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Some Phases of Bank Receivership

L R. Baird

SOME PHASES OF BANK RECEIVERSHIP

L. R. Baird, Receiver for Closed Banks

When the committee in charge asked me to take a place on the program, it was with some reluctance that I consented to do so. The Receiver's business has mainly to do with affairs produced by conditions which we believe are behind us and not before us. As we look back, the experiences of the years succeeding the war are more or less of a nightmare which we are trying to forget.

However, we know that it usually falls to the lawyer's lot to unravel and then wind up in an orderly manner the tangles which other people get into. Judging from the many inquiries received from lawyers of the state and from the many interesting discussion which I have had with them relative to the business in which the Receiver is engaged, it will probably not be amiss to briefly discuss the machinery used by the Receiver in administering the affairs of the closed State banks committed to his charge. No effort will be made to discuss technically the many legal questions which have arisen because the members of this Association are all familiar with them. Neither shall I attempt to analyze in detail the banking situation and conditions which brought about the great number of bank failures during the last few years. That matter has already been very ably discussed by one of our members in an address before the State Bankers Association.

As citizens and taxpayers, the members of this Association take a keen interest in public affairs and in their local communities are looked for advice and counsel on important matters affecting the community and it is in this capacity of citizens and taxpayers that I desire to address you this afternoon.

There are at present two hundred forty-five closed state banks in North Dakota whose affairs are in process of liquidation, involving assets of more or less doubtful value amounting to over forty-three million dollars.

In addition to this number there are between forty and fifty institutions which have closed and reopened so that since 1920 there have been nearly three hundred state banks closed. The greatest number of state banks operating in this state at any one time was in 1920 when there were over seven hundred, while at present there are approximately four hundred fifty.

At the beginning of 1923 there were over fifty closed state banks scattered over the state with prospects that several more

would close during the year. The closings were not confined to any particular portion of the State. These closed banks were either in charge of receivers appointed by district courts or the Banking Board, or they were in charge of representatives of the State Examiner or the Guaranty Fund Commission and were termed Deputy Examiners or Special Deputy Examiners in Charge. Many of the institutions were so small that there was little for the man in charge to do except to keep the fires going provided he had credit with the coal man.

It was pointed out to the Legislature, then in session, that if anything were to be saved for the creditors of these banks, or in fact, if it were going to be possible to even make an attempt to wind up the affairs of these institutions in an orderly manner that some plan would have to be devised to curtail administrative expenses and consolidate the work. The Legislature which considered everything from inspection of bees to raising babies, enacted the Emergency Law by which all receiverships were consolidated under one general head. As soon as possible after the law went into effect arrangements were made to turn over from the several receivers and examiners all closed banks to the one receiver. The Receiver qualified as such on October 6, 1923, and as fast as possible organized his force and received the banks, relieving the officers in charge.

Before the transfers could all be made, due to the rapidity of closings there were one hundred forty-eight banks which were managed for a period of six months or longer under individual receivers or officers in charge and it is interesting to note some of the figures incident to the administration of their affairs. In quoting these figures and making comparisons there is no intention to cast reflection upon the integrity or sincerity of the men then in charge for many of them were excellent men and doing everything possible under the circumstances but it does show the inevitable result of an extravagant system. I shall also give the comparative cost of the same institutions handled under the one organization.

The average total monthly expense of all these banks under separate heads was	$ 47,317.10
Under one head was	18,660.57
Or reduced to one bank, the average monthly cost of operation per bank under separate heads was	320.00
Under one head was	126.00
The number of employes under separate management	200
Under one head was	78

The total amount collected by separate managements during the entire period of their operations was $936,882.08
At a cost of 682,658.70
Or 73 per cent.

which does not take into consideration thousands of dollars worth of unpaid bills left behind. Using those figures just quoted as a basis, there would be at present with the two hundred forty-five closed institutions under separate managements at least six hundred employees while there are actually employed at this time ninety-one at an average expense per month to each trust of $115.10. This is based on the year's operations from Sept. 1, 1925 to Sept 1, 1926.

The Emergency Law to which I have referred contemplated the liquidation of the affairs of the several institutions under supervision of the court and also for the consolidation of actions appointing a receiver. It did not in any manner attempt to provide how the general management was to be accomplished. It was incumbent upon the court and his receiver to work out the details. In approaching the question of organization two general plans immediately presented themselves—one contemplating the appointment of a deputy to be placed in charge of each institution, conducting the business from the bank's former quarters, while the other contemplated the consolidation of all the work in one large office. Both plans had advantages and both had disadvantages. The operation of each institution from its former place of business under a single manager would keep the receiver in the community where he had to do business and also make him and the records readily accessible to the creditors which of course was a convenience and if the manager was competent tended to keep up the morale. This was the old customary practice but had to be abandoned on account of the enormous cost which was all out of proportion to the results obtained. The other plan, that of establishing one large office from which the affairs of each institution could be administered would be the ideal plan, provided we were building up a business, for then the several employees could be detailed to different classes of work and thus each employee would be assigned to the class of work for which he was particularly fitted. Another objection to this plan was that it would take too long to get it into operation. The situation demanded immediate action and attention. From the very nature of the occupation of the people of the state, fall is the liquidating period. Settlements not made then usually go over for another year. After carefully considering both of these general plans and weighing the advantages and disadvantages of each a compromise was decided upon which it

was believed would embrace the advantages of each and to a large extent eliminate the disadvantages. This plan provided for a division of the state into districts and at a central or advantageous point in each district the establishment of an office from which the details of each institution in that district could be handled. Accordingly eight districts were established with headquarters as follows: Bismarck, Minot, Devils Lake, New England, Burlington, Fargo, Lisbon and Watford City. A manager was selected and placed in charge of each district. Each district was to be a unit, similar in organization to every other district; each was to follow the same general plan, use the same blanks, keep the same system of books, make similar reports and use the same accounting system; each was to be in charge of a manager, under supervision of the Receiver but who would organize and be responsible for his own office and district. An effort was made to select these managers, not only for their ability as collectors which comprises their chief work and their knowledge of conditions and affairs over the state but also for their discretion and executive ability. As a matter of fact most of these men are well up in middle age and come from no particular vocation or profession. One is an ex-sheriff, one a real estate and loan man, one a lumberman, one a farmer, two old machine men, one a collector and one a banker and collector. One is under forty-five years of age and the balance are all over fifty. As to their religion and political faith, that is their own business.

The organizations for the several districts were built up simultaneously and thereafter could be enlarged or diminished as conditions may require. Last year the work in one district (Watford City) decreased to such an extent that it was deemed advisable to discontinue the office. The force had decreased to the manager and one clerk. Thereupon the manager and clerk were discharged and the office annexed to the Burlington office which handled the work with the addition of one collector only, and he on part time. As time goes on it is intended that the same policy will be pursued with the other offices. As soon as the work in a district decreases to the point where it is not advisable to maintain the office, the district as a distinct unit will be discontinued and transferred to the next available office.

All banks while operated and managed by their own officers and directors, transacting business in the usual manner are under the general supervision of the State Examiner. If a bank becomes insolvent under any of the provisions of law, the Examiner immediately steps in and takes charge. He may then do one of several things. He may hold it in suspension until its unsatisfactory condition is remedied, when he turns it back to

its management, or if it appears that it is impossible to rehabilitate it, the necessary steps are taken to provide it with a receiver for the purpose of winding up its affairs. When the Examiner takes charge he stops everything so far as banking operations are concerned. He verifies the books and accounts, causing proper check notations to be made upon the records; he prepares a schedule in duplicate of the affairs of the bank which is nothing more nor less than an inventory and statement of its assets and liabilities as reflected by the bank's records. As soon as a receiver is appointed the examiner turns the bank over to the receiver who receipts for the same, relieving the examiner from further accountability and becomes thereupon responsible and accountable therefor himself. The receiver receives a copy of the schedule receipting to the examiner on the original.

In the organization under consideration the district manager and his assistants represent the receiver. The formal delivery would be about as follows: The Examiner upon notification of the appointment of a receiver advises the Receiver to send his representative to receive the bank; when he arrives the Examiner hands the district manager or his representative one of the schedules of the bank and requests him to receipt thereon after he has satisfied himself that it is correct. The manager then proceeds to verify the schedule from the records and files at the same time taking actual manual possession of the property, records etc. of the bank. The receipt is signed and thereupon the Examiner is relieved and has nothing further to do with the bank or its winding up unless the unsatisfactory conditions which caused its closing are remedied when the insolvency proceedings will be dismissed and the bank will be reopened and go back to the Examiner. When the Receiver takes charge, the books and records are kept intact as turned over to him and so far as future operations go, they are not used. The books and records remain a history and record of the bank's operations under its officers and close with the closing of the bank.

The Receiver must open and maintain his own books, using the schedule above referred to as the basis. Having taken possession of the bank, the manager, figuratively speaking takes the bank into his office and the work begins. The work of the district office is so arranged and divided up that clerks perform that part of the work for which they are particularly fitted. One section takes the notes, verifies them, checks up the security if any, lists them for delivery to the collectors, at the same time furnishing the collectors with all the information available from the bank's records; another section looks after real estate and so far as possible determines what steps must be taken to

protect it or get it in shape so that it will be self supporting and ultimately sell it; another section takes care of the collections seeing that proper credits are given, remitting the same each week to the Receiver's officers, audits expenses and makes proper distribution thereof. Money collected is all remitted to the Receiver without deduction. Expenses of the district office are requisitioned from the Receiver and charged against the district office until such time as distribution is made, all expenses being substantiated by proper receipts or vouchers, another section cares for claims, examining and proving the same as received. If a claim as presented corresponds with the schedule there is no further trouble, but if it does not then more or less investigation and correspondence is necessary. As soon as a number of claims are in proper shape the receiver's certificates are prepared for Signature. After Signature they must be proved, checked, registered and delivered. Copies are retained for future reference. When the certificate is issued there is nothing further to do with the claim until dividends are paid, when the certificate is called in for endorsement and return. It seems simple but it is surprising how careless people are about their claims. Many do not know the amount of their claims, others are careless and pay no attention to notices received, many allowing two or three and even five years to elapse before presenting their claims and then the number who after receiving a certificate upon which is printed in bold face type an admonition to preserve the certificate, immediately lose it, is really surprising. There are instances where claimants have lost even the second duplicate certificate issued to them. The manager himself is familiar with all of these departments and exercises general supervision over all. He is responsible for results and the expenses of his office and hence engages the personnel himself and is responsible for their work. While different sections or departments have been described that does not necessarily mean that each one is handled by a separate clerk. There may be more than one clerk in each department and then one clerk may handle more than one department. Right now there is one district which has decreased to the manager, his assistant, one clerk one full time outside collector and one part time collector. It is necessary to constantly keep in mind that the entire business and organization is shrinking and not increasing.

As explained most of the detail is handled in the district offices. The Receiver's office is organized to have general supervision over all the work, giving advice and assistance when called upon. The personnel of the Receiver's office consists of the Receiver, three assistants and three stenographers. The assistants

assist in the general work, audit the district offices, prepare periodical detailed reports showing the progress of liquidation and condition of each trust, audit the weekly report submitted from each district office and then consolidate them into one report; they check the expense accounts together with the receipts and disbursements, reconcile the bank statements, prepare dividend checks, make out the necessary income reports and corporation returns etc.

One of the greatest benefits to creditors from the single management has been brought about by the cooperation secured from collateral holders residing without the state. Roughly speaking one half of the assets of all these closed banks were held by outside parties. These assets were usually the best in the bank and were held as collateral to loans in the ratio of from two to one to ten to one. The universal practice was to immediately upon the closing of the bank, foreclose upon the collateral and then sell it to a speculator or turn it over to an inexperienced collector who needed a job and since the margin was large it was usual that the original advance would be paid together with expenses but when I tell you that in many cases the collection expenses ran up to fifty per cent and better now you will think it impossible. In referring to these collectors as inexperienced collectors, I do not mean a reflection on these men. Many of these men are good collectors in the communities where they come from, but are unfamiliar with the conditions in this state, and to my mind, that is fatal.

Of course you will always find some fellows who want to play tennis or pingpong when the crowd wants to play baseball but in the main and by far all of the large holders of collateral readily agreed not only to cooperate and assist so far as was in their power but also exerted their influence with several of the pingpong players and brought them into line also. Notably among those who rendered valuable assistance were the First National Bank of Minneapolis and the First National Bank of St. Paul.

With all due credit to services rendered by these outside interests it would not have been possible to accomplish the results so far without the assistance of the Guaranty Fund Commission, the Banking Board and the State Examiner, Mr. Gilbert Semingson, who have cooperated to the fullest extent at all times. At this time I also desire to express to the members of this association, my deep appreciation for the many courtesies and assistance rendered by the lawyers of the state. In my opinion the attitude universally assumed by the lawyers of the state towards this organization has far excelled that of any other profession.

Although I promised not to bore you with a lot of figures relative to banking conditions not to attempt to discuss why banks fail, nevertheless there is just one short analysis which I desire to leave with you which in my opinion will answer many questions. If we strike an average of all the closed banks and suppose that they were all equal in size we find the following interesting situation:

	Assets	
Loans and discounts (income producing)		$150,000.00
Cash		175.00
Building, furniture and fixtures, other real estate and other assets (non income producing)		49,825.00
		$200,000.00
	Liabilities	
Capital		$ 18,000.00
Surplus and undivided profits (impaired $500.00)		
Certificates of deposit (usual interest 6%)		120,000.00
Demand deposits (checking etc.)		30,000.00
Borrowed money		20,000.00
Other liabilities		12,500.00
		$200,000.00
With a bank of that size the income from straight banking operations would be granting the maximum rate of 9 per cent with no loses		$13,500.00
The expenses would be:		
Interest on certificates of deposit	$7,200.00	
Interest on borrowed money	1,200.00	
Salaries to officers and clerks	4,000.00	
Taxes, insurance, rent, postage, stationery, printing, advertising etc.	3,000.00	
Or a total of		15,400.00
Which leaves a total net loss each year of		1,900.00

Just what should be done to remedy this condition in the future is a challenge to those interested in the financial standing of the state. While I have touched only a few of the high spots in the liquidation problem, I have attempted to show that there is a serious attempt being made to handle the business economically, judiciously and in a businesslike way.

MR. NOSTDAL: I make the usual motion that the address be received and printed in the proceedings and the appreciation of the convention be extended to Mr. Baird.

The motion was duly seconded and carried.

PRESIDENT YOUNG: We will receive the report of the Legislative Committee. Mr. L. R. Baird.

REPORT OF THE LEGISLATIVE COMMITTEE

There has been no session of the Legislature since our last meeting and therefore your committee cannot report the passage of any new laws.

An attempt was made to hold a meeting of the Legislative Committe during the past year but did not meet with much success. This report has been prepared by the chairman, who has attempted to get the ideas of the different members of the committee by conference and correspondence.

If the functions of this committee are properly understood there is little for it to do in a year during which there is no session of the legislature.

It will therefore fall upon the next committee to not only consider recommendations made by this meeting of the Association but also those of a year ago.

It is recommended that such legislative measures as have been approved by the Association be presented to the legislature early in the session that they may have due consideration. Measures presented late in the session are very apt to be pushed aside or buried. It is also recommended that measures to be presented to the legislature be handled by a subcommittee who should prepare the bills and lay them before the proper legislative committees.

As a member of this committee, I offer the suggestion that if the Association really wants all the measures recommended today put through the legislature, that there be placed on this committee men who have not been in the legislature because they would attack the problems with more enthusiasm and hope of success.

L. R. BAIRD, Chairman.

Motion made and seconded that report be adopted. Carried.

PRESIDENT YOUNG: The report of the Committee on Cooperation with the Press.

MR. CUPLER: Just a word of explanation about this committee. The president did not state the duties and purposes of this committee. I think the idea was obtained from a report made by the committee of bar associations during the American Bar Association in which the chairman of that committee emphasized the importance of the bar associations of the country having the duty of correcting certain information gathered in

the press about the lawyers and the courts and the courts' procedure. And it went even further and advised something like a judiciary committee getting to the public things we lawyers do and molding public opinion for measures we advocate. Having said that, I wish to say that Mr. Benton Baker was vice chairman and did most of the work, but out of supreme modesty, he asked me to present the report.

REPORT OF THE COMMITTEE ON CO-OPERATION WITH THE PRESS

To the President and members of the State Bar Association of North Dakota:

Your committee was appointed to cooperate with the Press of our state in obtaining more accurate reporting of news concerning judicial decisions, pending litigations and the efforts of the courts and the bar in matters pertaining to the administration of justice and the promotion of judicial reforms.

It is conceded by all that the public obtains its information about the law and the lawyer almost entirely from what it reads in the Press, and it may be said that the average citizen's respect or disrespect, for the law is gained from the same source. Therefore, it is essential that public opinion thus formed should be based on correct information. In fairness to the courts and the lawyers it must be so based. But, it is the duty of the association to initiate a plan to accomplish this end. With these purposes in mind the president appointed this committee and we herewith submit a report of our activities and our recommendation:

On several occasions there came to our attention news items as well as editorials, in which the effect of Judicial decisions and action taken by bar associations were commented upon inaccurately and in a manner to convey to the lay-public the wrong impression of what the courts and the lawyers had done. A feeling of disrespect for the bar and the court would necessarily result from a reading of these articles. One related to a decision of the Supreme Court affecting the prohibition law; another to action taken by a foreign bar association in the matter of advice to members of automobile associations. There were other similar items noticed by the committee, but these two are sufficient as specific illustrations.

Your committee promptly called the attention of the publishers to the inaccuracies and received expression of a desire to correct the errors and to avoid a recurrence of same.

We approached the N. D. Press Association on the general

subject and after discussion by their executive committee, their president met with the chairman of your committee and expressed approval of the plan and assurance of cooperation by the executive committee of that association. Our president was invited to express his views to the members of the Press Association through its "Bulletin". This was done. A member of your committee has been invited to appear before the Press Association at its annual meeting to be held at Devils Lake August 13th and present our plan for cooperation. This will be done.

We recommend:

1. That in each county a member of this association be designated to act as the representative of this association in cooperating with the Press of his county to see that all such newspaper articles contain correct information and that comments or conclusions are correct and unbiased, and to report to this committee any inaccuracies and the steps taken to correct them.

2. That the services of such representative of our association should be available to all newspapers of his county, without charge, to examine before publication when requested any news article or editorial relating to the subject, and point out any inaccuracies of fact, circumstance or conclusion which he may notice.

3. That the press be furnished news articles as occasion arises giving correct information concerning proposed legislation relating to the administration of justice, reforms proposed by the association, and what is being done by this association and by the courts to improve judicial procedure.

4. To guard against an evil that has been all too frequent in this as well as other states. No news item concerning litigation, or threatened litigation, civil or criminal, prepared or inspired by a party to the controversy, or counsel, and intended to create public sentiment favorable to his side of the controversy should be published, to the end that law suits may be tried in the courts and not in the press.

5. To facilitate the work of the committee every member of the association should call to the attention of this committee immediately all newspaper articles appearing in the press of the state which contain inaccuracies or violate the principles stated above.

6. A committee on cooperation with the press should be appointed each year.

Dated August 1st, 1926.

Respectfully submitted,
A. W. CUPLER, Chairman.
BENTON BAKER, Vice-Chairman.

MR. CUPLER: I should say there that this report was prepared August 1st, and about August 13th the North Dakota Press Association held its annual meeting at Devils Lake and their executive committee requested a member of our committee to attend and to discuss this matter with them, and they would cooperate. Mr. Baker attended that meeting, and reported that he had been well received and found an active body, men willing to cooperate with him, and was advised that their committee would adjust all errors. I move the adoption of the report.

The motion was seconded and carried.

PRESIDENT YOUNG: We will have the report of the Committee on Jury Reform.

MR. LAWRENCE: I assume that in view of the fact that there are several matters that will undoubtedly promote discussion, your plan of this morning should be followed. It would be difficult to take the whole report and swallow it whole.

PRESIDENT YOUNG: That is correct.

MR. LAWRENCE: I will preface this report with explanatory notes.

REPORT OF COMMITTEE ON JURY REFORMS

MR. LAWRENCE: This committee is somewhat inclined to take issue with the use of the word reform. As Dryden said:

"Tis the talent of our English nation still
To be planning some reformation."

It seems, however, to be necessary sometimes to plan what our president this morning in his able and scholarly address termed, "A more efficient administration."

It is to that end that this committee has addressed itself—not for a revolution of the jury system—not a reversal of principles or theory—not a taking away of any vested right, but a seeking after only a more efficient administration of the existing system.

Let it be understood that we are not insulting the great common people nor charging them with dishonesty, but attempting only to provide more efficient machinery to carry out the principles so thoroughly believed in.

May I give you the personell of this committee so it may be seen that these thoughts and recommendations are not the ideas and recommendations of the chairman, but are the product of the life and experience of men who have had much to do with legal history in North Dakota: C. J. Fisk,

Bismarck; Emil Scow, Bowman; D. S. Ritchie, Valley City; W. E. Purcell, Wahpeton; C. M. Cooley, Grand Forks; Fred J. Graham, Ellendale; C. W. Buttz, Devils Lake; J. M. Hanley, Mandan; W. B. Overson, Williston; Fred Jansonius, Bismarck; S. L. Nuchols, Bismarck; W. L. Neussle, Bismarck; and Aubrey Lawrence, Fargo.

While it has not been possible to hold many or lengthy meetings, yet each member of this committee has been able to form immediate judgement from his own experience.

We present seven proposals.

1. *A lessening of the number of jury trials in civil causes.* It needs no argument to this body to establish as a foundation for this recommendation that the courts are clogged and the taxpayer hindered with the trial by jury of numberless cases of small importance.

The constitutional provision of right of trial by jury cannot be eliminated. Other states have, however, provided a way of elimination by requiring a demand and payment of a reasonable fee. The result has been to discourage trial of small cases by jury and prevent the filing of dilatory pleadings in jury cases.

We have had under consideration two statutes—the California and Washington. The California statute is thought too stringent. The Washington statute is:

Remington's 1915 Codes and Statutes of Washington Codes of Procedure, title III, Issues, Trial and Judgment. Chapter 1. Issues in civil actions.

Sec. 313. Issues of Law, How Tried. An issue of law shall be tried by the court, unless it is referred as provided by the statutes relating to referees.

Sec. 314. Issues on Fact, How Tried. An issue of fact, in an action for the recovery of money only, or of specific, real or personal shall be tried by a jury, unless a jury is waived, as provided by law, or a reference ordered, as provided by statute relating to referees.

Sec. 316. Jury Fee—Advance Deposit—Waiver of Jury. In all civil actions triable by jury in the superior court any party to the action may, at or prior to the time the case is called to be set for trial, serve upon the opposite party or his attorney, and file with the clerk of the court a statement of himself, or attorney, that he elects to have such case tried by jury. At the time of filing such statement such party shall also deposit with the clerk of the court twelve dollars, which deposit, in the event that the

case is settled out of court prior to the time that such case is called to be heard upon trial, shall be returned to such party by such clerk. Unless such statement is filed and such deposit made, the parties shall be deemed to have waived trial by jury, and consented to a trial by the court; provided, that in the superior courts of counties of the first class such parties shall serve and file such statement, in manner herein provided, at any time not later than two days before the time the case is called to be set for trial.

Sec. 317. Fee Deposited to Be Part of Costs. The amount deposited by the party demanding a trial by jury shall be a part of the taxable costs in such action. The amounts received by the clerk on account of jury fees shall be accounted for as such other fees received.

Sec. 318. Agreement to Refer. The (waiver of a jury or) agreement to refer, shall be by stipulation of the parties filed, or the oral consent of parties given in open court and entered in the records: provided, that nothing herein contained shall be so construed as to restrict the chancery powers of the judges, or to authorize the trial of any issue by a jury when the complaint alleges an equitable claim, and seeks relief solely upon the ground of the equities of the demand made by the pleadings in the action.

The committee recommends the introduction and passage by the legislature of the Washington statute and I move the adoption of this part of the report.

The motion was duly seconded and carried.

II. *An improvement in the manner of securing the jury list.* Our present statute brings the names of prospective jurors from many sources—many not qualified to serve—indifferent to the qualification of a juror and sometimes influenced by personal desires or demands.

It is of vast importance that the personell of the jurors be improved, not from the standpoint of honesty or integrity, but to secure jurors of some business experience, knowledge of the affairs of life and mentally equipped so that just determinations may be made.

To that end we recommend the preparation of a bill and the securing of a law modeled after the federal statute and providing for a jury commission of one to two jury commissioners to act with the clerk of court in securing the list of names.

The federal statute is this:

Jurors, How Drawn—Judicial Code, Sec. 276, Amended. That section two hundred and seventy-six of an act entitled, "An

act to codify, revise and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven, be, and the same is hereby amended so as to read as follows:

"Sec. 276. All such jurors, grand and petit, including those summoned during the session of the court, shall be publicly drawn from a box containing, at the time of each drawing, the names of not less than three hundred persons, possessing the qualifications prescribed in the section last preceding, which names shall have been placed therein by the clerk of such court, or a duly qualified deputy clerk, and a commissioner, to be appointed by the judge thereof, or by the judge senior in commission in districts having more than one judge, which commissioner shall be a citizen of good standing, residing in the district in which such court is held, and a well-known member of the principal political party in the district in which the court is held opposing that to which the clerk, or a duly qualified deputy clerk then acting, may belong, the clerk, or a duly qualified deputy clerk, and said commissioner each to place one name in said box alternately, without reference to party affiliations until the whole number required shall be placed therein." (39 Stat. L. 873.)

The committee would welcome a thorough discussion of this question and the adoption, at least in substance, of some such procedure.

I move the adoption of the federal system.

MR. BEEDE: What are you going to do in small towns where you cannot get three hundred men?

MR. LAWRENCE: Three hundred men are not essential.

MR. BEEDE: Why do you assume the county commissioners can select better names than the present system?

MR. LAWRENCE: A few months ago I was in Bismarck talking to a prominent member of the bar who said that they had a prominent case that they did not want to try because of the members of the jury. It is true, and I think most of us recognize that notwithstanding the good faith of township boards, many feel the need of using a new method in selecting jurors.

MR. MCKENNA: Do I understand that these commissioners would take these men from the tax lists and pass on them personally as to whether they are qualified to sit?

MR. LAWRENCE: Yes, either from the tax lists, or in some districts, they have a certified list of names. Then the commissioners have some data on which to base these lists.

JUDGE ELLSWORTH: I am quite well aware that there is a

defect in our present system in selecting juries. Nevertheless, I think it is better to abide by the system we have rather than to fly to those we know not of. There are great objections in the system presented by this report. That should operate successfully in the federal courts, but there is a difference of conditions that would make it inapplicable in small jurisdictions in the county courts. In the former, they have the whole state of North Dakota to choose from. In a county, there may be three hundred persons eligible for jury terms. Also it seems to me that local boards and city councils, if they are composed of men of ordinary business ability, have the better knowledge of those in the city who are dependable, than a small commission residing in the county seat. Take Stutsman county before it had a civil townships. Jamestown is sixty miles from some of these townships. Would a commission in Jamestown have the same knowledge of persons sixty miles away that the township boards would have? It seems to me that though the present system is defective, the one that is reported here would not prove to be any more satisfactory. I would prefer to continue under the present system.

PRESIDENT YOUNG: You have heard the motion. Those in favor say "Aye." There is a doubt in the mind of the president. Will those in favor of this motion stand?

The motion was carried 39 to 25.

III. *Number of peremptory Challenges.* It has been the experience of those on this committee who have presided at jury trials that the present number of peremptory challenges in civil cases (six on a side) is too great. It is too large an aid to the removal of competent jurors and it requires the drawing and keeping under expense of too large a jury panel.

We recommend that in civil cases there be but three peremptory challenges on a side.

We also recommend in criminal cases the state have as many challenges as the defendant.

I move the adoption of the recommendation that peremptory challenges be reduced to three from six, in civil cases.

JUDGE BERRY: It is my desire and perhaps my duty to oppose this motion for the reason that I was the individual that drafted the bill that changed the law from three to six. At the same time that I drafted that bill and submitted it to the legislature, I drafted two other bills equalizing the challenges in criminal cases so that the state would have the same number as the defense. Those three bills were presented by me after due consideration. At that time Judge Young was living. I approached

him on the subject and handed him the three bills and after looking the three bills over, he told me he would use his best effort to increase the number of peremptory challenges to six. So he was in favor of that and he secured the passage in the senate, and I was able to secure it in the house and it was enacted. The principle of it is this: It may not be in some counties, as Cass and Stutsman, where you can select jurors from a wide territory that you have trouble to select jurors when they are limited to three, but in small counties it often happens that when a case comes up in one end of the county, half of the jurors know of that case or are concerned with it, and their suspected prejudice cannot be brought out in oral examination, and in those cases it is important that an attorney should have an opportunity to use six challenges. I don't know why Judge Young was in favor of that law. I realize, myself, that there are some objections to it. It takes longer sometimes to pick a jury and where one attorney will take advantage of every opportunity to challenge a jury peremptorily, it becomes a nuisance. But in Mercer county we had three brothers on a jury panel, and if you took a peremptory challenge against one, you would have to dispose of the brothers, and what would you do in such a case? There are many times when a man's disposition cannot be brought out in a question so that the court will excuse them. I want it the way it is.

MR. WEHE: I think that the system that we have now is working out very well. We had the other system for a long while and I think it is now generally satisfactory. I am heartily in accord with Judge Berry.

MR. LAWRENCE: I would like to hear from other district judges, from experience.

PRESIDENT YOUNG: We are ready for the question. All in favor of the recommendation say "Aye." Opposed "No." The motion is lost.

IV. *Jurors' excuses.* Too many of the better qualified jurors seek always to be excused on the plea of business, lack of time or some other reason, thus diminishing the quality of the jury and resulting in a less competent body of men to pass on the property and rights of others.

We recommend the promulgation of a court rule prohibiting the excuse of a juror except for good cause shown in open court. It is assumed judges have heretofore used discretion in determining good cause but we believe a rule could be formulated which would assist the trial judges in reducing the number of excuses.

I move the adoption of this part of the report.

Motion seconded and carried.

V. *Examination of jurors as to their qualifications to serve.* The object and purpose of the trial by jury is to secure a just decision and a proper determination of the rights of persons and property. To hour after hour question jurors is not only a waste of time but an increase of expense to the taxpayers and a means of trying to trap some honest man whom the trial lawyer may for personal reasons desire to remove. Such examinations are safe in the hands of the court. He is as competent as the lawyers to discover prejudice and bias and not nearly as interested in spending time and money. If necessary, upon request, the court might permit special examination of some particular juror.

We recommend the passage of a law providing for such examination by the trial judge.

MR. DIVET: I am in sympathy with the general proposition, but this goes too far. I don't think it is safe or advisable to go any farther than to give the judge permission to examine the jurors, but without curtailing the power of the counsel to examine them. The examination by the judge will set the juror at ease so he will not be confused by the examination of counsel, and the jury having been exhibited by the examination of the judge, will limit the examination of counsel. The examination of counsel will not be long at that time. I certainly am opposed to the question as broad as it is put. There is no question but the judges have the authority to examine the jurors now, but there should be a regulation in law that they take charge of the first examination of the jurors and clear the way.

MR. LAWRENCE: I think I may take the liberty of speaking for the committee, but the committee would welcome an amendment to that effect.

MR. DIVET: Mr. Stutsman has our report in the language that I approve it. If Mr. Stutsman will read it.

MR. STUTSMAN: "That the judges be given power to examine the jury before they are examined by counsel, and in all cases he be permitted to determine the competency of the jury, and his determination should not be the subject of rebuke." I move the amendment as read.

Seconded and carried.

VI. *Penalty for false answers as to qualifications.* A specific statute should be passed and the jurors attention called to it that a false answer under such examination carries a severe penalty. It is true general statutes may control at this time, but are overlooked and forgotten. We recommend the passage of such a law and move the adoption of this part of the report.

Seconded and carried.

VII. *Comment on facts by the trial judge.* The president this morning in his annual address called attention to this question and well answered some so-called objections.

The court's honesty is to be no more impugned than a juror's. The judge has a trained and educated mind. He has the experience that aids him in analyzing facts—why should not the jury have his aid and assistance. It is not controlling. In this day and age it is not predominatingly influencing, but to the juror seeking a proper understanding must be of assistance. We recommend the passage of a law providing for such a right to reside in the trial judge to, in civil cases, be exercised in his discretion.

This committee has no pride of authorship of any idea. It has simply recommended what in its judgment would make more efficient the administration of justice and welcomed the full and free discussion of these questions.

I move the adoption of this part of the report.

Motion seconded and carried.

PRESIDENT YOUNG: The report of the committee will be received and made a part of the proceedings. We will now have the report of the committee on salaries of judges. The secretary will read the report.

REPORT OF COMMITTEE ON SALARIES OF JUDGES

Your committee on salaries of judges begs leave to report:

Owing to the scattered residences of the committee there has been practically no opportunity for personal meeting, and the greater exchange of ideas has been handled by letters.

The committee has had before it certain resolutions presented at the last annual meeting of the association, and which were disposed of at that time by referring the matter to this meeting for further consideration, and continuing the committee; also the various reports made by the committee on salaries of federal judges, appointed by the American Bar Association, and has on its own accord made certain inquiries with practicing attorneys and others as to conditions and sentiment in neighboring states bearing on this matter.

The history of judicial salaries in this states shows that the salaries of district judges were last increased in the year 1907 from $3,000 to $4,000 a year and that the increase in salaries of justices of the supreme court from $5,000 to $5,500 a year was made in 1917. And going outside of this state we find that in

South Dakota salaries of public officers are fixed by the constitution of the state, and are considered so inadequate that after several unsuccessful attempts to increase such there is this year being submitted to the voters of that state an amendment to the constitution and which, if carried, would fix the salary of justices of the supreme court at $6,500 and that of judge of the district court at $5,000 a year. It is further found that in 1919 the state of Wisconsin increased salaries of supreme court judges from $7,500 to $8,500, and Oregon from $4,500 to $7,500 a year. That in 1920 Nebraska increased the salary of the same offices from $4,500 to $7,500 and Kansas from $5,000 to $6,000; and that in 1921 the state of Michigan provided for an increase in salary of same office from $7,500 to $10,000, and Wyoming from $5,000 to $7,000

The majority of the committee is agreed that the present salaries paid our justices of the supreme court and our judges of the district court are insufficient; that the advanced costs of living, the increased requirements generally and the reduced values of established salaries suggest at once the inadequacy of such salaries.

There is a tendency at times to discuss this matter as one of chief, and almost exclusive, concern of the lawyers, and to consider as natural that lawyers would advocate an increase in salaries of judges and do so as a matter almost of self-interest. Such is a wrong view-point and one to be deplored.

As our government is built on certain principals and certain fundamental truths, which we name laws, and as our entire activities as useful citizens are governed and regulated also by laws, we may say that ours is a government of laws rather than of men. And how important is it not then, that those who hold the scales of justice in their hands, our judges, should be of the most unimpeachable character, should be of the best of our citizens, and those most learned in the laws. Is it saying too much that the stability of our government is resting heavily on our judicial tribunals?

We must assume that our judges are of the best lawyers, and are measuring up to the highest standard of the legal profession, to say that there are men on the bench not of the fittest for the job effects in no way the requirements of the position; it is the measure of a most important branch of our government, it is the efficacy of an institution, which is here involved. And after all we are happy to say that all through the land our judges are measuring up well to the exact, and yet sensitive, standard, so absolutely essential in our delicately balanced form of government.

And to secure and retain such men on the bench is the concern, not only of lawyers, but of every man, woman and child in the commonwealth.

There are things that money cannot buy; there are services rendered which cannot, and should not, be measured in terms of dollars and cents, and chief among such is the loyalty, integrity, wisdom and faithful work of our judges. But some measure of a reasonable compensation must be adopted also here.

Conceding that the honor of the office is great, and is compensation of a high kind, yet, such alone is not sufficient to maintain the high standard of our judiciary; these men should receive a compensation sufficient to maintain themselves and their families in reasonable comfort, and allowing for the accumulation of at least a modest provision for the proverbial "rainy day." The very nature of the office suggests this: we are all human, and of all positions of trust and responsibility that of judge implies a cool head, a well-balanced mind and an impartial attitude towards any and every situation, and many of us know from actual experience that financial stress and economic worries are very disturbing elements.

The recommendations being made by this committee are based on expressions by a majority of members of same, either by letter or orally, indorsing in principle increases in judicial salaries, and the amounts of such herein suggested representing a compromise of several proposals made within the committee. It is thought that the amounts suggested are moderate, and are far from providing the amount of increases suggested by some of the members.

Your committee therefore *recommends*:

That this association indorses in principle the proposition that increases be made in the salaries of justices of the supreme court and judges of the district courts of this state;

That the salary of a justice of the supreme court be $6,500 and that of a judge of the district court be $5,000 a year;

That a bill be prepared by this committee and presented by it through the legislative committee of the association to the next session of the state legislature embodying therein the recommendations herein made as to judicial salaries;

That this committee be continued.

ROBERT NORHEIM, Chairman.

MR. MORTON: Referring to the salaries of the judges, Mr. Divet is chairman of a special committee. We have no report

to make, but Mr. Divet is in position now to offer a resolution, and I would like to have the statement of Mr. Divet.

MR. DIVET: The last convention continued it to this meeting. The committee offers the following resolution and moves its adoption:

Resolution

Be it Resolved—It is the sense of this association that the present salaries of justices of the supreme court and judges of the district court are inadequate and in reason and justice should be increased. We therefore earnestly recommend to the coming legislature that it give most serious consideration to the subject and provide for a reasonable, but substantial increase of such salaries.

It is hereby directed that the matter of so bringing the subject before the next legislative session be referred to some appropriate standing committee or a special committee in the discretion of the president with instruction to use all appropriate and proper inflence of the association to bring about the enactment of a statute providing adequate compensation to these important public officers.

Motion seconded.

MR. KNAUF: I would like to move an amendment to this effect, that there be also included in that list of judges whose salaries would be raised, a list of county judges of increased jurisdiction.

The motion was carried as amended.

PRESIDENT YOUNG: We will consider Mr. Stutsman's report because it was related to the other report. The committee on powers of judges.

REPORT OF COMMITTEE ON POWER OF TRIAL JUDGES

This committee was appointed as the result of comment of a distinguished judge in addressing the association at its 1925 session. He suggested that much of the inefficiency, assumed or actual, of our state courts was due to lack of power in the presiding judge to control the procedure and advise the jury. Many jurists and practitioners share with this eminent judge the belief that the abolition of the common law power of judges to comment upon the effect of the evidence has resulted in much miscarriage of justice.

It is likewise a quite common belief that the judges of our state courts have too little control over the conduct of trials.

It is our belief that there are no such glaring defects in our system as are frequently attributed to it, and we do not observe the need of many changes. The majority of this committee are, however, of the belief that the administration of justice would be improved by the following changes:

First: Our statutes, and if necessary our constitution, shou'd be so amended as to permit the trial judge to comment on the weight and effect of the evidence in both civil and criminal cases, accompanied always by an instruction to the jury that the opinions or beliefs of the judge were merely advisory, and that the jury was charged with full responsibility for the decision of questions of fact.

Second: That the judge should be given the power, if he does not already possess it, to examine jurors as to the competency to serve, before their examination by the counsel; and that he should in all cases make such examination with a view to ascertaining their actual fitness and competency to serve as jurors in the particular case, and that his discretion in excusing a juror of his own motion should in no event be the subject of review.

W. H. STUTSMAN, Chairman.

MR. BOTHNE: I take it, Mr. Chairman, that is not a unanimous report. However, I move its adoption.

MR. MCCURDY: I am afraid of that resolution. That is following the federal court rule, but most of the federal judges use that power very, very sparingly. They find it necessary to use it sparingly because of the influence of the words of the court on the minds of the jury. In the federal courts they have more intelligence. There is greater danger in the state courts. I have in mind many juries, in which, if the judge were to comment in any way, the juries would follow it. There are two sets of circumstances that come to my mind in which it would be followed: 1. When the jury is of such intelligence that they don't care very much. 2. The other is where it is a disagreeable question, and the jury will shirk and pass it to the judge.

MR. BOTHNE: To my mind, it seems it is a question of power.

JUDGE ELLSWORTH: I am unalterably opposed to anything that gives a judge a right to comment on the character of the evidence or the appearance of witnesses. Our system has reached the point where in the trial of fact, the jury is supreme; in the trial of law, the court is supreme. To adopt a resolution of this kind would be going back a hundred years.

SECRETARY WENZEL: May I call attention to two addresses at Denver printed in the last American Bar Association Journal,

one by Dean Pound of Harvard and one by Professor Sunderland of Michigan, in which they urge the adoption of this matter.

MR. LEWIS: In the present situation, the judge remembers that he must imitate the meek and lowly oyster. As to the actual expression of opinion by the court, in the federal court, that is rarely used, but of great value is the analysis of the evidence which is done in federal court. It cannot be done in state courts. We would gain immensely if the judge had that power, as he could analyze the situation without giving an opinion.

MR. CAMPBELL: I move that the two reports be submitted separately.

PRESIDENT YOUNG: If agreeable, let us confine the motion to the first recommendation, commenting on the evidence.

MR. DIVET: I am as loath as anyone to depart from the established landmarks. But here we are not dealing with the landmarks, but a new innovation of the right of trial by jury. We are dealing with a popular situation that contributes to delay of justice in trials of jury cases. I think the time has come when the bar has got to meet the charge of conservatism and reactionaryism. I believe that great benefit would come in the adoption of this resolution as it has come in the sister state of Minnesota. I don't mention differences in appellate courts. There would be greater benefits there in preventing reversals because of the comments by judges. A restoration of the common law on trials by jury guards against the judges giving frank instructions and finding in several cases that they have over stepped the boundaries. The public understanding that is abroad is bringing condemnation on us as lawyers and on the courts, and justifies the giving way of considerations of our own prejudice. Many of the states in the union have the law we are seeking to draft. We are not seeking to increase the court's power, but are correcting a mistake that was prevalent, in adopting this system. No greater harm will come and if it proves a failure, the remedy will be with the same body that makes the change, if it is necessary. We have the right of discontinuing it. The prediction, the prophecy in Mr. Baird's report of a little while ago, shows our action is awaited. I would like to go on record as being willing to consider the motion, in the firm belief that no harm can come from it.

PRESIDENT YOUNG: Those in favor say "Aye." Motion carried.

MR. KNAUF: Division.

PRESIDENT YOUNG: Those in favor of amending the constitution permitting district judges to comment on the evidence stand. Those opposed stand.

Motion carried 32 to 25.

PRESIDENT YOUNG: Motion as to the second recommendation of Mr. Stutsman. What was the second proposition?

SECRETARY WENZEL: Examination of jurors by the court.

PRESIDENT YOUNG: The recommendation permits examination by the court, but does not prevent an examination by counsel.

MR. STUTSMAN: No, only that it would supposedly be the same by counsel.

Motion carried.

PRESIDENT YOUNG: Mr. Lewis will present the report of the committee on terms of judges. Mr. Lewis.

REPORT OF COMMITTEE ON TERMS OF JUDGES

Your committee on terms of judgs respectfully presents the following report:

At the present time in almost every state judges are chosen by popular election. There is much variation in the terms, from life in case of some appointed judges, and seventeen years in the case of some elected judges, down to two years. By far the most common length of term is six years for judges of the highest court and four years for nisi prius judges.

We are of opinion that a democracy must rely for its successful operation partly on the services of experts and, that to secure such services in our courts, a long tenure is desirable and important. This is always a difficult lesson for a democracy to learn, the popular feeling that one man is as good as another, being made the basis of the totally unjustified conclusion that one man can do any kind of work as well as another. There are real disadvantages in life terms for judges, the principal danger being that the incumbent will get out of touch with changing conditions and especially in constitutional questions, be unduly influenced by conservative views. We think this danger not large enough to counterbalance the greatly increased efficiency of judges with long experience and free from the unconscious influence of politics. We do not think in the present state of feeling, that it would be possible to secure either a life term or a very long term for judges in this state, but we do think the people are sufficiently impressed with the desirability of lessening the present frequent election changes, so that it would be possible, and is very desirable, to lengthen the present term of our judges. We therefor recommend that such terms be lengthened by con-

stitutional amendment to ten years for supreme court judges and six years for district court judges.

Respectfully submitted,
J. H. LEWIS Chairman.

MR. LEWIS: This is submitted as the unanimous report of the committee and I move its adoption.

The motion was seconded and carried.

MR. MCINTYRE: You appointed Mr. Cupler and myself as a special committee. We are ready to report.

PRESIDENT YOUNG: Submit it.

MR. MCINTYRE: Certain individuals and associations are engaged in the practice of law, and go out and solicit new business and handle it in various ways. We wanted to check it. To our surprise, we found no statute that defines the practice of law and no penalty for practicing without a license. Your committee recommends that the committee on law reform draft a bill which would define what constitutes the practice of law and for a penalty for violation.

Motion carried.

PRESIDENT YOUNG: I find that the secretary and I have had a misunderstanding on the report on American citizenship. A report was submitted to which were appended certain recommendations. I would like to dispose of the report.

Mr. Wenzel read the recommendations of this committee, whose report, complete, was as follows:

REPORT OF THE AMERICANIZATION COMMITTEE

The work of this committee has followed along the same lines as in preceding years, the correlation of patriotic workers being as nearly maintained as possible, and while all has not been accomplished that was planned, worth while work has been done.

The committee has been rendered splendid assistance by George H. Paine, of Philadelphia; F. Dumont Smith, chairman of the committee on American Citizenship of the American Bar Association of Hutchinson, Kansas; the National Security League of New York City; Judge A. T. Cole, of Fargo; the American Legion; the North Dakota Federation of Women's Clubs, and the county and state superintendents of schools and superintendents of city and consolidated schools, and the teachers under them, and the bar of the state, all having responded generously in time and preparation in carrying to the people a knowledge of the constitution and good citizenship.

The American Legion appointed a committeeman on Americanization in each county and an attempt was made to secure the cooperation of the American Legion committeeman where he differed from the Bar Association committeeman. The North Dakota Federation of Women's Clubs has signified its desire to cooperate in the work by appointing a member of its organization in each county for Americanization work, and it would appear by organizing a committee of three in each county throughout the state, consisting of a member of the bar, of the American Legion and of the Federation of Women's Clubs, that a committee would be secured which would insure at least some work in every county throughout the state.

The efficiency of every organization is dependent upon the work done in each of its departments, and a committee such as we have is efficient only as each member of the committee performs his allotted part of the work.

Of the fifty-three county committeemen of the American Citizenship committee in this state, nineteen have made no response to letters addressed to them relative to the work, and five others have reported nothing done, which makes the committee a little better than 50 per cent efficient.

However, there is a great deal of encouragement to be received by the accomplishment of those who have given the work attention, the results of which work will be of lasting benefit to the several communities.

The committee wishes to especially commend the work accomplished by committeeman John G. Pfeffer of Cass county, T. L. Brouillard of Dickey county, George P. Homnes of Divide county, and Vice-President A. G. Porter of LaMoure county.

The committee has distributed a great amount of literature pertaining to the American constitution and citizenship, and has found, due to demands for the Correlated Patriotic Workers Association pamphlet, compiled and distributed first by John Knauf, while chairman of the committee, that it was necessary to reprint some two thousand copies for distribution.

A number of the committeemen besides those especially mentioned have done excellent work in their several counties in distributing literature touching on the constitution and kindred subjects, and in securing the cooperation of others in the work, and supplying speakers for various occasions giving patriotic addresses along the lines of the work of the committee.

The work in twenty-nine out of the fifty-three counties has reached nearly every school, and many of the patrons of those schools.

The object is to get a real working committeeman in every county in the state who will secure the cooperation of those interested in the work in each county (and there are many in each county, if they were properly approached, who may be interested and who will greatly assist) and to reach every resident of the several counties in the state with the work until every one has an understanding of the American constitution and the advantages thereby secured to the individual.

The committee this year attempted to put across a state wide essay writing contest and succeeded in five counties, and three other counties made an attempt and the work partly done but not finished. A number of the committeemen have shown interest in this work and have signified that in another year they would attempt to more fully cooperate in the work.

Recommendations

First: That the report be accepted, approved and adopted.

Second: That the improvement of American citizenship be retained as one of the objects of the State Bar Association.

Third: That the correlation secured by the Correlated Patriotic Workers Association be continued.

Fourth: That the lawyers throughout the state be advised of their duty of taking advantage of all opportunities offered to educate the people of the state on the constitution of the United States and of the state of North Dakota.

Fifth: That the State Bar Association be liberal with its appropriation for the use of the American Citizenship Committee so that the work may be efficiently carried on.

Sixth: That the State Bar Association provide suitable prizes to be awarded for the best essays on the United States Constitution written by a pupil of the high school, and by a pupil in the grammar grades in the state of North Dakota.

CLARANCE G. MEAD, Chairman.

SECRETARY: I move the adoption of the report.

Motion seconded and carried.

PRESIDENT YOUNG: Now there is another report which does not come as a report from the committee. I shall ask Mr. Adams to submit the report of the Bar Board at the afternoon session.

MR. NOSTDAL: Just before we come to that, I believe it is necessary to have a motion to the effect that all these recommendations be submitted to the legislative committee for proper action. I make that motion.

Motion seconded and carried.

ANNUAL REPORT OF STATE BAR BOARD

June 30, 1925, to June 30, 1926.

Although there is no provision of law for an annual report by the State Bar Board to any state officer or other board, the present board feels that this state association is entitled to a report of its doings and especially a financial report.

We therefore submit the following report for the year ending June 30, 1926:

Finances

Balance in fund June 30, 1925, as per records of state auditor	$13,495.23
Transfer of Bar Board Fund to General Fund, as per legislative act	10,000.00
Balance in fund after transfer, June 30, 1925	$ 3,495.23
Collections between June 30, 1925, and June 30, 1926	6,605.00
Total	$10,100.23
Expenditures	5,237.79
Balance, June 30, 1926	$ 4,862.44

Distribution of Expenditures

State Bar Association, under the statute	$2,770.00
Secretary, salary and expenses attending meetings	346.97
Per diems and expenses, members of Bar Board	1,338.60
Attorneys fees and expenses—disbarment cases	253.33
Postage	28.25
Supplies	54.78
Miscellaneous	2.57
Printing	208.29
Clerk hire	235.00
Total	$5,237.79

Members of the association, who will remember the previous year's report, will notice that the amount paid over to this association is about $750 less than the previous year. This is explained by the fact that a year ago a compromise was arrived at between the association and the Bar Board whereby $3,500 was paid to the association.

In the matter of the item, "attorneys fees and expenses in disbarment cases," the board spent this year about $1,300 less than last year otherwise the items of expenditure are approximately the same year by year.

It will be noted that the fund has gained $1,367.21 over the balance on hand June 30, 1925.

During the past year the board has again conducted two general examinations for admission to the bar and thirty-two applicants have been examined, twenty-nine of whom have been admitted to practice, and three of whom failed. The records of the board show that on June 1, 1926, 538 attorneys were duly licensed to practice in the state. All examinations are now held at Bismarck.

The board is publishing annually a printed list of licensed attorneys which is of value to members of this association and to the courts of the state, and incidentally proves to be a good collecting agency. Shortly after its publication each year the board begins to hear from delinquent attorneys and the license fees flow in. We are glad to say that only a few of the reputable attorneys of the state are derelict or careless in the payment of their license fee.

During the past year the board has carefully investigated charges against four attorneys practicing in the state, in addition to referring a large number of minor matters to the committee on internal affairs of the State Bar Association. Some of these matters are now pending before referees appointed by the supreme court and others have been closed and disposed of.

The board again invites the criticism and co-operation of the attorneys of the state, especially to the end that the requirements for admission to the bar may be gradually raised and the ethical standards required by statute and the Canon of Ethics rigidly maintained.

S. V. ADAMS, President.

ELECTION OF OFFICERS

PRESIDENT YOUNG: Nominations for president are in order.

JUDGE BAGLEY: Gentlemen of the Bar Association: Shortness of time prevents me from making remarks adequate to the occasion, and certainly inadequate to the feeling I have for the man I am going to nominate. That man and I have been close friends from early childhood. We were close in youth and it is growing deeper now that we are becoming elderly men. From that friendship, I know that he is qualified to be president of the Bar Association of North Dakota. A gentleman without reproach, a scholar of attainment, a lawyer of worth, and in daily life, he applies the rule, "Do unto others;" he is now vice-president and as such he is entitled to succeed to the position of president. I take pleasure in presenting as president, W. A. MacIntyre, of Grand Forks.

MR. LAWRENCE: I move that no further nominations be received and the secretary be instructed to cast a ballot.

Seconded and carried.

SECRETARY WENZEL: Ballot is cast.

MR. LEWIS: It meant a great deal to this Bar Association when it was incorporated by law and could do its work more efficiently. We have yet more important work. We want our very best men in order that our work may be more efficient in the future. I want to present as vice-president an out-standing member of the bar. I shall not take the time to tell you of his qualifications as he is one than whom no better could be found in the state. This Bar Association can do no better. For the sake of the North Dakota Bar Association I present as vice-president the name of Aubrey Lawrence.

MR. KNAUF: I second the motion and move that nominations be closed, and the secretary cast a ballot for Mr. Lawrence.

Carried.

SECRETARY WENZEL: Ballot cast.

MR. BURNETT: During the past two years we have had the advantage of the services of our present secretary, we will gain by a continuity of service and we will show our appreciation by continuing that secretary in office. I move for secretary, R. E. Wenzel.

MR. KNAUF: I move that the ballots close and that the president cast a ballot for Mr. Wenzel.

Seconded and carried.

Ballot cast.

PRESIDENT YOUNG: We will have the report of the committee on resolutions.

MR. BURNETT: Your committee on resolutions beg leave to submit the following report:

The members of the State Bar Association of North Dakota extend to the bench and bar of Burleigh county their hearty thanks for the fine program and the entertainment provided us at our annual meeting.

We desire to express our thanks and appreciation to the ladies of Bismarck for their entertainment and their kindness to us and to the visiting ladies.

We wish to express our hearty appreciation to the different speakers on the program for the able manner in which they presented the questions discussed by them, and particularly to those

who have come from a distance and from outside our state; Chief Justice Harry Olson, of the Municipal Court of Chicago; Chancellor Melvin A. Brannon, of the University of Montana, and Gov. Theodore Christianson of Minnesota.

We further wish to convey to our retiring president, C. L. Young, our hearty thanks and our appreciation of his services during the past year. We also thank R. E. Wenzel, our secretary, as well as other officers of this association for their good services during the past year.

We appreciate the hospitality of the citizens of Bismarck generally, and the kind treatment we have received while here. We feel that our meeting has been a decided success and we hope we may come again.

W. F. BURNETT, Chairman.
WM. G. OWENS
ALOYS WARTNER
PAUL W. BOEHM
FRED J. TRAYNOR

MR. BURNETT: Mr. President, I move the adoption of this report.

PRESIDENT YOUNG: All in favor say "Aye."

Carried.

MR. BURNETT: I have one other resolution that I want to make: Your committee on resolution submits the following: A resolution endorsing a meeting of the American Legion in France next year. This convention will interest no less than forty million who saw service in the war and thirty million are making the trip. President Coolidge has endorsed it. It will take four weeks time. The State Bar Association endorses the American Legion and I move the adoption of the following resolution:

WHERAS, The American Legion proposes to hold its ninth annual convention in Paris, France, during September, 1927, and

WHEREAS, this convention is of interest to more than 4,000,000 veterans who gave patriotic service during the World War, 30,000 of whom will probably make the trip to France with the Legion in 1927,

WHEREAS, President Coolidge has given the convention his hearty endorsement and the government of France has issued a cordial invitation to the veterans of the United States, that they make a sacred pilgrimage to the graves of their comrades on the soil of France, and

WHEREAS, it is needful that this convention be representa-

tive of the entire nation, drawing its membership from all economic classes which gave service during the World War, and

WHEREAS, it will require at least four weeks to make the journey to France and back, a longer vacation time than the average ex-service man can normally obtain, and

WHEREAS, employers in all parts of the country are cooperating with their ex-service employes in enabling them to have definite assurances of at least four week vacation in 1927,

THEREFORE, BE IT RESOLVED, that the State Bar Association of North Dakota in convention assembled endorse the France Convention of the American Legion and urge employers, wherever possible, to cooperate with their employes in granting at least four weeks vacation during 1927, thereby making it possible for thousands of men who served the nation unselfishly during the World War to join a great pilgrimage back to the scenes of their conquest, while they will pay solemn tribute to the heroes of America buried in a foreign land, and on the occasion of the tenth anniversary of the entry of the United States into the World War, through the convention of the American Legion in Paris, rededicate themselves to the ideals of freedom and democracy for which the war was fought.

W. F. BURNETT, Chairman.

The motion was seconded and carried.

MR. WOOLEDGE: I wish to read a telegram just received, although I know that no action can be taken on the matter at this time. It is from the Minot Association of Commerce, and reads: "Please extend to the North Dakota Bar Association a cordial invitation to come to Minot for the convention in 1927. We have hotels, convenient meeting places and famous entertainment accommodations. We will do everything in our power to make the meeting a success."

PRESIDENT YOUNG: This matter will be referred to the executive committee. The secretary will read the telegram of appreciation received from F. T. Cuthbert of Devils Lake, and which is in response to the telegram of sympathy sent him by the association. (Telegram read. Applause.)

PRESIDENT YOUNG: Mr. Knauf will present the special resolution to carry out the intent of the recommendation of the executive committee in its report to this association. Judge Knauf.

WHEREAS, the law of the state of North Dakota has made of the State Bar Association of North Dakota a legal entity and has and does require of each and every practicing attorney and counsellor at law residing and practicing his profession within

the state of North Dakota to pay into the treasury of the state of North Dakota, a license fee of Ten and 00-100 (10.00) dollars annually, one-half of which is turned over to the State Bar Association, and the other one-half is presumed for use and maintenance of the State Bar Board; and

WHEREAS, there has at one time been taken from said board from the special funds paid therein by the attorneys and counsellors at law in the state of North Dakota, the sum of Ten Thousand and 00-00 (10,000.00) dollars and the same placed into the general funds of the state of North Dakota, without the authority or desire of the State Bar Association of North Dakota, and

WHEREAS it now appears that there is approximately Four Thousand and 00-00 (4000.00) dollars of funds so paid by the members of the Bar Association of North Dakota in the Bar Board fund and unused, and

WHEREAS it appears unnecessary at this time to use all of said fund, and

WHEREAS the State Bar Association of North Dakota has not sufficient funds with which to aid its scholars, professors, and teachers in the carrying on of the research work, the Americanization work, so necessary in behalf of the people the state of North Dakota,

NOW, THEREFORE, BE IT RESOLVED that the legislative body of the state of North Dakota be requested to pass such legislation as may be necessary to divert annually any unexpended balances in said special State Bar Board Fund from that fund to the general usage of the State Bar Association.

BE IT FURTHER RESOLVED, that this matter be referred to the legislative committee of the State Bar Association and such other special committee as the president of the State Bar Association may direct.

MR. KNAUF: I move the adoption of this resolution.

Motion seconded and carried.

PRESIDENT YOUNG: I think of nothing which is left, with the exception of one matter which has not slipped my mind, and that is the adoption of the report of the committee on jurisprudence and law reform. This morning we adopted the seven resolutions, but along with it was a reference to the association for its action on the other recommendation of the States Attorney's Committee. There can be no disagreement on this proprosition, that our time for the afternoon is gone. Does the association desire to make some recommendation for taking care of the matters that are referred back?

MR. DIVET: I suggest and move that they be referred to the standing committee on legislation. Every purpose will be served.

Motion seconded and carried.

PRESIDENT YOUNG: There has been a satisfactory attendance at these sessions. I don't remember when the attendance was so general, or there was such an interest. I feel we have accomplished a great deal. We are adjourned to reconvene for the evening sssion at the banquet.

MR. NOSTDAL: I suggest that a resolution be adopted expressing the appreciation of this association of the work of the president and the secretary in arranging for this meeting. Therefore, Mr. Vice-President, I move that the thanks of this association be extended to the outgoing president and to the secretary for the excellent manner in which this meeting has been arranged and conducted and for the work that has been done by them.

SECRETARY WENZEL: I move that the name of the Judge A. M. Christianson be substituted for that of the secretary.

MR. NOSTDAL: I will add the name of Judge Christianson.

Motion seconded and carried.

In Memoriam