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Proceedings of the Annual Meeting of the State Bar Association of North Dakota

North Dakota State Bar Association

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Proceedings of the Annual Meeting of the State Bar Association of North Dakota

The Annual Convention of the State Bar Association of North Dakota was called to order at 9:30 o'clock A. M. of Thursday, August 4, 1955, in the Williston High School, Williston, North Dakota, John A. Zuger, President of the North Dakota Bar Association, presiding.

The invocation was given by Reverend William H. Powell, Williston, North Dakota.

VICE-PRESIDENT ROLAND A. HERINGER: Members of the Association: At this time it is my privilege to introduce our President, John A. Zuger, who will render his Annual Report.

President's Report — 1954-1955

On behalf of the Executive Committee and the officers of the State Bar Association of North Dakota, I will report to you on what has taken place since the last Annual Meeting of the Association.

In general, our activities are concerned with service to our members, to the public, and our relations with other professional organizations. We have worked hard in the last year in all three fields and much has been accomplished. The work has been carried on by the members of the Association in their committees under the guidance of the Executive Committee. The Executive Committee has met seven times during the last year. I have appreciated the cooperation and faithful attendance at the meetings of all of its members.

The work of our members through their committees is detailed in the reports presented here. I wish to briefly report to you on some matters not covered in these reports and to call your attention to other matters that are contained in the reports.

NEW RULES OF CIVIL PROCEDURE

One of the major interests of our North Dakota Bar has been the adoption of the New Rules of Civil Procedure. The new Federal Rules of Civil Procedure were adopted in 1933. The adoption of similar rules has been suggested by leaders in the Bar in North Dakota for several years. On September 25, 1953, at a meeting of the North Dakota Judicial Council a resolution was adopted and Judge Morris appointed a committee to study and report on the integration of the Federal Rules of Civil Procedure in to State practice. In August of 1953, the Bar Association appointed a committee for similar purpose. Both groups representing the Judicial Council and the Bar Association worked separately until January of 1954 when they were joined, and they have operated together under the chairmanship of Mr. Frank Jestrab. A draft of the proposed Rules was finished in April of 1954. At the Annual

Meeting of the State Bar Association in August of 1954, at Grand Forks, the Association's committee presented the same draft to the members of the Association and it was approved. Following the Annual Meeting, a joint committee was established consisting of 11 men, five from the Judicial Council and six from the Bar Association. This joint committee reported to the Supreme Court on December 15, 1954. Later, on March 16, 1955, the Supreme Court ordered that proceedings necessary to adoption of the Rules as recommended by the State Judicial Council and by the State Bar Association of North Dakota be commenced under the provisions of Section 27-0211 and Section 27-0213 of the 1953 Supplement. Notice of intention to adopt the Rules dated April 29, 1955 was published and distributed. A hearing was held at the chambers of the Supreme Court on June 1st and June 2nd, 1955. The members of the joint committee appearing at the hearing on June 1st and June 2nd were Judge Burdick, Judge Gronna, former Judge Ilvedson, and the presentation was made on behalf of the committee by its chairman, Frank F. Jestrab. The Court also received communications from various members of the Bar.

There were certain changes and suggestions received at the hearings and the committee indicated that it would wish to file certain proposed changes which I have been advised has been done. The Rules are now before the Court for consideration and I understand further that the court has deferred further action on their adoption until after the completion of this Annual Meeting believing that the program arranged by the association for its members would further acquaint the members of the Bar with the new Rules and give further opportunity for discussion. It is because of the proposed adoption of the rules that the members of the Executive Committee and the members of the Sectional Meetings Committee have departed from their practice in years past polling the members for the selection of sectional topics and holding of various sectional meetings. It was decided to hold instead one institute dealing with the new Rules of Civil Procedure and practice under them which, as you will see from the program, has been arranged for this meeting.

THE LEGISLATURE

Since the last Annual Meeting of the Association, the 1955 Session of the Legislature has been held. I believe that the Bar Association at this time has concluded its most successful year of relationship with the members of the legislature. The first piece of legislation enacted by the 1955 session was House Concurrent Resolution "A," which authorized and directed the Legislative Research Committee to invite the North Dakota State Bar Association to assist them in organizing and formulating an introductory and orientation program to be conducted by veteran members of the legislature, covering the use of the North Dakota code, the rules, organization and procedures of the North Dakota Legislature. Working with the Research Committee the program and speakers were arranged. The conference was held in three sessions. The

material was presented through individual speakers and through panels consisting of members of both the Senate and House of Representatives. Your president presided over the three sessions of the conference, opening and closing it. I believe that the efforts of the Bar Association were appreciated by both the freshman and the veteran members of the legislature and the Bar Association did receive much favorable comment and approval for its part in this first orientation conference.

I suppose that the next, if not the most major thing accomplished at the last session of the legislature, was the establishment of the office of Code Revisor within the frame work of the Legislative Research Committee and the appropriation of monies to pay for the office of Code Revisor for the next biennium. The office of Code Revisor is a matter that has been under consideration by the Bar Association and urged by it for many years last past, and I know that we are all pleased at its accomplishment this year.

The committee on Business Corporations has been working for sometime on the preparation of a revision of our laws dealing with private business corporations. They had prepared and introduced a new private business corporation act and the committee members appeared and the bill was passed by the House but was indefinitely postponed by the Senate committee. The need for the revision of the Business Corporation Laws was recognized by the members of the Senate and the work done by the Bar Committee was fully appreciated, but the committee had not had the means or time to fully integrate the proposed new Model Business Corporation act with existing corporation statutes. The result was the enactment of Senate Concurrent Resolution "C-1" introduced by the Senate Judiciary Committee authorizing the Legislative Research Committee and directing it to study and revise the laws of the state governing cooperative corporations and business corporations, and to submit to the 35th Legislative Assembly suitable legislation to accomplish a revision of these chapters of the code. The resolution directed the Research Committee to call upon the State Bar Association for advice, consultation and assistance in the course of its study and work.

The Bar Association went on record at its last Annual Meeting in support of a program to assist the legislative branch of the government and to strengthen it. At the suggestion of members of the Bar the last legislative session enacted House Concurrent Resolution "C-2," which proposes an amendment to Section 45 of the Constitution of the State of North Dakota to provide that each member of the legislative assembly shall receive as compensation for his services for each session \$10.00 per day as salary, plus 10c for each mile traveled, which proposed amendment to the Constitution will be submitted at the primary election to be held in June of 1956. It is the responsibility and the duty of every member of the Bar Association and of the Bar Association as an organization to follow up the action taken at its last Annual Meeting and the action taken by the legislative members at our request, with a

campaign to insure the success of this amendment at the polls in June of 1956.

And, finally, I would like to recognize and express at this time a public thank you and appreciation to those members of the legislative assembly who are also members of the State Bar Association of North Dakota. Those of us who have worked with the legislative program of the Bar Association know that the regard with which all lawyers are held, and the success of any program that we bring before the legislature is largely determined by the regard other members of the legislature have for attorneys who are serving in the legislature, and, in turn, we are indebted to them for their counsel and help in the handling of such a program. Among the attorney members who were serving in the last session of the legislature were Carroll E. Day, Harvey B. Knudson, Donald C. Holland, Clyde Duffy in the Senate, and Ralph Beede, Adam Gefreh, Leo F. Brooks, Jacque Stockman, in the House.

I might also state that at the request of the Bar Association through the action taken at its last Annual Meeting legislation was enacted to raise the annual license fee from \$10.00 to \$15.00. This increase is required to provide additional funds for the promotion of projects purely in the self-interests of the Bar.

AMERICAN BAR ASSOCIATION

The North Dakota Bar Association ranks among the leaders of this country. It has received two national awards of merit, the last being in 1954, as the outstanding bar association in its class, that is, the small state associations of which there are 22. Our Bar Association over-subscribed and was one of the top in contributions to the American Bar Center. It is one of the highest in percentage of ABA members and a notable further gain has been had this year. The most recent ABA activity, the lawyers group life insurance plan, finds North Dakota at the top of all the states. We reached in connection with that a percent of desired quota of eligible ABA members enrolled by states a figure of 117.8%. We have continued our representation on the Board of Governors of ABA through the fine work of Herbert G. Nilles of Fargo. It is to our interest to become even closer in our operations with the ABA. I would suggest that in the coming year we give thought to the establishment of regular sections to correspond with the ABA sections and committees where suitable to correspond with the ABA committees. A great deal of help to our state committees and sections can be obtained by such a parallel organization. Membership in our State Association and in ABA is individual. Much thought has been given to federation, that is, membership in our State Bar as including membership in ABA. The State of Washington has approved such a plan and proposed it to the ABA for action. We have seen the benefits of such organization to our medical friends. I suggest that our Association plan and work out such a membership and in anticipation of its adoption by ABA.

JUDICIAL APPOINTMENTS

During the year there was only one vacancy upon the bench to be filled. There was created an additional district judgeship in the 4th Judicial District. Upon enactment of legislation effective July 1, 1955, I contacted Governor Brunsdale and again offered the services of the Bar Association in the conducting of a plebescite or poll of the lawyers of the district and furnishing to the Governor the results of such a poll for his help and such advice as we could give. The Governor agreed to wait with his appointment until such plebescite was conducted and it was and the results certified to the Governor. The Governor made an appointment to the bench in the Fourth District in accord with the plebescite conducted by the Bar. I would at this time like to publicly thank Governor Norman Brunsdale for his cooperation with the State Bar Association of North Dakota in filling of judicial vacancies. I think that many members of the Bar are apt to lose sight of the fact that in many states the members of the Bar have been working toward the goal of cooperating with the executive in judicial appointments. In some states they have succeeded and they are conducting plebescites as we are in this state, and are receiving cooperation from the appointing authority. In many states they have not received such cooperation at all and are striving to try to work the matter out. I think it should be noted that during the entire time that Governor Brunsdale has been Governor, and upon the first proposal of the Bar Association to him for its participation through a plebescite in the filling of these vacancies, we have received full and complete cooperation of the Governor. He has in each case awaited taking of the plebescite and I believe that I am correct that in all cases the appointment has been made from among those names recommended by the State Bar Association. I trust that the same cooperation will continue with the executive in the future.

CONSTITUTIONAL AWARDS

The Constitutional Award program of the Bar Association has been continued another year with again marked success. During the last year 230 awards were made to high school boys and girls in the State of North Dakota. 379 high schools in the state took part in this program.

RELATIONS WITH OTHER PROFESSIONAL GROUPS

I call your attention to the report of the special committee on Professional Cooperation. During the last year, a beginning has been made of undertaking to work out mutual problems with the officers of the State Medical Association, the North Dakota Title Association, and the Certified Public Accountants.

PROBATE FORMS AND PROCEDURE

I also particularly invite your attention to the report of the special committee on Probate Forms and Procedure headed by Judge Paulson of Fargo. The number of probate forms in use in

the State of North Dakota for many years has been as many as there have been law printers. There has been no uniformity in the forms or in the practice in the state and it has been necessary in going into a strange county to learn the ground rules and get a set of the local forms. Many of the forms are repetitious, verbose and clumsy. It was with this thought in mind that the special committee on Probate Forms and Procedure was established with the objective that they would overhaul the probate forms in use, simplify them, and then upon their approval attempt to secure their use by all of the different courts of the state and all of the different law printers. I recommend that this committee be continued so that any necessary statute law changes that are required to complete the work of simplifying the probate forms and procedures can be accomplished.

FEE SCHEDULE

I also invite your particular attention to the report of the committee on revision of the fee schedule. This committee, headed by Mr. J. F. X. Conmy of Bismarck, has given long and serious thought to a revision of the fee schedule in line with current costs and incomes and it has also amplified and expanded the fee schedule to include many other items not previously covered. I particularly invite your attention to that portion of the fee schedule which is proposed for your help in computing your minimum charge for your time in your offices and which has been worked out by our committee through and with the help of the work done by the Minnesota Bar Association committee in the same matter.

UNIFORM LAWS

The State Bar Association of North Dakota has again continued sponsorship of the work of the Commissioners of Uniform Laws. Our Bar Association has paid the dues for the State of North Dakota to the National Conference of Commissioners of Uniform Laws through June 30, 1956, and has again made available funds to send the Commissioners to the annual meeting at Philadelphia.

INSTITUTES

The committee on Continuing Legal Education, headed by Mr. Floyd Sperry of Golden Valley, again sponsored a successful institute for members of the Bar at Bismarck on the 28th, 29th and 30th days of October, 1954, covering the subjects of the Revenue Act of 1954 and oil and mineral sales under the Exchange and Securities Act. The program of this committee has been self-sustaining. The institute was well attended and successful. One innovation of the institute held at Bismarck was the putting on of a demonstration of a trial in a civil action in the District Court Room of Burleigh County, at Bismarck, and, in addition to the members of the Bar who had paid a fee to attend this part of the institute, an invitation was extended to and accepted by the members of the Bismarck High School and the Bismarck Junior College to attend as guests of the Bar Association to witness the demonstration.

REGIONAL AMERICAN BAR ASSOCIATION MEETING

In the last few years the American Bar Association has begun and has successfully held Regional American Bar Association meetings throughout the country. The Regional American Bar Association meetings are identical with the annual ABA meetings except that they are on a smaller geographical basis. The Northwest Regional Meeting of the ABA will be held in Minneapolis-St. Paul on October 12, 13, and 14, 1955. The states which are included in this meeting are Minnesota, North Dakota, South Dakota, Montana, Nebraska, Iowa and Wisconsin. There are similar regional meetings being held in other parts of the country during the year. There is the Pacific Southwest Meeting at Phoenix, the Big Seven Meeting at Cincinnati and the Deep South Meeting at New Orleans. We have set up a committee composed of the President, Vice-President, the Immediate Past President and the presidents of the Six District Bar Associations to promote and work with the lawyers of North Dakota in connection with this regional meeting. You will receive shortly information and detail as to the program, both professional and social, and as to the arrangements for reservations and other mechanics. I attended a Regional meeting in Atlanta, Georgia, and found that it was on a par and fully equal to the ABA meeting, which I later attended in Chicago. The program offered consists of outstanding speakers, sectional meetings similar to those we have in our own state, and also a well-rounded course of entertainment and social activity.

OTHER BAR ORGANIZATIONS

I think that you would be interested to know that the Bar Association of North Dakota maintains membership in the National Conference of Bar Presidents and the National Conference of Bar Secretaries. The Bar Association of North Dakota was honored when at its mid-winter meeting of these two groups your president and your executive director were each asked to participate in the programs. I have enjoyed during the year making visits to the First District, Fourth District and Sixth District Bars.

FINANCES

I also wish to say a few words on finances. The Association's finances as of June 30, 1955 have been audited by Broeker and Hendrickson, certified public accountants of Fargo, and found to be in order.

Our main source of income, a part of the filing fees, has steadily decreased. In the last fiscal year it dropped to \$15,392.75 from the counties, plus \$390.00 from the Supreme Court. The program of watching expenses has continued. In the last fiscal year our outlays dropped from \$31,006.74 to \$26,288.79. We still ran a deficit for the year of \$5,261.55. There has been a deficit for each year now for many years. Our present reserve is now some \$9,000.00, whereas it used to be over \$20,000.00. Two items alone which would account for the entire deficit this year have through action

of the executive committee, been eliminated for the future. One, the cost of the North Dakota Law Review running \$7,166.40 the last year will be reduced by the contribution by the University of \$3,000.00 each year hereafter. Second, for each session of the legislature we have contributed from a low of \$2,000.00 this last year to a high in other years of \$3,200.00 to help the Research Committee. This year, as stated, the office of Code Revisor has been created and appropriations to finance it set up. And, finally, the increase in the license fees will further help in righting and balancing our financial ship. A committee to set up a budgetary control system has been appointed as recommended by our auditors.

EXECUTIVE DIRECTOR

We have just finished the selection of a new Executive Director. Lynn Grimson of Grafton was selected by the Executive Committee as the best qualified of the applicants. He has a big job ahead of him and I ask you all to help him and work with him. Every member of the Bar was notified of the vacancy and given opportunity to make application. Twenty-two members of the Bar made written application and eighteen of the twenty-two appeared before the Executive Committee at Bismarck for a personal interview.

*Ron Davies tendered his resignation as Executive Director last night. Ron Davies finishes a job begun in 1947. I have worked with Ron closely this year and other years as president and as a member of the executive committee. He has been the hub of the Bar in North Dakota. On behalf of everyone of us I want to thank him for a job well done. No better appraisal could be made of Ron's ability and his record than his nomination by the members of the Bar for the office of federal judge. This has been followed by his nomination and confirmation. For all of us I wish him success and happiness in his new work. We are all very proud of him and we will all miss him in our Bar Association work.

In conclusion, I wish to thank the officers and members of the Bar for their cooperation and friendship the past year. I have been busy and I have enjoyed it. We have one of the best Bar Associations in the country, and we are going to keep it that way.

(Applause)

VICE-PRESIDENT HERINGER: Thank you for your very fine report.

At this time a motion will be in order that the Annual Report of the President be received and filed. Do I hear such motion?

DEAN O. H. THORMODSGARD: I move the motion.

JOHN F. LORD: I second the motion.

(Question put and motion carried.)

(Whereupon, President Zuger resumes the Chair.)

PRESIDENT ZUGER. The next item on our program is the reports of our committees. At this time I would like to call upon

* Interjection

Hon. John Pollock who is prepared to present the report of the committee on Uniform Laws.

HON. JOHN POLLOCK: Mr. President, our report has been filed since early in July with the Executive Director. I move that the reading of the report be waived and that the report be received and placed on file.

PRESIDENT ZUGER: Do I hear a second?

MR. C. J. RUND: I second that.

(Question put and motion carried.)

Report of Committee on Uniform Laws of North Dakota State Bar Association for the Year 1954-1955

MR. PRESIDENT: Your Committee on Uniform Laws for the year 1954-1955 begs leave to report:

At the recent Session of the 1955 Legislative Assembly the following Uniform or Model Acts, formerly adopted, were amended:

Chapter 127 NDSL 1955 at Page 158 adopts most of the recommended Amendments to the Reciprocal Enforcement of Support Act. Those not adopted are not deemed of great importance to the practice under this Act in our State. However, adoption of the Amendments does place our State upon an equal footing with the Forty-eight jurisdictions in our Nation which now have this Act in force.

Chapter 163 NDSL 1955 at Page 217, and Chapter 164 NDSL 1955 at Page 218, add additional requirements for the Sale of Narcotic Drugs by Apothecaries and for Professional Use of Narcotic Drugs, respectively.

Chapters 237 NDSL 1955 at Page 319 is the Traffic Regulation Act which changes and modernizes the Uniform Act adopted by our State in 1927.

In addition to the above Amendments at Page 651 NDSL 1955 is SENATE CONCURRENT RESOLUTION C-1, introduced by the Judiciary Committee of the Senate for the purpose of further study of the proposed Model Business Corporation Act. This Resolution directs that further study be given to the work done by the Committee of this Association which was composed of T. L. Sproul, of Valley City, Philip B. Vogel, of Fargo, and John Hjellum of Jamestown. The further study is to be made by the Legislative Research Committee and a report to be made to the 1957 Session of our Legislature.

At this time your Committee on Uniform Law desires to express to the members of the 1955 Legislature, as a whole, and particularly to the members of the Judiciary Committee of the Senate and House of Representatives the thanks of our Association for the passage of the above listed Amendments and Concurrent Resolution. Your Committee feels that this is additional evidence of cooperation with the work of the Legislative Committee of our Association and with the work of the National Conference of Commissioners on Uniform State Laws as well as recognition of the fact that uni-

formity of state laws on all subjects where uniformity is deemed desirable and practicable, should be furthered.

Your Committee on Uniform Laws would also recommend that our Bar Association appoint a Special Committee of the Association to study the Uniform Rules of Evidence as proposed by the Conference. Such recommendation is made in the hope that the study when completed would lead this Association to recommend said Uniform Rules of Evidence to our Supreme Court for adoption and the use thereof by the court of General Jurisdiction in our State.

Your Committee on Uniform Laws would further recommend appointment of a Special Committee of this Bar Association, such Special Committee to study and recommend suitable legislation to provide sufficient funds to meet the annual contribution of our State to the work of the National Conference of Commissioners on Uniform State Laws; said legislation also to make provision for the payment of actual expenses of the duly appointed Commissioners from North Dakota to the said National Conference when attending the annual meetings of the said Conference.

Dated this 25th day of June, 1955.

CLYDE L. YOUNG
C. EMERSON MURRY
O. H. THORMODSGARD
JOHN C. POLLOCK, Chairman.

PRESIDENT ZUGER: I would like next then to call upon L. T. Sproul of Valley City, Chairman of the committee on Business Corporations, to make a report on behalf of that committee.

MR. L. T. SPROUL: Mr. President, Members of the North Dakota Bar Association:

President Zuger in his Report has briefly summarized the activities of this committee and about all this report will add to the information that President Zuger has already given will be the recommendations of this committee.

Report of Committee on Business Corporations

This association at its 1954 annual meeting adopted the report of this committee recommending the adoption of the Model Business Corporation Act with necessary changes, amendments and modifications set forth in this committee's 1954 report and further endorsing and approving said act for passage by the 1955 North Dakota Legislative Assembly.

Because of the work and expense involved in drafting the Bill for this Act, President Zuger arranged for the assistance of the Legislative Research Office, and accordingly, the proposed law was drafted and introduced in the House at the 1955 Session as House Bill 672. On the hearing of this Bill before the House Judiciary Committee, Philip B. Vogel, John Hjellum and L. T. Sproul appeared and thereafter the Bill passed the House by a vote of 101 to 3.

When the Bill reached the Senate it was referred to the Senate Judiciary Committee at which time L. T. Sproul, John Hjellum and

President John A. Zuger appeared in support of the Bill. Thereafter, the Bill was indefinitely postponed by the Senate upon the grounds that it did not fully adapt the Model Act to the needs and desires of North Dakota corporations or fully correlate the proposed Act with other laws of this state.

The Senate recognized the need of revision of our Business Corporation Laws, but also felt that there was a need for revision of our laws governing cooperative corporations or associations. Therefore, upon the recommendation of the Senate Judiciary Committee, Senate Concurrent Resolution C-1 was adopted by the 1955 Legislative Assembly, authorizing and directing the Legislative Research Committee, in cooperation with the State Bar Association and such representatives of cooperative associations as may desire to participate, to study and revise the laws of this state governing business corporations and also cooperative corporations and association, and submit suitable laws to the 35th (1957) Legislative Assembly to accomplish such revisions.

We now recommend that the president appoint a committee of the Bar and that such committee proceed as follows:

1. Meet at the earliest possible date with the Legislative Research Committee, C. Emerson Murray, Research Director, and William J. Daner, Code Revisor, in accordance with the resolution of the 1955 Legislative session, and also with the Secretary of State, for the purpose of agreeing upon necessary amendments to the Business Corporation Act submitted to the 1955 Session as House Bill 672, and properly correlating the new Act to the present Code in such a way that it will not render unworkable our laws relating to cooperatives, non-profit corporations, charitable, religious, and educational corporations.
2. Assist and cooperate with the Legislative Research Committee in the study and revision of the cooperative association laws.
3. Present to the 1956 meeting of this association, as a part of its report, a completed and final draft of the Bill for an Act adopting the Model Business Corporation Act as submitted to the 1955 Legislative Assembly, with such amendments found necessary, as a result of the above study and conference, to adapt it to the needs and desires of North Dakota corporations and properly correlate it with other laws of this state. Said Bill should be in final and complete form and in the same form that it is proposed to submit the same as a Bill to the 1957 Legislative Assembly with all details and problems of draftsmanship, and integration and correlation with other sections of our Code properly worked out and solved in such a way that the laws relating to corporations other than business corporations for profit, domes-

tic and foreign, will not be disturbed or in any way made unworkable.

July 1, 1955

Respectfully submitted,
 L. T. SPROUL, Chairman
 PHILIP B. VOGEL
 FRANKLIN J. VAN OSDEL
 L. A. W. STEPHAN
 ADRIAN O. McLELLAN.

MR. L. T. SPROUL: Mr. President, I now move the adoption of this report.

MR. DEAN WINKJER: I second that motion.
 (Question put and motion carried.)

PRESIDENT ZUGER: The next committee report is the report on Probate Forms of Procedure by Hon. Judge Paulson, Judge of the County Court, Cass County, Fargo, North Dakota.

Report of Committee on Probate Forms

There has been a lot of dissatisfaction with the probate forms in use through the state. Each company printing legal blanks has devised its own forms. And some of the county judges have made up forms of their own. As a result there is no semblance of uniformity in our probate forms. Then, too, no attempt has been made to revise any of these forms for a good many years. Some of them contain a lot of unnecessary language, making them altogether too long. That there is also a lot of repetition of words and phrases that could very well be eliminated.

In order to bring about a revision of these forms, President John A. Zuger appointed a committee for that purpose and this committee now submits its report covering this assignment.

Shortly after the appointment of the committee it was decided at a conference in Fargo between Mr. Zuger and the chairman to assign to each member of the committee for revision the blanks applicable to specified sections of the code. To that end copies of all the different forms now used throughout the State were gathered together and turned over to committee members as guides in getting this work under way. Each member of the committee went to work at once and made a thorough study of the forms submitted to him. After many weeks of hard work the chairman called a meeting in Bismarck of the full committee for the purpose of passing on the revised forms worked out by each member of the committee. This meeting was held at the Patterson Hotel on the 7th day of June.

All of the forms were then rechecked for further changes and corrections and were then approved and adopted by the full committee.

This completed the job assigned to the committee with the exception of a few minor blanks that the committee did not get time to go over. Perhaps another committee should be appointed to

finish this next year although the remaining blanks are not of too much importance.

We have assembled the revised forms and have about six sets of them here for members of this convention who may wish to examine them. These blanks are not to be removed because they are to be used later on when we take up the matter with the printing companies. The committee recommends that these forms as now submitted be approved by this association, and that the matter of printing be then taken up with the various concerns engaged in the printing business.

Then later on arrangements could be made with the County Judges for obtaining the new blanks. This would probably have to be worked out gradually because the printers might want to dispose of some of the old forms before making up a supply of the new ones.

JUDGE PAULSON: I might add just as a typical example for illustration that the form for making up a final report in accounting now contains eight pages. This has been produced and boiled down to four pages instead of eight and at the same time leaving plenty of space for all of the necessary items and information that is required to go into a final report.

Respectfully submitted,

HON. B. A. DICKINSON
 HON. F. G. KNEELAND
 HON. B. F. WHIPPLE
 CHARLES D. COOLEY
 GEORGE S. REGISTER
 S. E. HALPERN
 RUEBEN J. BLOEDAU
 NORMAN G. TENNESON
 P. M. PAULSEN, Chairman.

JUDGE PAULSEN: Mr. President, I move the adoption of this report.

MR. CHARLES L. MURPHY: I second the motion.

(Question put and motion carried.)

PRESIDENT ZUGER: Now the next committee I would like to call upon for its report is the committee on Fee Schedule headed by J. F. X. Conmy. This committee has spent a lot of work and I invite you particularly to notice those parts of the schedule where it has been amplified and expanded. Jim, will you come forward and tell the boys about the work you have done.

MR. J. F. X. CONMY: Mr. President, Members of the North Dakota Bar:

I do not believe it's advisable, unless I am otherwise directed by the bench here, to read all this report consisting of some seven single spaced sheets of legal tab. The original has been filed for a few months last past with the office of the Executive Secretary, and I assume that it will be published in full, either as a separate document or as a part of the report of the Annual Meeting.

The members of our committee are John Lord, Mandan; Theo-

dore C. Kellog, Dickinson; E. J. McIlraith, Minot; C. F. Kelsch, Mandan; August Doerr, Napoleon; Victor V. Stiehm, Towner; James E. Leahy, Fargo; and myself as chairman.

In this report, which you will have opportunity to see in full later through the services of the association, we seek to emphasize and urge upon you the keeping of some kind of a time record. We give you the nature of the work of the committee in Minnesota in past years a method of calculating the hourly rate which you must secure for your services or those working with you or under you if you are going to make the kind of a living you are aiming at. We included in this report figures taken from the North Dakota Tax Commission showing the comparatively low rate of earnings of our lawyers as compared to business executives and doctors. It will startle you, I think, if you have never seen these figures. In urging the keeping of a time record and in urging the application of an hourly rate for your work to all items where we have not sought or have not been able to cover in detail, I want to say it's not in the report, but I want to say this: I think it has some force; I said it to my own associates, often times if we would consider the time we spend on a particular item and talking with the client about it, if we would only compare our services to a plumber, for instance, and his helper, we have our stenographer as our helper, we have our library, the office expense we must maintain, and if we would only consistently charge what a plumber and helper would charge for his time, I say we would be making more money and have more ultimately in our pockets than we do now. I do not say that jokingly. I say that in all seriousness. But, as I said at the beginning, I am not going to read the report. I think if we started going over these items by item, there would be a difference of opinion among those here on some of the items. We pushed a lot of things up from the old advisory schedule and we tried to include a lot of items that weren't dealt with separately in the old advisory schedule. We have still left a lot of things out that probably our younger lawyer would like to have as a guide.

A report such as this where we get down to specific figures for charges for specific types of work, can only be a suggestive figure and advisory. In view of that I don't know if there is any necessity for the adoption of the report of the committee. If that is necessary, you may tell me so, but I do move that the report of the committee, as filed, be published in some form and made available to each member of the Association for their guidance and compilation of fees in the future until they are further available.

MR. C. F. KELSCH: I second the motion.

(Question put and motion carried.)

PRESIDENT ZUGER: I think the practice in the past has been published. The recommended fee schedule is a separate publication, distributed to all members of the Bar, and I think that completes the motion here.

Report of the Committee on Fee Schedule

The lawyer is required by the ethics of his profession to render service for the poor and needy for small fees or, where necessary, for none at all. The nature of some of our work is such that it cannot be handled but at a direct loss. Where fees are governed either directly or indirectly by statutes or by the custom of the Courts or the attitude of the judges, there has been no real revision for many years. Other persons engaged in business are not required to do these things for nothing and they do not habitually do so.

Clients should be informed that the lawyer does not hire himself out simply as an individual but that he must keep available an organization composed of his supplies and equipment; his library; and industry; plus the necessary office personnel to translate his individual efforts into pleadings, deeds, contracts, etc.

In view of the foregoing, a lawyer must attain such fee for his services as will enable him to pay the operating costs of his organization and an hourly wage for himself as will reasonably compensate him, and in comparison with the hourly rate of earnings of other professional men.

It is of interest to note the following averages, compiled by the North Dakota Tax Commission, showing state income tax paid by doctors, lawyers and business executives in this state.

	1953	1952	1951
Doctor	431.40	563.80	541.43
Lawyer	113.65	153.12	127.07
Business Executive	292.53	427.54	396.02

It should be noted that we have not only failed to inform our clients of an hourly rate of pay that we must receive if we are to make a living and client is not to be an object of charity, but that also the general public, including public officials, rate the value of lawyers' services on a very low scale. For instance, in a comparative analysis of salary rates in effect in 1953, as propounded by the Minnesota Civil Service Commission, the salary rates of lawyers are in the lowest bracket and are on exactly the same figure as an automotive field mechanic, a carpenter, a lather, a machinery repairman, a painter, a plumber and a seed-weed inspector.

In considering our entire minimum fee problem, each lawyer, or his office, should work out for himself the hourly minimum fee which he must charge if he is going to pay his overhead and obtain any proper and sufficient living wage. In this connection, our members cannot be urged too strongly to keep some time record of their work on each item of business whether it be kept by daily work sheets, on the file cover, or in whatever form the particular lawyer chooses.

In this connection, we have taken from the Minnesota State Bar Association's Official Advisory Fee Schedule the following tabulation by which any lawyer or office can work out the hourly minimum fee per lawyer which should be charged.

(The Fee Schedule attached to the above report will be otherwise distributed.)

Respectfully submitted,

JOHN F. LORD, Mandan
 THEODORE G. KELLOGG, Dickinson
 E. J. McILRAITH, Minot
 C. F. KELSCH, Mandan
 AUGUST DOERR, Napoleon
 VICTOR V. STIEHM, Towner
 JAMES E. LEAHY, Fargo
 J. F. X. CONMY, Bismarck, Chairman.

PRESIDENT ZUGER: The next committee I would like to call upon is the Committee on Unauthorized Practice of Law. Mr. Chairman, J. O. Thorson, you will come forward, please.

Committee on Unauthorized Practice of Law

Mr. President, members of the North Dakota Bar Association. During the past year your committee on unauthorized practice of law has held one committee meeting and has conducted no investigations, inasmuch there were no reports of any investigations needed by members of the association.

The committee wishes to report that there are no cases at present before the committee for investigation. It does not wish to insinuate, however, that there is no work left for this committee to do. The committee feels that there is much work that can be done along the line of unauthorized practice of law. Much of this work can be done through education. Many laymen are unfamiliar with the subject and an educational program would be of benefit in informing the laymen of this state about this subject.

Most of the complaints in the past have been that laymen were preparing deeds, contracts for deeds, mortgages, notes, and such small instruments. Sometimes these laymen were county officials. After the matter was brought to the attention of the offender in the past, cooperation with the association has been favorable and the offender has completely desisted from further activity along these lines.

Some times the reason for laymen participating in unauthorized practices of law is due to a poor working relationship between such an individual and the attorneys in his vicinity. Where such a situation exists, we think that it would be for the benefit of the bar as a whole, if such relationship were improved by the taking of suitable steps to curb the activity of the offender and to show him the necessity for proper legal advice to the public.

Continuing the work of the committee from the preceding year, your present committee has completed its first draft of a pamphlet which is being presented to the executive committee of the State Bar Association of North Dakota for approval of printing costs. This pamphlet will be sent to banks, real estate offices, insurance and other known offices such as abstract offices and county offices

where legal advice is often sought by laymen. After the pamphlet has been placed in all these various sources generally, the members of the State Bar Association will be asked to report any known violators in their respective counties to the office of the Executive Director who will then mail such persons a special letter with an enclosed copy of the pamphlet and asking their cooperation in discontinuing such practices. Should further checking thereafter, show that the person sent such a letter was still continuing in this unauthorized practice of law, the executive director would then mail a report of the same to the Committee on the Unauthorized Practice of Law with authorization for the committee to make a personal call on the offender and at that time the committee member making the call would take up the seriousness of the offense personally with the layman involved. If the layman involved agrees to discontinue the practice, the State Bar Association would then take no further action in the matter. However, should subsequent investigation show that such unauthorized practice of law was being continued by the layman in question, then either criminal or civil action would be taken against him by the State Bar Association of North Dakota.

In considering the procedural difficulties in handling such cases it was the feeling of the committee that the ends of the State Bar Association could be accomplished through explanation, and negotiation with the offending individual. This approach, together with the educational phases of our handling of this problem, should solve most of our difficulties in the matter. However, should complete investigation show that we are not accomplishing our ends by these methods, then legal action should be taken.

Should this program entail considerable investigation for the committee in carrying out the projects outlined herein, the committee suggests that an individual in the state, who has the time to make the necessary investigations, be employed by the State Bar Association to carry out any investigations deemed advisable by the committee and that he be given his per diem as well as his travel expenses for such work. This suggestion is made only if the volume of work is heavy. We would say that if there is only four or five investigations during the year, the matter could easily be taken care of by the committee on Unauthorized Practice of Law; but should more investigations be necessary, then a person should be hired to do this by the State Bar Association.

Respectfully submitted,

H. A. MACKOFF
 ROBERT Q. PRICE
 E. T. CONMY, JR.
 PATRICK MALLOY
 ROBERT G. MANLY
 ARLEY R. BJELLA
 J. O. THORSON, Chairman.

MR. J. O. THORSON: Mr. President, I move the adoption of this report as filed.

HON. ALBERT LUNDBERG: I second the motion.
(Question put and motion carried.)

PRESIDENT ZUGER: I would at this time like to take a few minutes here before we go on with the committee reports to make an announcement. Mr. Philip Bangs of Grand Forks has been our State Delegate to the American Bar Association, and he has this morning tendered his resignation as a State Delegate. We have made a special order of business, the election of officers tomorrow afternoon at 1:30 here, at which time there will be elected our president and our vice-president and our secretary-treasurer, and I will place on the schedule for the election of officers at that time, unless there is protest, the election at that time for a new State Delegate. If you are like I am, maybe a word or two about the State Delegate might help so that you can consider.

The American Bar Association is governed by a policy enabling body. Herb, (Nilles) you can correct me if I get off the beam here. The policy making group of the House of Delegates which transacts a greater portion of the business of the ABA forms policies back in the legislative capacity. Mr. Herbert Nilles of Fargo is a representative in that House of Delegates, and he is elected by the ABA members of the state. In addition, the State Bar Association of North Dakota has its representative in the House of Delegates and that has been Philip Bangs. The North Dakota Bar Association pays the expenses of the State Delegate to attend the meetings of the House of Delegates. The first meeting that will be necessary for the new man who will be elected will be to attend the meeting of the House of Delegates at the Annual Meeting of the American Bar Association in Chicago. I believe the House of Delegates meeting commences on August — What is it, Herb, 21st or 22nd that it opens?

MR. HERBERT NILLES: Philadelphia, not Chicago.

PRESIDENT ZUGER: I mean Philadelphia. Is it Sunday or Monday?

MR. NILLES: Starts Monday.

PRESIDENT ZUGER: Monday, August the 22nd will be the opening meeting of the House of Delegates at Philadelphia, Pa. There is also a mid-winter meeting of the House of Delegates which is usually held in the City of Chicago along about in March, I think. Is that right?

MR. NILLES: Late February.

PRESIDENT ZUGER: Late February. So there are those two meetings which the State Delegate attends. The House of Delegates runs about three or four days, and I ask him to think the matter over. We want someone who, of course, will attend those meetings as Phil has done. We want someone who is diligent and interested in bar association work, who is qualified for the job. Phil has represented there with credit and I hope that we can elect someone who can fill his shoes there. He has brought a lot of credit to the state and has done a good job, and I want to thank you, Phil, for your representation.

The next committee report I would like to call upon is the report of the Committee on Constitutional Award. Charlie Murphy, is he here?

MR. CHARLES L. MURPHY: Mr. President and gentlemen of the convention: The report of our committee is extremely brief. It was a committee that possibly had the greatest amount of enjoyment of all of the work done by the Association during the year, due to the fact that the other members, Mr. Gallagher and Mr. Anderson, all of us were able to enjoy the response the high school superintendents of schools gave us at the time we requested their schools to participate in the distribution of deserving students, the awards in the form of the Key, which are given to the honor student selected in each instance.

As previously stated by the President and the purpose of the report, there were 379 schools requested to participate and we had a very enjoyable response of 230 schools through the state who did distribute the Keys to their students, but as I mentioned earlier, in addition to the distribution of the Keys there were solicitations also from virtually every school stating how much they appreciated the awards and, of course, the importance that the student attached to them.

So the committee having previously submitted a written report, the substance of which was given earlier, then moves the adoption of that report and thanks the President for the very fine cooperation in working throughout the state. We move the adoption of this report.

MR. FLOYD B. SPERRY: I second the motion.
(Question put and motion carried.)

Constitutional Award Committee Report

The work of the Constitutional Awards program committee for 1955 has been concluded with results comparable to previous years according to the information I have received from previous committee chairmen.

There were 230 awards made to high school students throughout the state during the months of May and June, 1955.

Notification of the award and posters were sent out to 379 high schools. The total cost of the program for this 7th annual award was \$149.79, exclusive of the cost of replenishing the supply of Keys.

We have ordered 200 additional Keys for the 1956 program, acknowledgement of which order with the Josten's Company, Owatonna, Minnesota, is enclosed and numbered B-48123.

It is noted that the shipping date of these Keys is set for the 2nd of September, 1955, so that the incoming President can inform the Josten's Company to whom the new supply of Keys can be shipped, which we gather would be the new Chairman of the Committee.

We hope that this preliminary report to the Executive Committee will be found in proper order, and assure the Committee that the time consumed in making the report at the Convention will be very

brief as to its formal parts, and I seriously doubt if there will be any inquiry from the floor of the convention, consuming additional time.

As Committee Chairman, and responsible for the operation of the Committee, I must state that the awards were limited to the *Keys* in 1955, due to the fact that as Chairman I did not know that there had been any certificates awarded with the *Keys* in previous years.

I received several letters from attorneys and school superintendents, asking about these certificates, which inquiries were the first that I had learned that certificates had been previously awarded. However, it's possible that the future program can re-institute the certificate portion of the awards without permanent harm done to the program.

Yours very truly,

CHARLES L. MURPHY, Chairman.

PRESIDENT ZUGER: The next report I would like to call for is the report of the Committee on Legal Education and Admission to the Bar.

DEAN O. H. THORMODSGARD: Mr. President, since the report is on file and it will be published in the *North Dakota Law Review*, I move that we receive it and approve of it being filed.

HON. ALBERT LUNDBERG: I second the motion.

(Question put and motion carried.)

The Committee on Legal Education and Admission to the Bar Begs Leave to Submit the Following Report:

The University of North Dakota School of Law is on the list of "approved" law schools of The American Bar Association. Since 1910, it has been a member of The Association of American Law Schools. One standard common to both Associations requires all pre-law students to complete three years of acceptable college work prior to enrolling in a law school. The University of North Dakota School of Law adopted the 3-3 plan; that is, three years of college and three years of law. This new plan applies to all students including veterans. One hundred and fifteen law schools out of one hundred and sixty-six require for admission the completion of three years of college work. The enrollment for the year 1954-55 in American law schools indicates that 35,015 students were enrolled in "approved" law schools, while only 4,550 students were enrolled in non-approved law schools. The great majority of law graduates are graduates of accredited and approved law schools. The North Dakota Bar Association has approved several times the recommendation of this Committee for the repeal and the re-enactment of Section 27-1103, paragraph 4 of the N. D. Rev. Code 1943. In the near future we may look forward to legislative enactment and sanction of such an amendment which will increase the pre-legal requirements to three years.

In 1900, one-fourth of the law teachers devoted their full time

to their professorships, while three-fourths of the law teachers were in active practice. By 1955, the reverse had taken place. At the University of North Dakota School of Law, thirteen credit hours are taught by practicing lawyers out of ninety credit hours offered by the school. There is a reasonable attempt to have the law school be in contact with the practicing profession. For the school year 1955-56 there will be six full-time law teachers and three part-time law teachers. By checking the programs and proceedings of the Association of American Law Schools annual meetings, it is evident that the law faculties are vitally interested in their obligations to the public and to the legal profession.

Another standard of the two Associations is that each member school shall maintain an adequate physical plant. There is an adequate size law building on the University Campus. A class room is provided for each of the three law classes. There is available space for 40,000 law books. At present, the Law Library consists of 32,800 volumes. The tables and chairs in the Law School Library well accommodate one hundred persons. In other words, there is seating capacity and working space for each student registered in the School of Law. During the academic year 1954-55, the School of Law secured additional space. According to prepared plans, the space has been divided into rooms which are being used as a law review room, a typing room, a room for the assistant librarians and a court room. The physical facilities are excellent and adequate for the present needs of the faculty and law students.

The primary task of the law school is the training of men and women who will become practicing lawyers and for those who intend to enter the service of the State or to use legal attainment in some other capacity. Several methods are in use in the teaching of prospective lawyers. The traditional case method of instruction is used, but this method has its merits and its limitations. The practical merit of the case system is to relate concrete cases to principles and to encourage students to participate in class discussion. However, it is impossible to cover the subject matter by the case system. Hence, it becomes advisable to recommend to the students approved textbooks to be used in supplementing the instruction by the case system. Statutory interpretation and construction is emphasized when studying the courses in Sales, Negotiable Instruments, Taxation and related courses. Preparing legal documents and solving law problems are often used by the law teachers in the Practice and Procedure courses and in Wills, Trusts, Business Associations and Property. In the course carrying the title of Practice Court, students are required to prepare and try cases involving issues of law and facts. Actual controversies are arranged which are carried out to conclusion in all respects as in the trial of litigated cases in the North Dakota district courts. Students are required to prepare the necessary pleadings, motions and briefs and to argue the cases orally. In the course entitled Office Practice, the students prepare legal papers which are necessary to institute actions, enter and reopen default judgments secure a change of venue, contin-

uance, employ provisional remedies, enter judgment upon trial, move for new trial, take an appeal to the Supreme Court, and enforce the judgment under North Dakota practice. Local law is not overemphasized, but in each of the law courses taught, citations are given to the North Dakota Code and the North Dakota cases.

After students have mastered the technique of reading cases and acquired the skill to work out correct rules of law from conflicting cases, they should be introduced to other methods of law instruction. The teaching of Legal Research and Legal Writing by means of having the students prepare articles, case notes, case comments and book reviews for intramural reviews or law reviews has proven to be an effective way to teach law. In the past only from 10 to 25% of the law students, who were on law review staffs, secured the benefits of this type of legal training. In recent years, there has been a trend for law schools to offer special courses in Legal Research or Seminars for all law students. The only possible objection to this type of training is that the capita cost is higher. It requires addition to the teaching staff. "The Index to Legal Periodicals" lists more than eighty law reviews published under the direct or indirect supervision of law schools.

The North Dakota Law Review is a joint publication of the State Bar Association of North Dakota and the University of North Dakota School of Law. It affords the lawyers, judges, law teachers and law students opportunity to publish their research papers. The law school offers a required course in Legal Research and Legal Writing for all second year law students.

The Committee on Legal Education and Admission to the Bar desire at this time to repeat for the record that this Association in 1954 recommended for legislation that law office study, either under a judge or an attorney, should not qualify the person to take the North Dakota Bar Examination. This Committee and the Bar Association favor the standards and policies of the American Bar Association.

This Committee has, at this time, no specific resolution or recommendation for submission to this Association. Members of the Committee were of the opinion that a brief description of the recent trends in legal education in this State would be of interest to the members of this association. We may report that the Law School conforms to the standards and policies of the two accrediting agencies, which are The American Bar Association and The Association of American Law Schools.

Respectfully submitted,

COMMITTEE ON LEGAL EDUCATION AND
ADMISSION TO THE BAR,

CHARLES L. FOSTER, Bismarck
HERBERT G. NILLES, Fargo
MACK V. TRAYNOR, Devils Lake
O. H. THORMØDSGARD, Grand Forks,
Chairman.

PRESIDENT ZUGER: I'd like to call for the report of the special committee on Professional Cooperation, one of the three special committees set up this year. Mr. Strutz, is he present? Is there anyone here to make that report, do you know?

MR. JOHN LORD: I don't know. Is it on file?

PRESIDENT ZUGER: I might say that we are following a little different procedure here. All the committee chairmen were requested to ask whether they would want to present the report and have discussion, or merely to present them and file them. You are a member of the committee, John? Mr. Strutz asked that this be one report that be presented to the meeting. We will pass it over for the time being then.

Is Mr. Ruemmele here with his report on the Committee of Title Standards? (No response). Is Mr. Bangert here, Chairman of the Committee on Public Relations? (No response).

My records now show that the Committee on Legal Service to the Armed Forces is next. The Hon. Judge Burtness, is he here to make his report?

HON. O. B. BURTNESS: The brief report is filed and I don't think it's necessary to be read, and I move the reading be waived and the report be filed.

HON. JOHN POLLOCK: I second the motion.

(Question put and motion carried.)

Report of Committee Rendering Services To Members of the Armed Forces

The work of our committee has been light during the past year. Again the members of the bar to whom cases have been referred have acted promptly and efficiently.

During the year the committee of the American Bar Association asked us to bring up their publication to date by including therein such changes in our statutory laws as might have been enacted. This was taken care of.

Respectfully submitted,

O. B. BURTNESS, Chairman.

PRESIDENT ZUGER: Now there are several committee reports that have been filed. They will be published in the Bar Association journal for your information. The chairmen, I am advised, of these committees have asked that their reports be merely received and filed. I would like to read the names of the committees and the chairmen and then ask for a motion that they all be received and filed; if that is your wish.

The Committee on Criminal Law, Chairman Ray Frederick; Committee on Indian Affairs, Chairman Melvin Christianson; the Committee on Continued Legal Education, Chairman Floyd Sperry; Committee on Law Lists, John T. Traynor; Committee on Junior Bar, Elver T. Pearson; Committee on Mineral Laws, William Murray; the Committee on Ethics and Internal Affairs, Philip R. Bangs; Committee on Law Office Management, Lewis H. Oehl-

ert; the Committee on American Citizenship, Kenneth Pringle; and the Committee on Judicial Selection, Harold Shaft, Chairman. I will entertain a motion to receive and file the reports of those committees.

VICE-PRESIDENT HERINGER: I will so move.

HON. O. B. BURTNES: I second the motion.
(Question put and motion carried.)

Report of the Criminal Law Committee

Your Committee on Criminal Law has from time to time during the ensuing year considered certain elements of our existing criminal law where a great deal still remains to be desired. At a meeting held in Bismarck on December 4, 1954, in conjunction with a meeting of State's Attorneys, a number of important subjects were discussed. It is only fair to admit that some of the subjects under discussion at this meeting apparently came to the attention of the legislature through no efforts of this committee, and were subsequently corrected in the 1955 legislature.

1. Heading the list of those subjects discussed at the December 4th meeting and upon which great emphasis was placed by the preceding Criminal Law Committee of your association was the enactment of a "Negligent Homicide" or "Manslaughter by Automobile" statute. Credit for the introduction in the House of Representatives at the 34th Legislative Assembly of what your committee considered an excellent "Negligent Homicide" statute is due a member of this committee and representative from Cass County, Mr. Lee F. Brooks. Unfortunately, for reasons that are not apparent on the surface, this bill was not looked upon favorably by the Senate and failed to pass for this reason. It goes without saying that nearly every state's attorney confronted with the necessity of proceeding in a criminal action in automobile death cases has been forced to compromise or even abate his action in the face of almost unsurmountable obstacles under the existing statute. Your committee urgently recommends that further efforts be made by the Bar Association to insure the passage of legislation on this subject at the next legislative assembly.

2. It appears to your committee that Section 12-3311 of the 1943 Revised Code making it a crime for evading hotel or restaurant accounts is in need of modification. It is frequently abused by unscrupulous inkeepers and restaurant operators, and in such instances is very likely to deprive a person of his civil liberty. The statute in its present form appears entirely too broad and your committee would recommend legislation restricting the action only in vulnerable cases where payment could not logically be demanded in advance or other precautions against non-payment taken by the hotel, lodging house, inn, boarding house or eating house.

3. Your committee wishes to emphasize the importance of the second and third recommendations made by the preceding Criminal Law Committee. We wholeheartedly concur in the concern shown by this previous committee in the disposition of juvenile

traffic offenders, and in the widely divergent sentences imposed by courts for the same offense in different parts of the state. A problem closely allied to these situations might be pointed out so far as jurisdiction of justice court is concerned.

It appears to your committee that material benefit could be obtained by increasing the jurisdiction of justice courts to include the trial of all misdemeanors. It frequently occurs in counties not having increased jurisdiction of which is beyond the jurisdiction of the justice court, must be taken into District Court where they clearly do not belong and should not be the cause of an already over-burdened court. Your committee would therefore recommend that the jurisdiction of the justice court be increased to include these cases, even though the maximum sentence to be given by such justice court would not exceed \$100 fine or 30 days in the county jail, or both such fine and imprisonment.

4. Your committee in a small way contributed to the passage of Senate Bill No. 125 which now comprises Chapter 115 of the 1955 Session Laws. While this chapter may not incorporate all that is desired it appears to be an improvement over the existing coroner law, and in time should prove as a step toward a modern and less complicated disposition of coroner cases.

There are a vast number of additional subjects which your committee has considered, portions of which have been included in various form of the 1955 Session Laws, but which have at this time not been studied or their application tested so that a report or recommendation can be made. Undoubtedly, the committee for the following year will be in a better position to make further recommendations, particularly with reference to the motor vehicle code, a large portion of which was re-written by the 1955 legislature.

Respectfully submitted,

DUANE R. NEDRUD
 BERT L. WILSON
 F. LESLIE FORSGREN
 JOHN O. GARAAS
 R. E. SWENDSEID
 TELMAR E. ROLFSTAD
 LEE F. BROOKS
 J. B. GRAHAM
 RAY R. FRIEDERICH, Chairman.

Report of Indian Affairs Committee

Progress has been made in clarifying the confused status of jurisdiction on Indian Reservations during the two years of existence of this committee. Our endeavors have been concentrated mainly in determining where jurisdiction lies at the present time, rather than attempting to effect any changes, although we may feel that certain changes are warranted.

On the basis of the Act of Congress of May, 1946, criminal jurisdiction over the Ft. Totten Indian Reservation had been assumed

by State Courts. This Act purported to confer jurisdiction upon State Courts. Your committee brought the question before the North Dakota Supreme Court early this year on a Certified Question of Law in the case of *State v. Lohnes*, N. D., 69 N.W. (2d) 508. The Court held in essence that the Act of Congress was ineffective in that the disclaimer provision in the State's Enabling Act and Constitution prevented assumption of jurisdiction until consented to by the people of the state.

It is generally agreed that more and better law enforcement would result if the various counties furnished such services, however, for the most part the affected counties are unwilling and financially unable to assume such responsibility without reimbursement from the federal government for expense incurred. When and if such reimbursement is agreed to by Congress, we feel that criminal jurisdiction should be assumed by the counties.

Under the reasoning of the *Lohnes* case, our constitution will have to be amended before such jurisdiction can be assumed. Senate Concurrent Resolution "W" passed by the 1953 Legislature provides for the submission to the voters at the 1956 primary election of a constitutional amendment to permit the legislature, "upon such terms and conditions as it shall adopt," to accept such jurisdiction as may be delegated to the state by Act of Congress. The total effect of such constitutional amendment, if passed by the voters, will be to place upon the legislature the responsibility of determining when and under what circumstances the state will assume jurisdiction. It is the thought of your committee that the legislature is in a better position to deal with the situation, and that a change can be effected more expeditiously whenever the legislature deems it proper.

After the decision in the *Lohnes* case, the Bureau of Indian Affairs established a Court of Indian Offenses on the Ft. Totten Reservation, and the same has functioned without repercussions of too serious a nature.

It is apparent that the legislature is becoming increasingly concerned with the problems of the Indians. Eight measures were passed by the last session dealing directly with Indians, including the legalizing of the sale of liquor to Indians, and the passage of House Concurrent Resolutions E-1, H-2, Q-1 and V.

A series of hearings on the various reservations were held by the Juvenile Delinquency Sub-Committee of the Committee on the Judiciary of the United States Senate, headed by Senator William Langer. Several acts have been introduced in Congress as a direct result of these hearings, of which H. R. 5957 provides that the Secretary of the Interior shall have authority to contract with the state and local subdivisions for reimbursement of expenses involved in the field of law enforcement.

The question of civil jurisdiction on the reservations has been raised. At the present time the case of *King v. Menz* arising in Burleigh County is before the Supreme Court. In this case, and in a similar case arising in Benson County (*Burdick v. Twiggs*), the respective District Courts held that State Courts have jurisdiction

over torts arising on the reservations, even though the parties involved are Indians.

Your committee believes that the legislature, congress, courts, and the general public are becoming more aware of the problems involved and of the necessity for corrective measures. With such interest being shown, we can reasonably expect continued progress to be made in this field.

Respectfully submitted,

WILLIAM R. MILLS
JOHN G. HART
PAUL W. BUEHLER
GLENN F. SWANSON
MELVIN CHRISTIANSON, Chairman.

Report of Committee on Continued Legal Education

This committee held several meetings following the report submitted at the 1954 convention, at which time plans for holding new types of institutes were discussed. Arrangements were made to hold a three-day institute at the Silver Ball Room of the Patterson Hotel in Bismarck, and which was conducted in the latter part of October of 1954. This included a tax school, covering a large field, a lecture on the Federal Exchange and Securities Act, in addition to a mock jury trial demonstration.

An outstanding group of lecturers was obtained for this meeting. Jack R. Miller, from Sioux City, Iowa, conducted a meeting upon Agricultural Tax problems and the tax problems of individuals. Hale McCown and Robert R. Moodie, from Beatrice, Nebraska, conducted a number of meetings upon the tax problems of partnerships and procedure in tax cases. Alfred Sedgewick, Jr., and William Arnold, from Minneapolis, conducted two meetings upon the income taxes of estates and trusts. An outstanding lecture was given by Attorney Ralph U. Heninger, of Davenport, Iowa, and this covered the tax problems of corporations.

A lecture was given by Professor Harold S. Bloomenthal upon the application of the Federal Exchange and Securities Act on oil and mineral sales, and the final day was spent with a jury trial demonstration, involving a personal injury action, presided over by Judge Mark H. Amundson of Mandan, North Dakota. James Conmy, Jr., of Bismarck, North Dakota, represented the plaintiff and Attorney John Lord of Mandan, North Dakota, appeared in behalf of the defendant.

While the attendance for this October meeting was relatively small, it was sufficient to cover the expenses necessarily incurred for the transportation, lodging, and meals of the speakers, in addition to the cost of the use of the hall and other incidental items.

It is believed that an institute should now be held in the fall of 1955, involving medical-legal matters, similar to the institute recently held in the State of Montana upon this subject. We are informed that this worked out very successfully in that state and that it was possible to put it on for a registration fee of \$7.50. It is

hoped that a joint meeting may become possible between the special committee on Professional Cooperation and this committee, to work out plans for such an institute, with the members of the medical profession.

The members of this committee are convinced, after considering the work done through Law-Science courses in other states, that invaluable services may be furnished to the members of the Bar through such a program. It is hoped that plans for such an institute may be completed in time to have this meeting conducted in October or early in November of 1955.

It was also learned that other courses on Tax matters were provided by the Internal Revenue Service, direct, and that a clinic upon the same was also conducted at the Agricultural College following our 1954 fall institute. It is recommended that some plans be considered to work in conjunction with these other organizations in arranging for a fall Income Tax meeting, to avoid a duplication of the work and to make it possible to cover the material more thoroughly with the least possible expense.

In conducting future institutes, in behalf of the members of the Bar of North Dakota, we recommend, in all cases, that contact be made with the National Committee, through John E. Mulder, its chairman, through which assistance can be obtained in all of this type of work. The cooperation given us by the National Committee and particularly by Mr. Mulder, has been exceptional, and this has permitted Continued Legal Education for Lawyers to become more extensively offered upon a more advanced level.

This committee also expresses its appreciation to the President, John Zuger, Vice-President Roland Heringer, and to our Executive Director, Ronald Davies, for their assistance, suggestions, and help in conducting these meetings.

We also wish to thank the members of the North Dakota Bar and all others, who have attended these Institutes and who have made it possible to continue with this program.

Respectfully submitted,

FLOYD B. SPERRY, Chairman
JOHN HJELLUM
PAUL J. McCANN.

Report of Law Lists Committee

The Law Lists Committee arranged for the publication of a roster of law lists and legal directories, the publishers of which have received Certificates of Compliance from the Standing Committee on Law Lists of the American Bar Association in the April, 1955, issue of the *North Dakota Law Review*. The members of the association are urged to use this roster in assisting them to determine the reliability of certain publishers. However, the names of perfectly legitimate publishers may be omitted from the list, but it is the opinion of the committee that the list will be of some help should any member of the association have cause to investigate some pub-

lisher. We can be assured that names appearing on the roster are those of completely reliable publishers.

The committee has received no requests from the members of the association in regard to any certain law list; and we have had no difficulty with law lists at all during the past year.

Respectfully submitted,

GEORGE A. SOULE
 JOHN A. STORMON
 F. E. FOUGHTY
 JOHN C. McCLINTOCK
 JOHN T. TRAYNOR, Chairman.

Report of the Junior Bar Committee

Mr. President, Members of the Bar:

Because of the present lack of activity in North Dakota of a Junior Bar nature, your committee considered its function to be primarily that of study and advice.

As background for such study it may be recalled that up to three years ago there was in existence as a part of this State Bar an organization known as the Junior Bar Association. This group was represented by its own officers, but had no listed membership, treasury or program. It was, nevertheless, effective in seeing that at least one of its members, (i.e. attorneys 35 and under) was appointed to serve on each of the standing committees of this Association and the same man was then appointed to the similar national committee of the Junior Bar section of the American Bar Association. This arrangement was short-lived, however, because of the difficulties of organization and the lack of interest. Your committee found that both of the last mentioned obstacles are still in existence.

Junior Bar organizations in nearby states are flourishing and active on both state-wide and local levels. They are affiliated with the American Bar and delegates attend the regional and national meetings of the Junior Bar Conference.

The general feeling on the part of the younger attorneys of this state is that they play an active roll in the County and State organizations and that another group would merely duplicate and dilute this work.

To get a more accurate appraisal of this feeling, your committee took a poll of the younger attorneys of this organization. A short form was sent out to all licensed attorneys under 35 years of age, who were admitted to practice between 1949 and 1954. 110 such questionnaires were sent out to verified addresses and 52 replies were completed and returned.

The tabulation of these replies indicates that of the 52 only 16 of the younger attorneys consider themselves active in the State organization; 27 said they would like to become active in their State Bar of which 5 were too busy and 22 had not had an opportunity. This is certainly a group that should be tapped in some way by this Bar Association.

Of the 52 replying, only 18 stated that they were familiar with Junior Bar activities in other states. 29 of these thought they would be interested in helping to organize an association of attorneys under 35 to function within the State Bar Association. 31 affirmed a need for a closer association of younger attorneys and 25 thought a local Junior Bar Group in their particular area would be worthwhile and of benefit to the community and Bar.

While these results are far from overwhelming, your committee was impressed with the fact that of the 30 replies deemed generally favorable, 27 of them were from attorneys in their first four years of practice. Because of this fact, several members of the committee believe that eligibility in any projected Junior Bar group should be based on number of years of practice without regard to age.

The majority of your committee, however, are of the opinion that these results show that a state-wide Junior Bar organization is not yet practical for North Dakota. The small number evidencing a willingness to cooperate, combined with the fact that only a small proportion of the younger attorneys are able to get away for even these annual meetings make up the primary reasons for this conclusion.

The committee does believe, however, that active local units could be formed in at least five of our North Dakota cities; Grand Forks, Bismarck, Minot, Fargo and Williston. We feel that the younger attorneys in these cities should be encouraged to consider local organization for projects of local need. Four or five men in each such city could begin an organization which could in turn be tied in with the others on some worthwhile project. Projects suggested by the committee include a more complete annotation of our code to the North Dakota Supreme Court decisions; a series of speaker programs for civic and high school groups about our legal system; the preparation of a practice manual emphasizing practical information for those newly admitted to the bar; and a survey of the North Dakota Bar examination's scope and procedure.

In addition, your chairman makes the following recommendations:

1. That the Junior Bar committee be continued.
2. That Herbert L. Meschke, Jonathan C. Eaton, Jr., LeRoy Loder, and Kermit S. Peterson, all of Minot, North Dakota, be appointed to this committee.
3. That since all of the last mentioned attorneys are in the same city and have expressed a desire to promote Junior Bar work, they can accomplish more working together as the nucleus of a committee than can a committee which is made up solely of members from every corner of the state. It is suggested that this group be given every assistance to foster a Junior Bar unit in Minot as a test of the feasibility of the idea for other such cities.
4. That this committee further be utilized in liason between those in charge of committee appointments and the younger

attorneys who would be interested in becoming more active in their state organization.

5. That an effort be made by this committee and those in charge of committee appointments to work with the North Dakota State Chairman of the Junior Bar Conference of the ABA so that appointees to the National Junior Bar Committees can arrange to sit as members of the similar State Bar Association committees.
6. That the Executive Committee of this organization consider the sending of a delegate or delegates to the Northwest Regional meeting of the Junior Bar Conference, which is to be held in Minneapolis on October 12-15.

Respectfully submitted,

ELVER T. PEARSON, Chairman
 WILLIAM MCG. BEEDE
 JONATHAN C. EATON, JR.
 HAL O. BULLIS
 ROBERT H. LUNDBERG
 HERBERT MESCHKE
 JOHN T. TRAYNOR
 CHRISTOPHER U. SYLVESTER.

Report of the Mineral Laws Committee

The Mineral Laws Committee held a fall meeting, a meeting during the legislative session, and a brief spring meeting.

The problem of administering oil and gas conservation was discussed and the Committee directed the Chairman to interview Dr. Wilson R. Laird regarding his views on the present administrative set-up and possible future changes therein. Attached as Annex "A" of this Report, is a report of this interview. The Committee expresses its appreciation to Dr. Laird, who undoubtedly knows more about this subject than anyone in the state, and it is emphasized that the undertaking of this project of the committee was with a long-term view and did not imply any dissatisfaction with the present administration and the law.

The Chairman was directed to meet with the Executive Committee at the next opportunity to discuss the problem in future title work arising out of resale of fractional mineral interests. The Chairman wrote the Committee on this but as of the date of the report, such a meeting was not held.

Although for obvious reasons, the work of the Mineral Laws Committee has for several years dealt heavily with oil and gas, it is felt that for the future work of the committee, broader fields are to be considered.

Regardless of opinion as to the commercial prospects for developing uranium-bearing ores in North Dakota, it is possible that we are in a growing phase of claim filing, leasing, and prospecting for uranium. It is felt our present statutes dealing with mining and minerals bear looking into to see if they are adequate and up-to-date to deal with contingencies as they may arise. This is a

possible field of future research and activity for the Mineral Laws Committee.

Respectfully submitted,

WILLIAM S. MURPHY, Chairman
 ARLEY R. BJELLA
 CLIFFORD JANSONIUS
 C. L. FOSTER
 MILTON HIGGINS
 ROBERT BIRDZELL

(Mr. H. A. Mackoff resigned during the year.)

ANNEX "A"

Memorandum of Interview

On March 17, 1955, as directed by the Membership of the Mineral Laws Committee of the State Bar Association at its last meeting, I interviewed Dr. Wilson Laird, State Geologist, to get his views on possible future legislation with regard to the administration of oil and gas conservation.

Dr. Laird said that he would first list the drawbacks of the present administrative set-up. They are as follows:

1. Administratively it is not a good situation that the State Geologist, who is the administrative arm of the Industrial Commission, is not legally controlled by them and cannot be hired and fired by the Industrial Commission.

2. The geographical disadvantage of having the office of the State Geologist and Geological Survey in Grand Forks.

3. The Industrial Commission is a purely political body and the terms of all its members expire concurrently. There is therefore lack of continuity, as the entire Commission could be changed by one election, thus presenting the state with a completely new and inexperienced Commission.

4. Conceivably, the present arrangement could involve the University of North Dakota in politics, due to the regulatory activity of the State Geologist, who is also head of the Geology Department of the University.

Dr. Laird then presented the advantages of the present system, which he says are as follows:

1. The State Geologist, being head of the Geology Department of the University, has tenure and some security which would not be possessed by a separate director of conservation, appointed by the Commission, or otherwise.

2. The fact of the State Geologist being removed from Bismarck and up at Grand Forks tends to remove him and his office from possible direct influence of "people camping on his doorstep;" he therefore can be more dispassionate and impartial.

3. The great advantages to the University which accrue from having the abundant material for research and otherwise that is available on the campus as a result of having the office of the geologist and geological survey present there.

4. The University pays about two-thirds of the salary of the Geologist, provides office space, etc., and storage, free of charge.

5. The feeling of stability which is present under the current set-up.

6. With the present status of the oil industry in this state, a large and expanded separate set-up in Bismarck is probably not warranted, as present needs are currently cared for. This picture would be entirely changed if, for instance, there were a big, new field opened in the Eastern side of the Basin in North Dakota.

Dr. Laird says he is inclined to advise to leave the set-up as it is.

Dr. Laird outlined the following possibilities of change, all of which he says has a precedent in other oil states. These are:

1. To separate the conservation functions from the Geologist Service and put the office under a petroleum engineer or geologist, directly under the Industrial Commission. Leave the Geological Survey at the University.

2. To take all of the Geological Survey away from the University and put it in Bismarck.

With either of the above alternatives, it would be desirable to have a Board other than the State Industrial Commission, and it would be preferable that such Board consist of three members as it should be less unwieldy that way. These could be elective officers like the Public Service Commissioners. In such case, the terms could be staggered; or, the Board could be appointive with staggered terms of six years. The Governor would have the power of appointment.

In the State of Texas, the Railroad Commission has jurisdiction over this function. They are elective officers. In North Dakota the conservation function could be in a separate division under the Public Service Commission, for instance. Dr. Laird believes that the Governor has suggested this. Under such a condition the Public Service Commission could choose the person to head up the Department.

Dr. Laird thinks it is important that if the move to Bismarck be made, the person chosen to head up the conservation activity have some tenure of office. That is to say, that he not be subject to being hired or fired by political reasons or at the time of political change. This is necessary in order to get a good man. This position is one wherein it is necessary to make unpopular decisions; that is to say, decisions which may be unpopular in one quarter or another.

Dr. Laird points out another possibility — that if the State Geologist is not the person in charge of conservation, that then the State Geologist could be an ex-officio member of the supervising board. He notes that there is a precedent for this in some other oil states.

The drawback to the setting up of any new official to direct conservation is that it would be a strictly political appointment. Dr. Laird also thinks there would be practical political problems in putting over any change. He also points out that there would necessarily be duplication, since the new department would need geologists

and engineers, as the Geological Survey now does, and there would therefore need to be two sets of these technical personnel.

Dr. Laird points out that under the present set-up the Governor has veto power over the acts of the Commission, and that regardless of the fact that present and past Governors may not have used that power in oil and gas matters, a future Governor could do so. In other words, it is really one-man rule if the Governor chooses to make it that.

Dr. Laird said he would be very pleased to directly confer with the Committee as a whole when they next meet, and that he has to be in Bismarck frequently, in any event. In this connection, he said he will be in Bismarck, quite definitely on May 17th, June 16th and July 19th.

The above is based upon longhand notes of the undersigned taken during the interview with Dr. Laird. It is believed that it substantially represents his views, but in case it does not, I am the one who made the error and not Dr. Laird. In other words, it should not be considered as a direct quotation of his words. A copy of this memorandum is being furnished Dr. Laird so that he can make any corrections, deletions, or additions which he wishes.

Dated March 18, 1955.

WILLIAM S. MURRAY, Chairman
Mineral Laws Committee
State Bar Association.

Committee Report on Ethics and Internal Affairs

Your Committee on Ethics and Internal Affairs, consisting of myself as Chairman and Harold Hager, Gordon Caldis, Syrus Lyche, Harold D. Shaft, William T. DePuy and Ralph W. Oliver, fortunately has not found it necessary to have more than three meetings of the Committee, during the past year.

We have acted promptly on all complaints and other matters submitted to us for attention, and we have completed our investigations and rendered final decisions on all questions submitted.

With the exception of the three hearings had before the full Committee, the other matters were of minor importance and satisfactorily disposed of by the Chairman with the assistance of the Executive Director.

In conclusion, the Committee expresses its thanks to the Executive Director, R. N. Davies, for his valuable assistance.

Respectfully submitted,

PHILIP R. BANGS, Chairman.

Report of Committee on Law Office Management

The Committee on Law Office Management reports that an examination has been made of the pamphlet issued under the auspices of the American Law Institute entitled "PERSONAL AND BUSINESS CONDUCT IN THE PRACTICE OF LAW (LAW OFFICE

MANAGEMENT)." To give one an idea of the contents, we quote the main captions of the table of contents as follows:

- I. AMENITIES AND PERSONAL CONDUCT IN RELATION TO THE PRACTICE OF LAW.
- II. TIME AND COST ACCOUNTING.
- III. FIXING CHARGES FOR SERVICES.
- IV. CALENDARS, DIARIES AND REGISTERS.
- V. BOOKKEEPING AND ACCOUNTS.
- VI. CLERICAL WORK, OFFICE EQUIPMENT AND LIBRARY.
- VII. FILING AND SAFEGUARDING OF PAPERS.
- VIII. APPLICATION OF OFFICE PROCEDURE TO THE PREPARATION AND PROBATE OF WILLS.
- IX. SOME PRINCIPLES OF TAXATION APPLICABLE TO LAWYERS.

Each of the above captions are subdivided into many interesting and enlightening particular phases of law office management. Your committee is of the opinion that this work on law office management should be in every practicing attorney's office, and since we do not believe that our special committee could enlarge upon or better this work, we are hereby incorporating such pamphlet by reference and suggest and further recommend that each member of the North Dakota Bar procure a copy for his own use and guidance. The regular price is \$2.50 per copy and may be secured by writing direct to the American Law Institute, 133 South 36th Street, Philadelphia (4), Pennsylvania.

Respectfully submitted,

A. I. JOHNSON
 MYRON H. BRIGHT
 JOHN S. WHITTLESEY
 GEORGE A. SOULE
 BESSIE OLSON
 HERMAN F. WAGNER
 FRANKLIN J. VAN OSDEL
 LEWIS H. OEHLERT, Chairman.

American Citizenship Committee Report

Your committee on American Citizenship got off to a slow start this year with the result that we were unable to carry out the recommendations of the 1954 committee, and little was actually accomplished aside from crystalizing plans for a future program for this committee.

The Governmental Open House program recommended by the 1954 committee was given further study and the committee also discussed other types of programs which might be carried on in this field. It is our conclusion that the Governmental Open House program should be pushed by the Bar Association through this committee during the coming year, and that the new committee concentrate its efforts on this one program, with a view towards getting it under way early in the fall of 1955 and as soon after the

commencement of the school year as possible. To this end, your present committee offers to cooperate with the new committee in setting up the initial organization. We further recommend that this program be organized in the larger centers first, under the sponsorship of local bar associations, and then spread to smaller communities later.

We believe that the success of this proposed program will depend upon the full cooperation of the schools in particular, as well as various civic groups, service clubs, patriotic organizations, and Parent Teacher groups, and the active and enthusiastic support of the local bar organizations. Schools should be encouraged to take full advantage of the program, and for this reason we recommend early action so that the program can be launched during the fall of 1955.

This Governmental Open House program contemplates a one day open house of government offices in each community, with the assistance of City, County, State and Federal offices, at which time any one (and particularly school children) desiring to see these offices in operation would be encouraged and given the opportunity of touring the various offices and departments of our government. Those participating would not only learn more about the particular office or offices toured, but would perhaps gain a new insight into our government in action. Better citizenship cannot help but result.

Your committee urgently recommends that the 1956 committee be enlarged to include members from at least six or eight of the larger cities with active bar associations, and that a pilot program be launched in those cities during the fall of this year.

Respectfully submitted,

HERMAN WEISS
HERSCHEL I. LASHKOWITZ
JAMES E. LEAHY
ROBERT E. FREDRICKS
KENNETH G. PRINGLE, Chairman.

Report of Committee on Judicial Selection

The work of the Committee on Judicial Selection has been light during the past year, involving only the plebescite for the selection of a Judge for the newly created judgeship in the Fourth Judicial District.

Thus far in the history of this committee, it has conducted plebescites to recommend to the appointing authority one Judge of the State Supreme Court, one United States District Judge and four District Judges. In each case the top three names selected by the bar have been submitted, and in each case the one receiving the highest weighted vote has received the appointment.

In each poll a very substantial majority of the eligible lawyers have participated in the voting, indicating a general interest in the project, and the fact that the appointing authorities have followed the recommendations of the bar in all cases is most gratifying.

The procedure has been to mail to all eligible lawyers of the state or of the district affected a nominating ballot, on which the member may place one name in nomination. These nominating ballots are then tallied and the six names receiving the highest vote are then called by the committee to ascertain whether, if nominated, they would accept the appointment, in order to avoid the embarrassment of asking the appointing authority to appoint someone who would not accept.

The names of the six persons who receive the highest number of nominating votes and who would accept appointment are then submitted to the bar on a second ballot. (In case of ties for sixth place, all those who tied were included, except once when several nominees received only two votes each. On that occasion we submitted only five names on the final ballot.)

On the second ballot each member is authorized to vote for one, two or three of the nominees, as he chooses, marking them "1," "2" or "3" in the order of his choice. These ballots are then tallied by giving a weight of three points to each first choice, two points to each second choice, and one point to each third choice. The three nominees receiving the greatest number of points or "weighted votes" are then submitted to the President of the State Bar Association, who in turn presents them to the appointing authority.

Your Committee's principal difficulty has arisen from the fact that so many are nominated who advise the Committee that they would not accept appointment. Sometimes these men have been named in so many ballots that it appears that there must have been concerted effort to secure their appointment, and when their names are eliminated, the remaining ballots have sometimes been so few in number as to cast doubt on whether or not they represent a fair expression of the will of the Bar. Sometimes two or three nominating ballots have been sufficient to get a name on the final ballot.

If some means could be devised to get the lawyers to nominate only those whom they are reasonably sure would accept appointment, the final ballot would more accurately reflect the recommendation of the Bar.

Your committee wishes to express its appreciation to the Bar for its full participation in these plebescites, to Governor Norman Brunsdale for the weight which he has given the recommendations of the Bar, and to Executive Director Ronald N. Davies for his cooperation and efficient handling of the preparation and mailing of the ballots.

Respectfully submitted,

O. H. THORMODSGARD

O. B. BURTNESS

HAROLD D. SHAFT.

Public Relations Committee Report

The activity of the Public Relations Committee has consisted of the publication of the SBAND News Letter and conferences on Public Relations matters with the Executive Committee at some of its meetings. Fourteen issues of the News Letter were published.

Each issue circulated to the entire Bar and to a select national mailing list.

In the field of Public Relations, but not to the credit of this Committee, is the panel television program produced by the Burleigh County Bar Association (which after a successful series this past Spring, will be carried again this Fall by KFYZ, Bismarck), and the Lawyer Referral Service of the Cass County Bar Association, which became effective in June.

The Burleigh County Bar Association's program was entitled "You and the Law" and consisted of discussions by a panel of Burleigh County lawyers of legal questions submitted by the listening audience.

The Cass County Lawyers Referral Service follows the pattern established nationally. Theodore L. Hanson, Clerk of the District Court, has been named Referral Officer. Twenty-seven lawyers have registered with the service in its first month of operation. The referral relationship assures persons without other legal contracts of a thirty-minute conference for a \$3.00 fee. The Cass County Bar Association has planned an advertising campaign, giving the public notice of availability of this service.

Respectfully submitted,

HAROLD W. BANGERT, Chairman.

PRESIDENT ZUGER: I wonder if Roy Ilvedson is here to make a report on the Committee of Traffic Safety?

(No response)

PRESIDENT ZUGER: Do any members of their committee know anything about that?

(No response)

PRESIDENT ZUGER: We have the report of the Committee on Memorials. The Hon. Judge Obert C. Teigen, is he here?

(No response)

PRESIDENT ZUGER: Is there any member of his committee here?

(No response)

PRESIDENT ZUGER: We have then remaining the reports of four committees whose chairmen are not here at this session; the report of Title Standards, the report of the Professional Cooperation Committee, the Committee on Memorials and the Committee on Traffic Safety, otherwise I think we have pretty well covered the reports of the committees that are to be presented here this morning.

If there is nothing further. I would like to ask if there are any announcements to be made?

MR. PHILIP BANGS: I don't want you to overlook something in connection with the House of Delegates. I left with you, and I hope you still have the card that shows that I registered as a member of the House of Delegates, and you also have there my room reservations for myself and wife. Now as soon as a new Delegate is elected, there should be something done immediately about

transferring those reservations over to the new man so that he will have a place to sleep and also be recognized as the Delegate when he gets there. So please don't overlook it. I will donate the ten bucks that I paid for registration just to show my good intentions in this matter.

(Applause.)

PRESIDENT ZUGER: I have not overlooked it. We have the registration. We have the reservation at the Penn Sheridan Hotel and we will see that the new man is properly installed.

There is one thing that you did give me, Phil, that you didn't mention and I did overlook, and all I can do at this time is put it in the form of an announcement, and that is a proposal by the American Bar Association to create a new section, a section on family law. The section would include the general subjects of marriage, divorce, annulment, maintenance and support, adoption, the rights of and guardianship of minors and incompetents, youth correction laws, welfare problems, husband and wife, parents and child. I don't know how many sections ABA has, but there is something over 20, I think, and there has been furnished to me a form to be signed by any of you who would be interested in joining such a section or in that field of law that the undersigned members of the American Bar Association declare, that they would like to be members of this section if approved, and would be willing to pay section dues in an amount not to exceed \$5.00 per year. I am going to turn that proposal over to our new Executive Director, Lynn Grimson, and I ask that any ABA members who are interested in the section, get in touch with Lynn and sign the petition so it can be sent in.

MR. PAUL CAMPBELL: Mr. President, for the last two years I have been engaged as Special Prosecutor of the City of Minot under city ordinance laws. In that connection I have found what I find to be an extremely confusing, mixed up condition with reference to the police magistrate courts, justices of the peace, county courts of increased jurisdiction, in the handling of matters that frequently arise in following criminal actions under state laws and also violations of ordinances. I have been seeking to get an examination of that condition by the Bar. I feel that in the matter of our city courts, sometimes designated as municipal courts, but we have no such thing in the State of North Dakota. We have merely a police magistrate court, but I ask what's in a name, anyhow? But I think that I would like to have some study made and perhaps that should be made through the Traffic Committee. I perhaps was a little late in presenting a talk or an argument to your Executive Secretary to this Association, which was referred to the Traffic Committee, and I was in hopes that I might meet with them. I would like to have the study because I feel that this branch of municipal or city work has become of sufficient importance in the State of North Dakota in connection with the automobile and traffic problems as to warrant our preparing ourselves to associate with and follow and try to work with the American Bar Association,

and if that committee is here and going to meet, I would like to present it, and I also would like to file with this Association the writing that I have presented before to make such use of or refer to that committee. I thank you, sir.

PRESIDENT ZUGER: Thank you, Paul. The Executive Committee will consider that in the committee structure for the following year and will be considered. We also have a committee on Jurisprudence and Law Reform; I don't know which one the Executive Committee will prefer to refer that to, but it will be one of them.

PRESIDENT ZUGER: Are there any other announcements?
(No response.)

I ask that those committee reports that have not been made today will be held over to Saturday, and that they be prepared to make their reports on Saturday morning.

If there is nothing further at this time, we will recess until 1:30, at which time we will reconvene and there will be presented here in this room under the chairmanship of John Hjellum, Chairman of our Sectional Meetings Committee, a legal institute on the new Rules of Civil Procedure. The Committee has arranged for some outstanding and well qualified men to compose the panel and lead this discussion. I might suggest that if you have brought them with you, bring along your little green book that was sent to all members of the Bar through the courtesy of West Publishing Company. It will help. If there is nothing further, we will stand recessed until 1:30.

FRIDAY AFTERNOON, AUGUST 5, 1955

The convention was called to order at 1:30 P. M. in Williston High School, Williston, North Dakota, President Zuger, presiding, thereupon the following proceedings were had:

PRESIDENT ZUGER: Now at this time I would like to proceed with the next order of business, which is the election of officers for the coming year.

The first office to be filled this afternoon is the office of President of the Association for the coming year. The nominations are now in order.

ARLEY R. BJELLA: Mr. President, last year I had the pleasure to advance the nomination of the vice-president of this year, Roland Heringer of Rugby. At this time it is not necessary for me to go into any of his background. He is from Rugby, well known through the state, graduated from the University of North Dakota and the former State's Attorney of his county. It gives me a great deal of pleasure to nominate Roland Heringer for the President of this Association for the ensuing year.

JOSEPH C. McINTEE: Mr. President, I second the motion.

L. R. NOSDAL: In behalf of the Second Judicial District, I haven't been able to contact them all, but I am sure I speak for all of them when I second the nomination of Roland Heringer for President.

HOWARD A. MOUM: I second the motion.

PRESIDENT ZUGER: Do I hear any other nominations?

FLOYD B. SPERRY: I move the nominations be closed.

R. A. FEIDLER: I second the motion.

PRESIDENT ZUGER: All in favor of the motion say aye. All opposed?

(Question put and motion carried.)

PRESIDENT ZUGER: Motion carried. I would like to say a word here, we are going to try, if possible, to complete our business here by two o'clock so that you can proceed with the discussion which I know you are all interested in. With that thought in mind, I will leave it entirely up to you.

The next office to be filled is the office of Vice-President for the next year.

HERBERT G. NILLES: Mr. President, bearing mind the admonition of the President, I will proceed to be brief. I feel that a potential Vice-President of this Association should be one who has manifested himself; that is, interested himself, manifested his interest in the activities of this great Bar Association, and the man who I am about to mention I feel will fulfill the qualifications in that regard. I nominate Norman G. Tenneson of Fargo. He was admitted to the Bar in 1923. His father was a lawyer going back to the early days of North Dakota. He is a member of the firm of Cupler, Tenneson, Serkland and Lahy. He has been President and Secretary of the Cass County Bar Association. He has been the President of the First Judicial District Bar Association. He served as a member of our Sectional Committee for five years and for one year was chairman. He has so many activities which I have listed here that I will content myself to that. He stands well with us in Fargo and I know those who know him throughout the state think highly of him. He is a good lawyer. He is an ethical lawyer. I believe he will use good judgment. It is my pleasure to suggest him and nominate him as Vice-President of this Association.

CYRUS N. LYCHE: Mr. President, in view of some of my activities I suppose that some of my friends think I am going to make another nomination, but that isn't quite correct. I did have another man, a very good man in mind, but in discussing it with my candidates we recognized that obvious qualifications and merit of Mr. Norman Tenneson, and while I hope that I may at a later date present at another election the name of Floyd Sperry as Vice-President of this Association, with his approval and with, I am sure, the approval of those who would have supported him, I am very happy at this time to second the nomination of Norman Tenneson of Fargo, and I would like to move that the nominations be closed and that the Secretary be instructed to cast an unanimous ballot for Norman G. Tenneson.

JOHN A. STORMON: Mr. President, I second the motion.

PRESIDENT ZUGER: Is there any discussion? All those in favor say aye. All those opposed say no.

(Question put and motion carried.)

PRESIDENT ZUGER: Motion is carried. The next office to be filled is the office of Secretary-Treasurer. The present Secretary-Treasurer is John E. Rilling, Fargo, North Dakota.

ROBERT G. HOGHAUG: I propose the name of John Rilling for another term as Secretary-Treasurer. I had the pleasure of being in law school with Jack Rilling for three years and have had an opportunity to observe him for some five years of practice, and I am convinced and I think you will agree that he has the energy and talents to be an excellent Secretary-Treasurer for another year. I nominate John Rilling.

HON. C. L. FOSTER: It gives me great pleasure to second the nomination of John Rilling as Secretary-Treasurer.

PRESIDENT ZUGER: Are there any further nominations?

CLYDE DUFFY: I move the nominations be closed.

PRESIDENT ZUGER: Do I hear a second?

PAUL L. AGNEBERG: I second the motion.

(Question put and motion carried.)

PRESIDENT ZUGER: Motion carried. Now that that matter is concluded, I want to say to the Executive Committee and other officers of the Association that I am very pleased that John Rilling has been re-elected. He has served with us during the current year and he has done a bang-up job. You couldn't expect any more than John has done and I appreciate very much that he has been renominated and re-elected.

The next office to be filled, and I want to make a correction in a statement I made the other day. The next office to be filled is the Delegate of the State Bar Association of North Dakota to the House of Delegates. In speaking of it the other day, I said we were going to elect a State Delegate. The State Delegate is Mr. Herbert G. Nilles who is elected by the members of the American Bar Association of the State of North Dakota. Nominations are now in order for election of a Delegate of the State Bar Association of North Dakota to the House of Delegates.

DONALD C. HOLAND: We of the Third Judicial District feel that we have a man whose personality, background, experience generally, qualifies himself well for the office of Delegate to the House of Delegates of the ABA. I am speaking, of course, of Vernon Johnson of Wahpeton. Vernon has practiced law for 23 years and as you all know is now associated with Patrick Milloy at Wahpeton. During the seven or eight years that I have been affiliated with the North Dakota Bar Association, it has come home to me very forcibly on many occasions that Vernon has been a very important part of our organization and that he has contributed in many ways to its functioning during these years, and I know from what I have learned from others that his activities are not limited to that period of time. As you all know, those consisted of many activities involving sectional meetings, papers at various times and many things too numerous to mention at this time, but all of which were culminated two years ago in his being elected to the office of President of this Organization, which office he ad-

ministered very admirably with one result that I may mention, and that was the awarding of the Award of Merit being given to the North Dakota Bar Association for its activities during his term in office. The name of Vernon Johnson is practically synonymous with such things as Judicial Council and Code Revision and many other things that we as lawyers are concerned about in North Dakota. His activities have not been limited to the Bar Association itself; that is, I speak of his qualifying activities. I also mention that Vernon, as you know, served four terms in the North Dakota Legislature and served as Speaker of the House. We feel that he is exceptionally well qualified, as I stated earlier, and it gives me a great deal of pleasure to place his name in nomination at this time.

W. T. DEPUY: Mr. President, I wish to nominate a member of the Williams County Bar. This gentleman has like that of the other nominee some 20 years of experience in the active practice of law and he has conducted himself with great distinction. He is a member of the American Bar Association and although never an official Delegate, he has been sufficiently interested to attend three meetings of that organization. He is an able public servant, active in state affairs. He is known to all of you. He will represent us well, I am sure. I offer the name of Everett Palmer.

LYNN SHERMAN: I would like at this time to second the nomination of Mr. Vernon Johnson. I want to endorse and reiterate everything that Mr. Holand has said. I would like to point out just briefly that Vernon Johnson has done as much as almost anyone else in this Association for the benefit of the Association, for the benefit of the lawyers, and I know that he will continue that service for the Bar of North Dakota and for the Bar of the Nation in the House of Delegates. It gives me great pleasure to second his nomination, and I want to point out one further qualification. I don't think Mr. Holand mentioned it, but I think it's very important; that is, Mr. Johnson was a member of that famous class of 1932 from the University Law School.

FRANK T. KNOX: Mr. President, without making a speech, I wish to nominate John Lord from Mandan, North Dakota. I believe that the members of the Bar are sufficiently acquainted with his qualifications and ability to know that he will properly represent the State of North Dakota. I therefore nominate John Lord.

HAROLD M. HAGER: It gives me great pleasure to be able to second the nomination of Everett Palmer. Mr. Palmer was at the Law School at the same time I was attending the Law School, so I have known him for that length of time. I have known him to be a very fine, capable man. He graduated from the Law School of North Dakota in 1935 and since that time he has practiced in the City of Williston. He has been President of the Northwest Bar Association. He has served on the Executive Committee of the State Bar Association. He is at present Chairman of the Activities Committee for the Grand Lodge of the National Elks Association. He has been an Exalted Ruler of the local Elks Lodge, President of the State Lodge. He has shown himself to be very efficient in

the undertakings he has taken on, and I believe that Mr. Everett Palmer would be able to handle himself as a Delegate to the House of Delegates in a very dignified and very honorable, efficient manner.

ALOYS WARTNER: Without saying anything further, I wish to second the nomination of Mr. Palmer.

MACK V. TRAYNOR: I move the nominations be closed.

PRESIDENT ZUGER: Is there a second?

L. R. NOSTDAL: I second the motion.

(Question put and motion carried.)

PRESIDENT ZUGER: Motion carried. I will appoint a ballot committee to count the votes for a Delegate to the House of Delegates: Al Strutz of Bismarck, Norbert Muggli of Dickinson and Ralph Beede of Elgin and Dan Letnes of Grand Forks.

To preserve the record, the Chair will declare that Mr. Roland Heringer was elected President, Norman Tenneson was elected Vice-President and John Rilling was elected Secretary-Treasurer.

Is there any member of the Association whose ballot has not been picked up, or is there anyone who has not had an opportunity to vote? I hear none. Then we will close the poll.

There is one thing I would like to do just before I turn the meeting back to the Chairman of the Sectional Meetings Committee. I wonder if Ron will step in. Ron Davies will have to leave early in the morning. I want to advise you that the Resolutions Committee is preparing a resolution for our current records in regard to the services rendered to the Association by Ron. As I say, he will not be here tomorrow and this will be the last business session that he and I will be at this session, and before I turn the Chair over I would like to ask the members of the Association to stand and by their applause show Ron what he has done for us.

(Applause.)

PRESIDENT ZUGER: Thank you one and all. Now, I want to turn the meeting over to the Chairman of our Sectional Committee, John Hjellum. (Whereupon, the meeting was turned over to John Hjellum, Chairman of the Sectional Meetings Committee.)

PRESIDENT ZUGER: I would like to announce the results of the election for a Delegate to represent our state Association. Vernon Johnson has been elected as Delegate. I am filing the report with the Executive Director.

MORNING SESSION, SATURDAY, AUGUST 6, 1955

At 9:00 A. M., Saturday, August 6, 1955, the meeting was called to order, with President Zuger, presiding.

PRESIDENT ZUGER: We have this morning on our schedule several committee reports to be completed after which there will be an award of 50-year Membership Certificates. Then we will take up any unfinished or new business that you may have. According to my records there are several committee reports that have not been called for. The first is Traffic Safety. Has that report been

filed? Is there anyone here who wishes to make a presentation of that report, comment on it? I understand it has been filed with the Executive Director. I would ask, therefore, that someone make a motion that it be accepted and filed.

GEORGE E. SORLIE: I so move.

CYRUS N. LYCHE: I second the motion.

(Question put and motion carried.)

A Report by the Traffic Safety Committee to the Executive Committee of the North Dakota Bar Association

The Traffic Safety Committee of the North Dakota Bar Association met at Minot, North Dakota, on Saturday, April 2, 1955. At the request of the Executive Director of the North Dakota Bar Association, we reviewed the report printed in the January issue of the *North Dakota Law Review* on "Courts of Limited Jurisdiction in North Dakota." This is a report prepared by the *Traffic Court Program* of the American Bar Association. It is a detailed report and contains many recommendations. We also met to consider recommendations that had been made by last year's Traffic Safety Committee.

Your committee makes the following recommendations and reports to the Executive Committee of the North Dakota Bar Association.

First. We strongly recommend that the Executive Committee make arrangements for work to begin on the preparation of a manual for the use of the justice courts in North Dakota. This manual could be patterned somewhat after the manual issued a few years ago by the State of Washington for the justices of peace in that state and entitled "Justice of the Peace Manual." We attach to the original of this report a copy of the Washington manual. We believe, however, that a manual for North Dakota should be made more attractive and easier to read.

Although this manual would be mainly for the use of the justice courts, as with the Washington manual, it would also be useful to a large extent to the municipal and police courts of our cities and villages.

Last year's Traffic Safety Committee, Alvin C. Strutz, Chairman, recommended that such a manual be prepared by our bar association. The report prepared by the American Bar Association Traffic Court Program also recommends such a manual on page 40 of the January Law Review in that such a manual should serve to instruct the justice "as to the duties of his office, his responsibilities, and approved court procedure."

We strongly urge that such a manual be authorized immediately. As pointed out in the report just mentioned, the average citizen comes into contact with the courts of limited jurisdiction more often than with any other court, and "it is reasonable to suppose that he forms a good part of his opinion of law, our legal system, and judiciary from that contact. Whatever he sees there of injustice, in-

competence, or inefficiency instills in him disregard for the law and all courts; whatever he sees of competent, impartial administration of justice inspires in him respect for and pride in the law and the judiciary."

We believe that the issuance of such a manual for our justice courts would not only be of great assistance to the individual occupying such offices in determining procedural problems and for a better understanding of their authority and duties, *but it would also be a credit to our North Dakota Bar Association in the eyes of the public.* Without a doubt, such a manual would also tend towards the keeping of better records by the courts of limited jurisdiction.

Regardless of any proposed court reorganization in this state, we would like this manual to be an immediate project. It is our thought that for decisive action this could be placed in the hands of one or more competent and interested attorneys with an advisory committee and any clerical assistance necessary. However, the executive committee can make its decision on the mechanics of getting this worthwhile project started. We feel that the cost will not be exorbitant and that it may be possible to complete it by the August Bar meeting.

Second. During the past several years there have been studies made and proposals offered for the reorganization of our courts in North Dakota. The Blinn report (October 1950 issue of *North Dakota Bar Briefs*) and the report prepared by the American Bar Association Traffic Court Program (January 1955 issue *North Dakota Law Review*) are two of such studies.

We believe that this subject should be re-approached with the view of abolishing the justice of the peace courts of North Dakota, *but otherwise leaving intact all other courts.* This would not be the broad and sweeping reorganization of our court system that many would like to see, but would be more likely of getting through the legislature.

There would be no constitutional barrier in eliminating the justice courts since section 113 of our North Dakota Constitution specifically gives the legislature this authority, and confers upon the legislature the power to confer the justice court jurisdiction upon judges of county courts "or elsewhere."

In place of the justice courts, we suggest a new court be established that we will call the County Magistrate Court for convenience in writing this report. It may be, however, that section 85 of Constitution would have to be amended to create such courts. The County Magistrate would be on a salary basis instead of a fee basis. The salary would be determined by the County Commissioners within the minimum and maximum limits set by the legislature. The salary would be relatively low in comparison with salaries of county officials. It would be a part-time position unless in a few counties the amount of work warranted otherwise. A salary, for example, in a less populated county, of \$100.00 a month would still be attractive to many individuals as an added income where the work would only require part of one's time.

The number of County Magistrates would be determined by the individual counties. Many counties would find one such magistrate sufficient. A large county, such as Bottineau, might find it more satisfactory to have a magistrate located in both ends of the county, such as at Bottineau and Westhope.

We like the idea of having such magistrates appointed by the County Commissioners from a list of names furnished by the district courts, or the County Commissioners could make their own appointment subject only to the approval of the district court. There is also the possibility of the magistrate being appointed directly by the district court, such as juvenile commissioners are now appointed.

In counties having the county courts of increased jurisdiction, it would be optional whether or not the magistrate courts would be established and whether such court would have concurrent jurisdiction with the county court to certain extents.

The County Magistrate would have jurisdiction over all state misdemeanors and in all civil cases where the amount in controversy does not exceed \$200.00, or whatever amount is fixed by the legislature.

Legislation could be enacted to permit local village or city magistrates to be appointed county magistrate as well as when the location of the court and ability of the magistrate suit such appointment. Otherwise, village and city magistrates would handle only violations of their village and city ordinances.

This committee found itself discussing and considering the smaller courts of North Dakota because of the request (mentioned at the beginning of this report) that we consider and report on the article in the January Law Review by the Traffic Court Program of the American Bar Association. *As set forth in this latter article the fairness and efficiency of these courts of limited jurisdiction and the respect our citizens have towards such courts do have a relationship to traffic safety.*

However, the latter half of this report by our Traffic Committee in regard to the abolishment of the justice of the peace courts is primarily a matter to be considered and determined by the Judiciary Committee of the North Dakota Bar Association. It is our request, therefore, that such committee be given a copy of the above recommendations and report.

Dated at Minot, North Dakota this 2nd day of April, 1955.

TRAFFIC SAFETY COMMITTEE,

JOHN T. TRAYNOR
 VERNON R. PEDERSON
 RICHARD D. RAUSCH
 RICHARD H. MCGEE
 E. HUGH McCUTCHEON
 ALVIN C. STRUTZ
 P. W. LANIER
 E. J. McILRAITH
 ROY A. ILVEDSON, Chairman.

PRESIDENT ZUGER: I would like to call for the report of the special committee on Professional Cooperation. I understand that one of the members of the committee, Mr. Lord, will present that report. Is that correct?

JOHN F. LORD: This report was prepared by Mr. Alvin Strutz who is Chairman of the committee. We felt that it should come to the attention of the members because it's something new for the Bar Association.

Report of Special Bar Committee on Professional Cooperation

Your Committee on Professional Cooperation begs leave to submit the following report:

This is the first year that the North Dakota Bar Association has had a Committee on Professional Cooperation, and your Committee has limited its activities during the year to problems arising in contact with the Medical Profession. Since the field of Professional Cooperation is a new one in our Association, your Committee felt that we should move slowly. We therefore limited our work to Professional Cooperation with the Medical Profession.

Dr. Phil Woutat of Grand Forks, who was the President of the North Dakota Medical Association at the time of the appointment of your Committee, was contacted, and the matter of closer cooperation between our professions was discussed with him. Dr. Woutat felt that the idea had much merit, and he immediately appointed a Special Committee to represent the North Dakota Medical Association in contacts with our Committee. This Committee consisted of Dr. C. H. Peters, Dr. G. R. Lipp and Dr. Charles A. Arneson, all of Bismarck, North Dakota.

Your Committee met with this Committee of the Medical Association and a thorough discussion of our mutual problems was had. It was conceded by the members of this Joint Committee that a considerable portion of the practice of both Law and Medicine is concerned with the problems of people who are in need of both legal and medical service. It was further agreed that the interest of our clients and patients will be better served if the members of the Bar and Medical Professions will cooperate in the meeting of these mutual problems, and that in the interest of our clients and patients, who have need for both legal and medical services, there should be a closer cooperation between our professions in the State of North Dakota, within the standards of legal and medical ethics governing the conduct of the members of the respective professions.

It was conceded that the relationship between members of our professions has, as general rule, been quite satisfactory in this state. Some ways were suggested, however, in which such relationships could be improved.

Members of the Medical Profession feel that attorneys could be considerate of the time of the doctor, and pointed out that on many occasions a doctor is subpoenaed to testify and is required to be present in Court at a definite time. His entire schedule of appoint-

ments is, by such subpoena, disrupted and upset, and in many instances, instead of calling the doctor to testify as soon as possible, other witnesses are called whose testimony could be delayed. Members of the Medical Committee pointed out certain definite instances from their own experience where they were subpoenaed and responded to such subpoena only to find, after waiting in Court for a considerable length of time, that the case for which they had been subpoenaed would not even be tried on that day.

It was also pointed out that many times a doctor is required to appear and to testify without any previous conference with the attorney who has subpoenaed him. It was pointed out that the doctor's testimony would be of far more value to his patient, and to the attorney's case, if a conference were arranged between the attorney and the doctor before trial.

It was also pointed out that many times a doctor is subpoenaed just before the trial or during the trial at which he is to testify. As a result his schedule, which may include the performance of operations, is seriously disrupted.

It was agreed that in all the matters of criticism raised by the members of the Medical Committee, much of the cause of the complaint could be eliminated if the members of the Bar would be a bit more thoughtful. If it is necessary to subpoena a doctor, and the doctor's testimony is not going to be required at the hour set in the subpoena, a phone call to the doctor's office would avoid a useless trip of the doctor to the Court House. By advising the doctor by telephone as to when he should report, many hours of his time can be saved.

Your committee is also of the opinion that a lawyer should always, except in very minor cases, have a conference with the doctor on the facts of the case before the doctor is called to testify. No attorney can properly represent his client's case unless such a conference is had.

It is further the belief of your committee that attorneys should serve notice on the doctor as far in advance of the trial as possible that his testimony is going to be required, so that as far as possible the doctor can arrange his schedule of appointments accordingly.

The matter of medical fees was also discussed. It was agreed that on matters where a doctor is called to make a report on the treatment of his own patients, that such charge as the doctor makes for such services should be billed in the name of the patient, and not in the name of the attorney, which is often the case at the present time. The report to the attorney should clearly be considered a part of the service which the doctor renders for his patient, and his charge should be made in the name of the patient and not in the name of the attorney.

Your committee also feels that where a claim of the patient is being litigated, that the attorneys, with the consent of their client, should pay the doctor direct for his services out of any recovery of monies which the attorney may make on behalf of the client and patient. Members of the Medical Committee pointed out that in some instances, after a doctor has testified on behalf of his patient,

and judgment has been recovered and paid, that the doctor's fee has remained unpaid.

Your committee also gave consideration to the question of the amount of medical fees to be charged. Investigation has shown that there is a wide difference in the amounts charged by various doctors for their services as witnesses. The members of the Medical Committee agree that it would be impossible to fix any definite sum to be charged a patient in any case, and that each doctor would have to fix his own charge based on the facts of each case. However, they agreed to bring the matter to the attention of their Association so that, as far as possible, wide differences in the amounts charged by various doctors would be eliminated.

It was also pointed out that in many instances lawyers requesting reports of a doctor on the treatment of a patient could be much more specific as to what they want covered in the report. It was agreed that the lawyer should make clear in his written request for report the specific conditions about which he seeks information, and should likewise indicate whether he is asking for a prognosis or not. The doctor, upon receipt of such written request, should answer the request and furnish the report promptly. Such request for a written report, of course, should be accompanied by proper written authorization from the client and patient.

The State of North Dakota has no statute governing fees to be charged by expert witnesses, and has no statute providing for the taxation of such expert witness fees. When a doctor is called to testify as an expert witness, therefore, he should be paid such fee as is agreed upon with the lawyer representing the party calling the doctor. Of course no arrangement should ever be made whereby the amount of the doctor's fee for his services as a witness is to be determined by the amount of recovery by the patient in the lawsuit.

It was agreed by the Committee on Professional Cooperation of the Medical Association, and by your Committee, that we should recommend to our respective Associations that the Legislative Committees of each Association should support legislation in the next Legislative Assembly which will permit the taxing of a reasonable amount of expert witness fees. The fixing of the fees for expert medical testimony, of course, should be left largely to the Legislative Committee of the Medical Association.

Your committee further recommends to the next committee on Professional Cooperation of his Association that District Meetings be arranged in each of the Six Judicial Districts of the State of North Dakota, at which District Meetings the attorneys and the doctors in that Judicial District would be present, and which meetings would be held for the purpose of having a free and frank discussion of the mutual problems confronting both the Bar and the Medical Associations.

As has been heretofore pointed out, the activity of your committee during its first year of existence, has been limited to professional cooperation with the Medical Profession.

It is the recommendation of your committee that the work of

the next committee be enlarged to include Professional Cooperation with other groups, or that additional committees be set up to provide for cooperation with various groups. We believe that it would be helpful to the members of our Association if the Bar Association at least maintained public relation contacts with various groups. Such contact could be made with these groups so as to offer them cooperation of the members of the Bar, and to seek their cooperation in solving our mutual problems.

Your committee would suggest that some of the additional areas to be covered either by the work of the next committee on Professional Cooperation or by separate committees, would include the area of the public relations of the members of the Bar and real estate men; Banking and Trust Companies; which would include the large field of Estate Planning; a Special Committee for Cooperation with Public Service Groups, Life Underwriters, and Casualty Insurance. The field is unlimited, and it is the thought of your committee that if we offered these various groups the cooperation of the Bar and suggested to them that we seek their cooperation in solving our common and mutual problems, that the standing of the members of the Bar in their Committees would be much enhanced.

The North Dakota Society of Public Accountants has contacted the North Dakota Bar Association, suggesting that the members of the Bar, in drawing Articles of Incorporation and corporate By-Laws, discontinue the provision usually found in such By-Laws providing for the audit of the Corporation's records by Certified Public Accountants, and to insert in lieu thereof that such audit shall be made by Independent Public Accountants of the State. Your Committee, to whom this matter was referred, feels that this is not a matter of professional cooperation, but that it is a matter for each corporation to decide for itself as to how and by whom its corporate books and records are to be studied. The next Committee on Professional Cooperation might set up a program for professional cooperation with public accountants as part of their work.

There is the field of Engineering, and there are many other fields with whom a better understanding might be fostered by the next Committee on Professional Cooperation.

This report of your Committee, which is the first Committee of this type ever appointed by the North Dakota Bar Association, is, of course, sketchy, and there is much room for development. The principal purpose of this Committee should be to indicate the importance of voluntary cooperation between our profession and other professions whose members should use their knowledge and skill to the best advantage of the public. It is recommended by your Committee that Joint Committees representing our Association and other Professions be established. Such Committees might well become a permanent part of our Association, and, by properly func-

tioning, do much to place and maintain our Profession on a high level in this State.

Respectfully submitted,

E. F. ENGBRETSON
JOHN F. LORD
ALVIN C. STRUTZ.

JOHN F. LORD: Mr. President, I move the adoption of this report.

PRESIDENT ZUGER: Thank you, John. You have heard the motion. Is there a second?

WILLIAM J. DANER: I second the motion.
(Question put and motion carried.)

PRESIDENT ZUGER: Motion carried. I would like to supplement the report in two matters. The President of the American Bar Association sent out communications to the Presidents of all the State Bars about a month ago suggesting they appoint or set up a committee on Professional Cooperation with particular emphasis that they can start to work on the problem of relation of the lawyers with Certified Public Accountants, and I advised them that we had such a committee and referred this matter to them which is negotiated on a national basis by the American Bar Association.

The other thing is that the Legislative Director of the Medical Association, just before I came up here, gave a Resolution which I am turning over to Roland; that our Medical friends are very interested in a closer cooperation in working with them. We have many interests in common which we can both help ourselves and there are many points where we can eliminate some friction, and this Resolution adopted by our Medical friends is along the line of the committee's report. We want to set up committees to deal with these local problems in every-day relation between the two. I think it's just fine. I think the committee should be definitely one to continue.

Now, I would next like to call for the report of the Committee on Title Standards.

LYNN SHERMAN: Members of the Association: I would like to report that the Report of the Committee on Title Standards has been filed with the Executive Director. The Executive Committee has approved prior to this time the Title Standards that were recommended by the Committee, and I would move that the report be adopted.

PRESIDENT ZUGER: Is there a second?

LELAND ULMER: I second the motion.
(Question put and motion carried.)

Report of Title Standards Committee

Your Committee on Title Standards, composed of E. K. Landenberger, Scott T. Rex, Linn Sherman, Theodore A. Sailer, Leland G. Ulmer and H. G. Ruemmele, wishes to make its report to the Association since appointment.

The Committee was called to meet in Mandan on May 21st and June 25th.

The Committee renews its recommendations for legislation contained in its report to the 1954 meeting of this Association, and further recommends that the Association be more active in proposing legislation to the North Dakota Legislature based upon Association adopted recommendations of any committee for legislation.

There was presented to the Committee at its May 21st meeting and approved the following Abstractor's Certificate, which is to be presented to the North Dakota Title Association in September for adoption as its Uniform Certificate, to-wit:

EXPLANATION OF PROPOSED TITLE STANDARDS

"STATE OF NORTH DAKOTA }
COUNTY OF } ss:

_____, Official Abstractor, within and for _____ County, North Dakota, hereby certifies that the foregoing entr_____ numbered herein _____ show a correct abstract of all instruments recorded in the Office of the Register of Deeds within and for said County, as the same appear of record therein, affecting title to the following described premises, to-wit:

AND FURTHER CERTIFIES that there are no unsatisfied judgments or renewals thereof, docketed in the office of the Clerk of the District Court within and for said County, within the ten years next preceding the date hereof, and no unsatisfied federal or state tax liens filed or recorded in the office of the Register of Deeds of said County, against

AND FURTHER CERTIFIES that there are no unsatisfied mechanic's liens or notices of intention to file mechanic's liens, filed in the office of the Clerk of the District Court of said County, against said land and premises or any part thereof, within six years next preceding the date hereof.

AND FURTHER CERTIFIES that there are no unpaid taxes, no unredeemed tax sales or unrecorded tax deeds issued within twenty years next preceding the date hereof, that appear of record in the offices of the County Auditor or County Treasurer of said County, except Special Assessments which have not been certified to the County Treasurer for collection, against said premises

IN WITNESS WHEREOF _____ has caused this certificate to be executed in its name, and its seal to be hereunto affixed by its proper officer at _____ County of _____, North Dakota, this _____ day of _____, 19____, at _____ o'clock ____ M."

Pursuant to the authority granted to the Executive Committee by the Association upon the recommendation of the Title Standards Committee in 1952, the Executive Committee on April 23, 1955, provided that Title Standards approved by the Title Standards Com-

mittee shall become effective upon approval of the Executive Committee of the Association. Pursuant thereto the Title Standards Committee has recommended to the Executive Committee for its approval the following Title Standards or revisions of existing Title Standards, to-wit:

I

A deed made and acknowledged subsequent to January 1, 1955, which does not show the post office address of the grantee is not entitled to record, if recorded does not give constructive notice, and a title based thereon is not a marketable title.

Ch. 85, Session Laws 1955

Patton on Titles, Sec. 38

Case Co. v. Sax Motor Co., 65 ND 757, 256 NW 219

Messersmith v. Smith, 60 NW 2d 276

II

A mortgage or assignment of mortgage made and acknowledged subsequent to January 1, 1943, which does not show the post office address of the mortgagee or assignee is not entitled to record, and if recorded does not give constructive notice.

Ch. 85, Session Laws 1955

Patton on Titles, Sec. 38

Case Co. v. Sax Motor Co., 64 ND 757, 256 NW 219

Messersmith v. Smith, 60 NW 2d 276

III

A mortgage made and acknowledged subsequent to January 1, 1943, which does not describe the indebtedness as to amount, rate of interest and when and where due, is not entitled to record, and if recorded does not give constructive notice.

N.D.R.C. 1943, Secs. 35-0304, 1-0401

Case Co. v. Sax Motor Co., 64 ND 757, 256 NW 219

IV

On all instruments made and acknowledged subsequent to January 1, 1943, where the notarial seal is not affixed to the acknowledgement, the instrument is not entitled to record, and if recorded does not constitute constructive notice.

N.D.R.C. 1943, Secs. 47-1903, 47-1932, 1-0401, 1-0403

Patton on Titles, Sec. 204

Hartopf v. First State Bank, 191 Minn. 595, 256 NW 169

Koht v. Towne, 201 Iowa 538, 207 NW 596

V

Failure of the notary public to show the date of expiration of his commission may be disregarded.

Patton on Titles, Sec. 204

25 ALR 2d, 1147

1 Corpus Juris Secundum, Acknowledgements, Sec. 88, page 848

County of Sheridan v. McKinney et al (Neb.) 115 NW 548

VI

That Title Standard 1.02 be amended to read:

Absence of the date of acknowledgement or acknowledgement dated before or after the date of the instrument may be disregarded.

Patton on Titles, Sec. 204.

1 Corpus Juris Secundum, Acknowledgements, Sec. 85; 25 ALR 2d, 1141

Buck v. Cage, 27 Neb. 306, 43 NW 110

VII

On all instruments made and acknowledged subsequent to January 1, 1943, where the record shows a notarial commission to have expired prior to the date of acknowledgement, the acknowledgement is invalid, and the instrument so recorded does not constitute constructive notice.

N.D.R.C. 1943, Secs. 44-0612, 1-0401, 1-0403

1 Corpus Juris Secundum, Acknowledgements, Sec. 46

Park v. Lyons, 183 Okla. 529, 83 P 2d 573

VIII

Where there is a contract for deed in favor of A and later a deed is given to A and B as joint tenants, a deed from A or B, as the survivor, does not create a marketable title in the grantee.

N.D.R.C. 1943, Sec. 47-0206

2 American Law of Real Property, page 5-11

North Dakota Title Standard 1. 12

Minnesota Title Standard No. 52, citing Grieger v. Pye, (Minn.) 297 NW 173

IX

A conveyance of a platted tract by reference to its designation in the plat, does not create in the grantee a marketable title to abutting VACATED streets, alleys or highways.

N.D.R.C. 1943, Secs. 47-1010, 40-3908

Patton on Titles, Sec. 92

3 American Law of Real Property, Sec. 12.112, page 431

X

When an instrument contains a proper certificate of acknowledgement, no objection should be made to a signature or subscription by "mark" even though there is no witness.

N.D.R.C. 1943, Sec. 1-0149

In Re McKee, 72 ND 92, 4 NW 2d 652

Patton on Titles, Sec. 206

Cox v. McLean, 66 ND 696, 268 NW 686

1 Corpus Juris Acknowledgements, Sec. 82

Northwestern Loan & Banking Co. v. Jonasen, (SD) 79 NW 840

XI

A judgment lien against one joint tenant does not sever a joint tenancy.

111 ALR 168

Musa v. Segelke, et al, (Wis.) 272 NW 657

XII

Title Standard 1.13 have added to it as a proper agenda, the following, to-wit:

A chain of title shall not be considered broken by an intervening tax title, if the record title holder at the time title was forfeited for taxes, either again acquires title or his interest is conveyed to the purchaser of the tax title or his immediate or remote grantees.

In addition to the above recommendations the Committee considered the matter of record requirements as to corporate deeds, including deeds from municipal corporations, and other governmental bodies, the necessary words to create a joint tenancy, gift tax and estate tax liens as a matter to be considered in title opinions, and other related subjects, upon which no agreement could be reached.

Some discussion was held relative to the possibility of forming a real property section within the Bar Association, on a system similar to that in being in other state associations, and it was agreed that if feasible the matter should be presented to the membership for an expression of opinion as to the desires of the membership.

Title Standards are becoming more generally accepted in all parts of the United States, and your Committee has been informed that a movement is underway to enlist the interest of the Real Property, Probate and Trust Section of the American Bar Association to prepare and promulgate a Model set of Title Standards.

In the past year we have sent out 7 copies of the Title Standards, including one complimentary copy to Paul E. Basye, author of *Clearing Land Titles*. The cost of printing the additions and revision made in 1954 was \$97.50, so that the total expenditure to date for the Standards has been \$1,299.22, and we have received or have receivable, \$1,440.00, leaving a balance for future printing and distribution \$140.78.

Respectfully submitted,

SCOTT T. REX
 LINN SHERMAN
 THEODORE A. SAILER
 LELAND G. ULMER
 H. G. RUEMMELE, Chairman.

EXPLANATION OF PROPOSED TITLE STANDARDS

A deed made and acknowledged subsequent to January 1, 1955, which does not show the post office address of the grantee is not entitled to record, if recorded does not give constructive notice, and a title based thereon is not a marketable title.

AUTHORITY:

N.D.R.C. 1943, Sec. 47-1905 provides:

"No deed in which real estate is described shall be received for record by any register of deeds in this state if the post office address of each grantee named in such deed is not shown."

Patton on Titles, Sec. 38 sets forth the well accepted principle that only those instruments which the statutes authorize may be recorded and states:

"A record for which the statute makes no provision possesses no value as evidence, and does not impart constructive notice", and continues "Even as to instruments of a class required to be recorded, the statute usually prescribes certain prerequisites, and a record is unauthorized which shows the instrument to have been lacking in any particular which the statute manditorily required."

North Dakota case of *Messersmith v. Smith*, 60 NW 2d 276, goes even further than the proposed standard when in the headnote it states:

"The record of a deed that was not entitled to be recorded in the office of the register of deeds does not constitute notice of the execution or the contents of the deed and a purchaser from the grantee in such deed does not, by virtue thereof become a 'subsequent purchaser in good faith, and for a value consideration within the meaning of Section 47-1941, NDRC 1954'".

Ch. 85, Session Laws 1955, is a validating act of the actual recording of such instruments prior to January 1, 1955.

II

A mortgage or assignment of mortgage made and acknowledged subsequent to January 1, 1943, which does not show the post office address of the mortgagee or assignee is not entitled to record, and if recorded does not give constructive notice.

N.D.R.C. 1943, Sec. 35-0304 provides:

"No mortgage of real property shall be received for record by the register of deeds unless it contains the post office address of the mortgagee and a complete description of the indebtedness secured as to the amount, rate of interest, and when and where due. No assignment of a mortgage or real property which does not contain the post office address of the assignee shall be received for record."

The further authority is contained under proposed Standard I above.

III

A mortgage made and acknowledged subsequent to January 1, 1943, which does not describe the indebtedness as to amount, rate of interest and when and where due is not entitled to record, and if recorded does not give constructive notice.

(For authority see proposed Standard II above.)

IV

On all instruments made and acknowledged subsequent to January 1, 1943, where the notarial seal is not affixed to the acknowl-

edgement, the instrument is not entitled to record, and if recorded does not constitute constructive notice.

NDRC 1943, Sec. 47-1932 requires that a notary public affix his seal on a certificate of acknowledgement:

Patton on Titles, Sec. 204, page 692 states:

"When the certificate is made by an officer whose formal acts were usually authenticated by an official seal, most statutes require that his seal must be affixed, and a certificate without it is fatally defective. When a form for a seal is prescribed by statute, it must be substantially followed."

If the acknowledgement is not valid, it is not entitled to record as Section 47-1903, *supra*, provides among other things that:

"Before an instrument can be recorded . . . its execution must be established:

1. If executed by an individual by acknowledgement by the person executing the same;
2. If executed by a corporation, by execution and acknowledgement by the person or persons authorized to execute instruments . . ."

(For further reasoning see proposed Standard I above.)

V

Failure of the notary public to show the date of expiration of his commission may be disregarded.

AUTHORITY:

Patton on Titles, Sec. 204, page 696 states:

"Failure of a notary public to comply with a statutory requirement that he show the date of expiration of his commission, or that he give his address, does not destroy the effect of his certificate."

This is substantiated by citations given and *County of Sheridan v. McKinney et al* (Nebraska) 115 NW 548.

VI

That Title Standard 1.02 be amended to read:

Absence of the date of acknowledgement or acknowledgement dated before or after the date of the instrument may be disregarded.

The underlined words have been added to the Standard.

Patton on Titles, Sec. 204, page 694 states:

"In the absence of a date in the certificate, the presumption is that the instrument was acknowledged after it was signed, and on the same day."

Other authorities cited substantiate this.

VII

On all instruments made and acknowledged subsequent to January 1, 1943, where the record shows a notarial commission to have expired prior to the date of acknowledgement, the acknowledgement is invalid, and the instrument so recorded does not constitute constructive notice.

AUTHORITY:

Section 44-0612, NDRC 1943 provides for the endorsement of the date of notary public's commission expiration. In the case of Standard V it is held that there is a presumption of validity, but it is held that where the certificate on its face shows no authority, no presumption can arise. The citations bear this out.

Section 1-0403, *supra*, validates acknowledgements prior to January 1, 1943.

VIII

Where there is a contract for deed in favor of A and later a deed is given to A and B as joint tenants, a deed from A or B, as the survivor, does not create a marketable title in the grantee.

AUTHORITY:

NDRC 1943, Sec. 47-0206 provides:

"A joint interest is one owned by several persons in equal shares by a title created by a single will or transfer, when expressly declared in the will or transfer to be a joint tenancy, or when granted or devised to executors or trustees as joint tenants."

Title Standard 1.12, previously adopted provides that "when all the joint tenants contract for the sale of real property, any future conveyance by a surviving joint tenant or tenants will not create a marketable title." The reasoning of those which state that the joint tenancy is severed is that there is an equitable conversion upon the execution of the contract, and in the proposed standard it would mean that the equitable title would be in A upon the execution of the contract, so that a subsequent conveyance of A and B as joint tenants would not be a title "created by a single will or transfer."

2 American Law of Real Property, page 11 states:

"An executory contract by one of the joint tenants to convey his interest will be specifically enforced, and a contract creates at once an equitable estate which, in equity, severs the joint tenancy and converts it into a tenancy in common."

On this reasoning, by merely reversing it, it would seem that there is the same doubt prevalent until our Supreme Court makes a decision as there is in the situation of Title Standard 1.12.

IX

A conveyance of a platted tract by reference to its designation in the plat, does not create in the grantee a marketable title to abutting VACATED streets, alleys, or highways.

AUTHORITY:

NDRC 1943, Sec. 47-1010 provides:

"A transfer of land bounded by a highway passes the title of the person whose estate is transferred to the soil of the highway in front to the center thereof unless a different intent appears from the grant."

Section 40-3908, *supra*, provides for title upon vacation.

The vacation merely removes the easement, but does not become part of the abutting tract. Patton on Titles, Sec. 92, page 314 states:

“And if a conveyance is made of Lots which abut upon, or which are separated by, a vacated street or alley, it will not be construed to include any portion of the vacated strip not specifically described therein unless the conveyance shows an evident intention to include the same. From the time of its vacation, the street or alley is a separate tract of land, in that it is no longer appurtenant to the lots or lands abutting upon it.”

(There are many cases cited after this.)

3 American Law of Real Property, Sec. 12-112, page 431 states:

“If streets or alleys have been vacated by vacation of the plat in which they are located, both they and the former lots constitute unplatted and separate tracts; a subsequent conveyance of the lots by their platted numbers will be effective as to those tracts but will not include the streets or alleys.”

X

When an instrument contains a proper certificate of acknowledgement, no objection should be made to a signature or subscription by “mark” even though there is no witness.

AUTHORITY:

NDRC 1943, Sec. 1-0149 provides:

“4. ‘Signature’ or ‘subscription’ shall include ‘mark’ when the person cannot write, his name being written near it and written by a person who writes his own name as a witness;”

In construction of this section, our Court, In Re McKee, 72 ND 92, 4 NW 2d 652, states:

“. . . its purpose was to safeguard signatures by mark. It made a signature by mark thus witnessed prima facie of the same worth as a signature by writing. But it did not exclude other proof of a signature by mark alone. So, where a will or other writing is offered and the signature thereto is by mark, witnessed as provided by the statute, no further proof is required that the mark is the maker’s signature unless that fact is challenged. And where he who writes the name of the maker to identify his mark fails to write his own name as a witness, the effect of his failure is not to destroy the signature thus made by mark but to place in the first instance the burden of proving that the mark was, in fact, made as the maker’s signature, upon the proponent of the writing to subscribed.”

As a matter of proof, the certificate of acknowledgement would seem to provide that. Patton on Titles, Sec. 206, page 699 states:

“A secondary effect of the presumption as to the truth of required recitals is a presumption as to the genuine-

ness of the signature of the grantor, in that it is immaterial who performed the manual act of signing, or as to any circumstances connected therewith, after the grantor adopted the signature, or estopped himself from denying that it is his own, by acknowledging he executed the instrument."

A headnote in *Cox v. McLean*, 66 ND 696, 268 NW 636, states:

"A certificate of acknowledgement of the execution of a deed, regular on its face, is sufficient proof of the execution of the deed."

The case of *Northwestern Loan & Banking Co. v. Jonasen*, 11 SD 566, 79 NW 840, is in point and sustains the proposed standard.

XI

A judgment lien against one joint tenant does not sever joint tenancy.

AUTHORITY:

The authorities are collected in 111 ALR 163, and it seems to be the reasoning that the mere docketing of a judgment creating the lien is not the conveyance of any interest, and that the majority of the courts hold there is no severance until there is an actual sale. Most holding that a levy of execution does not sever a joint tenancy.

XII

Title Standard 1.13 has added to it as a proper agenda, the following, to-wit:

"A chain of title shall not be considered broken by an intervening tax title, if the record title holder at the time title was forfeited for taxes, either again acquires title or his interest is conveyed to the purchaser of the tax title of his immediate or remote grantees.

REASONING:

The Committee felt that if the tax forfeiture proceedings were valid, thus creating a new title, all defects prior thereto would be wiped out, and if the tax forfeiture proceedings were not valid, no new title could be carried to break the chain, and thus a conveyance by the record title holder at the time of the invalid tax forfeiture proceedings to subsequent holders would complete the chain.

PRESIDENT ZUGER: I would like to next call for the report of the Auditing Committee.

Report of Auditing Committee

GEORGE A. SOULE: Mr. Chairman and Members of the State Bar Association:

Our Committee recognized its limitations and inabilities as to computations and the large figures that are involved in our transactions, so we arranged to have the firm of Broker and Hendrickson, public accountants, to audit the books and records of the Association. The Fargo office of that organization is in charge of Charles Bailey, who is also a lawyer, so we thought they would do us a very, very good job.

The report is to the effect that all of the books and records pertaining to the financial transactions of the organization are in good shape. They balance and everything is all right. It might interest you to notice though that in 1955 our income from the filing fee, was \$15,392.00. The Supreme Court filing fees brought in \$390.00. We received \$3,874.00 from the State Bar Board through our registration fee, that is our share of it. The Law Review brought in \$577.00, Title Standards \$70.00, the Committee on Continuing Legal Education \$929.00, which made our receipts in round numbers, \$21,234.00. Some of the interesting items of expenditures were: The Executive Director, the salary was \$3,600.00, his office allowance was \$1,200.00, and his expenses were \$719.00. The Executive Expenses came to around \$1,800.00. The President's expense about \$649.00. The Law Review cost \$7,166.00, as our President told us in his annual address. You will recall he also told you that this coming year the University of North Dakota will take over about \$3,000.00 of that expense.

The Legislative Research Committee cost us about \$2,000.00 this last year, but I understand that will be eliminated by our Code Revisor. The Committee on Continuing Legal Education expenses came to \$1,125.00, and our Sectional Meetings Committee \$995.00. There are other items there, but the total expenditures for the year was \$26,495.00, which exceeded our income by \$5,261.00, and there was a cash balance on June 30 of this year of \$9,990.00. So it is probably very well that the Executive Committee has taken steps to reduce our expenses so at least we will have a balanced budget.

Mr. President, I move the adoption of the report.

PRESIDENT ZUGER: Thank you, George. Do I hear a second?

LYNN SHERMAN: I second the motion.

PRESIDENT ZUGER: Any discussion?

L. R. NOSTDAL: We have been passing and adopting here reports that we know nothing about except what they have been entitled and I don't think we should approve of anything of which we have no knowledge, and I would suggest an amendment to that motion that the report be submitted to the Executive Committee for such action as they may deem proper. I don't think we should adopt a lot of stuff here that we know nothing about. We should know something about it before we adopt it, and I think the other reports that have been submitted should be the same way.

PRESIDENT ZUGER: Mr. Nostdal, you might wish to withdraw your amendment if I told you that the report of the Auditing Committee, the report of the auditors, Certified Public Accountants, was made and presented to the Executive Committee which was discussed by the Executive Committee for about a half a day at Bismarck. The Executive Committee, as outlined in my Annual Report, has taken certain steps this year to correct a continuing deficit which has occurred now for about four or five years. As this audit stated, the deficit was around \$5,000.00. We do not expect to make further contribution to the Research Committee. We expect to recapture some \$3,000.00 a year in the Law Review. We

have proposed and have passed an increase in the license fees, and through a policy that was reported to you by Mr. Johnson and again by myself, we followed a steady program of curtailing and very sharply cutting expenditures and watching them. This year expenditures were cut down nearly \$5,000.00 a year. The Committee is very aware of that situation and in view of that situation, you may wish to withdraw your amendment.

L. R. NOSTDAL: I surely will. Thank you.

PRESIDENT ZUGER: Motion carried. I would now like to call for the report of the Committee on Memorials.

Report of Committee on Memorials

To the Bar Association of the State of North Dakota:

Your Committee on Memorials has to report that since our last annual session Memorials have been prepared for ten members of the Bench and Bar of North Dakota. These memorials have been prepared for inclusion in the North Dakota Law Review.

A list of the departed members of our profession and their North Dakota address is as follows:

GEORGE BANGS	GRAND FORKS
B. H. BRADORD	MINOT
PERCY M. CLARK	MOHALL
THOMAS F. CLIFFORD	MINOT
M. J. ENGLERT	VALLEY CITY
JOHN H. LEWIS	MINOT
DEWEY PIERCE	FARGO
JOHN E. SEVERSON	HILLSBORO
CHARLES H. SHAFER	FARGO
W. H. SHURE	

Respectfully submitted,

OBERT C. TEIGEN
ARTHUR W. CUPLER
WILLIAM A. HUTCHINSON
JOHN E. WILLIAMS
C. A. WALDRON
HARVEY J. MILLER
LOUIS R. NOSTDAL.

HON. OBERT C. TEIGEN: Mr. President, I move the adoption of the report.

EVERETT E. PALMER: I second the motion.
(Question put and motion carried.)

PRESIDENT ZUGER: I think in accordance with prior custom of the State Bar Association, I ask that you all stand for a moment in tribute to these men.

(The convention stands in silence for a half minute.)

PRESIDENT ZUGER: The next report I wish to call for is the Report of the Committee on Judiciary to be presented by Senator Carroll Day, Chairman of the Senate Judiciary Committee. Now as Carroll is coming up here, I would like to take just a moment

without singling out any particular individuals, but I would like to say just one word and that is that the members of this Association are very deeply indebted to particularly two members of the Legislative Assembly, one, Senator Carroll Day and the other Representative Ralph Beede. These two men did an awful lot of hard work for this Association in the last Legislature and they gave an awful lot of assistance to the officers of the Bar Association with everything that we had to do with.

Report of Judiciary Committee

SENATOR CARROLL E. DAY: Mr. President, this is an oral report.

It is the prerogative of the Chairman of the Judiciary Committee to give an oral report whenever in his uncontrolled discretion he is of the opinion that the signatures of the members of the Committee are unnecessary.

The last meeting of the State Bar Association had a very comprehensive report from the Judiciary Committee which was debated rather fully, as a result the Association adopted that portion of the report recommending legislation for compulsory retirement of judges at age 70. The motion that was adopted reads in part as follows:

"It is your Committee's recommendation that the Laws of North Dakota be amended to provide for compulsory retirement of all Supreme and District Judges and Judges of County Courts of increased jurisdiction at age 70 and that upon retirement a pension for life be provided to equal three-fourths of the last annual salary before retirement upon completion of not less than 10 years of judicial service in North Dakota."

The Chairman of your Committee worked very closely during the last Legislative Session with the Chairman of the Judiciary Committee in the Senate. The difficulty encountered in connection with getting legislation adopted in conformity with the orders of the Association arose out of a practical matter. You will recall that in the proceedings of last year's Convention one member, a very influential member of the Senate, rose on the convention floor and indicated that he could not favor the action taken by the convention. We couldn't find anywhere in the By-Laws anything that gave the convention authority to bind legislators. Consequently, we had to face the situation. It is impracticable to attempt to secure legislation in the field of judicial reform without almost unanimous support of the lawyers in the legislature. We were unable to during the period, short period we have had since the last session of this Association, to change this gentleman's opinion. He has reserved the right to be wrong on several occasions. The prospect, however, of getting this matter worked out by the next session is reasonably good. This Committee, therefore, feels that in this particular, action of the Association should be to pursue, until adopted, the action taken by the Convention a year ago.

The prospect of — Well, I might say it — I better put it this way:

The dissension among the various movements in the political front may find the lawyers all together next time.

The Judiciary Committee of your Association has for several years wrestled earnestly with a problem that has been embarrassing to the Judiciary and has been embarrassing to the Bar, arising out of a bad habit on the part of the Supreme Court in failing to get its decisions out promptly. We have never thought it wise to take any drastic legislative action. I can report considerable progress in dealing with that problem. The members of the Supreme Court are now showing some evidence of an awareness of the problem and are making a serious effort to improve their reputation with the public and with the Bar in that respect.

The Judiciary Committee of the Bar Association should not consider that subject closed. The Judiciary Committee as you know over a period of several years has been engaged in a project that has continued from committee to committee to improve the retirement position of our Judges and to increase their compensation. No progress can be reported in that field during the last session of the Legislature. There is very serious need for continued pressure in that direction in order to increase the inducement for younger men to enter the judicial field. It is entirely likely that the next session of the Legislature may be the time to press for some further action in that direction. Mr. President, I move the adoption of the report.

PRESIDENT ZUGER: Thank you, Carroll. Is there a second to the motion?

MILTON K. HIGGINS: I second the motion.

(Question put and motion carried.)

PRESIDENT ZUGER: Motion carried. I understood there was to be a report of the Sectional Meetings Committee. Is there anyone here, John Hjellum, or someone on that Committee that wants to make the report? The report is on file, and the Legislative Committee?

LYNN GRIMSON: Those reports are on file.

PRESIDENT ZUGER: Did someone make a motion that the reports of the Sectional Meetings and Legislative Committees be accepted?

NORMAN E. TENNESON: I so move.

GEORGE A. SOULE: I second the motion.

(Question put and motion carried.)

Report of Sectional Meetings Committee

Mr. President and members of the State Bar Association:

First of all, I would like to express a genuine and heartfelt note of thanks to the members of the Williston Bar, who have assisted our Committee so generously. As you all know, "it lightens the load and gladdens the heart."

Your Sectional Meetings Committee had its first meeting in Minot on January 23rd and had as its guest Judge Eugene A. Burdick of Williston. Judge Burdick recommended that in view of

the strong possibility of the promulgation of some new rules of civil procedure that we devote one afternoon to what might be more properly termed a legal institute on the proposed rules of civil procedure. The Committee felt that such a subject, in view of its having been recommended to the Supreme Court for adoption by the joint committee of the North Dakota Bar Association and Judicial Council, was of sufficient importance to devote an entire afternoon thereto, and the same was set up for the first afternoon of this annual meeting. The committee chose Judge Burdick as moderator and Frank F. Jestrab, who had acted as Chairman of such joint committee, as one of the members of the panel discussion. Col. Philip S. Van Cise, who had acted as Chairman of the Judiciary Committee of the Colorado Bar Association from September, 1938 to April, 1947, and which committee had written the Colorado Rules of Civil Procedure, was chosen as another member. The third member of the panel discussion was Dean Maynard E. Pirsig of the University of Minnesota Law School who had been a member of the Advisory Committee of the Minnesota Bar Association on the Rules of Civil Procedure since 1951, and a former member of the Supreme Court of Minnesota.

In this connection our Committee extends a sincere and appreciative "thank you" to the West Publishing Co. for printing the proposed rules of civil procedure and for their agreement to print and distribute the newly promulgated rules when and if adopted.

Frank F. Jestrab of Williston had mentioned last fall to this Committee Chairman that it was probable that we could obtain Melvin M. Belli, one of the outstanding personal injury trial lawyers in the United States, for our annual meeting. The Committee felt that in view of this good fortune we should add to this choice the selection of Mr. William H. DeParcq of Minneapolis-Chicago, also a trial lawyer of national reputation and as you gentlemen know, one who had been more than successful in obtaining large verdicts and to put on what should also be properly termed as an institute of trial practice in place of the usual Sectional Meetings. We do not recommend a permanent change in this respect, but merely call this an exception to the rule, in making this change this year.

We hope the wise choice in making this change this year will either have become apparent at the reading of this report, or will become apparent after the institute is held.

Respectfully submitted,

THOMAS L. DEGNAN
LAVERN C. NEFF
EVERETT E. PALMER
ROY A. PLOYHAR
GEORGE A. SOULE
JOHN HJELLUM, Chairman.

Report of the Legislative Committee

Your Legislative Committee recommended and had passed several proposals in the last session of the legislature, and we can

affirm that the members of the legislature are very cooperative, giving serious and sympathetic consideration to proposals made to them by the Bar Association. We are not outlining here the several proposals approved by the legislature which can be found in the 1955 Session Laws.

However, there are several matters which we have had under consideration for which we did not introduce legislation believing further study was needed, or if legislation was introduced was not approved by the legislature.

These matters include: (1) retirement of judges, (2) a permanent chief justice of the Supreme Court, (3) Model Corporation Act, (4) Short form of probate of foreign wills, (5) reorganization of Judicial system along recommendations of "Blinn Report."

- (1) The retirement of judges concerns two factors, eg., shortening the period from 18 years under the present law to a lesser period in which to qualify for retirement benefits, and the compulsory retirement of judges at a certain age. A bill was drafted to qualify for retirement benefits for a period less than the 18 years to late for introduction. This matter as well as the compulsory retirement should be referred to the proper committees for further study.
- (2) A bill was introduced providing for the election of a permanent chief justice from amongst the membership of the Supreme Court by the judges of the district courts, which bill was killed. This matter should be referred to the proper committee for further study.
- (3) The Model Corporation Act passed the House, but was killed in the Senate, however, a resolution was passed referring this act to the Legislative Research Committee to study and revise, with the assistance and cooperation of the Bar Association. The resolution also included the study and revision of the cooperative laws. It is suggested that the appropriate committee of the Bar Association lend their assistance to the Legislative Research Committee to have the results of their work completed well in advance of the 1957 Session .
- (4) A short form of the probate of foreign wills was suggested by the Burleigh County Bar Association and the necessary legislation should be prepared by the proper committee for presentation at the 1957 Session, if deemed warranted.
- (5) Your committee did not receive any recommendation regarding the reorganization of the court system under the "Blinn Report" plan, therefore, your committee did not present this matter to the legislature. A proposal for the adoption of this plan was killed in the 1953 Session. Should the Bar Association desire further consideration of this matter by the 1957 legislature, continued study should be made by the appropriate committee having in mind the objections made at the time it was before the legislature in 1953.

Other matters for which legislation was introduced but were

killed include the establishment of a small claims court, and providing for the probate of estates of missing persons. These matters may warrant further study by the Bar Association.

Respectfully submitted,

CLIFFORD JANSONIUS

PAUL L. AGNEBERG

JOSEPH A. DONAHUE

RALPH G. BEEDE

WILLIAM S. MURRAY

CARROLL E. DAY

CLYDE DUFFY

ALVIN C. STRUTZ

ADAM GEFREH

VERNON M. JOHNSON

A. R. BERGESON

ROY A. HOLAND

LESLIE I. BURGUM

LEE F. BROOKS

DONALD C. HOLAND

CHARLES G. BANGERT

HARVEY B. KNUDSON, Chairman.

PRESIDENT ZUGER: According to my records here I would like to check, I don't want to miss any committee, I have the report of one committee remaining, that being the Committee on Resolutions.

Report of Committee on Jurisprudence and Law Reform

HON. A. G. PORTER: Mr. President, the members of the Committee on Jurisprudence and Law Reform, of which I am Chairman, wish to make an oral report. We have never had a meeting until we got to the Bar Association and so we treated this problem in a very lawyer-like manner. We are not prepared to submit a written report. However, in submitting an oral report, we wish to recommend a discussion in the Bar Review of several subjects which we think are of considerable importance.

In the first place, there has been a repeal of the Dead-Man's statute in several states, and the Committee feels that that matter should be given some consideration in the Bar Review and for a new committee on Jurisprudence Reform.

We further recommend that there be more parole officers and in this connection I will state that we have made some progress in that Mr. Vandal has obtained an assistant. However, it is our opinion that at least two more parole officers should be given to the Judiciary of the State so that the deferred sentences or the probation be made effective. In order that you may understand fully the situation, according to statistics, we have more men on parole than there are in the penitentiary; that it costs \$3.00 a month for men on parole and about \$9.00 a month for men in the penitentiary. We think there will be a great savings to the taxpayers and there will be a great savings to our social life if we could have more

competent parole officers. Then there is the question of partial new trials. Under the statutes the Supreme Court has the right to elimination on a new trial, but in the District Court I could find no statute which permits a District Court in granting a new trial to limit the issues to certain phases of the case. For instance, we will say that negligence is absolutely established and that the award of the jury is inadequate. It would seem to save a lot of time of the courts and a great deal of expense to the counties if we could limit the issues to damages on a new trial.

Now, with reference to foreign attorneys practicing in North Dakota, South Dakota and Minnesota both have statutes on the subject, and we feel there should be a state-wide statute limiting the practice in this state without special permission of the courts of foreign attorneys, and then put in a reciprocity provision.

Now all these matters we wish will be taken up and discussed in the Law Review by people who have time to make the research, and —

PRESIDENT ZUGER: Judge, may I ask you a question?

HON. A. G. PORTER: Yes.

PRESIDENT ZUGER: You speak of the question of the repeal of the Dead-Man's statute. Do you mean the repeal of the limitation of the amount of recovery, or the repeal of the entire statute?

HON. A. G. PORTER: No, the Dead-Man's statute is the one on evidence.

PRESIDENT ZUGER: Oh, I thought you were speaking of the wrongful death statute.

HON. A. G. PORTER: Now, there are undoubtedly many other subjects, but the Committee, Judge Teigen, Judge Lundberg and myself are all members of the Committee present and we have discussed these matters. We have had no opportunity to have the same typed and submitted, so we are submitting an oral report on the subject. We feel that these matters should be given consideration and we recommend that they be given consideration and divided among the members of the Bar as to whether or not we should go on record on any of these subjects.

PRESIDENT ZUGER: Do you move the adoption of your report?

HON. A. G. PORTER: We move the adoption of the report.

HON. ALBERT LUNDBERG: I second the motion.

PRESIDENT ZUGER: Is there any discussion?

HON. W. L. NUESSELE: I don't know whether this is the right time to do this, but I have a suggestion to make. It may come during the purview of the committee that has just reported, but it seems to me that it might make a good deal of difference to the members of the Supreme Court. The rules heretofore in existence governing the matter of appeals which was laid down by the Supreme Court require, among others, there is one among others, which says that all citations of North Dakota cases should cite the North Dakota Report as well as the Northwestern Report, and in other states the state report as well as a national reporter system report. Now, one

who hasn't been confined to solely in the law business of reading briefs, can't appreciate how much difference it makes to a judge when he has to, instead of being cited the state report, he has to go to a reporter system somewhere and get that report. Frequently there is a great deal of advantage in reading the state reports and certainly there is a great deal of advantage to the reading of the North Dakota Reports in the North Dakota Reports rather than in the Northwestern Reports. I am not decrying the value of the reporters system, but I am thinking about how much more convenient it would be for every judge to have the North Dakota Reports right handy instead of having to go to the library to search his own books or Northwestern when he might have his own report right there with annotations which would, if properly made, will give him all the cases touching the particular matter that is to be determined in that particular case. I think it's slovenly on the part of the lawyers of the state to fail to cite the North Dakota Reports; and another thing, I think that many of the younger lawyers of the state are making a mistake in that they don't study the North Dakota Reports more than they do. I think it's just too bad that they don't use the North Dakota Reports. Pretty nearly every case some of the newer questions that are arising by virtue of changed conditions, pretty nearly every question that might arise, has been cited at some time or other in the volumes of the North Dakota cases.

I make this as a suggestion. I know that it will save a great deal of trouble to the members of the Court and I say it doesn't cut any ice to me, I am through in the way of writing briefs to any extent or reading briefs. Thank you.

PRESIDENT ZUGER: Are there any further discussions? (No response.)

(Question put and motion carried.)

FRANK F. JESTRAB: Was the vote for the approval of the report?

PRESIDENT ZUGER: Yes.

FRANK F. JESTRAB: I wonder if it would be possible at this stage to possibly get the committee to make a further recommendation. One of the extremely difficult rules that the Supreme Court has is the rule that the respondent in a case appealed has fifteen days in which to prepare, serve and file its answering brief. It seems to me that fifteen days is completely and utterly inadequate, and further, it is unnecessary. There isn't any reason for it when we know the cases remain with the Supreme Court for some time. The appellant has six months in which to work up his case. The respondent then gets fifteen days, unless he makes an application for an extension in which to serve and file his answering brief, and the Court may keep it as long as eighteen months. So it seems to me that the respondent is at a great disadvantage, and I wonder if it would be appropriate for the Committee on Jurisprudence to recommend some change in that rule. There may be other ways in which it could be done, but that suggests itself to me that —

HON. A. G. PORTER: Mr. President, I have had a conference with the Committee, they have agreed to amend their report and adopt the provision as suggested by Mr. Jestrab, and as amended we move the adoption of the report.

PRESIDENT ZUGER: Judge Lundberg, do you second the report as amended?

HON. ALBERT LUNDBERG: Yes, sir.

(Question put and motion carried.)

PRESIDENT ZUGER: The ayes have it. I would like to call then for the report of the Resolutions Committee.

MR. JESTRAB: There is a report by the Joint Committee on Rules of Civil Procedure.

PRESIDENT ZUGER: All right, we will take that after this. Are there any other committee reports? I will be going according to a schedule that was made up by our Executive Director, Ron.

John Stormon, would you come forward with your report.

RESOLUTIONS

Mr. President, Members of the State Bar Association:

Your Committee on Resolutions begs leave to submit the following resolutions:

WHEREAS, Ronald N. Davies has been appointed one of the Federal District Judges of the Federal District of North Dakota, by the President of the United States after endorsement from the State Bar Association of North Dakota, and after having rendered distinguished leadership and service, individually and as Executive Director of the Association,

THEREFORE, BE IT RESOLVED by the State Bar Association of North Dakota, in annual convention assembled, that we heartily congratulate Judge Davies, and wish him much happiness and success in the Federal Judiciary.

BE IT FURTHER RESOLVED that a copy of this resolution be engrossed and presented to Judge Davies.

JOHN A. STORMON: I move the adoption of this resolution separately.

PRESIDENT ZUGER: Is there a second?

JOHN O. THORSON: I second it.

(Question put and motion carried.)

JOHN A. STORMON: Another resolution.

WHEREAS, George S. Register has been appointed one of the Federal District Judges for the Federal District of North Dakota, by the President of the United States,

THEREFORE, BE IT RESOLVED by the State Bar Association of North Dakota, in annual convention assembled, that we heartily congratulate Judge Register, and wish him much happiness and success in the Federal Judiciary.

BE IT FURTHER RESOLVED that a copy of this resolution be engrossed and presented to Judge Register.

JOHN A. STORMON: Mr. President, I move the adoption of this resolution.

MR. LEE BROOKS: I second the motion.

(Question put and motion carried.)

MR. JOHN A. STORMON: Mr. President and Members of the Association: At approximately ten o'clock last evening there was submitted to the Resolutions Committee while in session a resolution for their consideration and we desire to read that resolution which has been submitted by a member of the Association, Mr. J. K. Murray of Bismarck.

WHEREAS, it seems immediately unfair for the lawyers of North Dakota to ask litigants to help finance in a large part the costs of operating the North Dakota State Bar Association by compelling them to pay an additional \$2.50 filing fee in all cases filed in the County and District Courts of this State;

AND, WHEREAS, the lawyers of this State are able financially to finance their own operation of the State Bar Association by increasing the license fees of lawyers.

NOW, THEREFORE, IT IS HEREBY RESOLVED that at the Next Legislative Session of the State of North Dakota the State Bar Association prepare and have introduced legislation repealing the additional \$2.50 fee now charged litigants and paid to the State Bar Association and that the license fees for attorneys be increased in such an amount as will be sufficient to operate the State Bar Association in an efficient manner.

JOHN A. STORMON: Your Committee on Resolutions, Mr. President and Members of the Association, moves, because of the lateness of its presentation, that this Resolution be referred to the incoming President and to the Legislative Committee of this Association for appropriate action at our next Annual Convention.

You understand that there will be another session of the North Dakota State Bar Association before this matter can be considered by the Legislature.

PRESIDENT ZUGER: You have heard the motion.

CARROLL E. DAY: I would like to move a substitute motion that the resolution be referred to the Judiciary Committee of the Bar Association.

NORMAN G. TENNESON: I second the substitute motion.

(Question put and motion carried.)

JOHN O. STORMON: Now, Mr. President and Members of the Association, we are going to present a number of customary and usual resolutions and we will vote on all of them, unless at the end there is a special request for division.

BE IT RESOLVED by the North Dakota State Bar Association in its annual convention assembled that the members of this association express to our hosts, the Williams County Bar Association, and the members thereof, our appreciation and sincere thanks for the splendid arrangements made for the enjoyment and for the comfort of the members of the association and their ladies at this annual convention.

BE IT RESOLVED by the North Dakota State Bar Association in convention assembled that we express to John A. Zuger, President, and Ronald N. Davies, Executive Director, and all of the members and officers of the executive committee, and the various committees who have served during the past year, our sincere appreciation for a highly successful and profitable year.

BE IT FURTHER RESOLVED, we express our appreciation to the Committee on Sectional Meetings and to John Hjellum its Chairman, as Moderator, for arranging for and conducting an outstanding legal clinic, and that we express to Messrs. Melvin M. Belli and William H. DeParcq, our sincere appreciation for their lectures, demonstrations and legal clinic conducted in our behalf.

BE IT FURTHER RESOLVED, that we express our appreciation to Frank F. Jestrab, Judge Eugene A. Burdick, Colonel Philip S. Van Cise, and Dean Maynard Pirsig for conducting the fine panel discussion of the proposed Rules of Civil Procedure.

WHEREAS the North Dakota State Bar Association Convention at Williston, North Dakota, has been favored with an address by Edward K. Thompson, Managing Editor of Life Magazine, New York City,

NOW THEREFORE BE IT RESOLVED that we express to our honored speaker our sincere appreciation for his presence and the address given.

WHEREAS a number of law publishers have shown a decided interest in the affairs of the North Dakota State Bar Association and have contributed greatly to the success of the Association's Annual Meeting by donating books and publications for presentation to the members of the Bar.

NOW THEREFORE BE IT RESOLVED by the North Dakota Bar Association that it express its thanks and appreciation to each of the donors for the interest shown in the welfare of the North Dakota State Bar Association, and its members.

BE IT RESOLVED by the North Dakota State Bar Association in its annual convention assembled that the members of this association congratulate their ladies for organizing a Women's Auxiliary to the State Bar Association and carrying on an important public relations work.

BE IT FURTHER RESOLVED by the North Dakota State Bar Association that it express its thanks and appreciation to the ladies' entertainment committee of the Williams County Bar Association for a splendid job in entertaining the ladies, thus making our convention a greater success.

MICHAEL R. McINTEE
DONALD R. HANSEN
ROBERT LUNDBERG
JOHN A. STORMON, Chairman,
COMMITTEE ON RESOLUTIONS.

JOHN A. STORMON: Mr. President, I move the adoption of the report.

ROBERT LUNDBERG: I second the motion.
(Question put and motion carried.)

Report of Joint Committee on Rules of Civil Procedure

FRANK F. JESTRAB: As Chairman of the Joint Committee of the Bar Association and the Judicial Council, Committee on New Rules of Civil Procedure, this is an oral report. It's one we hand in a lawyer-like manner.

Pursuant to the recommendations of the State Bar Association of North Dakota at its 1954 Meeting, the President of the State Bar Association selected six members of the Association to serve with the five members selected by the Judicial Council on a joint committee to prepare and submit to the Supreme Court a draft of the proposed draft of the Rules of Civil Procedure. Following the selection of the additional six men by the President of the Association, a meeting was held in Minot. At that time the draft which had been submitted to this Association at its August Meeting in 1954, was revised in a full day session, and under date of December 15, 1954, the joint committee, pursuant to the injunction of this body, submitted to the Supreme Court with the recommendation that they be adopted, Proposed Rules of Civil Procedure.

In January, the Supreme Court noticed its intention to promulgate Rules of Civil Procedure and set down pursuant to the statutory requirements the hearing which was to be held on June 1, and 2 of 1955. Copies of the Proposed Rules were sent to all members of the Association, all members of the North Dakota Bar, to all District Judges and to all Clerks of Court. This again was pursuant to statute.

On June 1 and June 2 hearings were held in the Court Room of the Supreme Court in Bismarck. The hearings lasted approximately a day and a half. Several members of the Committee were present and participated in the hearings, as were several other interested lawyers. At the close of the hearing, the Supreme Court took the matter under advisement and that's the situation today. As we understand it, the work of the joint committee assigned to it, has been accomplished. We have done what we were told to do. We make one recommendation and that is that the present committee be continued until a permanent advisory committee is appointed by the Supreme Court.

Mr. President, I move the adoption of the report.

PRESIDENT ZUGER: You have heard the motion. Is there a second?

LINN SHERMAN: I second the motion.

(Question put and motion carried.)

PRESIDENT ZUGER: Are there any other committee reports at this time? Judge Teigen.

HON. OBERT C. TEIGEN: Mr. President, in the interests of accuracy and to absolve our committee of any negligence, I would like to report that the name of Fred C. McCurdy was reported by the Memorials Committee last year, so perhaps that our records may

be complete and accurate it would be well at this time to move that — that I do move that the name be removed from the report just submitted.

MILTON K. HIGGINS: I second the motion.

(Question put and motion carried.)

ROY A. PLOYHAR: Mr. President, at this time could we have a little conversation on that fee schedule report?

PRESIDENT ZUGER: Yes, the order of business is on committees.

ROY A. PLOYHAR: I am giving this consideration to the Association at the request and with the consent of Jim Conmy who had to leave. As you probably recall yesterday or the day before the report on the Fee Schedule was not adopted, but it was submitted, as I recall it, for filing.

PRESIDENT ZUGER: It was accepted and filed.

ROY A. PLOYHAR: Some of us have discussed that matter, especially from the psychological effect of it. I had the opportunity to check that report with Mr. Conmy and I believe there is a copy on file and I think it is a very well-founded Fee Schedule, much better than they have had heretofore, and it shows a considerable amount of work on the part of the committee.

Now my purpose in bringing it to your attention at this time is that I feel, and I believe I represent the view of several of you, that it would be better for the Bar Association, and particularly the members who use that as a guide, to have it adopted by the the Association rather than just filed and received.

My particular desire is this: That in many instances we all have inquiries from outside the state as to whether or not we have an adopted fee schedule.

PRESIDENT ZUGER: As far as I know, I believe I am correct, in saying that most do, the majority of them have.

ROY A. PLOYHAR: I think I would like to see this fee schedule adopted as a minimum fee schedule as we have done before, and I would move that the Fee Schedule submitted by the Fee Committee be adopted by this Association as a minimum Fee Schedule.

THOS. A. RONEY: I second the motion.

NORMAN G. TENNESON: I wonder if the Bar would object to the report being printed and circulated among the Bar?

PRESIDENT ZUGER: Just to make the record clear, the motion as it is now will include the printing and circulation of a copy of the schedule to each member of the State Bar Association.

MR. HIGGINS: I would like to make that several copies to each of us.

PRESIDENT ZUGER: I think that in the past we have always distributed a copy. If you lose it there are other copies and you can request them. Is there any further discussion?

MILTON K. HIGGINS: Mr. President, I would go by Mr. Nostdal's suggestion. I wasn't here when that was presented. I don't think anything so important as that should be passed on sight-unseen. Now, maybe everyone else has seen it.

PRESIDENT ZUGER: I think, Milt, that a good many members of the Association have gone over it very carefully. The committee has spent a good deal of work on that Fee Schedule. They have worked largely in following in the footsteps of the Minnesota Committee, and I might also say that many of the committees were appointed from one geographical area with the thought in view of trying to save the expense of committee operations this year and cut down. The one exception was the Committee on Fee Schedule, which was very carefully picked for geographical representation throughout the entire state. The names of the committee will show you that they are men who are in the most active practice in the state and I think it's a fair fee schedule. If you would like to examine it before vote, you may. It's been on file for a couple of days, though. Is there any other discussion?

(Question put and motion carried.)

PRESIDENT ZUGER: The next item on our program is the award of 50-year Membership Certificates, and I don't care to say anymore about it other than to say that the Executive Committee in determining to do this unanimously agreed that it should be in the hands of George Soule, a past President of this Association, to handle it and I will call George Soule to the Chair. He will take charge in presiding during this part of our program.

GEORGE A. SOULE: To the State Bar Association of North Dakota:

Your Committee appointed to provide recognition to those of our members who have been admitted to practice law in the State of North Dakota for fifty years or more respectfully reports:

We first checked all of the names of North Dakota lawyers in Martindale-Hubbell Law Directory and listed the names of those shown to have been admitted to the Bar during 1905 and prior years. We had this list checked by J. H. Newton, Secretary of our North Dakota Bar Board, and Ronald N. Davies, our State Director. We then sent the attached letter to the lawyers so listed, and received replies from most of them. Many of them, in these letters, set forth interesting incidents in connection with their taking of the examination for admission to the Bar, or during their subsequent practice of law in North Dakota. We therefore append to this report not only a list of those of our members who were admitted to practice law in North Dakota in 1905 and prior years, but also the letters above mentioned. We felt they should become a part of the records of our Association.

There are undoubtedly some we have overlooked. Your Committee therefore recommends that it, or a subsequent Committee, be authorized to issue Certificates during the coming year to those the Committee may determine are now entitled to their Fifty-Year Certificates.

We also recommend it be continued, and Certificates issued at our Annual Meetings to those who complete fifty years of service to our Association and the people of North Dakota.

It has been a pleasure to work on this Committee.

We thank you for having given us an opportunity to serve on it.

ARTHUR W. CUPLER
HERBERT G. NILLES
GEORGE A. SOULE.

GEORGE A. SOULE: In brief we have sent to the 50-year members a letter asking them to let us know how they wanted their names inscribed on the Certificates. We asked them to refer the year they were admitted to the Bar of North Dakota.

We then, after doing the work that I told you about, prepared a list of the 50-year members, and I do think that at least some of you "Old-Timers" before you leave today should take a few minutes to go through this book and read the letters from the men with whom you have been associated many years. I know I took this report up to Mr. Cupler to get him to sign it and I think I spent an hour with him reminiscing, and I know the rest of you, especially the "Old-Timers," would enjoy going through the book and reading these letters.

In view of the fact that Mr. Cupler isn't here today, I drafted his partner, Norman G. Tenneson, to assist me.

GEORGE SOULE: Our committee was not appointed until this spring and it was really quite a task in a way to get the names that had to be checked and get these names arranged, so we are conscious of the fact that we have very likely overlooked some and if any of you know of anyone else whose name hasn't been read here that was admitted in 1905 or prior years, I wish you would mention them to us.

We have invited Judge Charles Foster, President of the State Bar Board, to come forward and he will certify to you that your licenses to practice in the State of North Dakota by this ceremony are automatically extended for another 50 years.

(Whereupon Hon. Charles Foster addressed the convention briefly.)

GEORGE SOULE: Thank you, Judge Foster. Now, Mr. Chairman, that constitutes our report, both verbal and written, and I move its adoption.

HON. ALBERT LUNDBERG: I second the motion. (Question put and motion carried.)

PRESIDENT ZUGER: I would like to add a word of appreciation and thank you to the committee who arranged for this presentation. The appointment of the committee was made late in the spring. George Soule and his committee have put in a lot of hard work to prepare this, get the necessary information and arrange for the presentation, and it has been done in a typical fashion that George and the Committee would do it as you have seen here today, and I would also like to thank the young recruiter here today for helping and I want to thank Judge Foster for his words.

The next order of business today is unfinished business.

JOHN WILLIAMS: He told us how very interesting those letters were that were received. I am very curious to read them, and I make a motion that these letters be included in the minutes of our

meeting so we will have the same opportunity that George Soule and some of the rest of the lawyers at Fargo had to read the letters.

PRESIDENT: The only thing I would like to raise in that connection, is that it would involve a considerable printing expense in view of our financial condition, I believe; maybe not. Do you know, George, how much there is to it?

GEORGE SOULE: They aren't too long, but your committee would be very glad to sort of summarize them and put what they say in the addresses. That might be possible. They could be shortened.

PRESIDENT ZUGER: Is that in the form of a motion, John?

JOHN WILLIAMS: I make a motion to that.

PRESIDENT ZUGER: Is there a second to that?

MILTON K. HIGGINS: I second the motion.

PRESIDENT ZUGER: The ayes have it. Is there any other thing under the item of unfinished business?

JONATHAN C. EATON: Mr. President, my name is Jonathan Eaton. I am a member of the Bar from the City of Minot. Speaking for the Bar of the City of Minot, I wish to express the appreciation of the members who attended to the Williams County Bar for the fine convention they have reported. Partly in response to the obligation that appears in the past from city to city and partly in the spirit of envy and in the spirit of friendly competition, I wish to advise the North Dakota State Bar Association that the Minot Bar Association will in the near future issue an invitation to the North Dakota Bar Association to hold its Annual Convention in Minot.

PRESIDENT ZUGER: Thank you. (Applause)

PRESIDENT ZUGER: If you will direct that to Mr. Roland Heringer he will present it to the Executive Committee.

Is there anything further under the item of unfinished business?

We will pass on to the next item of new business. If there is nothing further at this time, I want to call on Lee Fraase who has asked to make an announcement.

(Whereupon Leonell W. Fraase makes announcement on Tioga Field Trip.)

PRESIDENT ZUGER: If there is nothing further, I would like to express my personal thank you and appreciation to the Williams County Bar and the committees and the men who have worked to arrange this convention. I think they have done a bang-up job. It has made it very easy to preside. It has been made much easier to handle this convention because of their thorough preparation and their hospitality to us all, and I believe that about concludes my functions as President of the Association and I will at this time call to the Chair your new President, Roland Heringer of Rugby. Will you come forward, Roland.

You see this year we are going to have a nice young fellow full of pep and a nice new looking President. (Whereupon President Heringer takes the Chair.)

PRESIDENT HERINGER: Mr. President, and Members of the Bar Association:

I wish to extend to you my sincere thanks for the privilege that you have accorded me in electing me as your President for the ensuing year. I hope that with your cooperation we will have another successful year.

At this time I was supposed to have had the privilege of presenting to the outgoing President the Past President's Certificate, but somehow or other it isn't here but I will present it to you anyway, John, and thank you. (Applause)

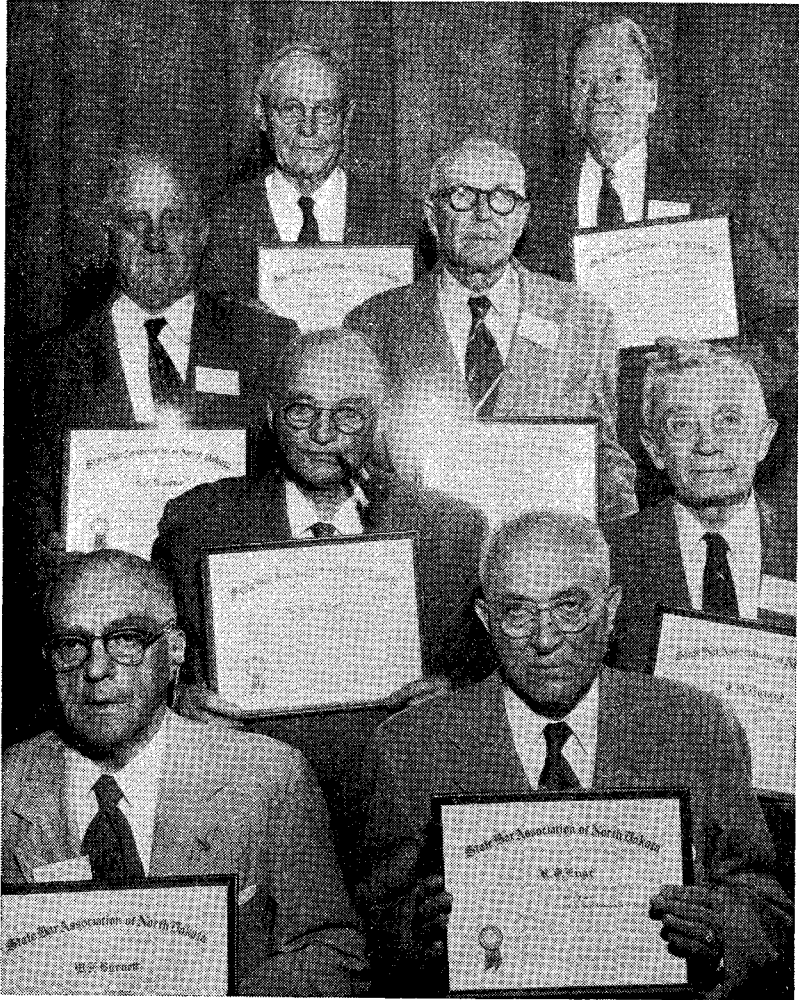
MR. HERINGER: There isn't any further business that I know of, but I would like to announce that the Executive Committee will have a short meeting here in the auditorium immediately following the adjournment. I also wish to announce that all of the members of the Association will receive in the mail within the next two or three days a letter from the office of your President inviting you to designate your preference as to committee assignments, and I would like to impress upon you the importance of returning that letter to me as soon as possible. It is our intention to have the Executive Committee act on the committee assignments on or about October 7.

If there is no further business, we will stand adjourned.

(Whereupon, the 1955 Annual Convention of the State Bar Association of North Dakota was adjourned.)

List of North Dakota Lawyers Who Have Been Admitted in North Dakota for Fifty Years

Year Admitted	Name	Address
1893	Murphy, C. J.	Grand Forks, N. D.
1897	Bosard, Robert H.	308 First Natl. Bank Bldg., Minot, N. D.
1899	Coger, Albert E.	356 So. Spring St., Los Angeles 13, California
	Forbes, Joseph C.	Citizens Natl. Bank, Wahpeton, N. D.
1900	Adams, W. H.	Bottineau, N. D.
	Taylor, Edwin J.	Bismarck, N. D.
1901	Hoopes, W. E.	444, 3rd Avenue North, St. Petersburg, Florida
	Nuessle, William L.	710 Second St., Bismarck, N. D.
	Wilder, Samuel A.	417 Second St., White Bear Lake, Minnesota



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| 1902 | Coffey, James A.
Hyland, J. A.
Kehoe, J. J.
Kneeland, Fred G.
Myers, Joel
Nostdal, L. R.
Olsberg, Halston A.
Spiller, Hilem
Bennett | Jamestown, N. D.
Bismarck, N. D.
Devils Lake, N. D.
Jamestown, N. D.
Grafton, N. D.
Rugby, N. D.
Valley City, N. D.

Cavalier, N. D. |
| 1903 | Buttz, Adrian E.
Converse, Charles G.
Crawford, W. C.
Ego, Charles S.
Haroldson, E. O.
Johnson, Henry E.

McKenna, Geo. M. | Leeds, N. D.
(formerly Bismarck, N. D.)
Dickinson, N. D.
Lisbon, N. D.
Lansford, N. D.
655, 77th Avenue,
St. Petersburg Beach, Florida
Napoleon, N. D. |
| 1904 | Burdick, Usher L.
Crane, Van H.
Harris, Fred E.

Keohane, John
Murphy, Francis
Points, R. H.
Traynor, Fred J.

Whipple, B. F. | Williston, N. D.
Mott, N. D.
3233 Mayfair Drive,
Sacramento 21, California
Reeve Building, Beach, N. D.
11 Broadway, Fargo, N. D.
Crosby, N. D.
Devils Lake, N. D.
(130, 4th Avenue North,
St. Petersburg, Florida)
Fessenden, N. D. |
| 1905 | Bitzing, Henry Roy

Brace, C. E.
Burnett, W. F.
Enge, R. S.
Layne, John A.
Lyche, Chas. A.

Medberry, F. W.
Woledge, Gaius Sibley | 603 So. Rampart Blvd.
Los Angeles 57, California
(Died 7-16-55)
2202 Goff Avenue
St. Joseph, Missouri
69½ Broadway, Fargo, N. D.
Bismarck, N. D.
Fessenden, N. D.
211 Red River Natl. Bank Bldg.,
Grand Forks, N. D.
Williston, N. D.
First Natl. Bank Building,
Minot, N. D. |