



1950

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

HELD AT FARGO, NORTH DAKOTA
AUGUST 11, 1949

MORNING SESSION, THURSDAY, AUGUST 11, 1949

On Thursday, August 11, 1949, at 9:30 o'clock a. m., the meeting was called to order at Central High School auditorium, President George A. Soule presiding.

REVEREND RONALD G. HOHN pronounced the invocation.

PRESIDENT SOULE: We are now to be officially welcomed by Mayor Charles Dawson of Fargo.

MAYOR CHARLES A. DAWSON made an address of welcome.

PRESIDENT SOULE: We have also invited our District Judge John Pollock to address a few words of welcome. Judge Pollock.

JUDGE POLLOCK addressed the convocation.

PRESIDENT SOULE: The response to these addresses of welcome will be given by Roy A. Holand, of LaMoure.

MR. HOLAND responded for the Association.

PRESIDENT SOULE: The next order of business on the program is entitled "Annual Report of the President." As we do not have a vice president this year, I am taking the liberty of calling upon our immediate past president, Mack Traynor, to preside. Will you come forward, Mack?

MR. MACK V. TRAYNOR: I am very happy indeed to present to you the hard-working, efficient President of the Bar Association who will give the annual report. George A. Soule. (Applause.)

PRESIDENT SOULE: Mr. Traynor, members of the State Bar Association. In presenting to you an accounting of our stewardship and that of the Executive Committee for the past twelve months I am conscious of the growing responsibility of the State Bar Association of North Dakota to the people of this State. Largely because of the enactment of the legislation giving us a share of filing fees we are expected to fulfill the need for a legal education and publicity program.

In some quarters our efforts have been derided and it has been difficult to convince certain of our critics that the Bar does not have ulterior motives in everything it undertakes. In discharging the duties that have fallen to us to expend funds "for legal education and research and the improvement of the judicial system," it has not always been easy to determine whether we were staying within the statute, but, as you will presently see, the Association has been careful to make every effort to comply with the legislative intent in the programs it has undertaken the past year.

TOOZ ACTION

I am glad to be able to report to you officially that the action commenced in Burleigh County and appealed to the Supreme Court challenging the constitutionality of Chapter 228 of the 1947 Session Laws, the so-called "filing fee bill," was successfully defended by our attorneys, former Attorneys General Nels G. Johnson and Alvin C. Strutz. Their demurrer to the complaint was sustained in the Supreme Court and the appeal dismissed.

SCHOLARSHIPS

Mindful of the advantages of legal research, particularly in North Dakota law, the Executive Committee in August of 1948 set aside \$300.00 for scholarships in the North Dakota University Law School. The awards were made upon the recommendation of the Dean and faculty of the Law School. The recipients of the 1949 awards are listed in the July issue of Bar Briefs. These awards did much to stimulate research and the advantages have been reflected in the Association's Journal, with consequent benefit to all members of the Bar. So successful have they been your committee doubled the sum and made \$600.00 available for the year of 1949-50.

JUDICIAL COUNCIL

Feeling that the Judicial Council was the best available vehicle for a serious study of the judicial system, we appropriated \$2500.00 to the Council to aid it in a complete study of the system of Courts in North Dakota, with a view toward making concrete recommendations to the Legislative Assembly for betterment of our Court system. The Council has not met for some time. We sincerely hope it may meet this fall in order that this highly important work may be concluded during the ensuing year. As an auxiliary aid to the Council in its study, we have commissioned Professor Keith W. Blinn of the University Law Faculty to make an extended study of the whole problem. Mr. Blinn will give us a preliminary report here tomorrow morning. For this work we appropriated \$1000.00.

AMERICAN CITIZENSHIP

Our American Citizenship Committee, under the direction of its Chairman, Harold W. Bangert, was very active during the year. It conducted a statewide contest designed to insure a better understanding of the Constitution and our form of government. We authorized, and the Committee expended, approximately \$700 to carry on this very worthwhile work. Details will be developed in the formal report of that Committee.

LEGISLATIVE RESEARCH COMMITTEE

It early came to our attention the Legislative Research Committee lacked the money to carry on proper legal research in drafting measures for introduction in the 1949 Legislature. Knowing the importance of that work and to facilitate preparation of the 1949 Session Laws and Cumulative Supplement, the Executive Committee arranged with Marion Jane Leslie, who has had wide experience in that field, to go to Bismarck and assist the Research Committee. Miss Leslie spent the greater part of her time from October of 1948 through February of 1949 in this work. The cost to the Association of compensation and expenses was about \$3100.00.

After adjournment of the 1949 Legislature, we were again called upon by the Legislative Research Committee for additional money to aid it in the actual compilation and editing of the Session Laws and Cumulative Supplement. The Executive Committee appropriated an additional \$2000.00 for this purpose. It was this assistance that enabled the Research Committee to complete the work on both volumes early in June of this year. Further details will appear in the official report of the Legislative Research Committee.

REVISOR OF STATUTES

At the 1948 Annual Meeting, Vernon M. Johnson made an exhaustive and able report on Law Institutes and particularly of the State of Louisiana. Your Executive Committee studied this matter very carefully, pursuant to the mandate of the meeting, but were compelled to the conclusion that setting up a Law Institute in North Dakota was far beyond our financial ability now or in the foreseeable future.

Our investigation did disclose, however, that several states have a Revisor of Statutes whose work is of a somewhat similar nature. Professor Ross W. Tisdale of the University Law Faculty was designated Chairman of a committee to make a study of the possibility and advisability of a Revisor of Statutes in North Dakota. Mr. Tisdale's report will be made tomorrow. We recommend affirmative action to be taken to insure a continuance of our efforts to secure such an officer in North Dakota.

HOUSE BILL 108

House Bill 108, introduced in the House of Representatives last January, was designed to repeal Chapter 228 of the 1947 Session Laws and thus take from the Association the additional \$2.50 in filing fees. The Bill passed the House by a small margin but was indefinitely postponed in the Senate.

This assault on Chapter 228 was met by a great many lawyers both within and without the Assembly. The lawyers in both chambers rose to our defense both upon the floor and in the Committee hearings.

In addition, a number of lawyers voluntarily came to Bismarck to appear before the Judiciary committees of both houses to oppose House Bill 108, and a large number of Burleigh County lawyers gave a great deal of their time to our cause.

Your officers appeared at Committee hearings in the Capitol. In our arguments before the Committees, we explained in great detail the source of our moneys, the manner in which they had been expended and offered our books and records for study and inspection. We were courteously received by both the House and Senate Committees and were given completely fair hearings. We feel the Legislative Assembly fully understood and appreciated the fact that with the constitutionality suit then pending the Association necessarily had to mark time with certain of its plans pending the outcome of that litigation.

PUBLIC RELATIONS

Through the media of banks, trust companies, service clubs, home-makers units and similar organizations, we have distributed some 36,000

pamphlets issued by the Association on "Title Examinations" and the number of brochures on "Do you Need a Will" has exceeded 50,000.

The Northwest Bar Association, in meeting assembled at Minot in June, because of the apparent confusion in the minds of landowners, adopted a resolution aimed to acquaint our people with the distinction between oil leases and mineral deeds. The State Association released to the press the gist of the Minot resolution in line with our established policy of advising the general public in matters directly affecting their interest. The members of the Northwest Bar Association are to be commended for their efforts in this connection, and, in our judgment, performed a distinct public service.

The Executive Committee has had under study the whole problem of effective public relations and has sought to lay the groundwork for an over-all program in that direction. We feel that with the modest beginning we have made during the last year future administrations will be in a position to chart a course based upon the experience we have gained and the exchange of information we have been pursuing with the Bars of other states.

One of the finest programs in any state is that undertaken by our sister state, Minnesota. As a feature of our annual dinner tomorrow night, we have invited Mr. William W. Gibson and Mr. George C. Jordan, both of Minneapolis, to address us. Mr. Gibson is Chairman of the Minnesota Public Service Committee. Mr. Jordan is Public Relations Counselor of the Minnesota State Bar Association. We commend these addresses to you and hope they will help us develop a sound Public Relations Program in North Dakota.

Through the Presidents of the respective District Bar Associations, we are now experimenting with newspaper articles on some phases of our work. One North Dakota newspaper carried our entire brochure on "Title Examinations" with an appropriate explanation of the nature of that work. The respective District Presidents are now working within their own jurisdictions in an effort to have all or most of the papers in their Districts publish it in the same manner.

In view of the steady requests for both of the two informative pamphlets we have issued to date, we recommend our Association develop other papers of like nature on subjects which will be interesting, helpful and beneficial to the people of this state.

STATE BAR BOARD

In making an official poll of the Bar in connection with a recent vacancy on the State Bar Board, it was discovered that under Section 27-1106 of the Revised Code our Association should submit three names to the Supreme Court for each vacancy to be filled. Article VII of our By-Laws provides the Executive Committee nominate two persons for each vacancy. To conform with the state law, we have prepared and will later offer to this meeting an amendment providing for submission of three names. In addition to the names submitted by the Executive Committee, the members of the Bar at large may make nominations under our By-Laws, and in the event others are so nominated the Association will be

polled and the three receiving the highest number of votes then certified to the Supreme Court as the nominees of the Association.

THE EXECUTIVE COMMITTEE

The interim work of the Association has made increasing demands on the members of the Executive Committee. During this last year we met six times, including our final session last night. It has been our observation that continuity of service on the Committee by experienced members would make the Executive Committee function more efficiently. Accordingly, after giving the matter careful study, we are recommending to you that District Presidents be elected for two-year terms, with the even-numbered districts electing in the even-numbered years and the odd-numbered districts electing in the odd-numbered years. Thus, the terms of the members will be staggered and the Association will always have on its Executive Committee at least three members with previous experience. The new members will also have the added advantage of the knowledge, information and experience of the hold-over members.

We, of course, do not presume to direct the actions of the District Bar Associations, but we do hope they will follow our recommendations in this respect for the best interests of our State Association.

CONCLUSION

Our administration has been characterized by a splendid display of team work on the part of the Executive Committee, regularly appointed Committees and the Officers of the Association. For that I am very grateful. We have also had to call on our membership many times for assistance and were never refused.

The Committee Reports as presented during our general sessions will convince you it has been a very active year. In conducting the one-day Institute on the 1948 Revenue Act, in launching a real study of the judicial system in North Dakota, in developing and disseminating informative pamphlets for the general public, in conducting a second state-wide contest on the Constitution, in causing investigations on our own responsibility to be made where unauthorized practice of law exists, in handling the very few complaints against some of our own members, in setting up scholarships in the School of Law to encourage research, in polling the Bar on Law Lists, in making North Dakota Bar Briefs a finer professional journal, assisting the Legislative Research Committee in drafting legislation and in the compilation of the 1949 Session Laws and Cumulative Supplement, in these and many other activities we have sought to insure the certain progress of the State Bar Association of North Dakota.

I am confident that this Association of ours, under the leadership of the new officers we elect tomorrow, will continue to discharge its responsibilities to the people of this great state of ours. (Applause.)

MR. SOULE: Next on the program is the report of our Secretary-Treasurer, Eugene A. Burdick. Mr. Burdick.

SECRETARY-TREASURER EUGENE A. BURDICK: Mr. President and members of the Bar Association. During the past two years our business end

of the Association has developed substantially. Where formerly we did our business on an income of \$3200.00 or \$3300.00 per year, with the increased filing fees we now have an income of about \$18,000.00 each year. With that increased income, we have been able to develop many of the projects and activities about which our President just told you.

Breaking it down into dollars and cents, if you are interested in figures, I will say that during the past year, from July 12, 1948, to June 30, 1949, we received from the County Treasurers of North Dakota \$14,948.00 as their remittance on the \$2.50 filing fee. On the sale of Bar Briefs, we only sold \$9.40 worth, most of these to stray law schools who wanted an old copy. On the sale of advertising to West Publishing Company, we received \$225.00. Registration on the tax course which was conducted in Fargo last year was \$620.00. From the State Bar Board license fees, we received during the past fiscal year \$6461.00, which represented a two-year remittance, making total receipts of \$22,263.40

On our disbursement side, we paid the Executive Director a salary of \$2550.00, his stenographic assistant \$600.00. Secretary-Treasurer, clerical, \$775.00. Legislative Assistant was paid \$2488.75. That was for work done by Miss Marion Jane Leslie in assisting the Legislature in preparing bills preparatory to the Legislative Session and while the Legislature was in session. Other clerical expense was \$333.42. Social Security payments on the employment of the Executive Director was \$61.37. Travel for the Executive Committee was \$1108.38; travel for the Executive Director was \$411.10; travel for Legislative Assistant was \$655.12, Secretary-Treasurer \$71.85, others \$461.13. The expense of sending our delegates to the National Conference on Uniform State Laws was \$547.67. Publishing Bar Briefs—and this figure includes only three issues, as the last issue will be budgeted in the current fiscal year—was \$1940.14, running about \$600.00 per issue. Supplies purchased, \$785.68. Printing, \$1497.47. Postage and exchange, \$216.52. Telephone and telegraph, \$188.24. Annual assessment for the National Conference on Uniform State Laws, \$200.00. Expense of tax course, \$528.60. Scholarship awards, \$300.00. Citizenship awards, \$480.00. You will have reports more in detail on those particular activities. Miscellaneous, \$454.24. The Legislative Research Committee, since the Legislature adjourned, has received from us \$1104.55 during the past fiscal year and an additional \$600.00 some-odd since the close of the present fiscal year. We paid out in legal fees \$400.00, making total disbursements of \$18,159.23, leaving a balance on hand, including our account in the First National Bank at Dickinson, which was in the sum of \$1383.03, of \$19,676.29.

In addition, there has been received by the Clerk of the Supreme Court—from the \$15.00 filing fee we received \$5.00, and this \$5.00-portion which belongs to the Bar Association, during the past two years has amounted to \$1635.00. That figure is not reflected in the figures I have just given you for the reason that it has not been remitted, although we are working that out at the present time and it should be considered as an asset of the Association. Thank you. (Applause.)

PRESIDENT SOULE: Does anyone have any questions they desire to ask of Mr. Burdick? There is just one thought that occurred to me. I was thinking about something else during a portion of his report, but I wonder, did he make it clear to you that the \$620.00 that was expended for the one-day tax course here in Fargo last fall was paid entirely by those who attended the course, so that while we ran those moneys through our books they were taken in from the members who attended and from those moneys we paid out the exact amount of the receipts to pay for the course.

I presume we should have a motion approving the Secretary-Treasurer's report.

MR. THOMAS G. JOHNSON: Mr. President, I so move.

PRESIDENT SOULE: Mr. Thomas Johnson moves we approve the report of the Secretary-Treasurer as given. Have we a second?

MR. C. E. BRACE: I second the motion.

Motion carried.

PRESIDENT SOULE: The next report is that of our Executive Director, Ronald N. Davies.

EXECUTIVE DIRECTOR DAVIS: Since this is the first formal report presented to the Association in convention assembled, it might be well to review briefly the manner in which this position was created, the reasons for it, and how it operates.

In August of 1947, the Executive Committee determined upon the appointment of an Executive Director whose function is the handling of the Association's program under the direction of the Executive Committee, whose Chairman is the President of the Association. The executive Director does not make policy, but executes it. He is appointed by the Executive Committee on a part time basis and holds no elective office within the Association.

The Director performs all of the functions of the Secretary of the State Bar Association excepting those which the Secretary, a Constitutional officer, is required to perform. In our organization the Secretary is also the Treasurer, and as such is required to and does have complete charge of our finances and records. However, all routine work and correspondence which would normally be handled by the Secretary is processed through the Director's office, and he, in turn, maintains close liaison with the President of the Association and the Executive Committee.

The post of Director, while an innovation in North Dakota, is not new elsewhere. Most of the Bars in the country either have such a position or are creating it. The operations of the North Dakota State Bar Association are now so widespread as to require practically a full-time officer for their handling.

Initially, complaints filed against members of the Bar are generally sent first to the Director. His office investigates the complaints, and where possible, irons out the difficulties. Complaints of a very serious nature are finally transferred to the Committee on Ethics and Internal Affairs for action. It is good to be able to say that most complaints received in

this office are trivial in nature and ordinarily can be straightened out to the satisfaction of all concerned. We do have pending charges of a more serious nature which the Ethics Committee now has under consideration.

Similarly, in the matter of unauthorized practice of law, the Director has upon occasion been instructed to make personal investigations in an effort to stamp out alleged illegal practices.

This office also handles all communications from the Bars of other states. Florida, for example, desired to integrate its Bar, and obtain from us considerable material upon which to base its arguments before the Supreme Court of that State. Lately, the petition of the Florida Bar for integration was granted. The State Bars are often looking for information concerning North Dakota's program and the American Bar is continually asking for a survey or a poll of some sort to aid that organization in its work. All of these matters are handled by the Director.

The official publication of the Association is also supervised by this office which of course handles the mechanics of distribution, subscriptions and the like. It is interesting to note, in passing, that scarcely a week goes by without requests from some University or Library in the nation for copies of back issues of the publication, which is, we think, a very fine reflection on the Law School of the University of North Dakota, which is responsible for the greater share of the research appearing in it.

Inquiries are frequently received from attorneys desiring to dispose of their practices or their libraries, or seeking locations in which to set up the practice. This office attempts to assist them wherever possible. Occasionally attorneys from other states write, inquiring as to possibilities in North Dakota and probable locations, on the assumption that they may qualify to a license here.

The Director also handles the printing and distribution of official Association releases such as the brochures on "Wills" and "Title Examinations," after they have been approved by the Executive Committee.

The Executive Director, in short, performs the normal duties of a Secretary, with the exceptions heretofore noted, and the additional work from time to time laid out by the Executive Committee as circumstances may require.

(Applause.)

PRESIDENT SOULE: Thank you, Mr. Davies. What action do you desire to take on Mr. Davies' report?

MR. FRANKLIN J. VAN OSDEL: I move the adoption of Mr. Davies' report.

MR. GORDON F. BURNETT: I second the motion.

(Motion carried.)

PRESIDENT SOULE: We next have the report of the Editorial Committee. The Chairman is Ronald N. Davies.

EXECUTIVE DIRECTOR DAVIES: The principal function of the Editorial Committee is to determine the professional contents of our official Journal, the North Dakota Bar Briefs.

During this past year, special emphasis has been given leading ar-

ticles by members of the North Dakota Bar, including faculty of the School of Law, on subjects of primary interest to North Dakota practitioners.

Your Committee again solicits professional papers from the membership on phases of the law which will be interesting and helpful to the membership at large. We cannot, of course, use all of the material submitted to us since we publish quarterly and the size of the Bar Briefs must necessarily be kept within certain limits. It is necessary, moreover, that the quality of any articles submitted be of a standard and quality in keeping with a professional journal of this sort.

During the last year we organized and set up the Student Editorial Board in the School of Law at the University of North Dakota. The particular function of this Board, which operates under the supervision of the Committee and the Dean and Faculty Adviser of the Law School, is to search for worthy research topics and prepare them for publication.

The Editorial Committee wishes to express its deep appreciation of the splendid work and accomplishments of the Student Editorial Board and their many fine contributions to the Bar Briefs. The work that these law students have done by way of original research has done much to enhance the prestige of the quarterly as evidenced by the constant requests being received for copies and the increase in our subscription lists. The members of the Law School Faculty have been most cooperative in working out the make-up of the Briefs and in otherwise assisting in its preparation.

The Scholarship Awards, made available to Law School Students, have been of great value in stimulating study in the School, and while they are in no manner to be considered as payment for work done, their value in encouraging the student body to greater efforts is manifest in some of the work appearing in the Bar Briefs. We believe that the Association would do well to continue such scholarships and increase them as money and circumstances permit.

Respectfully submitted: Henry G. Ruemmele, O. H. Thormodsgard, Marion Jane Leslie, Charles F. Peterson, and Ronald N. Davies, Chairman. (Applause.)

On behalf of the Committee, I move the adoption of the report.

PRESIDENT SOULE: Is there a second?

MR. J. E. HENDRICKSON: I second the motion.

(Motion carried.)

PRESIDENT SOULE: The next is the reports of the Lundberg Resolution Committee.

MR. VERNON M. JOHNSON: Mr. President, we would like to defer the report until either Friday or Saturday, if possible.

PRESIDENT SOULE: That request is granted. The next is the report of the committee we appointed to investigate and report on the advisability of a State Court Administrator in North Dakota. The Chairman of that committee is P. W. Lanier.

MR. P. W. LANIER, SR.: Your Committee appointed to study and consider the Model Act, a copy of which is attached hereto and made a part hereof, to provide for an administrator for the State Courts

recommended by the American Bar Association begs leave to report as follows:

(1) The proposed Act has been examined in connection with conditions in the State of North Dakota.

(2) Many features of this Act would be worthwhile in North Dakota.

(3) The Act would require the creation of a political office, to-wit: the office of Administrator.

(4) In a State the size of North Dakota, it is doubtful that at the present there is need of such Act.

We therefore recommend that the Bar Association for the present not approve and recommend to the Legislature the introduction and passage of said Act.

Mr. President, at this time I move the approval and adoption of the report.

PRESIDENT SOULE: Thank you, Mr. Lanier. Is there a second to Mr. Lanier's motion?

MR. L. R. NOSTDAL: I second the motion.

PRESIDENT SOULE: Is there any discussion or any question before Mr. Lanier leaves the platform?

MR. H. P. REMINGTON: Mr. President, if we are to have an Administrator, Mr. Lanier has very kindly given us a tip about some of the incidents of the appointment. If we reach the stage where we need a Court Administrator, I think the appointment should be made by the Supreme Court or by the Judicial Council, because Mr. Lanier mentioned the fact that it might involve the appointment of a political office. Thank God, up to now we have kept politics out of justice.

PRESIDENT SOULE: Thank you, Mr. Remington. Are there any further remarks or questions? If not, are we ready for the question? The question is on Mr. Lanier's motion to approve the report of his Committee on State Court Administrators.

(Motion carried.)

PRESIDENT SOULE: Thank you, Mr. Lanier. The next on the program is an item that your Committee and particularly your President regrets very much to tell you we omitted in the program. We overlooked what we consider one of the most important reports that we will have before us during the entire meeting, and that is a report from the State Bar Board by Mr. Herbert G. Nilles of Fargo. Mr. Nilles.

MR. HERBERT G. NILLES: Mr. President, ladies and gentlemen of the convention. I don't think that the Honorable President and myself really saw eye to eye on this subject. I didn't understand that I was to make the report. In fact, what he told me was he would like to have me discuss the functions of the State Bar Board in order that the Bar as a whole might have a little better understanding of its make-up and operations.

I think it is customary to file a financial report and I assume Mr. Newton, the Secretary of the Board, will do so in due course. I don't see him here but I won't attempt to cover that part of it but, rather, confine myself and my discussion to the matter which I first outlined. There seems to be considerable misunderstanding about the functions of the State Bar Board. It is a board established by statute. It is under

the wing or under the jurisdiction of the Supreme Court. As a matter of fact, it could be considered an inferior body composed, you might say, to do the work within the scope of its functions. As a matter of fact, the State Bar Board has very, very little authority on any subject. On practically everything on which it acts, it recommends to the court and official action is taken by the court itself.

The Board consists of three members. They are all appointed by the Supreme Court. The appointments are made from names which are furnished by your Association. In other words, the lawyers of the state propose a number of names and from those the Court makes its selection. Each member holds office for six years and may be reappointed, and usually is. In fact, it is a hard Board to get off of once you get on, as I found, much to my sorrow.

The work, while somewhat aggravating at times, really has a genuine interest, and it falls largely into two categories: One, the examination of applicants for the Bar; and, two, other matters pertaining to discipline, suspension and disbarment. I will discuss each of those rather briefly.

The work of examining applicants for the Bar is one which, of course, requires the members of the Board to prepare questions, to hold examinations, grade them, report the results to the Supreme Court with recommendations for admission or otherwise. We also are charged with the duty of making the investigation as to the moral background of applicants, whether they are taking the examination here or apply for admission upon motion. Generally speaking, our recommendations are followed by the Court.

I might say it may be of interest to you to know while I happen to be oldest in point of years of service on the Board, my impression is — and I think it seems to be more than an impression — I would say my definite observation is that the quality of young men who are taking the Bar now from the standpoint of education seems to be better than it was in years past. I don't know what to attribute that to. I have an idea that it is due, first, to the fact that our educational qualifications have been strengthened; that is to say, you can't take the Bar now unless you have had the equivalent of two years of college education plus three years of work in a law school or registration in a law office. On that subject, I might say that it also has been our observation that study in a law office does not seem to be on a par with study in a law school. We can't help but notice that. It is true, some men who study in law offices pass and are admitted but they do not rank, in our opinion, with the men who have studied in a law school. I think, of course, the law schools themselves have improved their techniques and so all in all, it has added up to this: I think our young men now starting out in practice are better qualified from the standpoint of fundamentals and education than what we had ten or fifteen years ago. That, I think, is a very good sign. You might say it is well for the future of the North Dakota Bar.

The work of examinations, of course, is very, very interesting. We get some great answers at times, even from what we might consider very good students, and I won't go into detail on that but it really is funny. It is interesting but it is tedious work, and if there is anyone

who wants to become a member of that Board, if you will see me I am willing to step aside almost any time now and I think we can fix it and see that you get on.

We have had, ordinarily, one examination a year, but because of the return of veterans we try to accommodate them, and the result is, I believe, we have had anywhere from three to four examinations a year, some of them big and some little. The biggest one we have ever had was this year in Bismarck, and we examined forty-seven or -eight candidates. We have another one coming up pretty soon. We will have five or six more. They are going to summer school and weren't ready to take the examination at Bismarck. So you see, the Board does have a little work to do along that line.

On the matters relating to discipline, suspension and disbarment, I want to make this clear to you: The State Bar Board is not a detective agency nor we are the G-Men of the Bar. It was never intended for that purpose. We don't have inspectors out checking up on anyone. The proper procedure, where an attorney is charged with having violated his duties as an attorney and counselor at law, is the filing of a complaint. Usually that complaint must be verified and it is filed where it should be: namely, with the Supreme Court. After all, the matter of admission to the Bar as well as disbarment or suspension from the bar is a function which rests exclusively in the Supreme Court itself, and the Board has no power.

The procedure, after that complaint is filed, is this: I don't know how the Court functions in its executive sessions, but it would appear that if the Court believes that there is reasonable cause for investigation and possibly further procedure, that complaint is then referred to the Board and one or more members of the Board then makes a personal examination, inspection and even investigation into the whole situation. Then the Board makes a report to the Supreme Court in which they recommend either that charges be filed or that the complaint be dismissed and disregarded.

If that report is approved by the Supreme Court, if those recommendations are adopted, the Court then makes its order directing that formal charges be filed. We prepare those. We appoint an attorney to prosecute, and the Bar Board's functions so far as that case is concerned cease. That is about all there is to it.

Of course, we do receive some complaints which are lodged directly with us which we just forward to the Supreme Court.

I know that the State Bar Association has its Committee on Ethics and Grievances. The work of that committee is not at all inconsistent with our work. As a matter of fact, we are furnished information by that committee; we cooperate with it and any time they have anything they think the State Bar Board or the Supreme Court ought to act on, all they need to do is file it and it will be given attention.

I believe that gives you a pretty good outline of the whole situation, and I will be very glad to answer as many questions as I can answer if anyone present desires to submit them. Apparently there are none. Thank you very much. (Applause.)

PRESIDENT SOULE: Thank you, Mr. Nilles. I rather think that I introduced Mr. Nilles and said that he was going to make a report for the

State Bar Board, but I know that we as the Bar Association do not have any right or shouldn't presume to ask them for a report. We did not want Mr. Nilles to come here and tell us how the State Bar Board functions because we as an Association have been at times subjected to criticism for various things that have been done and have not been done, and we felt that if our entire membership were acquainted with the facts just given by Mr. Nilles, that we would all better understand the relationship between the Supreme Court, the State Bar Board and our State Bar Association. We certainly thank you, Mr. Nilles, for coming here this morning and giving us that information.

MR. NOSTDAL: Mr. President.

PRESIDENT SOULE: Mr. Nostdal.

MR. NOSTDAL: As I understand it, the Bar Board is under no obligation to render a report to the Bar Association. It is just a matter of courtesy and I move that a vote of appreciation be extended to the Bar Board for this courtesy at this time.

PRESIDENT SOULE: I think that is a very nice and fitting motion, Mr. Nostdal.

MR. JOHN A. STORMONS: I second the motion.

Motion carried.

PRESIDENT SOULE: Thank you, Mr. Nilles, and will you convey our thanks to the State Bar Board?

We are in somewhat similar position with the next item on our program, and that is the report of the Legislative Research Committee. We have them listed as giving a report, but they are here this morning to tell us how they function, what they are, and I suppose, what they intend to do. Mr. Carroll Day is not here and that report will be made by Mr. Joseph A. Donahue, Research Director.

MR. JOSEPH A. DONAHUE: Of late, my time has been devoted very largely to proofreading and writing index. Neither of them could be described as being intellectually stimulating. As I came up for a breath of air a few days ago, I was confronted with an inquiry from the Bar Association as to who was going to give the report of the Legislative Research Committee to the Bar Association. That, of course, led to a question of what the report would consist of, and we have solved the first question. You will notice that the program lists Senator Carroll E. Day, Chairman of the Committee, and Marion Jane Leslie. Their parts of the report are good. You are, of course, authorized to contact them at the Friendship Hour and find out more about the other two parts of the report. I will try to tell you a little about what the Legislative Research Committee is. That is probably the best we can do.

The present members of the Bar on the Committee in addition to Senator Day are Senator Shure and Representative Holand; former members are Representative Johnson, Representative Ohnstad and Paul Agneberg, former Research Director of the Committee.

The North Dakota Legislative Research Committee was established by act of the 1945 Legislative Assembly as a service agency of the legislature. It performs the function of a legislative council, serves as the committee on inter-state cooperation or North Dakota representative to the Council of State Governments, provides research and reference

facilities and a bill-drafting and checking service prior to and during sessions, and as a general legislative office, provides continuity between sessions and a means of coordination between the legislature and other branches of the state government and the public.

In recent years increasing attention has been focused on the position of legislative bodies in the modern world. Representative assemblies, the very earmark of democracy, today constitute a bulwark against centralized bureaucracy and dictatorship as they in former years expressed the will of the people in opposition to the divine right of kings. The legislative function has been defined as "The determination of broad policies in a clear and decisive way; authorization of organization, personnel, powers and finances adequate to administer its policies; and the review of the effectiveness of those policies and of their administration."

Nevertheless, the legislative branch, as compared with the executive or judicial, when confronted with the increasingly complex problems of modern government, the expansion of government into new fields, the growth of administrative agencies, the development of organized pressure groups, and the tendency towards centralization, has found itself ill equipped to deal with the detailed, technical and constantly changing questions upon which determinations must be made and policies established.

The problem confronting the legislature is unique. Constituted in much the same way as were the assemblies of former, less complex eras, when it was practical for representative citizens to meet for short periods at infrequent intervals to determine state policy and to appropriate the relatively small sums needed for the operation of state governments exercising police functions chiefly, the modern legislature, meeting for the constitutionally limited sixty days in a biennium, is confronted with the task of supervising the operation of an extensive business enterprise intimately affecting the life of every citizen of the state. Sovereign during the session, the legislature, in contrast to the departments of its creation, approaches its deliberations without the personnel, records or technical knowledge necessarily accumulated in year-around grappling with a problem.

Forced to rely for information and assistance on other and possibly interested sources, pressed for time, compensated by a sum scarcely adequate to cover actual living expenses during the session, the average legislator industriously, honestly and sincerely, but harried by the necessity of organization, the rush and pressure of the session and the constant demands upon his time, completes his deliberations, expresses to the best of his ability the chosen policies and returns to take up his neglected private affairs, terminating legislative attention to state affairs for a period of approximately twenty-two months.

Legislative bodies, state and federal, are therefore today reconsidering their organization, procedure and efficiency in the light of present-day conditions and recognize the need of all the help that good organization, well conceived procedure and adequate assistance can provide. Legislative aids in the form of reference libraries, research facilities, bill-drafting and even continuous code revision services have been provided.

Recognition of the importance of thus strengthening the legislative process has, of course, occurred in many quarters and nowhere more

commonly than in the bar. Mr. Justice Frankfurter, in calling attention to the increasing statutory importance, recalls that as late as 1875 forty percent of the controversies before the Supreme Court did not involve statutory law; fifty years later the percentage was down to five percent and today it is almost zero.

Recognizing that the progress of law reform and law revision varies directly with the legislative processes by which reform and revision may be accomplished, cooperation in the improvement of legislative processes has frequently been extended by legal groups. The most striking instance is the Louisiana Law Institute which is organized as an advisory law revision commission, law reform agency, and legal research agency, and thus in effect combines the functions of a judicial council and a legislative council.

It must be recognized, however, that in no other state is the field so broad or the need of reform, in particular constitutional reform, so apparent. Since statehood, Louisiana has had ten constitutions, and the 1921 version has been amended 219 times and now consists of over 250 pages. It includes, among other things, a map of the state highway system and designates by name the members of a state highway advisory board.

More common, has been cooperation with legislative agencies in the fields of code revision, bill drafting, and legal research. The modern tendency towards integration of these fields of legislative service under legislative councils has facilitated this trend and has added the coordination and control essential for legislative acceptance and success, while also providing legislative planning and interim consideration of legislative problems.

The first legislative council was established in Kansas in 1933 and today councils or similar committees of the legislature under various names are functioning in at least twenty-five states. They are essentially joint interim committees of the legislature, meeting regularly and giving advance consideration to problems expected to confront the next legislature. In preparing recommendations, the councils act as a clearing house for ideas on current legislative problems by receiving proposals from legislators, state departments and interested persons, determining and directing, through subcommittees and staff, the study and fact finding research necessary for proper consideration of proposals; disseminating advance information on these problems to other legislators and to the general public by means of reports and by discussions at and between meetings; reporting directly to the legislature and to the governor in advance of the sessions, making recommendations based on findings of fact, in the form of bills or otherwise, and summarizing the material prepared for use of the legislature in considering the proposals.

In "Inside USA," John Gunther refers to the legislative council of Kansas: "This bi-partisan group works after the adjournment of the legislature; it devotes itself to research on impending problems and is a kind of permanent connecting link between the widely spaced legislative sessions. Kansas is the innovator of this sensible device and eleven states have so far copied it." The number has more than doubled since Mr. Gunther's writing.

Wisconsin, which previously has established outstanding code revision

and legislative reference services, was one of the six states to add Legislative Councils in 1947. Minnesota was also one of the states establishing a council in 1947, due very largely to the efforts of Mr. Kennedy of the statutory revision office. Mr. Kennedy's excellent articles in the Minnesota Law Review of July and December, 1946, summarizing the entire field of legislative service and incorporating his recommendations, have been reprinted in pamphlet form and, I believe, are still available from the Office of the Revisor of Statutes.

The North Dakota committee, perhaps more than in any other state, has concentrated on concrete proposals and has avoided lengthy research reports which might have a tendency to gather dust on the shelves without resulting in any practical legislation. This is perhaps in part due to the state's experience with the 1942 survey of the state governmental organization, a field which the Committee has been requested by resolution to consider in this biennium.

Prior to the 1947 session, as a committee project, the services of former speakers of the House, Ralph Beede and A. R. Bergesen, were secured and an extensive revision of the legislative rules was accomplished, reducing the number of standing committees, providing a more equal distribution of work among members, a balanced and functional apportionment of bills in committees and relief of crowded calendars and end-of-session jams. Provision for identical Senate and House committees make possible joint hearings in many cases. The resulting rules have been subjected to careful consideration in other states and have served as the model upon which several other legislatures have based a revision of rules and a streamlining of legislative procedure.

In addition to sponsoring and proposing bills recommended by the committee, an offer of pre-session consideration, both as to form and merit, of proposals by state departments has been extended and proposals visualized as having sufficient merit to warrant the attention of the entire assembly have thus through advance consideration and, in cases, extensive revision been developed for legislative deliberation. Without attempting to exclude any such proposals, this has nevertheless resulted in the withdrawal of many proposed bills which would have otherwise reached the floor or the standing committees during the session and, coupled with the improved form and content of those introduced, has assisted in the streamlining of the legislative process so necessary in a constitutionally limited sixty-day session. These bills, the committee's own proposals and the budget measures, are printed and available in advance of the session through a pre-session filing service insuring adequate consideration and publicity even prior to the session and making it possible for the legislature to commence deliberations in the opening days of the session. Massachusetts has been the leading state in this development of a pre-session filing service which is now under consideration in many states and recommended in many quarters, but it was noticeable in a joint meeting held with the Minnesota committee that this feature was considered one of the most valuable accomplishments of the North Dakota committee.

A bill-drafting and checking service was also made available to the legislative members prior to and during the session and, in response to a 1947 amendment to Section 46-0311 of the Code, the laws of a general

and permanent nature enacted subsequent to the Code are compiled in the Code system under the supervision of the committee.

In August, 1948, an offer of cooperation to the Committee in its work in the improvement of the laws in the form of enactment and publication and in legal research was extended by the Bar Association. This endorsement of the Committee's efforts was appreciated by the Committee and after extensive consideration, the Committee members unanimously voted to accept the offer, which resulted in enabling the Committee to employ professional assistance and continue the bill-drafting and checking service which had been provided by the Committee in the 1947 session. In both the 1947 and 1949 sessions, the Committee was able to secure the services of Miss Marion Jane Leslie, who brought to the work experience with the Code Revision Commission. Subsequent to the session, the assistance of the Bar Association was renewed and enabled the Committee to undertake without delay the compilation of the laws under the Code form.

Legislative methods, the supervision of the technicalities of legislative service and the efforts of the Committee to provide better form in the drafting and publication of laws, of course, constitute only a part of the Committee's activities. The Committee is empowered to study and consider any subject upon which the Legislature may legislate, any subject requested by legislative resolution, and any subject requested by a member of the Legislature. Bills sponsored by the Committee in the last session include, among others, the soldiers bonus legislation, Senate Bill No. 1, providing for the bond issue, and Senate Bill No. 2, providing for the distribution of the bonus. This latter was developed in cooperation with the veterans organizations. School problems, roads and highways and many other fields were also covered by legislation sponsored by the Committee.

By resolution, the Committee has been requested in the coming biennium to consider agricultural problems, including farm tenancy questions, the feasibility of state-owned motor vehicle insurance systems or compulsory insurance, possible improvements in the state governmental organization and legislation to facilitate rate administration and protect the public interests in public utility matters. By motion, the Committee has also been requested to continue its consideration of the legislative rules.

It is impossible at this time to determine how large a field these studies requested will take in the Committee's total activities of the biennium but all will receive serious consideration, as will other matters which arise from time to time or are called to attention. Thank you. (Applause.)

PRESIDENT SOULE: Thank you, Mr. Donahue.

MR. J. E. HENDRICKSON: I move that the report be received and filed.

MR. NORMAN G. TENNESON: I second the motion.

Motion carried.

PRESIDENT SOULE: Mr. Bright has an announcement. Mr. Bright is Chairman of our Lawbook Committee.

MR. MYRON H. BRIGHT, announced the manner of Law Books Awards.

PRESIDENT SOULE: Our General Chairman, Mr. James Conmy, has re-

ported that Mr. William P. Harrison of Duluth, President of the Minnesota Bar Association, has just arrived. Mr. Conmy, will you bring Mr. Harrison to the front here so we can welcome him?

(Mr. J. F. X. Conmy escorts Mr. Harrison to the front of the auditorium. Applause.)

MR. WILLIAM P. HARRISON: Mr. President, officials, and ladies and gentlemen of the Bar of North Dakota. I just want to say that I have come personally to extend to you the very hearty greetings of your adjoining state, the State of Minnesota Bar Association, and hope that you have a very interesting and profitable meeting. I know you will have. I have seen your program and it is with a great deal of pleasure that I extend those greetings to you. Thank you. (Applause.)

PRESIDENT SOULE: Before our meeting progresses too far, I think we should appoint two very, very important committees. The Resolutions Committee will have as members the following: O. B. Benson as Chairman, L. R. Nostdal, John A. Stormon, Roy A. Holand and Nels G. Johnson. We are making this announcement at this time so that you gentlemen can pay close attention to the proceedings and prepare your resolutions for submission on Saturday morning. We are also appointing an Auditing Committee. The Chairman of that committee is Mr. M. S. Byrne of Bowman. The other members are L. R. Baird and Ralph B. Maxwell. You will be expected to report toward the end of the session on Saturday morning. The Secretary-Treasurer has the books and he will be glad to show them to you at any time.

The next on the program is the report of the Memorials Committee by Mr. E. T. Conmy.

MR. E. T. CONMY: Mr. President, members of the Bar and guests. As we advised the Executive Director, our Committee has no formal report to make. As usual, the Grim Reaper took his toll from the members of the Bar this year, and as the occasion arose your Committee prepared resolutions which were submitted to the Executive Director and published in Bar Briefs. It is not necessary to go over those memorial resolutions, as I assume you read that or can read them as you wish. I wish to acknowledge, Mr. President, the help and assistance from the other members of the Memorials Committee, Mr. Nostdal of Rugby and Mr. John Knauf of Jamestown. Thank you. (Applause.)

PRESIDENT SOULE: Thank you, Mr. Conmy. Mr. Nostdal?

MR. NOSTDAL: I noticed very recently that one of our old attorneys from Minot passed away. That is C. A. Johnson. He died in California about two weeks ago. He was a former mayor of Minot and a member of the State Legislature. As soon as we can gather the information, a resolution on his death will be printed in the Bar Briefs. Thank you.

PRESIDENT SOULE: Thank you, Mr. Nostdal. The next report we have is the American Law Institute. The Chairman of that committee is Mr. John A. Stormon. Mr. Stormon.

MR. STORMON: Mr. President, ladies and gentlemen of the State Bar Association. Your committee has felt that it ought to incorporate in its report an explanatory statement with respect to the American Law Institute.

Under the supervision of a joint committee on continuing legal edu-

cation of the American Law Institute and the American Bar Association, the American Law Institute has undertaken a program of continuing legal education on a nation-wide scale. The American Law Institute is set up to work with similar committees representing the Bar Associations of the several states.

The principal aim of the Institute is to give practical training to practicing lawyers. This is done by conducting lecture programs in the important fields of law.

The State Bar Association of North Dakota took advantage of the Institute's program for the first time last fall, when we held a one-day tax course on "The Revenue Act of 1948" on November 20, 1948, at Fargo. The lectures were given by Mr. Hayner N. Larson of Faegre & Benson, Minneapolis, and Mr. Harry A. Blackmun of Dorsey, Colman, Barker, Scott and Barber of Minneapolis.

These gentlemen, both specialists in Federal tax law and estate planning, covered income tax law, estate and gift taxes, together with practical problems of estate planning. Ample time was given for open forum discussion from the floor. The tax course was very well attended, a total of 69 being enrolled, and every section of North Dakota was represented by at least one or two lawyers.

Attorneys attending this tax course did so at their own expense. Each lawyer paid a registration fee of \$10.00. This was for the purpose of paying the expenses of the lecturers and for the printed materials given to each enrollee. There was no cost whatever to the State Bar Association of North Dakota, the entire cost being borne by the attorneys attending. This committee feels that this course was very valuable and it is proposed to arrange other courses of interest to practicing attorneys in the future.

In addition, arrangements have been made for the State Bar Association of North Dakota, cooperating with the University Extension Division at Grand Forks, to sponsor a program of continuing legal education in North Dakota. The work of this program will be handled by the Bar Association through its Executive Director, jointly with the Extension Division. This phase of the program is designed to make available to our attorneys any materials that the American Law Institute thinks might be of value to our Association.

Your committee feels that in undertaking a program such as this, involving lecture courses and extension work, the members of the Association will be greatly benefited thereby and can more easily keep abreast of some of the most important fields in the practice of law.

Based upon the success of the initial Institute, your committee recommends that the Association should continue its efforts in this direction and arrange with the American Law Institute for similar courses during the ensuing year.

This is respectfully submitted by the members of the committee, consisting of the Honorable W. L. Nuessle, Chief Justice of the Supreme Court, W. F. Burnett, Clyde Duffy and Halvor L. Halvorson, Everett E. Palmer, and your Chairman.

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

PRESIDENT SOULE: Is there a second of the report.

MR. NOSTDAL: I second the motion.

PRESIDENT SOULE: Thank you, Mr. Nostdal. Any discussion? We are ready for the question.

Motion carried.

PRESIDENT SOULE: We are indebted to the American Law Institute because during this last year I don't believe there is any source of information that we have had that was any better than the American Law Institute and its sub-committee on continuing legal education. We now have a report from the Chairman of our Sectional Meeting Committee, Mr. Norman G. Tenneson. Mr. Tenneson.

MR. NORMAN G. TENNESON: Mr. Chairman, members of the Bar Association. The principal task of the Committee on Sectional Meetings of the State Bar Association is the selection of subjects for discussion at the annual meeting, the securing of competent lawyers to prepare the papers and arranging for the printing of the material in permanent form.

Your Committee held several preliminary meetings, commencing early in the year. In April, 1949, a questionnaire containing a list of 31 proposed subjects was mailed to every lawyer in the State. They were requested to select the 8 subjects which most appealed to them, rating them in order of their preference. In all, 133 questionnaires were returned to the Committee. The geographical distribution of the replies was widespread as they were received from 52 different communities, as many as 15 from some of the larger cities. Those subjects in which the Bar had indicated the greatest interest were then selected by the Committee for presentation at the annual meeting. In a real sense, the Bar of the state determined the legal problems they desired discussed. Some very helpful suggestions as to the conduct of the meeting were also received and adopted by the Committee.

The lawyers who prepared the briefs were with one exception all members of the North Dakota Bar and in that one case the lawyer is a former member of our Association. The high quality of the papers attests to the ability of our Bar and their willingness to assist in making our meetings instructive and educational as well as social.

The pamphlet containing the papers will be distributed to all members attending the annual meeting. It is also the Committee's plan to mail copies to those lawyers who were unable to take part in the Sectional Meetings. It will not be necessary for any of you, therefore, to pick up extra copies of these pamphlets to deliver to fellow lawyers who have requested you to do so. They will be mailed to them in due course.

We extend the thanks and appreciation of the Committee to the eight lawyers who so cheerfully accepted the assignments tendered them, did the legal research and prepared the papers which will be the subjects of discussion at this meeting.

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

PRESIDENT SOULE: Is there a second to Mr. Tenneson's motion?

MR. REMINGTON: I second the motion.

(Motion carried.)

MR. TENNESON: Mr. President, will the members of the Bar of the First Judicial District remain here toward the front of the room? We have our annual election of officers to take care of.

MR. J. HOWARD STORMON: Mr. President, the members of the Second

Judicial District Bar will have a meeting here in the front of this auditorium at one-twenty, just ten minutes ahead of the call this afternoon, for the same purpose.

PRESIDENT SOULE: If there are no further questions or announcements, this meeting will now be adjourned until one-thirty this afternoon.

Whereupon, said meeting stood adjourned until 1:30 o'clock p. m. of said Thursday, August 11, 1949.

AFTERNOON SESSION, THURSDAY, AUGUST 11, 1949

Pursuant to adjournment as aforesaid, at 1:30 o'clock p. m. of said Thursday, August 11, 1949, the meeting was called to order at the Central High School auditorium, President George A. Soule presiding.

PRESIDENT SOULE: We will come to order, ladies and gentlemen. Mr. Tenneson.

MR. TENNESON: Mr. Chairman, all eight sectional meetings will be given this afternoon in two groups, the first group starting in a few minutes, lasting for an hour and a half, followed by a thirty-minute recess. Then the second group will commence and terminate around five o'clock.

At the conclusion of the sectional meetings, we will not resume our meetings here but will recess for the fellowship hour at the American Legion. That is all.

PRESIDENT SOULE: Thank you, Mr. Tenneson. Are there any questions? If not, this meeting will stand adjourned until nine-thirty tomorrow morning.

Whereupon, said meeting stood adjourned until 9:30 o'clock a. m. of Friday, August 12, 1949.

MORNING SESSION, FRIDAY, AUGUST 12, 1949

Pursuant to adjournment as aforesaid, at 9:30 o'clock a. m. of said Friday, August 12, 1949, the meeting was called to order at the Central High School auditorium, President George A. Soule presiding.

PRESIDENT SOULE: The first report on the program for this morning is the report on Unauthorized Practice of Law by Chairman Roy A. Holand.

MR. ROY A. HOLAND: The Committee begs leave to report:

During the last year the Committee on the Unauthorized Practice of Law in North Dakota has sought to handle all matters and complaints on the unauthorized practice of law that have come to its attention. A full and complete survey had been made during the previous year in which all of the lawyers of the state were asked to notify the committee of any instances of the unauthorized practice of law that had come to the individual's attention. All those cases reported had either been written to or contacted and no further complaints have come from those sources.

Other complaints have come to the attention of the committee during the last year. These have been handled largely by the Executive Director, Ronald N. Davies, who has been doing a good job on these matters. Because of the thoroughness of the previous year's survey, it was not felt necessary that the committee make another statewide survey on

this problem. The committee did meet during the year and handle matters that required its attention.

Without going into great detail as to the matters investigated or handled during the past year, it should be stated that either letters or personal contacts were made with parties at Van Hook, Plaza, Makoti, Parshall, Sanish, and various places in Stutsman County, in Fargo and in Grand Forks. In some of these instances, personal contact was made by the Executive Director. In addition to the above cases, a form letter was sent to a number of additional persons where such a warning was deemed advisable.

At the present time, there are only one or two complaints on hand that have not been investigated as yet, but they will be checked into in due course. While there may be instances of unauthorized practice of law of which the committee is not aware, it appears that such practice is being held to a minimum within the State of North Dakota at the present time.

Respectfully submitted, Roy A. Holand, Chairman; Charles G. Bangert and John Hjellum.

I wish to add certain things that have come to our attention since the preparation of this report. First is the fact that your Committee on the Unauthorized Practice of Law can do a good job only if it has the cooperation and help of all the lawyers of the state. Whenever you as individual lawyers find instances where persons are practicing law where these individuals are not authorized to do so, I think it is obligatory upon each of us to report this matter to our Executive Director, and I assure you, from personal contact and experience with both the Executive Committee and our Executive Director, that these matters will be handled promptly and efficiently.

We have had some very general complaints during the last year that we were asked to investigate, but the information furnished us by these lawyers or by these sources was not sufficiently definite to enable us to go into these cases and to really prove that there was any unauthorized practice of law on the part of these individuals. Any such things that come to your attention during the future, feel free — in fact, you should feel that it is your obligation to the public to report them to our Executive Director, and I can assure you that they will receive prompt attention.

Since preparing this report, there is another matter that has come to the attention of this Committee and which we feel that we would like to call to the attention of the group. That was a certain decision that was recently made in a Circuit Court down in Florida pertaining to the unauthorized practice of law, and Judge George E. Holt, a Circuit Judge down in Florida, entered a final decree recently restraining the Keyes Company, which was engaged in the real estate business, from the practice of law, including the preparation of leases, rental contracts, deeds, mortgages, contracts for the sale of property and other legal instruments, including the filling out and the causing to be executed of printed forms of such instruments and any other act or thing constituting the practice of law except in the case of the preparation by the defendant of any instrument relating to the acquisition, mortgage, lease or sale of its own property or the lending of its money.

There were some statements that were made by this Court in that particular decision which we think are so interesting and so significant that I would like to repeat a few excerpts from that decision. This Court went on to say:

"Simple and complex instruments have no distinction under the law under the question as to whether the drawing of the same or the filling in of the same constitutes the practice of law."

Then this Court went on to say:

"Nearly every business and profession at some time or another secured, and the Courts have upheld, protective and monopolistic laws of those engaged in such pursuits. All of these are aimed at protection of the public through the requirement of high standards of preparation and ability to follow such occupation, avocation or profession. This result is accomplished and yet at the same time individual members thereof are also protected from cut-throat and unqualified competition. The law recognizes that such is for the best interest of the public even though a monopoly may develop therefrom. The legal profession although boasting at all times of great numbers of the profession in the legislative halls (State and National) have been reluctant to and have failed to have enacted similar laws; consequently the only reed upon which the lawyer of today can lean for protection is the statute prohibiting from the practice of law those not so authorized and qualified so to do.

"In this, the legal profession must look to the Court for assistance and protection. It is the duty of the Court to at all times uphold the lawyer and his profession and not to embarrass it or relegate it and its members to such an extent that through the rigid, unreasonable and arbitrary interpretation of Statutory law reduce its members to being able only to earn coolie wages."

Then the Court concluded with this opinion, which, to me, is very heartening:

"We hear discussed on every hand the Bill of Rights and those protected by the same. These are great and cardinal principles of individual and collective liberty that protect the citizens of this great country. It is high time that someone wrote a Bill of Rights for the legal profession for the protection of the people. Too long the Courts have dallied with the principles involved in this controversy. Too long have the Judges allowed persistent and consistent encroachment upon the law profession. Too long have vacillating Judges written conciliatory opinions aiming at pleasing both sides and thus attempting to incur favorable reaction from everyone concerned. The laymen know as they have been led to believe by recent opinions and utterances of various tribunals that the Courts will not stand up and properly define the law as it relates to lawyers and after so doing vigorously protect and defend them against attack from all sides. Being convinced of this they have no hesitancy in exhibiting their contempt for lawyers, and the principles for which they stand. This attitude toward the legal profession, the law and the public will become ever increasingly apparent. Such is the case before us now.

"This is the time to call a halt, to re-appraise the law practice, those engaged in it. This is the time to call a halt and re-appraise those who seek to undermine and destroy it. This is the time to challenge without equivocation all of those intent upon reducing the Bar to the class of the lowest paid laborer and require them to disclose their real purpose whether their actions are for the benefit of the public as a whole or only to assist and advance themselves, at the expense of the people."

Our committee feels that this is one of the finest and most far-reaching decisions that has been made touching upon the subject of the unauthorized practice of law, and we as members of the Bar insist that only those who are duly qualified to practice law be permitted to do so and thereby we are doing a great favor for the public. We urge the succeeding Committees on the Unauthorized Practice of Law to continue this work and to push it even further.

This constitutes the report of your committee and, Mr. Chairman, I move its adoption.

PRESIDENT SOULE: Thank you, Mr. Holand. Is there a second to Mr. Holand's motion?

MR. BAIRD: I second the motion.

(Motion carried.) (Applause.)

PRESIDENT SOULE: The next report is from our Ethics and Internal Affairs Committee, Mr. Nels Johnson as Chairman. Mr. Johnson.

MR. NELS G. JOHNSON: Mr. President and members of the North Dakota State Bar Association. If we may properly judge the standards of the ethics of the legal profession by the number of complaints that have been received by your Committee, the ethical conduct of the profession in this State is very high, indeed. Only a few complaints have been received this year, and, except for one of them, they are of a minor nature.

Upon the appointment of the Chairman of the Committee on Ethics and Internal Affairs, the Executive Director transmitted in a letter complaints that had been lodged against five members of the legal profession in this State for alleged minor infractions of ethical conduct. The Director had corresponded with the attorneys involved, and after going over that correspondence, your Committee felt that the difficulties had been properly eliminated and consequently did not deem that it was necessary to make contact with the attorneys involved except in one case. Nothing further was heard concerning the alleged difficulties and we deem that they were satisfactorily eliminated.

Aside from the complaints that had been handled by the Executive Director, only four alleged infractions of the Code of Ethics have been lodged with your Committee against members of the profession during the year. Except for one of these four complaints, the others were of a minor nature and the Committee has, we believe, satisfactorily eliminated them by correspondence or personal contact with the members of the profession involved. In each case the Committee has contacted the particular attorney involved and has gotten assurances from the attorney that the alleged breach of ethics would not be repeated, or has obtained an explanation of the situation which indicated that no serious breach of

ethics was involved, and that the complaint made was based upon misunderstanding by the client, or was due to delays in the completion of the legal work which had been entrusted by the client and which the client felt was unwarranted. The only serious complaint lodged against a member of our profession in this State is still under investigation. The Committee met and discussed the complaint and decided to contact the particular attorney involved to get his version thereof. Such contact has been made and the attorney involved has promised to submit an explanation of his version of the complaint in writing. That has not been received to date. Upon receipt of his explanation of the matter, the complaint will be investigated more fully and the Committee will consider what action should be taken and make recommendations accordingly.

Your Committee is happy to report that the contacts that it has made with the attorneys against whom complaints have been lodged have been friendly, and in each and every case, cooperation has been promised and obtained, and the attorney involved has either satisfactorily explained the complaint or has definitely promised not to repeat the conduct that was the basis of the complaint, so in three of the cases involved it has been unnecessary for the Committee to pursue the matter any further than was done.

Your Committee feels that in most cases the alleged breach of ethics or complaint is due in part to some misunderstanding by the client, delay in the handling of the business that had been entrusted to the attorney, or in some cases, due to the thoughtlessness, rather than that of deliberate intent to violate any rule of ethical conduct of the profession. The great majority of the attorneys of the State do and want to live up to the ethical standards set by our profession.

Your Committee assumes that this report should cover a brief resume of one of the vital internal affairs that has been handled by the Association during the past year, to-wit: the litigation that was involved in the case of Tooz vs. State of North Dakota, et al., recently decided by the Supreme Court.

As the attorneys of this State know, last fall an attack was made upon the constitutionality of Chapter 228 of the 1947 Session Laws, which allots a portion of the filing fees to the State Bar Association for its use for "legal research and education and supervision and improvement of the judicial system of North Dakota." Mr. Strutz and myself represented all of the defendants in the action, except the Bank of North Dakota, which was represented by Mr. Birdzell, its attorney. A Demurrer was interposed to the Complaint and heard before the Hon. R. G. McFarland at Bismarck, in Burleigh County, who rendered an opinion on November 27, 1948, sustaining the Demurrer of the defendants. Thereafter, the case was immediately appealed by the attorney for the plaintiff. The Supreme Court rendered its decision in the case on the 28th of June, 1949, affirming the decision of the District Court.

The Supreme Court did not find it necessary to pass upon the constitutionality of the law but held that the plaintiff was not in a position to attack its constitutionality and, in any event, that the fees being charged for filing of actions in District Court and for filing of petitions for administration and guardianships were reasonable. The

plaintiff elected not to plead further, and an Order has been entered, which has now become final, which dismisses the action with prejudice.

During the 1949 session, a bill was introduced in the Legislature to repeal Chapter 228 of the 1947 Session Laws. Several attorneys of the State, under the able direction of the Executive Director, appeared before the Judiciary Committees of both the House and the Senate, voicing their convictions and opposing the repeal of this law. The House of Representatives passed the bill repealing Chapter 228 of the 1947 Session Laws. The Senate killed the bill and so the provisions of Chapter 228 of the 1947 Session Laws prevailed. Thus the Bar Association has this last year withstood the attack made upon the law both in the Legislature and in the Courts. It now remains for the Association to use the funds for the purposes provided by the statute so effectively as to eliminate for the future any plausible argument for its repeal.

Many worthwhile endeavors of the Association may now be financed with the funds available under this law, which, if carried to completion, will tend to improve the judicial system of the State and be of general public benefit.

Perhaps one of the endeavors of the Association should be a thorough investigation of the effectiveness of the Justice of the Peace Courts of this State. The Justice of the Peace Courts have, in many instances, outgrown their usefulness by the advent of the automobile and good roads. Just as an illustration, last year forty organized townships in Burleigh County elected only six Justices of the Peace. One Village Justice was elected. Four County Justices of the Peace were elected, but only two qualified.

Perhaps a study of the situation prevailing generally over the State should be made by the Association, as a part of its supervision and improvement of the judicial system with definite recommendations to the judicial council concerning the same.

It seems quite apparent that full investigation and study of the usefulness of the Justice of the Peace Court system of our State should be made and the findings reported to the Judicial Council with a request that it give the matter further study with the thought in mind that some recommendations be made to the next Legislative Session, looking toward some legislation resulting either in the improvement of the Justice of the Peace Court system of the State, or the elimination of the Justice of the Peace Court system in North Dakota, or for the substitution of that system by the use of some other Courts to replace the Justices of the Peace.

There are, of course, many other matters that will be the subject of investigation and study by the Bar Association. This particular subject matter is merely illustrative of a situation that seems to need study.

In order not to incur further attack upon Chapter 228 of the 1947 Session Laws, it is incumbent upon the Association to effectively make contributions to legal research and education and supervision and improvement of the judicial system. If the public can be made to realize that the funds obtained under this law are being used prudently and frugally in the public interest to procure the most effective functioning of our North Dakota judicial system, then it seems to your Committee that the Bar Association should be and will be allowed to continue to

handle these funds for the purposes set forth in the statute. If, however, the funds available are not productive of public benefits, further efforts will be made to repeal the statute and eliminate the use of the funds provided thereby to the Bar Association.

The thought has been fostered that the funds are for private purposes of the Association. Accordingly, it must be demonstrated in the future that they are being used in the public interest and not in the private interest of the Association or of its members.

Respectfully submitted, Nels G. Johnson, Chairman; Clifford Jansonius, John A. Zuger and Milton K. Higgins.

I move the adoption of the report.

PRESIDENT SOULE: Thank you, Mr. Johnson. Is there a second to Mr. Johnson's motion?

MR. C. A. WALDRON: I second the motion.

PRESIDENT SOULE: Is there any discussion? I would like to say, Mr. Johnson, that the latter part of your report greatly appealed, I know, to all members of the Executive Committee because that is sort of the line on which we have been trying to work all this year, and if you will notice, further down on the program this morning we have, in addition to a discussion from the Judicial Council, a report by Professor Keith W. Blinn of the University Law Faculty on his survey of the Judicial system in North Dakota, and we also have a report by Professor Ross C. Tisdale on the proposed Revisor of Statutes. We have been conscious this year of the very thing you so ably outlined at the meeting this morning.

MR. JOHNSON: I might say that I investigated the Burleigh County situation myself, and was somewhat astounded when I found what the situation was. I reported the same facts to our local Bar Association in Burleigh County that I mentioned here.

PRESIDENT SOULE: Thank you, sir. Is there any further discussion? If not are you ready for the question?

MR. CARROLL E. DAY: Mr. President, I would like to report that in connection with the use of those funds, that that portion of the funds that have been used in cooperation with the Legislative Research Committee have been very well spent. I think about \$2,000.00 has been spent in cooperation with the Legislative Research Committee, which did not have enough funds available to work on the Supplement they are getting out, and that portion of the funds dedicated to that purpose served very well.

PRESIDENT SOULE: Thank you, Mr. Day. Are you ready for the question?

(Motion carried.)

PRESIDENT SOULE: The next report we have is of the Judiciary Committee by its Chairman, Carroll Day. Mr. Day.

MR. DAY: Mr. President. I think it has been conceded for some time by those who have given the matter any thought that the caliber of men on the bench in this state and the quality of service they have rendered to this state has been altogether out of proportion to the compensation, in any manner, that they have received from the people of this state. When I first became familiar with the problem of attempting

to get additional compensation for our judges, as I first went to the State Senate, I remember several of us proposed very seriously in the 1943 session that the office of Judge of either our District or Supreme Court could be made a great deal more attractive if a satisfactory pension or retirement system could be worked out. I was amazed at the resistance we found in the Legislature to any such suggestion.

I remember in a committee hearing in the Judiciary Committee of the Senate one member saying, "Shall we amend the bill to provide a pension for farmers?" That remark was facetious, but it was just as effective as it was facetious. It was impossible to get any type of legislation through that session for retirement or otherwise. That argument, of course, overlooked the fact that pensions are usually provided by employers; that farmers are self-employed, and that we have not yet quite attained the ultimate goal where all of us are in full employment of the Government and taxes are paid by somebody else.

In subsequent sessions, we made repeated efforts to give our judges, similar relief. In 1947, although a pension or retirement plan was impossible, you will remember a bill was enacted which provided that the District Judges who retired because of disability might receive their full pay for the balance of the term to which they were elected. It was impossible then to secure similar legislation to apply to the Supreme Court because of a different feeling that seemed to prevail toward the Judges of the Supreme Court than prevailed with respect to the Judges of the District Courts. I don't understand that. I simply report it as a fact. It may be because the District Judges are closer to the people and their problems more readily understood by the people. It may be because the Supreme Court Justices are farther removed or because their decisions are not supported in every respect by the lawyers or by the Bar generally and their attitude is passed along to their clients and by the clients to the public generally.

At any rate, it was two years later, in the 1949 session, before a similar law was enacted to apply to the Supreme Court. In that connection, I should observe that there has been some criticism of the Supreme Court in its failure to hand down decisions promptly and to in every case face issues and decide issues submitted squarely.

Your Committee, in cooperation with the Judiciary Committee of the Senate — on which sit Senator Duffy of Devils Lake and Senator Shure of this city — and in cooperation with the lawyers in the House, notably Judge Graham, John Stormon and Clair Brickner, William Murray and Roy Holand, worked diligently with members of this Association in selling the Legislature on the enactment of a pension or retirement plan. It is not everything we can expect, but it is a beginning, and those of us who have been close to it are amazed that it passed. It provides that both District and Supreme Court Judges may retire at half pay the rest of their lives after serving eighteen years on the bench and attaining the age of seventy. It provides for five percent of their pay to be deducted. That provision shouldn't have been in there and may be removed later.

We did also support and secure the passage of a bill raising the compensation of court reporters, which I think is essential to getting proper and good service. Our jurors have been underpaid, and the compensa-

tion of jurors was raised from \$4.00 to \$6.00 and their mileage from five to seven and a half cents. Provision was made for challenging jurors who had served within a period of five years previously. Two grounds for new trial were added; that is, one in civil cases and one in criminal, providing that if the transcript cannot be obtained because of the disability of the court reporter for any reason, a new trial can be granted.

Provision was made whereby an appeal could be taken by the state on questions of law in criminal cases, and provision was made whereby the defendant who had pleaded guilty in Justice Court without representation might withdraw his plea and stand trial. Several bills were enacted shortening procedure in probate cases. A great deal of attention was given by the Judiciary Committee to the redrafting of the adoption law of our state. I think you will find the laws resulting are a substantial improvement over previous legislation.

It has been the intention of this Committee to cooperate not only with the Judiciary Committee of the House and Senate but also with the Legislative Research Committee, representing both houses between sessions, and the cooperation there has been complete. The Legislative Research Committee has accepted and solicited the assistance from the members of this Bar on many occasions. Your Committee recommends that careful attention be given to our Constitution, with the idea within a reasonable length of time, of initiating action toward revising the Constitution of the State of North Dakota to make it include only fundamental principles of law and eliminate the legislation that it is becoming encumbered with.

Your Committee further recommends that this Association cooperate with the members of the court, especially the Supreme Court, in an effort to improve the public relations of our court and facilitate its work. We hope that some of the laws that have been passed will help in that regard, because we know that delayed Justice is justice denied. The public would respond to our effort to improve the conditions for our judges if the public is courted just a little bit. We believe that the decisions of our Supreme Court should be handed down with dispatch and that they should squarely meet all issues argued and presented.

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

PRESIDENT SOULE: Thank you, Mr. Day, for your report.

(Applause.)

PRESIDENT SOULE: Is there a second to Mr. Day's motion?

DEAN O. H. THORMODSGARD: I second the motion.

PRESIDENT SOULE: Is there any discussion? Are there any questions to be addressed to Mr. Day?

MR. GEORGE A. MCGEE: Mr. Chairman?

PRESIDENT SOULE: Mr. McGee.

MR. MCGEE: I might suggest it might ease the situation a little relating to the retirement of judges were they not at the mercy of the legislators. They might be induced to pass some retirement benefits, they might be more amenable to acting on such legislation if they themselves were able to get retirement benefits, like they have in Congress, pay up the back payments for the time they have been in and put it on that basis, just like we people who used to work on Capitol Hill have all sorts of retire-

ment benefits now, by making up the back payments. That is just a suggestion.

PRESIDENT SOULE: Thank you, sir. Is there any further discussion? If not, are you ready for the question?

(Motion carried.)

PRESIDENT SOULE: Mr. Pearce of the Legislative Committee wrote and said he could not be here, so there will be no report from that committee, although I think that Mr. Day and his committee have made a very good combination report for both of them, so we thank you, Mr. Day. The next report is that on Law Lists by Chairman Robert D. Dames of Jamestown. Mr. Dames.

(Mr. Dames read the report.)

MR. DAMES: Mr. Chairman, I move this report be accepted and that copies thereof be mimeographed in order that it might be distributed to members of the Bar throughout the state.

PRESIDENT SOULE: Thank you, Mr. Dames.

MR. O. B. BURTNES: Mr. Chairman, I second that motion.

(Motion carried.) (Applause.)

PRESIDENT SOULE: I might add that Mr. Dames has been the hard working Chairman of a very active committee that we have had this last year, because some of us felt that the law lists were taking our money and not giving us very much in return. This report will now be distributed and I know that the new Committee on Law Lists will have all the material on hand so if you at any time are solicited to subscribe to law lists, it might pay you to contact either the office of our Executive Director or some member of this committee and secure the information you need in regard to the list. The next on our program is the report of the American Citizenship Committee by its Chairman, Harold W. Bangert. Mr. Bangert.

MR. BANGERT: Your American Citizenship Committee takes pleasure in tendering a report of its activity for the past annual period.

Your American Citizenship Committee takes pleasure in tendering a report of its activity for the past annual period.

The activity of the Committee has centered around the "Constitution Award" program. Its terms provided:

"The North Dakota Bar Association will award a bronze key to the student in each North Dakota High School who is designated by the principal of the school as **THE ONE HAVING THE BEST UNDERSTANDING OF THE FUNCTION OF THE CONSTITUTION OF THE UNITED STATES IN OUR FORM OF GOVERNMENT.**

"Notice of intention to participate in the Awards must be given by school officials to the Superintendent of Public Instruction, Bismarck, North Dakota, not later than March 15, 1949.

"The name of the student nominated for the award must be mailed to the Superintendent of Public Instruction not later than April 15, 1949.

"The date for presentation of the Award will be fixed after consultation with officials of each participating school."

This program was first proposed to the Executive Committee of the Bar Association at its regular meeting in Fargo on November 19, 1948. After due consideration the Executive Committee approved the proposal of your Committee and earmarked approximately \$700.00 of the Association's funds for the Committee's use.

The Committee has made 155 Constitution Awards to 155 students in 154 schools in 146 communities in North Dakota. These awards were presented (in most cases personally) by 111 members of the Bar Association.

Funds expended by the Committee are in the following items and amounts:

Cost of 400 keys (157 used this year)	\$480.00
Belk Advertising Service, Bismarck	237.00
Pierce Co., Fargo, letterheads	18.36
Everett Bolstad, overtime setting up letter to students	5.46
Postage, telephone and follow up form letter	10.33
	<hr/>
	\$751.15

(Value of 243 keys on hand — \$291.60.)

The Committee has on hand 243 keys which it will turn over to its successor.

Your Committee wishes at this time to make a matter of record certain of its experiences in the creation and development of this program. When a similar program was under consideration by the Cass County Bar Association in 1948, a committee of distinguished educators recommended the creation of an award program leaving great latitude in school faculties. This committee of educators expressed the opinion that teachers having students under constant observance were better over-all judges of proficiency and attitude than were examiners reviewing test papers or essays. The committee expressed the opinion that many so-called "contests" were difficult to integrate with school curricula.

To meet these suggestions of educators, your Committee devised the "Constitution Award." It was decided that the award should consist of a bronze key, and that it should be given to one student in each high school. It was hoped that the key might be presented by a member of the Bar, who would, at the time of presentation, make appropriate remarks about the award and about the Constitution of the United States. It was hoped that many of the 422 eligible schools in North Dakota would participate.

At the outset your Committee solicited the assistance of Mr. G. B. Nordrum, State Superintendent of Public Instruction, and it wishes at this time to acknowledge his valuable aid. Notice of the contest was mailed on February 10, 1949 to all eligible schools, the notice being incorporated in a poster. The poster is attached hereto. As a result of this notice, and two follow-up notices, 154 schools designated students to receive the Award. Mr. Nordrum comments that this is an unusually high percentage for the first year of such a project.

When the names of the Award recipients were known, the president of each district bar association was asked to nominate a "resident chairman" of the American Citizenship Committee in each community where an award was to be made to superintend the actual presentation process.

Each resident chairman was given a letter personally addressed to the student to receive the Award and a key. A copy of one of these letters is attached.

Of the 111 resident chairmen appointed, at this writing we believe that all have executed their functions and 83 have reported to the Committee. Of the 83 reports received, two are opposed to the program, 16 make no comment, and 65 express various degrees of approval. Most of those approving this activity of the Association are enthusiastic. Because your Committee believes that it is through activity such as this that laymen can come to understand the contribution that lawyers make to Government, we wish to quote some of the typical comments.

"I think this is a very worthwhile undertaking because the youngsters appreciate these keys very much. There has never been a time in the history of our country when we needed the teaching of loyalty any more than we do at this time. It is indeed wonderful to have our youngsters get a clearer and better understanding of our Constitution, Declaration of Independence and our form of government generally."

"The Superintendent informed me as well as others, that the award was appreciated very much and many favorable comments were made by the School Officials, students and parents and others present.

"It certainly brought to the public notice of the efforts of and the interest of the "Bar Association" for the betterment of the young people of the community and I myself believe that it will have its good effects on the younger generation."

"I believe this practice of sending out this award to be a very good one; it will to some extent at least arouse more interest in high school students in the study of our constitution and our form of government. It is also of benefit to the legal profession as it is some tangible evidence of an interest in the coming generation and an endeavor to direct their thoughts along serious lines."

"I might state that besides remarks about the Constitution and the part played by lawyers, I also explained that this program was made possible under the law increasing filing fees and that the use of the increased fees was by law restricted to public and educational matters by the Bar Association."

"The award was well received by the faculty and students and the principal declared it is his intention to give additional emphasis to the winning and judging of this award in the coming years.

"I personally believe this award is a fine thing, that it reflects credit upon the Bar Association and will stimulate a better study of our constitution and form of government among the students of our high schools."

"The awards were well received and in my opinion the publicity to the Bar Association gained in these awards was well worth the while. I might add also that the teachers of the different schools appreciated the manner in which these awards were given, that is, to the student who, in the opinion of the teacher, received the higher marks in citizenship. It was felt that this procedure was much better than the usual method of competitive compositions and essays."

Finally, your Committee wishes to express its thanks to all of the

members of the Bar who have given so generously of their time in the development of this project. The Committee particularly wishes to acknowledge assistance above and beyond the call of duty from President George A. Soule.

Respectfully submitted,
 AMERICAN CITIZENSHIP COMMITTEE
 R. J. Bloedau
 O. B. Herigstad
 Roland A. Heringer
 Robert M. Johnson
 Patrick T. Milloy
 Norbert J. Muggli
 Henry G. Ruemmele
 Aloys Wartner, Jr.
 Harold W. Bangert, Chairman.

MR. BANGERT: Mr. President, I move the adoption of this report and ask that it be printed in Bar Briefs, if you think that is proper.

PRESIDENT SOULE: Thank you, Mr. Bangert. You have heard the motion. Is there a second?

MR. NELS G. JOHNSON: I second the motion.
 (Motion carried.)

PRESIDENT SOULE: I would also like to personally thank Mr. Bangert for the work of his committee. We are both in the same building in Fargo and we discussed the work of his committee many, many times, and I know I personally felt that it has been one of our most worthwhile activities during the last year.

The next item on the program will be the Judicial Council. We have with us this morning Judge A. M. Christianson who is going to tell us about the work of the Council. (Applause.)

JUDGE A. M. CHRISTIANSON: Mr. Chairman, members of the Bar Association. I have been asked to speak to you about the North Dakota Judicial Council. The first suggestion and recommendation from any official body in America for the establishment of a judicial council came from the commission that was appointed by the Massachusetts Legislature in 1919 to investigate the judicature of that commonwealth and to ascertain whether any and what changes in the organization, rules and methods of procedure and practice of the several courts ought to be made that would insure a more prompt, economical and just dispatch of judicial business. As a basis for its recommendation that such council be established, the commission stated that the courts of Massachusetts had developed as separate organizations having little relation to each other and that at no time had there been "any central body of a permanent character for the accumulation of information and the consideration and discussion of questions of organization, practice and procedure, bearing on the subject of judicial administration."

Conformable to the recommendation of the commission, the Massachusetts Legislature, at the next session, created the Judicial Council of Massachusetts. It was established by them in 1924. Although Massachusetts was the first state in which any official body took cognizance of the so-called movement for a judicial council, it was not the first state

to establish one. The first one was established in Ohio in 1922. Oregon followed the following year, and then Massachusetts the year following that. Later, councils were established in a number of the states.

Prior to the establishment of judicial councils in many states, arrangements had been made, or in some states, rather, for a meeting of the judges, conferences of the judges. For instance, Wisconsin, as early as 1913, provided for an organization of the judges so they might meet in conference. The State of Connecticut followed shortly afterwards with a similar one, and in 1922, the Congress of the United States, upon the recommendation of Chief Justice Taft, provided for a conference to be held of the Senior Judges of the several Circuits, the conferences to be presided over by the Chief Justice of the United States.

The first time I know that the subject of a judicial council was referred to in the Bar Association Journal of North Dakota was in 1924. At that time, the committee on the judicial section recommended the creation of a judicial council. The recommendations of the committee were approved by the members of the association and they were also authorized to prepare a bill, but they did not deem that the atmosphere in the 1925 session was hospitable, at least they said they didn't think they wanted to create it and they thought it would be a good idea to give it further study. They reported back with a recommended bill and recommended further study and that their report be submitted to the members of the Bar so they might study it for another year.

In 1926, it was scheduled to come before the annual meeting. In 1926, we had a situation that you can't exactly explain. There were some things about it that would be rather difficult to talk about, even at this time. We had a situation in North Dakota which caused us, the members of the Supreme Court, a great deal of difficulty. We had, for instance, a system that had come into being some years before whereby the method of calling judges, where an affidavit had been filed against the presiding judge, had been completely changed. Under the former law, the judge against whom the affidavit was filed called the judge. Then the legislature said that the judge against whom an affidavit was filed had no authority to do anything whatsoever, not even to adjourn court so far as that was concerned, and it required that a copy of the affidavit be transmitted to the Clerk of the Supreme Court and made it a duty of the Judges of the Supreme Court to designate the judge to be called. Some of you men know something about those affidavits, but you didn't know anything about the receiving end of it.

We had had affidavits filed before, but in a relatively short time we had over 800 affidavits filed. We had as many as 50 or 60 come in on a single day, completely disrupting the terms of court where they had been filed. The fact of the matter is that a number of the District Judges bitterly resented the statute and they took it out to some extent on us. They seemed to feel that when we tried to get some judge to come and hold a term of court it was not at all a welcome proposition, at least on the part of some of them. Of the majority, it wasn't true.

Just look at the practical proposition. Here you have a man against whom an affidavit of prejudice is filed down in Emmons County or Golden Valley, you have one up in Pembina, you have another in Divide

County, and so forth. We didn't have more than \$50.00 a year that we could spend legitimately for telephone services. Here you have a term of court in session, and all that sort of thing. What are you going to do? To me, they were rather troublesome days, although I think we did a pretty good job of taking care of the situation.

Then we had some other things that created a great deal of trouble. The dissimilarity of practice in juvenile court cases was a constant headache. There was great diversity of practice in the different districts. We had another thing that caused some administrative difficulty, at least in 1926, and that was with respect to the legislation in regard to the general receivership of closed banks. The legislature had failed to take any action on that at the preceding session.

So I conceived the idea, and talked it over with my associates, of calling these judges in. "Let's sit down and talk to these District Judges. Let them see what the situation looks like from this angle." I submitted it to all of them by letter and asked them what they thought about having a conference of this kind where we could talk over our mutual administrative problems. Every single District Judge in the state said, "Fine, that will be all right." They came out there and we went over the proposition. To show you the results of that conference before it ended, those men voluntarily said, "Here is what we want to do. We had no idea what this looked like here. What we want to do is this: We will send to you each week a statement showing exactly our schedule of dates so that you may know exactly what every District Judge in the state is doing now, what he is going to do next week, and the week after so you will know whether any of us will be available for assignment or not." It doesn't take any particular analysis to realize the difference that resulted from that. We dealt then with certainty. Before, we might sit down and designate a judge who was in the midst of a term of court and couldn't get away without completely disrupting his own work. That was one of the aspects of the conference, and there were many, many other things.

We appointed committees, for instance, to investigate some of the practices and also prepare amendments with respect to the juvenile court act and matters of that kind. We held a meeting later in the fall in which those reports were discussed.

In the meantime, your Bar Association in 1926 took up the report with respect to the Judicial Council. They took cognizance of the conference of the judges that had been had. They appointed a committee of the Bar Association to meet with the conference of judges, if that were held, with the idea of trying to work out a bill for a judicial council. That was worked out and that was introduced in the legislature in 1927 and enacted. That gives you a brief background of the judicial council organization.

Following that, we held a meeting or different meetings and the Council took up from time to time, many, many matters that couldn't be possibly referred to here. There wouldn't be time for that. One of the assignments that the Council got was from the State Legislature in 1931. Some of you have some recollection back in 1931; you know the trouble in the early '30's, questions that had never seemed to us in North Dakota of much importance, mainly the relief problems, which occupied a great deal

of the attention of the lawmakers and officials, as it did of the members in Congress.

There were a number of legislative proposals in that session in 1931. There was a multitude of them. Some of them didn't get very far. Some of them were introduced and some member of the legislature said, "We are not ready to pass anything. Let's find out something about this." There were all these pension acts, changes in the relief structure and all that, from the administrative end of it. Somebody introduced a joint resolution which was passed by both Houses. "Be it resolved that the House of Representatives of North Dakota, and the Senate concurring, that the Judicial Council of North Dakota be and hereby is requested to make an investigation and study of poor relief and to report to the Twenty-third Legislative Assembly such findings and recommendations and changes in our Legislative laws as shall be advisable to said Judicial Council."

We realized that that was quite a job. There was some question whether it might not be outside the realm of the function of the Council, and yet there were certain things clearly connected with the administration of justice, so we accepted the task, although we had to do it by means that we had to provide ourselves. A lot of it was midnight oil that some of us burned. I have here two copies of that report which I would like to circulate. I would like to have you see that, those of you who would like to see it.

You will find that we took up the entire structure of the laws of the State of North Dakota of the earliest days, where they came from. We took up the laws in other states, what had been done there. We had complete tables there showing every dollar every county spent, that every township spent, that every village spent in the State of North Dakota, how many people had received subsistence during those years, what they amounted to, what counties operated poor farms, not only the personnel of those and the people who were in them, but the experience and the cost of them, what they had, and so forth. It will give just as complete a picture of the thing as we could possibly get.

Some of you men here I don't think know, because you were too young, some of you may be too old so that you have forgotten, but at that time the relief unit was the township and every township supervisor was an overseer of the poor. Every village trustee was an overseer of the poor, so in some of these counties you had 150 to 200 overseers of the poor, rather a goodly number for that. The local subdivision paid twenty-five percent and they were entitled to reimbursement for seventy-five percent of what they expended. The counties in every instance had to pay seventy-five percent. We never heard of any litigation about that in the 20's. We had a large number of cases in all the District Courts in North Dakota; in fact, in one volume of the North Dakota Reports, 62, you find two cases from Burke County involving a controversy between two townships, in one instance, as to whether this man was a resident of this township or of that township, and another one whether he was a resident of this village or of the adjoining township, the result being that the expense of that litigation had to be borne, the

difficulty about it as far as the county was concerned, and the county had to pay seventy-five percent of the cost anyhow at the end of it.

It certainly was a rather unfortunate thing to have the townships and villages engaged in litigation of that kind, where the main proposition was forgotten. In fact, I venture to say I am safe in saying that none of you knew there was anything like this in the law of the State of North Dakota. That law provided that on a complaint of any overseer of the poor—that would be any township supervisor—to any Justice of the Peace, the Justice of the Peace might issue his warrant directed to and to be executed by any constable or by any other person they may designate and cause any poor person found in the county likely to become a public charge, and having held residence there, to be sent and conveyed at the expense of the county to the place where such person belongs. Understand, there was no hearing. It was a perfectly simple procedure. The overseer of the poor filed his affidavit; the Justice of the Peace handed it to any constable and says, "You go and take so-and-so in your possession and take him to where he belongs. He belongs up there."

If you are interested, you will find a case in 58 N. D. 612, *Hillborn v. Briggs*. There was a woman born in North Dakota. She had seven children who had been born in North Dakota, and the overseer of the poor went to a Justice of the Peace, received a warrant under this statute to take them to a place in Minnesota where they said they belonged. Apparently they had been there temporarily, but they were in North Dakota at that time, back in their home. The constable was a dutiful officer and obeyed the warrant of the Justice of the Peace, and took them to Minnesota. Then they applied for writs of habeas corpus.

I don't know, there are many other things we may differ on, I suppose. I don't think any member of the North Dakota Bar Association; even if it were valid, would condone the issuance of a warrant of that kind.

In the report we made to them, we did call the attention of the legislature to some of these things and we also gave them the summary of the recommendations and the suggestions that were made by some of the County Auditors. As I say, I should really like to have you look at that report. I think it probably furnished as reasonably fair a background to proceed to legislate on as it was possible to give them.

I am not going to go ahead and try to cover the other things we took up. Some of you last year, when you were out in Bismarck, went down to the State Farm out there. That grew out of the investigation which we had of county jails and sentences and so forth, and the data was set out in regard to the buildings and the old transient camp where these men who were first offenders might be taken on the honor system. There are today in that place over thirty persons. There are no guards there or anything of that kind. The warden's report to the last legislature showed a very healthy condition so far as the attempt to escape and so forth.

Mr. Strutz, who was Attorney General and was one member of the Council, went down and inspected similar institutions elsewhere and was largely responsible for that. I think it is only fair to say that I don't think any institution, whether good, bad or indifferent, could have been established at the time that it was, if ever, if it hadn't been for the very, very effective support of Mr. Graham. It hung by a fairly slender

thread there in the House of Representatives. He was there not only once but several sessions when the matter came up.

I want to close with reference to the session of the Judicial Council which we held in 1947. I think that will give you a picture of some of the activities and the range of activities. It was at that meeting that the survey was undertaken and authorized which will be reported on here by Professor Blinn.

For instance, we discussed there, took up and had fixed the terms of District Courts. Incidentally, I wonder if you will remember, many of you will, at least, there was a letter sent to every registered and licensed member of the Bar with respect to that, over my signature, where we asked for recommendations with respect to terms of court and rules of court and so forth.

We met first in August and went over the terms of court. We had the District Judges there and they met. We had them together and we had them separately. Afterwards, there was some difficulty so we found it necessary to give further consideration. We adjourned the meeting after a two-day session so next I want to take up that October, 1947, meeting.

Mr. Burdick, who was at that first meeting, recommended at the end and moved that a committee be appointed for the purpose of making a survey of the system of courts. He made reference to what had been done in Minnesota and Michigan with respect to abolishing justice courts and also to the plan that existed in Montana and in Iowa where you have the probate jurisdiction with the District Courts or courts that correspond to our District Courts. At that meeting, we had the preliminary report of the committee that had been appointed, and it was agreed—upon the suggestion, largely, of Dean Thormodsgard—that the subject was entirely too large to attempt to deal with in a short time of consideration or study, such as had been given, and it was agreed that it would be continued and that he probably would be able to have some of his men at the University help and make a more intensive study of it.

We took up the question of the procedure in juvenile cases and guardianship matters and the forms used. There was a report here on adoptions. I don't know to what extent that covered the subject. There has been for some time, we have found, a great deal of grief about adoptions. At every Judicial Council meeting we have had for the last five or six years, some of the trial judges were almost in each other's hair over the different practices that prevailed in adoptions. Ever since the Supreme Court of Wisconsin handed down its decision in the Venus——— case, it was apparent that it was a matter of great seriousness. Professor Maxwell at the University wrote an excellent article to the Forum on the subject. Committee after committee had been appointed. Generally, it was always a divided report. Some thought this could be done and some thought it couldn't.

At the Legislative Session in 1947, they proposed Constitutional amendments to cure what had happened or to provide so as to confer the limited guardianship jurisdiction upon the District Courts. We took this matter up for a great deal of time after the meeting. Every District Judge participated in it, also the Attorney General's staff and some of the members of the Supreme Court. We then determined to keep on and at this last session of the legislature certain laws were enacted

which we do think are going to go a long way toward making it unnecessary to have the grief that seems to have come about in the past. Again, it is only fair to say that Mr. Graham is one of the men who sponsored and introduced that legislation.

Then we took up commitments to the State Farm and the rules that should prevail with regard to commitments there. You understand, that is a place where there are no guards. It is open. The honor system prevails and it is quite essential that those who be sent there be very carefully selected, because you couldn't turn everybody loose like that. So we spent some time on that. Then we took up the question of probation and parole. At the former meeting, some of the judges had suggested or asked if it wouldn't be possible to have the State Parole Officer and the Field Officer of the Training School come in so they could go over some of these matters with them. We not only did that; we also arranged to have Mr. Humphreys, the Parole Officer of the Federal Court here, so that he might give us the benefit of the practices which he carried on and the system which they have.

At the last session of the legislature, in 1947, a law had been enacted which provided for suspension of sentences or pronouncement of sentences. I don't know how many of you have had occasion to deal with that. You may be interested in this. Today there are in North Dakota 169 parolees and probationers, and 116 of those are under Chapter 134 of the Laws of 1947. It is a short statute but I won't have time to read it. The purpose is merely this, that instead of going ahead and passing the sentence—it only applies to first offenders—where you have some fellow who has stepped over the border, you say, "I will give him a suspended sentence." You still haven't sentenced him. Under this law, you defer the passing of sentence up to five years and if during that time he or she behaves himself or herself perfectly, shows that they are entitled to it, that it wasn't a mistake to give them the clemency that was given to them, they may come back and petition that the action be dismissed. So, instead of a judgment of conviction against them, the only thing in the record will be the fact that they had been arrested but that they had not been convicted.

We had prepared forms which we took up there—and I would like to distribute those to you, they are going to be worth having. That is the law, and as I show you, in quite a number of counties the judges apparently are using that method of disposing of criminal cases. Here, again, it is interesting to have some statistics. During the first eighteen months the law was in force, there were forty-four persons upon whom the imposition of sentence was deferred. Only two of them backslid to the extent that the order of suspension was revoked and sentence was imposed, which is not a bad record for them. That was a practical thing that was done. Every man who was there got the benefit of that. Questions were asked by the District Judges as to the method.

We have had a great deal of difficulty. I think anyone who has dealt with criminals and crime for the last few years will know about that. The returned servicemen were problems to themselves. It is sort of strange for the Pardon Board to see some of those things. Some of them certainly were more or less psychopathic cases. Some of them didn't seem to care; they had never been in trouble of any kind before. More of them would

come in and plead guilty without thinking or giving regard to the consequences. So some of the men connected with the Veterans of Foreign Wars called this to my attention. What could you do with them, when some of those men would come in and say, "Send me to a penitentiary?"

We had to begin with the rules of the Veterans Administration with respect to these men. They were quite drastically changed. They weren't willing to take them under any circumstances with any strings tied to them. At one time they were willing to accept them on parole. What could we do? We took it up with the Veterans Administration and the Chief Attorney of the Veterans Administration, Mr. Shupienis, came out there, not only in his own behalf but as representative of the Administration. He brought with him the blanks and the directions that he had and the infinite knowledge that he has of the subject and that fine clear way that he has of explaining it.

Some of the District Judges there had men that they were wondering what to do with. They had the benefit of having conferences with Mr. Shupienis so as to figure out what to do with cases of that kind.

We had there at that same time, Mr. Rulon, who represented the State Commander of the American Legion. We had Mr. Floyd Henderson, State Veterans Service Commissioner, so there was quite a roundtable and a tremendously valuable experience for the men who had to deal with that proposition.

This gives you the high points of that particular conference, that meeting of the Judicial Council. There is, of course, no time to give you all there is, but I wanted to give you a brief sketch. Of course, it hasn't functioned as well as it could, but I think it has functioned as well as it could under the circumstances. After all, we are doing it in spare time and without a single cent of appropriation, so far as taking care of the expenses is concerned. I do think that as a whole the Council has served a very useful purpose. The very fact that the men themselves who are administering the courts even sit down there, and the members of the Bar and others, and go over their experiences and talk frankly to each other is an accomplishment. There isn't any attempt there to be finicky about it. If anyone feels there is something that is wrong with the way any of the courts are doing, they specifically say so. Fair criticism is invited.

This, members of the bar, exceeds, I think, any time I was supposed to take. I hope that it has been of some value to you and has given you some idea of the functions—not only the functions but of the work that that Council has attempted to perform. I thank you. (Applause.)

PRESIDENT SOULE: Thank you, Judge Christianson, for coming here. I know from now on we will more fully appreciate the work and the accomplishments of the Judicial Council. I think it is in order that some one of us move that we extend a vote of thanks to the Judicial Council and Judge Christianson for appearing before us this morning and giving us this fine report.

MR. O. B. HERIGSTAD: Mr. President I so move.

MR. NELS G. JOHNSON: I second the motion.

(Motion carried.)

PRESIDENT SOULE: Thank you, Judge Christianson. One item we did hope to take care of this morning was a brief report from Professor Keith W. Blinn. Professor Blinn was commissioned by your Bar Association this spring to conduct a survey of the courts system in North Dakota. Since that time, he has been engaged in teaching at the University. They just concluded yesterday, so he hasn't had much time to devote to that work. He is, however, going to devote the full time to it from now on until school starts and he hopes to have his report prepared by that time. I do think we should thank Professor Blinn. Will you stand up so we will see who you are? (Professor Blinn stands. Applause.)

I would like to recognize Ward County. Mr. Waldron.

MR. CORBIN A. WALDRON: Mr. President, bar. I am speaking in behalf of the Northwest Bar and in behalf of the Assistant to the President of the Ward County Bar. At this time, in behalf of the Ward County Bar, we would like to extend the invitation to the lawyers of North Dakota to hold its next annual meeting in Ward County and at Minot, North Dakota.

PRESIDENT SOULE: Thank you, Mr. Waldron. It is my understanding the time and place of each annual meeting is fixed by the Executive Committee, but I can assure you, Mr. Waldron, that your invitation will be conveyed to the new officers and the new Executive Committee, with very, very great likelihood that it will be accepted.

The next order of business is the election of officers, and the first office to be filled is that of President. Nominations are now in order for President of this Association for the ensuing year.

MR. D. R. CRABTREE: Mr. President, I wish to nominate for the Presidency of the North Dakota State Bar Association an attorney from my home town, F. J. Graham, from Ellendale. (Applause.)

MR. CARROLL E. DAY: Mr. President, I would like very much to second the nomination of Representative, Judge Fred Graham.

MR. ROY A. HOLAND: I would also like to second the nomination of Fred Graham for President of the North Dakota Bar Association.

MR. MART R. VOGEL: Mr. Chairman.

PRESIDENT SOULE: Mr. Vogel.

MR. VOGEL: In the interest of time and economy, I will confine my remarks to merely stating that I enthusiastically endorse the remarks of those gentlemen who have nominated and seconded the nomination of Fred Graham.

MR. NOSTDAL: Mr. Chairman.

PRESIDENT SOULE: Mr. Nostdal.

MR. NOSTDAL: I had in mind another man, a man that deserves and is very readily entitled to recognition from the Bar. He acted as Vice President at the Valley City convention. Then he went into the service. I refer to O. B. Benson of Bottineau. He is very modest. He says he will not run against Judge Graham, and for that reason I will not present Mr. Benson's name, and I will second the nomination of Fred Graham for President.

MR. H. A. MACKOFF: Mr. Chairman.

PRESIDENT SOULE: Mr. Mackoff.

MR. MACKOFF: I want to join with the others as seconding the nomination of Judge Graham.

MR. O. B. BENSON: I appreciate what Mr. Nostdal said, and I am very happy to second the nomination of Fred Graham.

MR. JOHN HJELLUM: Mr. Chairman.

PRESIDENT SOULE: Mr. Hjellum.

MR. HJELLUM: In view of the facts, I move that the nominations be closed and a unanimous ballot be cast for Fred Graham.

MR. NELS G. JOHNSON: I second the motion.
(Motion carried.)

PRESIDENT SOULE: The chair declares that Fred Graham is unanimously elected President of the Bar Association for the ensuing year.

MR. EUGENE E. BURDICK: I take great pleasure in casting the unanimous ballot for the State Bar Association for the Honorable Fred J. Graham as President of the State Bar Association.

PRESIDENT SOULE: Mr. Crabtree, will you and Mr. Mackoff present the new President to the rostrum. (They bring Mr. Graham forward.) Ladies and gentlemen of the Bar, your new President, Judge Graham.

PRESIDENT-ELECT FRED J. GRAHAM: Mr. President and fellow members of the Bar. It is indeed a privilege to be elected your President for the ensuing year, and I want to assure you that I highly appreciate this honor and will do my best to follow on in the footsteps of Mr. Soule and the others who have preceded him, so that at least I will have as good a record as Mr. Soule. I am going to try to make it better, if that is possible. I thank you. (Applause.)

PRESIDENT SOULE: I can assure you, Judge Graham, that we are all going to help you. We wish you the best of everything.

The next order of business is the election of a Vice President. Nominations are now in order.

MR. CARROLL E. DAY: Mr. President.

PRESIDENT SOULE: Mr. Day.

MR. DAY: At this time, I want to move the nomination of Philip R. Bangs for Vice President of this Association and urge your support for him. (Applause.)

MR. ARLEY R. BJELLA: Mr. Chairman.

PRESIDENT SOULE: Mr. Bjella.

MR. BJELLA: On behalf of the Williston Bar, it is my pleasure to nominate at this time for Vice President the present Secretary-Treasurer of the North Dakota Bar Association, Eugene A. Burdick.

MR. VERNON M. JOHNSON: Mr. Chairman.

PRESIDENT SOULE: Mr. Johnson.

MR. JOHNSON: I desire to second the nomination of Mr. Burdick. (Applause.)

MR. JOHN A. STORMON: Mr. President.

PRESIDENT SOULE: Mr. Stormon.

MR. STORMON: Mr. President and members of the Bar Association. I want to second the nomination of Mr. Philip R. Bangs of Grand Forks. (Applause.)

MR. J. F. X. CONMY: Mr. President.

MR. J. P. STEVENS: Mr. President.

PRESIDENT SOULE: I will recognize Mr. Stevens first.

MR. STEVENS: In behalf of myself and the members of the bar from Minot, I wish to second the nomination of Mr. Burdick.

PRESIDENT SOULE: Mr. Conmy.

MR. J. F. X. CONMY: I want to speak in support of the nomination of Philip R. Bangs. It is with pleasure that I second his nomination.

MR. NOSTDAL: Mr. President.

PRESIDENT SOULE: Mr. Nostdal.

MR. NOSTDAL: I wish to second the nomination of Gene Burdick from Williston.

MR. HJELLUM: Mr. President.

PRESIDENT SOULE: Mr. Hjellum.

MR. HJELLUM: I again move that nominations be closed.

MR. HOLAND: I second the motion.

(Motion carried.)

PRESIDENT SOULE: We shall now proceed to ballot on the two candidates whose names have been submitted for Vice President, Mr. Philip R. Bangs and Mr. Eugene A. Burdick. As tellers, I will appoint Roy Plohar, Charles Shure and Robert Rovelstad. Will you gentlemen come forward? Our Executive Director will give you the ballots.

PRESIDENT SOULE: The tellers are ready to report.

MR. CHARLES H. SHURE: Ladies and gentlemen, after counting the votes, your new Vice President is Mr. Phil Bangs. (Applause.)

MR. EUGENE A. BURDICK: Mr. President, I move that the Association be recorded as casting a unanimous vote for Philip R. Bangs as Vice President.

PRESIDENT SOULE: Is there a second to Mr. Burdick's motion?

MR. HJELLUM: I second the motion.

(Motion carried.)

PRESIDENT SOULE: Mr. Day and Mr. Stormon, will you bring the newly elected Vice President to the rostrum? (Mr. Day and Mr. Stormon escort Mr. Bangs to the front.)

PRESIDENT SOULE: Here is your new Vice President. (Applause.)

MR. PHILIP R. BANGS: I appreciate this very much, and I thank you for the honor. I am sorry that Mr. Burdick didn't win it because I know there is a lot of work to be done and he is much younger and probably could do it better, but I will do the best I can. Thank you. (Applause.)

PRESIDENT SOULE: We have one more office to fill, and that is Secretary-Treasurer.

MR. DAY: I move that Gene Burdick be re-elected to the office.

MR. ALVIN C. STRUTZ: Mr. President, I move that the nomination be closed and a unanimous ballot be cast for Mr. Gene Burdick.

MR. STORMON: I second the motion.

(Motion carried.)

PRESIDENT SOULE: Mr. Executive Director, will you cast a unanimous ballot.

MR. DAVIES: The unanimous ballot of the Association is cast for Eugene A. Burdick for Secretary-Treasurer.

PRESIDENT SOULE: The meeting is now adjourned.

Whereupon, said meeting stood adjourned until 1:30 o'clock p. m. of said Friday, August 12, 1949.

AFTERNOON SESSION, FRIDAY, AUGUST 12, 1949

Pursuant to adjournment as aforesaid, at 1:30 o'clock p. m. of said Friday, August 12, 1949, the meeting was called to order at the Central High School auditorium, President George A. Soule presiding.

PRESIDENT SOULE: Shall we come to order, gentlemen? We are honored this afternoon by having with us Mr. Jim McFarland of Watertown, South Dakota. He is the President of the South Dakota Bar Association. (Applause.)

MR. MCFARLAND: Gentlemen of North Dakota, it is a real privilege and a pleasure to return the visit that George made to us at Watertown last year when he was President of your Association. He should have, in introducing me, told you that he was only going to give me two minutes. That is what he told me back there. It reminds me, too, of a story of the early day, a true story, down in our state. In the old County of Deuel we had an Irishman who was a very lovable character down there. He wasn't a very close lawyer but he could hang the jury to beat the dickens, especially when he was two sheets in the wind. Consequently he used to fortify himself. The judge presiding, "Black Jack," as we called him, Jerry Andrews, was familiar with the proclivities of Monaghan and so put up with a great deal. In fact at that time, as some of you old-timers know—Phil says he is not an old-timer but I knew his father very well—the judicial dignity and the dignity of the courts was secondary to the good-fellowship that prevailed.

Monaghan was trying a case against my former partner, and they closed the testimony at noon. Monaghan, realizing his proclivities and not being adverse to getting ready in the middle of the day, went downtown and rather overdid it. He came back weaving in court, and Seward, my partner, announced that he had just discovered another witness and would like to open the case. He had the witness sworn by consent of the Court and asked him the first question, "What is your name." With that, Monaghan, grabbing the table, rose and said, "Your Honor, I object; that is incompetent, irrelevant and immaterial and not the best evidence." "Overruled; overruled." Another innocuous question, where he lived or something of the sort, and Monaghan very vociferously objected in the same vein, having learned by rote the regular objection. "Overruled; overruled." Again, a third innocuous question, and with that he was on his feet and fairly shouted the objection, "Object as incompetent, irrelevant and immaterial and not the best evidence." Jerry looked down at him. "Overruled. Sit down, Mr. Monaghan. Sit down. You're drunk." "Correct, your Honor. That is the first correct ruling you have made today."

So that the two minutes is the first correct ruling that George made today. I understand he didn't let you out of here until twelve-thirty, and I will be brief now. My particular purpose in addition to paying this courtesy visit in return for George's visit—and we are hoping that your president this year will come down to our meeting—is to invite you all to a city close to your border where we will hold our South Dakota State

Bar Convention, annual convention, at Aberdeen on the 16th and 17th of September, next month. We feel that we are going to have quite an interesting program.

In addition to the very fine program that the Brown County Bar—Aberdeen is the county seat—are arranging for both the members of the bar, the guests from away and the ladies, we have three quite outstanding speakers, in addition to our committee reports.

May I say that I am particularly interested in the two matters that came up today in your Bar Association. For the first time in five years our Minimum Fee Schedule Committee is to make a comprehensive report. We believe that it will be somewhat along the line of the one that is to be submitted to you this afternoon. By reason of the very marked changed conditions, there is need, dire need, for that schedule, and a revision of it. May I say also that in our integrated state bar our resolutions and our adoption of fee schedules and standards and so forth have somewhat the effect, almost, of statutory enactment.

Then, too, I am peculiarly interested in the meeting tonight at which you will hear from, as I understand it, two gentlemen from Minnesota on the general subject of public relations of the bar. At our meeting, as George will remember, at Watertown last year, we adopted that program for the first time.

In addition, we have the Attorney General of our state, Sigurd Anderson, as chairman of our Criminal Law Committee and for the first time in five years they have a very comprehensive report to submit, including some suggestions and recommendations with reference to the penal institutions and the ultimate results, you might call it, of criminal procedure. We think it will be an interesting meeting.

May I interpolate that last year when George was down there we had Judge Clark of the Circuit Court of Appeals, Second Circuit, and while his talk was a scholarly masterpiece, I will venture the assertion that it went over the heads of 99.9 percent of the fellows, even when they came to read it in our Bar Journal.

May I urge you to come down. We are brothers, not only in name, in the Dakotas, but we have many common problems. I am sure you could help us. We would like to have you come down and do so. Thank you, George, and thank you, fellows. (Applause.)

PRESIDENT SOULE: Thank you, Jim. We have cooperated with your organization already by electing a President from Ellendale, North Dakota, which is rather close to Aberdeen. You heard the invitation, did you not, Judge Graham?

PRESIDENT ELECT GRAHAM: Yes. I heard the invitation. Aberdeen is only forty miles away. I will be very glad to attend.

PRESIDENT SOULE: This afternoon we have a report from our Fee Schedule Committee. Arley Bjella, of Williston, is Chairman of that committee and A. I. Johnson of Fargo is Vice-Chairman. The committee has worked long and hard and I wish those two gentlemen would come forward and we will now proceed with their report.

MR. ARLEY R. BJELLA: Mr. President, members of the Bar Association. This committee was formed some time ago, and I would like to give you the names of the members of the committee. The committee was

divided up into two sections, one section from Williston and one section from Fargo. From Williston there were myself, Eugene A. Burdick, Joseph N. Mendro and Everett Palmer. From Fargo, A. I. Johnson, John J. Nilles, Mart R. Vogel and Manfred Ohnstad.

I might also state that at the time this committee was set up I didn't realize the purpose in having a committee from Fargo, Cass County, and a committee from Williston. After receiving the reports from Mr. Johnson and his committee, I think that the committee from Williston has been rather trying to cut down the fees that came out of Fargo. Be that as it may, the first thing to say is that the Fee Schedule Committee has a recommended fee schedule. We feel that it is a good schedule for many reasons. I would also like to point out that this fee schedule cannot be the solid opinion of all the members of the Fee Schedule Committee, because that is an impossibility, but we do feel after our first recommended fee schedule, that is, the Williston fee schedule, was torpedoed and thoroughly torpedoed by the Cass County committee, that the report we now have does in some sense express the true opinion of the committee. Would you say I was right about that, Mr. Johnson?

MR. A. I. JOHNSON: Pretty close, yes.

MR. BJELLA: I notice he said pretty close. We are going to pass out the fee schedule recommendation to you. I would like to make an observation lest you become too critical of it. I was interested to hear Mr. McFarland's remarks because we borrowed the South Dakota fee schedule, the Montana fee schedule and several others in preparing our work on this report. Here is the thing we would like to have you keep in mind, that this fee schedule is used throughout North Dakota. What is particular in your community may not be true in another, and this recommended fee schedule, we hope, will be a basis for a minimum charge.

Our hope, by using this fee schedule, is to have a uniformity as much as we can in the charging of fees.

We recognize the canons of ethics regarding fees. We realize there are instances where a different fee must be charged. There are times, as you all know when a lawyer must work for nothing, and lawyers are glad to do that, if necessary. So this fee schedule is a recommended fee schedule, and, further, it is a recommended minimum fee schedule.

If you all have a copy now of the recommended fee schedule, which is mimeographed, I am going to compare it with the last fee schedule that was adopted by the North Dakota Bar Association in the month of August, 1947.

The first thing that you will notice on the left-hand side is "Federal Court - Civil." In the old fee schedule, the appearance and pleading was at least \$150.00 and per diem in court was at least \$150.00. We have lowered that somewhat. We have put the per diem in court at least \$100.00, which is a slight change. Extraordinary remedies (additional), \$150.00, and we have, of course, adopted pretty much the same bankruptcy schedule except that we have raised it from \$100.00 to \$150.00, and when there is a contest we have raised it from \$50.00 to \$75.00.

"Federal Court - Criminal" is an entirely new addition, and you will notice there the entry of plea, \$100.00, and the other changes. Our committee from Williston was quite insistent in lengthening the recommended

fee schedule somewhat because we thought there were many cases where lawyers would be called upon to do some work and they needed a guide to follow.

I am going to go down to the North Dakota Supreme Court. We have there appearance and brief, \$200.00, which is an increase of \$50.00. Some of you may wish to mark down the increases. The per diem stays at \$100.00. We have added extraordinary remedies, \$200.00, and appearance for any other purposes, \$100.00, which, of course, is important in some cases, but the big change will come now.

Going now to "District Courts," in the old minimum fee schedule, the appearance and pleading was \$50.00 and the per diem was \$50.00. We have raised, in this schedule, the per diem to \$75.00, which means that any time that you go into District Court, whether it be a divorce or any other action, the minimum fee will now be \$125.00 instead of \$100.00, which is raising it \$25.00. That is a marked change. Now we have listed—and this is a complete change from the old fee schedule—a listing of the actions that are most common, such as actions to quiet title, a minimum fee of \$125.00; cancellation of land contracts, etc., as you see them there on the schedule. You will note that we have divorce by default at \$125.00 and divorce when contested at \$150.00. Adoption proceedings, \$100.00, which has caused quite a bit of discussion on the part of our committee. We have added the clause there which states, "A reduction of fee may be made to allow for work of social welfare agencies." There are many extenuating circumstances, especially in adoption proceedings, and we felt that that should be liberalized to give the lawyer a chance to set the fee to the case.

Then we have added those that you see there, such as change of name, judicial determination of birth, and so on. I would like to point out, too, if you will notice on the bottom of the District Court section that the fees that we have listed there include appearance and pleading and one day in court, which would mean that if you had a contested divorce case that lasted two days, you would have a recommended minimum fee of \$225.00, because the fee that we have set up there is for one day in court.

The next paragraph is also a complete innovation as far as the North Dakota fee schedule is concerned, and there is an error in it. In the second line, where it says "Defense in capital cases, \$1000.00," that should be \$500.00. You may wish to correct your papers accordingly. Again, it may require a little explanation. You may say that every criminal case must be decided by the client and the situation that surrounds your client. Undoubtedly you have tried criminal cases, as I have, for which you receive no compensation, but if you can receive compensation, we suggest this to be your minimum. There are many times when you will be a court-appointed attorney and your fee will in no wise approximate this schedule, but this, again, is to be used as a guide. I will emphasize that many times in explaining this fee schedule.

Then we come to felony cases, arraignment, \$50.00; defense in capital cases, \$500.00; and you will notice the rest of them there.

To go over to "County Courts," we have made no change, as you will notice, from the old fee schedule. We are still recommending 3% of inventory value plus 3% of additional moneys received. However, we

have added the part of that section which deals with joint tenancy and the question will be raised, "Why are we recommending more for a resident than a non-resident?" That is due to the changes made by the last Legislative Assembly of North Dakota. For a resident, you must prepare a petition now and submit it to the County Court and have it appraised and so forth, which is much more difficult or involves more work than for a non-resident. The law still stands that there you can submit your application correctly to the Tax Commission.

The next section is "Justice Court - Civil." This is also pretty much a new section as far as we are concerned. We don't have to read the items off to you, but we feel that those prices listed in there are reasonable for that work, and the same way in the next section, "Justice Court - Criminal." You will notice that we have set a fee of \$50.00 for a preliminary examination on the charge of a felony, and the rest of them are in the neighborhood of \$25.00 to \$50.00 for Justice Court, civil and criminal proceedings. You might well argue that in some cases you go to Justice Court for, the consideration involved is perhaps only \$25.00, but we feel that that is a minimum charge that should be made to appear in a Justice Court.

We also have added the next section, which is "Appearance Before Boards," and we have appearance before boards having quasi judicial powers \$50.00 and appearance before city commission or other local boards \$25.00. There are many times that a lawyer is called upon to appear before county commissioners and city commissioners and so forth. That cannot, in our opinion, exceed \$25.00. If you were to appear before the Public Service Commission \$50.00 is much too low, but, again, this is a recommended minimum fee schedule. These are the minimum fees that we recommended. We hope you accept them, but your fees, of course, depend on the case.

For the next section on "Corporations," we have not changed that from the old fee schedule except to knock out a large part of the old fee schedule which dealt with the incorporating and setting up of utilities, public or otherwise. We felt that that did not occur enough to be in our fee schedule.

Then on our second page we have another new section which deals with professional visits out of the city. I think we all recognize that a lawyer's time is the only salable merchandise he has and that fee for per day out of the office would be reasonable.

The next section is entirely new, "Investigation of automobile liability claims." We are not concerned so much with merely a collision loss as we are with liability and, of course, that again is something that I wish to point out, that this was specifically requested by the Northwest Bar meeting at Minot on June 18th. There was quite a bit of discussion over their fee schedule which, incidentally, they adopted at their annual spring meeting, and they recommended that we put in this clause relative to the investigation of automobile liability claims. The purpose of it was to establish a standard, if possible, for lawyers who are doing casualty and insurance examinations throughout the state or who are not actively engaged in the business at all. The question came up so many times, "What should I charge an insurance company or this person for the

investigation of this liability claim," and we recommend this as a guide for your minimum fees.

The next change that we have is drafting deeds, liens, leases and contracts. We have recommended \$10.00, and the old charge is \$5.00. You will find that there is a new provision regarding the drafting of partnership agreements and the dissolution of partnerships which was not carried in the old fee schedule, and also drafting a will and executing in the office. The minimum has been raised from \$10.00 to \$15.00, and we valued the drafting of a will and executing out of office at \$25.00. We added the one on affidavits for filing. We had a great deal of discussion over abstracts of title. I might say, in fairness to Cass County, that they thought we should establish a minimum of \$15.00 per abstract, but I think that is taken care of by the provision in there where you will charge at least 25 cents per entry and a minimum charge of \$10.00. In our county and I know in many counties in North Dakota, your abstracts average probably 25 to 30 entries, and in Cass County and probably in Grand Forks the entries may average 60. Naturally, there should be a disparity in the charges that are made there, but I do think and the Committee feels that the \$10.00 minimum should be set.

As to the last one, "Claims and Collections Handled on Contingent Fee Basis," that is not changed from the old schedule. We recognize that if a person has a bill for \$10.00 and he wants you to collect it, you are going to get back zero cents, because I think it is worth \$10.00. Every time you collect a bill you don't make a particularly good client of either one of the people involved.

I wish to state again, as far as our Williston group are concerned, we were late in getting this in to the Cass County committee, but this does represent the consensus of the two committees. We got a four-page letter from the Cass County committee and they ripped our schedule to pieces. This is really a composite. I am going to ask Mr. Johnson to make some comments on the same before you start shooting at us up here. Mr. Johnson.

MR. A. I. JOHNSON: Ladies and gentlemen of the Bar. I believe that Mr. Bjella has covered quite fully the items that we discussed and argued. I notice—and I didn't notice it until today—that in the preamble at the top of the section in parentheses there that we had in our Cass County committee considerations recommended or suggested, that "The value of the property, the importance of the questions presented, and the results attained should be taken into consideration as a basis for increasing the fee." The Williston committee didn't want to do any decreasing from the minimum, but I notice that provisions are made in the schedule itself for that very thing.

We recognize that, as has been said here, a fee schedule at best is a recommended fee schedule. Professional men and women set standards and those standards should be a reasonable composite of the best judgment or at least the majority judgment of the membership of that group. We do not always agree on many of these things, but we can certainly negotiate from there on.

We had, for instance, thought that there was no particular need of the criminal defense schedules, because we felt that they were items for

negotiation; but in talking to the Williston committee we find that it is a problem, especially to the young practitioner, to even approach or approximate a charge. I know that in my own practice I do not do any criminal defending. One of the problems in starting out was trying to get somewhere on some kind of a fee representing a reasonable fee. I didn't want to be unreasonable; I didn't want to be depriving myself of what I felt I was entitled to, and to that end and for that purpose a recommended fee schedule, of course, is very valuable and desirable.

As to this business of abstract charges, we have fought that out in our Cass County Bar, and it was one that we saw red on as soon as we saw the recommended schedule from Williston; but as has been explained here, your abstracts in the western half of the state or the third or whatever it may be average only 25 or 30 entries, and our averages are getting worse all the time, longer, 60 to 70. I had one the other day with 144. If that is supposed to be a \$10.00 suggested fee, the public is going to expect us to charge a \$10.00 fee, which is completely and entirely out of line. I do think that the eastern part of the state or those areas of the state where long abstracts are the common experience will have to continue to charge a larger fee, and that has been taken care of somewhat in the 25 cents per entry provision. That would mean that a 60-entry abstract would be \$15.00, which would be in line with our practice.

The adoption fee was also a matter of some discussion, chiefly because it is our experience here, I believe, in the eastern part of the state that most of the adoptions come through welfare agencies, and the investigative work, the consents and all, are prepared in advance. We don't have that work. We used to have it but we don't have it now. Whether that is an absorption of legal responsibility by the welfare agencies I don't know, but at least that is the present situation. I am told that is not so true in the western portion of the state, and therefore this explanation, I believe, satisfies our committee.

In general, I would say that the report is a compromise, recognizing on attempting to recognize the varying conditions in the different parts of the state. I might make this general observation—I made it in the four-page letter that Mr. Bjella referred to—that the recommendations of the eastern committee were largely decreased. Our recommendations were for increases larger than those increases that have been recommended by the western committee, but we have incorporated something which I think solves the problem perhaps, and that is that this is not a minimum fee schedule which you must rigidly adhere to, but is a recommended minimum fee schedule, one that you can use as a guide.

In that connection, I would like to say this, that in connection with the work on this fee schedule and the conversations we have had, and my own experience and I am sure yours, that no fee schedule is worth two cents unless there is a *bona fide*, honest attempt by the members of the bar to abide by it, and that is where we need some education and some cooperation. There still are divorces gotten in Cass County for considerably less than \$125.00 or even \$100.00. Clients are still shopping around for charges, either calling you on the telephone—I suppose you are having the same experience—and asking how much for this and how much for that, and they are doing nothing but shopping. If every-

body had the same answer, it would be a tremendous help and it would help everybody, and the chiseler, the person who is deliberately trying to avoid living up to the standards and thereby decreasing the general standards of the profession and his earning power, will be squelched.

I was very much interested in the tax reports of the state showing the incomes of the three professional groups. The doctors, M. D.'s, had by far the largest income tax to pay, by far the largest; the dentists were second and the lawyers third except last year. I think that was reversed, but it was practically the same, according to Commissioner Gray's reports. Someone has suggested that possibly the reports were made out by the lawyers and therefore could not be relied upon as truly indicative of the earnings, but nevertheless I think there is a matter that needs attention.

I think in general we go along with the committee, even though there may be differences that we have ironed out, but I urge everybody—if there is anything that should be said in urging this matter—that there be a general compliance with whatever fee schedule is adopted.

MR. BJELLA: Thank you, Mr. Johnson. I would like to state that if you can take our section of the country as indicative of the fee schedule, how it works, it works wonderfully well. I think that a recommended minimum fee schedule for Williams County has helped the lawyers there a great deal. In fact, I know it has. Now, Mr. President, before it gets too hot here, I am going to move that the recommended fee schedule be adopted.

PRESIDENT SOULE: Thank you, Mr. Bjella. Is there a second to that motion?

MR. A. I. JOHNSON: I will second that motion.

PRESIDENT SOULE: You have heard the question, gentlemen. Is there any discussion or are there any questions of the two chairmen that we have up here?

MR. NOSTDAL: Mr. President.

PRESIDENT SOULE: Mr. Nostdal.

MR. NOSTDAL: I think the schedule is all right with the exception of abstracts. I feel that the Cass County Bar was right on that. Of course, this provision here that you can charge 25 cents per entry might help, but you know, most of you men, when a man comes in and wants to know how much it costs and you show him the fee schedule, he doesn't look at these other things. He just looks at that item, and I believe the minimum should be put in there at \$15.00 instead of \$10.00. It really doesn't make any difference as far as the amount you get, but simply for the purpose of showing the prospective client just what that minimum is, because they don't figure out that 25 cents per entry or anything like that. You can show them the minimum and it saves a lot of bother. I move that that be amended to read \$15.00 instead of \$10.00.

PRESIDENT SOULE: Is there a second to that?

MR. FLOYD B. SPERRY: I second the motion.

PRESIDENT SOULE: Is there any discussion? Are we ready for the vote?

MR. BJELLA: I would like to discuss it a moment. I am speaking now for the small lawyers, and I assume that most of the people here in

the room are from the larger towns, but out in the western part of the state a few years ago the minimum was \$5.00. That was the charge for abstracts. We raised it to \$10.00, on which we were getting along fine. We have many abstracts out there that run from five to fifteen entries, not unusual at all. To ask for \$15.00, to put that in there, I think, is going to be putting a minimum that will not be followed by most of the members that are practicing law in the small towns and communities. I would like to hear from a couple of them before this goes to a vote, because I think I can feel the consensus here.

MR. JOHN A. ZUGER: Mr. Chairman, isn't it true that in many of these fee schedules from other states, the theory on which you are fixing the price is the number of entries? Isn't it true that in many states—I have seen it in the Illinois fee schedule and several others and there they proceed in an entirely opposite theory. They proceed on the basis of the valuation of the property. The fee is fixed according to the responsibility and the amount of the property that is involved. If you take it on that basis, it doesn't make any difference whether your abstract contains fifteen entries or whether it contains forty-five. The thing you are selling is your opinion as to the quality of the merchandise your client is buying. The responsibility is just as great, whether it is short or whether it is long. After all, isn't it almost a ridiculous situation, an attorney giving his opinion and being responsible for the quality of the title, under a \$15.00 charge is paid less than an abstractor is being paid for accuracy of copying records to put that abstract together? When the abstract fees were raised recently, there was a flurry and everybody objected to it. Now they have completely adjusted and they very willingly will pay the abstractor for the preparation of it.

MR. EUGENE A. BURDICK: I would just like to add this, that out in Williston we have a modification of that schedule in line with John Zuger's ideas, where for examining an abstract on valuable property we make a charge of one-fifth of one percent of the value. If we handle the entire transaction for the purchaser, including all negotiations, drawing the contract for deed or option and handling the transaction for the buyer, we then charge two-fifths of one percent of the value. This being a minimum fee schedule, the committee felt that such a supplement could be added if desired. Personally, I think the idea of one-fifth of one percent of the valuation is a good suggestion and one that should be followed statewide. I know we are going to use it at Williston, regardless of the outcome of this particular fee schedule.

PRESIDENT SOULE: Thank you, Mr. Burdick.

MR. ZUGER: Mr. Chairman, I might add, on those fee schedules we are talking about which I have seen—I think it is more true in the eastern section of the country; I don't know whether the committee has examined those or not—but that same principal, that same theory of fixing charges has been carried over in the preparation of a lease, in the preparation of a contract, and I have seen fee schedules in which the charges were fixed on a percentage basis. Of course, it makes a difference whether an attorney carries the whole thing through or whether he merely handles one step of the proceedings, but it is an entirely different theory than a pure time basis or the mechanics of the thing.

PRESIDENT SOULE: Are you prepared to move an amendment to Mr. Nostdal's proposed amendment?

MR. ZUGER: I make my comments in support of at least \$15.00.

MR. M. S. BYRNE: With regard to that \$15.00 fee, it is going to be just about impossible for us attorneys out in the west to follow and we don't like to have anything put in the fee schedule that we can't follow. A good example is our banks come in and ask for examination of the title, desiring to make loans. Five or six quarters of land, in a loan is nothing out of the ordinary out there. In fact, two or three sections is nothing out of the ordinary as most of you westerners, I think, will agree. I have examined quite a few abstracts. I must examine two or three hundred a year. I had a loan in there; I think there were five abstracts, and I think the longest abstract—you won't believe this—was seven or eight entries. I can't put in a \$50.00 or \$75.00 bill to the bank for making that examination for a loan. I think the total number of entries for five or six abstracts was 45. We would like to abide by the fee schedules, but that can't be done.

MR. O. B. BURTNES: I rise in opposition to the amendment. It seems to me the most important part of this fee schedule is the detailed item "at least 25 cents per entry". With that item in there, you have your yardstick. I can't help but agree with the gentlemen from the western part of the state, but I can say that is also true in the eastern part of the state to a lesser extent. I think most of the lawyers in our town, at least, were rather pleased when the minimum became, more or less in general practice, \$10.00 where it had been \$5.00 before. I think on the whole they are very well satisfied with \$10.00 as a minimum.

When you have the lengthy abstracts and quite a few entries involving property of large amounts and so on, the schedule shows you what you can charge. In fact, if this is increased it simply means there will be more and more avoidance of following the schedules instead of what we ought to hope for, more general practice together.

Let's keep the schedules so that we can somehow or other try to fall in line and follow them, and let's not make it so unreasonable. We still have a lot of people who insist that we ought to pay more than \$5.00. If we can get \$10.00, we are doing pretty well. Let's leave it that way.

MR. ALBERT LUNDBERG: Mr. President, I think I am going to offer a compromise which may, I hope, set aside both of these factors. How would it be if you stated the schedule in this form, that the minimum fee would be \$15.00 unless such amount exceeds 25 cents per entry, in which case the minimum shall be \$10.00. Then you would have your \$15.00 as a starting point, and if the situation be unreasonable you can fall back on the \$10.00.

PRESIDENT SOULE: Mr. Lundberg, you offer that as an amendment to the amendment?

MR. LUNDBERG: I think I offer it as a suggestion if the gentlemen want to adopt it. I think the parliamentary situation would become quite too complicated if I offer an amendment to an amendment.

MR. WALDRON: I move that the amendment be tabled and we proceed with it.

MR. J. KENNETH ECKES: I second the motion.

PRESIDENT SOULE: You have heard the motion, gentlemen.

MR. REMINGTON: We couldn't hear. I don't know whether remarks are in order or not.

PRESIDENT SOULE: We can start all over again. One thing you are overlooking in connection with the passing upon of abstracts of title—that is what we have been discussing at the present time—we have a motion to adopt the entire schedule and it has been seconded, and then Mr. Nostdal moved that the minimum for examining abstracts of title be increased from \$10.00 to \$15.00. That motion was seconded by someone. Then it was moved that that question be tabled, and that was seconded.

MR. BURNESS: As a matter of inquiry, if that motion carries will that carry the entire subject with it at all?

PRESIDENT SOULE: That was simply to table the amendment, I think. We are getting rather involved, I think, gentlemen, and the time is moving along. Can't we sort of retrace here and eliminate this motion of Mr. Waldron's and get down to the question of whether or not we should adopt Mr. Nostdal's motion to amend? Would that be satisfactory.

MR. REMINGTON: I would like to speak on Mr. Nostdal's motion to amend and state in my opinion that motion as well as the fee schedule as prepared overlooks something which is going to be very, very important to the attorney who is called upon to pass upon a title. Many times you will find a decree of the County Court for distributing. Many times you will find a decree to disturb things and you go up and get the file and look at it and you will find that you are surprised that the man will probate the right of succession of land which was subject to a homestead entry, where the homestead entrant died without presenting his final proof. You will find an action to quiet title where there was no return found of the sheriff of the county or where there was a faulty affidavit of publication, and there isn't any provision in this fee schedule to make up for the services which the attorney has to perform in order to go further than the abstract enables him to go, and those services may of themselves—and usually are—be worth much more than the mere examination of the abstract.

PRESIDENT SOULE: The question is on Mr. Nostdal's amendment. Mr. Executive Director, will you count the vote? We will have a rising vote on this.

(Motion lost.)

PRESIDENT SOULE: We are now back to the original motion to adopt the entire fee schedule as presented by the committee.

MR. STRUTZ: Mr. President, instead of calling this a recommended fee schedule, I would move that it be called a recommended minimum fee schedule. I charge more than this in almost every instance. This is supposed to be a minimum fee schedule, I think.

MR. EUGENE A. BURDICK: I second the motion.

PRESIDENT SOULE: Mr. Burdick has seconded the question on another amendment. You have all heard it. Shall we insert the word "minimum" or shall we vote?

(Motion carried.)

PRESIDENT SOULE: The motion is carried and the word "minimum" will be inserted, recommended minimum fee schedule. Are we ready for the question?

I guess we are now back to the question, That is whether on not we shall adopt what is now our recommended minimum fee schedule. Are we now ready for the question?

MR. ECKES: I would like to ask the committee if they talked to the Welfare Board in regard to that schedule the Welfare Board puts out?

MR. BJELLA: Where you probate an old age assistance program or something—I haven't probated too many but I have always put in the minimum, which is generally always the maximum, too, because the estates are generally very small, but I haven't had any complaint. I don't know about their schedules. Mr. Johnson says it probably is a local county regulation.

MR. ECKES: It is a statewide regulation.

PRESIDENT SOULE: We don't want to foreclose discussion here, gentlemen, but I think we are up to the time when we should vote. (Motion carried.) (Applause.)

PRESIDENT SOULE: I want to thank our committee for having done a very, very good job. As far as our general sessions are concerned, we are now adjourned until nine tomorrow morning.

Thereafter, at 7:00 P.M. of said Friday, August 12, the Annual Dinner was held at the Elks Building. President Soule acted as toastmaster and introduced Father Tom Hendrickson, who gave the invocation, Miss Barbara Sorlien, who played several violin selections, and Mr. William W. Gibson, former president of the Minnesota State Bar Association, and Mr. George C. Jordan, Public relations counsellor of the Minnesota State Bar Association, who addressed the gathering on the public relations of the bar.

Whereupon, said meeting stood adjourned until 9:30 o'clock A. M. of Saturday, August 13, 1949.

MORNING SESSION, SATURDAY, AUGUST 13, 1949.

Pursuant to adjournment as aforesaid, at 9:30 o'clock A. M. of said Saturday, August 13, 1949, the meeting was called to order at the Central High School auditorium, President George A. Soule presiding.

PRESIDENT SOULE: We will come to order. I would first like to recognize our Executive Director and have him read the report of the Auditing Committee.

EXECUTIVE DIRECTOR DAVIES: (Reading)

"August 12, 1949

To the President and
Members of the North Dakota
Bar Association
Fargo, N. D.

Your committee to which was referred the annual report of the Secretary-Treasurer covering the period June 20th, 1948 to June 30, 1949, as audited by Mike Zine, accountant, beg leave to report that

we have had the same under consideration and recommend that the same be approved, and

We further recommend that the recommendation of the Secretary-Treasurer as to distribution of disbursements be adopted.

(signed) M. W. Byrne

L. R. Baird

Ralph B. Maxwell"

In behalf of the committee, I move the adoption of the report.

MR. NOSTDAL: I second the motion.

(Motion carried.)

PRESIDENT SOULE: We have a report carried over from yesterday morning on uniform laws. I now present to you Dean Thormodsgard, the Chairman of that committee.

DEAN O. H. THORMODSGARD: Mr. President and members of the North Dakota bar. This is one of the books which you lawyers will have to become acquainted with in some few years. It is a tentative copy of the Uniform Commercial Code. In 1941, the Section on Commercial Law of the American Bar Association recommended that a uniform commercial code be drafted and approved. Since 1943, the Commissioners on Uniform State Laws and The American Law Institute have jointly engaged in rewriting in statutory form the law relating to all types of mercantile transactions. The proposed Uniform Commercial Code is nearly finished, subject to minor revisions and changes. It will be ready for the Legislative Assembly of North Dakota to consider for enactment in 1951. The Uniform Commercial Code is not a restatement of our present rules of law. The drafters of the proposed Code not only checked the decisions of the highest courts of the several states, but they also studied the business practices of the market places, the banks, the stock exchanges and all places where business is being done. The proposed Code is in statutory form of what the law should be in view of present day commercial practices. The "Title" of the Act is as follows:

"To be known as the Uniform Commercial Code, Relating to Certain Commercial Transactions in or regarding Personal Property, including Fixtures, and Contracts and other Documents Concerning them, including Sales, Commercial Papers, Foreign Remittances, Letters of Credit, Bank Collections, Investment Securities, Bills of Lading, Warehouse Receipts, other Documents of Title, and various Types of Financing Security. Providing for Public Notice to Third Parties in certain circumstances; Regulating Procedure, Evidence and Damages in certain court Action Involving such Transactions, Contracts or Documents to make uniform the law with Respect thereto; and repealing Inconsistent Legislation."

Article I is entitled "General Provisions" and contains fourteen sections, dealing with title, general definitions and principles of interpretation and construction.

Article II of the Code is the Revised Uniform Sales Act and in fact is a revision, expansion and modernization of the old Uniform Sales Act. Article II is the heart of the Uniform Commercial Code and contains one hundred and twelve sections.

The title to Article III is "Commercial Paper," and contains 127 sections. The subject matter of Article III is the Uniform Negotiable Instruments Act but with considerable changes and modification over the present Negotiable Instruments Law.

Article IV is entitled "Letters of Credit" and contains 27 sections. Commercial letters of credit have been used by business firms and commercial banks to move goods from one market to another market. The present law dealing with letters of credit is primarily the result of case law decisions. This Act is proposed to reduce the business practices and judicial decisions to a written form.

Article V of the Commercial Code is given the title of "Foreign Banking". There are 15 sections primarily dealing with the rules to govern foreign remittances.

Article VI is entitled "Documents of Title" and contains 27 sections. In a large measure, this article is a revision of the Uniform Warehouse Receipts Act, the Uniform Bills of Lading Act, and includes those provisions of the Sales Act which relate to the negotiation of documents of title.

Article VII of the Uniform Commercial Code is given the title of "Secured Transaction". This article contains 130 sections. It will be noted that this article represents a revision of the Uniform Trust Receipts Acts and the Uniform Conditional Sales Act. It includes a detailed plan for the regulation of security interest in personal property, including chattel mortgages, factor's liens, and assignment of accounts receivable.

The Article on Secured Transactions is divided into 8 parts and deals with the subject matter of Short Title and General Provisions, Pledge, Inventory and Accounts Receivable Financing, Equipment Financing, Agricultural Financing, Consumers' Goods Financing, Bulk Transfers and Vehicle Liens.

Article VIII is given the title "Investment Securities" and contains 38 sections. It deals with bearer or registered bond, which is now covered by the Uniform Negotiable Instruments Law, but which is not included in the Article on Commercial Paper on this Code. Article VIII also deals with certificates of stock, which was previously provided for by the Uniform Stock Transfer Act.

Article IX has been given the title of "Effective Date and Repealer". Under the proposed Uniform Commercial Code, it will be necessary to repeal the Uniform Negotiable Instruments Act, Uniform Warehouse Act, Uniform Sales Act, Uniform Bills of Lading Act, Uniform Stock Transfer Act, and also any laws regulating bank collection, bulk sales, chattel mortgages, conditional sales, Factor's Acts, Farm Storage of Grain, Financing of Accounts Receivable and all laws dealing with certificates of title for vehicles and other laws.

Since the Uniform Commercial Code deals with all phases of commercial transactions, it will meet the constitutional provision requiring an Act to deal with only one subject matter.

The American Bar Association, The American Law Institute and The National Conference of Commissioners on Uniform State Laws have taken special interest in drafting the Uniform Commercial Code. It will be presented to Congress for enactment so that the provisions will be

applicable to all interstate commercial transactions. There will be a demand for its enactment by all the states.

It is the recommendation of the Committee on Uniform Laws that when the Uniform Commercial Code is approved in final form by The American Law Institute and The National Conference of Commissioners on Uniform State Laws, that it be referred to the Legislative Committee of the North Dakota Bar Association and the Legislative Research Committee for study and recommendation for its enactment by the Legislative Assembly in 1951.

As to this report, Mr. Chairman, I move its adoption and that it be printed in Bar Briefs.

PRESIDENT SOULE: Is there a second to Dean Thormodsgard's motion?

MR. HERIGSTAD: I second the motion.

(Motion carried.)

PRESIDENT SOULE: The Dean has another report.

DEAN THORMODSGARD: This report is on the Model Probate Code. Your Committee on Uniform State Laws submits the following report:

It is of interest to North Dakota Lawyers to know that there is a tie-up between this state and the "Model Probate Code". Professor Thomas E. Atkinson served as Associate Professor of Law in the University of North Dakota School of Law from 1922 to 1925. In the fall of 1925 he enrolled in the graduate division of Yale Law School and was awarded in 1926 the S.J.D. degree. Since that time he has taught law in Kansas, Missouri and now at the New York University School of Law. In 1939 and 1940, Professor Atkinson published three articles in the Journal of the American Judicature Society, the titles of which are as follows:

1. Organization of Probate Courts and Qualifications of Probate Judges.
2. Old Principles and New Ideas Concerning Probate Court Procedure.
3. Wanted - A Model Probate Code.

In the last article, Professor Atkinson recommended the preparation of a Model Code primarily for the purpose of serving as a guide to legislative assemblies in those states where reforms are needed. At the 1940 meeting of the American Bar Association, the chairman of the Division of Probate Law recommended that "work on a model probate code be adopted as part of the regular program of the Probate Law Division". Mr. R. G. Patton of Minneapolis, author of "Patton on Titles," was of the opinion that if the Section of Real Property, Probate and Trust Law prepared a Model Probate Code, it may "receive the approval of the National Conference of Commissioners on Uniform State Laws and the American Bar Association, so as to become one of the Model Acts."

A committee of five was selected to prepare the Model Probate Code. They were R. G. Patton of Minneapolis as Chairman; Thomas E. Atkinson of the University of Missouri School of Law; E. S. Barr of Boston, Massachusetts; H. D. Henry of Denver, Colorado, and Mary F. Lathrop of Denver, Colorado. By 1943, it was admitted that additional assistance would be required. Arrangement was made by the Committee of the Probate Division that the University of Michigan Law School Research Staff should carry on the research work for the Committee. R. G. Patton, Professor Atkinson of Missouri, Research Associate Paul E. Bryse and Pro-

fessor Lewis M. Simes of Michigan Law School were appointed as members of a subcommittee on drafting the Code.

Preliminary drafts of the Model Probate Code were mimeographed and mailed out to the leading experts on wills and administration for their advice, suggestions and criticisms. Over a period of years, ten distinct tentative drafts were prepared and mailed out. These drafts were revised in the light of the suggestions and criticisms which were received. At the annual meeting of the American Bar Association in Cincinnati in December, 1945, the Committee reported the complete Code. The Model Probate Code was formally approved by the Section of Real Property, Probate and Trust Law of the American Bar Association at its annual meeting on October 29, 1946, at Atlantic City, New Jersey.

The Model Probate Code is one of the Acts which was drafted by other organizations and approved by the National Conference of Commissioners on Uniform Laws. It should be noted that the Model Probate Code is a Model Code, not a Uniform Act. Uniform Acts are prepared on those subjects where uniformity among all the states is deemed desirable and practicable. Model Acts are prepared on subjects suitable for interstate compacts and subjects in which uniformity will make more effective the exercise of state powers and promote interstate cooperations. The Model Probate Code was prepared in order to provide a guide to legislators in those states where reforms are needed. In the words of Chairman R. G. Patton: "In presenting the Model Probate Code to the Section in its final form, it is the belief of your Committee that either as a Code complete in itself, or as a fundamental probate law on which to build a larger legislative superstructure, it can be recommended without qualification to the legislative authorities of any jurisdiction in which probate reform is sought."

Your Committee on Uniform State Laws recommends to the North Dakota Bar Association that the President of the Association, with approval of the Executive Committee, appoint a Committee of five to make a detailed comparison between the Model Probate Code and the North Dakota Probate Code; to determine what changes are necessary; to draft the necessary bills for amending the North Dakota Probate Code; and to make a final report to the Association at its 1950 annual meeting.

This subject matter is of such importance that we believe that the report and recommendations of the Probate Code Committee would be a timely topic for one of the sectional meetings in 1950. The Committee on Uniform State Laws also recommends that this Model Probate Code Committee be selected on a state-wide basis and should include sound and thoughtful county judges and competent members of the bar. The Probate Code Committee, to be appointed, should have several conferences during the year and prepare a draft of the Revised Probate Code. It is also recommended that the Executive Committee be authorized to pay the necessary expenses of the Probate Code Committee.

Mr. Chairman, I move that the report be accepted and printed and referred to the Executive Committee.

PRESIDENT SOULE: Thank you, Dean Thormodsgard. Is there a second to the Dean's motion?

MR. LUNDBERG: I second the motion.

(Motion carried.)

PRESIDENT SOULE: We have another item carried over from yesterday, and that is a report by Professor Ross C. Tisdale as to the advisability and possibility of a Revisor of Statutes in North Dakota. Professor Tisdale.

PROFESSOR ROSS C. TISDALE: Mr. President and members of the North Dakota Bar. Your Committee on Revisor of Statutes submits the following report:

An investigation of the various statutory provisions dealing with revision of statutes indicates an ever increasing interest in the subject. Lack of control over the type and form of statutes requires periodic revision. All too frequently such revisions in the past have been delayed for long periods of time, chiefly because of the expense involved. Such has been the experience in North Dakota, where revision was delayed for forty-eight years—1895-1943. If we include the cost of publication, that revision entailed an expenditure of over \$100,000. Rather than run the danger of such a delay in the future, it is the opinion of your Committee that a system of continuous revision should be set up in North Dakota.

Your Committee feels that continuous revision of statutes will supplement the work of the Legislative Research Committee. That Committee now edits and publishes the Session Laws, correlating them with the 1943 Revised Code. The Committee is of the opinion that a statutory revisor should be appointed to take over this task as an integral part of his work. This division of functions is an entirely logical one. The Legislative Research Committee is primarily concerned with new legislation. It is a fact-finding body and its viewpoint is prospective and concerns matters of policy. On the other hand, the revisor of statutes is primarily concerned with details—matters of form and style. His primary function is to correct the errors of the past. His value will increase as he becomes expert in handling the Code provisions unit by unit.

The functions of the revisor are thus outlined by Robert K. Cullen, Revisor of Statutes for Kentucky, in "Mechanics of Statutory Revision," 24 Ore. Law Rev. 1 at p. 2:

"(1). To determine what statutes are nominally in force, and to obtain accurate copies of such statutes."

"(2). To eliminate, from the body of statutes nominally in force, those statutes and parts of statutes that actually are not in force by reason of obsolescence, unconstitutionality, implied repeal."

"(3). To bring together, under a logical classification system, those statutes and parts of statutes, which, because of similarity of subject matter, properly belong together, and, having done so, to eliminate those statutes that are found to be duplicated or repetitious."

"(4). To simplify and clarify the statutes that remain, by rejecting equivocal and ambiguous words, circuitous and tautological phraseology, and verbose and cumbersome stylizations, and by restating the statutes in clear and perspicuous language, capable of being understood by every person of whatever avocation who can read with intelligent understanding the American English tongue."

"(5). To arrange the statutes relating to each subject in a logical sequence and according to a consistent plan."

"(6). To publish the statutes in the most convenient and usable form,

with such aids to use in the form of numbering cross reference, tables, indexes, and sub-indexes as will best facilitate the locating of the law on any subject."

At least ten states now have adopted some system of continuous statutory revision. At least seven of these have vested revision matters in a single person whose sole responsibility is to control matters of style and form and publish the statutes. The advantages of such a plan would be:

1. Development of an expert editorial staff.
2. Continuity leading to a more clear, compact and complete body of statutes.
3. A reduction in the bulk of statutes.
4. Better correlation of judicial construction with statute law.
5. More complete deletion of obsolete statutes.
6. Prevention of confusion by making implied repeals express.
7. Creation of a clearing house to correct errors, omissions, conflicts and other defects as they come to the attention of lawyers, judges and administrators.
8. Improvement of indexes, tables, and annotation of statutes.
9. Reduction of cost and delays in publication.
10. Greater certainty in the administration of justice.

The statutory revisor system has proved highly successful in other states. It has been in effect in Wisconsin since 1910, and lawyers in that state purchase a two-volume set of Wisconsin Statutes every two years, containing a republication of the entire Code as amended by the last legislature. The set, before the War, was priced at \$5.00. Kentucky, with a similar plan, sells its statutes at \$9.50. Minnesota has a similar plan, but has created a revolving fund from the proceeds flowing from sales of statutes and pamphlets on particular subjects.

Whether North Dakota should adopt a plan of complete republication every biennium is a matter of policy upon which your Committee expresses no opinion. Our present plan of correlating the Session Laws with the Code would be less expensive, and if cumulative, entirely practical. State ownership of the print, coupled with a revolving fund should make our present plan very economical. The cost of establishing such an office cannot be estimated with any degree of accuracy. Once the office has been established, however, salaries become the principal element in cost of operation.

Your Committee respectfully suggests that the office of Statutory Revisor can be established with little or no additional expense by appointing an assistant to aid the existing Director of Research.

Mr. President, I move the adoption of the report and also move that it be referred to our Legislative Committee for further study.

PRESIDENT SOULE: Thank you, Professor Tisdale. Is there a second to the motion?

MR. PAUL AGNEBERG: I second the motion.

MR. DAY: Mr. President.

PRESIDENT SOULE: Mr. Day.

MR. DAY: I would like to ask the Chairman of the Committee whether the Committee feels that it is inconsistent to have the Legislative Re-

search Committee, through their Director, assume the responsibility outlined in the report.

PROFESSOR TISDALE: Mr. Day, I wrote a brief article in Bar Briefs, expressing my own personal opinion that this Committee should be a separate committee; but in drafting the paper I just read, I assumed that our chief interest would be expense. We wanted to do something that would meet with the approval of the Legislature and that probably it should be adopted. I think Kansas has—I am not sure it is Kansas, there is one state that has a system as we have here, a Legislative Research Committee and a part of that Committee is the Revisor of Statutes. It has worked very successfully.

MR. DAY: I would like to ask a further question, as Chairman. Does the adoption of this motion in effect amount to an endorsement by this Association of the idea of a separate office of Revisor of Statutes or does the adoption of this motion merely mean that the matter is being referred to the Legislative Committee of this Association for further study?

PROFESSOR TISDALE: I think, Mr. President, that I failed to express myself clearly. I meant that it should be referred to the Legislative Committee for further study.

PRESIDENT SOULE: Are there any further questions?
(Motion carried.)

PRESIDENT SOULE: Yesterday morning, when we were sort of pushing things along, Professor Blinn was prepared to make a preliminary report on his survey of our North Dakota court system, and in particular of our Justice Courts, and he had to leave so you will recall I made a very brief report for him. Since then, our Executive Director has handed me a copy of Mr. Blinn's report, and in addition to outlining the result of his survey, he ends up:

"It was the thought of the writer that the Judicial Council should consider this matter and that it would be advisable for me to meet with the Council for such purposes so that my investigation and study may follow the lines desired by the Council."

That is the only recommendation contained in the report, and it seems to me that in view of the work Professor Blinn has gone to, someone should move that his report be included in the record of this meeting. May I have such a motion?

MR. JOHN A. STORMON: I think it should be referred to the Judicial Council, in being received, so that they have the report. I would like to have that included in the motion, and I so move.

MR. HERRIGSTAD: I second the motion.
(Motion carried.)

PRESIDENT SOULE: I would like to recognize the Secretary-Treasurer, Mr. Burdick.

MR. EUGENE A. BURDICK: Pursuant to the direction of the Executive Committee, I prepared a suggested amendment or suggested amendments, rather, to the By-laws. The first deals with the election of Presidents of the respective District Bar Associations and the second one deals with the nomination of candidates for membership of the State Bar Board.

Mr. President, I move to file the following suggested amendment to the

Constitution of the State Bar Association of North Dakota, to be voted upon at a succeeding annual meeting of the Association:

"The Executive Committee shall consist of the President and Vice President of this Association, the Presidents of the several District Bar Associations of the state as such districts are now or may hereafter be organized, the Dean of the School of Law of the University of North Dakota, and the President whose term of office expires in the preceding year, and the latter shall be a member of the Executive Committee until the next annual meeting after the expiration of his term as President of the Association. The Presidents of the several District Bar Associations shall be elected for a term of two years, those in the even numbered districts being elected in even numbered years and those in odd numbered districts being elected in odd numbered years.

In the event a vacancy shall exist in the office of President of any District Bar Association, the President of this Association shall appoint, from the territory of such District Bar Association, a member for the Executive Committee who shall serve thereon for the remainder of such unexpired term. The Secretary-Treasurer of this Association shall act as Secretary of the Executive Committee, but he shall have no vote."

PRESIDENT SOULE: Will someone second Mr. Burdick's motion that this proposed amendment be received and filed?

MR. DAY: I second the motion.

PRESIDENT SOULE: Is there any discussion? You understand, under our By-laws all proposed amendments have to be submitted in this manner and then they come up for action at our next annual meeting.

(Motion carried.)

MR. EUGENE A. BURDICK: Mr. President, I move to file the following suggested amendment to the By-laws of the State Bar Association of North Dakota to be voted upon at a succeeding annual meeting of this Association:

"For each appointment to be made to the State Bar Board the Executive Committee shall select three members of the Association in good standing to be submitted to the Supreme Court. Members of the Association may make additional nominations by a Petition signed by 10 members which shall be timely filed with the Secretary. Reasonable notice shall be given in Bar Briefs of the time within which such Petition must be filed. If additional nominations are made, the Secretary shall then prepare a ballot, which shall contain the statement 'nominated by petition' after all names so nominated. The ballot shall be mailed to each member of the Association thirty days before the day when it must be returned, of which date notice shall be given by the Secretary when sending out the ballot. The president shall appoint a canvassing committee to canvass the ballots. Those receiving the highest number of votes, up to the number of nominees to be chosen, shall be presented to the Supreme Court as nominees of this Association for members of the State Bar Board."

PRESIDENT SOULE: Is there a second to Mr. Burdick's motion that this

proposed amendment be received and filed, to be acted on at our next annual meeting?

MR. CRABTREE: I second the motion that the proposed amendment be received and filed.

(Motion carried.)

MR. EUGENE A. BURDICK: Mr. President, while I am here, I would like to move that the newly elected President, Honorable Fred Graham, be nominated and elected delegate to the American Bar Association, representing our Association, and that the newly elected Vice President, Mr. Bangs, be elected alternate, and that both of them be authorized and requested to attend the meeting of the American Association to be held in St. Louis in September.

MR. MACKOFF: I second the motion.

MR. REMINGTON: Mr. Chairman, I would like to understand that motion. I think surely Mr. Burdick meant their attendance at that convention would be at the expense of this Association.

PRESIDENT SOULE: Yes, sir, that was the intent of the motion. It will be so interpreted.

(Motion carried.)

MR. MACKOFF: I will make a motion that the Secretary and the Executive Director likewise be authorized, at the expense of the Association, to attend this convention.

MR. STRUTZ: I second that motion.

MR. MACKOFF: I think they will do us a lot of good in going down there.

MR. EUGENE A. BURDICK: I would like to move that the Secretary-Treasurer be restricted from that. I don't think it is necessary to send four of us down at the expense of the Association, but I do believe that the Executive Director should go.

PRESIDENT SOULE: I think, Mr. Burdick, our rule is that the motion is out of order. Mr. Mackoff, if we pass the motion as made by you, he can think it over and if he later elects to go, the way will be open for him.

(Motion carried.)

PRESIDENT SOULE: We have passed up one or two reports during the meetings, but I think we will have time now to consider them briefly. The first one we passed on the morning of Thursday, August 11th, was that of the Lundberg Resolutions Committee. Mr. Vernon Johnson was Chairman.

MR. VERNON M. JOHNSON: Mr. Chairman. After the naming of this Committee, we had some correspondence and we felt that the best way in which this matter could be accomplished or a satisfactory decision made as to what should be done was to consult with the Judicial Council. The President, apparently had something like that in mind, because the members of the Committee were all of the practicing lawyers that had been appointed to the Judicial Council.

The Bar Association appropriated some money for the purpose of having meetings with the Judicial Council, but during the past year there haven't been any meetings of the Judicial Council, so that our Committee feels that this Lundberg Resolutions Committee, so-called, should be continued, as we understand there is going to be a meeting of the Judicial Council in September, and that the incoming President ap-

point as members to that Committee the practicing lawyers whom he names as members of the Judicial Council to that they will meet at the same time to take this matter up with the Judicial Council, and then make a report at our next meeting. That suggestion and that report meets with the approval of Mr. Lundberg, and I move that that resolution be adopted.

PRESIDENT SOULE: Thank you, Mr. Johnson. Is there a second to Mr. Mr. Johnson's motion?

MR. O. B. BENSON: I second the motion.
(Motion carried.)

PRESIDENT SOULE: During the year, we were invited to participate in a State Safety Conference at Minot, and through our Executive Director we learned that George Longmire of Grand Forks was going to attend that conference at the expense of Grand Forks County; so we appointed George as our one-man committee to attend the conference and represent the Bar Association. George is here this morning, and we would like to introduce him and have him come forward for a very, very brief report.

MR. GEORGE LONGMIRE: The Second Annual North Dakota Safety Conference was held at Minot State Teachers College, Minot, North Dakota on June 13th and 14th, 1949. The writer represented the North Dakota State Bar Association and was also Vice-Chairman of the Conference and in charge of the Committee on Community Safety Councils.

The Conference consisted of General Sessions and Sectional Meetings. There were Sectional Meetings held on each of the following phases of safety, Traffic, Mine, Farm, Aviation, Industrial, Motor Transport and Community Safety Council.

There were some one hundred fifty delegates representing various organizations throughout the state interested in the promotion of safety attending the Conference and a much larger number attended the final banquet on June 14th.

As stated, the writer attended all meetings of the Community Safety Council Section. Mr. Tom A. Burke, Leader and Director of Local Safety Programs, National Safety Council, Chicago, Illinois, attended all meetings of this Section and led the discussions.

Bismarck, Fargo, Grand Forks, Jamestown and Minot Safety Councils were all represented at these meetings. There was also a representative from Rugby where plans are under way at the present time for the organization of a local Safety Council.

By way of background the local Safety Councils in the state were organized some three or four years ago at the request of Governor Aandahl and have been active since that time in promoting and working toward better conditions in all phases of safety since their organization. These local Councils were financed on a voluntary basis and carry on a different phase of safety each month in their monthly programs.

Mr. Burke was very well pleased with the progress made in the local Safety Councils in the state and encouraged the forming of additional councils. He also gave to the group the experiences of many other local Safety Councils throughout the country which were found to be very helpful.

On Monday June 13th Lieutenant Governor C. P. Dahl represented

Governor Aandahl in addressing the General Session of the Conference. Addresses were also given at this time by Mayor H. C. Kiehn of Minot and by Mr. Burke. Mr. Burke spoke upon the subject "Planning the Safety Program." Also in the afternoon General Session on June 13th addresses and demonstrations were given by A. J. Klaudt, State Highway Department and Glenn C. Forrester, Ph. D., Niagara Falls, N. Y. Dr. Forrester made a demonstration of the "Intoximeter," the latter being a device used by Law Enforcement Officers in the states of Michigan and Delaware for the purpose of determining the extent of intoxication of drivers involved in accidents. According to Dr. Forrester the Courts of those states upheld the findings in this respect and admit such findings as evidence in the prosecution of reckless and drunken drivers. It was the general feeling of those present at the demonstration that the "Intoximeter" was a practical device in connection with the enforcement of the traffic laws and further studies should be made of its looking toward its use in our own state.

Various resolutions were passed toward the close of the meeting, one of the resolutions providing that the Governor of the state be requested to appoint a committee to make arrangements for organizing a State Safety Council correlating the work that was being done by the local Safety Councils previously mentioned and for the purpose of assisting other cities in the state to organize local Safety Councils. This resolution has been presented to the Governor for the necessary action.

The body voted to hold the Third State Safety Conference at Fargo, North Dakota sometime in June of 1950.

Respectfully submitted,
George Longmire
Grand Forks, North Dakota

PRESIDENT SOULE: I would now like to recognize Mr. Oscar Benson, Chairman of our Resolutions Committee.

MR. O. B. BENSON: Your Committee on Resolutions reports as follows:

That it is impressed with the high standards of work done by our Association during the past year under the able leadership of President George A. Soule, through Executive Director Davies, Secretary-Treasurer Burdick, the Executive Committee and the various special committees. Reports given at our meeting indicate in every instance intensive study, research and investigation of the various matters handled. Your Committee on Resolutions commends the quality and quantity of the work accomplished.

That it recommends the adoption of the following resolution:

Resolved by the State Bar Association of North Dakota that it hereby indorses and approves and gives its support to the passage of the pending proposed bills S. 1681 and H. R. 5647 prohibiting picketing of Federal Courts with the intent of interfering with the administration of justice, and, be it further resolved that a copy hereof be sent immediately to each member of the North Dakota delegation in Congress, urging immediate and favorable consideration of such legislation.

I would like to say this was proposed by President Harrison of the Minnesota Bar Association. He reported that the Minnesota Bar As-

sociation had adopted a similar resolution. Very briefly—and I know very little about it—the Senate Bill provides that there shall be no picketing of Federal Courts or the residences of the Federal Judges or jurors, and that is the basis, I believe, of the resolution. Perhaps you have a word that would be helpful to add to that.

PRESIDENT SOULE: We received a copy of the bill and resolution to which Mr. Benson has just referred from whatever committee is handling it for the American Bar Association. As I understand it, they have already adopted such a resolution or will at St. Louis in September, and they are asking the state associations to adopt a similar resolution, and that is why we have the matter before us today.

MR. BENSON: That it recommends that a special committee or committees be selected to study the following:

1. Recommendation of the Sectional Meeting on Probate Administration.

2. Recommendations of the Sectional Meeting on Title Standards.

On Probate Administration, those of you who attended those sectional meetings or one of them know what the content of that recommendation is. Mainly, it is a change in the procedure of acquiring jurisdiction in County Courts. Those of you who attended the sectional meetings on Title Standards will likewise remember the gist of that recommendation.

As to No. 3, I want to say this, in all fairness to the members of the committee, that we did not have the opportunity of discussing this with the full committee. Mr. Johnson had to go back to Bismarck last evening, I believe. I did not have a chance to talk to Mr. Holand nor did I talk to Mr. Nostdal and Mr. Stormon was not particularly in favor of it, so you can well imagine how sketchy this third one is. It is as follows:

Whether or not a change should be made in our laws so as to provide that in any damage action the insurer shall be joined as a party defendant as well as the insured.

Let me call your attention to this: All we are recommending, if it is included, is that it be referred to a committee or committees for study and this is the concluding part of the recommendation, and that such committee or committees report to the next meeting of our Association.

That it recommends that the director's staff of the Legislative Research Committee be increased to two or more lawyers during the session of the Legislature in order to provide adequate assistance, council, and aid to members of that body in the preparation and drafting of bills and resolutions.

I think it is true, from what the former Attorney General said, and others, that there is a dearth of adequate and proper legal counsel available for the members of the Legislature. It wouldn't be with the idea that we are telling the Legislature as lawyers what they should do, but rather to be of any assistance that we possibly could be to that body.

That it recommends that the Presidents of the District Bar Associations be elected for a term of two years and that those in the odd numbered years and those in the even numbered districts be elected in the even numbered districts be elected in the even numbered years.

This matter has been incorporated in the amendment proposed by Mr. Burdick a little while ago.

That the Bar Association of North Dakota extend its thanks to the following:

1. The American Bar Association, The American Law Institute, and Committee for Continuing Legal Aid for their assistance in our one-day tax course on the 1948 Revenue Act, and other helpful assistance given us in the entire program of our Association.

2. To the President of our Association, the Executive Director, Secretary-Treasurer, and Executive Committee and all special committees for their loyal support to the Association during the past year.

3. To Mayor Dawson and city officials of the City of Fargo, to the Board of Education of the City of Fargo, the American Legion and all those who contributed to make our stay pleasant and comfortable.

I might add, in spite of the heat. The Fargo delegation and the Cass County Bar had nothing to do with that, so far as I can understand it. They have indeed made our stay here very pleasant, as I say, in spite of the heat.

4. To President Harrison of the Minnesota State Bar Association, and to President McFarland of the South Dakota Bar Association for attending our convention and to former President Gibson of the Minnesota Bar Association and Public Relations Director Jordan for their support to our Association on the subject of Public Relations.

5. To the Cass County Bar Association and especially to the General Convention Chairman, James F. X. Conmy, and Sectional Committee Chairman, Norman G. Tenneson, and to our State officers for preparing and arranging one of the finest conventions ever held by our association.

I move, Mr. Chairman, that the report be adopted.

PRESIDENT SOULE: Is there a second?

MR. NOSTDAL: I second the motion.

PRESIDENT SOULE: Are there any questions?

MR. STRUTZ: Did I understand one of those recommendations to be that insurance companies be joined with the insured as co-defendant?

MR. BENSON: I think, Mr. Strutz, you understood correctly.

MR. STRUTZ: If that is the case, we will have to vote against the whole thing because I think that is absolutely wrong.

MR. BENSON: Let me clarify that for you, Mr. Strutz. The recommendation is that a special committee or committees be selected to study and to report to the next meeting of our Association.

MR. STRUTZ: That is all I want.

(Motion carried.)

MR. BURTNESS: Mr. Chairman, do you think it would be advisable to put the former Attorney General on that special committee?

MR. VERNON M. JOHNSON: I have an idea along the line that there have been several suggestions made here about proposed legislation. I would like to interject an idea here. In 1947 it was mentioned. There have been several ideas proposed here for further study with the idea of eventually presenting them to the next legislative session. Dean Thorndsgard made the suggestion that the Model Code, Probate Code, be referred to some committee and probably made the subject of a sectional meeting.

In 1947, I was chairman of the Legislative Committee, and it developed

that we didn't have any particular meeting a week or so after the legislative session was underway, and then we called all of the lawyers together in one of the large rooms in the Patterson Hotel and we sat around there for three or four hours. The longer we sat there, why, the more ideas we had as to things that should have been proposed to the legislative assembly for correction. One of the changes made during that session was the matter of reducing the number of notices on a quieted title action from six to three. The only reason we got it through was that that was the session that the publishers increased their fee and they didn't think it would be wise for them to oppose us on the matter of reducing the number of notices.

The difficulty with that type of procedure was that I think we had some fourteen ideas that we wanted to incorporate into amendments and so on, and it was a matter then of assigning one or two of these ideas to the various members that were present to draft them into law. Everybody was busy and, of course, I think that there were probably some mistakes made in the drafting because it was done in a hurry. We did succeed in passing twelve of those fourteen ideas that we drafted into law.

It is my thought, based on the experience that we had there in 1947 and on this further idea, while I was in the legislature various members would come to me with a letter that they had received from some lawyer in their district or some judge in their district with an idea that it should be passed at that legislative session. At these sectional meetings that I have attended here during this convention, there have been various ideas advanced that should be changes in our law. I think Dean Thormodsgard made a suggestion that is a good one, and that is, at the next session of our Association we have one sectional meeting devoted to proposed changes and that during the coming year or at any other time that any member of the bar, any time in the course of your practice you run into something that you think should be changed, get mad about it, and then by the time the legislature meets you don't do anything about it. If we have it understood that we could send that idea about an amendment we think should be made to the law to our Executive Director and he in turn can hand it over to our legislative committee, then all of those proposed changes could be made the subject of a sectional meeting and we could get the reaction of the members of the bar. Then, in turn, those that we can agree on, those changes that should be made—and after all, it is our responsibility as far as procedure and so on is concerned—we could then have our Executive Director or someone else hired for that purpose draft these ideas that we agree on, these changes that should be made, into law, and then present them to the Research Committee for further study.

In that way, the changes we suggest, we would have plenty of time to work them up into the proper shape and run them through the Research Committee and have them introduce the bills. For the most part, they will be non-controversial. I think in that way a great many of the changes that we feel are needed could be adopted in an orderly fashion and all the members of the bar would have some agency they could go to.

I think the present arrangement of sending a letter to the representa-

tive or senator is very unsatisfactory and also it results in slipshod legislation. I am just tossing this out as an idea. I know in the sectional meetings there are changes suggested, and I attended the one that Phil Vogel had and there were several changes that he would recommend. I think the proper place to consider them would be in a separate sectional meeting. If we could agree on certain of these matters, they could then be presented at the next legislative session.

PRESIDENT SOULE: Thank you, Mr. Johnson. You very ably outlined a sort of a general plan that has been back of this entire meeting. We felt that by having these matters presented, that we could work them through the process that Mr. Johnson has outlined so that by the time of our next legislature our Bar Association will have some measure for it.

MR. JOHN A. STORMON: Mr. President, there is one matter in the report of the Resolutions Committee that I don't think was adequately handled, and that was the matter of public relations as presented by the Minnesota State Bar Association at the dinner last evening. I would like to move that the matter of public relations be referred to the Executive Committee, with the approval of this Association, to take such action as they may determine during the year.

PRESIDENT SOULE: You have heard Mr. Stormon's motion. Is there a second?

MR. LUNDBERG: I second the motion.

(Motion carried.)

PRESIDENT SOULE: Unless there is something else to come before this group, I would now like to recognize Mr. Myron Bright, the hard-working Chairman of our Law Book Prize Committee. While he is bringing those in, I would like to read a poem that Corbin Waldron, our North Dakota poet, handed to me this morning. I suppose it refers to me so I suppose that someone else should read it, but if you will bear with me, I will try to read it here.

"1949

AUGUST ASSEMBLY

The schedule of attorney's fees
Was searching and complete—
A lawyer still can set his own
And know that he is not alone—
(He's still supposed to eat!)

But Burtness, (having made his wad)
Would have us leave *our* fees to God—
We here commend the lads who went
For keeping them at three per cent,
Although we'd rather have the Lord
Decide them than some Welfare Board!

When Zuger dug into the law,
On Titles coming through the State,
He lost his reverence and awe
For County Boards that legislate.

No title perfect can he find
Where everything was kept in mind;
So just one answer to the plight'll
Be sufficient; quiet title!

Adoptions are so complicated,
They drive the lawyers addlepat!
When we adopt 'em we'll keep turnin'
To outlines of the learned Vernon.

From corporations men may scurry
To take on partnership's new worry,
Then back they go, with rapid fire,
As taxes keep on going higher.
We thank Phil Vogel for oration
On legal income tax evasion.
We heard his discourse most profound,
But can't find business gains much ground!

The changes in the law, by Duffy,
Are what he designates a "gouthie;"
He makes the changes, then repents
For words that don't express intents.
And when the purpose finds expression,
They kill it at a later session!

This 1949 convention
Had fruits too great to mirror mention,
Your draftsmanship was most outstanding,
Your preparation was commanding.
In every way it met its goal.
It proved Cass County had a Soule!

Lest someone here let's loose with mayhem,
We'll leave the future safe with Graham!"

I don't know, it seems to me that this should be received and filed and made a part of the record.

MR. HERIGSTAD: I so move.

MR. BYRNE: I second the motion.

(Motion carried.)

PRESIDENT SOULE: Mr. Bright.

MR. BRIGHT: If there is anyone who hasn't registered for these drawings, you can do so now. There are three drawings. There are some prizes in merchandise from Ridley's Office Equipment and that is the yellow stuff in this basket here. The next box is for a complete set, I think it is eight volumes of Williston on Contracts which we don't have yet, but which Mr. George May, the salesman for Lawyers Cooperative Publishing Company, states his company is going to give to someone. That drawing, by the way, is open not only to our guests of Cass

County at this meeting, but also any members of the Cass County Bar. If you haven't registered for that, you can do so now. In the third box are the prize drawings covering the complete set of Dakota Digest, a six-volume work of Jones Commentaries on Evidence and three binders for advance sheets.

Whereupon, drawings were had and the following awards were made:

MERCHANDISE FROM RIDLEY'S OFFICE EQUIPMENT:

1st prize—\$50.00—George E. Duis

2nd prize—\$25.00—J. H. Newton

3rd prize—\$10.00—Pershing Boe

SPECIAL AWARDS:

Oldest lawyer attending—L. R. Nostdal—"Principles of Roman Law and Their Relation to Modern Law" by Burdick.

Youngest lawyer attending—Melvin Christianson—"The Successful Practice of Law."

Second youngest lawyer attending—Dean Winkjer—"Taxation for the Lawyer."

Third youngest lawyer attending—Ralph B. Maxwell—"Summary of American Law" by Clark.

Eugene A. Burdick—"Stability" by F. E. Desseuer.

Robert E. Manley—"Jones on Evidence."

Eugene A. Burdick—Dakota Digest.

Joseph P. Stevens—"Williston on Contracts."

PRESIDENT SOULE: Thank you, Mr. Bright.

MR. DAY: If I am in order, I would like to move that at the next session of this Bar Association there be a section of proposed legislation as outlined by Vernon Johnson.

MR. VERNON M. JOHNSON: I second the motion.

(Motion carried.)

MR. EUGENE A. BURDICK: I would like to make one announcement. We are contemplating sending out a kind of a form for you to fill out, giving your biographical information so that we may have it on file with the organization in case of death or in case of some noteworthy accomplishment that any of you might experience. We will have it so that we can refer to it. I would like to have all of you give us your full cooperation in filling out that form which will be sent to you with one of the forthcoming issues of Bar Briefs. Fill it out to the best of your ability and return it please.

PRESIDENT SOULE: Thank you, Mr. Burdick. In concluding, we certainly want to thank all of you for staying here during this hot weather and working as hard as you have. I thought as a very concluding act, that we would ask former President Mackoff to bring our incoming President, Mr. Graham, to the platform and I will then turn over to him the reins of office.

MR. MACKOFF: Mr. President, the last day or so I have been trying to convince you that your term of office is at an end, invited you to the Past Presidents luncheon and you didn't attend for fear that you might think your term is over. However, time has run on you and we enjoyed the office that you have officiated in and the service that you

have rendered to the members of the bar; but your office is about to terminate. As a reminder, I want to present the new President, the incoming President, Judge Graham, who will take over from now on. (Applause.)

PRESIDENT SOULE: For the benefit of the record and for the benefit of Mr. Mackoff and Carroll Day, I now admit that I am a past President and I hereby convey and transmit to Fred Graham, our new President, all the power and everything else that goes with the office of President of the State Bar Association of North Dakota. I wish you a lot of luck.

PRESIDENT ELECT GRAHAM: President Soule, Mr. Mackoff, and members of the bar. I hate to see time run on Mr. Soule as it has here because he has made a very good President. There is one thing I can look forward to and that is that he is going to be a member of the Executive Committee so I will have the benefit of the formation and knowledge which he has acquired during the past year. I also will have the same thing with Mr. Mackoff and I know that I will have that from each and every one of you. In order to do the best thing for the Bar of the State of North Dakota and the people of North Dakota, it is necessary that I have that information and observation from each of you.

I know that in serving during the four sessions of the legislature there was no time that I can recall that the vote was unanimous on any measure which I supported. It has come very near it two or three times but you gave me the distinction here of its being unanimous, and that is what I desire to have during the ensuing year. I might say this, that I served as Chairman of the Judiciary Committee as well as Mr. Day did in the Senate. Sometimes we agreed on measures but sometimes we had this experience: We thought they were good bills and we passed them in the House. When they got over to the Senate and were referred to Mr. Day's committee, he would sometimes bring in an adverse report for what we thought were insufficient reasons. Once in a great while the Senate would not agree with him and would overrule him, but most of the time he had good control of the Senate.

Going a step further, I would like to have each of the District Bar Associations have a meeting during the ensuing year, and I can assure you that if you do and you extend an invitation to me, I will try my very best to be there. In the event I cannot come, I will ask my Vice President to represent me. I think we should have more of these meetings and I think, also, that there should be more attorneys in the House and the Senate. I believe at the present time there are three in the Senate, Mr. Day, Mr. Shure and Mr. Duffy. In the House there were four, Mr. Stormon, Mr. Murray, Jr., Mr. Brickner and myself. I believe it would be of advantage to the people of the state if there were, say, at least four more in the House and one or two more in the Senate, notwithstanding the fact that a considerable number of the legislature seem to have a prejudice or feeling against the members of the bar. As a whole, not the members of the bar individually.

I think we need to do what they are doing down in Minnesota to bring to the attention of the people the function which the attorneys have here in the State of North Dakota and which they have had ever since the commencement of this government. We know that a great

many of the signers of the Constitution were attorneys and many of the signers of the Declaration of Independence were attorneys and a great many of the Presidents of the United States have been attorneys, so that we have something to be proud of. I do not think we should any longer sit back and accept the criticism without getting to the truth of the matter so that the people as a whole can judge upon these things.

In closing, I wish to say that I thank you for this endorsement which you have given to me and I am sure that the members of the Executive Committee and myself will do our very best to follow out the footsteps that have gone before us and perhaps to bring in some new things. I thank you.

MR. MACKOFF: Mr. President, I don't know what other business you may have here, but before we proceed with anything further, notwithstanding what I said a moment ago, I want to now make a formal motion of appreciation to be extended here to the outgoing President, the past President, of this Association for a very splendid job that he did during his term of office. He has gone out of his way a great deal and we, the Association, have done a great deal of work. I want to ask for a rising vote of thanks and appreciation to him and to the Executive Committee and the others who worked with him, including our genial Secretary and the Executive Director who have worked so diligently during the past year and brought about the results that they have. I ask for a rising vote.

MR. BURTNES: I second that motion.

(Standing vote of appreciation, and applause.)

PRESIDENT GRAHAM: I understand that you are in favor of the motion notwithstanding what you have already said. If there is nothing further to come before this meeting, a motion for adjournment is in order.

PAST PRESIDENT SOULE: As a past President, I would like to move we adjourn.

EXECUTIVE DIRECTOR DAVIES: I will second the motion.

(Motion carried.)

Whereupon, the meeting was adjourned.