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## We Fraternized Successfully

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## WE FRATERNIZED SUCCESSFULLY

The 1931 annual meeting at Jamestown was a success from every standpoint. Notwithstanding the severity of the "repression," the attendance was all that could be expected—129 lawyers and 38 ladies participating—in addition to which there were three distinguished guests and a "passing through" registrant whose "remark column" entry was "not interested."

President Miser of the South Dakota Association, President Mitchell of the Minnesota Association, and President Boston of the American Bar Association were received with open arms, and deserved all of the good things said about them and most of the good things done to them, with the possible exception of the honorary membership donation. Our good friend, "Bill" Owens, declined the latter honor, claiming that his home was still in Williston.

The only regrets expressed concerning the general program resulted from the inability of Governor Shafer and former Assistant Attorney General Thorpe to attend and participate. The calls for the Governor's public appearance, by reason of his good nature, wit and oratory, are becoming so insistently frequent that he ought to be provided with aeroplane taxi facilities in order to permit him to answer a still larger proportion of those calls. Really, we marvel at his ability to meet as many of these requests as he does without those facilities.

The banquet, as usual, was the main social feature, and was thoroughly enjoyed at Spiritwood Lake. It was unfortunate that the business sessions of the Association prevented many from getting out early enough to enjoy to the full the pleasures of this delightful summer resort. Also, as usual, the banquet proved an inspiration to further oratorical efforts the next day, some of which will go into history as excitingly unusual.

The complete report of the proceedings of this meeting will appear in the December issue of Bar Briefs, and we give here only a summary of the major activities.

The recommendation of the Committee on Constitution and By-Laws, amending the resolution presented by that committee a year ago, was carried unanimously. Hereafter, therefore, the Executive Committee will be composed of the three elected officials (President, Vice President and Secretary) and the Presidents of the district organizations. The amendment made the change a little more definite, providing that the District Presidents should serve until the next annual meeting, and permits reorganization of the boundaries of the districts.

The report of the Internal Affairs Committee was referred to the Executive Committee for further consideration. It recommended that the jurisdiction, scope and powers of the committee be more definitely defined. There appeared to be some difference of opinion between the Secretary and the Chairman of the Committee. Subsequent conference between them, however, proved that the difference was more apparent than real. At any rate, it is quite certain that a combination of the Ethics Committee with the Internal Affairs Committee would eliminate any possible question hereafter.

The Committee on Jurisprudence and Law Reform presented three matters for consideration. As the report was printed in the July issue of Bar Briefs, we refer here merely to the topics covered, to-wit: The Judge's charge to the jury before argument; opening statement to the jury by both parties before evidence is taken; and trial in adjoining counties to avoid delay. All three matters were referred to the district meetings for consideration and action.

Mr. Nilles, in his paper, recommended the preliminary questioning of jurors at the opening of the term concerning their corporate affiliations and connections in order to prevent the unfair presentation of the fact of insurance in personal injury cases. This was referred to the incoming Executive Committee for action.

The discussion on the report of the special committee on Unauthorized Practice of Law reached the "explosive" point several times. While that discussion may have gone further than was proper on several occasions, however, the "blow-off" probably did more good than harm. It certainly brought to light the very certain, definite and immediate problem that is facing some of our practitioners; and though "protection to the public" is and must remain the paramount issue involved in the report and the committee's recommendations, it is no longer possible to overlook the other involvements. The report, which was approved, provides for the appointment of a special committee of three by the President, with the concurrence of the Executive Committee, with full power to institute the appropriate action, if deemed advisable—the last phrase being added through amendment from the floor.

John Knauf of Jamestown presented a resolution to request the employment of a majority of the members of the Law School faculty from the practicing attorneys of the State. If correctly informed by some of those who received advance copies of the resolution prior to the meeting, the original draft was quite unreasonable and objectionable. The draft presented seemed equally objectionable, although not quite so unreasonable in its phraseology. Tracy R. Bangs and H. A. Bronson, former "practitioner" members of the faculty, pleaded more than argued against its adoption. Their pleas, eloquent and on a high plane, were effective in defeating the resolution. An amusing incident, serving to take much of the "bite" out of the situation, displayed the long-noted Irish wit of the Bangs family. "Tracy," for many years quite an opponent of law school training, pointedly referred to the progress made by his son, Philip, not noting that Philip had entered the room during the discussion. "Phil" lost no time in requesting that he be supplied with a copy of the record, but "Tracy's" reply was equally spontaneous: "That just proves what I've been saying, namely: that the law school graduate is just one jump ahead of me all of the time."

A motion for special memorial services in the Supreme Court, for the deceased members of that Court, was referred to the Executive Committee for further consideration and action.

The reports of the Committees on Legislation and on Local Organization and Integrated Bar again presented the recommendations of a year ago. (See Bar Briefs for December 1930 and July 1931.) The recommendations are to transfer disciplinary powers to the Bar Association. The recommendation was approved, after considerable pro and con discussion, the record vote being 37 to 18.

B. F. Spalding, one-time Justice of the Supreme Court was master of ceremonies at the luncheon given for the pioneer lawyers, being presented by Judge S. E. Ellsworth. Judge John Burke, "Honest John," as he has been known for years, reminisced entertainingly, overlooking none of the pioneers present, including himself. The attending pioneers, in whose honor the luncheon was given, were: John

Burke, Tracy R. Bangs, B. F. Spalding, John Wishek, L. N. Torson, J. M. Austin, James Campbell, and B. W. Shaw—not a large group, but surely pioneers.

The election of officers presented several contests, some bearing the stamp of "political" prearrangement, others arising on the "spur of the moment" and without notice. Harmony seemed to prevail after it was all over, all elections being made unanimous on motion. John O. Hanchett had the field all to himself for President, but the ballot could not be cast until the usual number and variety of seconding speeches had been placed on record. For Vice-President the offerings were A. L. Netcher of Fessenden, W. H. Hutchinson of LaMoure, and J. P. Cain of Dickinson, W. H. Stutsman serving notice that in the case of Mr. Cain the West was simply demanding recognition next year. The first ballot eliminated Cain, and Judge Hutchinson survived the second ballot by a narrow margin. For Secretary-Treasurer the nominations were R. E. Wenzel, C. L. Foster and W. F. Burnett, the so-called "Czar" being re-elected on the first ballot. In connection with this election may we assure the members of the Association that we appreciate it, that we have no hard feelings with respect to criticisms and know that some are deserved, that we shall endeavor to do more, rather than less, during the coming year. We are, however, unable to discover any symptoms of "Czar-itis" unless a determination to keep within our budget, notwithstanding outside pressure, entitles us to that designation.

The only invitation for the next meeting came from Bismarck. Fargo and Dickinson representatives, however, requested time to confer with other members at home, and will, doubtless, present invitations for the 1932 session.

We shall not, at this time, print the report of the Resolutions Committee. It will go into the official record, and may be found in the December issue. Mention should be made of that part dealing with the expression of appreciation for the courtesies extended by the Superintendent of the Hospital for the Insane, which included an excellent and highly appreciated lunch at noon of the second day, and the use of the Hospital Auditorium for the afternoon meeting. It may surprise some of the "natives" to discover that all members of the profession were permitted to depart without official escort.

May we say in closing, what was in the minds of those present, and only partly expressed, that President F. J. Traynor proved a worthy successor to A. M. Kvello, and the Association is better and stronger through his well-directed efforts the past year.

#### CHAIN STORE LICENSING

The Supreme Court of the United States (five to four decision) in *Indiana vs. Jackson*, 51 *Sup. Ct. Rep.* 540, declares constitutional the Indiana licensing act which places a tax upon stores of \$3.00, and \$25.00 for each store in excess of twenty. Notwithstanding the rather strenuous arguments against the constitutionality of the statute, and the rather effective presentation of a comparative situation involving large department stores and the members of the Independent Grocers' Alliance, the act was held constitutional, the Court stating, in part:

"The record shows that the chain store has many features and advantages which definitely distinguish it from the individual store