



1945

## President's Page

Roy A. Ployhar

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# BAR BRIEFS

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## STATE BAR ASSOCIATION OF NORTH DAKOTA

M. L. McBride, Editor

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### PRESIDENT'S PAGE

Dear Fellow Lawyers:

The meeting of the American Bar Association was held in Cincinnati, Ohio, on schedule, and I understand that there were about eight hundred members present. This was a very small attendance for the annual convention, but the traveling facilities and the time of year were important factors in reducing the attendance. North Dakota was represented by both of its delegates, namely; Attorney Herbert G. Nilles, of Fargo and myself. It was a very busy convention and no one had very much time for outside activities. A good deal of the discussion centered around problems of an international nature and a good many resolutions were passed and approved requesting Congress to take certain actions on matters pending before it.

The new president is Attorney Willis Smith of North Carolina and from my personal observation, I would say that he would be a very capable leader for the next year. I made it a point to contact him personally about attending the next annual meeting of the North Dakota Bar Association but he could not make any definite promise. He suggested that I write to the Chairman of the Budget Committee with reference to his possible itinerary. The Chairman of the Budget Committee is attempting to arrange a meeting of several State Bar Associations at Yellowstone Park and if that can be done, Mr. Smith expects to attend. There is still a possibility that we may be able

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to secure his attendance at our next annual meeting, but this is dependent upon several factors beyond our control.

I will report any further developments as soon as the information is available.

Sincerely yours,  
ROY A. PLOYHAR  
President.

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### GUARDIAN ad LITEM IN DIVORCE CASES

(Editor's Note: The following article written by the Hon. Chester D. Adams, Judge of the Fayette Circuit Court of Kentucky, was published in the June, 1945, issue of the Kentucky Bar Journal, and relates to a condition in the law of that state which also exists in the statutes of North Dakota.)

The law is very zealous to guard the rights of infants in most particulars. When infant's property rights are involved the Code provides how he shall be represented by his next friend, guardian, or guardian ad litem. When his property is sold the provisions of the statute must be strictly complied with or the court will set aside the sale. The Kentucky Statutes provide that when a child is tried in juvenile court the probation officer shall be present and represent him to see that his interests are protected.

Independent of statute the courts have been very jealous of the rights of infants. It has been said: "Chancery became in a sense the supreme guardian of all infants, charged with the protection alike of their personal and property rights."

There is one situation, however, where the law has failed to make adequate provision for the protection of the infant, and that is where the parents, the natural guardians of the infant, enter the divorce court. In these anti-marital contests one, perhaps both parents are represented by counsel of their own choosing. If there are children those infants have no attorney to represent them or their interests as they would have if some personal or property right were involved; yet they do have both a personal and property right in issue, namely, the question of their custody and maintenance. These are real, vital, personal and property rights though they are not usually so recognized. While they are not such property rights as the law takes cognizance of for the purpose of appointing a guardian ad litem, they are just as real personal and property rights and may be of much greater monetary value than the interest contingent or otherwise in stocks, bonds or a piece of real estate which the statutes, codes, common law, and courts guard so jealously. Through these personal and property rights the present and future happiness and welfare of the child are involved when the parents enter the divorce court. If the child should be represented when his property right in stocks, bonds, or real estate is at issue, is it not essential that he be represented when his future welfare and happiness are concerned?