



1929

## Hearsay's Borderland

North Dakota Law Review

Follow this and additional works at: <https://commons.und.edu/ndlr>

---

### Recommended Citation

North Dakota Law Review (1929) "Hearsay's Borderland," *North Dakota Law Review*. Vol. 6 : No. 4 , Article 7.

Available at: <https://commons.und.edu/ndlr/vol6/iss4/7>

This Note is brought to you for free and open access by the School of Law at UND Scholarly Commons. It has been accepted for inclusion in North Dakota Law Review by an authorized editor of UND Scholarly Commons. For more information, please contact [und.common@library.und.edu](mailto:und.common@library.und.edu).

or class basis, but the question what methods will make it easier to place men of this legal and ultra-legal power on the bench, and after they are there will enable them to keep in continuous fruitful contact with the changing social background out of which controversies arise."

---

### LOCAL BAR MEETINGS

Cass County held its monthly Bar meeting March 1st, at which Prof. Viesselman of the University Law School was the guest speaker.

The Stutsman County Bar sponsored a Lincoln-Washington dinner program February 22nd. President Kvello was the principal speaker. Others on the program were: J. A. Coffey, Mrs. P. W. Lanier, Mrs. C. S. Buck, S. E. Ellsworth, F. G. Kneeland, Ben Johnson, R. D. Chase and Mrs. A. W. Aylmer. C. S. Buck presided as toastmaster. Future plans specify this as an annual event, with invitations to the general public.

The Fourth Judicial District, which was organized some three or four years ago, and immediately put on a "slumber party," will be revived on the 18th of April at Bismarck. President Kvello has made arrangements to be present, and he will be the principal speaker. Among the indicated questions for discussion will be that involved in a definition of the practice of law. This matter, it will be recalled, was taken up at one of the annual meetings of the Association several years ago, resulting in the presentation of a bill to the Legislature, which that body declined to adopt as law.

V. E. Stenerson, in charge of local organization work in the Ward County territory, writes: The lawyers of Ward County have for many years had a very active county bar association. Monthly luncheons are held by the association at Minot, the sessions being well attended and thoroughly enjoyed. The good feeling existing between the lawyers of this county is apparent at these monthly meetings. At the request of the Committee of the State Bar Association on Local Organizations, the Ward County Bar Association is attempting to form a district organization of the members of the Bar residing in the northwestern part of this State. At a recent meeting of the Ward County Bar, C. E. Brace of Minot was appointed Chairman of the committee for the purpose of making arrangements for a meeting of all the attorneys in this part of North Dakota, with the idea of perfecting such a district organization. This meeting will be called later in the year when road conditions are better for travel. James Johnson of Minot is acting President of the Northwest District Association and J. C. Miller of Minot is Secretary. It is the hope of those interested in this district organization that meetings may be held at least twice a year. The district organization will not, however, supersede the Ward County Bar Association, which will continue to be active in its local field.

---

### HEARSAY'S BORDERLAND

Charles T. McCormick, Dean of the University of North Carolina Law School, has a very instructive article in the Yale Law Journal for February, dealing with the Borderland of Hearsay, or, as he states the problem, "Does apparent belief translated into action stand in any better case as respects the hearsay rule than apparent belief translated into statements?"

He refers to numerous authorities, starting with the leading case of *Wright vs. Tatham*, 5 Cl. & F. 670, in which such examples as the following are discussed: 1. Is proof that the underwriters have paid the amount of the policy, evidence of the loss of a ship? 2. Is proof of payment of a wager evidence of the happening of the event which was the subject of the bet? 3. Is proof of precautions taken by a family evidence that the person involved was a lunatic? 4. Is proof of the election of a person to high office evidence of sanity? 5. Is proof of the conduct of a deceased captain who, after examining every part of the vessel, embarked in it with his family, evidence of the vessel's seaworthiness?

The writer's conclusions seems to be that conduct, other than assertions, when offered to show the actor's belief, and hence the truth of the facts so believed, being merely analogous to and not identical with typical hearsay, ought to be admissible whenever the trial judge in his discretion finds that the action so vouched the belief as to give reasonable assurance of trustworthiness.

---

### ANNUAL MEETING

Plans for the annual meeting this year are progressing very favorably under the leadership of President Kvello and F. J. Traynor, Chairman of the Program Committee.

The meeting will be held on the 15th and 16th of August, with the Devils Lake advocates sponsoring a golf tournament for Sunday, the 17th.

One of the features of this meeting will take the form of a half-day session presented and presided over by the Manitoba Bar, with President Bergman in the chair.

The main speaker will be a man of national prominence, and joint invitations have already been extended by the North and South Dakota Associations.

It will be a surprise, indeed, if the Satanic City doesn't "put over a hot one," especially in August, but there is a splendid cooling system just a few miles south of the city. As the Lakers, themselves, put it: "Others may blow, but we always make good."

---

### AMERICAN BAR ASSOCIATION

Several group meetings of the American Bar Association are slated for the month of May in Washington, D. C.

May 7th is the first day of the American Law Institute meeting. On the morning of that date, also, delegates from integrated state bar associations will gather at the Mayflower Hotel for the purpose of exchanging experiences, discussing methods and problems, and considering a Uniform State Bar Act. Congressman O. B. Burtness has been requested to represent North Dakota.

---

### A CODE

"I am not bound to win, but I am bound to be true. I am not bound to succeed, but I am bound to live up to what light I have. I must stand with anybody that stands right; stand with him while he is right, and part with him when he goes wrong."—*Abraham Lincoln*.