

**STATE OF MINNESOTA
COUNTY OF WINONA**

**DISTRICT COURT
THIRD JUDICIAL DISTRICT**

**In the Matter of the
Memorial Services for
Mr. Herbert M. Bierce.**

* * * *

The January, 1963 Term of the District Court of Winona County was opened on January 14th at 11:00 o'clock A.M., the Honorable Leo P. Murphy presiding, and almost every member of the Winona County Bar Association was in attendance.

THE COURT: Mr. Lindquist, you, as President of the Winona County Bar Association have, I believe, a special matter to be brought before the Court?

Mr. LINDQUIST: Yes, Your Honor, on behalf of the Winona County Bar Association we would like to have a Memorial Service for both Mr. Lamberton and Mr. Bierce who passed away just this fall and winter.¹

...

Mr. LINDQUIST: If there are no others that wish to add something at this time we will go to the Memorial for Mr. Bierce. The committee is composed of E. D. Libera, Milton A. Goldberg, John D. McGill and Richard H. Darby

THE COURT: Judge Libera.

¹ The memorial session in District Court on January 14, 1963, was for both Henry Lamberton and Herbert Bierce. It was transcribed by a court reporter. The transcript has been divided so that the tributes to each lawyer form separate articles on the MLHP. An Appendix to each memorial has been added by the MLHP.

JUDGE LIBERA: if the Court please: H. M. Bierce, dean of Winona County attorneys., who practiced law here for more than 52 years before his retirement early in 1959, died November 18, 1962 at Community Memorial Hospital where he had been a patient since October 12th. He was 83.

A native of Ionia, Michigan, who came to Winona in the fall of 1905, Mr. Bierce entered the law office of Webber and Lees for study of law and the following year was admitted to practice before the Minnesota bar.²

Although he engaged in a general law practice, Mr. Bierce specialized in commercial law and proceedings in bankruptcy. He served as a referee in bankruptcy under appointment of the U. S. District Court more than 30 years and when he retired in 1953 ranked 10th in seniority among 163 referees throughout the United States,

He was instrumental in the organization of the National Association of Referees in Bankruptcy, for 23 years was its secretary and founded, and for a number of years edited, the quarterly journal. During the association's silver anniversary in 1952 (sic), Mr. Bierce was elected its national president.³

Born September 25, 1879, at Ionia, he later lived in Detroit, Michigan, and in 1902 was graduated from the Detroit College of Law before moving to Winona. He and his wife, Lucinda, lived at 701 Huff Street.

Mr. Bierce was one of the organizers of the Winona County Law Library, chairman of the library's board of trustees, a member of the committee on bankruptcy of the Commercial League of America and a member of the special committee of the American Bar Association.

² He was admitted to the bar on May 29, 1906. Roll of Attorneys, Supreme Court, State of Minnesota, 1858-1970, at 83 (Minnesota Digital Library).

³ For his service on the bankruptcy bench, see Appendix, at 9-14.

He was an organizer and first president of the Rotary Club of Winona, 57 years ago helped organize and was elected first president of the Saturday Night Club, a discussion group, and was a past supreme representative of the Knights of Pythias.

In the early years of this century, when the Winona County fairgrounds was on the present site of Westfield Golf Course, Mr. Bierce was a director of the Tri-County Fair Board, served for two years as a director of the Winona Association of Commerce (now Chamber of Commerce), was a former chairman of the board of trustees of First Congregational Church and served six years as a member of the Winona County Board of Education. He was a past president of the Winona County and Third Judicial District Bar associations and for nine years a member of the board of governors of the Minnesota Bar Association. In 1959 he was honored by the Minnesota Bar Association for his more than 50 years of law practice.

Mr. Bierce was a former special municipal judge here, a member of the Winona County Historical Society and was long active in the Winona County Old Settlers Association.

Herb, as we members of the bar addressed and called him, had bankruptcy law, practice and procedure at his finger-tips, so to speak. The general practitioner was not often engaged to handle a bankruptcy matter. What he first did was go to Herb who was always willing to be of assistance.

Surviving are his wife; two daughters, Mrs. Richard C. (Janet) Northrup, Iowa City, Iowa, and Mrs. Lyle V. (Charlotte) Mayer, Big Rapids, Michigan, and three grandchildren.

The Winona County Bar Association respectfully requests that this memorial be spread upon the minutes of this court and that a copy thereof be sent to the members of the family of the late H. M. Bierce.

Dated at Winona, Minnesota, this 14th day of January, 1963.

Committee:

Richard H. Dady
Milton A. Goldberg
John M. Gill
E. O. Libera Chairman.

So ordered. Thank you, Judge Libera.

Mr. LINDQUIST: Unless there is anyone else who wishes to speak, Your Honor, this concludes the Memorial

THE COURT; Gentlemen of the Bar: Nothing much can be added to what has been so well presented here this morning.

However Judge Hatfield who has been invited by the presiding resident Judge to speak for the Court has suggested that another should speak in that capacity.

Conscience would haunt should there be a failure on my part to speak in whatsoever capacity on this occasion---Memorial Services for the departed, Herbert M. Bierce and Henry M. Lamberton, Jr, each a constant friend for more than forty years.

The remarks which are about to be made are in no way intended as my measure of the value of those friendships.

Herb Bierce appeared many many times as an advocate in courts where I presided; always well-prepared, knowing the essential facts, with great ability to reconcile facts with the law advantageously for his clients. However his image to me is that of a Judge.

He is, I believe, the only lawyer appointed in the last past forty-years as a referee by a Judge of the Third Judicial District. He served as such in a number of exceptionally important cases.

He was an outstanding referee in bankruptcy; Congress sought and followed his advice on legislation to improve procedures in and administration of the bankruptcy courts.

In the depression years, which some of us well remember, his time was almost entirely taken in his bankruptcy court here in Winona where he was the Referee for the entire First Congressional District and where with the patience and kindness of an upright Judge he heard the stories of the poor, the unfortunate, and with graciousness gave necessary assistance to many attorneys in the proper presentation of their causes.

Herb was an affable, interesting, kindly, unassuming man.

Herbert M. Bierce established a standard of efficiency for his successors to follow, all to the enhancement of the Bar and the benefit of clients.

...

I shall always cherish the memory of each of these two loyal friends.

The Court directs that the Memorials be filed with the Clerk of this Court and that the entire proceedings be spread upon and made a part of the minutes of this Court, and the Clerk is directed to send a certified copy of said minutes to the family of Mr. Bierce and to the family of Mr. Lamberton.

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APPENDIX

This obituary appeared in the *Winona Daily News*, November 19, 1962:

H. M. Bierce Dies at 83

H. M. Bierce, dean of Winona County attorneys who practiced law here for more than 52 years before his retirement early in 1959, died Sunday morning, at Community Memorial Hospital where he'd been a patient since Oct. 12.

A native of Ionia, Mich., who came to Winona in the fall of 1905, Mr. Bierce entered the law office of Webber and Lees for study of law and the following year was admitted to practice before the Minnesota bar. His father, O. A. Bierce, operated a real estate and loan firm in Winona, platted West End property and was responsible for the naming of Bierce Street,

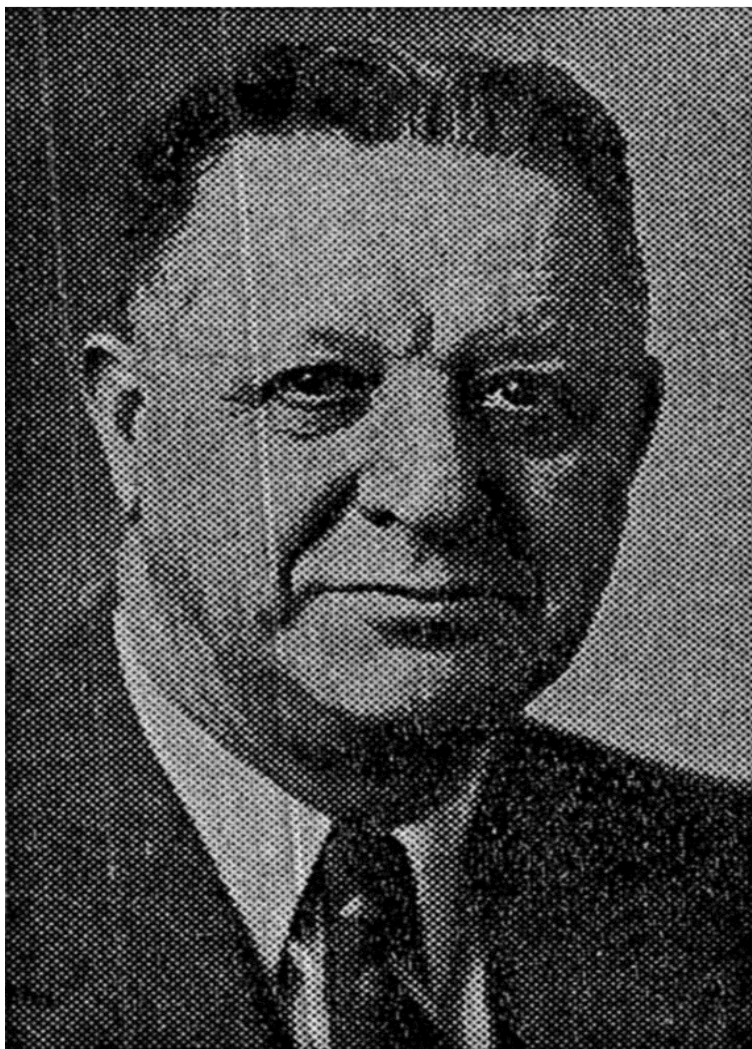
FOR MORE than 50 years Mr. Bierce maintained an office in the Hirsch Building at 69 1/2 E. 3rd St. In 1958, when the building was remodeled, Mr. Bierce moved his office to the Richardson Block, 60 1/2 W. 3rd St.

Although he engaged in a general law practice, Bierce specialized in commercial law and proceedings in bankruptcy. He served as a referee in bankruptcy under appointment of the U. S. District Court more than 30 years and when he retired in 1953 ranked 10th in seniority among 163 referees throughout the United States.

He was instrumental in the organization of the National Association of Referees in Bankruptcy and for 23 years was its secretary and founder, and for a number of years edited the association's quarterly

journal. During the association's silver anniversary year in 1952 (sic) Mr. Bierce was elected its national president.

BORN SEPT. 25, 1879, at Ionia, Iowa, he later lived in Detroit, Mich., and in 1902 was graduated from the Detroit College of Law before moving to Winona. He and his wife, Lucinda, lived at 701 Huff St.



Mr. Bierce was one of the organizers of the Winona County Law Library, chairman of the library's board of trustees, a member of the committee on bankruptcy of the Commercial Law League of America and a member

of the special committee of the American Bar Association.

He was an organizer and first president of the Rotary Club of Winona, 57 years ago helped organize and was elected first president of the Saturday Night Club, a discussion group, and was a past supreme representative of the Knights of Pythias.

IN THE EARLY years of this century when the Winona County fairgrounds was on the present site of Westfield Golf Course, Mr. Bierce was a director of the Tri-County Fair Board, served for two years as a director of the Winona Association of Commerce (now Chamber of Commerce), was a former chairman of the board of trustees of First Congregational Church and served six years as a member of the Winona County Board of Education.

He was a past president of the Winona County and 3rd Judicial District Bar associations and for nine years a member of the board of governors of the Minnesota Bar Association. In 1959 he was honored by the Minnesota Bar Association for his more than 50 years of law practice.

Mr. Bierce was a former special municipal judge here, a member of the Winona County Historical Society and was long active in the Winona County Old Settlers Association.

Surviving are his wife, two daughters, Mrs. Richard C. (Janet) Northrup, Iowa City, Iowa, and Mrs. Lyle V. (Charlotte) Mayer, Big Rapids, Mich., and three grandchildren.⁴

⁴ *Winona Daily News*, November 19, 1962, at 8 (funeral arrangements omitted). The photograph that accompanies this obituary was furnished by Archivists at the Winona

Bierce served as a Referee in Bankruptcy for over 30 years. He had also help found the *Journal of the National Association of Referees in Bankruptcy* and edited it for 23 years. Excerpts from that *Journal* follow:

The 25th Anniversary of the founding of the National Association of Referees in Bankruptcy (1951)

**Herbert Bierce is in the middle of first row,
wearing a bow tie and holding a white folder.**

In Attendance at Silver Anniversary Conference



Bottom Row: A. H. COHEN editor JOURNAL; H. P. CHANDLER Director Administration Office; H. H. HEIMANN N.A.C.M.; I. J. CLESDENIN Secretary-Treasurer; E. L. COVEY Chief Administration Office; S. B. COLEMAN 2nd Vice President; M. F. ELLISON President; H. M. BIERCE 1st Vice President; S. BERMAN; C. L. BALDWIN; E. R. SEGAN; C. J. BRENNAN; E. F. JOHNSTON; EDITH CALVERLEY.

Middle Row: ALICE KING; DARINA JOHNSTON; W. B. ADAIR; W. J. GIANT; C. H. WEELANS; I. KURTZ; S. C. DUBRESTEIN; F. C. KNIFFIN; J. M. THORNBURGH; W. B. WOOD; J. N. ELLIOTT; L. CADORE; MRS. BAGLIN; C. N. BADLIN.

Top Row: F. A. YINERKA; ANNA SMITZ; J. W. PEBBONS; J. E. MARSH; G. SKITTI; W. LIPKIN; B. S. DOEMAN, JR.; G. C. QUINNELL; E. H. COUFRAGON; D. J. GOLDSTEIN; W. G. KRAMER; W. I. MCKENHIE; A. KATCHEK; L. E. PERLASH; Detroit C. M. ABB.

County Historical Society. Obviously the Bar Association's memorial was based on this obituary, as was the tribute in the *Journal of the National Association of Referees in Bankruptcy*, which follows.

In 1951, Bierce was elected President of the organization for the year 1952. He wrote a “President’s Message” for three issues of the *Journal*. They follow:

JOURNAL

OF THE

NATIONAL ASSOCIATION of REFEREES IN BANKRUPTCY

Organized Detroit, Michigan, July 9th and 10th, 1926

A QUARTERLY

Vol. 26

JANUARY, 1952

No. 1

Our President's Message

Written during the Holidays, it is fitting, indeed, to wish all a Happy New Year. May 1952 open auspiciously for you as well as prove to be a most satisfactory one.

You have received a copy of the Report of the Proceedings of the Judicial Conference held last September. The Conference approved the recommendation that legislation fixing a maximum salary of \$12,500 annually for full-time referees and \$6,000 annually for part-time referees, the amount, in each instance, to be fixed, as now, by the Conference as stated in § 40a of the Act. With this approval the green light shows so that proper steps may be taken seeking Congressional action at the current session. Our special committee continues with Referee Edward R. Sloan, Topeka, Kansas, as chairman. The personnel has been increased so as to include a member from each circuit. It is earnestly to be hoped that our referees will unite unanimously favorably and that all will co-operate as called upon.

Our Committee on Improvements in Procedure, Practice and Forms is headed by Referee Francis A. Yindra, Manitowoc, Wisconsin. The Bankruptcy Division of the Administrative Office is asking its co-operation as to any desired changes in the form for proof of claim. This committee will welcome your suggestions along all lines of its activity. It can well be one of much service.

Referee Reginald W. McDuffee, Savannah, Ga., is chairman of the Committee on Improvements in the Bankruptcy Law. This committee will co-operate with the National Bankruptcy Conference, of which Referee Samuel C. Duberstein, Brooklyn, is the chairman, particularly as to pending legislation. Our committee will gladly accept your suggestions.

The article on "Tax Problems" by Mr. Feigenbaum, an attorney connected with the claims divisions, office of Chief Counsel, Bureau of Internal Revenue, published in the October issue of our JOURNAL, is a clarifying exposition of the question of priority and security of Federal tax claims, and is of distinct and immediate aid to all referees. The value of the JOURNAL has long been established and its standard is being maintained under the editorship of Archie H. Cohen, Chicago, a former Referee with varied experience. Mr. Cohen, as well as Referee Clendenin, our Secretary, as do I, urge your support in securing subscribers. A new volume (26) commences with this issue.

Our 1952 Conference will be held in Birmingham, Alabama, with First Vice President, Referee Stephen B. Coleman in charge of arrangements. The dates are October 13, 14 and 15. I will be glad to have your suggestions as to the program. Please now make your plans to attend.

Winona, Minnesota,
January 2, 1952.



Handwritten signature of the President, appearing to read "Robert A. Bier".

PRESIDENT

JOURNAL

OF THE

NATIONAL ASSOCIATION of REFEREES IN BANKRUPTCY

Organized Detroit, Michigan, July 9th and 10th, 1926

A QUARTERLY

Vol. 26

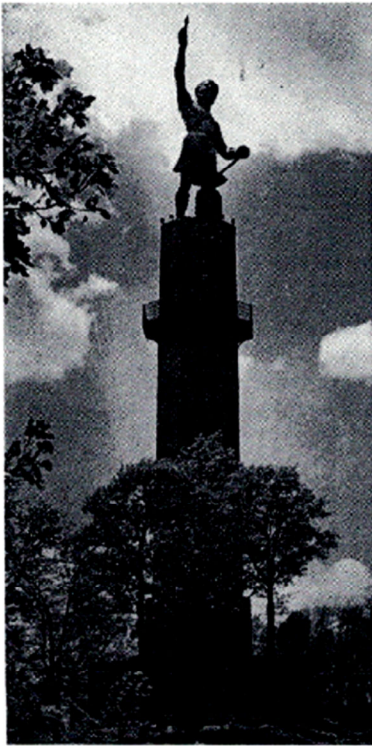
APRIL, 1952

No. 2

Birmingham Conference October 13, 14 and 15, 1952

The year's event in the affairs of the Association is the annual conference, which, this year, will be held in Birmingham, Alabama, next October. In holding these conferences in different parts of the country it enables our Referees in such sections to attend a conference at a minimum of expense and time. We expect every Referee in the Southeast to attend this year. We know that many others from all parts of the country will attend. This is our second conference to be held in the far South.

Although our formal call has not issued, I am advised by several of our Referees that they will attend. Mr. Covey, who gets about, writes: "We in the Administrative Office are all looking forward with a great deal of pleasure to the Conference. I really believe that there will be a very good attendance as a number of referees have indicated to me their desire to attend."



VULCAN

The choice of Birmingham is a very desirable one. A Southern city, with a Northern attitude in many ways, Birmingham presents the charm and hospitality for which the South is so famed, as well as the diversity of interests found elsewhere, which appeal to all.

The committee on arrangements, Referees Stephen B. Coleman, chairman, Clarence W. Allgood, Herbert R. Maulitz, Birmingham, Ben S. Dorman, Jr., Anniston, Ala., and Edmond E. Talbot, New Orleans, are actively at work on plans and preliminary arrangements are well under way.

A cordial invitation has been received from the Hon. W. Cooper Green, Mayor of Birmingham. He says:

As Mayor, I take genuine pleasure in inviting and welcoming to Birmingham [your] Association. . . . I assure you that we are proud and happy to know that you are coming here to be with us. . . . You will certainly get a warm welcome and complete cooperation on the part of everyone here. Birmingham is one of the South's most progressive cities, and I am sure that in a setting such as this, your meeting will be a most successful and enjoyable one. You will find all our citizens ready and willing to aid you in every way possible to make this one of the most outstanding conventions. . . . we here at the City Hall will do all we can to cooperate with you.

The program is being constructed and I believe will prove of interest and profit to our members. We will consider timely topics and have some interesting speakers. The "Fellowship Luncheon" is in charge of Mr. Coleman. The Monday evening entertainment will be enjoyable in every way. The "Annual Dinner" will be the usual high light.

And as for our ladies, Mr. Coleman writes "we plan several parties for the ladies which will interest them," so if you let your ladies see this message they will insist upon coming. They are most welcome.

So let us all plan to attend the Birmingham Conference.

PRESIDENT

Winona, Minnesota,
March 20, 1952.

JOURNAL

OF THE

NATIONAL ASSOCIATION of REFEREES IN BANKRUPTCY

Organized Detroit, Michigan, July 9th and 10th, 1926

A QUARTERLY

Vol. 26

JULY, 1952

No. 3

President's Message

The Senate has favorably approved the bill increasing ceilings on Referees' salaries, the amount, in each instance, to be fixed by the Judicial Conference. The Senate also passed the amendatory bill, which includes many clarifying amendments unobjected to and, also, a bill making agricultural compositions and extensions a permanent chapter. This has been extensively rewritten. These measures are pending before the House Judiciary subcommittee.

Referee Samuel C. Duberstein, Brooklyn, chairman, National Bankruptcy Conference, has written me, —

I am working closely with Chief Covey of the Administrative Office . . . and am holding myself in readiness for a call from him to appear before the committee. It is anticipated that Mr. Weinstein, Charles Horsky, Henry H. Heimann (National Association of Credit Men) and possibly one or two others will accompany me then.

All of us appreciate the political exigencies existing (as every four years) which necessarily delay Congressional action on many measures but our matter is well in hand and we can hope for favorable news anytime.

Several newly appointed Referees are in our official family, appointed in recent months. We greet and welcome them and, of course, seek their active co-operation as members. We hope some will attend the Conference.

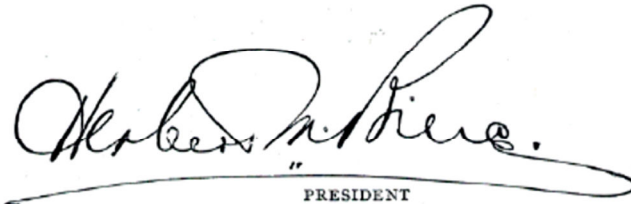
The work being put forth by Vice President Stephen B. Coleman and his associates, Referees Allgood, Maulitz, Dorman, and, in an advisory capacity, Talbot, promises a conference well worth the attendance of our Referees. Secretary Referee Clendenin has issued formal announcement. We hope you have responded indicating your intention to attend. Prompt response will be very helpful to him, to the committee, and to me. If you plan to attend, please so indicate. Hotel reservations should be made promptly. The Dinkler-Tutwiler is an excellent hostelry, with fine appointments for a conference, and its rates are in keeping with those of other first class hotels.

The program is developing nicely. There is yet time for suggestions from you. Have no hesitancy in making them to me; I will appreciate them. The program, as it is working out, together with the special and social features planned by our hosts, promises the Birmingham Conference will be one of much benefit and pleasure to you and your family. It is worth while for your bankruptcy clerk to attend. So we look for you.

Our JOURNAL, so ably edited by former Referee Archie H. Cohen, continues to be of service, in some instances quite unexpectedly. Recently a country lawyer wrote me citing Mr. Feigenbaum's article in our October last issue, his address at the Detroit Conference on "Tax Problems." It has been republished in TAXES. This attorney inquired whether I had seen it and offered to send it to me! That address was a distinct contribution aiding the work of Referees as such relates to ever present tax problems. The high standard of our JOURNAL is being maintained and it is to be hoped that its usefulness may be extended. It is a service contribution on our part, made possible by the continuance of our Association.

We, as Referees, are the ones to whom our communities look and hold responsible for the results achieved in bankruptcy estates. To them especially we must so present and enforce the Bankruptcy Act that it will truly appear to be, as it verily is, a humanitarian and rehabilitation law, designed to be as fair as conditions make possible to creditors, especially local merchants and others who come directly in contact with it. Let us ever keep this in mind that the purposes of the Act may be realized and appreciated.

Winona, Minnesota,
June 30, 1952



PRESIDENT

Bierce's death was noted in the January 1963 issue of the *Journal* he helped found and edited for 23 years:

**Herbert M. Bierce, First Secretary of Referees'
Association, Editor of the Journal, and
Former President, Is Dead**

Herbert M. Bierce, of Winona, Minnesota, died in that city on November 18, 1962, at the age of 83 years. Prior to his retirement he had served as a Referee in Bankruptcy for more than thirty years, and long was active in the affairs of the National Association of Referees in Bankruptcy, of which he was one of the founders.

At the organization meeting of the Association in Detroit in July, 1926, he was elected Secretary and Editor of the Journal, in which capacities he served continuously for the next 23 years until he asked to be relieved in 1949. Thereafter he was elected President of the Association at its silver anniversary meeting in 1951, again in Detroit.

Born September 25, 1879 at Ionia, Michigan, Mr. Bierce later lived in Detroit, and in 1902 was graduated from the Detroit College of Law. He moved to Winona, Minnesota, in the fall of 1905, and was admitted to the Minnesota Bar the following year. For more than 52 years he maintained a law office at Winona.

He was one of the organizers of the Winona County Law Library, chairman of the library's board of trustees, a member of the committee on bankruptcy of the Commercial Law, League of America, and a member of the special committee of the American Bar Association.

He was an organizer and first president of the Rotary Club of Winona, and organizer and first president of the Saturday Night Club, a discussion group. He was a past supreme representative

of the Knights of Pythias. He was a director of the Tri-County Fair Board, served, for two years as a director of the Winona Association of Commerce (now the Chamber of Commerce) was a former chairman of the board of trustees of the First Congregational Church and served six years as a member of the Winona County Board of Education.

He was a past president of the Winona County and 3rd Judicial District Bar associations and for nine years a member of the board of governors of the Minnesota Bar Association. In 1959 he was honored by the Minnesota Bar Association for his more than 50 years of law practice.

Judge Bierce was also a former special municipal judge member of the Winona County Historical Society and was long active in the Old Settlers Association of the county.

He is survived by his widow who lives at 701 Huff Street, Winona, two daughters, Mrs. Richard C. Northrup, Iowa City, Iowa, and Mrs. Lyle V. Mayer, Big Rapids, Michigan and three grandchildren. ⁵

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Related Article

“Referees and Judges of the Bankruptcy Court for the District of Minnesota, 1898-2016” (MLHP, 2010-)

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Posted MLHP: October 6, 2016;
Photograph added October 25, 2016.

⁵ 37 *Journal of the National Association of Referees in Bankruptcy* 32 (January 1963).