Standard's Committee, H. G. Ruemmele, at pages 314-315, ND Law Review, October, 1956; that it is a part of a subject now being recommended for action by the Title Standard's Committee; that it should be referred to said committee as being in their province. Said action shall be taken by the chairman.

Proposal No. 3, by Mr. Bauer, relates to the repurchase privilege. It being the consensus of opinion that the restriction of abolition of that privilege would not be legislatively practical and that it should be in the files of the Tax Law Committee and Title Standards Committee; it was determined that such situation should be referred to such committees.

Proposal No. 4, of Mr. Bauer; wherein he called attention to Section 6-0925 NDRC 1943, and Section 38-0915 at sequ., as, in his view, setting up two procedures for leasing state lands acquired through mortgage foreclosures, and suggested that 6-0925 be amended to exclude oil and gas leases, was determined should be referred to the office of the Statutory Revisor.

Proposal No. 5 was not reached for discussion.

Next on the agenda were the proposals of Russell R. Mather, member, dated October 25, 1956.

Proposal No. 1, dealt with the need for a state lease statute for solid minerals, specifically uraniferous and other fissionable materials. It was resolved by the committee, after discussion, that the legislative committee be told it in our recommendation that the law be clarified as to leasing solid mineral acreage by the state, including uranium and other fissionable minerals; including provisions that the lease be on a basis of sliding scale rather than fixed rate; providing for compensation for surface damage; that a lease for such purpose be deemed to contain provision for surface damage compensation if not therein contained, for minimum bonus and minimum fee rental. It was further determined that Mr. Mather should draw a draft of a proposed act for the leasing by the state of solid minerals, including uranium and other fissionable materials and that he might obtain such help as needed from other available members of the committee.

Proposal No. 2, by Mr. Mather, deals with the need for a legal definition of coal, not now existing, which would exclude sub-lignitic materials or minerals not efficiently usable as coal. It was determined that this matter should be taken up with the State Geologist and North Dakota Research Foundation to determine if such a definition was feasible. The purpose of Mr. Mather's proposal is based on the presence in such materials of uranium, in this state and consequent legal difficulties inas-

much as said host materials may now be considered as coal, giving rise to problems regarding the ownership of the material as coal.

Proposal No. 3, of Mr. Mather, deals with Section 47-1021-2 which contain an unworkable requirement regarding coal reservations requiring they be defined by depth of seam, et al. It was determined said sections should be repealed and legislative action taken to validate reservations, now existing, giving the holders time to come in and protect their interests. It was mentioned that the sections in question, never tested, are likely unconstitutional.

Mr. Eckes moved that the Committee go on record as favoring the development of North Dakota's oil, gas and other mineral resources and opposing any legislation, taxation, or otherwise, which would tend to impede or hinder the same. Resolution carried.

WILLIAM S. MURRAY, Chairman.

PRESIDENT SPERRY: Now, we have a report on file by the committee on Ethics and Internal Affairs, and I would like to read to you a letter written by Philip R. Bangs, who is chairman of that committee.

"Mr. Lynn G. Grimson
Executive Director
Grafton, North Dakota

Dear Lynn:

Re: Ethics and Internal Affairs

I enclose letter dated June 3rd that I received from Professor Leo H. Whinery of the University Law School.

I don't think the adoption of a Code of Ethics by the State Bar Association would supersede Chap. 27-13 of the North Dakota Code, or any other statute; and neither do I think it would have any effect thereon.

I think that Mr. Whinery's suggestion of a saving clause is O. K., I move that the Code of Ethics of the American Bar Association, and further Amendments to said Code made by the American Bar Association, be adopted by the State Bar Association of North Dakota, as the Code of Ethics of said State Bar Association, subject to the right of said State Bar Association to make and adopt Amendments thereto.

I doubt very much if I will be able to attend the Annual Meeting in Bismarck, so would appreciate it if you would submit this matter at the Annual Meeting and if possible, get a Code of Ethics adopted by the State Bar Association.

Yours very truly,

PHILIP R. BANGS"

Now, you will observe that included in this letter is a motion for the State Bar Association of North Dakota to adopt the Code of Ethics of the American Bar Association. Is there a second to that motion?

G. SOULE: Second.

PRESIDENT SPERRY: Is there any discussion, gentlemen?

M. HIGGINS: Mr. Grimson, I wonder if anyone offhand could tell us what essential differences there are between our present standards of ethics and the standards of the American Bar Association?

PRESIDENT SPERRY: I am informed that they are substantially the same, Milton. Would anyone else have any comments to make upon that?

L. GRIMSON: The only comments I can make on that, Milt, is that this association about 10 years ago adopted the American Bar Association Code of Ethics, but did not put in a clause that carried the amendments to that code by the American Bar Association. The action is recommended by Mr. Bangs primarily to bring into our code of ethics the amendments that have been adopted by the American Bar Association and to provide for the continuance of those amendments in the future. It does have the "saving clause" that we can make any amendments thereto that we desire at any annual meeting.

PRESIDENT SPERRY: Thank you. Any discussion?

(Motion carried unanimously.)

PRESIDENT SPERRY: We have one more report, but we have some books to be awarded. Now, these books consist of a set of the U. S. Code sent to us by Senator Milton Young, and we have in this envelope the names of all attorneys registered at this convention. Mr. Nelson will draw names from the envelope until he reaches the name of a lawyer who is here today and that will be the lucky person who will get the code.

(Mr. J. A. Hyland was presented with the Code.)

PRESIDENT SPERRY: Now, at this time I think we are ready for our report of the Committee on Resolutions, and I will call upon John A. Stormon, chairman of that committee.

J. STORMON: Mr. President, members of the Association. Your Resolutions Committee submits the following resolutions:

RESOLUTIONS COMMITTEE REPORT

WHEREAS, the Honorable O. H. Thormodsgard, Dean of the School of Law of the University of North Dakota at Grand Forks, has completed 30 years of service on behalf of the school of law, the profession and the people of the State of North Dakota, and,

WHEREAS, the said O. H. Thormodsgard as Dean of the School of Law has been forced to adapt the Law School program to the limits of an inadequate budget, and,

WHEREAS, in spite of severe budgetary restrictions, he has, though his own initiative, ingenuity and devotion to duty, kept the School of Law in line with the highest standards of progressive legal scholarship, and,

WHEREAS, this progressive, modern, forward looking aspect of the school of law is abundantly attested: 1) by the approval of the American Association of Law Schools of the American Bar Asso-

citation; 2) the excellent Law Review; 3) the unusual success of its graduates in the law examination of this state and other states; 4) the records of success and achievement of its graduates; 5) the fine cooperation by the School of Law with the work of this Association; 6) the unusual contribution made by the Dean and two members of the faculty to the drafting and ultimate promulgation of the Rules of Civil Procedure, and 7) the continuing advancement and support of Uniform Laws, and in many other ways too numerous to mention.

NOW THEREFORE be it resolved that the State Bar Association of North Dakota does hereby congratulate Dean O .H. Thormodsgard and extend to him our sincere thanks for his past labors and accomplishments and now pledge to him anew our continued support and loyalty.

And be it further resolved that copies of this resolution be transmitted by the Executive Secretary of the Association to the President of the University of North Dakota, and to the President of the State Board of Higher Education.

Mr. President, I move the adoption of the resolutions.

PRESIDENT SPERRY: Thank you, Mr. Stormon. Is there a second to the motion?

(Motion seconded and carried unanimously.)

J. STORMON: Mr. President and members of the Association. Your committee offers the following resolution:

WHEREAS, the City of Fargo has been visited by a severe and destructive tornado, and the citizens thereof have suffered an irreparable loss;

THEREFORE BE IT RESOLVED, that the State Bar Association of North Dakota express to the residents and the citizens of the City of Fargo our sincere and heartfelt sympathy and our hope that their recovery to normal may be speedy with the help of the American Red Cross and the full cooperation of state and federal agencies.

Be it further resolved that we urge our members to contribute liberally to their rehabilitation.

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

PRESIDENT SPERRY: You have heard the motion, gentlemen, is there a second?

(Motion seconded and carried unanimously.)

J. STORMON: Now, Mr. President, members of the Association, your committee could have prepared a large number of whereases; however, the hour is getting late, our members are diminishing, and I know that you do not desire to hear my voice, so we are going to eliminate all the whereases and give you a number of resolutions which the committee desires to submit.

We desire to express to the panel on Civil Rules that participated in the program here for a day and a half, and especially to the Honorable E. R. Selnes, District Judge from Minnesota, our sincere appreciation for the very fine presentation of this subject.

We urge that the local and district bar associations continue the study of the New Rules of Procedure so that hopes of improved administration of justice may be realized, and that public confidence in the processes of law as a means for securing justice may grow.

We express our appreciation to our president, Floyd Sperry, to director, Lynn Grimson, to the Executive Committee of the Association, to all of the committees for the fine and high type of reports that have been submitted to us during the current convention; and our sincere appreciation to all persons who in any manner contributed to the very fine program that has been ours at this convention.

We further express our appreciation to the committee on Sectional Meetings, and to the persons who prepared the papers for and conducted those Sectional Meetings; they were outstanding papers and presentation. And we also desire to express to Professor Crum our sincere appreciation for his fine article on the New Rules which was presented and is a part of the booklet that was furnished you by the committee on Sectional Meetings.

We desire to express to the Burleigh County Bar Association our appreciation for the very fine entertainment and social programs that were furnished to ourselves and to our ladies. They are indeed to be congratulated upon the very fine entertainment that was provided for this convention.

Be it further resolved that we express our appreciation, and that is, to the Bar of the Sixth Judicial District of the complimentary luncheon that we enjoyed on Thursday noon through their hospitality; that we commend and congratulate our hosts at such luncheon for the welcome invitation and of a complete absence of oratory, introductions and presentations, and for the substitution of the simple pleasure of good food and genial companionship.

The State Bar Association expresses its sincere appreciation to George Grim of Minneapolis for the very informative and entertaining address that was given at the annual last evening.

Mr. President, I move the adoption of all of these resolutions and remarks of appreciation as one motion at this time.

PRESIDENT SPERRY: Thank you. Is there a second to the motion?

(Motion seconded and carried unanimously.)

PRESIDENT SPERRY: Thank you very much, Mr. Stormon, for helping us out.

J. STORMON: Mr. President, I omitted one little matter that I want the reporter to put in the same resolution.

We express our appreciation to the exhibitors for the exhibits and the demonstrations that were put on at this convention, and express to Senator Milton R. Young our appreciation for remembering us with a set of the U. S. Code in order that we may be fully informed on our federal laws.

The members of the committee were the Honorable Albert Lundberg, Paul Agneberg and myself. Thank you.

PRESIDENT SPERRY: Thank you, John, for your fine report.

Now, is there any further business to come before the convention before we reach the conclusion of it?

(No response.)

In view of the resolutions that have been presented this morning there is not very much to be added. I would like to add just a few comments which are strictly my own; however, in the first place I have always felt that I owed Dean O. H. Thormodsgard of the University Law School a special debt of gratitude. First, because he permitted me to graduate from the University Law School. But I want to say, that he has attended all of our Executive Committee meetings — most of our meetings. He has taken an active part in our work. He has been of invaluable aid to the association throughout its history so far as I know. Through his cooperation we were able to conduct institutes which would have been impossible without him. It was through his work at the University that we were able to conduct our first medical-legal institute there, and I think that would have been impossible without the help of the medical school along with that of the law school at the University.

I also want to say a few words about the outstanding work of another member of the association, who doesn't happen to be here at the moment, and that is Frank Jestrab of Williston. I don't think there are many of you who know just how much work Frank Jestrab has done for this association, but I want to call your attention to a few of the things that he has done. First, his endless work upon the new rules of procedure. Secondly, his bringing about the appointment and the providing of a committee upon Administrative Law, which I think we are going to hear a great deal from during the next year or two of the association work. Thirdly, we are indebted to him for the group life insurance program which I think is a splendid one, and which has been made available to our membership; it having become effective because of the number of applications that were received for it. And one of the most outstanding things that Frank did on his own accord, and a little bit to my surprise, was to make a special trip up to the University Law School near the end of the year and obtain the applications of all of the members of the seniors in the law school for membership in the American Bar Association. He obtained applications from a hundred per cent of the members of that graduating class. He not only did that, but he was on hand when all of these young men were admitted to the Bar, and at that time there were 34 of them altogether. Evidently, some of them had come from other law schools and he also obtained their applications. So altogether he obtained applications from one hundred per cent of the lawyers newly admitted to the practice of law in North Dakota in the year of 1957, and I sent a report of that into the office of the American Bar Association and received a letter back commending not only Frank Jestrab for that outstanding work but giving our

association a great deal of credit for it. And I think too, that through Frank's work in behalf of the association we have reached one of the highest standings that could be had in the American Bar Association membership at the present time. Now, Frank isn't here and he didn't know I was going to make these remarks, but I felt that they were in order, and I certainly appreciate the help that he has given me during the last year.

Now, at this time I would like to present the new officers of the association, and first I would like to call upon our secretary-treasurer who has served us well during the last year. The handsome, congenial and efficient, Elver T. Pearson. Will you come up, Elver.

SECRETARY PEARSON: Thank you very much, Mr. President, for those not quite honest words, but I would like to thank the association for returning me to office and particularly those who were kind enough to say a few words in my nomination. I would like to make one personal observation at this time, and I do have the opportunity, and that is that I don't believe all of you can realize what a unique experience it is for one of the younger members of the bar to serve in the capacity of secretary-treasurer of this organization and sit on the Executive Committee and learn how many things they do and how much work gets done by the members all over the state. I don't believe, myself, there is another bar association in the United States which actually does give that opportunity to one of the younger members, and I would certainly as a personal thing, suggest to all of you that whenever possible in the future that the office should be passed from city to city and all things being equal to a younger member whenever one is available and seeks the office. Thank you very much.

PRESIDENT SPERRY: Now, I'd like to present to you the vice-president newly elected of the North Dakota State Bar Association, a very capable lawyer, and he happens to be a partner of Frank Jestrab so I am sure that the future of the Bar Association is going to be very well taken care of. Will you come up here, Arley Bjella.

VICE-PRESIDENT BJELLA: Mr. President, members of the Bar Association. I, of course, am very much honored to be chosen as the vice-president of your association, and appreciate the confidence that you have expressed in my taking this office; and I know that if I get out of line too much there is quite a few fellows in my office to get me back. I want to say one thing, I was particularly pleased with the report of the Resolutions Committee commending our good and beloved Dean Thormodsgard from the University of North Dakota Law School. I know that I share the thoughts of all the lawyers in North Dakota, and they are most of the lawyers now, who have had the privilege of taking law under this fine, kindly gentleman of the law; and I only hope that he will be with us there many years, and certainly all the way through the time that I will be connected actively with this association. Thank you very much.

PRESIDENT SPERRY: Now, before performing my final act as president of the North Dakota Bar Association I want to say again that I have highly appreciated the honor and privilege of having served as president during the past year. Its been very interesting. I should have accomplished more. It seems like the time went so fast that I just couldn't get around to get all the things done that I hoped to accomplish, but I am very happy to know that we have officers who are going to carry on and that many of these projects that are pending will be carried out in the future. I want to also say that I again thank all of the members of the association, all of the members of the committee, the other officials, all of the panel discussions, and especially the committees in Bismarck who arranged for this convention, and the people in Bismarck for their very fine hospitality; to all of you I want to express my sincere thanks. You made me feel very much at home in coming down here to arrange for the convention. It was a real pleasure, and I enjoyed every bit of it. Now, I would like to have John Hjellum come up to the microphone. While John is coming up I want to tell you that I know he is going to be a wonderful president. I have had the pleasure of working on different committees with him, especially that of the committee of Continued Legal Education, for the last two or three years. He is not only very popular with the members of the bar, but also with the members of the ladies auxiliary, and perhaps I should say with the ladies. He is capable and energetic. He has been a wonderful vice-president, and I know that the work of the association is going to be carried on most efficiently under his administration. I know of no more pleasant way of concluding my work as president than to turn the office over to John Hjellum, the new president of the North Dakota Bar Association, and to leave with him my very best wishes.

PRESIDENT HJELLUM: In listening to Floyd it reminded me of the lady that lived in the little town of Golden Valley, and she had been married for 25 years and never had any children; and finally one day her good friend, Fadelia came over and she said, "Mahitabel," she says, "it's all over town that you are going to have a baby." And Mahitabel says, "Why, Fadelia, there isn't a word of truth to it, but I love to hear it." You know, when you see this small group that is here this morning and realize what a large group we had yesterday it reminds me of when Les Burgum started out in the ministry — I might just add that Les is in the back of the room there — and he had a very small congregation. And Les used to say that the congregation was so small that every time he used the term "dearly beloved" to the congregation he felt like he was making a proposal. That is one of the things that I hope to have the Executive Committee give a little attention to as to how we can keep a large enough group here so that when the inducted president gives his inaugural address that he will have enough people here to listen to him. Now, there is one thing fine about it, we know that those who are here constitute the cream of the profession. So, I want to compliment you fellows on being here. Now,

being elected president has some drawbacks. I sat right where Ruben Bloedau is sitting there yesterday when Dudley Butts got up to make my nomination, and right across from me was Judge Pollock and Judge Porter! and when Dudley started out, you know he, of course, was using some rather nice terms, and Judge Pollock turned to Judge Porter, he says, "Who the hell are they talking about anyway?" And Porter looked back at him and said, "Seems like Hjellum wrote that speech himself." And then I looked back over here to Judge Amundson—he was sitting right where he is now—and he says, "That can't be Hjellum." So, I don't know whether this office with all the abuse you take, whether it's worth it or not. Then when I came up here this morning everybody had a big smile on their face, and I don't know whether that's because they are friendly or wondering what kind of a year we are going to have. But, we are going to have a good year. I notice that the numbers have been growing, more people are coming to our conventions. I think we are putting on better conventions, and we are going to have a good year this year; and I hope that those who are put on committees—everybody isn't going to be on a committee—but I am going to put on people who come to bar conventions, and I hope that they will do a good job. And as for myself, I'm going to try and do a good job, and I hope it will reflect credit on the association. Now, one reason that Floyd gave me such a nice buildup is that he knows that I am going to present to him the Past-President's Certificate, and without any attempt at being humorous—you heard me say the other day that Floyd has been one of the best bar presidents that this association has had—now, sometimes we say that with our tongue in our cheek, but this happens to be a time when we can say it and mean it; and if anyone has ever earned this Past-President's Certificate Floyd Sperry has earned it, and I believe our Executive Secretary has it here, and to me it is a real pleasure and a real honor to present this certificate to our outgoing president, Floyd B. Sperry. Floyd, I give this to you and I wish you well, and I know you will continue to work in the association.

MR. FLOYD SPERRY: Thank you very much, John, for your kind words, and I certainly appreciate this certificate, it's wonderful. I can't tell you how much I'm going to appreciate having it in my office, and that is just where I am going to keep it. Thank you very much.

PRESIDENT HJELLUM: Is there any further business?
(No response.)

PRESIDENT HJELLUM: If not, I would like to thank this association for the honor they have shown me, and we stand adjourned.

(North Dakota State Bar Association adjourned at 12:00 o'clock.)