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Oliver Wendell Holmes

North Dakota Law Review Associate Editors

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OLIVER WENDELL HOLMES

Our executive committee this month by resolution endorsed House Joint Resolution No. 237 accepting and crediting the residuary estate of former Justice Holmes to the Library of Congress Trust Fund Board: providing for the use of the income from such fund for the building up and maintaining of a collection of legal literature in the Law Department of the Library of Congress to be known as the "Oliver Wendell Holmes Collection."

It is our hope that this resolution may be unanimously adopted by both houses of Congress. A worthwhile memorial to a truly great man, long a progressive and liberal leader in the interpreting of that great document so often under fire in recent years, the Constitution of the United States.

When he resigned from the Supreme Bench early in 1932 the Chicago Bar Association Record said:

Justice Holmes has resigned. Time beckoned and the most youthful mind on the Supreme Court of the United States must needs obey.

In his early professional life he had expounded the Constitution to students; as it closes, the whole nation is listening. Into his opinions have been poured the poetry of his soul, the inspiration of his spirit, the profoundness of his mind. Through them all runs a simple, statesmanlike conception of the structure of our government. His was never the function of passing upon the wisdom of legislative experiments. This he has been content to subject to such gradual tests as the slow progress of time might fashion.

The Constitution is not merely a legal document, it is a vehicle by which people govern themselves. It is now serving a nation whose manners and means of living were undreamed of when it was adopted; it should be preserved to serve a nation whose manners and means of living are now undreamed of. In construing and applying it, courts must see through the written words to the people who stand behind it and sense the invisible generations crowding up behind them. Changing aspirations and convictions must continue to find expression through it. Rigidity is death to it and against rigidity Holmes has struggled—at times alone. "Some play must be allowed to the joints if the machine is to work."

For many years he has carried the light, but now it is falling from his hands. Who will catch it?

In view of political developments of the past five years an article in the March, 1931, Yale Law Journal by Harold J. Laski, visiting professor at the Yale University School of Law, is intensely interesting reading as it was on the—

POLITICAL PHILOSOPHY OF JUSTICE HOLMES

"There is a marked resemblance between the ideas of Bentham and those of Mr. Justice Holmes (Bentham, Principles of