



1955

Bench and Bar

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North Dakota State Bar Association

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BENCH AND BAR

PRESIDENT'S PAGE

The year has been primarily a legislative year. Beginning with our participation in the conduct of the first orientation conference for new legislators early in the session, our relations with the legislature were close and cooperative. The Association's work of many years to secure a Code Revisor was successfully completed. Our continued cooperation with the legislature has been invited. We have been asked to help overhaul our corporation laws. Led by our lawyer members in the legislature, the Association has attained a new mark in the respect and friendship of the legislature. The detail of the many activities of the year will be presented at the annual meeting by the committees and in my report.

The Bar goes to Williston for the first time on August 4, 5 and 6. Williston is going all out to make it the best annual meeting of the association. Your executive committee and the sectional meetings committee have planned a "bread and butter" meeting. I believe no North Dakota lawyer can afford to miss it.

As I write this on June 1, 1955, the Supreme Court has nearly completed hearings of the proposed Rules of Civil Procedure for the District Courts of North Dakota. They will be adopted, it is expected, this year. The regular sectional meetings dealing with various subjects have been suspended for this meeting. The business sessions have been cut to two morning meetings. All of the remaining time will be used to present the new Rules of Civil Procedure and trial tactics under the rules. Two nationally famous trial attorneys will be present.

Among the internal projects carried on this year to be considered are the new revised and simplified probate forms, and a revised bar schedule of fees.

Further looking forward I want to ask each of you to plan to attend the Northwest Regional Meeting of the American Bar Association in St. Paul-Minneapolis on October 12-13-14, 1955. The meeting will be of all lawyers in Minnesota, North Dakota, South Dakota, Montana, Nebraska, Iowa and Wisconsin. It is one of the four great regional meetings held in the United States this year. It brings near to home the American Bar Meeting. The sectional meetings, the general speeches and the entertainment are on the level of the annual meeting of the American Bar Association.

The annual meeting of the American Bar Association will be in Philadelphia, Pennsylvania, August 22-26, 1955.

I have appreciated serving as president of the Association. I have received the finest cooperation from our Executive Director, Ronald N. Davies, our Secretary-Treasurer, John E. Rilling, the Executive Committee and the various committees and their chairmen, and our members. I thank you for your help and assistance to me.

I look forward to seeing you all at Williston on August 4, 5 and 6.

JOHN A. ZUGER,
President.

LAW SCHOOL NEWS

Ninety-five law students enrolled in the Law School on September 17, 1954. This was the beginning of the fifty-sixth school year. The first semester enrollment by classes was as follows: First year—39; second year—35; and third year—21 students. The second semester enrollment by classes was: First year—36; second year—34; and third year—18 students.

Ronald N. Davies, Executive Director of the North Dakota State Bar Association, presented the North Dakota State Bar Association Legal Research Awards at the Honors Day Convocation, which was held on May 5, 1955, to the following students: F. Douglas Birdzell of Palo Alto, California; Albert M. Christopher of Pembina, N. Dak.; Bayard Lewis of Grand Forks; Louis R. Moore of Devils Lake; Kenneth M. Moran of Jamestown; Darwin H. Mueller of Hazen; Roy A. Olson of Hillsboro; Neil H. Thompson of Hazelton and Richard V. Wicka of Fargo.

The Law Faculty and the Executive Committee of the North Dakota Bar Association are professionally proud of the accomplishments of the above Law Review Staff in that through its efforts the *North Dakota Law Review* is being published and distributed to all lawyers and judges in this state and to the subscribers.

The annual meeting of the University Chapter of The Order of The Coif was held on the evening of May 5, 1955. Attorney E. T. Conmy of Fargo, of the law class of 1909, was elected honorary member of The Coif. The student-elects were: F. Douglas Birdzell of Palo Alto, Calif.; Albert M. Christopher of Pembina and Darwin H. Mueller of Hazen.

The Will Contest Prizes, as sponsored by the Merchants Na-

tional Bank and Trust Company of Fargo, were awarded to George T. Dynes of Dickinson; Lowell W. Lundberg of Grafton, and Leslie A. Kast of Grand Forks. The Grand Forks Association of Life Underwriters invited the Law Faculty and the students in Trusts and Taxation to a Luncheon on May 3, at which luncheon the prizes were awarded by the Bank. In the afternoon from 2 to 4 p.m. a panel discussion on this estate problem was held. The Panel Personnel were composed of Moderator, John A. Staples, Professor of Accounting; Attorney Thomas L. Degnan; Jerome E. Daily, C.P.A.; Trust Officer Forrest E. Henderson of Fargo and John P. Crary, representing The Life Underwriters.

The Phi Alpha Delta Legal Writing Award was granted to James H. O'Keefe for having written the best Comment by a second-year law student, during the present school year. The title of his Comment was "Segregation in Recreational Facilities Furnished by the State. His Comment is published in the *North Dakota Law Review*.

Sam B. Silverman's (Class of 1939) Award of a set of United States Code was presented to Mr. Lyle E. Ball, a second year law student. This award was given for his superior work as a student in Constitutional Law.

The United States Law Week Award was given to third-year law student, Clinton R. Ottmar of Wishek, N. Dak., for making the most satisfactory scholastic progress during the school year 1954-55. Neil H. Thompson of Hazelton, N. Dak., was given the "Charles E. Dahl Award in Law."

The following students were granted the degree of Bachelor of Laws on June 4, 1955: Benton Thomas Eid of East Grand Forks; Philip Borgan Garberg of Enderlin; Dale H. Jensen of Bismarck; Robert E. Kleve of Bismarck; Bayard Lewis of Grand Forks; James A. Murray of Casselton and Neil H. Thompson of Hazelton, N. D.

The following men completed their Law School work at the end of the first semester and received the degree of Bachelor of Law June 4: David Edward Garcia of Fort Totten; Harold G. Myhre of Stephen, Minnesota; Roger E. Persinger of Washburn, N. D. Mr. Myhre passed the Minnesota Bar Examination in March and now is engaged in the practice of law at Hallock, Minnesota.

On June 4, 1955, the following students were granted the degree of Juris-Doctor: F. Douglas Birdzell of Palo Alto, California; Albert M. Christopher of Pembina; Don L. DeHut of Ontonagon,

Michigan; Louis R. Moore of Devils Lake; Kenneth M. Moran of Jamestown; Darwin H. Mueller of Hazen; Roy A. Olsen of Hillsboro; Clinton R. Ottmar of Wishek and Richard V. Wicka of Fargo. The Juris-Doctor degree is granted to those students who have earned an acceptable college degree, who have maintained a high scholastic average, and who have taken professional and personal interest in law review work and legal writing.

The Art Department was in possession of one-half of the third floor of the Law Building from 1923 until December 1954 when the Department was moved to the new School of Education building. Immediately, alterations were made on the premises which were vacated. A large law review room, a large typewriting room for students, an office for the Assistant Librarians and a large Court room were provided. These rooms are accessible from the Law Library by means of a twelve foot folding door opening. This is one of the major physical improvements in the law school facilities during the past twenty years. These improvements are highly beneficial to the law review staff, to moot court work and for law school convocations.

On April 5, 1955, Major Gunnar Thoroddsen of Reykjavik, Iceland and Professor of Law at the University of Iceland gave his address to the Faculty and students in the assembly room. The subject matter of his talk was the "Icelandic Althing".

Edward J. Devitt graduated in 1935 from the University of North Dakota School of Law. On December 20, 1954, he was sworn in as a Federal District Judge in St. Paul, Minnesota. Dean Thormodsgard was invited to attend a meeting in honor of Judge Devitt. His remarks as to his former student are as follows:

"As a member of the Minnesota and North Dakota Bars, I am happy to be here on this special occasion honoring a young man, whom I have as Ed. or Edward J. Devitt. My brief remarks will be limited to our honored guest as a law student in the University of North Dakota School of Law.

"Mr. Devitt knew how to allocate his time between work and play. He had a vital interest in many of the University activities. He served as President of the Student Body for two years. He participated in University debates and public speaking. His record as a law student was excellent. Members of the law faculty appreciated his presence, in that, he stimulated class discussion and asked pertinent questions.

"Through his leadership and personality, Mr. Devitt, in 1933, revitalized Bruce Inn of P.D.P. Legal Fraternity. In 1934, with the approval of the Law Faculty, he organized the University Junior Bar Association. This Junior Bar is still active and has been a real benefit to the law students. It was one of the first, if not the first, Junior Bar Associations organized in an "approved" law school. The Junior Bar is now affiliated with the American Law Students Association.

"When Ed. Devitt graduated in June 1935, I recommended his appointment as Instructor of Business Law for Commerce students. Mr. Devitt was a part-time teacher for two years. He was a successful and inspirational teacher. I had hoped he would choose to become a full-time law teacher.

"When he was appointed a municipal magistrate of the City of East Grand Forks, he asked me if he should accept. I urged him to accept but advised him to keep his hands clean. The Judicial conduct of this young man under adverse conditions gives proof that he has always had high personal and professional ethical standards. Judge Devitt won the respect and confidence of the people who favored improvement in city government.

"It was not necessary for Ed. Devitt to read Dale Carnegie's book entitled "How to Win Friends and Influence People". He was always friendly and courteous towards the faculty, his classmates, all men and women, and boys and girls. There was no feeling of superiority or inferiority on the part of Ed. Devitt.

"Mr. Devitt has always been a loyal alumnus of his law school. The President, the University Faculty, and the Alumni Association extend their congratulations to him.

"Speaking as one of his personal friends, I know that his success, in large measure, has been due to the parents he selected, especially that of his mother. He has a rich inheritance. Reverence and respect for the individual is Judge Devitt's philosophy of life.

"Judge Devitt, as your former Dean, I am proud of your professional career. Within 19 years after graduation, you have been appointed United States District Judge. Knowing you as I do, I am confident that your official acts as a judge will win the approval of the Bench and Bar of St. Paul in particular and Minnesota in general."

O. H. THORMODSGARD, *Dean*

BRUCE INN OF PHI DELTA PHI INTERNATIONAL LEGAL FRATERNITY

Under the leadership of Eugene Kruger as Magister, Bruce Inn enjoyed a very successful 1954-1955 academic year. During the early weeks of the fall semester, several stag "smokers" were held, with all freshman law students invited. At this same time, the annual familiarization and orientation session was held with the freshmen. The purpose of this session is to aid freshmen in the art of briefing and with other helpful points in bettering themselves for their law career.

Ten pledges to Phi Delta Phi fraternity were the result of the rushing activities of the Inn at the beginning of the second semester. Pledged were Kenneth Gilchrist, Wayne S. Jensen, Robert E. Kearney, Jon R. Kerian, Fabian E. Noack, Harry L. Mulloy, Max D. Rosenberg, Rinehart W. Ruff, Glen W. Toomey, and Henry H. Galloway. At initiation ceremonies held in the District Court Rooms of the Grand Forks County Court House on April 29, 1955, Robert E. Kearney, Fabian E. Noack, Wayne S. Jensen, Harry L. Mulloy, and Glen W. Toomey were initiated into the fraternity. Bruce Inn's honorary initiates of the year were Chief Justice Thomas Burke of the North Dakota Supreme Court and Judge Albert Lundberg, Judge of the District Court, Grafton, North Dakota. Judge A. J. Gronna, the honorary initiate of last year was the featured speaker at the initiation.

Representatives of Bruce Inn on the editorial staff of the *North Dakota Law Review* for the past year have been A. Mel Christopher as Note Editor and Douglas Birdzell as Recent Case Editor. A. Mel Christopher was named the Bruce Inn Graduate of the Year and his record of achievement was sent to the National Headquarters to be entered in competition with candidates of other Inns for selection of the Phi Delta Phi man of the year award. In carrying forward the high academic tradition of Phi Delta Phi, it is noteworthy that two out of the three seniors selected to Order of the Coif were members of Bruce Inn. These were Douglas Birdzell and A. Mel Christopher.

At the final business meeting of the school year a delegate and alternates for the 32nd General Convention of Phi Delta Phi at Estes Park, Colorado, were selected. Eugene Kruger was selected as delegate with George Brekke and Theodore Weisenburger selected alternates.

Officers elected for the coming academic school year were

Lowell W. Lundberg, Magister; Robert E. Kearney, Exchequer; Wayne S. Jensen, Clerk; and Charles J. Mindemann, Historian. Outgoing officers of the 1954-1955 school year were Eugene Kruger, Magister; Clinton R. Ottmar, Exchequer; Lowell W. Lundberg, Clerk; and F. Douglas Birdzell, Historian.

Gratduating seniors of Phi Delta Phi are F. Douglas Birdzell, A. Mel Christopher, and Clinton R. Ottmar.

CHARLES J. MINDEMAN, *Historian*

PHI ALPHA DELTA NEWS

A good year for Phi Alpha Delta, a milestone in the history of Corliss Chapter. On March 25 and 26, 1955, North Dakota was host of the District VII Conclave of Phi Alpha Delta National Legal Fraternity.

Law students from the following law schools met to exchange programs and ideas for mutual benefit: University of Kansas, Drake University, University of Iowa, Creighton University, University of Nebraska, and the University of St. Louis. We of Corliss Chapter consider this a memorable experience and are most appreciative of the fruits of the many hours of discussion both at the committee meetings and at the several banquets held in honor of the visiting students and alumni.

Ten men of the class of '57 were initiated into the fraternity at the opening banquet of the Conclave, at which John A. Zuger, President of the State Bar Association of North Dakota gave the main address.

Overshadowing all was the acceptance of honorary membership by Hon. Charles J. Vogel of the United States Court of Appeals for the Eighth Circuit.

The fine spirit and enthusiasm of the individual members of the Fraternity was the source of the year's success. In the fall of the year the offices of King, Queen, and Chancellor were won by Brothers Don DeHut, William Kelsch, and Francis Breidenbach. Special recognition goes to Brother Darwin Mueller who received honorary membership in the Order of the Coif, and James O'Keefe, recipient of the Phi Alpha Delta Legal Writing Award. The fraternity is also proud to announce that five brothers were appointed to the editorial staff of the *North Dakota Law Review* for the next school term. These are Harry Pippin, Editor-in-Chief; Leslie

Kast, Note Editor; James O'Keefe and William Kelsch, Recent Case Editors; and Jon Vogel, Book Review Editor.

Justice Neil Thompson, Vice Justice Darwin Mueller, Secretary Charles Feste, Treasurer Gerald Rossow, Marshal Harry Pippin, and District Student Justice Richard Wicka, retire from a job well done.

Newly elected officers for the coming school year of '55 and '56 are: William Kelsch, Justice; Gerald Rossow, Vice Justice; Francis Breidenbach, Secretary; Walter Auran, Treasurer; and Kenneth Yri, Marshal.

WILLIAM KELSCH

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ANNUAL MEETING PROGRAM

State Bar Association of North Dakota

Williston, North Dakota — August 4, 5, 6, 1955

Wednesday Evening, August 3, 1955, pre-registration, Plainsman Hotel Lobby 7:00 P.M. to 10:00 P.M.

Thursday Morning, August 4, 1955

- 8:00 A.M. Breakfast meeting, States Attorneys for North Dakota, Plainsman Hotel
- 8:45 A.M. Registration, Williston High School.
- 9:30 A.M. Call to Order, John A. Zuger, President, presiding. Williston High School Auditorium. Invocation—Rev. William H. Powell, Pastor St. Peters Episcopal Church. President's Annual Report. Committee Reports and Business Session.
- 12:00 M. Recess

Thursday Afternoon, August 4, 1955

- 1:30 P.M. Sectional Meeting, Williston High School Auditorium. John Hjellum, Chairman, presiding. Panel discussion of new Rules of Civil Procedure, Professor David W. Louisell, School of Law, University of Minnesota, Frank F. Jestrab, Williston and Colonel Philip S. Van Cise, Denver, Colorado. Judge Eugene A. Burdick, Moderator.
- 3:00 P.M. Intermission.
- 3:30 P.M. Resumption of Panel Discussion on Rules of Civil Procedure.

- 6:00 to
8:00 P.M. Cocktails, Lawyers and their wives. Elks Club.
Courtesy Williams County Bar Association.

Friday Morning, August 5, 1955

- 8:00 A.M. Breakfast meeting—Phi Alpha Delta, Plainsman Hotel.
8:00 A.M. Breaking meeting—Phi Delta Phi, Cafe El Rancho
9:00 A.M. Sectional Meeting. John Hjellum, Chairman, presiding.
Melvin M. Belli, San Francisco and William H. De-
Parcq of Chicago-Minneapolis. Mr. DeParcq will dis-
cuss "Opening Statement" and "Direct Examination".
Mr. Belli will demonstrate "Cross Examination" and
"Final Argument".
10:30 A.M. Intermission.
10:50 A.M. Mr. DeParcq and Mr. Belli.
12:00 M. Luncheon — North Dakota Law School Alumni,
Plainsman Hotel;
Luncheon—University of Minnesota and other Law
Schools—Cafe El Rancho.

Friday Afternoon, August 5, 1955

- 1:30 P.M. Election of officers. Williston High School Auditorium.
2:00 P.M. Mr. Belli and Mr. DeParcq.
3:30 P.M. Intermission.
3:45 P.M. Concluding Demonstration, Mr. Belli and Mr. De-
Parcq.
6:30 P.M. Annual Banquet, Fellowship Hall, new First Luth-
eran Church.
Edward K. Thompson, Managing Editor, Life Maga-
zine, New York City, speaker.

Saturday, August 6, 1955

- 9:00 A.M. Williston High School Auditorium. President John
A. Zuger, presiding.
(1) Reports of Committees
(2) Unfinished business
(3) New business
12:00 Noon Adjournment.
* * *
1:30 P.M. Tours, if desired. Inquire at Registration Desk.