



1947

Proceeding of the Annual Meeting of the State Bar Association of North Dakota Held at Valley City, North Dakota, September 11 and 12, 1946

North Dakota State Bar Association

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BAR BRIEFS

PROCEEDINGS

of the

ANNUAL MEETING

of the

STATE BAR ASSOCIATION OF NORTH DAKOTA

HELD AT VALLEY CITY, NORTH DAKOTA,

SEPTEMBER 11 and 12, 1946.

The annual meeting was called to order on the 11th day of September, 1946, at 10 A.M., President Roy A. Ployhar, presiding:

PRESIDENT PLOYHAR: The Forty-sixth meeting of the State Bar Association of North Dakota will now come to order, and we will open our meeting by calling on Reverend Thomas E. Nugent, of Valley City, for invocation.

REVEREND NUGENT: May we arise and invoke the Divine blessing, please. O Thou great God, who hast called unto man to carry out Thy plan and design, who are the creator and director of all our efforts as we move through our brief tenure of earthly life, we humbly invoke Thy blessing upon us as we gather here in the name of the sacred and holy ghost. That justice is one of Thine own characteristics. Thou hast given it unto men by planting within them the love of justice and the ideals of justice. Thou hast given unto men to make feasible in daily living those elements of justice which art in the heart of God. So we humbly come to Thee as our teacher and instructor. Bless Thou our gathering, we ask. May the ideals which are here presented in the search of the restless mind of man, may they be rewarded by clear and high and holy ideals and that which should govern men in their relations with each other. Grant that courage may be given, that in each and every court of our land the sense of responsibility to the eternal may be found against all evil and in favor of all good and righteous things. Be with us as we deliberate here, and in Thy grace and goodness to us still further enlighten our minds and help us to know quickly and accurately the direction that justice should take, and the courage that we may without hesitation seek to apply that justice which Thou daily reveal to us as Thine own will. We thank Thee for the bonds of fellowship that strengthen as we go about and find that others like ourselves are interested in these great concepts. May the fellowship of this gathering be a strength and inspiration to all who are here, and as they go back to their work and their homes they may recall with satisfaction the fellowship here and be strengthened.

Grant us these things, and may Thy grace so sustain us that every day we shall be conscious of Thy guiding hands. We ask it through the merits of Jesus Christ, our Lord. Amen.

MR. PLOYHAR: Thank you, Reverend Nugent. We will now have the privilege of hearing from Mayor Curtis Olson, of Valley City, who will give us an address of welcome. Mayor Olson.

MAYOR OLSON: Chairman Roy, and members of the North Dakota Bar Association. We are very happy that you are holding your 1946 convention in our city, and it is a pleasure as Mayor of Valley City to welcome you.

We are especially happy to have you hold your convention here, because the people of Valley City love to have guests. We love to have guests because we make it our business to see to it all the people have all the accommodations and conveniences while visiting here. For the last four or five years, during this war period, we have been quite reluctant in asking for conventions. Valley City, like many other cities, is faced with serious problems of hotel accommodations and restaurant service. But that matter is getting a little better.

When you are in our city we want you to look around. We want you to have a good time. I just returned from the convention at Dickinson last night of the League of Municipalities. Two cities were fighting about who was going to have the next convention, Grand Forks and Devils Lake. The fellow from Grand Forks put up quite a battle, and he told them he didn't think it was wise for us to go to Devils Lake next year, because he had just read by the paper where Devils Lake had a couple of babies mixed up. And he told us they might get mixed up with the babes, but the babes won't get mixed up. And that holds good in Valley City.

We have one of the finest winter shows in the northwest. This large auditorium and the armory next door hold all the exhibits. Also at Valley City we have our own municipal light plant, we believe one of the finest in North Dakota. We not only produce electric lights and heat for the entire city, but we are now servicing 1800 miles of rural electric lines.

Don't be afraid to call on any city official or any member of the Civic & Commerce Association, and we will assist you while you are here. We are happy you are here, and let us help you all we can.

MR. PLOYHAR: Thank you. We will now have at this time an address of welcome by one of the local members of the Barnes County Bar, Attorney John Sad.

JOHN SAD: President Roy Ployhar, Members of the North Dakota Bar Association.

It is an honor to have the privilege of representing the local Bar here in giving you welcome. After listening to the Mayor I really felt as though I wished I had a sign marked "Welcome" and just say "Look", and make it one of the shortest speeches of welcome on record. He has voiced the sentiments of the Bar. I am afraid there might be some criticism aimed at that sort of welcome. It might be somewhat like the story of the Scotch mother who was called upon to criticize or pass upon the speech of her son as he gave his first speech. And he said, "How do you like my speech?" She said, "There were three things wrong with it."

She said, "You read it." Second, she said, "You didn't read it very well." And third, "It was not worth reading."

In bidding you welcome, it is not by any idle words or empty phrase that we do it. Your welcome will be before you, it will be around you and follow you through your whole stay in this city. I think you will find it wherever you go, and I don't think that in your practice of weighing evidence you will find anything to the contrary. You have taken two days from your busy practice. It is going to be pretty hard to put those two days back, and we would like to see that you don't lose a minute of your time while you are in Valley City.

It may sound like a boost for the Civic & Commerce Association when I say that we have a lot of institutions and a number of points of interest here that would welcome you. I know it is hard to find time from your busy work in the convention, but I just want to mention a few of our institutions that would be glad to have you visit them while you are in the city.

We have, as the Mayor, Curtis Olson, has said, a two million dollar electric light plant here. It is worth that to us. We have our wonderful Teachers College, with its fine campus. We have one of the finest nurseries between the Twin Cities and the Coast located here, and if any of you are interested in trees and shrubbery they would be glad to show you their plant. We have one of the few fish hatcheries in the Northwest north of the city. We have probably one of the finest mills in the Northwest, with its modern machinery, a far cry from the old grist mill. They would be glad to show you that. We have a golf course too. You know when we talk about golf courses, I have always found that when the course is tough, where there are trees and ditches and water, deep bunkers and sand traps, they always call it a "sporty course." But our course out here hasn't got that. But we have a unique feature. We have probably got the sportiest rough on any course in the State of North Dakota.

And last but not least, the local Bar, from the President down to your humble servant, would welcome any opportunity to do anything for you to help make your stay pleasant, and we want you to come again, and don't stay so long.

MR. PLOYHAR: Thank you, Mr. Sad. You certainly expressed my wishes and desire with reference to this convention. We will now have a response to these addresses of welcome by a member of our association, O. B. Benson, of Bottineau. Mr. Benson.

MR. BENSON: Mr. President, Members of the North Dakota Bar, Friends:

I am happy indeed to have the privilege of responding to these fine addresses. The only thing that I do not like about the remarks already made is that I don't like to be invited into the rough of your golf course. I like to stay on the fairways. I have some difficulty in doing it, but I prefer to stay on the fairways. We have a fine golf course, but I do find the rough seems more prominent than the fairways.

There are many things I could say, but I believe there isn't anything I could more properly say than to quote a former president of this Association—and incidentally he didn't know he was preparing my speech when he made these remarks, he didn't know I was given this responsibility, and he didn't know he was going to be quoted, and if he has any objection to being quoted he has the privilege of throwing his pipe at me if he has it with him. He said this: "Valley City is the prettiest town in North Dakota." I know that probably may offend many of you, but I am sure he expressed our sentiments when he said that. He also said, "It has a model city government". You understand I am not a stenographer, and I didn't take this down in shorthand. But as I recall his remarks, I am quoting it word for word, "Valley City has a model city government. It has a municipal light plant which has been paying all the taxes of the city for 25 years." I don't know what more could be said than former president Nostdal said in a rather offhand manner as we were driving towards the city of Valley City yesterday.

I know we are happy to be here. I know we have already enjoyed ourselves. I think you men who didn't come last night have missed something. We saw quite a little of the city even last night, in spite of the fact that my wife and children were along, I did get around. But I noticed that you fellows who left your wives at home got around more than I did. We are happy to be here, and I know we will enjoy the stay.

I want to compliment the committee on the fine program that has been arranged after this response has been given. I am sure that we will have a most profitable and enjoyable meeting. We want to thank these men who have so kindly welcomed us here. Thank you.

MR. PLOYHAR: Thank you very much, Mr. Benson. Now to proceed on with the program. You noticed Mr. Sad apparently, unknown to me, had pre-read my speech, and that was the story he was telling about the fact it was not worth reading, should not be read, and didn't have anything in it. But nevertheless, and in order to impose myself, and following the custom, I will try to proceed now and read my address.

PRESIDENT'S ADDRESS

Members of the State Bar Association, Distinguished Guests and Friends.

We are meeting here today for the purpose of conducting our forty-sixth meeting of this Association. I believe the existence of this association is longer in point of time than the memory of any one present here today and if that is not true I would be glad to have that correction called to my attention so that it can be made a matter of record. Lawyers by their training and work are naturally great believers in tradition and custom and consequently running true to the customs and traditions of the Bar I will impose myself upon you at this time for that somewhat unnecessary but nevertheless customary address of the President.

If I were to assign any title to this address I would necessarily have to call it "PUBLIC RELATIONS AND THE BAR."

During the period of time that I have served you as your President the one thought that has been uppermost in my mind is: What is the actual function of a Bar Association and what justifies its existence. As I try to answer this question it seems to me that the two most important answers are: One, to promote the general welfare of its members and, two, to promote and foster a better relation between the Bar and the public.

The answer to these questions naturally run counterpart because of their very nature: However, I will try to discuss them separately so as to portray what I consider to be their most important aspects. In order to promote the general welfare of the Bar we must necessarily start with the selection of the candidates who expect to become members of our profession. This can best be done by aptitude tests to be conducted by our schools and proper references rather than by references alone. It is a sad commentary on the legal profession that we have so many misfits in our profession primarily because of the fact that we have no program to determine the fitness and natural qualifications of the candidate before he or she comes before the State Bar Board for examination. A longer and more specific pre-legal course in our law schools would probably do more to produce results than any other method known today. Next we will necessarily have to increase our course in law to give our young lawyer a better basic knowledge of his chosen profession and make him better fitted to embark on his career with at least a slight amount of confidence in his knowledge of his profession. In discussing this matter with one of our older and experienced member he made this statement: "In my opinion a lawyer cannot consider himself qualified to practice his profession and render competent service to his clients until he has had at least fifteen years of experience in the general practice of law." If this is true, and I am inclined to agree with him, then the general welfare of the younger members of the Bar is far from satisfactory for the first fifteen years of their practice. Some professions have solved this problem by practical work after the completion of technical training and others have extended the training period in the schools. While neither of these methods have been entirely satisfactory, nevertheless they have helped considerable to promote the confidence of the public as well as the young person starting out in his chosen profession. It is generally conceded that apprenticeship training in a large legal firm does not work out very satisfactorily and I am sure that such type of training would not work out very well in North Dakota. At least one State Bar Association has conceived a method that seems to work better than any yet devised and that is, the establishment of the neighborhood law office or small community office for the young lawyer to start his professional work. The young lawyer is then given the privilege to consult the older and more experienced members of the Bar at either a nominal fee or at no fee at all and in that way he has the opportunity of establishing himself in his profession, but at the same time has a place to seek counsel and advice on problems that

are new to him. It has been found that such type of training serves to not only make the young man or woman a better qualified person, but also protects the public against gross and costly errors. This type of training can also be supplemented by legal clinics conducted by members of the profession and also by special training programs conducted by the local and State Bar Association.

The next thing to consider is the welfare of the entire profession. While there has always been a certain amount of criticism leveled against us as a whole, by the general public, I believe that certain types of criticism are more prevalent at the present time than during any previous period. Most of this is unjustifiable and primarily due to misunderstanding and lack of authoritative information on the part of the general public. Even some members of the press fail to inform themselves and consequently make assertions and accusations that are absolutely unfounded in fact. In most cases these accusations are directed against the profession as a whole and not against any particular member. This, in my opinion can only be overcome by a program of education and from that standpoint it is the Bar and not the Public that are to be criticized. This program of education must of necessity emanate from organizations such as ours and must be conducted by a trained individual such as a salaried employee of the association. This could best be done by a full time executive secretary who would be charged with the duty of giving correct and accurate information to the public through the press and other news agencies. This would of necessity cost the members additional money but would pay big dividends in return. In addition to his work as public relations man he could render a vast amount of service to the individual members of the Bar that would far exceed the cost to the individual member. He could also act in the capacity of Secretary of the Association and act as an agent for the legislative committee.

There has been a decided tendency of recent years for every legislative body, both Congress and State Legislatures to legislate against the legal profession. This legislation takes the form of either limiting or prohibiting attorneys from appearing before certain commissions and tribunals or otherwise setting or limiting the fees that can be charged. This type of so called regulation is not for the benefit of the public but is rather directed against the legal profession as a whole. In most cases the majority of the legislators are unaware of the effects of such legislation and would not be in favor of it if it was called to their attention. This type of legislation is not only unfair but absolutely unwarranted and is a challenge to our integrity and honesty. The only way that it can be controlled and possibly eliminated is by the service of an active legislative committee who can function through the office of the secretary. I feel confident that more activity of this nature on the part of the Bar would be extremely helpful and generally promote the welfare of the Bar both individually and collectively.

We now come to the question of what can be done to promote and foster a better relation between the Public and the Bar. This

has been partly covered in my previous remarks with reference to conducting a program of education for the public. However, that would probably be of little value if some improvements aren't made in the administration of justice. It has been determined by fairly reliable statistics that ninety-five percent of the population who have had any Court experiences have never been in contact with any other court except a Traffic Court or some other court of special or limited jurisdiction such as a Justice Court. It is from the experiences that they have in these Courts that they form their conceptions and opinions as to the administration of justice. It is from this experience that public opinion is formed and molded with the result that the Courts of Record and the legal profession as a whole are blamed for a condition over which they have no control. I am sure that the general public is not in favor of this type of kangaroo administration of justice and would welcome a reform. It is my opinion that our type of so called Justice Court is not only antiquated but has ceased to serve any useful function. All courts that are set up for the purpose of administering justice should be under the direct supervision of the Supreme Court, should be manned by a person trained in the law and paid a regular salary instead of a fee for every conviction. The Bar is the only organization that is competent to remedy this situation and it should assume the leadership for the benefit of the public.

The Bar and the legal profession individually should be ever on the alert and register protest against some of the proposed laws that are offered for enactment in both Congress and our Legislature. It is not fair to expect or even assume that the few lawyer members of any legislative body can adequately stop such matters from becoming law unless they are given the active support of the profession as a whole. The lawyer in a community should be ever on the alert to see that there is no rank miscarriage of justice and always do his part in worth while community projects so that the citizens will always respect his fair and unbiased judgment. In other words if the lawyer will use his talents and efforts for the benefit of the public good he will not only be rendering a worthwhile public service, but his efforts will work to his own benefit and the benefit of the profession. This was the spirit and ambition of the pioneer lawyer and statesman and his efforts resulted in glory and honor to the legal profession rather than discredit and disrepute. It is up to us individually and collectively to regain the reputation that we have partially lost through our indifference and reticent attitude toward public opinion.

Another and probably one of the most important ways of promoting and fostering better relations between the Bar and the public is in the form of advertising. Naturally this can not be done by individual lawyers but must be done through the association. We have shied away from all types of advertising to such an extent that we are apt to get nothing but adverse publicity unless we change our method of approach. This is not an original idea of my own but is rather the basis of a report of the committee on Unauthorized Practice of Law of the American Bar Association.

I think this report is important enough to quote from the same at some length.

"The American Bar Association's Unauthorized Practice of Law Committee recommends adoption of a three-point postwar plan . . . ;

1. EDUCATION OF LAWYERS.
2. EDUCATION OF THE PUBLIC.

The average man on the street has an unwholesome, but unwarranted fear of a lawyer. He is not familiar with the neatly turned out words and phrases usually incorporated in a legal opinion. Furthermore, he is practically certain he will be swindled.

The lawyers know that this picture is entirely unjustified. The average lawyer today for the most part is direct, is brief and is reasonable in his charges . . .

The lawyers of the country should therefore take whatever steps are necessary to acquaint the public with the importance of consulting a lawyer on every legal problem . . .

'Promote the thought: See a lawyer on every legal matter.'

Another way of effective public education is to have lay groups advertise the advisability of consulting a lawyer on legal problems (instance—the type of advertising done by the banks of many cities urging upon the public the advisability of having their wills prepared by their own attorneys) . . . Melvin F. Adler, Esq., Chairman of the Texas committee, pointed out that manufacturers of toothpaste espouse the cause of the family dentist, that distributors of well known drugs impress upon the public the necessity for consulting the doctor when they are ill. "Why," says Mr. Adler, "would it not be possible to induce manufacturers of law books, publishers of various services, printers of legal blanks and other persons of this character, to advertise on behalf of the lawyer? . . .

3. EDUCATION OF GROUPS WHOSE BUSINESS INVOLVES THE KNOWLEDGE OF LAW.

A national publicity campaign to make the public aware of the advantages of consulting a lawyer on every legal problem.

David F. Maxwell
Chairman."

Along the line of obtaining some good advertising material I secured the services of one of our members to prepare a questionnaire for the purpose of obtaining information on the free legal and other services rendered by the member of the bar of this state during the war period. A large number of these questionnaires have been returned and in going over some of them I was not only surprised, but almost dumbfounded at the tremendous amount of work performed by the members of the Bar. So far this information has not been compiled, but I hope that a committee can be

found that will do this work so that the material and information gained therefrom can be put in proper form for publicity. I feel confident that it would not only be extremely interesting to the public, but also well received.

In closing I want to make a few comments on the affairs of the association. As you know it has been over two years since our last meeting. Shortly thereafter we were saddened by the untendency to disrupt our program to a certain extent, but we have tried to carry on as best we could. Our finances have been somewhat limited because of the fact that so many of our members were either in the military service or in some other war activity. However, these men are now returning and are very anxious to again enter into active practice. We should do all we can to encourage and help them whenever and wherever we can. There have been very few complaints against members of the Bar and such complaints that were received consisted mostly of misunderstandings between the lawyer and his client that were easily rectified. In fact I think that the record of our members in that regard is exemplary.

I think that the committee on Sectional Meetings has done an exceptionally fine job this year on the papers and subject to be presented and I want to commend them and the Chairman and Discussion leaders on this valuable service.

I want to thank each and every member of this association for their splendid cooperation and willingness to be of assistance whenever necessary. I also want to thank you for the privilege and honor that you have bestowed upon me in serving you as your President. It is an experience that I will never forget and always cherish as one of the most enjoyable and interesting periods of my life. It is my earnest and sincere wish that my successor in office will have the same enjoyable and beneficial experiences that I have had during my term of office.

MR. PLOYHAR: Now to go on with the program. We were going to try to dispose of as many committee reports this morning as possible, and I understand from Mack that there have not been too many reports sent in.

MR. PLOYHAR: Before we go into the reports, I was wondering if Mr. Burntess would care to read that report that he just submitted.

MR. BURTNES: This is prepared in Norwegian, and I don't understand it.

REPORT OF WAR WORK COMMITTEE

To the Officers and Members of the North Dakota Bar Association:

Our committee has held no formal meetings which accounts for the chairman alone making this report.

Naturally the work of the committee has been pretty much limited to rendering legal services to the men in armed forces and their families.

Of this, there has been a great deal during the past four years. Your chairman desires to extend his thanks to the bar generally and more particularly to the one or two lawyers in each county who consented to do such work in their respective counties. They have done a fine job on all matters referred to them and have done it cheerfully and unselfishly. Other lawyers have done likewise through direct contacts.

The certificates of appreciation presented to the bar two years ago by the Secretary of War and the Secretary of the Navy have been hung in the Supreme Court Chambers at the Capitol at Bismarck.

I have been more interested in getting the work done than in keeping records or statistics. Hundreds of inquiries were received from all parts of the world where our men were stationed. All such were answered promptly by your chairman, and where something was required to be done locally, the matter was referred to a local lawyer in the appropriate county.

Until our men and women are all discharged from service there will be some matters requiring attention, but the volume thereof will be relatively small. A similar committee should therefore be continued.

The State Bar was given this opportunity to assist in our country's war effort. North Dakota lawyers, like the lawyers of every other state, responded patriotically. Our work was appreciated in many quarters. Be that as it may, this Association has the satisfaction of knowing that worth-while assistance was rendered many of the men and women who stood ready to sacrifice their all; if need be, at the altar of their country. They are the ones who deserve our greatest gratitude.

Respectfully submitted,

O. B. BURTNESS, Chairman

MR. BURTNESS: Our Committee has held no formal meetings, which accounts for the chairman alone making the report.

MR. PLOYHAR: Thank you, Mr. Burtness, for that very fine report. Do I hear a motion for the adoption of that report?

(Motion made and seconded that the report be adopted. Motion carried).

MR. PLOYHAR: I think now we will ask for the report of the Executive Committee by our secretary, M. L. McBride.

SECRETARY MCBRIDE: Mr. President, Members of the Association. I think I will reverse the order on the program and read the financial statement first.

BAR BRIEFS

SECRETARY-TREASURER'S FINANCIAL STATEMENT
FOR THE FISCAL YEAR

From July 1, 1945 to June 30, 1946.

Balance Last Annual Meeting		\$1,006.56
Received from State Bar Board 1945 dues	\$ 728.00	
Received from State Bar Board 1945 dues	91.00	
Received from State Bar Board 1946 dues	2,366.00	
	<u>\$3,185.00</u>	<u>\$3,185.00</u>
Total Receipts		<u>\$4,191.56</u>

EXPENDITURES

		Budget 1945-46
Bar Briefs, Annual Number	\$	\$ 400.00
Bar Briefs, Monthly Number	378.42	375.00
Executive Committee Meetings	168.66	200.00
President's Expense	129.72	300.00
Printing & Postage	113.66	150.00
Annual Meeting	10.32	200.00
Ethics & Internal Affairs		50.00
Miscellaneous	107.61	200.00
Secretary-Treasurer Editor	1,097.20	1,200.00
Sectional Meetings		200.00
Maintenance Charge by Bank17	
	<u>\$2,005.76</u>	<u>\$3,275.00</u>
TOTAL RECEIPTS		<u>\$4,191.56</u>
TOTAL DISBURSEMENTS		<u>2,005.76</u>
BALANCE ON HAND		<u>\$2,185.80</u>

REPORT OF EXECUTIVE COMMITTEE

During the past two years the Executive Committee held three meetings. The first meeting was held on the afternoon of August 25, 1944 pursuant to call of President Wm. G. Owens, President, at the office of O. B. Herigstad at the City of Minot, at which were present President Wm. G. Owens, Past President O. B. Herigstad, Vice-President, Roy A. Ployhar, O. B. Benson, George A. Soule and M. L. McBride, Secretary.

The offer of Secretary McBride to settle all arrears in back salary for \$500.00 was accepted, and it was further provided that from August 1, 1944 and for the ensuing year, his salary was fixed at \$100.00 per month.

Report of the Auditing Committee showing the accounts of the Secretary-Treasurer to be true and correct was approved and accepted and the Committee discharged.

President Owens pursuant to authority given by the by-laws, appointed George A. Soule, of Fargo as a member of the Executive Committee from the First Judicial District, Einar Johnson of Lakota, as a member of the Executive Committee from the Second

Judicial District, George S. Register of Bismarck as a member from the Fourth Judicial District, O. B. Benson of Bottineau as a member from the Fifth Judicial District and H. P. Jacobsen of Mott as a member from the Sixth Judicial District.

Herbert G. Nilles of Fargo and Harold Shaft of Grand Forks and O. B. Herigstad of Minot, N. D. were nominated for the State Bar Board Referendum to be held in November 1944, such names to be submitted to respective nominees of the Association for their acceptance and in case of refusal to become nominees, the Secretary was instructed to select others in their place.

The following members of the Association were named as members of the Judicial Council representing the Bar Association by President Owens and approved by the Committee to take effect January 1, 1945, as follows: C. M. Pollock, Fargo, Fred J. Traylor, Devils Lake, Charles L. Foster, Bismarck, Eugene A. Burdick, Williston and Vernon Johnson of Wahpeton. The Secretary was instructed to advise the members and secure their consent and approval of such appointments.

The President, with the approval of the Executive Committee appointed the following Committee on Sectional Meetings: L. T. Sproul, Chairman, Dean O. H. Thormodsgard, Grand Forks, George A. Soule, Fargo, John J. Nilles, Fargo, Norman G. Tenneson, Fargo and the Secretary was instructed to communicate with the members so appointed and secure their consent and willingness to act.

The Secretary was instructed to condense all addresses and subjects and papers where possible for publication in the annual number of Bar Briefs.

The Secretary was instructed to send letters of sympathy to Hon. Clyde L. Young, Bismarck and Hon. James M. Hanley, Sr. of Mandan on account of their illness.

Group Insurance proposal for members of this Association was referred to the local bar associations.

The matter of purchasing plates of the North Dakota reports from the L. R. A. was referred to the Legislative Committee without recommendation.

The Committee on Uniform laws was recommended to prepare suitable legislation providing for the surviving husband or wife to file his or her election in the event there was a will, that he or she would take under the terms of the will or under the laws of succession, and also another one providing for foreclosure of conditional sales contracts the same as foreclosure of chattel mortgages, so that the mortgagees would have notice of the sale and the right to redeem.

It was recommended that the Legislative Committee draw a suitable bill to repeal portions of the present law providing for the payment of license fees of the attorneys so that all of the fees would go to the State Bar Association and that provisions of the

old law in regard maintenance of the State Bar Board or State Bar Examiners would be taken care of by appropriation.

The committee on sectional meetings was revamped to include Roy A. Polyhar as Chairman, F. J. Graham, L. A. W. Stephans, John J. Nilles, Norman G. Tenneson, Dean O. H. Thormodsgard and George A. Soule as members thereof.

On March 18, 1945 our President Wm. G. Owens died at Wiliston, N. D. His funeral was attended by Vice-President, Roy A. Ployhar and your Secretary representing the Bar Association.

Request received from the office of Defense Transportation that we do not hold annual meetings, and in accordance with this request the matter of holding annual meeting was taken up with the members of the Executive Committee by correspondence and it was decided not to hold an annual meeting in 1945.

The third meeting was held on September 6, 1945 at the Graver Hotel in Fargo by call of President Ployhar. Present were Roy A. Ployhar, President, O. B. Herigstad, Vice President, F. J. Graham, O. B. Benson, H. P. Jacobsen, George A. Soule, and M. L. McBride, Secretary.

The Committee extended its thanks to the Cass County Bar Association, the Greater North Dakota Association and H. P. Berrell for courtesies extended at this meeting.

It was the sense of the meeting that we hold our next annual meeting during the coming May 1946.

President Ployhar appointed O. B. Herigstad and O. B. Benson a Committee on Resolutions on the death of President Wm. G. Owens, and that such resolution be printed in the minutes of this Association and also in Bar Briefs, a copy thereof to be sent to the members of the family.

The statement of annual expenditures and disbursements presented by the Secretary-Treasurer McBride was accepted and filed.

The budget proposed by the Secretary for the period from 1944-45 was adopted as follows:

Bar Briefs, Annual Number	\$ 400.00
Bar Briefs, Monthly Number	375.00
Executive Committee Meetings	200.00
President's Expense	300.00
Printing and Postage	150.00
Annual Meeting	200.00
Ethics & Internal Affairs	50.00
Miscellaneous	200.00
Secretary-Treasurer-Editor	1,200.00
Bar Board Election	25.00
Emergency Laws	75.00
	<hr/>
	\$3,375.00

The Committee laid the resolution proposed by Post-War Highway Improvement Association offered by George Dixon upon the table.

The second meeting of the Executive Committee was held at Bismarck on November 18, 1944 on the call of President Wm. G. Owens. The following members of the Executive Committee were present, Wm. G. Owens, President, Roy A. Ployhar, Vice President, O. B. Herigstad, Past President, H. P. Jacobsen, Fred J. Graham, O. B. Benson, George A. Soule and Secretary McBride.

After the correction and approval of the minutes of the last meeting, the President appointed George P. Homnes a member of the Executive Committee from the Fifth Judicial District in place of Einar Johnson, who was found not to be a resident of that district.

B. H. Bradford of Minot and W. C. Crawford of Dickinson were nominated as candidates for the State Bar Board, subject to their acceptance and in case of their refusal the Secretary was authorized to select others in their place.

The Committee appointed O. B. Herigstad and O. B. Burtness as a special committee to make the presentation to the Supreme Court for the hanging of the awards of merit from the Army and Navy in the office of the Supreme Court of North Dakota.

The Secretary-Treasurer was authorized to pay routine and usual expenditures within the budget, on vouchers signed by the President and Secretary-Treasurer without further action of this Committee.

The expenses of our member to the House of Delegates of the American Bar Association for attending the mid-winter meeting was limited to \$25.00.

The bid of the Dickinson Press for publication of the annual number was approved and accepted.

President Owens appointed the following members of the Legislative Committee which was approved by the Executive Committee, as follows: George F. Shafer, F. J. Graham, W. H. Shure, A. R. Bergesen, Carroll E. Day, Lynn U. Stambaugh and W. H. Stutsman.

President Ployhar was authorized by the Committee to select a Legislative committee and use his own discretion as to the members and the number, but that our President be its Chairman.

Budget for 1945-46 was offered by the Secretary-Treasurer as follows:

Bar Briefs, Annual Number	\$ 400.00
Bar Briefs, Monthly Number	375.00
Executive Committee Meetings	200.00
President's Expense	300.00
Printing and Postage	150.00
Annual Meeting	200.00
Ethics & Internal Affairs	50.00
Miscellaneous	200.00
Secretary-Treasurer-Editor	1,200.00
Sectional Meetings	200.00
	\$3,275.00

Same was approved.

It was provided by O. B. Herigstad and seconded by George A. Soule, that the report made to the Cass County Bar Association be received by this Executive Committee and reported to the Committee on legislation with approval in substance of the various propositions. Carried.

President Ployhar invited the Association to hold its annual meeting sometime during the summer at Valley City, N. D. Exact date to be determined later.

Date later fixed for meeting on September 11 and 12, 1946.

MR. C. G. BANGERT: In order to save time, I suggest, and I will move at this time that all committee reports be accepted as a matter of course unless there is some objection, merely to save on the record. I move you now that all these reports be accepted as read unless there is some objection.

(Motion seconded and carried.)

MR. PLOYHAR: You have heard the report of the Executive Committee and of the Secretary-Treasurer. On the basis of the motion just passed, if there are no objections to this report—

MR. NOSTDAL: I want to make a correction and amend the first part of the report made. It says O. B. Benson was appointed a member of the Executive Committee from the Sixth Judicial District. Bottineau is in the Second Judicial District.

SECRETARY MCBRIDE: If you had listened to the rest of it, at the next meeting they corrected that.

MR. NOSTDAL: I didn't hear that.

MR. BURTNES: I have no objection to the motion, but I would like to ask a question, and that is whether or not the Executive Committee at one of its meetings instructed and authorized on behalf of the Association the legislative committee to prepare a bill, and secure the enactment of it, that would permit a widow to take either under the will or under the laws of descent? Did it go that far?

MR. PLOYHAR: No, it didn't go that far.

SECRETARY MCBRIDE: Since our meeting is now open, the proposition could come from the floor at this meeting for action.

MR. BURTNES: Personally I think that would be one of the most vicious bills that could ever be enacted, if it went that far. The report shows what was done, but I didn't follow it, and I rather hope the Executive Committee will not put the power of this Association behind that extreme legislation.

MR. PLOYHAR: I think you will find in checking the by-laws that the Legislative Committee would not have that power, and the only power they have is to recommend to this Association that it consider their proposals. Are there any other remarks on this

report? Glad to have them. But if not, I won't take any more time.

MR. CUPLER: I think it is a very comprehensive and complete report. I haven't heard one as full as that from the Executive Committee before.

MR. PLOYHAR: I am sure Mac will appreciate that. Any other remarks? If not, I will declare, on the basis of that motion, that the report of the Executive Committee and the Secretary-Treasurer is approved. Now watching the time a little bit, but I wonder if it would not be well at this time, in conjunction with the remarks that were just made, to ask for the report of the Legislative Committee. And in doing so, I want you all to keep in mind that the function and purpose of this Legislative Committee is to make suggestions to this Association of what they would like to see, and what they have asked me to stress is the fact that you people at least discuss them with the idea of either accepting them or rejecting them, and I am sure the party that is making the report will concur with me in this. Mr. Strutz.

MR. STRUTZ: Mr. Chairman: Your committee found it rather difficult to find the time that was convenient for all of them to meet. And so although we did have one meeting during the year, all of the members were not present. And I would like to suggest to the incoming officers that in the future your committees be selected from the same judicial district rather than from all over the state. The members of our committee were strung all the way from Dickinson to Grand Forks, and it was impossible for us to get together at any time when the entire group could be there. We received many suggestions for legislation. We have proposed here five matters that we think should be considered by this group, and we will submit them one at a time, and we wish that you would discuss them as each is read. Although there were several dozen suggestions made, we felt it would be desirable to submit only a few of these suggestions at a time, and with this limitation in mind, your committee asks leave to submit the report.

REPORT OF THE LEGISLATIVE COMMITTEE OF THE NORTH DAKOTA STATE BAR ASSOCIATION

Your legislative committee has had under consideration numerous suggestions for proposed legislation, many of which have considerable merit. It was the considered opinion of your committee, however, that we should confine our efforts to a few of the suggested proposals, rather than endeavor to introduce legislation to correct all matters which should be corrected, and that we would have a better chance of securing some of the desired legislation if we do not attempt to cover too many subjects. With this limitation in mind, your legislative committee begs leave to submit the following report:

I

WHEREAS, probate fees comprise an important part of the income of the average lawyer practicing in the State of North Dakota; and

WHEREAS, attorney fees under the fee schedule of the State Bar Association of North Dakota are based upon statutory administrator's fees; and

WHEREAS, statutory executor's or administrator's fees in the State of North Dakota are among the lowest in the nation,

NOW, THEREFORE, BE IT RESOLVED that we recommend that the State Bar Association sponsor legislation providing for the increase in statutory executor's and administrator's fees in the State of North Dakota.

MR. STRUTZ: I would like to have these discussed one at a time.

MR. PLOYHAR: As Mr. Strutz has said, we thought it would be best to take one at a time, otherwise we will have a lot of confusion. This is a matter that has been talked about considerably, and it is a matter that has been put across by the State of South Dakota and by several other states. And I might mention there was a bill of that nature introduced at the last session of the legislature. It passed the house unanimously, and it got waylaid in the committee in the senate, which unfortunately had as its composition several lawyers. Do you want the executive committee to propose legislation of that kind; in other words, to increase the fee of the administrator or executor so that indirectly under our Bar schedule of fees we would be allowed to charge more for probating estates?

JUDGE HUTCHINSON: Personally, of course, I am not so interested at the present time in the fees of executors or administrators, but I think fundamentally we will never get a proper system of fees for the lawyers in the probate business until we change our whole system and place the probate business under the district court, where the district court can pass upon the fees of the lawyers and will pass upon the fees of the administrators. I think that you will never get away from the trading around of clients in probate matters that I know goes on and used to go on when I was practicing, and the idea of the public that they really don't need a lawyer in probate matters anyway and that any layman can carry on the work. And you will never get away from that until you place the matter in a court of record. And I would like to see something done that would make fundamental changes, rather than the changes that are now presented by this committee.

JUDGE GRAHAM: In regard to the statements that have already been made, there was introduced, as you have stated, a measure for increasing the administrators' and executors' fees. And I was a member of the House at that time, as was also Mr. Johnson, from Wahpeton, and a gentleman from Fargo and Mr. Ohnstad. We were successful in having that bill drawn up in the Attorney General's department, and it was presented to the House and passed by a good majority. When it got over to the Senate and got in the Judiciary Committee, where there were three attorneys on that committee, they didn't agree with us in the House, and so the bill was killed. I believe there is a very

good chance that it could, and should, be passed at the coming session of the legislature. Personally I would be in favor of such a motion.

MR. HIGGINS: I wonder if it would not be better—it would seem to me it would be better if there was a provision in there whereby the court could increase the executors' fees for extraordinary services. There was a change made, I believe, at the last sessions with regard to appraisement fees. It was pointed out that it was difficult, if not impossible, to get good appraisers where there was a difficult job of appraising, where there was real estate, particularly in the cities, or where the property, for one reason or another, was outside the knowledge of the ordinary man.

MR. PLOYHAR: Thank you, Mr. Higgins. Judge Wartner.

JUDGE WARTNER: Personally, I don't seem to favor the kind of amendment that has been proposed. I don't think that that will reach the thing. I think the Judge mentioned the fact that if it was left up to the district courts, the same as it is in Montana and Iowa, and other states, or pass a law that the County Judge be a member of the Bar, learned in the law, rather than to increase the fees of executors and administrators. The fact is under our statute if a showing is made by the administrator of special services the county judge now has that privilege of allowing additional fees. It seems to me when you go right to the root of the thing, that is merely a commission that is allowed when you have five percent on the first thousand dollars and two percent on the next five thousand and one per cent on the balance of the estate; that that has no relation to the amount of service that is rendered by the administrator or executor, but is merely a fixed fee that he can charge, and I don't see that there is any way of changing that, whether he does much work or little work. But under the law as it stands today there is a provision in the statute that an additional fee can be charged if a proper showing is made by the administrator or executor without reference to that fixed fee. So consequently I can't see that we are arriving at any point in this particular legislation. I think the better way would be to amend our constitution whereby the court—in Wisconsin the county judge must be a member of the Bar, he must be learned in the law. And in Iowa the district judge passes upon all of these particular things where there is objection. In Montana the same thing. While here we have no such thing unless we bring it before the court by appeal to the district court where the administrator charges an excessive fee or where he asks for additional fees and is not allowed he has a right to come into court. Those things are allowed. Consequently, I can't see that this legislation that is proposed here will do us any good, excepting it will help the fellow who is administrator or executor charge additional fees for little or very little service. That is the way I look at that kind of legislation. I would be in favor of having our system changed to the same system that they have in Iowa and in Montana, that is, that the district court has supervisory powers in all matters in the probating of estates. That is the way I

look at it, and let the clerk of court do the minor things and let the district judge pass upon those that really have some meat, and that will aid not only the Bar, but will also aid the executor and the administrator. Thank you.

MR. PLOYHAR: Mr. Mackoff.

MR. MACKOFF: There is really nothing closer to the heart of the lawyer than the discussion of fees. Over the years I have attended Bar meetings I can say there was never a session where that matter was not discussed. We have it again now. Personally I can't see where the legislation would be of any benefit in this thing. The statute does not provide for the amount of attorney's fees. It provides for attorney's fees of the executor or administrator. The average executor or administrator performs no duties. In the case of a trust company or a bank, they would be interested in a larger fee. If they are, let them sponsor the legislation. Generally speaking, we are not received with open arms in the legislature. Our experience in the past has proven that where we sponsor a piece of legislation that they will look upon it with suspicion, and nine times out of ten it is killed in the legislature. We have complained on account of legislation in the past that has limited our fees. We have the situation of the foreclosure fees. As time went on up at the legislature it was gradually decreased. We would rather have no legislation on that point. Our Bar schedule of fees ought to govern. If the Bar Association establishes a fee, you can use that as a basis. As to submitting it to the district court, it has never been my pleasure to appear in Judge Hutchinson's court. But I want to say that there is something about a lawyer when he dons the judicial robes that he entirely forgets his own experience in connection with the charging of fees. My experience in the district court, and I may say in the supreme court, where the question of fees was to be allowed, has not been satisfactory. We find that you go into a lawsuit involving, we will say, a divorce, where the court has the right to fix the fee, and nine times out of ten the fee will be inadequate. Let us say that the party is not able to pay it, let us assume that the husband is unable to pay a fee of \$200.00 or \$250.00 that ought to be allowed, the court could nevertheless make the order. That would be the reasonable amount of the fee, and if the fellow is unable to pay it he is in the same position that he is when he is unable to pay his alimony. Our supreme court says where you are unable to pay you can't be charged with contempt. The court could allow the fee, but unfortunately the courts allow very low fees for the services that are being rendered. The same thing is true with reference to Workmen's Compensation cases. Very few of the lawyers want to take a workmen's compensation case because the fee is fixed by law. It says, as you all know, where you recover the court can fix the amount of the fee that is to be paid by the Bureau. In reality we are handling these cases on a contingency basis. If anyone has a claim against the Workmen's Compensation Bureau I would say ninety-nine times out of a hundred you are handling that case on a contingency basis, because if you do not recover you will not be paid. But unfortunately the allowances that are

made are so inadequate that, generally speaking, the attorney makes an agreement on the side where the client agrees to pay an additional amount. It is a violation of the spirit of the law, it is a violation of the wording of the law. They want him to have that amount free and clear of any charges, but the amounts that are allowed by the courts are inadequate.

I think the remedy is with ourselves. We do not need any legislation. I think if our Bar Association would establish the rules and disseminate the information as to what the charges are to be, that we are entitled for the service that we render for the public a reasonable amount for our services. In our legal profession I think we are being paid less than any other profession. With reference to the fees that are being allowed by governmental agencies, which involve attorneys' fees and fees of other professional men, we find that in some instances the fees that are allowed to other professional men, considering the amount of time that is being consumed, as compared with the lawyer, the remuneration is probably twenty to thirty times as much as is being received by the attorney.

The trouble is with ourselves. We ourselves are reducing our fees. It would be all right if the court had something to go by, but to leave it to the court entirely, unless they have changed their minds, I, for one, am not so favorable to the idea of having the district court pass upon the question, because somehow or other they do not allow a substantial enough fee. Maybe the experiences of you men have been otherwise. I think I discussed the matter with Judge Burr, who sits near me. It is not with the thought of reflecting upon anyone, but it is with the thought that for some reason or other that the judge who goes upon the bench feels such a great obligation to the public that he feels he has to guard their interests, that he leans backward in his desire to do so, with the result that the amounts that are being allowed for attorneys' fees are inadequate. I would say, for instance, an appeal of a Workmen's Compensation case, on the average an allowance of \$500.00 on an appeal would not be out of line at all, because you must remember that it is contingent after all. If you do not recover, you receive absolutely nothing whatever. And it would be an encouragement to the attorney to take the case for the beneficiary because of the fact that he would feel that he would be adequately paid. As it is, they have to resort to subterfuge and do things that are not proper and ethical, which they should not do. And that should be true in all cases.

We don't have to be governed by what the executor or administrator receives. The rule, as I recall it, that was passed by the Bar Association was that the fee of the attorney was in no event to be less than the amount received by the executor or administrator. The attorney in ninety-nine cases out of a hundred in small communities performs all of the duties on the part of the executor and administrator with the exception of signing the name. That is all he does. And he gets paid for what the attorney should be paid. But the attorney should be paid far more than that, and I should say we ought to have our schedule of fees pushed up to the

point where we would be paid a reasonable amount for the services rendered. We are still charging the same amount as before, and quite often we don't get what we charge. Of course, if we got all we charged we would not be so badly off. On the whole, I can't see where legislation would be beneficial to us. We would have to go into the legislature, and again the lawyer would be before the public. We are just as well off not to ask for legislation unless there is something we really need. (Applause)

MR. DAVIES: (Of Bismarck) May I make two suggestions, and possibly three.

First, there is no statute that I know of limiting the attorney's fees to the fees of the administrator.

Second, will Judge Hutchinson permit me to suggest that the county court is a court of record.

Third, the county judges are always in trouble when we tell them they have to have a lawyer.

As I said, there is no statute limiting the fees to that of the administrator.

MR. C. G. BANGERT: I think we are ourselves to blame, and nobody else is to blame. I think you will recall that very recently I took up with you a matter, not in this county, near my county, where I examined a title and in passing on that title there was some question of probate proceedings, and I had the files sent to my office. The administrator, who lives out on the west coast, got a \$125.00 fee plus his expenses. The attorney charged \$50.00. He did all the work and the administrator got the fee. I don't think there is any relationship between the fee to be charged by the administrator or the executor and the attorney. And I think if we realize, as Mr. Mackoff says, that we do most of the work, the administrators or executors very little, we would not want our fees compared with his, because our services are worth more than his in any probate matter, if it is properly done. I think if we just get after the attorneys who are going on the ten cent store counter to buy probate matters, I think we would do a lot better. I know not so very far from my own baliwick where they the handling matters for \$50.00 because certain agencies are involved. I was in the legislature and succeeded in getting the foreclosure by advertisement repealed, because the Federal Land Bank was able to get attorneys in this state to sign the notice for \$25.00 a foreclosure. I think if we get after our own members we will be a lot better off.

MR. NOSTDAL: I think we have heard all we need to hear about this, and I move that the recommendation of the Legislative Committee that the law be amended so as to increase the administrator's fees be not adopted.

JUDGE WARTNER: Second the motion.

MR. PLOYHAR: Is there a second?

MR. BANGERT: Second the motion.

MR. PLOYHAR: The motion has been made by Mr. Nostdal to the effect that the recommendation of the Legislative Committee to the effect that this Association go on record approving the legislature increasing the fees of administrators and executors be disallowed. That has been seconded.

VERNON JOHNSON: Before the question is put, I think there is considerable more to Judge Hutchinson's idea than meets the eye. I rode out with Judge Hutchinson from Wahpeton this morning and we discussed it at considerable length, and I would like to discuss it just a little bit before we finally put this motion. The reason that I bring the matter up is that there are other matters that came before the legislature at the last session that I think are fundamental and were rather sharp criticism of the Bar, and I think they are involved in the proposition that Judge Hutchinson suggested. Some of our county judges through their legislators had introduced legislation aimed at the fact that a great deal of probate business is not properly handled, and it is dragging on from year to year, and I think the idea that the Judge has expressed might be a very easy way to meet that challenge if the district court had jurisdiction of probate matters, and I think we would get away from the idea of a lot of estates staying open ten or twenty years, and we would get away from the idea of having the judges of probate coming before the legislature criticising the bar in the way estates are being handled. There was another batch of legislation introduced with reference to abuses in justice court. And in discussing this with Judge Hutchinson this morning I saw the possibility of tying this in with the idea of more or less replacing our justice court and having the district court serve not only as the judge in all matters but also having jurisdiction in probate matters. To meet this abuse in justice court, in quite a few counties we have a situation in which they have county courts of increased jurisdiction. We would not have to disturb them, but it seems you can make the judge serve and take the place of the justice of the peace by having the summons, if it is a justice court case, signed by one of his deputies and have it returnable at some certain day of the month when the judge is going to be in the county. The third benefit I can see in this, that you would not have to increase the number of your judges, and yet you could combine the office of district judge, clerk of court, and judge of probate at a very great saving to the various counties. At the last session we had a measure suggested by Sioux County that they were up against it as far as financing their county offices. Under this proposal they could probably get by with one clerk of court. And I can't help but feel that the suggestion might certainly merit our consideration, because when we have our county judges coming before the legislature, and apparently representing the view of the public that we are not taking care of probate matters, you have another group coming out there and suggesting severe abuses as far as justice court practice is concerned, I think it is a matter we should face in our Association. And I think that the suggestion should be considered a little bit more aside purely from the angle of the free schedule. That is all I have to say.

MR. PLOYHAR: Thank you, Mr. Johnson.

MR. MACKOFF: I was not of the impression that the legislation proposed by the Committee had anything to do with giving jurisdiction to the district court in probate matters.

MR. PLOYHAR: That is right.

MR. MACKOFF: That is another matter entirely. I confined my remarks to the idea of changing that particular statute so as to increase the fees of executors.

MR. PLOYHAR: I don't want to limit debate, because after all that is the purpose of this meeting, but—

JUDGE WARTNER: May I speak again on this particular subject?

MR. PLOYHAR: Yes.

JUDGE WARTNER: I think Mr. Mackoff is absolutely correct, that this proposal has nothing to do with the attorney's fees. It is merely a question of whether or not the fees of the administrator or executor be raised. I don't think you are hitting the nail at all by doing that. I think the fees are adequate for the work that the administrator or executor does. I think the county judges here present have had that same experience, and if they have additional attorney's fees they can make application to the court to have the additional fees allowed. I can't feel there is any necessity for continuing this. It has absolutely nothing to do with the fees of the attorney, because the attorney must make his own fee with the executor or administrator. Consequently, I can't see any necessity for any legislation of that kind at all. The only question is whether or not a great many county judges who have not had the experience of being lawyers have had the experience of knowing what the value of attorney's fees is. And you and I, we all know the fact that when you go to a doctor, when he cuts you wide open he will charge you \$500.00, and you do the same amount of work in the same length of time and you perhaps get \$10.00 for it.

JUDGE HUTCHINSON: I want to say that I admit my remarks were irrelevant as far as this question is concerned. My only thought was that you are only scratching around on the surface, and you ought to get at the fundamental first.

MR. PLOYHAR: Are you ready for the question? All in favor of that motion signify by saying Aye. Contrary the same sign. Motion carried. I don't think we have any time to go into any further discussion right now. I do want to say that there are a few announcements to be made, and then we are going to adjourn to Dutch luncheon at the Elks Club, and we will go on with the report of the Legislative Committee. I was wondering if the president of the First Judicial District Bar Association wanted to make an announcement.

MR. SOULE: Immediately upon the adjournment of this meeting the First Judicial Bar Association will meet in that corner.

MR. JACOBSON: The members of the Sixth Judicial District will meet over here for about two minutes upon adjournment of this meeting.

MACK TRAYNOR: May I make a suggestion with respect to the program for this afternoon?

MR. PLOYHAR: Yes.

MACK TRAYNOR: I notice that the program committee has all of the sectional meetings staggered, that is, one commencing at two, one at three, and one at four. Heretofore the meetings have been held simultaneously, running between two and four o'clock, thereby giving full two hours to the discussion leaders and the group that is listening to them. I know the papers by the discussion leaders have been prepared with the understanding that they would be given two hours, forty-five minutes for the speaker to present his subject and an hour and fifteen minutes for the discussion from the floor. It has worked out very well in the past, and I think by devoting only an hour to a meeting we are going to lose some valuable thought and very valuable expression. I move at this time that the program be changed, that the three sectional meetings scheduled for this afternoon commence at 2 o'clock and run to 4, that the meeting scheduled for Friday morning commence at 9:30 and run through 11:30.

(Motion seconded.)

MR. PLOYHAR: The chair might say by way of explanation that there probably was some misunderstanding on my part that was probably conveyed to the program committee. I personally agree wholeheartedly with Mr. Traynor that we can't do justice to any of these subjects in forty-five minutes. We would rather have them discussed properly than to not have them discussed at all. Personally I am very much in favor of the motion, and that is to have the three meetings start at two o'clock and continue on. I realize that that makes it impossible for some people to attend some of the meetings they would like to attend. But in order to bring out the full import and benefit of these sectional meetings we should be willing to spend about two hours at one of these meetings. Is there a second to the motion?

MR. SPROUL: Second it.

MR. PLOYHAR: The motion is seconded by Mr. Sproul. Any other remarks to be made?

EUGENE BURDICK: It seems to me that by staggering them the different members of the Bar would at least have the opportunity of hearing the statements of the discussion leaders and then go on to another if he didn't find it sufficiently interesting. I think there is some value in that myself.

MR. PLOYHAR: I think Mr. Burdick would be correct, but it is a matter of privilege if they wish to do so. I think the idea is to run the discussion for that length of time.

MR. SOULE: If anyone wants to listen to the discussion, he has the paper right here. He can take it home and read it. When

we set the papers up in this manner we followed the recommendation of the American Bar Association. Ample time is provided for presentation and discussion.

MR. BURDICK: I understand that these hours are starting times, not necessarily concluding times.

MR. PLOYHAR: That is right.

MR. BURDICK: If they are staggered a half hour apart they could end whenever they wanted to. It would give an opportunity of hearing the opening remarks.

MR. PLOYHAR: You have all heard the motion. All in favor signify by saying "Aye". Motion carried. Members, some of you will want to know where you should go, and where you will find the Elks Club. I don't know what you will get to eat, but there is something to eat, and bring your appetites along with you.

MR. STEFFEN: The Committee on Housing has requested me to announce that if there is any member of the Bar who has not found housing accommodations or suitable accommodations to leave his name at the desk at the Rudolph Hotel, preferably this noon.

MR. PLOYHAR: If it is in order, we will adjourn until 1:30.

AFTERNOON SESSION

MR. PLOYHAR: Will the meeting please come to order now. Gentlemen, before I forget I want to appoint at this time a Resolutions Committee, which will consist of Charles M. Pollock, Judge W. H. Hutchinson, and Arley Bjella. Alvin Strutz has agreed to mortify himself again, and before we go into the sectional meetings we are going to have to take up one other part of this report of the Legislative Committee, and then I think we will have to go into the sectional meetings. But we will have to hurry along, and I hope this does not provoke as much discussion as the last one.

MR. STRUTZ:

II

WHEREAS, Judicial salaries in the State of North Dakota are among the lowest in the nation, and are today identical with the salaries paid our Courts some twenty years ago, when such salaries were exempt from both state and federal income taxes, and

WHEREAS, the State of North Dakota has made no provision for pensioning of judges, who have served our state at a great financial sacrifice to themselves,

NOW, THEREFORE, BE IT RESOLVED that we recommend that the question of judicial salaries and judicial pensions be referred to a committee to be appointed by the president of this Association, and that such committee be empowered and author-

ized, after a thorough study, to submit appropriate legislation to the 1947 Legislative Assembly to provide for an increase of salaries for Supreme and District Court Judges, and to provide for such pensions as the committee shall deem practical and advisable.

MR. PLOYHAR: Gentlemen, there you have the second recommendation of the Legislative Committee.

MR. HERIGSTAD: I move that the recommendation be adopted.
(Motion seconded.)

MR. PLOYHAR: Motion has been made and seconded that the recommendation of the Legislative Committee be adopted. Is there anyone here that wants to discuss it? All in favor of that motion signify by saying "Aye". Contrary the same sign. The motion is carried.

MR. STRUTZ:

III

WHEREAS, the future standards of the North Dakota Bar will be vitally affected by the standard of the University of North Dakota law school; and

WHEREAS, the standards of the University of North Dakota law school can be maintained at a high level only if sufficient appropriations are made by the State Legislative Assembly, so as to enable the law school to maintain its standards among the other schools of the nation; and

WHEREAS, the appropriations for the North Dakota law school have been such as to make it difficult for the University of North Dakota law school to maintain such high standards,

NOW, THEREFORE, BEIT RESOLVED that we recommend that additional appropriations for the law school at the University be provided for by the State Legislative Assembly so that the law school will be enabled to maintain a high standard among the law schools of this nation.

MR. PLOYHAR: Now, gentlemen, you have heard the third recommendation. What is you desire?

MACK TRAYNOR: Mr. President, I move the resolution be adopted.

(Motion seconded.)

MR. PLOYHAR: I don't think there is going to be any discussion on that. How about the question? All in favor of that motion signify by saying "Aye". Contrary the same sign. Motion carried.

MR. STRUTZ:

IV

WHEREAS, a portion of the annual fee paid by members of the North Dakota State Bar Association is not now available for the State Bar Association; and

WHEREAS, the business of the North Dakota State Bar Association requires that a full time secretary and public relations officer should be hired by the Association; and

WHEREAS, the hiring of such a full time secretary and public relations officer requires not only the availability of the entire fee now paid by the members of the Bar Association for the use of the association but would require an increase in the annual fee paid by the attorneys,

NOW, THEREFORE, BE IT RESOLVED, that we recommend that the annual fee paid by members of the Bar Association be made available in its entirety for the use and direct benefit of the attorneys of the State of North Dakota and their association, and that there be a sufficient increase in the annual fee so as to provide sufficient funds for a full time secretary and public relations officer for the association, with offices in the City of Bismarck.

MR. PLOYHAR: Gentlemen, you have heard this recommendation. Do I hear any remarks on it?

JUDGE LEWIS: If I could speak just a moment. I am wondering about that resolution. It might be claimed by the legislature that using it for the Bar Board was using it for the Association. Perhaps we would like to change the reading.

MR. STRUTZ: They were drawn up in a hurry.

MR. SMITH: I move the adoption of the resolution.

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

JUDGE WARTNER: Second the motion.

MR. PLOYHAR: Is there any discussion?

JUDGE LEWIS: Do you authorize the Committee, if it wishes, to change the form of that resolution?

MR. PLOYHAR: I think that would be the consensus of the opinion here. The suggestion made with reference to the so-called amendment to that recommendation is that the Bar fee would be used exclusively for the State Bar Association and not to include the State Bar Board fee. That, in other words, would have to be by special appropriation. Is that your understanding? With that understanding, are you ready for the question? All in favor of the motion signify—

MR. REX: I would like to inquire what might be the increased fee? It is suggested that it be increased and the increase used by the permanent secretary. How much would that be, fifteen, twenty or twenty-five dollars?

MR. PLOYHAR: According to our best calculation, we figure about \$15.00. Of course, you understand that has a tendency to vary. It depends on the membership, naturally. Mac just tells me he thinks under the circumstances it will probably have to be increased to \$20.00.

MR. STRUTZ: It is the idea of the Committee that that would be determined by the Executive Board.

MR. PLOYHAR: Does that answer your question?

MR. CUPLER: It seems to me that is a debatable question. It seems to me advisable to delete part of this recommendation and take first the recommendation that the entire license fee, whatever it may be, is paid into the State Bar Association for its exclusive use. You better go that far at this session and then poll your members and discuss how much the license fee should be and what you are going to pay this executive secretary. I am not opposed to it. The idea is original to me. I had not thought about it until I came here. A great many organizations have high pressure executive secretaries, and my observation is that in many cases they do not accomplish the result desired. The easiest way to kill anything the lawyers want is to give the public the idea we are combining and ganging up. I would move that the recommendation be adopted with the amendment that the proposed increase of license fees of the lawyers be eliminated.

MR. NOSTDAL: I second that motion.

MR. PLOYHAR: The motion on the amendment is before the house. As I understand it, the motion is to the effect that the license fee, or the amount thereof, be eliminated, but that the entire fee go to the State Bar Association fund.

MR. STRUTZ: Then you would also have to eliminate that portion, of the recommendation which provides for the hiring of a full time secretary, because unless you increase the fee you haven't the money to do that.

MR. PLOYHAR: Is there any discussion on the substitute motion that is now before the house.

MR. BANGERT: Does that mean not to increase the fee to the lawyers?

MR. CUPLER: Yes.

MR. BANGERT: I am not in favor of that. I think the fee should be at least \$50.00. That will eliminate a lot of men who have been licensed to practice some time or other who have federal positions, state jobs, positions with corporations. They are not satisfied with the salaries they get, and they hope to make a little by practicing on the side. I think we should pay a very substantial fee. I happened to have an opportunity the other day, or the occasion rather, to check up on Cass County. And it seemed to me there was some eighteen men who paid their \$10.00 and were not practicing law at all. But their names appear on divorce summons, some actions to quiet title, some probate proceedings, and they are holding what should be a full time job. I don't think we ought to be permitted to do that. I don't think they would do that if they paid a substantial fee for the license to practice law.

JIM CONMY: I think we are getting a little off the track. I take the floor in support of the resolution as stated by Mr. Strutz

and in opposition to the position taken by Mr. Cupler, and not for the reason stated by Mr. Bangert. I don't think the fee should be \$50.00. I think it should be what it needs to be to pay a full time secretary. That question was under discussion at length in the Cass County Bar. Mr. Cupler probably didn't happen to be there. And it was the thought that we as lawyers are not good salesmen of our own abilities or our own profession, and that we do need a public relations representative and a full time secretary to serve as a clearing house for our troubles and our complaints and our relations with the legislature and so forth. Other organizations do have them and certainly they don't continue to have them if they are a detriment to those organizations. Many good professions have such a representative. You know and I know that the average client does not appreciate anything about what the lawyer's fee should be, and we are the poorest ones in the world in giving them any assistance in that. We cut each others' throats whenever we can. If we have a full time secretary and pay for it, say, \$20.00 per man per year, it seems to me it would well repay us in the practice of our profession. I haven't thought the thing out clearly, but I don't want it to come to a vote on simply what has been said. I am in favor of the resolution as stated and the payment of such fee as is necessary, which has been stated to be probably the amount of \$20.00 per year per person.

MR. REMINGTON: I wish to state that I agree thoroughly with my friend, Mr. Conmy. I don't want to disagree with what Mr. Bangert has said, but I thoroughly agree with Mr. Conmy. You go to the legislature with a bill to tax lawyers. They will say, "You bet. Sock them another ten dollars." If you go before the legislature with a bill to take money from the State Bar Board and turn it over to the lawyers for their own administration you are not going to receive quite such a cordial "You bet" from the hoi polloi. I think you will pass a bill easier if you pass a bill which contemplates at least an increase in fee. There was not any question in the minds of this body about asking for more money for the Law School at Grand Forks. You never stopped to think that this organization has very little to say about the management of that law school, and if you put in an eight thousand dollar man where you had a four thousand dollar man we haven't any assurance that we can see that the man that went in there was worth four thousand dollars more than the man that has been holding the position under the present salary setup. However, when you get into discussing the affairs of this Association we not only can have a secretary who can and will in his service earn all the money that you can possibly pay him, but if we don't have such a secretary it would be in our power to go out and acquire one. That is something we don't have to say about the Law school, but we do have to say it about our own Association. So I want to agree with Mr. Conmy.

JUDGE NUESSELE: I wonder if it has been given any thought whether you can constitutionally pass an act fixing the fees which will realize more than is reasonably necessary for regulatory purposes.

MR. STRUTZ: We didn't get that far.

MR. PLOYHAR: I will admit for the sake of the argument that the Judge never would disagree with any of us to the effect that it would take \$20.00 to regulate any attorney.

JUDGE NUESSE: When the Bar was first integrated the legislature fixed the license charge at \$15.00, and the lawyers were very much opposed to it. They referred to that license charge as a "dog tax". Anyway, the effect of that—I think there were about 700 lawyers then in the state—was to realize a very appreciable surplus above the amount required for regulatory purposes. The legislature then transferred ten thousand dollars from the Bar Fund to the State Treasury and appropriated it for buying books for the library, and that action was challenged and it was sustained on the ground, as I remember it, that the legislature could only levy enough money to reasonably regulate the members of the Bar, and if any excess accumulated, was not needed for that purpose, since it was a tax it would automatically belong to the general fund of the state, the same as other taxes.

MR. PLOYHAR: To bring this matter to a head as quickly as possible, there is a substitute motion before the house. Do you all understand the substitute motion, or the amendment to the original motion.

MR. CUPLER: The only change is to eliminate the provision increasing the license fee.

MR. PLOYHAR: We will have to vote on the amendment first. All in favor of that amendment to the original motion signify by saying "Aye". Contrary the same sign. I think the noes have it. Now we go to the original motion. All in favor of the original motion signify by saying "Aye". Contrary the same sign. The ayes have it. The original motion is carried. Are there any more motions that you can put across, Alvin?

MR. STRUTZ: That is all.

MR. PLOYHAR: Gentlemen, before we go into our sectional meetings, I want to again emphasize the fact that we will stand adjourned after the sectional meeting that you will attend, or such meetings as you may attend. So we won't come back here again after that session is over. But don't forget we are supposed to have some kind of President's—I understood it was a "deception", so we will call it that—about 6 o'clock. And by all means, whatever you do, get here by 6:30 for the banquet. If John Sad is here I want him to be in readiness. He has an announcement to make after I get through with this. We should have some indication of what sectional meeting you intend to take in. The first meeting, as you know, is "Joint Tenancy." If you will indicate by holding up your hand how many intend to go to that. I would say about three-fourths of them intend to go to that meeting. How many intend to attend the meeting on "Federal Rules of Civil Procedure"? Just a few of you. And how many intend to attend the meeting on "Federal Rent Control"? Just a few of you. We have two rooms besides this one. I would

suggest that the "Joint Tenancy" meeting be held here. John, what did you want to say?

JOHN SAD: I want to say that I am trying to get a little music in here about 3 o'clock, and whoever is acting as chairman I would like to have him give us a little time for that.

MR. PLOYHAR: If there is nothing further we have to take up right now I suggest we adjourn to our sectional meetings discussion.

SEPTEMBER 13, 1946
MORNING SESSION

MR. PLOYHAR: Gentlemen, because of the urgency of the time, I would like to call the meeting to order and dispose of a few matters before we adjourn for our sectional meetings. So I will call the meeting to order at this time. To start with, through oversight on my part I forgot to make the announcement yesterday to the effect that the editor of the North Dakota Annotation Service will be available for inquiries throughout the convention at the Rudolf Hotel at Room 129, and he informed me this morning that he will be up there up to and through the noon hour. Another thing I want to find out, is the Resolutions Committee functioning and will it be able to submit its report this afternoon. They are Charles Pollock and Judge Hutchinson and Arley Bjella. Has the Resolutions Committee had any sessions yet? Judge Hutchinson, has the Resolutions Committee had any session yet?

JUDGE HUTCHINSON: I am not chairman.

MR. PLOYHAR: I think it would be a good idea for that small committee to get together. You can copy the resolutions we have had at every other meeting.

JUDGE HUTCHINSON: I have taken care of the matter, however. I have asked the junior member of the committee to see that the resolutions were prepared and presented.

MR. PLOYHAR: Thank you very much. He said he got a copy of the Minot resolutions and they are all in form. I want to mention a matter that Judge Morris brought up at the Minot meeting. You remember he presented that matter very fully, and it was taken up with the Executive Committee. George Shafer has been interested in it also, and I have received some correspondence from the Lawyers Co-Operative Publishing Company with reference to the matter of the plates for the North Dakota Reports, the plates and some of the books and some unbound volumes. It involves, as I recall, an appropriation by the state of approximately \$16,000.00 to purchase the plates and the bound and unbound volumes. And as I recall, the Committee to whom it was referred last year decided not to take any action on it. I want to mention it again in case somebody wanted to bring that matter up again. I have received some correspondence from the Company, Mr. Wade, about two months ago. Jim, have you anything further you want to say?

JUDGE MORRIS: No, I believe not. I discussed it at the last meeting at Minot. We felt it was not proper for us to participate in it. So the Chief Justice turned the matter over to the Bar Association, and the Bar Association referred it to the Executive Committee, and I guess that is where it stands.

SECRETARY MCBRIDE: The Executive Committee referred it to the Legislative Committee without any recommendation.

JUDGE GRAHAM: I don't think the Legislative Committee made any recommendation to the legislature. It stands just as it did before.

MR. PLOYHAR: I think that is right, Judge Graham. I wanted to bring the matter up so you would know I had some correspondence on it.

MR. ADAMS: Why do we print the North Dakota Reports anyway. We have got the Northwestern, and they are months ahead of the North Dakota.

MR. PLOYHAR: I think that is what a majority of the members feel. There is another argument against that. They claim that if these plates are destroyed, that they will have to melt them up and use them for salvage, that it would be a terrific cost to make new plates. And they also claim that in many states the earlier period of development they didn't care so much about the state reports, but later on they resorted more to the state reports and they found they couldn't get reprints. As I recall Judge Morris mentioned two years ago that there were enough published volumes on hand to last for a good many years. Wasn't that right, Judge?

JUDGE MORRIS: Yes. My impression is that probably the plates would not be needed, well, for fifty years, maybe more. Then, of course, you have the fact that you have got all of these decisions printed in the Northwestern. It would not be, perhaps, just a terrible disaster if you could not buy North Dakota Reports. I was not enthusiastic about this appropriation.

MR. PLOYHAR: Another matter that has been suggested here for bringing up before this meeting was the matter of changing the statutory law, if necessary, with reference to the liability on the part of abstracters. Some of the boys seem to be quite concerned about that, thinking that that has the tendency to destroy the value of an abstract to the extent of the liability against the abstracter. Would any of you think that such matter as that should be referred to the Legislative Committee? (No response) I am throwing this out to you. We can bring some of these up this afternoon. I will drop that for the time being.

VERNON JOHNSON: I would like to go back to this matter of state reports. There is a considerable sum, or at least a substantial sum, appropriated at every session of the legislature for the printing of these state reports. Mr. Adams has expressed a view that we drop that particular item from the appropriation, that we discontinue the printing of the state reports. If they want them

printed I don't think there will be any difficulty. I would like to get the reaction of the members here to the proposition of discontinuing the printing of the state reports. There is a special appropriation made at each session for that particular purpose. I would like to hear some discussion, if there is anybody that is really interested in having them printed, then probably they should be continued. But if not, and it is the unanimous feeling here that they should not be printed any more, I think it is a waste of money to—

EUGENE BURDICK: I, for one, want the North Dakota Reports, and I think there are a lot of others that want them.

JUDGE WARTNER: I feel the same way about it. I have a complete set of North Dakota Reports, and I find they are very convenient to refer to North Dakota cases on the subject, especially with the new North Dakota Digest.

MR. OEHLERT: I think we should look at it for the future. These fellows who inherited these old reports, I think we should continue with them, because eventually our state law will probably encompass a much broader field than it does now. I think it very short sighted to let the opportunity pass by, not to purchase these old plates and keep them. I move we go on record doing whatever is necessary at this time to maintain these reports and to attempt to persuade the legislature, if such an act is necessary, to purchase these old plates and keep them on behalf of the state as a whole.

MR. PLOYHAR: Motion has been made by L. H. Oehlert.

JUDGE NUESSELE: Maybe I am a little prejudiced, but I think it would be too bad if the State of North Dakota, didn't make provision for the printing of its own reports. I don't think there is another state in the Union that has taken such a step as that. I have contributed in a small way, some twenty-four years, to the contents of the majority of the reports.

But I think there is another matter, and I think it is all right to speak about it here. A great many of the lawyers in this state, when they cite North Dakota cases don't cite the North Dakota Reports, and I know it is considerable of an inconvenience to the supreme court, because they have to get their citators and find out where it is in the North Dakota Reports. I think there is a rule of the court that requires them to be cited, and if the supreme court was real mean about it they might strike out the briefs.

Anyway, it is too bad that North Dakota should cease to print its own reports. It may be you don't need these old plates. They cost a lot of money, and it takes a lot of room to take care of them, but some time they might be very valuable.

MR. PLOYHAR: Thank you, Judge. Anyone else?

MR. HIGGINS: It seems to me, from the standpoint of dicker-ing or horse trading, if they do contemplate melting them down for scrap, it seems to me sixteen thousand dollars is a lot of

money to turn to scrap. If that possibility exists, it should be explored. Personally I feel there is a lot to be said for the desirability of continuing them.

MR. NOSTDAL: I personally agree with Mr. Higgins. I think it would be a bad thing to discontinue printing the reports, just for the dignity of the profession. We would be the only state that didn't have them. They all have them. They will be referring to North Dakota, "There is no practice out there. They don't even have state reports." But there is another matter. It takes several months before we can get the report. They are away late. I thought there could be some way we could hurry that up, get an appropriation so we can get those North Dakota Reports published a little earlier than they are now. I agree with Judge Nuessle's motion that we buy these plates.

MR. PLOYHAR: The motion before the house, which has been seconded, as I understand it, is that the Bar Association go on record recommending that appropriate action be taken to try to induce the legislature to appropriate such money as may be necessary to purchase the plates and the published reports of the Lawyer's Co-Operative Publishing Company for the State of North Dakota.

MR. BURTNES: Do I understand Mr. Oehlert's motion also included that we go on record in favor of the publication of the current reports?

MR. OEHLERT: That is right.

MR. PLOYHAR: Are you ready for the question? All in favor of the motion signify by saying "Aye". Contrary the same sign. Motion carried. And the incoming president will have a job on his hands.

MR. ADAMS: There are states that do just the thing I am talking about, Florida and two or three of the southern states. You will find an article in the last American Bar Association Journal on it.

MR. PLOYHAR: Yes, I read that article. I wanted to mention also, gentlemen, that the North Dakota Alumni banquet will be held at the luncheon today down in the dining room, below here, and anyone not associated with the Minnesota Alumni Association, or anyone here is perfectly welcome, and I want you to be sure to come down to that banquet. And as you know, the Minnesota Alumni luncheon will be held at the Rudolf Hotel. I hope we have a fine turnout at both of them. I would like to bring this matter up, and then we will adjourn for our sectional meetings. Mr. Cupler was unable to be here this morning, and he and I were talking about the matter of a motion he would like to have made. I asked Vernon Johnson if he would see fit to make the motion. Would you do that, Vernon?

MR. JOHNSON: WHEREAS, the minimum fee schedule governing the fees of the members of this Association was adopted twenty years or more ago, and has never been revised to meet the changes which have occurred in business and economic conditions;

THEREFORE, be it resolved by the members of the State Bar Association of North Dakota, assembled at the 1946 annual meeting, that the incoming President shall appoint a special committee to consider and revise said minimum fee schedule; that said revised schedule shall be submitted by said committee to the Executive Committee of the Association and if approved by said Executive Committee said minimum fee schedule shall be submitted by the Secretary to each member of this association by mail with appropriate referendum ballot to be prepared by the secretary, and if a majority vote of all members of this Association, as a result of said referendum, shall be in favor of the adoption of said revised minimum fee schedule, said Executive Committee shall declare the same to be in force and binding on all members of this Association.

MR. JOHNSON: I move its adoption.

MR. PLOYHAR: I might mention by way of explanation that Mr. Cupler's idea was this: In the first place, he told me he thought it was the consensus of opinion after the discussion we had yesterday morning that this association should, and really wanted to adopt a revised fee schedule. And in view of the fact that the customary procedure would be to appoint a committee, and then have that committee make its report at the next annual meeting, it would take approximately a year before we could get a new fee schedule put into effect. It was the idea to have the committee work out a fee schedule and have it approved by referendum and have it go into effect within a reasonable length of time.

SECRETARY MCBRIDE: At the Grand Forks meeting of 1942 they completely revised the schedule. I printed it and sent every member a copy of the revised fee schedule. This twenty year period is kind of—

MR. PLOYHAR: I think what he meant, gentlemen—

SECRETARY MCBRIDE: It is all printed here.

MR. PLOYHAR: The fee schedule actually has not been revised to meet modern conditions for twenty years.

MEMBER: They revised it downward.

MR. PLOYHAR: Is there a second to that motion?

(Motion seconded.)

MR. PLOYHAR: Any discussion?

MR. BURTNESS: Just a couple of questions. Appointing a special committee creates a problem of getting them together, and I think every person present who has been on committees knows it is impossible to get a special committee to meet if it is to fairly represent the Bar. This question occurs to me, whether or not the Executive Committee, which does meet—whether the Executive Committee—which is going to pass on it anyway—whether they might not as well do the work in the first place. They

meet, I presume they get their expenses paid when they do meet, and it may make it a little easier for them to get together. That is one question that occurs to my mind. Then I also noted in the resolution, at the very end of it, it says that it, when adopted by referendum, shall be in force and binding. There are various definitions, perhaps, of the word "binding". I don't know in what respects it will be binding, and I would like a little explanation on the part of the sponsor of the resolution what that means. At least those are two queries that come to me.

MR. PLOYHAR: I think they are both in point, and I am well aware of that language toward the end. Don't condemn Vernon Johnson for it, because he had nothing to do about it. Those are two good points that you raise there. I was wondering if the party that made that motion would be at all interested in amending it?

MR. JOHNSON: I have no objection to leaving out the part "and binding". I too think the Executive Committee would be the logical committee, but I felt that in order that the Executive Committee will have the benefit of the thinking of the Bar of different sections of the state, that when they have their District Bar meetings that they talk this matter up. The Third Judicial District is going to meet in a month or six weeks and it could be taken up by us and the First Judicial District meets quite regularly. And then submit it to the Executive Committee, so at the time they have their next meeting they would have the recommendations of the different bar meetings as to how the schedule should be revised. I don't think anybody would think it would be binding on anybody.

MR. PORTER: I wonder if the history of the Association on fee schedules even warrants any further discussion of the matter. I think if we go back over the annual proceedings of this Association we will find that there has been quite a difference of opinion as to its adoption in the first instance, and as to its worth to the members of the Bar. I question there is any sense in even adopting any fee schedule.

MR. REMINGTON: Along the line Mr. Porter has stated, I recall one time I was on the committee on fee schedule. Owing to the fact there was a serious illness in my family, I was not able to go to the annual meeting. However, there were three of us on the committee, and the report was prepared by correspondence. There was one member down in Dickey County who had a good many federal foreclosures, but he absolutely agreed with me on the proposition that the fee schedule should control in federal foreclosures. There was one member from over west of the River who had a good deal of business, and he would not agree with me. So there was a two to one report submitted to the convention entirely disapproving of the practice of extending any deviations from that fee schedule to any agency whatsoever. As I say, I was not able to go to that meeting, but the report was very coldly rejected. So I don't know why you want to set up a fee schedule.

MR. EUGENE BURDICK: In the interest of conserving time, for our sectional meetings, I move that this motion be tabled until this afternoon.

(Motion seconded.)

MR. PLOYHAR: The motion has been made and seconded that the motion before the house be tabled until this afternoon. All in favor signify by saying "Aye". Contrary the same sign. Motion carried. I think we will have to go into our sectional meetings. Give me a show of hands of those who will take in the first meeting, which is on "Actions to Quiet Title." I would say there would be approximately half of them Mr. Burnett is discussion leader and he would like to have that in the basement on account of the acoustics in this room. We will now adjourn.

AFTERNOON SESSION

MR. PLOYHAR: The meeting will come to order, gentlemen.

JUDGE WARTNER: I assume that the meeting is now in order. I will make a motion that we defer the committee reports and proceed to the election of officers.

(Motion seconded.)

MR. PLOYHAR: You have heard the motion. Motion has been made and seconded that we defer the balance of the committee reports and proceed immediately with the election.

MR. NOSTDAL: I am willing to agree to that, but on the program the election is set for three o'clock, and there is evidently a lot of boys that are not here now, and I don't think it would be fair to hold the election now. I tell you what you can do, Judge, you can give me your proxy and I will vote it for you.

MR. BURTNES: I agree with Mr. Nostdal. I can't give you the names, but I am sure there are members who are planning on being here before three. I think it would be unfair, and certainly it could not be done without suspension of the rules.

MR. PLOYHAR: That is right. Any other remarks? Are you ready for the question? All in favor of the motion signify by saying "Aye." All against it signify by the same sign. The motion is lost, and we will proceed with the program as printed. Just before George Shafer took over the realms of telling us boys downstairs what he didn't think of us and what he did think, we had a motion before the meeting that was tabled for consideration after lunch, and that motion was on this question of preparing a schedule of fees, and the motion was read, as you recall, by Mr. Johnson, and there were some comments made. There were not any amendments made, but there were suggestions for amendments. I heard some suggestions made since then that probably if we had a schedule of fees adopted it would be just as well to leave it to the Executive Committee rather than submit it to a referendum, because that would entail considerable correspondence and some work. I would like to have that motion brought on now and dispose of it.

MR. BURTNESS: I will move an amendment. Instead of having a special committee, make the Executive Committee of the Bar Association a special committee.

MR. PLOYHAR: What with reference to the referendum?

MR. BURTNESS: I thought we would take care of one amendment at a time.

(Motion seconded.)

MR. PLOYHAR: Motion made and seconded that the original motion be amended to eliminate, as I understand, to eliminate that portion of it where a special committee will be appointed, and amend it so the Executive Committee would constitute a committee of the Bar Association for that purpose. Are you ready for the question? All in favor of the amended motion signify by saying "Aye". Contrary the same. Motion carried.

MR. BURTNESS: I move the words "be in effect"—if so and so is adopted "shall be in effect and binding" to strike out the words "and binding" and substitute in lieu thereof the words "in effect".

(Motion seconded.)

MR. PLOYHAR: An amending of the original resolution. Some of the phraseology was not what it should have been with reference to making it in full force and effect and binding on the Association. The amendment is to the effect that it shall be "in effect" as of a certain date. All in favor of the amendment signify by saying "Aye". Contrary the same sign. The amended motion is carried. Would anyone want to offer amendments to the original motion with reference to the referendum feature of it? I am just bringing that up.

JUDGE GRAHAM: I wonder if it is necessary to have a referendum upon it. Could not this be done? We have district Bar meetings, and why not the district Bar meetings send in their recommendation? Each one of them will have a member on the Board, and is it necessary to have a referendum?

MR. PLOYHAR: That is the point. The Executive Committee could actually get information from the various districts through their representative on that committee. The point is we don't want to start something that would look like we were trying to avoid a referendum, but we want to have your consent to that.

MR. ADAMS: I move that the resolution be amended by striking all reference to a referendum.

JUDGE GRAHAM: I second it.

MR. PLOYHAR: Motion has been made and seconded that the original resolution be amended so as to strike out all reference to a referendum on the matter of establishing a fee schedule. All in favor of that amendment signify by saying "Aye". Contrary the same sign. Carried. It is my understanding now, gentlemen—I stand corrected, you understand—but it is my understanding that the motion would be in the condition at the present time that

the Executive Committee would have the authority to prepare a new fee schedule and that upon the adoption of that fee schedule by the Executive Committee, with the help and assistance of the District Bar Associations and their representatives, then that new fee schedule would become the fee schedule of this Association. That is my understanding.

JUDGE GRAHAM: I think that is correct.

MR. PLOYHAR: Mac, do you understand it that way?

SECRETARY MCBRIDE: Yes.

EUGENE BURDICK: I would like to make a parliamentary inquiry as to whether or not this motion contemplates only a minimum fee schedule and not a maximum.

MR. PLOYHAR: This is, as I remember, a minimum fee schedule.

MR. BURDICK: Then I have no further remarks.

MR. PLOYHAR: Is there any discussion? All in favor of the motion, signify by saying "Aye". Contrary the same sign Carried. They wanted me to bring up this matter. Some felt it is quite important that we should do something with reference to making a recommendation to the Legislative Committee on the matter of trying to change the present existing law as announced by our supreme court with reference to the six year statute of limitations running against an abstractor's bond, and I would like to have some discussion on that. Does anyone think it is important enough to make any recommendation to the Legislative Committee? I will again stand corrected, but as I understand that decision the supreme court has held that the statute of limitations starts running on the abstractor's bond at the time that he signs the certificate. And that naturally would be six years after the certificate is continued that the bond would not be of any value. And of course we all know, and I think it is the customary way of abstracting that when they add a certificate they certify only to the subsequent amendments. Does anyone want to discuss that? I am bringing it up so you will have a chance to discuss it. (No response). It appears to the chair that apparently that matter can go by the wayside for the time being at least. We will go on to the committee reports, and we have a report here from Dean Thormodsgard. Dean, would you mind presenting your report at this time?

LEGAL EDUCATION AND ADMISSIONS TO THE BAR

Your Committee on Legal Education and Admissions to the Bar begs to submit its annual report as follows:

The 69th annual meeting of the American Bar Association will be held in Atlantic City, New Jersey, from October 28 to November 1, 1946. At this meeting the several section committees will report and make their recommendations. During the past 69 years the American Bar Association, which is a voluntary organization of lawyers, have effectively influenced legislation

with several states and in Congress. Recently the Administrative Procedure Bill, which was sponsored by the Association, was enacted into law. Special advisory committees have been appointed to study the problems of Military Justice, International Court of Justice, United Nations Organization, and International Law. Even with these complicated issues, the American Bar Association continues to have a vital interest in the problem of Legal Education and Admissions to the Bar.

At the 1944 mid-year meeting, the House of Delegates of the American Bar Association instructed the section on Legal Education and Admissions to the Bar to make a survey of legal education and admission. In 1945 the council of the section of Legal Education and Admissions adopted the following resolutions:

"WHEREAS, The Section of Legal Education and Admissions to the Bar deems it important to the public interest, the profession, and to prospective students of the law that such an over all study be undertaken promptly; therefore be it

RESOLVED, That the council of the section of Legal Education and Admission to the Bar proceed immediately to prepare plans and take the necessary steps to carry out the directions of the resolution of the House of Delegates."

Dean Albert J. Harno, Chairman of the Section in commenting on the above resolution said:

"As the council of the section now conceives the import of the resolution passed by the House of Delegates, it projects an understanding vastly more significant than that of a mere study of law schools and of legal education. Legal education is involved, but in its broader implications, as the council of the section conceives this task, the study includes an appraisal of the place of law and of the lawyer in the American scene—an appraisal of the law and the lawyer in relation to the ongoing processes of a free society. Are law and government under law essential to the idea and ideals of that society? What is the role of the lawyer in a democratic system of government? Is it conceivable to have a free society which does not have as an integral part of it a highly trained legal profession? What is the function of law in American affairs? What contribution does the lawyer make to American affairs? These are some of the questions to which our profession should have an answer. They are questions of high significance to the American people."

Lawyers and law schools should look forward to a nationwide survey of this type. Within the broad scope of the survey, a detail study will be made as to each law school including the law building, the law library, equipment, curriculum, the librarian, and the law faculty. A survey of this type will aid each institution to determine what types of professional services it may offer. The policies and the past standards of the school will be evaluated by this survey committee.

The Committee on Legal Education and Admission of the North Dakota Bar Association deem that the time is favorable

for such a survey. It may be borne in mind that in 1931, the legislature upon recommendation of the Bar Association enacted a law which required all bar applicants to have completed two years of acceptable college work and three years of law study. As a member school of the Association of American Law Schools, the University of North Dakota School of Law since required all prospective law students to have completed one-half of the work acceptable for a Bachelor's degree, which is the equivalent of two years of college work. The School of Law has been for years approved by the Section on Legal Education and Admission to the Bar. This approval is based upon the compliance with certain required standards as to (a) pre-law requirements, (b) law building, (c) law library facilities, (d) qualified librarian, (e) and a qualified teaching staff. This committee is pleased to report that after several years delay, a second tier of stacks have been installed in the law building. All the law books have been rearranged. A special room with work tables has been set aside for all the statutory materials from the forty-eight states, territories, the federal government and from the provinces of Canada. With proper light facilities, study tables, accessible to the law books by the students, and under guidance of trained librarians, the law school library is of credit to the state and to the University. The teaching staff for 1946 will be four full time law teachers and four part time law teachers. Veterans and civilians are returning to the University for their college and professional education. The School of Law of this state is prepared with its present faculty, library facilities, and library staff, to give quality instruction to the many veterans and civilians who will enroll.

For forty-seven years, the School of Law did not offer professional courses in law during the Summer Session. The veterans demand an accelerating program, so a summer session for eight weeks was planned. By offering summer courses in law, it is possible for the School of Law to enlarge its curriculum by teaching courses in Damages, Federal Jurisdiction and Procedure, Future Interests, International Law, Labor Law, Quasi Contracts, Taxation and other valuable courses.

The School of Law has complied with the standards of the American Bar Association and that of the Association of American Law Schools. The committee is of the opinion that when this survey is made by the Section of Legal Education and Admissions to the Bar of the American Bar Association, a program may be set up which will be of real value to the University and to the legal profession of this state.

Not only has the Section of Legal Education of the American Bar Association taken a vital interest in formulating the standards of legal education for the law school students, it has in recent years taken active interest in post admission education for practicing lawyers. Law study by correspondence has never been approved either as to time credit or course credit by the Section of Legal Education. For the purpose of giving lawyers opportunity for self improvement through Extension Courses and Law Institutes the American Bar Association has sponsored the Practicing

Law Institute, a non-profit educational institution of New York City. Monographs have been written by 90 skilled practitioners and law teachers. In the General Practice Series there are 17 monographs; in the Trial Practice Series there are 24 monographs; in the Fundamentals of Federal Taxation Series there are 13 monographs; and in the Current Problems in Federal Taxation Series there are 12 monographs. These monographs are written by experts in their respective fields. The Practicing Law Institute has given courses during the past two years in 40 cities and in 25 states. Where legal institutes cannot be arranged due to limited number of lawyers, these Series of monographs are available by ordering them. The Practicing Law Institute is the first good correspondence school in law, which has the approval of the American Bar Association, for post admission education and for refresher training for lawyer veterans. Since law institutes are not available in North Dakota the committee recommends to the lawyers that these monographs have merits.

The committee has checked the annual reports of the bar associations of several states. It noted that in these states which have adopted the standards of the American Bar Association as to pre-legal education and bar examinations, that the committees on Legal Education do not report annually, but usually every two or three years. Your committee on Legal Education and Admission to the Bar recommend that the Committee be continued and that a report be filed every two years.

Respectfully submitted,

CHARLES G. BANGERT

ASMUNDER BENSON

GEORGE P. HOMNES

THEODORE A. SAILER

O. H. THORMODSGARD, Chairman

DEAN THORMODSGARD: I am willing to move that the report be filed and printed and approved.

(Motion seconded.)

MR. PLOYHAR: I presume when the Dean said "I am willing" he would put that in motion.

DEAN THORMODSGARD: Yes.

MR. PLOYHAR: The motion has been made and seconded that the report of Dean Thormodsgard and his Committee on Legal Education and Qualifications be accepted and printed in the Bar Briefs. All in favor of that motion signify by saying "Aye." Contrary the same sign. Motion carried. We have another committee report which I think is a very timely report to make at this time, and that is the Committee on Memorials. I don't know how much of that report Mr. Burdick will want to read, but I would like to have him come forward and make that report.

MR. BURDICK: We have selected for reading at this meeting the sketch of Gustof Lindell, the only North Dakota lawyer who

made the supreme sacrifice in World War II, the sketch of Sveinbjorn Johnson, and the sketch of William G. Owen.

(The three sketches above mentioned were read by Mr. Burdick. Because of lack of space they are not printed here but the full report of the Committee on Memorials will be published in a later issue.)

MR. BURDICK: Mr. President, I move that the report be received and that the accounts of our departed practitioners be recorded in the annual number of the Bar Briefs.

MR. NOSTDAL: I second the motion.

MR. BURDICK: May I add one paragraph. Your Committee desires to acknowledge for the record the outstanding contribution made by the Honorable A. G. Burr. We owe Judge Burr a great deal for his splendid service during the years he has served as chairman of this committee.

MR. PLOYHAR: I want to make this comment before putting this motion. I think we owe a great deal of gratitude to our new chairman, Mr. Burdick, who has spent a considerable amount of time and effort in preparing one of the finest memorial reports we have ever had. He has only read three out of the report, but he has filed a report on all of the deceased members of the Bar, with the exception of a few that he has to wait for. I understand they will be supplied and printed in the annual report.

MR. BURDICK: Yes. I had hoped to read Governor Moses' report too, but unfortunately we haven't completed it yet. You will find it complete in the Annual Number if this report is accepted.

MR. PLOYHAR: I might also make this comment before we put the motion. It was my privilege, together with Herb Nilles, to have a very fine and enjoyable visit with Judge Johnson down at Cincinnati at the American Bar Association meeting. And I am sure it will interest you to know that he inquired about almost everyone present here. He then wanted to know how you were getting along. We spent about an hour and a half trying to tell Judge Johnson what we could about the welfare of each and everyone of the members of this Association. I also want to comment on the fact that I feel quite an extensive loss in the matter of the loss of Gus Lindell, who was a former schoolmate of mine, whom I learned to know very well. It goes without saying that the report that has been made covers his life very well. With that in mind, are you ready to receive the report and vote on the motion? All in favor signify by saying "Aye." Contrary the same. The motion is carried unanimously. And thank you very much, Gene. May I make this suggestion also. In view of the vast number of deaths we have had during the last two years, all of these fine men of the profession, that we all stand for a moment in silence. (Done). Are there any other committee reports that we have missed? Are there any other committee reports from the floor that should be taken up at this time. If there are not, then I believe the next order of business to come before this meeting is

the election of officers. At this time the chair will entertain nominations for the office of President. I might say there will be an election of President, Vice President and Secretary.

CLYDE DUFFY: Mr. Chairman: I rise to place before you the name of the best lawyer, in the best city, in the best state in the Union. It goes without saying that I am talking about Mack Traynor. I would not make that admission that he is the best lawyer if we were in Devils Lake, but I can make it here safely and without prejudice. Perhaps some of you might dispute the matter with regard to the best city, but we stand by that after making it. Mr. Traynor has been practicing on the other side of the street from me for a quarter of a century, and we come into conflict occasionally. But I have come to know Mr. Traynor as an able lawyer, a very fine man, a good citizen, and general all around fellow. A graduate of the University of North Dakota, he has served his country, he has served his community, and he has served the Bar Association. Two badges of honor that he wears today, one the Purple Heart, representing wounds in war, the other the badge of the Bar Association of North Dakota, representing the wounds of an active practitioner at the Bar. I submit to you as a worthy successor to the retiring President, worthy representative of the Bar of North Dakota, Mack V. Traynor, of Devils Lake. (Applause).

MR. DAY: Mr. President, Ladies and Gentlemen: It is quite a task that we undertake, and probably the next few minutes one of the most important tasks that this convention can do. When the Bar Association meets and elects a President they certify to the people of this state that they have selected, singled out, one of their number, and they certify that he is eminent in his profession, that they are proud to recommend him to their friends and to the citizens of the state, and particularly to his community. The man I would like to place in nomination, Mr. President, is one that we can proudly so certify. It just happens I was raised in western North Dakota, out in the Bad Lands. And I was taken by my father's hand into his office. I was not a client, but my father was. I didn't make a deal with him at that time to nominate him today. But I did have the impression at that time of an eminent lawyer. That has not been disturbed over a quarter of a century of observing his operations, and as one of the most loyal members of this Association. A few years ago I was in the Jamestown convention, and at that time he was proposed as President of this Association, but stepped down in favor of the Honorable Herbert Nilles, of Fargo.

There is another factor to be considered at this time, and that is when we elect a man President of this Association we are honoring the man; we are honoring him because of his service to this Association, but more particularly because of his eminence at the Bar.

Ladies and gentlemen, I take great pleasure in placing in nomination a friend of all of us, Herbert Mackoff, of Dickinson. (Applause).

MR. PLOYHAR: Are there any other nominations? We now have the nominations of Mack Traynor and Herbert Mackoff.

MR. HIGGINS: I want to second the nomination of Mr. Mackoff. He has been a leading practitioner in the Sixth Judicial District, in which I have been practicing during all the time I have been practicing, and during all of that time he has had an eminent place in the district, where we have been blessed with some rather outstanding practitioners. I have never heard any criticism of H. A. Mackoff.

In addition to the qualifications which have been so ably stated by Senator Day, I would like to call attention to the fact that it has been a long time—I do not suggest that as being a primary consideration, but it has been a long time since that district has been honored with the Presidency of the Association. I think that he is a man that we could well present to the people of this state and to the entire nation as being representative, and being outstanding in the profession from every standpoint, and for that reason it gives me great pleasure to second the nomination of H. A. Mackoff.

MEMBER: I rise to second the nomination of Mack Traynor as President of this Association. He has been one of our fine, high grade lawyers from the time he graduated from the Law School. Mack had it in him to be a good lawyer from the very start. He has carried on, and we respect him as a leader of our Bar. He has got everything that the Bar Association wants and is able to carry on the fine work that has been carried on this year. And it is a great pleasure of the Second Judicial District, and all of the lawyers up there, to give the Bar of the state our high esteem and appreciation of our fine friend and fine lawyer. I second the nomination.

MR. PLOYHAR: Are there any other seconds at this time? If there are no more nominations, the chair will entertain a motion that the nominations be closed.

MEMBER: So moved. (Motion seconded).

MR. PLOYHAR: Motion has been made and seconded that nominations be closed. All in favor of the motion say "Aye". Contrary the same sign. And the motion is carried.

MR. MASON: If it is in order, I would like to suggest that the one that is high be elected president and the one that is second high be elected vice president.

MR. PLOYHAR: My interpretation of the by-laws, we would have to elect the president then the vice president. I will appoint some tellers at this time so you can pass out your ballots. I am going to appoint John Sad and Jack Nilles to act as tellers on that side and Bergesen on this side. While the tellers are counting the ballots, I don't believe it would be out of order to read the report of the Committee on Resolutions.

REPORT OF RESOLUTIONS COMMITTEE

1. That this association expresses their sincere appreciation and the thanks of all of its members to the Mayor and officials of

Valley City, to the members of the Valley City Bar and to the citizens of this city for the many courtesies and hospitalities that have been accorded to this association and to its members during its 45th annual convention.

2. That this association extends its thanks to the members of the program committee and officials of this association and to all who have worked and labored to make this convention the success that it has been.

3. That this association extends Dr. M. S. Ward its appreciation and gratitude for his excellent address.

4. That whereas one year after the ending of the greatest and most terrible of wars of history the world is still in a period of strife and turmoil be it thereby resolved that all the members of the association extend their utmost influence and efforts to further the United Nations as the instrumentality of preventing future wars and insuring the dignity of man throughout the world.

Respectfully submitted,

RESOLUTIONS COMMITTEE

W. H. HUTCHINSON

C. POLLOCK

ARLEY BJELLA

MR. PLOYHAR: Do I hear a motion to accept this report?

(Motion made and seconded that the report of the Resolutions Committee be accepted).

MR. PLOYHAR: Motion has been made and seconded that the report of the Committee on Resolutions be accepted. All in favor say "Aye". Motion carried. I have just been informed by the committee and I stand corrected if that is not correct—that Herbert Mackoff has been elected President of the Association to succeed me in this office. (Applause.)

MR. TRAYNOR: This has been just a friendly campaign between a couple of Macks, maybe a couple of Micks, I don't know. So I move that the election of Herbert Mackoff be made unanimous and the Secretary be instructed to cast the unanimous ballot of the Association for Herb Mackoff.

(Motion seconded).

MR. PLOYHAR: Motion has been made and seconded that the Secretary be instructed to cast the unanimous ballot for Herbert Mackoff as President of the Association. All in favor say "Aye". Contrary the same. Motion carried.

SECRETARY MCBRIDE: I take great pleasure in casting the unanimous ballot of this Association for Herbert A. Mackoff of Dickinson for President.

MR. PLOYHAR: The chair will now ask Mr. Mackoff if he won't come to the fore.

MR. MACKOFF: Mr. Chairman, and Members of the Bar: I want to tell you that I appreciate the honor conferred on me. I hope I will deserve the honor. I will do the very best I can. I want to thank you for your kindness for making it unanimous. We have been great friends for many years. We have known each other since school days, and I am very happy that in placing the names in nomination that I had so fine a fellow as Mack Traynor, so splendid an individual as Mack Traynor as an opponent. It is a great honor, and I thank the organization for extending me this honor. I hope I will be worthy of it.

MR. DAY: When I learned that Mack Traynor was going to be placed in nomination, which I did yesterday, just a little bit of a lump came in my breast, because he has been a friend of mine for a long time, and an eminent man and entitled to be honored by this Association. I don't know whether I am out of order in talking so much, but under the circumstances I would like to place in nomination his name for vice president of this Association.

FRED CUTHBERT: May I have the honor. He is a great lawyer, fine man. I didn't vote for our friend over here, I voted for Mack. So may I join Ted in saying I would like to see it made unanimous that Mack Traynor be made vice president.

RONALD DAVIES: I move you that the nominations be closed and the rules be suspended, and the Secretary be instructed to cast the unanimous ballot for Mack Traynor.

MR. STUTSMAN: On behalf of the Sixth Judicial District, I want to second this motion and make it unanimous for Mack Traynor.

MR. NOSTDAL: On behalf of the delegation from Pierce County, consisting of Judge Grimson and myself, I wish the same.

MR. MACKOFF: May I have the honor as well to second this motion. There is no fellow I would like to work with better than Mack Traynor.

MR. PLOYHAR: I think you are ready for the motion. And the motion is to the effect that the rules be suspended—the nominations be closed and the rules suspended and the secretary be instructed to cast the unanimous ballot for the election of Mack Traynor for vice president. All in favor signify by saying "Aye". Contrary the same sign. Unanimously carried.

SECRETARY MCBRIDE: Mr. President, I take great pleasure in casting the unanimous ballot of this convention for Mack Traynor as vice president of the Association.

MR. PLOYHAR: Gentlemen, just one more thing, and that is we must of necessity have a secretary. I am going to entertain nominations at this time for the office of secretary.

MR. JACOBSON: The experience of a very experienced secretary can serve the Association well to meet the problems for the coming year. I nominate the present secretary, Mr. M. L. McBride.

MR. NOSTDAL: Before I end my career as a member of this Association I would like to second the nomination of Mac for secretary-treasurer. We were classmates together. We attended the Bar meeting at Fargo when we were admitted to the Bar 44 years. And it gives me great pleasure personally on behalf of the Pierce County delegation to second the nomination of Mac for secretary-treasurer.

MR. BURTNES: I move the rules be suspended and the nominations be closed and the President of the Association cast the unanimous ballot of the Association for the re-election of Secretary McBride for secretary-treasurer.

MR. PLOYHAR: All in favor of that motion signify by saying "Aye". Contrary the same sign. Mac, as President of this Association, I hereby cast the unanimous ballot for you as secretary-treasurer of this Association for the ensuing year. (Applause).

SECRETARY MCBRIDE: Mr. President and members of the Association. I will carry on to the best of my ability. I promise you not to be too tough on you, because the job you have given me is a tough one. Thank you.

MR. PLOYHAR: Is there any unfinished business to come to the attention of this meeting?

MR. BURDICK: There was some discussion at one of the meetings this morning about whether or not we should create a little interest in the move to shorten the notice to creditors in probate from six months to three months. I would like to see something like that done.

MR. PLOYHAR: Anyone else have any remarks to make of that nature? I presume it would be in the form of a recommendation to the Legislative Committee, if it is made. (No response). I take it that probably there isn't anyone else that wants to propose such a thing. Gentlemen, one more thing, in case you don't want to take that matter up further. Here is a recommendation by the Executive Committee that they would like passed on by this Association. Better let Mac read it. I can't.

(Recommendation read by Secretary McBride, dealing with appropriation out of the general fund to pay the expenses of the Judicial Council.)

MR. PLOYHAR: I might say that that was given consideration by the Executive Committee because we felt that our Judicial Council was so handicapped for lack of funds, and particularly the eminent showing that has been made in various states by other judicial councils where they have money to go on. As I remember, back in 1942 or '41 the South Dakota Judicial Council was given recognition as an outstanding Council by the American Bar Association. During that time, as I recall the report, they spent less than \$400.00. The idea is to see if we can't promote some appropriation for their expenses so they can function.

MR. BURTNESS: I move the recommendation made by the Executive Committee in this matter be approved by the organization.

TOM JOHNSON: Second that motion.

MR. PLOYHAR: The motion has been made and seconded that the recommendation of the Executive Committee be approved by this Association. Are you ready for the question. All in favor of the motion signify by saying "Aye". Contrary the same sign. Motion carried.

MR. MCBRIDE: I might mention that one of the first duties of the new President will be to name five members of the Judicial Council from the membership of this Bar Association to take effect January first.

MR. BURTNESS: Before we close, I think it would be only appropriate for our Association to express formally its vote of thanks and appreciation to Mr. Ployhar. He took over in strenuous times, due to the death of Mr. Owen. He has done a fine job. And so I move that as a mark of appreciation that we give him a standing vote of appreciation. (Done).

MR. PLOYHAR: Gentlemen, I certainly want to thank you from the bottom of my heart for that recognition of appreciation, and I want to thank you again very kindly for the honor that you have bestowed upon me in letting me act as your President, and it is my sincere wish and desire that my successor in office will receive the same kind of co-operation and constructive criticism, if you want to call it that, from you fellows who have been so good to me.

MR. CUTHBERT: My President, my compromise went through but it went through in reverse. All of my fellows went home. I therefore move you that the order of business at two o'clock on the first day shall be the election of officers. So that at least if I put on a campaign again I don't want all my friends to be on their way home.

MR. PLOYHAR: In other words, Fred, you have been sold down the river, is that right?

MR. CUTHBERT: That is right. That the election of officers take place the first day, not the last day.

MR. PLOYHAR: I think you are right.

MR. MACKOFF: In order that his friends may never leave him again, I will second the motion.

MR. PLOYHAR: Gentlemen, there is a motion before the house with a second.

MR. CUTHBERT: I am serious about the motion, that the election of officers must take place the first day.

MR. PLOYHAR: Gentlemen, this motion before the house is to effect that the order of business of this Association be changed so that the election of officers be held on the first day of the meeting of the Association.

MR. ADAMS: I move a substitute motion, and that it be left entirely to the Executive Committee. (Motion seconded).

MR. PLOYHAR: There is a substitute motion, and we will vote on the substitute motion. Are you ready for it?

MR. CUTHBERT: I will accept that, with the provision that the Executive Committee are informed that this Association has expressed their desire that the election of officers be made on the first day.

MR. PLOYHAR: Is that explanation fair to make, on the basis of that substitute motion? I don't think we can hardly incorporate that.

MR. DAY: I think the explanation should be that Cuthbert has expressed his desire.

MR. PLOYHAR: We will vote on the substitute motion, to the effect that the matter of the order of election be left to the Executive Committee. All in favor of that motion signify by saying "Aye". Contrary the same. The substitute motion is declared carried. And I believe on that basis the original motion fails.

MR. BERGESEN: I have noticed that in many of our states the attorneys are able, through one means or another, to get the decisions of the supreme court quite promptly after the decisions are made. As we proceed under our system the only attorneys who know the decisions, what the decisions may be, are the attorneys in the case. And outside of where you happen to read in the daily newspapers we don't know for some months afterwards the opinion of the supreme court. It seems to me it would be highly desirable if all of the lawyers of the state be informed very shortly after the decisions are rendered what those decisions are. It occurs to me that possibly an arrangement could be made whereby the Secretary of the Association would receive those opinions and could have summaries of them printed in the Bar Briefs, and in that way we would have the decisions, some idea of them, the point involved, what the court has held, quite promptly. So I would make the motion that it be the recommendation of this body to the Executive Committee that the Executive Committee endeavor to work out some arrangement whereby there may be made available to the members of the Bar the decisions of the court shortly after the decisions have been rendered.

SECRETARY MCBRIDE: I think the Clerk is here. He sends all of the syllabi of all the cases to me as soon as they are issued by the court and I publish them in the next Bar Brief. Sometimes there are other matters in there and we have to put them over to the next publication. But we do the best we can.

MR. BERGESEN: I know some cases the reports in the Bar Briefs don't come—

SECRETARY MCBRIDE: If you increase the size of the Bar Briefs you increase your bill, and I have a budget to figure on, and I get them out as fast as I can. Some times the decisions come out four or five at a time, and there won't be any further action by the court for some time.

MR. BEREGSEN: All my motion contemplates is that the Executive Committee endeavor to secure the result. If it takes more money, and more money is available, then they be put in the Bar Briefs in order to get them to us. If the money is not available, then they better consider ways and means of getting the money, so it can be done.

MR. CUTHBERT: The district judges get the syllabus after every decision is filed. They really should come to the lawyers, I think. I don't know what the arrangement is, but I do know the district judges get mimeographed copies. It doesn't mean a thing to them, but it does a lot to a practicing lawyer. And I think this could be worked up without a great deal of expense to the attorneys, and get mimeographed copies. I am absolutely 100% for it, if we can get the money. It would not cost an awful lot. We will say we got fifty good lawyers here, and then we got the others. It would not cost an awful lot to send them to us, and to them.

JUDGE MORRIS: As soon as an opinion is filed with the Clerk of the Supreme Court he immediately mimeographs the syllabus, and he sends a copy of that syllabus to each district judge and to the Secretary of the Bar Association. If you have any problem it is getting that syllabus to the members of the Bar, because it goes immediately to your secretary, and he gets it just as quickly as the district judges.

MR. BURTNES: I would like to inquire of Judge Morris as to the actual length of time between the actual filing of the decision and when it is printed.

JUDGE MORRIS: That is hard to tell. In the summer time, it seems the staff of the West Publishing Company being on vacation, they are quite a bit slower. But when we file an opinion there is fifteen days for rehearing, and then frequently an application for another fifteen days, and that is granted in quite a number of cases. But if there are no delays to extend the filing of petitions, the supreme court notifies the West Publishing Company. They already have the opinion, they hold them in their files. And then it usually takes them, on the average, I would say, about thirty days after that release before we get them in the advance sheets. So it takes about a month and a half from the time the opinion is originally filed until it is released and printed.

MR. BURDICK: I move we adjourn.

MR. PLOYHAR: There is a motion before the house without a second.

MEMBER: I will second Mr. Bergesen's motion.

MR. BURDICK: My motion is not debatable. It requires no second, and it has precedence over all other motions.

MR. PLOYHAR: The chair will have to rule when there is a motion before the house we will have to entertain the first

motion. And that motion is to the effect that the executive committee take as the recommendation of this Association that ways and means be found, if possible, to try and put in the hands of every lawyer a copy of the syllabus of the supreme court decisions as soon as possible. Any questions or remarks? All in favor of that motion signify by saying "Aye". Contrary the same sign. Motion carried.

MR. NOSTDAL: There is another weighty question that has to come up before we close. I had the pleasure two years ago to attend the North Dakota Alumni Association meeting at Minot. They were in difficulty about their officers. They were going to elect some officers at large, and George Shafer was a candidate. I just wondered what they did to circumvent that proposition, because there was some doubt whether he would be at large for the next two years. I wondered how it came out. I thought the members would be interested.

MR. PLOYHAR: All I can say is that George announced at noon that that was an oligarchy, and an oligarchy takes on all powers. The fact that George assumed that office, and it is up to you to dislodge him, but I don't think you can. I will entertain a motion to adjourn.

MR. BURDICK: Mr. President, I move we adjourn.

MR. PLOYHAR: All in favor signify by saying "Aye". Carried.

