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Reports of Committees

Authors

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REPORTS OF COMMITTEES

Citizenship and Americanization Committee

Your Committee on Citizenship and Americanization begs leave to report:

That shortly after appointment, the Chairman of your Committee, deeming it unadvisable to call a meeting of this Committee on account of its size, wrote to each of the fifty-two members thereof, requesting that they arrange for patriotic programs in the different counties on the proper occasions, such as Washington's and Lincoln's birthdays. Of the fifty-two members, thirty-five replied, assuring the Chairman that they would use their best efforts in arranging for patriotic programs in their counties.

In the same letter the Chairman asked for the members' advice on the question of an essay contest.

First, as to the advisability of this Committee conducting essay contests.

Second, should such contests be limited to the seventh and eighth grades, or should it include the students of high schools?

Third, what should be the subject of such an essay?

Practically all of the members of this Committee who replied were in favor of holding this essay contest, and assured the Chairman of their whole-hearted support in this work. Of the thirty-five replies, about twenty were in favor of limiting the contest to students of the seventh and eighth grades, about ten were in favor of including students of the high schools, and five suggested separate contests, one for the seventh and eighth graders, and one for the high school students.

The members of the State Bar Association, at the annual convention held at Grand Forks last September, went on record in favor of the Association sponsoring such an Essay Contest on some phase of the Constitution, and recommended that the Executive Committee appropriate \$100.00 for prizes. This the Executive Committee was good enough to do.

Several of the members of this Committee, in their letters to the Chairman made the recommendation that the subject of this contest be more in the nature of a historical sketch, as a philosophical discussion of the Constitution itself would perhaps be a little too heavy for seventh and eighth graders. This seemed to be a very splendid suggestion and met with the approval of the President of the Bar Association, as well as of the members of the Citizenship and Americanization Committee of the American Bar Association. In an endeavor to carry out the recommendations made by the Bar Association at its annual meeting in Grand Forks, last September, and the recommendations of the majority of this Committee, the Chairman prepared the following set of rules for the essay contest:

1. Any regularly enrolled student in any public school of the State of North Dakota in the seventh or eighth grades may enter the contest.
2. Essays shall be of not less than 500 nor more than 1000 words.
3. Essays shall be written in ink or typewritten on paper approximately 8 1-2 by 11 inches, and must be written upon one side of the paper only.
4. Essays must be submitted not later than April 1 to the Superintendent of Schools of the County in which the student resides.

5. With each essay submitted there shall be presented a sealed envelope containing the full name, home address, name of school, grade and age of writer, and when such essay and envelope are received by the Superintendent of Schools, a number shall be given the essay, which number shall be marked upon the essay and also on the sealed envelope.

6. Essays shall be judged on the basis of: (1) substance, thought and originality; (2) grammatical structure; (3) method of presentation; (4) neatness and form.

7. All quotations from any other author or publication in essays submitted shall be placed in quotation marks and not over one-fourth of any essay shall be quoted matter.

8. Not more than one essay for every ten pupils in the seventh and eighth grades, or fraction thereof, shall be submitted from any school. In case more essays are written in any school than can be submitted, selection of the ones to be submitted shall be made by the teacher of such school.

9. The judges of essays for the respective counties shall be selected by the County Superintendent of Schools of such County and the member of the Citizenship and Americanization Committee of the Bar Association in such County.

10. The best essay from counties having a population of less than ten thousand and the two best essays from counties having a population of over ten thousand, according to the 1920 census, shall be selected and sent to the Chairman of the Citizenship and Americanization Committee of the Bar Association, at Minot, North Dakota.

11. Each county may award appropriate prizes for the winners in its jurisdiction.

12. The judges of the essays for the State contest shall be three in number and shall be appointed by the President of the State Bar Association.

13. The Bar Association offers the following prizes for the best essays in the State Contest: First prize, \$50.00; second prize, \$25.00; third prize, \$10.00; fourth and fifth prizes, \$5.00 each; sixth to tenth prizes, inclusive, \$1.00 each.

14. The subject for the 1928 essay contest shall be: "The Story of the Constitution of the United States." It is the intention of the Committee that the essay should be of a historical nature, as a philosophical discussion of the Constitution is perhaps a little too heavy for seventh and eighth graders. These essays should have to do more with the manner in which the Constitution was brought into being and why.

15. These rules and regulations are sent out by the Citizenship and Americanization Committee of the North Dakota Bar Association.

A letter enclosing a copy of these rules was then sent out to each member of your Committee, requesting that the members cooperate with the Superintendents of Schools in their different counties in conducting the Essay Contest in their counties, and it was suggested that they endeavor to get the local Bar Association to offer prizes to the winners in the county contests, and in several of the counties, prizes were given by the local Bar Association, American Legion and some other organizations. Letters were also sent out to the County Superintendents of Schools, requesting them to advise us of the number of schools in their county having seventh and eighth grades, and

upon receiving this information the Chairman sent to the Superintendent of Schools of each county, a sufficient number of copies of the rules of the Essay Contest to supply each school with one.

The response from the members of your Committee and the Superintendents of Schools was very gratifying indeed. The Chairman requested the Superintendents of Schools in each county in sending in the winning essays from their county, to advise the Chairman of the number of essays submitted in each county.

About 1,150 students from thirty-eight counties in the state participated in the Essay Contest. Aubrey Lawrence, President of the State Bar Association, appointed S. J. Doyle, Fargo; John Knauf, Jamestown, and C. J. Murphy, Grand Forks, as the Judges to select the winners in the state contest. The winning essays from each county were sent to these Judges, who selected the following winners in the state contest:

First place, Helen Provda, age eleven years, seventh grade, Velva Public Schools, Velva, McHenry County, North Dakota.

Second Place, Ross King, Jr., age fourteen years, eighth grade, Grafton Public School, Grafton, Walsh County, North Dakota.

Third place, Christian Lee, eighth grade, Twin Butte School, Divide County, North Dakota.

Fourth place, Frances Kubicek, age thirteen years, seventh grade, Emmet Public Schools, Emmet, North Dakota.

Fifth place, Agnes Onstad, Banner School No. 1, Parshall, Mountrail County, North Dakota. Age and grade not given.

Sixth place, Dorothy Lovell, age thirteen years, seventh grade, Lincoln Grade School, Beach, Golden Valley County, North Dakota.

Seventh place, Helen Van Vergt, age fourteen years, eighth grade, Westfield School, Westfield, Emmons County, North Dakota.

Eighth place, Frances Hanson, age thirteen years, seventh grade, Hanson School, Englevale, Ransom County, North Dakota.

Ninth place, Margaret L. Heinz, age fourteen years, eighth grade, Harper School No. 1, Carson, Grant County, North Dakota.

Tenth place, Veronica Michels, age thirteen years, eighth grade, Glen Ullin Public Schools, Glen Ullin, Morton County, North Dakota.

The checks have been sent out to all of these winners.

These essays were of a very high grade and it was indeed a pleasant surprise to your Chairman to read many of the fine essays submitted by the seventh and eighth graders, and in spite of the fact that this contest was not put on until quite late in the year, the results were very gratifying. The comment of President Lawrence sums up this situation very admirably: "Aside from being intensely gratifying to the Association, it is almost impossible to conceive the vast amount of benefit that will follow the study of the origin and history of the Constitution by 1,150 students of the Public Schools, getting into their minds during the formative period to be followed up by later work and study. There is no limit to the vast amount of good that has been and will be done by such contests."

We would heartily recommend that this be made an annual affair, that the appropriation for prizes be increased, and that the contest be put on as early in the year as possible.

Your Chairman wishes to express his appreciation to the members of this committee and to the County Superintendents of Schools for

their very able assistance and cooperation in the work of conducting this essay contest.

He also desires to express his appreciation to Aubrey Lawrence, President of the State Bar Association, and to S. J. Doyle, James Knauf and C. J. Murphy, the Judges, whose able assistance and cooperation had much to do with making this contest a success.

O. B. HERIGSTAD, Chairman.

Committee on Comparative Law

Your Committee on Comparative Law is so widely scattered that meetings of the entire committee could not be held.

The function of this committee is, to "consider the matter of the laws of this state as compared with the laws of other states, foreign or domestic, and make reports when and where our laws may be improved." This affords a wide field of investigation; but time precludes anything but comparison with a few selected states and some selected subjects. To take the legislation of every state, foreign or domestic and compare it with all of the legislation of our state would require a volume in itself, hence we have selected states from different sections of the country, in the hope that they would be considered typical and we have selected some six subjects which may be considered of greater importance than others. For the purpose of this report, therefore, we consider the legislation of Massachusetts, Ohio, Wisconsin, Oregon and North Carolina as representative of five sections of the country and we have taken the subjects of banks, criminal procedure and practice, labor, motor vehicles, public service corporations, Supreme and Superior courts as the special subjects of interest.

In 1927 Massachusetts adopted some 22 statutes dealing with banking and insurance. Some of these were local such as permitting trust companies in Boston, Lexington and Worcester to hold additional real estate in their respective towns over and above what the law had theretofore permitted. There was a statute passed known as the "Statutory Cooperative Banking Power of Sale." This statute made provision for foreclosure of mortgages where the amount due was made in monthly payments and permitted the parties to insert in the mortgage an agreement that if these monthly payments should be defaulted for at least three months, or there should be other defaults in the contracts, the mortgagee should sell the mortgaged premises "together with all improvements that may be thereon by public auction on same within the premises then subject to the mortgage, or if more than one parcel is then subject thereto on or within one of such parcels, or at such place as could be designated for that purpose in the mortgage" and provided that such sale "shall forever bar the mortgagor and all persons claiming under him from all right and interest in the mortgaged premises whether at law or in equity."

In the matter of criminal procedure and practice it is interesting to know that Massachusetts is safeguarding the interests of wayward and delinquent children. Chapter 181 of the laws of 1927 makes provision for an appeal on the part of such child on his adjudication as being wayward or delinquent. The law requires that at the time of such adjudication by the probation officer he shall notify the child of this right to appeal and further notice is also given "at the time of such order or commitment of sentence." On such appeal the

matter is tried de novo in the Superior Court but "shall not be in conjunction with the other business of that court" and the Supreme Court "shall have separate trial list and docket" and the session "shall be known as the Juvenile Session of the Superior Court." On appeal of such case the probation officer who made the adjudication is required to make and file a complete report regarding the child under investigation. Apparently the probation officer has the right to determine criminal proceedings against the child and make orders of commitment subject to the right of appeal. You will notice our state does not do so and it may be questionable whether the Massachusetts rule is a wise one. Chapter 10 of the "Resolves" requires the judicial council of the state to investigate and consider the advisability of changing in respect to a certain class of criminal cases the present general requirements of unanimity in the verdict of a jury." It seems the Governor of the State, in his inaugural address to the general court had suggested some such action on the part of the legislature and apparently the legislature was unable to determine the wisdom of the procedure or its advisability. So the matter was referred to the judicial council. This is a step in the right direction. If the Judicial Council of this state is to fulfill its function of engaging "in the continuous study of the administration of justice" such a matter should probably come before it.

An interesting law was enacted in the case of a person "indicted by a grand jury for a capital offense or whenever a person who is known to have been indicted for any other offense more than once or to have been previously indicted of a felony, is indicted by a grand jury or bound over for trial in the Superior Court "in such case the Clerk of the Court is required to give notice to the Department of Mental Diseases." This department is required to "cause such person to be examined with a view to determine his mental condition and the existence of any mental disease or defect which would affect his criminal responsibility." When this inquiry has been made and facts ascertained the department is required to file a report of its investigation which report "shall be accessible to the court, the District Attorney and to the attorney for the accused." It also appears that if a probation officer of the court has in his possession "facts which if known to the clerk would require notice as aforesaid, such probation officer shall forthwith communicate the same to the clerk who shall thereupon give such notice unless already given." It is apparent such investigation may be of great help on the trial of the case in determining the mental responsibility of the accused.

One naturally expects labor legislation in such a state as Massachusetts so we find laws adopted providing for vacations of municipal laborers, and the enforcement of such laws. This law is limited to such places as have already accepted previous legislation defining municipal laborers and making provision for their safety, etc., and requires such municipality to grant a vacation of not less than "two weeks during each year of their employment without loss of pay." This applies to common laborers, skilled laborers, mechanics or craftsmen and a person is considered to be regularly employed if he has actually worked for the city or town 32 weeks in the aggregate during the preceding calendar year. By legislation the number of inspectors in the department of labor and industry qualified in the building construction was changed from four inspectors to such number of

inspectors as the commissioner may deem necessary and of these inspectors "not more than seven in number shall be persons qualified in training and experience in matters relating to health and sanitation." In the matter of motor vehicle the legislation was confined largely to laws dealing with the operation of commercial trucks, the requirement of bonds for common carriers, permitting the sale of gasoline, oil, accessories on the Lord's Day, laws dealing with changes in the compulsory insurance law, registration, provision for one-way traffic on public highways, making provision for uniform traffic rules and signs. There was an interesting law enacted providing for an investigation as to the necessity of establishing a permanent traffic board. Another which dealt with the requirement of permits in the use of motor trucks or trailers for an extreme length exceeding 28 feet or extreme width exceeding 8 feet.

The department of public utilities received general attention. A "Resolve" was adopted for an investigation as to the advisability of reduction in transportation rates of school pupils by city and elevated railways, another such investigation in regard to the emission of smoke, soot and cinders from chimneys. Another to investigate ways and means of providing revenue to cover in whole or in part the cost of service by transportation on public utilities. There were statutes adopted relating to municipal lighting plants, and scheduled prices. Another one dealing with the bonds required by common carriers of passengers by motor vehicle and such bond would be for the benefit of the estate of persons who were killed in collisions while traveling in such vehicle or for persons who were injured or damaged. This law was an amendment to preceding legislation and widened the scope of the bond. Massachusetts amended previous legislation dealing with the appointment of stenographers, fixing their compensation, not by salaries in all cases, but by fees and per diem. Counties having a population of more than 200,000 would have official stenographers at a salary of \$3500.00 per year and additional stenographers would be paid at the rate of \$15 per day. Most of the legislation dealt with special problems such as increasing the length of the sitting of the courts, providing for better exchange of district court judges, making provision for extra compensation to district court judges for extra work, and other matters which would be peculiar to Massachusetts.

The legislature of Ohio enacted an interesting law dealing with the payment of drafts issued by banks which afterwards closed before payment of the draft. Where a depositor gave his check for a draft and the check was accepted and charged to his account but the bank becomes delinquent before the draft is paid such deposit is "impressed with a trust for the payment of such draft." The superintendent of banks is required to pay it as a preferred claim. To the same effect there is another statute that where a depositor in a bank issues his check and this check is presented to the bank for collection and is charged to the account of the depositor the charging of such check constitutes "an appropriation by such bank—of the assets of such bank—to the payment thereof and shall impress such assets with a trust in behalf of the owner of such check, and thus becomes a preferred claim.

Ohio makes provision for the protection of forests and an extensive bill was introduced amending previous legislation and making additional penalties for causing fires by the throwing of lighted match,

or cigar or cigarettes, and prescribed penalties for destroying any notice or sign or state law posted in the forests.

There is also an interesting law regarding the chaperoning of a female dog in certain seasons of the year, prescribing the method of control while on the public streets.

With reference to motor vehicles Ohio adopted a statute regulating the maximum weight of vehicles and load during the times of thaws and excessive moisture. The inspector of highways and public works is entrusted in making the schedule of weights and providing for public signs showing the amount which may be transported on the particular road indicated during such periods.

Public utilities received attention, some 35 boards and commissions were abolished and the work of a large number of them placed with the Department of Commerce. The work of this department was given various duties which heretofore were exercised by Inspectors of Building and Loan Association, State Fire Marshal, Superintendent of Insurance, State Inspector of Oils, Commissioners of Securities and other similar departments. The department was empowered to employ officers, examiners, engineers, statisticians, accountants, etc., thus it may be questionable whether public expense was reduced. In the matter of the courts there was very little legislation. The salaries of the Judges of the Supreme Court were increased to \$12,600 for the Chief Justice and \$12,000 for the other Judges. Judges of the Court of Appeals were given a salary of \$8,000 each and Judges of the Common Pleas Court \$3,000 with additional salary in certain districts based upon the population of the counties.

Wisconsin adopted a law dealing with the payment of drafts issued by delinquent banks and made provision that where such bank had a deposit in a drawee bank such drafts would be paid on presentation, if they correspond by number and amount to a list to be certified to them by the commissioner of banking or his deputies. Provision was made also for the reorganization of delinquent banks upon approval of the commissioners of banking. It was provided that where creditors representing "90 per cent of the amount of the deposits and unsecured claims of such banks" come into a reorganization plan such plan would bind the remaining 10 per cent.

Two statutes dealing with criminal matters are of interest; one provides that where a person charged with crime is acquitted because he is insane or feeble minded he must forthwith be committed to the Central State Hospital for the Insane or to an institution designated by the State Board of Control and there be detained and treated until he shall be discharged according to law. It is further provided that if a person prior to trial is found to be insane or feeble minded he must be confined in the same way. The only feature of interest there, in comparison with ours might be the fact the court may permit the State Board of Control to determine the disposition of the accused. One law of interest to the Bar is the provision made for the payment of services rendered indigent defendants in the Supreme Court and where the District Court has appointed counsel; but the appointment does not "include service upon appeal or writ of error. The Supreme Court or the Chief Justice, upon being satisfied of the inability of the defendant to pay counsel, that review is sought in good faith, and that there are reasonable grounds for seeking review, may appoint counsel to prosecute an appeal or writ of error and such counsel shall be paid

such sum for services and expenses as the Supreme Court shall determine, to be certified to the County Treasurer by the Clerk of the Supreme Court."

Labor legislation was confined to the matter of a weekly rest day and amended former acts in the case of public utilities permitting the commission to make rules and regulations regarding such day and time in cases where public necessity and serious inconvenience would arise.

With reference to motor vehicles, cities and other municipalities were permitted to establish stations for testing lights on motor vehicles in operation.

The Department of Public Utilities received consideration. One bill of interest made provision for the joint use of towers and wires owned by a utility and required such utility to permit other corporations and associations to use its towers and transmission wires when it was not detrimental to the service furnished by the utility owning the tower and wires.

With reference to the courts, the salaries of the Justices were increased to \$10,000 to those whose term of office commenced after July 1, 1927. The secretaries for the Justices were to be paid such sum as the Justices would fix but not to exceed \$175 per month.

The State of Oregon enacted legislation dealing with banks and banking. Two of the interesting laws deal with deposits and depositors. One amendment undertakes to define the word "depositor" and includes in this term, in addition to the usual acceptation, "purchasers or holders in due course of certificates of deposit, cashier's checks, certified checks, outstanding unpaid drafts drawn or issued by such bank or trust company, unsecured letters of credit and unsecured drafts accepted by such bank—provided the instruments"—are issued pursuant to cash or credit actually received or realized by such bank. Another statute in the form of an amendment makes provision for the withdrawal of deposits upon the death of the depositor. Where a depositor dies intestate the bank may pay to the surviving spouse, or if no surviving spouse, then the children, or if the depositor be unmarried to the parents, the amount of the deposit when it does not exceed \$500, provided an affidavit be filed with the bank showing these facts, and showing also that the total amount on deposit in all banks in the state does not exceed \$500. The bank is not required to determine the relationship of the parties. So long as the payment is made in good faith the bank has a full acquittance. The affidavit must contain a promise to pay "the expenses of last sickness and funeral expense of said deceased out of such deposit to the full extent thereof if necessary."

In the matter of criminal procedure the time to appeal from the judgment or order was reduced to sixty days.

With reference to labor legislation we find provision made for the payment of fees to the inspector of factories and workshops before any certificate of inspection shall issue. This law is an amendment of preceding legislation and gives wide powers to the labor commissioner, and his deputies, to enforce the provisions of the act. An interesting provision is that the salaries paid to the deputy labor commissioners "at no time shall be higher than the going wages paid to mechanics of like skill and ability and not to exceed \$200 per month."

Very comprehensive laws dealing with motor vehicles were enacted. Three of these laws cover some 25 pages. One act appears to be a thorough overhauling of the statute dealing with motor vehicles and minute directions given as to the manner of attaching headlights. Another general act deals with the use of the highways by motor trucks and vehicles, as well as minute directions for the transfer of title. The title to a car is registered at the time of applying for license and it becomes the duty of the mortgagor of a car to present to the Secretary of State certificate of title and receipt of registration within ten days after he gives a mortgage on the car so that a notation of such mortgage may be made upon his certificate of title. Titles to motor vehicles are not to be transferred except by means of this registration receipt and certificate.

Public utilities statutes deal largely with the fees to be assessed against the public utilities for carrying on the work of the commission. These fees are graduate in character, are in addition to the amounts paid by taxes, and some of them are fairly high. For example, the fee paid "when the annual gross operating revenue of a public utility or railroad is six million or over is three thousand dollars." These fees are to be used for the payment of salaries, general and contingent expenses of the public service commission. With reference to courts one statute increases the number of judges of the Supreme Court to seven and empowers the Supreme Court to employ such number of clerical assistance and fix the compensation of them as they may see fit. An amendment to existing legislation was made making it the duty of the Clerk of the Supreme Court immediately upon receipt of opinions from the Supreme Court to mail a copy of each opinion to the circuit judges and the district attorneys and to furnish advance sheets to subscribers at \$4.00 per year. The Clerk to receive \$1.50 of this subscription until the aggregate reaches \$500.

The legislature of North Carolina enacted a very comprehensive law for liquidation of banks. Many of the features are common to those laws but any bank that fails, neglects or refuses to comply with any of the rules, regulations or requirements of the corporation, commission or banking law may be taken in charge and liquidated. An interesting feature of crime legislation is the enactment of a law providing for the payment of a reward of \$20 for each still destroyed when one or more of the operators have been arrested by officials and convicted, and no appeal has been taken. This law applies to but 34 of the counties but includes Lee, Lincoln, Washington and Wilson counties together with our old friend Buncombe county. A state farm for women is provided by the legislature of 1927. To this farm will be sent those who are not to be sent to the penitentiary and also women who are guilty of habitual drunkenness, drug using, disorderly conduct and prostitution. The use of smoke screens on motor vehicles is made a felony. A violation of the law draws a penalty of from 1 to 10 years in the penitentiary. A law was enacted providing for the giving of one copy of the laws and one copy of the opinions of the Supreme Court to each state, Dominion of Canada and provinces together with Australia and New Zealand as well as to public and quasi law libraries in the state.

These statutes are fairly typical of the legislation in other states. We did not examine the statutes of Florida for the year 1925 for the very good reason these statutes require three volumes—one of 653

pages for the general laws, one of 5089 pages for the special laws and one of 2289 pages for the extraordinary section. Whatever may be the derelict of duty on the part of the legislature of that state we must admit it was industrious.

Systems in jurisprudence have fairly well defined principles for legislation. An intensive study of legislative principles would be a great help in the enactment of legislation. This requires a system of education. The Bar Association could well sponsor such a study of jurisprudence for the general public. Too often laws are drafted in general terms, with a special object in view, without the slightest consideration as to whether it violates well established principles or not. It may be the Judicial Council could undertake such a matter. The "continuous study of the administration of justice" requires the inculcation of correct ideas in the general public. Surely the legal profession is the best fitted to supervise such instruction.

We are indebted to Mr. E. J. Taylor, Supreme Court Reporter, for valuable assistance in the research work.

An interesting review of legislation in the various states is found in the February American Political Science Review in the form of legislative notes edited by Clyde L. King of the University of Pennsylvania.

But whatever legislation there may be after all, we look for the law in the reports of adjudicated cases and as said by Mr. Brackinreed of the Medford, Oregon, Bar, in his article on "The Enduring Uses of the Law":

"In its practical application to the affairs of men, the Law is necessarily to be sought for in the reports of adjudicated cases, from which the writers of textbooks and commentaries deduce the principles which they exploit in their works. It is to these reports that the lawyer must inevitably turn for guidance in approaching any legal problem. For the student, no course of study in the Law can be considered as well laid out unless it includes the careful reading of selected cases, annotated by competent teachers for the student's use.

"From the days of Hammurabi to the complexity and multiplicity of our modern courts, from the day of the clay tablet to the intricate service of the modern publishing house and printing plant, side by side with the building of the Law has gone the patient process of its recording, until now, however vast the maze has grown, there is still to be found a way through it, a way into it, to whatever matter exists applicable to the case in hand. The simple syllabus on the clay jacket of the first recorded case has developed historically and logically into the system of digest and index and compendium, which today offers its guiding hand to the seeker after justice.

"For, if any subject of the Law be aggrieved, in his person or in his possessions, and find not his remedy in the Law, what other succor may he seek, to what other refuge may he flee, into what other temple shall his feet carry him?"

A. G. BURR, Chairman.

Committee on Criminal Law

No new or further recommendations are proposed by the committee at this time, for the reason that the proposals presented to the 1927 annual meeting were held over for the action of the 1928 session.

It is the sense of the committee that these matters should be passed upon first.

As a legislative program for the next session of the Legislature, your committee desires to recommend the adoption of the following measures:

First: A bill to amend Section 8441, C. L. 1913, re-defining the crime of criminal conspiracy to provide that it shall be a felony for persons to conspire to commit an act which, if committed, would constitute a felony. Under the present definition of this crime, all conspiracies, regardless of the character of the act conspired to be done, constitutes only a misdemeanor.

Second: A bill creating a new statutory crime to be known as "Aggravated Assault and Battery," this act to provide that in cases of aggravated assault and battery the penalty shall consist of a fine of not more than \$1,000, or imprisonment in the county jail for not more than one year, or both such fine and imprisonment. This change is needed to take care of that class of assaults where grievous bodily harm is intended or inflicted, without the use of a dangerous or deadly weapon. Our neighboring states, Montana, South Dakota, Minnesota and Iowa have long ago passed similar statutes to take care of this class of crimes.

Third: A bill to restore capital punishment in North Dakota as a penalty for first degree murder. It is the opinion of your committee that crime conditions in North Dakota have not reached that point of improvement where it is safe to do without the restraining influence of the extreme penalty. In recent years, North Dakota has become an inviting field for the operation of the professional criminals of the country; men who will not hesitate to take human life as a means to promote their profession of robbery and burglary in this State. A bill to restore capital punishment was submitted to the last session of the Legislature, but was defeated, evidently for the reason that it did not appear to the majority of the Legislature that public sentiment favored the restoration of capital punishment in North Dakota at this time.

Fourth: A bill creating a jury commission to serve in lieu of the present system in selecting persons qualified for jury service. A comprehensive measure embodying what appears to be the best features of similar laws existing in other states was introduced in the last Legislature as House Bill No. 131. Your committee has examined this bill and recommends its approval by this Association. It is the settled judgment of all practicing lawyers, as well as many others, that our present system is especially weak as regards the character and qualifications of the persons often selected for jury service. Our present system tends rather to result in the selection of persons for jury service by lot or chance rather than on basis of special qualifications, and in some jurisdictions it is complained that professional juror evil exists in malignant form. It is conceded that the efficiency of our judicial system depends, in a large measure, upon the character of juries that are chosen to decide the issues submitted to them in legal controversies, and that every effort should be made to select the best qualified persons available, both as to character and intelligence for this service. It is the opinion of your committee that a jury commission of especially qualified persons appointed by the District Court could and would select a better class of citizens for jury service than now results from our present system. Your committee believes

that the experience of the Federal Courts, where the jury commissioner principle of selecting jurors is employed, completely demonstrates the superiority of this system over the method now employed in the state courts.

Fifth: A bill to create a State Board of Criminal Identification and Investigation is earnestly recommended. Such a measure was recommended to the last Legislature by the States Attorneys' Association and introduced in the form of House Bill No. 129. Your committee has examined this bill and recommends its adoption in principle. Briefly stated, such proposed measure contains the following provisions: It provides for a state bureau of identification and investigation consisting of the Governor, Attorney General and the Warden of the Penitentiary. This Bureau should be authorized to appoint a director of the Bureau of Criminal Investigation who, in turn, may appoint three deputies and a clerk. The powers of such Bureau, given in the language of the bill, is as follows: It shall be the duty of the Director of Criminal Investigations, and of the deputies acting under his supervision, direction and control: 1. to investigate such felonious crimes committed in this State as shall be assigned to the Bureau of Criminal Investigation by the Attorney General, for the purpose of detecting, apprehending, arresting and securing the conviction of the perpetrator or perpetrators of such felonious crime or crimes, and such director and his deputies shall possess all the powers of police officers anywhere in the State; 2. To cooperate with the police officers of the various counties and cities of this State, and with the police and peace officers of other states in apprehending and arresting fugitive criminals charged with the commission of felonious crimes; 3. To prevent the commission of felonious crimes by tracing, locating or arresting yeggs, burglars, holdup men, robbers and transient and professional criminals, and so far as possible, to protect life and property from criminal acts.

The clerk shall, under the supervision and direction of the Director of the Bureau of Criminal Investigations, have charge of the office, and shall establish and maintain such equipment, files and records, as shall be necessary for the efficient conduct of said Bureau of Criminal Investigations.

There has been a good deal of discussion throughout the U. S. recently upon the necessity of reforms in criminal law and criminal procedure, and the importance of improving the machinery that exists for the administration of criminal justice. Most of such discussion and study has centered around questions of trial procedure and punishment of criminals, and but little consideration has been given to the problem of improving our methods of preventing crime and apprehending criminals. The administration of criminal justice logically divides itself into three classes of governmental activity; 1. The apprehension of criminals; 2. Trial of persons accused; and 3. The punishment of convicted persons.

It is the opinion of your committee that existing agencies for the administration of the first function above named, that of the apprehension of the criminal, is altogether inadequate to meet the demands of modern conditions, and that attention should be centered upon methods of improvement in the administration of that important function. Your committee believes that the next step to be taken in the direction of perfecting our method of apprehending criminals is the

establishment and maintenance of a central state authority vested with general powers of supervision and coordination of the activities of the police officers of the State. It occurs to us that a Bureau of Criminal Identification and Investigation would perform the following important service:

First: It could establish and maintain a central office of information and identification relating to crimes and criminals. At the present time neither the State nor any municipality maintains any Bureau of Information. In these days of good roads and motor vehicle transportation, it is comparatively easy for criminals of all classes, and particularly professional criminals, to travel rapidly from one part of the State to another, or go without the State in a few hours, with the result that in a large percentage of cases, where felonious crimes are committed, the perpetrators succeed in escaping from the locality in which the crime is committed, and become fugitives from justice. This being the case, the problem of apprehending such criminals becomes one of expert investigation and intelligent pursuit, and in solving such problem, accurate information as to identity and description of the fugitives, including finger prints and other personal data becomes a factor of great importance. Further, under modern conditions, a large percentage of the professional criminal class succeed in escaping to another State, thus making the problem of their apprehension one of interstate character, and involves the efficient and active cooperation of the officers and police agencies of other states. There is now located at the State Penitentiary the nucleus of a Bureau of Criminal Identification, including finger print data, Bertillon measurements, etc., for the use of the institution. The services of this department of the Penitentiary could easily be expanded, and made an important service to all police officers of the State in their daily hunt for law violators. The time has come when the State should make an intelligent effort to identify and label all persons who follow the profession of crime as a business and all persons with criminal records.

Second: It could coordinate the efforts of the police officers of the various counties and cities of the State in apprehending fugitives and cooperate with like agencies in other states, in not only securing the arrest of fugitives that have fled to another state, but assist other states in apprehending fugitives who resort to this State as a place of hiding. The problem of dealing with the modern professional criminal is no longer a local problem, but one that mutually affects the interests of all the states, and it is of utmost importance that each state have a central agency vested with authority to work with like departments in other states in dealing with the common problem of apprehending escaped criminals.

Third: It could assist local police officers in investigating felonious crimes and apprehending the guilty parties in unusual cases by furnishing expert officers versed in crime detection and in finger print methods. Serious crimes are constantly being committed in the State, the solution of which baffles local officials, and the guilty parties succeed in escaping from the locality where the crime is committed. Very often the local police officials lack the experience and knowledge necessary to cope with the ingenuity of the professionals who perpetrated the crime, and in such cases the prompt assistance of

men trained in crime detection and in pursuit of criminals is absolutely necessary to the apprehension and conviction of the guilty parties. It is an obvious encouragement to the professional criminals who roam to and fro through the State at will, committing burglaries and robberies each season, and sometimes murder, when they know that they are only required to outwit or escape from the local officials in order to effect, what generally proves to be a successful escape, from detection and arrest. Insofar as it is possible to do it, the state government should provide the means and facilities for the prompt and effective pursuit of all criminals by officers equipped with the knowledge and experience necessary to enable them to succeed in the undertaking.

By the way, you folks noticed the apparently successful bank robbery committed at Verona, where last year the bank was robbed and a man killed. At ten o'clock in the morning three men, unmasked, walked into the bank, held up the official, and took \$3,000, walked out of the bank and got into a taxi, and, in a few minutes, they were outside of La Moure County. There was probably no police force there, and during the night they possibly passed beyond the borders of North Dakota, and got into Minnesota, and in another day they can be in another state. I might say that last year, out of thirteen bank robberies, all of which were successful in so far as entering into a bank and overcoming the officer and escaping with the money was concerned, out of the thirteen, twelve of the bandits were successful in escaping from the State and in ten of the thirteen cases the bandits evaded arrest and apprehension, and, as far as we know, even successful identification.

The bill that was introduced in the last session of the Legislature, being House Bill No. 129, did not receive much support from the Committee on Judiciary, to which it was referred for consideration. Two main objections were offered against its passage, as follows:

1. There was considerable sentiment against creating any new boards or bureaus in the state government; and 2. The expense necessary to maintain such a bureau on an effective basis was deemed too much.

It may be conceded as a wise general policy that the functions of the government should not be further expanded through the creation of additional boards and bureaus, and that this State has, perhaps, already expanded its functions far beyond the point which the government can efficiently maintain, or afford to support. On the other hand, it must be conceded by all thoughtful persons that the primary function for which all government exists, is the protection of the lives, liberties and property of the people, and that whenever the lives and property of the citizens are jeopardized by criminals, or others, who prey upon society, the government should establish and maintain such agencies as may be necessary to protect life and property. It is also, I think, generally conceded that both life and property in North Dakota is constantly in danger on account of the depredations of certain classes of criminals, and that our present police system has failed to adequately meet this crime situation. It is the judgment of the committee that this important need should be met, and if necessary, by the creation of the instrumentalities best suited for the purpose, and that the fact that the State may have in the past, or may in the

future, create boards or bureaus for purposes other than that of preserving life and property, should not be the cause of a neglectful policy on the part of the government with respect to the crime problem. It is true that such a Bureau as is here recommended, will cost a substantial amount of money to efficiently maintain and operate, but we submit that when the State is willing, as it has been in the past, and is now, to spend hundreds of thousands of dollars in industrial and business experiments of doubtful wisdom, and large sums annually in performing functions of relatively less importance than the importance of adequate police protection, we ought not to shrink from the expense that experience has proven necessary to properly protect society from the depredations of criminals.

While the idea of a State Bureau of Criminal Investigation is somewhat new, its adoption has been widely advocated by authorities on criminal law reform, and at least one state, Minnesota, has created such a Bureau. At its last session of the Legislature, the State of Minnesota adopted Chapter 224 of the Session Laws for 1927, providing a Bureau of Criminal Apprehension. The Bureau so provided for is created in the office of the Attorney General, and is placed under the direction of a Superintendent, who is appointed by the Governor. It provides for the employment of a staff of skilled and unskilled employees not exceeding twelve in number, who shall serve under the direction and supervision of the Superintendent. This Bureau has no direct police authority, and its primary function seems to be to install and maintain a complete system of identification pertaining to crimes and criminals, and to disseminate such information among the police officers of the State and other states for the purpose of facilitating such officers in their efforts to apprehend escaped criminals. It requires all sheriffs and police officers to make complete reports of matters of criminal information to the State Bureau, which information is assembled and recorded for future use. It provides that the Superintendent may, from time to time, conduct police schools for the training of police officers in modern methods of crime detection, identification, and apprehension. It also provides that such Bureau shall cooperate with and exchange information with similar organizations in other states.

It is the view of your committee that the establishment and maintenance of a Bureau of Criminal Identification and Information is an important step in the right direction, and is, perhaps, the most important service that a State agency could render; but it is also our opinion that the members of the staff of such Bureau should be vested with general police powers, so that, in emergency cases, they could themselves take up and conduct the pursuit of fugitive criminals.

Your committee has outlined its views at some length on this subject for the purpose of emphasizing its importance, and in the hope that it may thereby stimulate a careful consideration and study of the proposal on the part of all citizens of the State. There is no doubt that our present police methods are altogether inadequate to deal with the professional criminal problem, and that the public will be forced in time to reform and improve its police system. Perhaps the idea of the creation and operation of a State Bureau as herein recommended does not offer an improvement in our system; but, if

not, it remains for those who are familiar with the problem to offer a better suggestion to meet this particular weakness in our law enforcement machinery.

Your committee respectfully submits this report together with its recommendations to the Association for its consideration and approval.

GEORGE F. SHAFER, Chairman.

Committee on Internal Affairs

As Chairman of the Internal Affairs Committee it becomes my duty to report the activities of, and particularly the complaints which have been filed with, this committee.

At the time of my accession to the chairmanship there were only two or three matters pending, all of which have since been closed up—I believe satisfactorily—and which I am glad to say did not reflect on the character of the attorneys involved.

I regret to say that there have been quite a number of complaints filed with me. The total number of complaints submitted, excluding the two pending before my predecessor, number eighteen. This is rather a startling number of complaints, but I am glad to say that in most instances the complaints are of a minor character, and that approximately fifty per cent of these claims have been satisfactorily adjusted. Up to date I have only been convinced of an absolute wrong doing on the part of the attorney in one case. In this case the evidence submitted to me was quite clear that there had been an embezzlement, and this was confirmed by the fact that the attorney had, either just prior to the receipt of the complaint, or just after, pleaded guilty to embezzlement, and been sentenced to a term in jail. This attorney has been reported to have since left the State. At the present time I have submitted the question to complainants as to whether or not they cared to file proceedings with the Bar Board.

However, I am compelled to say that, while the complaints in many instances were somewhat trivial and did not involve an absolute wrong doing, yet the attorney was subject to criticism for gross neglect.

I have at the present time only one attorney who has refused to answer my letters requesting an explanation, and have only had one other which I inherited from my predecessor who was very obdurate in his refusal to answer letters. However, in that case a full and complete apology was offered, and a satisfactory explanation made of everything excepting the neglect in writing to client. This was explained on the ground of being very busy and a desire to make a search through all of his files to ascertain if he, the attorney, could locate a note claimed to have been sent to him.

In practically every case the attorney has presented facts which appear to be a legitimate offset to the claims of the complainant, at least sufficient to make it a debatable question, and in the majority of cases I was convinced from the evidence submitted that there was no justification for the filing of the complaints whatsoever.

As this report is subject to the publicity of the entire Bar I have intentionally omitted any names, as I feel it would be doing an injustice to the attorney who has had a complaint made against him which was not justified by the facts or upon disputed facts. However, I should like to present to the Bar this thought: That it is a regrettable fact that complaints have to be made and investigated, and

if attorneys would be more prompt in answering demands made upon them and render the same explanation to clients which they have rendered to me, my judgment is that it would be a rare occasion that a complaint would be filed. I am aware that there are persons who are only too glad of an opportunity to file complaints against attorneys, without any grounds whatever, and, unfortunately, this does not apply to some poor ignorant layman of a malicious disposition only; it is equally applicable to some forwarders of commercial claims.

It therefore behooves the members of the Bar, not only for the individual's sake, but also to avoid casting a reflection upon the Bar as a whole, to avoid these complaints by promptly, fully and fairly explaining all matters in difference to the client or forwarder.

In conclusion, I will say that a complete file is kept of each matter, even after it is closed, and that all pending matters will be turned over to my successor who inherits this position.

As to the irksomeness of the office I say nothing, as I do not want the position again, but, on the other hand, do not wish to discourage my successor. I believe that this is an important committee, for the protection of the Bar and its honor.

FRED T. CUTHBERT, Chairman.

Committee on Legal Education and Admission to the Bar

The report of the Committee on Legal Education and Admission to the Bar, is a report of the chairman rather than of the entire committee, as it was not feasible to obtain a joint meeting of the committee for the purpose of discussing the problems concerned and thereafter formulating a joint report. Opinions of the members of the committee have been obtained through answers to the following questions submitted to them, viz:

1. Should the committee recommend any change in the existing laws regulating admission to the bar?
2. Do you believe that the time has arrived to propose to the next Legislative Assembly a higher standard of legal education?
3. If you favor proposing a higher standard, do you believe the recommendations of the American Bar Association and its Council on Legal Education and Admissions to the Bar should be enacted into a state law?

The standards recommended by the American Bar Association together with rulings thereon by its Council on Legal Education and Admission to the Bar, are as follows, viz:

“(Resolutions of The American Bar Association are printed in CAPITALS; Rulings of the Council in small type.)

“(1) THE AMERICAN BAR ASSOCIATION IS OF THE OPINION THAT EVERY CANDIDATE FOR ADMISSION TO THE BAR SHOULD GIVE EVIDENCE OF GRADUATION FROM A LAW SCHOOL COMPLYING WITH THE FOLLOWING STANDARDS:

“(a) IT SHALL REQUIRE AS A CONDITION OF ADMISSION AT LEAST TWO YEARS OF STUDY IN A COLLEGE.

“An approved school shall require of all candidates for any degree at the time of the commencement of their law study the completion of one-half of the work acceptable for a Bachelor's degree granted on the basis of a four-year period of study either by the state university or a principal college or university in the state where the law school is located.

“Each school shall have in its records, within twenty days after the registration of a student, credentials showing that such student has completed the required pre-legal work.

"Students who do not have the required preliminary education shall be classed as special students, and shall be admitted to approved schools only in exceptional cases.

"The number of special students admitted in any year shall not exceed ten per cent of the average number of beginning law students admitted during each of the two preceding years.

"No student shall be admitted as a special student except where special circumstances, such as the maturity and the apparent ability of the student seem to justify a deviation from the rule requiring at least two years of college work. Each school shall report to the Council the number of special students admitted each year, with a statement showing that the faculty of the school has given special consideration to each case and has determined that the special circumstances were sufficient to justify a departure from the regular entrance requirements.

"The following classes of students are to be considered as special students unless the law school in which they are registered has on file credentials showing that they have completed the required pre-legal work:

"(a) Those transferring from another law school either with or without advanced standing in law;

"(b) Those doing graduate work in law after graduation from an unapproved school;

"(c) Those taking a limited number of subjects either when registered in another department of the university or when on a purely limited time basis.

"(b) IT SHALL REQUIRE ITS STUDENTS TO PURSUE A COURSE OF THREE YEARS DURATION IF THEY DEVOTE SUBSTANTIALLY ALL OF THEIR WORKING TIME TO THEIR STUDIES, AND A LONGER COURSE, EQUIVALENT IN THE NUMBER OF WORKING HOURS, IF THEY DEVOTE ONLY PART OF THEIR WORKING TIME TO THEIR STUDIES.

"A law school which maintains a course for full-time students and a course for part-time students must comply with all of the requirements as to both courses.

"The curriculum and schedule of work of a full-time course shall be so arranged that substantially the full working time of students is required for a period of three years of at least thirty weeks each.

"A part-time course shall cover a period of at least four years of at least forty weeks each and shall be the equivalent of a full-time course.

"Adequate records shall be kept of all matters dealing with the relation of each student to the school.

"The conferring of its degree shall be conditioned upon the attainment of a grade of scholarship ascertained by written examinations in all courses reasonably conformable thereto.

"A school shall not, as a part of its regular course, conduct instruction in law designed to coach students for bar examinations.

"A school shall not be operated as a commercial enterprise and the compensation of no officer or member of its teaching staff shall depend on the number of students or on the fees received.

"(c) IT SHALL PROVIDE AN ADEQUATE LIBRARY AVAILABLE FOR THE USE OF THE STUDENTS.

"An adequate library shall consist of not less than seventy-five hundred well-selected, usable volumes, not counting obsolete material or broken sets of reports, kept up-to-date and owned or controlled by the law school or the university with which it is connected.

"A school shall be adequately supported and housed so as to make possible efficient work on the part of both students and faculty.

"(d) IT SHALL HAVE AMONG ITS TEACHERS A SUFFICIENT NUMBER GIVING THEIR ENTIRE TIME TO THE SCHOOL TO ENSURE ACTUAL PERSONAL ACQUAINTANCE AND INFLUENCE WITH THE WHOLE STUDENT BODY.

"The number of full-time instructors shall not be less than one for each one hundred students or major fraction thereof, and in no case shall the number of such full time instructors be less than three.

"(2) THE AMERICAN BAR ASSOCIATION IS OF THE OPINION THAT GRADUATION FROM A LAW SCHOOL SHOULD NOT CONFER THE RIGHT OF ADMISSION TO THE BAR, AND THAT EVERY CANDIDATE SHOULD BE SUBJECTED TO AN EXAMINATION BY PUBLIC AUTHORITY TO DETERMINE HIS FITNESS.

"(3) THE COUNCIL ON LEGAL EDUCATION AND ADMISSIONS TO THE BAR IS DIRECTED TO PUBLISH FROM TIME TO TIME THE NAMES OF THOSE LAW SCHOOLS WHICH COMPLY WITH THE ABOVE STANDARDS AND OF THOSE WHICH DO NOT AND TO MAKE SUCH PUBLICATIONS AVAILABLE SO FAR AS POSSIBLE TO INTENDING LAW STUDENTS.

"Schools shall be designated 'Approved' or 'Unapproved.'

"A list of approved schools shall be issued from time to time showing the schools that have fully complied with The American Bar Association Standards.

"No school shall be placed upon the approved list without an inspection prior to such approval made under the direction of the Council.

"All schools, in order to be upon the approved list, are required to permit full inspection as to all matters when so requested by any representative acting for the Council, and also to make such reports or answers to questionnaires as may be required.

"IN COMPLIANCE WITH THE POLICY ANNOUNCED BY THE AMERICAN BAR ASSOCIATION IN 1921, WE RECOMMEND THE ESTABLISHMENT IN EACH STATE, WHERE NONE NOW EXIST, OF OPPORTUNITIES FOR A COLLEGIATE TRAINING, FREE OR AT MODERATE COST SO THAT ALL DESERVING YOUNG MEN AND WOMEN SEEKING ADMISSION TO THE BAR, MAY OBTAIN AN ADEQUATE PRELIMINARY EDUCATION; AND, THAT THE SEVERAL STATES BE URGED THROUGH THE COUNCIL ON LEGAL EDUCATION AND ADMISSIONS TO THE BAR, TO PROVIDE AT STATED TIMES AND PLACES, FOR PRE-LEGAL EXAMINATIONS TO BE HELD BY THE UNIVERSITY OF THE STATE OR BY THE BOARD OF LAW EXAMINERS THEREOF, FOR THOSE APPLICANTS FOR ADMISSION TO THE BAR, OBLIGED TO MAKE UP THEIR PRELIMINARY QUALIFICATIONS OUTSIDE OF ACCREDITED INSTITUTIONS OF LEARNING."

The replies received, with one exception, were emphatic in recommending the enactment into law of a standard approximate to that sponsored by the American Bar Association. There was a difference of opinion, however, as to whether the time had as yet arrived for the enactment of such a law, the majority, however, being favorable to proposing to the next Legislative Assembly a bill along the lines hereinafter outlined.

When submitting the three questions referred to, your chairman particularly called attention of the members of the Committee to the report of the previous committee on Legal Education and Admission to the Bar, given at the annual meeting of this Association held at Grand Forks, N. D., in September, 1927, and from the replies received your chairman concludes that the committee desires to urge the prompt enactment of legislation embodying substantially the recommendations of the previous committee, the recommendations of your committee being as follows:

1. That after the year 1931, no persons shall be admitted to the Bar in this State who, in addition to present requirements, as to citizenship and good character, and a three-year term of study in a law office or accredited law school, is not twenty-one years of age, and

has not had at least two full years of study in an accredited college, normal school or university, beyond the high school grades, which course of study shall include courses in English Literature, American and English History, Economics and Civil Government.

2. That commencing with the year 1929 all students registering for study in any law office in this state shall submit to the State Bar Board satisfactory proof of citizenship, age and good moral character, and of pre-legal education, sufficient to show that the applicant has all the requirements for admission to the Bar upon the completion of his law course.

In passing, we desire to call attention to the report of the Council of Legal Education and Admissions to the Bar submitted at the Seattle meeting of the American Bar Association in July of this year, particularly with reference to the fact that the states of Colorado, Illinois, Kansas, Montana, New York, Ohio, West Virginia, Wisconsin and Wyoming have adopted rules which comply with or approximate the standards proposed by the American Bar Association; that in ten other states where the standards have not been formally adopted their respective bar associations have approved in substance the proposed standards.

In making the recommendations herein set forth, which principally have to do with the raising of the educational qualifications, the committee was not unmindful of the fact that the primal requisite of a lawyer who will be a credit to himself and the Bar as a whole, is one of personal qualification, for it is largely due to a woeful lack of integrity and common horse sense that the Bar has most often been brought into disrepute. But we are of accord in believing that with more stringent educational requirements, will come the requirement and enforcement of more stringent moral and personal qualifications.

We suggest that the necessary steps be taken to present this matter to the next Legislative Assembly in order that appropriate legislation may be enacted.

ARTHUR L. NETCHER, Chairman.

Committee on Powers, Terms and Salaries of Judges

The Committee begs to report that it believes that our judges can be more useful and the administration of justice more efficient if they are given larger powers. It particularly recommends the repeal of the law forbidding the directing of verdicts. The purpose of this law was excellent, but, in practice, it has worked out very badly. The idea was that with a verdict by the jury in all cases, the Supreme Court could often settle a controversy without the expense of a new trial. In practice, however, the law has two glaring defects. In the first place, a party who, before the law, would have received a directed verdict, is put to the expense of ordering a transcript on which to make a motion for judgment notwithstanding the verdict. In the second place, in cases where under common law rules, there is no evidence to go to a jury, the court is given the practically impossible task of framing issues for submission to the jury.

Believing in continuity in office and in the value of judicial experience, the Committee recommends the passage of a constitutional amendment increasing the terms of Supreme Court Judges to 10 years and District Court Judges to 6 years.

The present salaries of our judges were adopted at a time when the dollar was worth far more than now, and when, measured in terms of dollars, men's incomes were far less than they are today. They are out of all proportion to present day needs. A suitable increase would cost the individual taxpayer practically nothing. We all want the best men as judges, and we cannot continue to get them if we persistently pay insufficient salaries. The Committee recommends that the salaries of the judges of the Supreme and District Courts be substantially increased, at least as much as provided for in the bill for that purpose introduced in the last Legislature, which proposed to fix the salaries of the Supreme Court Judges at \$7,500 and of the District Court Judges at \$6,000.

JOHN H. LEWIS, Chairman.

Committee on Public Utilities

Section 139 of the Constitution of the State of North Dakota provides as follows: "No law shall be passed by the legislative assembly granting the right to construct and operate a street railroad, telegraph, telephone or electric light plant within any city, town or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied for such purposes."

During the past fifteen years the legislature has enacted innumerable laws, in an attempt to place the control of public utilities, such as are referred to in this section of the Constitution, under the supervision of the Railroad Commissioners.

Your committee is not recommending either local control over these utilities or centralized control at the state capitol, but we are calling the attention of the Bar to the fact that so long as this section of the Constitution remains, the attempt to place such control with the Board of Railroad Commissioners is a simple evasion of the spirit and intent of our Constitution. The result is an ambiguous situation, leaving doubt as to power of either body, in the minds of the most careful utility lawyers. As it stands today, the local authorities must grant the franchise, but cannot grant a franchise providing for such rates as they believe to be proper, because the Board of Railroad Commissioners are the sole arbitrators as to rates, and under this unscientific system, we have come to a pass where neither the public nor the utility is likely to obtain satisfactory service. We cite an instance: A gas company in a certain city submitted two schedules of rates to the Board of Railroad Commissioners at the time of the installation and the opening up of their plant. Both were rejected because the rates were lower than were charged by other utilities in the State. And the public has consequently been obliged to pay a larger price for gas than would otherwise have been necessary.

The Railroad Commission, in insisting upon higher rates, were using their judgment in determining that the rate offered by the Gas Company would not be sufficient to reimburse the company for its service, and undoubtedly the Commission was basing these conclusions upon results in other cities, probably differently located, spread over larger areas and farther from the source of power and raw material.

Be that as it may, it is a sample which shows how unsatisfactory is the law as it now exists, with dual powers, and we recommend that either the Constitution be amended and the question of all public

utilities placed with the Railroad Commission, including local electric lights, telephone, gas and street railway properties, or that they be placed with the local community as contemplated at the time of the adoption of the Constitution.

On the question as to which would be the preferable method, much can be said both ways. We frankly believe that the Railroad Commission would protect the bondholders and those who invest in public utilities, generally speaking, to an extent which might not be possible under the local jurisdiction theory. The local governmental bodies naturally lean towards low rates for these services, in view of the fact that they touch every inhabitant of the city or community.

On the other hand, the local bodies would be more apt to discriminate in that expense which is now so prevalent among utility companies, of maintaining headquarters for offices in New York, Chicago, Minneapolis and wherenot, in connection with a light plant or telephone exchange in some little city in North Dakota. Through this system, the income can be disposed of without any material benefit to the local user, and we fear in a great many cases, this is done. The very fact that these larger companies who maintain in addition to all the help needed locally a duplicate in some of the larger cities in the east, purchasing the smaller plants throughout the State at figures which appear from time to time in the daily press, and which to those who reside locally in the community and know the physical value of the properties purchased, look large, indicate that profits are possibly beyond that which might be commensurate in the investment in any special or particular locality.

On the other hand, if the local authorities had the matter in charge, they could drive a harder bargain and get more for their money, probably resulting, as it has in the past, of occasional failures, where the public utility management allowed themselves to be out-traded.

As stated at the outset, we are not recommending either system, but we highly recommend that some definite action be taken to adopt one system or the other, doing away with the uncertainty which now exists in view of the fact that most of our statutory law has to be strained, and the Constitution curtailed to give them effect.

Your committee, of course, recommends, if the Constitution is changed, the adoption of a uniform public utilities Act. Such an act is now in the making by a special committee of the National Association of Railroad Commissioners.

We also recommend that the Board of Railroad Commissioners be placed upon a fee system, thus relieving the general taxpayers of the State, and placing the burden upon the utilities, which, in turn, would reflect it back to the consumers or customers, and relieve that portion of the State not interested from carrying on the expense of the Board of Railroad Commissioners' activities in connection with public utilities.

No attempt at detail suggestions is being made, because such study as your committee has been able to make, confirmed the view that we must first do away with the present hybrid state, making either the local municipality supreme or the Railroad Commission supreme in the question of granting rights to utilities and fixing conditions under which they may operate, relative to both the use of highways, streets or public grounds, and the rates to which they are entitled.

We submit that no concerted effort in this line can be taken without a change of the fundamental law in the State.

No criticism is voiced or intended against the State Railroad Commission.

Among other interesting matters presented by individual members of the committee are: 1. The matter of relieving street railway companies of the burden of constructing or repairing paving between railway tracks, some states having extended this relief by legislation; 2. A change in the method of taxing public utility property, or rather additional legislation to enable the State Board of Equalization to take into consideration the percentage-of-value assessments of other property by local communities for the purpose of equalizing utility assessments in the various localities.

HALVOR L. HALVORSON, Chairman.

Committee on Uniform State Laws

Your Committee on Uniform State Laws recommends: 1. That the uniform act for the creation of a Commission on Uniform State Laws be adopted as a law of this State, with the following changes: (a) That the appointments therein be made by the President of this Association instead of the Governor; (b) That Section 5 of said act be so written as to provide for \$1,000, and to omit the words therein "and for the payment to the National Conference of Commissioners on Uniform State Laws of the sum of \$....."; 2. That from and after the appointment of the commissioners as in said act provided such commissioners be ex-officio members of the Uniform State Laws Committee of this Association, and the chairman of such Commission be chairman of the committee of this Association.

The Conference of Commissioners will shortly have their annual meeting. They will have under consideration a Uniform Mechanics' Lien Act, some amendments to the Negotiable Instrument Act, Public Utilities Act, Public Utilities Securities Act, Business Corporation Act, Social Welfare Acts, Firearms Act, Acknowledgment Act, Aeronautics, Compulsory Attendance of Witnesses and Guardianship of Soldiers. At the close of their 1927 session they had proposed 43 acts. North Dakota has adopted 11 of these acts. Fourteen states equal or exceed this adoption. Wisconsin is the highest with 26 acts adopted.

Your committee is informed that during the year Hon. C. L. Young of Bismarck was appointed by the Governor as a Commissioner, to fill the vacancy caused by the removal of Hon. Sveinbjorn Johnson.

Your committee is informed of the death of Hon. Charles A. Pollock of Fargo, who has served for some years as one of North Dakota's commissioners, and as such served well and faithfully, giving unstintedly of his time and means, and for whose cooperation and assistance your committee desires now to express its appreciation and thanks, and therewith its sincere regret and realization of its loss in his death.

One of the more serious problems with which we are confronted is the one of education. It will be necessary to educate the public, particularly our legislators. Then there is the necessity of educating the Bar. The Bar must assume its proper place in moulding and directing this movement. It is regrettable that the members of this profession should be the objects of criticism by leaders of this move-

ment, particularly criticism that relates to want of information and knowledge respecting the work and its necessity. If the criticism is justified, some means must be found to secure their interest, bring to their minds a realization of the fact that there is a demand for uniform laws, and that this movement affords the only way to meet the demand other than through the Federal Congress.

We feel the success of this movement is necessary to preserve the powers of the states and keep Congress within its constitutional limits, and so preserve that most sacred of all things to us as Americans, the Constitution and our present scheme of Constitutional government. We teach respect for this greatest gift of our ancestors, and demand its preservation intact; so let us not overlook conditions which, in the absence of our doing our duty as states and locally, will require ever and ever greater enroachment on the reserved powers and over-riding of delegated powers. Let us not continue to complain of boards, commissions, inspectors, etc., and at the same time sit idly by refusing to perform our duty with respect to local self government which must of necessity augment the reasons for our complaint.

Your committee feels that, impliedly from its appointment, this Association has recognized the necessity and importance of this work, and demands its performance. If not, we submit there should be no committee.

In 1927, through the activity of the Safety Council, the Uniform Motor Vehicle Acts were adopted in North Dakota. Your committee and others of this Association also had some part therein. The relation of the Conference to these acts is scarcely recognized, however. The Conference should have received credit for the preparation of the laws and their proposal as necessary uniform laws.

During the past year your committee has made an effort, through articles in Bar Briefs and elsewhere, to stir up interest in this work and a realization of its necessity and importance. Your committee, through speakers at meetings of the Women's Federated Clubs, were able to present this work. We express our appreciation to these ladies and the speakers for their cooperation. In our approaches to the members of this Association we met with a hearty willingness to cooperate, but we frequently received discouraging expressions of lack of information regarding the movement, coupled with a demand for literature and other means of information. Occasionally, and where least expected and from those who should be expected to carry on the work with unstinted enthusiasm, even if for no other reason than their activity in behalf of your Association along other lines, we even found opposition to the movement and doubt as to the benefit to be gained from efforts to advance the work. Your committee has also been confronted with suggestions of overlapping of functions, or rather enroachment upon the work and duties of other committees. These matters should be settled. The Association has signified its approval of the movement, and, consequently, until otherwise instructed by the Association, the committee will attempt to function to its highest ability.

We have made our recommendations as above for the reason that we are of the opinion that if this work is deemed by us of sufficient consequence to undertake, our effort should be to secure the most efficient work, and this cannot be secured by requiring our commissioners not only to donate their time and services, but to donate

the actual expenses as well. They must attend and participate in the work of the Conference and its committees, and should direct the work and activity here at home. We feel warranted in saying that they will not do so, at least with the requisite spirit and enthusiasm, if required to meet their expenses as well as give time and service. Our experience should demonstrate this. Expressions from some of them have established it. Legislative authority for their appointment, and the financing of their expenses by the State, would mean much in the way of accomplishment. In the event of adoption of the act proposed we have recommended that these commissioners be and constitute, in part at least, your committee; and that the chairman be chairman of your committee. The reason and benefit of this relation would seem apparent.

Your committee has refrained from further recommendation than the adoption of the law. If this is approved by the Association it will, of course, be necessary that a proposed bill be drafted and presented to the Legislature, and the work of securing its enactment be performed. Should the Association desire that this committee perform this work, upon your instruction to that effect, and with the cooperation of your Legislative Committee, we shall willingly undertake its performance.

PAUL CAMPBELL, Chairman.

ASSOCIATION FINANCIAL STATEMENT

(Only to August 4, 1928)

Receipts

Balance last report	\$1,933.31
Received from banquet committee, sale 1927 tickets	203.75
Received State Bar Board, balance 1927 licenses	105.00
Received State Bar Board, for 362 1928 licenses	1,810.00
Received State Bar Board, for 164 1928 licenses	820.00
Total	\$4,872.06

Expenditures

	Budget	Expended
Publication 1927 Proceedings	\$ 600.00	\$ 636.30
Printing and Postage	150.00	179.39
Executive Committee	350.00	149.10
Citizenship Committee	350.00	184.00
President	200.00	278.71
Secretary-Treasurer	600.00	540.00
Bar Briefs	425.00	359.00
1928 Annual Meeting	600.00	.....
Legislative Committee	100.00	.....
Miscellaneous	150.00	144.16
Dakota Law Review	200.00	200.00
1927 Annual Meeting .....	.....	784.61*
Committee on Cooperation with Press .....	.....	6.32
American Law Institute .....	.....	118.98
Past President, 1926-1927 expense .....	.....	132.00
Uniform Laws Committee .....	.....	15.65
Total	\$3,728.22	\$3,728.22

Balance on hand

\$1,143.84

(*) Receipts for 1927 banquet tickets should be deducted for net on this item.

R. E. WENZEL, Secretary-Treasurer.