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Annual Meeting Notes

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not written by the finger of God, and from time to time has called, and will still call for amendment. Such amendments, made in a legal way, are always in order, whether they relate to the liquor traffic or to rules of property. Let us hope that we will not fall into the mistake that we have so thoroughly made with our state constitutions, and, as some think, we have done with the eighteenth amendment, of filling it with minor and shackling provisions, expressive only of temporary opinion. I am in thorough sympathy with the kind of conservatism that refuses to rush into unconsidered reforms, and insists on thinking problems out before making changes; but lawyers, who should be leaders of public opinion in this work, cannot escape the responsibility for studying abuses and suggesting solutions, and are not justified in merely sitting back and picking flaws in proposed laws, without doing constructive work to find a remedy. . . .

"In closing, may I thank you all, not only for the honor bestowed and for the year which I have been privileged to spend in trying to do a little for the advancement of the profession, and through it for the interests of the public, but for the hearty cooperation which has made the year so pleasant? It has been an experience never to be forgotten, and has strengthened my admiration for the profession to which we belong. May it always be a leader in working for the public good, and hold high the torch of progress through the generations to come!"

ANNUAL MEETING NOTES

L. T. Sproul was the very efficient "go-getter" for the Valley City local committee.

The addresses presented were of a high order, and recognized as such by those present.

Vice President Bagley couldn't explain what a "tittle" was or is. President Bagley will, doubtless, do so at the next meeting.

President Lewis presided with the art of a diplomat, not the ax of a dictator, restoring, we believe, some of the lost prestige of Hawwad hereabouts.

"Uncle" Jim Johnson, of Minot, the effervescing "inviter," failed to invite on this occasion, but he sparkled with all of his old-time vigor in other respects.

Chief Justice Burke and President Lewis seem to be agreed that the long-distance toll service of the Bell Telephone Company needs regulation or supervision.

The officers elected for 1929 are: Horace Bagley, Towner, President; A. M. Kvello, Lisbon, Vice President; R. E. Wenzel, Bismarck, Secretary-Treasurer.

Charley Pollock and Phil Bangs insist that those of nervous temperament should be provided with suitable high chairs if called upon to speak at future meetings.

The full Supreme Court (numerically speaking, of course) held a special meeting at this session, admitting, under oath, Mr. Vieselman of the University Law School.

Some rogue remarked that the only difference between the Secretary and the rest of the conventioners was that the former wrote too much and the others talked too much.

We are promised that the next annual meeting will not be greeted with a twenty-one gun salute to the crime wave or buried under an avalanche of fears for the future of the country.

W. H. Stutsman and Fred Cuthbert, as might be expected, were unable to make any definite promises as to how much, if any, of the Missouri River would be flowing at the time of the next annual meeting, and where.

Lewis and Clark were able to stay over for the banquet. They appeared to be as vigorous as when they made their original inspection of this territory. One of them insisted that they came on the water wagon, somewhat contradicting history.

The report of the Memorials Committee, presented in most expressive language by Tracy R. Bangs, brought something of a shock to the gathering, eighteen members being reported as having taken their own cause to the Highest Tribunal during the past year.

The special committee on automobile insurance and regulation presented a divided report. C. H. Starke, arguing for the majority, offered a plan for compulsory insurance, while P. W. Lanier, presenting the minority view, contended for regulation and enforcement of present laws. The committee was continued for another year.

Notwithstanding the falling off in attendance, the meeting was a successful one from every standpoint, and was marked by two particularly gratifying things: Less reversion to acrimonious political discussion and more general acceptance of the fact that the Bar is entitled to and likely to receive proper recognition at the hands of laymen.

A special committee, consisting of Judge Geo. M. McKenna, Vice President Horace Bagley, and Thos. G. Johnson, presented fittingly expressive resolutions, declaratory of the high regard in which Past

President Aubrey Lawrence is held by the Association, and voicing, also, firmer faith in the stability of our national government by reason of his association with it.

This year's annual meeting, held at Valley City, September 4 and 5, was attended by about 20% of the lawyers of the State, showing a slight falling off in attendance even over the Minot meeting last year. Though it may be accounted for by local conditions and unavoidable circumstances, it is to be regretted. The attendance records of 1925, 1926 and 1927 should be re-established, with additions.

REVIEW OF NORTH DAKOTA DECISIONS

Yesel vs. Watson and State Bonding Fund: Suit against sheriff bonded in State Bonding Fund. Jury instructed as to separate items for actual and exemplary damages, but verdict was general and specified only one amount. Judgment for \$3,000 entered. Trial court granted new trial to Bonding Fund to determine question of actual damages, but denied same to individual defendant for reason he was not prejudiced by general verdict. After granting of new trial Bonding Fund settled for \$1,000, waiving its right to subrogation. **HELD**: State Bonding Fund can not be held for punitive damages. *Voves vs. Great Northern*, 26 N. D. 110, distinguished. Bonding Fund can not be permitted to suffer by reason of a waiver of the mandatory provision of the statutory subrogation; and "so long as the settlement stands, no amendment of the pleadings should be permitted which would authorize recovery of punitive damages against the individual defendant."

Marshall vs. N. P. Ry. Co.: Traveling salesman, after making two towns on a branch line, traveling parallel to said line for a distance, and crossing the tracks twice (the second time within a mile of place of accident), came to a turn in the road, where the following things were visible: crossing sign, double line of telegraph and telephone poles, a water tank, and an elevator. Within a few feet of that point he was struck by a train. Defendant appealed from verdict and judgment against it, the main question determined on appeal relating to contributory negligence as affecting right of recovery, the court assuming defendant's negligence: **HELD**: Where demonstrated or physical facts directly dispute the contention that the presence of a railroad track was obscured and hence unknown, and "When to look is to see, testimony that the plaintiff did look and did not see . . . is legally incredible . . . and failure to take necessary precautions . . . amounts to negligence contributing to his injuries within the rule that precludes recovery."

Funk vs. Luithle: One M. was in military service during the world war and had contract for war risk insurance, beneficiaries being his father and mother. He died in service. The government made payments to both beneficiaries until the father died, and continued them to the mother until she died, at which time a balance of more than \$6,000 remained payable. Probate was had of the mother's estate, also of the estate of M. Prior to the mother's death plaintiff recovered