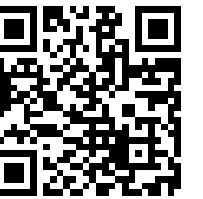

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ADJOURNED MEETING

Minnesota State Bar Association
St. Paul, Nov. 28 and 29, 1924.

Volume 9 November, 1924

MINNESOTA LAW REVIEW

JOURNAL OF THE STATE BAR ASSOCIATION

Proceedings of the Minnesota State Bar Association 1924

Published Monthly, December to June inclusive, by the Faculty and Students of the Law School of the University of Minnesota

$3.00 Per Annum 60 Cents Per Current Number

(Communications should be addressed to Minnesota Law Review, Minneapolis, Minn.)

Entered as second-class matter, December 26, at the postoffice at Minneapolis, Minn., under the Act of March 3, 1879. Acceptance for mailing at special rates of postage provided for in section 1103, Act of October 3, 1917, authorized February 12, 1920.

Minnesota Law Review

Journal of the State Bar Association

PUBLISHED MONTHLY, DECEMBER TO JUNE INCLUSIVE

VOLUME 9 DECEMBER, 1924 No. 1

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MINNESOTA
LAW REVIEW

JOURNAL OF
THE STATE BAR ASSOCIATION

Volume IX

SUPPLEMENT

Proceedings of the
Minnesota State Bar Association
1924

MINNEAPOLIS, MINN.
LAW SCHOOL
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1924

No. 11208
Kan. Aug. 13, 1926.

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AT THE ANNUAL MEETING OF THE MINNESOTA STATE BAR ASSOCIATION FOR THE YEAR 1924, HELD AT BEMIDJI, MINNESOTA,

JULY 1st, 2nd and 3rd, 1924.

July 1, 1924, 10:00 o'clock A. M.

Meeting called to order by President Stone.

PRESIDENT STONE: Ladies and gentlemen. So often during the last twelve months have the funeral chimes sounded for departed members of our profession, that I think it especially appropriate on this occasion that we stand for at least thirty seconds in silent contemplation of the services of our departed members and of the loss that we feel in their going. Among them are a former president of this association, Honorable William A. Lancaster; the late Chief Justice of the Supreme Court, Calvin L. Brown; and last to leave us, Mr. McDonald, the vice president of this association. Let us stand for thirty seconds in memory of them. (All standing.)

On this occasion you will agree with me certainly that an additional word concerning Mr. McDonald will not be inappropriate. We are meeting here in his home city largely through his initiative. The arrangements for this meeting and for our entertainment were made, or initiated, at least to a very large extent, by him. If things had taken their due course he would have been the next president of your association. If Mr. McDonald were with us,—and perhaps he is,—his greatest wish would be, let us say his greatest wish is, that we may go on with our proceedings here without any feeling of sadness because he is not with us in the flesh. He would have been the happier,—let us say that he will be the happier, in proportion as we are happier on this occasion. I knew Mr. McDonald so well and so thoroughly that I know he would not have it otherwise.

If I am entitled to any standing at the Minnesota Bar, it is due very largely to the men with whom I first came in contact after my admission, the men who first showed me how difficult it was to win a perfectly righteous lawsuit,—if they were on the other side. Among those men none stands higher in my recollection, none of them made it more difficult for me to win a righteous lawsuit than Hon. Marshall A. Spooner, now of the Beltrami County Bar,—formerly a judge of this district, a splendid lawyer, a splendid gentleman who will welcome you on behalf of the Beltrami Bar Association. Judge Spooner. (Applause.)

ADDRESS OF WELCOME BY JUDGE MARSHALL A. SPOONER

Mr. President and Members of the Association:

The Bar of Beltrami County greets you, in fact the whole community bids you a most cordial welcome.

May your deliberations prove harmonious and your achievements show the result of an inspired influence. No one is better equipped than the trained and conscientious lawyer to deal with the affairs of men, whether public or private. United in laudable effort, what a power for good, whether in the community, locally, or in the state, at large.

We bespeak for you the greatest measure of success. We consider it an honor to have you with us and take great pride in your selection of Bemidji to hold your meeting.

And yet with this conference comes an air of sadness. We feel the bereavement occasioned by the loss of one of your recent officers. He was most assiduous in his efforts to make this meeting a success. No one appreciates his loss, in that connection, more keenly than those who have taken up his work where he left it.

When you shall have finished your official business, we feel that we are not devoid of places of interest, aye, even of historical interest, in the accessible vicinity, to lure you to relaxation.

Within a stone's throw of where you sit, flows the current of that historical stream which, gaining in its course in power and dignity, finally mingles its waters with those of the mighty deep.

One hundred years ago last August, Count Beltrami, for whom this county was named, sought in this vicinity the source of the Mississippi River. As probably most of you know, he was of the nobility of Italy but was banished because of his political opinions and activities. Being of an adventurous nature, he started in to explore certain portions of Europe. Then he came to our shores and in the spring of 1823 started from Fort Snelling with Indian guides in an effort to find the source of this great river. He ascended the Minnesota River and then, by portaging, reached the Red River of the North. He followed its source until he reached the Red Lake River. Passing up the latter and crossing Red Lake, then bearing southward, reached what has been called the Height of Land or the Continental Divide, a dozen miles north of here. On the 23rd day of August, 1823, he camped on the south shore of a little lake nestling among the hills at a point which has since been known as Buena Vista. This lake, because of its unusual beauty and attractiveness, he named Lake Julienne after his betrothed, an Italian Countess, whom he left when he fled in exile from Italy. A visit to this spot, I believe you will enjoy. The waters from Lake Julia, as it is now called, flow into Hudson's Bay. Indeed, it is said that rain falling on one side of the roof of the Inn at Buena Vista, popular in early days as a resort, on the Government trail to Red Lake Indian Agency, flows into Hudson's Bay while the rain falling on the other side finds its way into the Gulf of Mexico. Just south of Lake Julia, and within a few rods, is Turtle Lake. Here Beltrami thought he discovered the source of the Mississippi. Following down Turtle River, the outlet of the lake, he came upon the true Mississippi near Cass Lake. Told by his Indian guides of a beautiful lake a few miles

west of the confluence of these rivers and because of their rapturous description of this lake, he was induced to make the trip to see it. He named it Lake Torrigianni and of it wrote in a work admired for its superb diction and fascinatingly descriptive character, that it was the "gem" of all the waters he had seen in all his travels. This lake now bears the name Lake Bemidji.

And again, eight less than one hundred years ago, the explorer Henry Schoolcraft sought the Mississippi's source.

He ascended the river in 1832 with his companions, among whom was a missionary, Rev. Wm. T. Boutwell, and arrived at the lake now known as its source. Casting about for an appropriate name for it, he called it Lake Itasca. Many have supposed this word to be of Indian origin. But not so; appealing to the Rev. Boutwell the latter, drawing upon his knowledge of Latin, derived the word by taking the two Latin words Veritas (truth), and Caput (head) and by beheading the first syllable and curtailing the last, formed the word "Itasca."

In his history of Minnesota the reverend Judge Flandreau, alluding to this incident, said that it was "a sufficiently skillful and beautiful literary feat to immortalize the inventor."

If you have never visited the State Park at Lake Itasca you ought not to miss an opportunity to do so. We believe you would be amply repaid.

A peculiar and I might say anomalous situation seems to exist right here where you sit. You are on the west side of the Mississippi and yet on its east bank. Where we are, evidently is within the territory of the original thirteen states while directly across the river and lake and embracing the country between here and Grand Rapids, south of the river in its easterly course, the country lies within the Louisiana purchase, first, before Louisiana entered statehood, Louisiana Territory, then on the organization of the State of Louisiana, in 1812, Missouri Territory.

Some of you perhaps had occasion to visit Bemidji in its earlier days. If so, no doubt you now observe many changes and particularly as respects the matter of "filling stations." Some twenty years ago it had forty-two, dispensing their wares from decanters; there are now only about four, using flexible tubes for the purpose, but the license fee has been greatly reduced; from $1,000 a year then to a nominal fee now.

Now I have here what may interest some of you. It is an autograph letter written by Chief Justice Marshall to Mr. Justice Bushrod Washington relating to a matter before the Supreme Court of the United States. It is dated Oct. 1, 1819. Perhaps you may wonder how I acquired this. An acquaintance of mine, a direct descendant of Judge Washington, found it among the archives of the Washington family and presented it to me. You probably are aware that the jurist was the nephew of George Washington. I can assure you as to the genuineness of this document.

Again, Welcome. Do not use sparingly of the provisions made for your comfort. We trust you will return home feeling you have been repaid for your trip. Thank you.

PRESIDENT STONE: That the citizens of Bemidji had great confidence in the honesty of this gathering, is demonstrated by the fact that Judge

Spooner entrusts this highly prized possession of his to the secretary, for your inspection. I trust the confidence will not prove to have been misplaced. The response to this characteristically sincere and eloquent address of welcome will be made by Mr. Alex Janes of St. Paul.

RESPONSE, BY MR. JANES

Mr. Chairman, ladies and gentlemen: When our president stated that he did not quite understand why this valuable document should have been given to the secretary, he well knew that unless it was given to the secretary, the secretary would get it. (Laughter.) I came down here this morning intending to spend several days here quite pleasantly. (This has something to do with the address of welcome, because it affects one's feelings.) I walked into the hotel and was asked by that official if I had paid my dues for the last twenty years (laughter). I told him that I had not (laughter),—and I found several others of you in the same condition.

But I am very glad, Mr. President, and Judge Spooner, that we are here today. I feel particularly fortunate that I am here, because, in introducing Judge Spooner, our distinguished president stated, as I understood it, that it was through Judge Spooner that he learned how to win a righteous lawsuit. I have been trying for a great many years to understand exactly how a righteous lawsuit, all of them righteous,—either before the judges of our district courts, many of whom are here, or likewise before some of the members of our supreme court (laughter), and I assume that before this meeting is over those of us who are unfortunate enough to devote most of our time to representing larger corporate interests, may learn how to win righteous lawsuits, at the meetings, and I intend now to stay the full length of time (laughter).

I listened with keen interest to the account of the history connected with this county and the counties close to Bemidji, and I realized that it was a nice thing to know, and particularly that here (where many of the members of the bar did not bring their wives with them), that the romance of the situation should appeal to us, whatever our age may be. Also I believe that there is a great deal to be learned here, particularly from those members of our association who come from other portions of this state, and who apparently have so little knowledge of what this section of the country can offer.

I spent last evening with two of our members, neither one of whom has yet arrived at this meeting. I wonder where they are. I heard one of them say he was astonished to see so much grass growing in this portion of the state of Minnesota. Evidently they didn't even know that the grass grew here, and then they were more astonished, those men who came from the wonderful corn section of Minnesota, to realize that the product which was peculiar in the first instance to the state of Virginia,—was now raised north of the Mississippi river. It seems that this is to be an educational trip in every way. Our chairman and Judge Spooner have welcomed us here, and I assume that Judge Spooner knows something about the bar association or he would not have referred to the fact that there were still a few filling stations that have not been abolished in this community. (Laughter.) But after stating that there were only four left,

I take it from what he said that the price is not prohibitive. Having welcomed us here, and being a lawyer, he probably knows something about those who have gathered here in this community. Taking us all together, we are a body of men that can do and think most anything. It is from our body, from among the members of our association, I believe, that when the oppressed laboring man or the downtrodden farmer looks for a leader, makes his selection. Unfortunately, I assume, there are a number of our members, Mr. Chairman, who now may be solving some of the very difficult problems in New York, and it is too bad that we cannot have all of them here in Bemidji, representing as we do, so many varied types. Personally, as you know, Judge Spooner, I have spent many, many pleasant days, many pleasant weeks in this community.

JUDGE SPOONER: Come again.

MR. JANES: Thank you. I intend to come again. And I intend to stay as long as I can, and I feel that those of us who have come here today will realize the entrancing beauty of this northern country, will realize and appreciate the wonderful hospitality of those who live here and that all of us, when we have gone, will desire to return.

I cannot, however, close without saying a word for a man whom I knew so very well. This morning I traveled over the country where he and I have hunted a number of times in the past. Not only had Mr. McDonald been a companion of mine on hunting trips (and you men who do those things know what that means), but in addition to that we had been many times in the court room together, and it is with a feeling of a great deal of sadness that I come into this town and realize that the man I knew so well is not here to greet us. But someone has beautifully said, that God gave to us roses, and gave to us memory so that we might have roses in December, and so it is that memory makes pleasant, always throughout our lives, the thoughts of those in our profession whom we have known so well.

Judge Spooner, again it is with great pleasure that we accept your invitation of hospitality and I trust that the spirit of the ruler of old Bemidji, Chief Bemidji, the cries of which fill the tops of many of these old and ancient pine trees that now stand, will again ring to the laughter and the shouts of the many members who have gathered here today. I thank you. (Applause.)

PRESIDENT STONE: One of the risks which the members of this association always take, is the liberties that the president takes with the program. I am going to take one or two right now, with your permission, or without it. First, I want to say that we are all very proud of the attendance of this first session. We are very gratified in that connection that no more than two of our members spent the preceding evening with Alex Janes. (Laughter.) The members of the bench, at least of the district bench, are here in sufficient numbers, to our honor and for our pleasure, so that I can see it would be highly appropriate to have a response made on their behalf, for the splendid welcome that has been extended here. Honorable Albert Johnson will respond for the bench.

RESPONSE BY JUDGE JOHNSON

Mr. President, ladies and gentlemen: The bench,—the district court bench,—is grateful to the members of the bar for their kindness in recognizing that there is an organization called the Association of District Judges. It has been very helpful for the district court judges, in their annual meeting, to discuss certain questions, to have the assistance of the bar of this state. I recall two or three years ago a very important discussion in the meeting of the judges, in reference to the restoration of capital punishment for the purpose of possibly averting the wholesale murders that are committed all over the state, and principally in the larger centers. There was quite a heated dispute in our meeting. Some of the judges shuddered at the idea of having capital punishment restored but a majority of the judges were of the opinion that, as a deterrent of crime capital punishment was absolutely necessary. There were two meetings of that kind by the district court judges, the last one of which adopted a resolution to submit to the legislature recommending the restoration of capital punishment. Later on the sheriffs of the state adopted a similar resolution, and later on, the county attorneys. These resolutions were all presented to the legislative body, but I do not think they took any favorable action, and so the question has not been promotive of much result up to the present time. However, that question may again be referred to by the members of the district court bench at this meeting, and the judges will no doubt draw much inspiration from the advice that may be given by the members of the bar. Each lawyer, undoubtedly in his experience has formed some opinion as to what is the cause of the prevalence of crime today. Each lawyer, no doubt, has formed an opinion as to what the remedy ought to be, and what, if anything, the learned profession of the law ought to recommend to the law-giving body. And it is delightful to know that the district court judges who are vitally interested in this subject are able to meet with the state bar association. I know that every district court judge who has that privilege thoroughly enjoys the meetings with the state bar association, and I am very certain that the district court bench present here will thoroughly enjoy the meetings in this beautiful city, with the state bar association.

There has been reference made to the altered conditions. We are all aware of it. We are trembling for the river, because the eighteenth amendment is not only destroying the filling stations in Bemidji, but it has an effect, I think, on the Mississippi river itself. For several years, two or three years, the Mississippi river has nearly dried up, and down in Red Wing, where I live, the stream has shrunk almost to a little creek, and it is a guess, to the people of the northern part of the state that something is radically wrong,—either that you are ditching the country to death, or you are sluicing down the timber and cultivating the soil to the extent that not only your lakes, but your rivers are drying up. Of course, I don't want to attribute that to the passing of the eighteenth amendment or this price in the filling stations, where, instead of paying a thousand dollars a year, you pay twenty cents a gallon.

The gentlemen who have spoken so beautifully have extended to the judges of the district court, a hearty welcome to this beautiful city. The

fame of Bemidji has spread all over this state, as a natural summer resort, and hundreds and thousands of people are flocking to the northern lakes every year. As you come out upon the beautiful highways, you will find touring cars from the southernmost points of the United States, making their way to the head of the lakes, and up into the northern woods where they can enjoy the fresh air and beautiful climate of this northern country. The judges in session fully appreciate the kindness of the bar association, and wish to express their delight at being here on this occasion.

PRESIDENT STONE: Another class of distinguished gentlemen (or gentlemen who think themselves distinguished) is here, quite numerously represented here, so numerously that I think you will agree with me, I know you will, that there ought to be a response on their behalf. Especially as they have such an honorable representative here to speak for them. I will call upon the Honorable Theodore Christianson (applause), who will respond on behalf of that class I speak of,—candidates, or on behalf of the members of southern Minnesota, or on behalf of anybody else. He is authorized to represent anybody, I am sure. Mr. Christianson. (Applause.)

ADDRESS BY THE HONORABLE THEODORE CHRISTIANSON

Mr. President, and members of the state bar association: Indeed this was an unexpected pleasure for me and I know that I am very glad to respond to the invitation which your chairman has extended to me. I have always had a very good time when I have come to northern Minnesota. I have always found the people of northern Minnesota more than hospitable, and I confess that I enjoy this sojourn among the lakes and pines of this part of the state. One cannot cross the state of Minnesota, as I did, through the courtesy of my friend Judge Gage yesterday, without being deeply impressed with the wonderful resources and possibilities of our state. Not only its agricultural lands, but its resources of lakes and woods and scenery which we are just beginning to appreciate,—making this state of ours the playground of the entire nation, and bringing here hundreds of thousands of tourists from every part of the country, who are bringing into the commonwealth, to enrich its people, I am told, thousands of dollars every year. Minnesota has the most fertile agricultural lands of the entire world. Some time ago during a visit with my friend Dr. Owrie of the University of Minnesota, he told me that the state of Minnesota, with its agricultural lands, was comparable only to the far famed wheat lands of Russia, which have produced wheat with undiminished returns for more than five hundred years. We have lands which are superior to almost anything else found upon the entire American continent. Some months ago it was my privilege to take a trip around through the eastern part of our country. My trip took me into thirteen states, and the provinces of Canada and I saw there the vineyards of Ontario, and I saw the apple orchards in New York, the truck farms in New Jersey, and the plantations in old Virginia. I saw grain fields in Indiana, Illinois and Iowa, but, my friends, nowhere did I see anything to shake my faith in the ultimate superiority of Minnesota in all of the things that make life truly worth living. (Applause.)

Not only do we have these resources of the agricultural lands, but we have to the north of us the tremendous resource of iron ore. Only a few weeks ago I traveled over the ranges, and I saw those vast pits out of which they bring forth the crown of wealth which they are shipping to every part of the country,—pits which at the present time produce one-quarter of the world's production of iron ore, and one-half of the iron ore of America. These resources are a challenge to us, a challenge that we properly utilize and conserve them. We have learned to conserve some of our resources, our agricultural resources, by proper diversification, which has gone on in Minnesota to such an extent that in 1922 we produced a total of about $250,000,000 in the products of so-called diversified farming as against $67,000,000 representing the total value of all the corn, wheat and other grains raised for the market. So I say the process of diversification has gone on in Minnesota to such a degree that we are learning to conserve the agricultural resources of the state. We must learn also to conserve, so that this vast resource in northern Minnesota may continue to bring wealth to the people of the state and the nation as long as possible. I believe that this vast resource of northern Minnesota, in its timber, its forests, its lumber, and all its resources; that there should be an adoption of a policy which will promote reforestation for the future, and I believe that such reforestation can best be obtained, not through action by the state itself, because I have become somewhat pessimistic about state-owned and state-operated enterprises,—but by the adoption of such policy, by the adoption of a principle of taxation which will permit the owners of those lands to devote them to purposes of reforestation, instead of selling the lands which are unsuitable for agriculture to tenderfeet from southern Minnesota and Iowa who in the past have made ineffectual attempts in many places to make farms out of lands which are unsuitable for agricultural purposes. (Applause.) In other words I believe there must be a reclamation of those lands of northern Minnesota, in that those lands suitable for agriculture may be devoted to agriculture, and that those lands unsuitable to agriculture may be devoted to reforestation, in order that these marvelous lumber enterprises which have nearly vanished from northern Minnesota, may continue for years to come. We have a splendid, wonderful state, wonderful in its resources, and all that we need is to properly utilize and properly mobilize those resources; because I have assurance that if we do, this state of ours will continue to grow and prosper in future, and to become the premier commonwealth of the nation. In emphasizing this thought I believe you will pardon me if I tell you a fairy tale I heard some time ago. My only excuse for telling it is that it expresses, better than anything else I could say to you, the thought which is uppermost in my mind this morning, and that which I believe will find a response in your hearts.

It is said that in the long ago there was a kingdom where the king had no palace, but lived in a house which was less pretentious than the houses of many of his subjects. According to the legend there was at one time a most marvelous palace in that kingdom, but an earthquake destroyed it, and where it stood there was at this time nothing but ruin. Now, according to the legend, this palace had been built, not by the hands

of man, but by the power of music, but music had lost its primitive spell, men had forgotten the laws governing it, and it became the favorite adventure of the young men of that kingdom to perfect themselves in the art of music, in order to rediscover the lost secret so that they might conjure the palace back. But all those generations of men and women had come and gone and nobody had been able to rediscover the lost secret. Finally two boys who grew up in that kingdom, in themselves very indifferent musicians, discovered a remarkable thing; they learned that if, instead of striking a chord of the same notes, they would strike different notes bearing certain relations, one to the other, they would produce more beautiful harmony than either could do alone; and so they started out early for the place where the palace had stood. On the way out they met the oldest musicians of the kingdom who were returning having made their last attempt, sadly discouraged, but the boys told them of their remarkable discovery and insisted on their returning with them. And when they reached the place where the palace had stood they found all the other musicians of the kingdom had likewise gathered there that morning, but none of them was playing, each one was waiting for the others to leave in order that he might remain and try to conjure the palace back, and win the honor for himself. Finally the boys, weary of waiting, said to each other and to the old men, let us play together. And so they played together, striking not the same notes but different notes, notes bearing a peculiar relation one to the other, and they produced wonderful music, so wonderful that all of the other musicians of the kingdom forgot their jealousies, they began to join in, and there was heard then upon that spot more wonderful harmony than ever before, and soon the cries came up from the valley below, shouts of, "the palace, the palace." For indeed the palace was rising from the ground.

Now my message to you this morning is this: That we people of Minnesota, representing its various classes and professions, living in different parts of the state, knowing its different resources, should forget our jealousies, we should forget that we come from northern Minnesota or southern Minnesota, we should forget that we represent special interests, and we should all work together for the glory and advancement of this state of ours, that we may have assurance that the palace will rise from the ground. My friends, and Mr. Chairman, I thank you. (Prolonged applause.)

PRESIDENT STONE: Judge Spooner, is there anything more that we can do to make you believe that your welcome is thoroughly appreciated?

JUDGE SPOONER: Stay here longer.

PRESIDENT STONE: You have all probably seen, and if not, I wish you would study at once,—the pamphlet containing the reports of the committees. This afternoon at two o'clock we are to make a special order of the report of the committe on Legal Education and Requirements for Admission to the Bar. This is an important report. Will you please study it between now and two o'clock, if you have not already done so? There is plenty of material there for agreement, and there is abundant material for disagreement, and while I am a believer in harmony, and while, with Judge

Spooner and Mr. Christianson I believe in harmony, on these occasions I have learned not to want too much harmony. An agreeable amount of disagreement is a most convenient and a most desirable thing for the entire sessions of these meetings.

You have your constitution, which requires an address here by the president; a requirement honored as much in the breach as in the observance. On this occasion I confess that I have no set address for you,—a fact upon which you may congratulate yourselves. If you want to know the reason I simply direct your attention to the fact that something over a year ago I left my old firm and in the meantime I have been connected with other associates, the youngest and most energetic bunch of lawyers that I have ever done business with. They have kept me so busy that I confess that if you want an annual address such as you ought to have on this occasion, you should not select a member of the supreme court for that function,—unless you should select one of them who has more energy and much more talent than I have. My tasks have been too heavy, it has been too hard work, if I followed at all the example set by those young associates of mine on the supreme bench,—the requirements have been too much to enable me to prepare the sort of an address that the Minnesota State Bar Association deserves. There is a frank confession and explanation. You will probably permit, however, an observation or two generally on the topic of, "Why we are here." We are all youthful, none of us will admit the contrary, but we are all old enough to have realized, to have contemplated to a considerable extent, perhaps, the great fact of life, which is, that life is hardly worth while unless it is one of service. There is no such thing as contentment, there is no such thing as happiness, there is no such thing as personal satisfaction with oneself, unless that contemplation can deal with service, genuine, valuable and uplifting service, in humility and potentiality.

In this day and at this stage of the progress of the American people, in this day and at this stage of the development of American government, and American ideas and ideals of government, it cannot be denied, in this gathering at least, that there is no group in the community, no portion of the people potentially so serviceable as the American bar. Individually there is much that can be done by the bar. In organization, in intelligent preconcerted, well-directed effort, there is immeasurably more that can be done, that ought to be done by the American bar. In times of war, thus far in the history of the nation and our cause,—the national cause, whatever it may have been at the time being, everything that this people holds dear, everything that is represented by our scheme of government, by what we consider its destiny, has been safe behind the defense afforded to it by the American soldier. The perils of peace are just as dangerous, just as much to be prepared against, just as much to be opposed as the perils of war, and that defense, that defense of the cause which now calls to the American people, the defense of the cause which is now in so much danger, calls particularly upon the American lawyer. It is the defense of American constitutionalism, and that cause and all that it stands for should be as safe behind the defense prepared for it, behind the fight made for it by the American Bar, as the cause of America has

always been behind the defense put up by our soldiers in time of war. We should be the soldiers of peace. We should be the protagonists of all those highly important, those highly essential things, represented by the phrase, "American Constitutionalism."

Again, I repeat the thought: Where there is much we can do individually, there is much more, immeasurably more, that can be done in organization, well-directed organization. Organization calls for service, organization calls for a great deal more service. The purpose of this organization calls for a great deal more service than, so far, the Minnesota Bar has given to it. This meeting will be memorable in proportion as we go forth with renewed enthusiasm, not only for our profession, not only for our professional acquaintance, but more particularly for the civic duty of our profession, and that is constant, in-season and out-of-season, the support of American constitutionalism.

The lawyer ought to be constantly an educator. The law of the people is that which, kept right, will to a great extent keep the people right. If our law goes wrong, if it goes far wrong,—particularly if our constitutional law, our fundamental law goes far wrong, the fault will be primarily with the bar. There are tendencies now which need no discussion here, they need no emphasis in a gathering of this kind anywhere, which, unless changed, unless speedily changed, will lead our law astray, will go far in warping our constitutional law, in twisting out of place, if not removing entirely some of the great foundation stones, so to speak, which are so thoroughly embedded in our constitution. Who should oppose those tendencies? Who should oppose them with a zeal passing all understanding, if not the American lawyer? Who should stop to reason in a situation of that kind, if not the members of the bar? Why cannot we come to these meetings with the same enthusiasm for this question of American constitutionalism that is evidenced by other gatherings on like occasions for some cause, at the time being very close to the heart of those gathered together? It seems to me, it may be that I am too much of an enthusiast, it may be that I am too much alarmed,—but it seems to me that never before in the history of our country,—at least never before but on two occasions, once when the constitution was in the making and again in the days just before the Civil War, when the constitutional union was threatened,—certainly never except on those two occasions has there come a call to the American Bar for genuine, thoroughgoing, unselfish public service such as comes to us in these days. Our constitution is under attack. It is not for us to say that it cannot be improved. It is not for us to say that the men who made the constitution saw everything and provided against all contingencies, but it is for us to say that there are enunciated in the American constitution principles which are no more subject to amendment or repeal than are those eternal mandates expressed in the decalogue or the Sermon on the Mount. It is for us to point with a militant forward-looking spirit that if the tendency of reckless amendments of the American constitution continues, disaster must follow. It is for us to point out that you cannot safely take out of American constitutionalism certain of the things that are there without inviting sure disaster. This country has gone far already in getting away from what some of us

consider the eternal verities written into our fundamental law. Have we the representative government today which the framers of the constitution hoped we would have,—that they planned to set up? Are we now in the habit of selecting for important public office men qualified by courage, by intelligence, by patriotism, for the positions for which they are selected? Or, are we on the other hand selecting men for important public office, who, instead of doing what they think is right, are prone to do what they consider is expedient at the time being? Why not get back to the idea of selecting men big enough for important public office, on the simple ground that we know them to be wise and courageous, that we know they will do their best to decide just what is right and having decided what is right, will do it! Should not we get back to that, and away from the idea of selecting men who will do finally what they think is desired by a majority, or a powerful minority back home?

So much by way of illustration. So much by way of warning concerning the tendency of the times, the tendency to get away from the unchanging fundamentals of American constitutionalism. This should be our work, individually, so far as possible, but by organization, by forceful, militant organization, to lead the American people back toward the fundamental ideas of American constitutional government. (Applause.) I hope that this association, the Minnesota State Bar Association, and all of our local bar associations may put Minnesota far in the forefront of the march of the American people, not backward, but forward, in a return to the necessary, safe fundamentals of American constitutional law. (Prolonged applause.)

PRESIDENT STONE: I wish again to emphasize the importance of familiarizing yourself with the contents of this pamphlet giving our reports of committee. And again I will say for the benefit of late comers that at 2 o'clock we will make a special order of business of the report of the Committee on Legal Education and requirements for Admission to the Bar. We have a number of more or less formal reports. Is anybody here to speak for the Library Committee, the Committee on Legal Biography, or the Legislative Committee? Those reports are all, this year, of a pro forma nature, and they are printed. (See appendix pages 118, 119, 122.) My only suggestion is that they be accepted at this time for the record. If anyone feels otherwise do not hesitate to make it known. What is your pleasure concerning these three reports?

SENATOR DUXBURY: I move their adoption.

Motion seconded.

On motion duly put and carried, the reports of the three committees, Library, Legal Biography and Legislative, were adopted.

PRESIDENT STONE: The members of the Committee on Entertainment at Bemidji are Mr. Bailey, Mr. Pegelow and Mr. Huffman. That completes the order of business for this session unless something special needs to be brought up at this time, otherwise we will take a recess until 2 o'clock P. M.

AFTERNOON SESSION

Meeting called to order.

PRESIDENT STONE: At this time I want to announce the appointment of two committees, first the committee to nominate members for the Board of Governors for the ensuing year. On that committee I have appointed Judge Catherwood, Judge Fesler, Mr. Caldwell, Mr. Olson of Warren and Mr. Nelson of Minneapolis. Please get together as speedily as you find it convenient and nominate members for the Board of Governors for the ensuing year. The report will be made on the occasion of the election of officers, tomorrow afternoon.

Also at this time I want to appoint an auditing committee. Our constitution requires the auditing of the treasurer's report. Mr. Currie has been detained from being here and the report is not here but we will have it later. I appoint for the auditing committee Mr. Phillips, Mr. Kidder and Mr. F. A. Duxbury. We will see that the report is submitted to the committee later and the report of the committee will be made to the Board of Governors.

In connection with the election of the Board of Governors and also officers, I want to say now while I can say it impersonally, that there is very much to be done, more than would have been if the administration of this year had been what it should have been, but it has not been so, and this next year the legislature convenes and there is much work for this association to do before then in preparation for it.

The voice of the lawyer is not sufficiently listened to. We are abused for the so-called abuses of court procedure. We are abused for some of the errors that are really imaginary, supposed to exist in our law, and yet when we get together and try to do something we find ourselves ignored too often by the legislature. There are many things, I repeat, to be done, and in the selection of the Board of Governors that fact should be realized. This is not a job for anyone that is not willing to devote a great deal of time to uncompensated effort. This is a job for which there is no compensation, that is, money compensation,—it will be compensated in a greater and a much better way, however. I will say that we face a new problem this year, rather a serious one in that the American Bar Association is holding an unusual meeting, and a great many of our active members will attend that meeting and go on to London. For that reason, and others, it was found necessary by the Board of Governors to hold this meeting unusually early or unusually late. We chose the alternative of holding it at this time, and because we have had the meeting so early, many of our committees who have been working hard (not all of them have been working hard, or at all, I am sorry to say), many of them have not forwarded their reports, and the Board of Governors have decided, subject to your approval, that another meeting of this association should be held this year, preferably late in the year, preferably just before the convening of the legislature in January. The Board of Governors have desired me to submit this recommendation and I bring it up at this time, not for the purpose of having you take formal action at this time, but I want you to bear it in mind, and if when the time comes for this session to adjourn, it is thought best to hold another meeting this year, this whole association

ought to act upon it and ought to select, tentatively at least, the time and place.

JUDGE CATHERWOOD: May I make a suggestion, if it is in order?

PRESIDENT STONE: You are always in order, Judge Catherwood.

JUDGE CATHERWOOD: It is in connection with the suggestion of names for the Board of Governors for next year. Your remarks have indicated that it is a matter of a good deal of importance to have a working board, and you have seen fit to name me first on the list of that committee. I want to make this suggestion on behalf of the committee and I take the liberty to do so, that the members from the different judicial districts,—there are nineteen,—that the members get together and suggest the names of one man for each district, to the committee, and give the committee that much assistance in selecting a working Board of Governors for next year.

PRESIDENT STONE: That is a most excellent suggestion, and it will be taken as the sense of the meeting that that be done. It will be considered the duty of representatives, few or many, of each judicial district, to suggest to Judge Catherwood, as chairman of the nominating committee, names for representation on the Board of Governors. This suggestion, like everything else that comes from Judge Catherwood,—when he is not arguing a case,—is worthy of consideration.

JUDGE CATHERWOOD: I consider that the highest praise, coming from a member of the supreme court. (Laughter.)

PRESIDENT STONE: I would like to have the representation of each judicial district suggest two names to Judge Catherwood, if he will be so kind as to consent, one for the Board of Governors for the respective districts and another for the membership committee. There is small excuse now for the small membership of this association. There is still smaller excuse for the smallness of the active membership. There is a tremendous amount of work that can be done and ought to be done. We cannot do it with our percentage of active membership. We cannot do it with a paper membership. There ought to be in each judicial district not only a man who is willing to serve on the Board of Governors but another who is willing to serve on the membership committee, and who is willing to devote a good deal of time to it, to see to it that at this time next year each judicial district in the state has reached the one hundred per cent figure of membership. So if you will, please suggest two names to Judge Catherwood for these purposes.

MR. J. L. WASHBURN (Duluth): You have made two most remarkable statements, Mr. President.

PRESIDENT STONE: Thank you.

MR. WASHBURN: One is that Judge Catherwood is always in order. The other is that there is some committee around here somewhere that is going to finance us when we get out of money. The first suggestion does not interest me,—I pass that up as a mere complimentary remark, but as to the other I have some interest. I would like to have some explanation,

PRESIDENT STONE: I trust that the Chair, with respect to anything

like that, is entitled to the benefit of a claim of personal privilege. If, however, any gentleman gets into serious trouble, we will see what we can do for him even if he is from the head of the lakes.

Another thing I want to say and that is that this association ought to be ashamed of itself (and I will take my share of the discredit or criticism), but we ought to be ashamed to ask the members of the Board of Governors, and perhaps the committees to journey from the furthermost parts of the state to the Twin Cities or elsewhere, to attend meetings of the board or committees. A little effort, a little effort of a general and aggressive nature towards increasing our membership, and getting in delinquent dues, will enable the treasury, to a considerable extent, to reimburse the members of the Board of Governors and committees for their traveling expenses, to a reasonable degree, of course. That should be done in that way only, in my judgment, to get really one hundred per cent committee service. And by the way, I am sorry the treasurer is not here, as he told me a few days ago when I saw him last that our bills are all paid, that we do not owe a cent, and that we have in the treasury now some twelve hundred dollars (applause), which, by the way, was in a solvent bank. (Laughter.)

Next on our program will be the report of the committee on Legal Education and Requirements for Admission to the Bar. The chairman of that committee is Dean Fraser of the University of Minnesota Law School. He is an enthusiast, a man who has really devoted his life to the cause of Legal Education, not for the compensation there is in it, but because of his love for it and his feeling of duty to the profession. He is unable to be with us, but he has a most capable substitute. Minnesota, for a great many years, has been contributing the best of our profession to the states. Now we are getting back, apparently, some of that contribution. Particularly is that fact evidenced in the presence here of Professor Miller, of the Minnesota Law School, who will present the report of the committee on behalf of Dean Fraser. Professor Miller.

PROF. R. JUSTIN MILLER: As the chairman has already explained to you, this is the report of Dean Fraser's committee, and not mine. But, as I judge from his remarks this morning, he is looking for real discussion of the subject. I will assume full responsibility for it, and anything that you would like to say to the committee, I will be glad to have you say to me. (For report, see Appendix, p. 120.)

The report calls attention to the fact that during the year 1923 the total number of applicants for admission to the bar was 171. Of these, 168 were passed within the year—four of them on a second examination. The other three did not appear a second time. In other words, every candidate who appeared for examination in the state during 1923, was admitted, with the exception of three, and if they had appeared a second time, the probability is that they would have been admitted, too.

A serious discrepancy in the method of selecting new members of the bar is indicated by that portion of the report which discusses the methods of ascertaining the character of candidates for admission. The only evidence of character which is now required consists of the affidavits of two responsible persons of the locality wherein the candidate resides. The

report, after discussing the way in which this method works out, characterizes it as being "So defective as to be almost worthless," and then continues, "Your committee recommends the method of investigating character used in the state of New York as a model for this state." That, in brief, consists of sending out questionnaires, following the examination of each candidate, in order to find out his past record. The inquiry is very searching, and calls for information about every employment in which the applicant has ever been engaged; it requires the names of his employers and persons with whom he is and has been associated in various capacities and inquiry is made of those persons to determine whether or not he has ever been in any difficulty. The same method, in general, is in operation in Illinois. Those of you who heard Mr. Strawn speak, when he was in Minneapolis a month or two ago, will remember the amusing story he told of a candidate for admission to the bar. This man was required to state in his application whether or not he had ever been involved in any sort of criminal case. He replied that he had not. When the committee made investigation it found that he had been convicted of some offense. So when he came up again before the examining committee they put the question to him: "Did you state in your application that you had never been involved in a criminal case?" and he answered, "Yes." Then they called attention to the record of his conviction and asked him what he had to say about it. He replied, "Well, gentlemen, I regard that as a *quasi*-criminal matter." So you see it is possible to make investigations that reveal information of that character, and it would really save a great deal of trouble later which now arises in the form of the question whether a particular member of the bar should be disbarred.

The report includes answers received from several district court judges to questions submitted regarding intellectual and moral qualifications of persons being admitted to the bar in this state. The question, "Are persons of unfit character being admitted to the bar?" was answered by one of the judges as follows: "There probably have been in the past, but in my opinion, the board is using excellent judgment now." It would seem that this answer was prompted by the changed policy of the Board of Bar Examiners indicated by the result of the examination held in February, 1924, in which a very much larger number of applicants were declared to be unqualified for practice than was true during the year 1923. Attention should be called again to the fact, however, that the Board of Bar Examiners is not in a position, under the present rules governing admission, to inquire in any adequate manner into the moral character of applicants, and that no substantial change can be made in this respect without the adoption of some such method as they have in use in New York and Illinois, about which I have just spoken.

The report calls attention to the fact that three states—Illinois, Kansas, and Montana—have adopted substantially the requirements for admission to the bar recommended by the American Bar Association in 1921, and approved by the Minnesota State Bar Association in 1922. You will remember that the recommendation referred to was that the candidate for admission must have completed two years of college work as a prerequisite to his legal study, and three years of full time law school work, or four years of part time law school work.

PRESIDENT STONE: May I interrupt just a moment? I will ask Senator Putnam to take the chair.

(Senator Putnam assumes the chair.)

MR. MILLER: I want to make one or two comments that Mr. Fraser might have done, and I will attempt to speak for him, although he has spent a great deal more time on this subject than I have. In the first place I will say that in the American, the state, the county and the local bar association meetings, which I have attended, and at which the question has been discussed, I have never failed to hear the argument made on the other side of the question that the adoption of rules of this character would defeat the coming into the profession of men of the type of Abraham Lincoln, always using him as a specific example. I have never failed to hear that argument made and I want to say in reply to it that at the time Abraham Lincoln was preparing himself for the study of law and for the practice of law there were not available to the students of most of the states in this country law schools which were capable of providing the education which is being suggested here now as a proper training for the law student. If there had been, I am satisfied that Abraham Lincoln would have been there with the rest of them. It is said that men would be shut out of an opportunity of becoming lawyers because they could not take care of the thing financially. I imagine some of you may be saying: "This young fellow is not in a position to speak with authority on a question of this kind." If that be true, then perhaps you will grant that I am in a position to speak of what is happening to the young fellow in the law school today. I went through a course of this kind, a longer one than the one referred to in the committee's report, and I paid all of my own expenses. I am only one of many men who have done and are doing exactly that same thing. Four men in the University Law School who stood highest in their classes this year were all paying their own expenses through college work and law school work, and thousands are doing the same thing. Any man in reasonably good health, and without other obligations, can provide himself with a legal education. There is nothing in that argument. It may once have been valid, but if so, it applied to a condition which no longer exists. The older man who formed his conceptions of legal education twenty or thirty years ago, must recognize that conditions have changed in this field as well as in others. Before the aeroplane was a practical proposition I heard a distinguished engineer, one who stood high in the profession, say that there never would be a successful heavier-than-air flying machine, and yet within ten years after that prophecy was made by him there were successful heavier-than-air flying machines.

Another suggestion I wish to make. I practiced law several years before I started to teach and one of the things that used to surprise me most was the way in which business men, when consulting with me in regard to legal affairs, would assume that I knew all about the business in which they were engaged. They took for granted that any man holding himself out to practice law, to deal with the legal problems which involved their business, must know something about their business. I venture to say there is not a case that comes up for trial which would not be better presented, or in which the lawyer would not have a better background if

he had had some sort of training in that sort of work in his pre-legal curriculum. One of the last cases I tried before I left the practice was one involving the disposal of sewage into a stream by a city. I was representing the county down below into which the river flowed, and where it was used for irrigating purposes. We had a very bitter fight from the beginning, the case turning largely on the question of fact as to whether or not the water was polluted. It became largely a question of expert testimony on bacteriology. I assure you that if I had taken a good college course in bacteriology it would have been very useful to me in the trial of that case. As it was, I spent several weeks with one of our experts trying to find out enough about it so I could examine him intelligently. All of you have gone through the same thing.

We are asking here for a standard which to my mind seems not at all impossible. You will say that we who are in the law school are prejudiced. I will concede it. I am definitely and positively prejudiced on this thing. I think there are no arguments on the other side at all. That is my impression. I concede I am partisan and prejudiced. I think it is entirely possible for a man to procure the type of education for which we are asking here, and I think it is our obligation as members of the bar association to see that we admit to the profession those only who have that training. Men used to come into the profession with a training and experience in practical affairs which they do not get now. Men used to come into the practice with a training in law offices which they do not get now. I know something about that, because my father is a lawyer and I virtually grew up in his office. I read Blackstone when I was fourteen in the usual fashion, about the way a young fellow used to do; but law offices are not that way generally now. Lawyers are too busy to spend the time giving personal attention to young fellows that they used to give in the days of Abraham Lincoln. You all know that, and you all know that conditions have changed and circumstances have changed. From the point of view of the student himself, it is our obligation to see that he does not come into the profession improperly trained. The young fellow, improperly trained, is the most likely to get into trouble if opportunity comes, and vou know there is plenty of temptation in the legal profession. It is the improperly trained man who will fall for it and then you have the privilege of disbarring him and disgracing him in the community because he has done something that we have encouraged him to do by telling him that he was qualified ever to practice law in the first place. And again our obligation to the state itself is such that we should establish education and standards of admission which will guarantee that men admitted to practice law in this state shall be properly qualified, as the standards which we are suggesting would make them. I thank you.

PRESIDENT STONE: Gentlemen of the convention, is there any motion with reference to this report? There does not appear to be any question before the association.

MR. MILLER: In order to put the question before the association I move the adoption of the resolutions as found in the committee report.

MR. EWING (Madison): I move you an amendment that the propositions be taken up one section at a time.

MR. MILLER: I accept the amendment.

PRESIDENT STONE: If there is no debate, the question before the association will be the adoption now of the resolution No. 1 at the end of the committee report which is as follows:

1. "That the Minnesota State Bar Association is in favor of a higher standard in the Bar examinations of this state and approves the change of policy manifested by the State Board of Law Examiners in the examination of February, 1924."

Is there any debate on this question? If not, as many as favor the adoption of the resolution No. 1 say Aye, opposed No.

(The motion prevailed and resolution No. 1 was adopted.)

PRESIDENT STONE: The next is resolution No. 2:

2. "That in the opinion of this association the board should require a high school education or its equivalent for admission to the Bar examinations; that it should require that this general education be completed before the study of law is begun; that candidates who have no high school diploma give evidence of an equivalent by passing the entrance examinations of the State University; and that the board should notify the law schools that candidates will not be admitted who do not comply with these requirements."

Are there any remarks on this resolution?

MR. L. E. JONES (Breckenridge): I want to register my vote against extending any further power to the State University or making it necessary to get the opinion of that power as to what college can certify to a candidate's admission. I studied law in a college that the State University of Minnesota never heard of, and I had a hard time to get them to credit me with the necessary qualifications called for in this resolution. The idea that a young man, a graduate of an accredited law school, a man capable of practicing law in one jurisdiction, coming here and going to the State University and having to obtain the sanction of that power, I think is ridiculous and I want to register my vote against it.

PRESIDENT STONE: Is there any amendment that you have to offer to the resolution, striking out any part of it, or—

MR. JONES: I think the resolution is all right if that one sentence would be stricken out, "Or a degree-conferring college accredited by the State University." When must we go to the State University to get a college accredited by it?

MR. MILLER: May I call attention to the fact that the second resolution relates to the subject of high school education and that the only point involved is the presenting of credentials showing that a high school education has been received by the candidate. The sentence referred to relates to examinations for admission to the State University or to other colleges and universities. A number of them are scattered about among the various states whose credits are accepted by the State University, so if a man is admitted to another college and the State University recognizes that college as being of proper standing, he will be admitted into the State University. It does not refer at all to his legal education. The student who secures his legal education in another university is not affected in any way by this resolution except as he might have to satisfy the requirements of

the resolution, that he had received a high school education, prior to taking his law course.

MR. JONES: I beg pardon, but it does not say so. It says that in the opinion of this association the board should require high school education, or its equivalent, for admission to bar examinations, that is should require that this general education be completed before the study of law is begun, that candidates who have no high school diploma shall give evidence of an equivalent by passing the entrance examination of the State University, or a degree-conferring college accredited by the State University. That is what you say.

MR. MILLER: Now, read it more slowly.

MR. JONES: I have read it. I don't care whether it is accredited by the State University or not, if I have a diploma from a college, I am a fit candidate to take examinations, and if I can pass and be granted my decree I should not be dependent on the fiat of the Lord High Executioner of the university of this state—when I look it up more thoroughly I may have more to say.

MR. MILLER: Is there any substantial lack of understanding among the other members about that resolution?

THE CHAIRMAN: Is there a second to the amendment offered by Mr. Jones?

MR. DUXBURY: It seems to me there is some misapprehension on the part of Mr. Jones. If I understand that paragraph rightly, it simply means that they ought to require a high school education before the study of law. If they have a high school diploma, that is evidence of it. If they have got it by the "pine knot" system, there must be some way of determining that. They can determine that by taking the examinations at the University and it is quite liberal in permitting them to take examinations not by the University, but by an accredited college somewhere else. That is, it is liberal in providing a means by which they can be furnished the evidence of the fact that they have a high school education. If I understand the gentleman, he wants to strike out the latter clause and say they have got to go to a university, anyhow.

A MEMBER: That makes it more drastic than it is now.

MR. DUXBURY: As to the other suggestion that any place that calls itself a college should be recognized,—I presume the commercial law schools, and some others who adopt the dignity of the title, would like that sort of thing, but certainly if we are going to adopt the primary principle of having high school education, we want sufficient evidence of the fact that they have high school educations. If not, they can take the University examination and determine it, or they can take the examination in one of these accredited colleges and determine it. All there is to that is that we want some evidence that they have a high school education. That ought to be liberal enough, and if they have a high school education they ought to be ready for the study of law.

MR. JONES: I am a graduate of the oldest college in the United States. It is not accredited by the State University. Do you mean to say that if

I come before a board of examiners for admission and my diploma admits me to the practice of law in the state of Illinois, that because of my college not being accredited by the State University of Minnesota. I cannot stand for that examination?

MR. DUXBURY: Name the college so I may understand.

MR. JONES: McHenry College, the oldest college west of the Allegheny Mountains, I am a graduate of that college.

MR. DUXBURY: Then you can prove that you are a law school graduate.

MR. JONES: But you say I must get a diploma from a degree-conferring college accredited by the State University.

MR. DUXBURY: No, you can't take your examination unless you can furnish proper evidence of high school education.

MR. HALL: (Red Wing) I thought I would say a word favorable to the adoption of the recommendation, if that is in order, and the members desire to hear any discussion. The only reason I say this,—perhaps it is not necessary,—is because I think the committee has about reached the right limit. I think they have gone just far enough, and not too far. The one or two words which I am saying I was tempted to say two years ago when this subject was under discussion, with the recommendation for a two years college course, and I say them now more as bearing upon a suggestion that possibly, if the professional requirements be attacked later,—in order to show why the report in its present form seems to be about right. You remember, gentlemen, that discussion two years ago when the recommendation was the same as that made by the American Bar Association, and I know that Mr. Young, who was then chairman of that committee, with a great deal of reluctance went to Washington and was convinced almost against his own conviction that the college requirements should be embodied. Now, gentlemen, I do not want to bring in personalities into the discussion, but I feel, as a college graduate, and as a graduate of a law school, that there is a word which can be sincerely said in this discussion, and I cannot get out of my mind (with all due respect for the careful thoughtfulness of Mr. Miller) that old American Abraham Lincoln heart, because the leaders of the American Bar have always come and will continue to come from every walk and every condition of life. Yet, gentlemen, I am not sure that Abraham Lincoln, living today, would take the college course. I suppose he might, but suppose he did not, gentlemen. Law is the study of common sense, it becomes solidified into common custom, and becomes the common law. It is all well to talk about the man who opens your body, needing special scientific skill, to know at just what point to cut, but gentlemen, the gifts which develop the judicial mind and make the great lawyer of America have not necessarily been developed in the law schools, and I believe that the boy who can have the high school education or its equivalent should have the gateway opened to this profession without the additional requirements, because I think the experience of America justifies it. But, gentlemen, there is the other branch of this resolution which you will take on in a minute, and that is the branch that I want to stress, the question of character, that is the branch that needs

the study. Men may go through colleges, and they may make good lawyers, and they may make bad lawyers, just as men can go through law offices or take up law where they can, and you cannot say that the entrance to the profession is the college diploma, because if you do you are placing a requirement which is going to keep out men who should be in the profession, and it is not going to eliminate men who should not. I think the resolution as it stands is right and proper and I hope it will stand there.

THE CHAIRMAN: There is no second to the amendment offered by Mr. Jones. Therefore the question recurs on the adoption of resolution No. 2 as read. If there is no further debate, as many as are in favor of the adoption of that resolution will say Aye, opposed, No.

MR. JONES: No.

THE CHAIRMAN: The motion prevails. The next is the resolution offered for the adoption of that part of the report: "Resolution No. 3. That this association urges the board to make careful scrutiny of the character of candidates for admission to the Bar, and recommends the methods used in New York for the purpose."

(Moved and seconded that Resolution No. 3 of the report be adopted. The motion was carried.)

THE CHAIRMAN: Resolution No. 4. "That this committee next year arrange a conference with the State Board of Law Examiners in order to prepare a revised draft of rules for admission to the Bar for submission to the Supreme Court.

(Moved and seconded that Resolution No. 4 be carried. The question being called for was put and carried.)

THE CHAIRMAN: The next recurs on the motion to adopt subdivision 5 of the report.

"That the secretary of this association send copies of this report to the justices of the Supreme Court and to members of the State Board of Law Examiners."

On motion duly seconded sub-division No. 5 of the report was adopted.

THE CHAIRMAN: What action on this has been taken, was on different sections of the report. What action will you take on the entire report of the committee?

(Moved and seconded that the association adopt the report of the Committee on Legal Education and Requirements for Admission to the Bar.)

THE CHAIRMAN: Is there any debate? If not, as many as favor the adoption of the resolution say Aye,—opposed, No.

MR. JONES: No.

THE CHAIRMAN: The motion prevails. Next in order is the report of the Committee on Ethics. Mr. Graves, chairman of that committee, is not here. Is there any member of thee committee here? (For report see appendix p. 115.)

SECRETARY CALDWELL: I have a letter from the acting secretary of the American Bar Association which I will read:

AMERICAN BAR ASSOCIATION
Organized 1878

Baltimore, Md., June 19, 1924.

Chester L. Caldwell, Esq., Secy.,
Minnesota State Bar Association,
503 Guardian Life Building,
St. Paul, Minn.

Dear Mr. Caldwell:

At a meeting of the Executive Committee of the American Bar Association held in Philadelphia on January 15th, 1924, a resolution was adopted to the effect that the use of the American Bar Association as a clearing house for the registration of disbarments in the various states, would act as a great deterrant to unscrupulous practitioners, and that, therefore, the Secretary of the Association be instructed to proceed as soon as practicable, to put into effect the following plan:

(1) The Secretary of the American Bar Association shall at stated intervals request the Secretaries of the various state Bar Associations to report to him the *final* disbarment of any member of the Bar of their respective jurisdictions, such State Bar Association secretaries obtaining the requisite information from their local and county associations as and when necessary.

(2) The Secretary of the American Bar Association shall compile the information so obtained, and at stated intervals notify the secretaries of the respective state associations of all *final* disbarments throughout the entire country, reported up to that date.

(3) The Secretaries of the respective state associations shall be requested in turn to communicate such information so received, to the various local or county associations of their respective states, to the end that, accurately and with a minimum amount of labor, every bar association within the United States shall be put in possession of the names of all lawyers who have been disbarred throughout the United States during a given period.

I trust that the above proposal will meet with the approval of your Association, the need for a plan of this nature being very definite and real. I shall, therefore, appreciate it if you will lay the matter before your Association in the proper way, and trust that it will see fit to give you such authorization as may be necessary, so that I may have your co-operation in putting the plan into effect.

It is proposed, at the start at least, that the lists of disbarments be compiled and distributed from my office every three months, or four times a year. It is further proposed that the first list shall be distributed on October 1st next. Accordingly, I shall appreciate it if in laying the matter before your Association, you will explain that the first list of disbarments from your state, should be forwarded to me not later than September 1st, next, in order to insure proper consideration being given to the same, along with similar data received from the other jurisdictions.

In this connection, I take the liberty of suggesting that it will be of assistance and will simplify the work, if you will make such arrangements as may be necessary to insure prompt recordation in your office of all *final* disbarments as they occur within your state. The value of the proposed service depends, of course, to a large extent, upon the frequency, as well as the regularity with which the state associations, and through them the more local bodies, are advised of disbarments. Otherwise, unfit persons may slip through for want of timely detection. I should add that the three months interval is proposed as a desirable one to adopt at the beginning, but of course, the number of names received by my office during the next year will make it possible to determine more accurately the frequency with which information should be requested from the local associations, and then compiled and distributed.

Lastly, permit me to warn against sending in names of disbarring

lawyers until such disbarments have been made *final*, since otherwise it might develop that there would be published the name of a person disbarred, and thereafter the judgment of disbarment might, through appeal, be reversed.

Hoping that the American Bar Association may have your co-operation in this matter, and assuring you that if there is any further information which you require, I shall be glad to have you so advise me, I am

Yours very truly,

William C. Coleman,
Acting Secretary.

THE CHAIRMAN: Gentlemen of the association, what action will be taken on the report of the committee and on this letter from the American Bar Association?

MR. DUXBURY: I had a notion to recommend that the letter be referred to the Committee on Ethics, for report and resolution by this association, but the president advising that no members of that committee are present at this meeting, it seems to me that some of them ought to be here when we act.

SECRETARY CALDWELL: I think all the members of the committee have gone to Europe or Philadelphia.

MR. DUXBURY: I move that a committee be appointed by the chair to whom this letter shall be referred, to draft a resolution by which this association can comply with the suggestions embodied in that letter, and I don't want to be on that committee. I don't want you to follow parliamentary usage in that regard.

THE CHAIRMAN: The motion before the association is that the chair appoint a committee of three to report to the association as to proper action to be taken on the report of the Committee on Ethics, and also on the letter from the American Bar Association,—when is it to be submitted,—when is it to be submitted,—tomorrow?

MR. DUXBURY: Yes, to be submitted tomorrow at the opening of the session of this association.

Motion seconded.

THE CHAIRMAN: Any debate? If not, all in favor say, Aye, opposed, No. The motion prevails. I do not think Mr. Duxbury, when he makes as important a motion as that ought to be permitted to shift all the responsibility on to somebody else.

MR. DUXBURY: I want to put it onto the Ethics Committee.

THE CHAIRMAN: So I will appoint on this committee, Mr. Duxbury, Mr. L. P. Johnson, and Mr. Meighen.

The next is a report of the Uniform State Laws Committee, to be found on page 117. Are there any members of that committee present?

MR. BIERCE (Winona): If there is no member of the committee present, for the purpose of bringing the report before the association and saying something of it in derogation of it, I will take the somewhat unusual position of moving the adoption of the report and with it the resolution accompanying the report.

THE CHAIRMAN: The motion is made by Mr. Bierce of Winona that the report of the committee be adopted, and particularly that the resolution found on page 118 be adopted.

(Motion seconded:)

MR. BIERCE: With that before the house, I just want to take a few minutes time to bring before the members of the association a thought or two which I have upon the general subject of uniform state laws, which is pertinent at this time. All of us will readily admit that we are in favor of uniform state laws and are willing to commend the activity of the committee of this association for its work in this particular. The point I want to make, for such consideration as a future committee may see fit to give, is to inquire whether or not we are getting exactly the work in the matter of uniform state laws,—or to ask in another way whether we are able to give to it, as members of the association, that very careful consideration which this subject should have. As lawyers we do not consider it from the viewpoint of selfish interest on the ground that we are against uniform state laws because we hope that litigation will be increased, or anything of that sort. We simply allow those who are particularly interested in this to go ahead and propose uniform laws, and as they are adopted we know that they will require the consideration of the lawyer and the interpretation of the courts. In order that I may not be misunderstood in any way, I will say I am a very keen friend of uniformity in state legislation. For six years I was in the office of an attorney in Michigan who was very actively interested in securing the enactment by the legislature of Michigan of various proposed laws. His interest in this subject was doubled by a request which came to him by a local association to address them upon the subject of the then youthful uniform negotiable instrument law. I was a clerk in his office at that time, and was doing the typewriting, and as he wrote that speech over at least six times I became thoroughly saturated, and thoroughly aroused on that particular feature of this general subject. Of course all that we are seeking in uniform legislation is something which is uniform in all the states, so that we can advise a client that this particular item of business, whatever it may be, if it is covered by a uniform law, is so covered and that we can advise him what the law is as to his contract whether it is in Maine or New York or Texas or wherever it is. We are seeking three things, uniformity of the numbering of sections, uniformity of enactment and uniformity of interpretation. This association, a year or so ago, passed a resolution requesting our Supreme Court (and it is observing this as far as possible), to refer to these uniform laws by the same section numbers as they are presented to us for consideration. This is not true in all states, and it has not been true in our own state in years gone by, so that when we picked up a decision of California or Maine and found a reference to an act or a statute book, giving a section number there, which did not give us the reference to the law in a way that we could very readily turn to it in our copy of the work on negotiable instruments as an illustration, it was necessary for us to spend a good deal of time in looking up exactly what section the Supreme Court of that state had in mind. We can get that uniformity of section numbering by just a little more action on the part of our bar association.

The bigger question is the uniformity of enactment. Are we getting uniform state laws? We are not. Uniform legislation regarding negotiable instruments has been enacted by the legislatures in every state except Georgia. But can you tell a bank or anyone holding a piece of paper, that it is governed by a uniform law and "here is the law"? You cannot. What about its maturity? How about days of grace? In Minnesota and other states, or some of the states, they have reinstated days of grace so that you must check up and see whether the state which this instrument comes under has reinstated days of grace, or how far they have carried the uniform principle in that respect. We know that the general subject as to the liability of one who signs, an accommodation signer, on a piece of paper before delivery,—has been very thoroughly covered by the uniform negotiable instrument law, but can we say as much as to the liability of a bank which has paid a a paper bearing a forged signature, which has been credited to the bank and the forgery not discovered until the paper is in the hands of the party whose account is charged and who calls attention to the forgery? We do not find uniformity of enactment. There was a very heated controversy at the time this law was proposed between Professor Ames and Judge Bruce as to whether some of the sections were as clear as we thought they ought to be, Professor Ames contending that many of them were obscure and Judge Bruce defending the action of the commissioners on uniform legislation. Some of our state legislatures have seen fit to adopt the viewpoint of Professor Ames, and like a dissenting opinion of a court of last resort, Professor Ames' viewpoint seemed to be a little bit better in several particulars than that of the commissioners. The point is that we have to examine the enactment of every state before we can tell a client whether his contract is governed by the uniform act, or whether it is not.

On the subject of uniformity of interpretation, there we get into a far deeper field and we are not getting what we seek in the matter of uniform legislation. It was rather expected, as far as the negotiable instrument law was concerned, that our courts of law would say that in view of the differences which have arisen in the past, it was the intention of the legislature in adopting a uniform act to make a new start. Rather, our courts have taken the natural course and have said this: This law re-enacts into our code the common law, therefore we can go back to the common law to see what the courts have said upon instruments of similar form, or, "This law changes the common law, and therefore we must give it a strict interpretation." It is a matter of regret that the courts did not grasp the significance of the idea of uniformity and use the law as the basis for a new start. Therefore, we are not certain, when we advise a client that his instrument is covered by the uniform law, that it will receive a uniform interpretation. Perhaps it is going too far towards the millennium to expect a uniform interpretation, but we did hope that we might get that. The point I want to bring before the association now is this: Our commissioners are doing a very valiant work, serving with practically no compensation, some of them probably not getting actual expenses, none of them getting all of their expenses. We are putting a lot of hard work upon a few men who are very busy and who cannot do all of the work that

would fall upon such a commission or upon a committee. And I would like to suggest to them that we take a review of the situation and see if we are not getting into a chaos such as existed before, on many of our uniform laws, especially, and see if we cannot get back into the place where we have in fact uniformity of enactment and interpretation, and instead of proposing new uniform laws for the next few years I would like to see our commissioners and committees of this association check back on the enactments, and get back into the realm of uniformity of enactment, and confer with every court of last resort to see if we cannot get uniformity of interpretation and be in position, inside of the next decade, to actually say to our clients and the general public that we have real uniformity in this line of legislation. (Applause.)

THE CHAIRMAN: Any further debate on the report of the committee on uniform state laws? If not, the question is on the motion that the report of the committee be adopted and particularly that the resolution at the end of the report be adopted.

(Motion unanimously carried.)

THE CHAIRMAN: We will now have the report of the Committee on Drainage, page 127.

MR. OLAI LENDE: Senator Cliff, the chairman of this committee, is not present and I am told he will be here in the morning. He has done more work upon this matter than any other member of the committee and I think it is fair to him and not unfair to the association to ask that this report be deferred until Judge Cliff's arrival. I so move, that it be so deferred.

THE CHAIRMAN: Under the circumstances, if there is no objection from the association, the report of the Committee on Drainage will be deferred until tomorrow morning at the opening of the session, or at such later time during the day as it can be reached.

THE CHAIRMAN: Next on the program is the report of the Committee on co-operation of local and state bar associations found on pages 127 and 128.

MR. BURT W. EATON: Mr. Chairman and members of the bar: I regret that Mr. Sanborn is not present to make this report, but it is a subject in which I am greatly interested, because of certain things which I have noted in the meetings of the state bar association, and that is the absence of the young men, the younger lawyers of the state. It seems to me that this matter which is treated in this report gives an opportunity by which they may become interested. I speak somewhat from experience in my own locality. We have in our vicinity local bar associations in each county throughout Minnesota. We have also the Southeastern Minnesota Bar Association, which includes the counties of southeastern Minnesota. I presume that twenty-five per cent of the younger members of the bar are men who are just starting in the profession and who are at this time perhaps unable, because of financial matters, to come to this bar association. But they will be able to and they are able to attend the local bar associations. At our meetings they are always present, and at the meeting of the Southeastern Minnesota Association last year I think every one of our members was present. Therefore, in reading this report you will see

why I am more enthusiastic on that subject because I believe this is a method by which these young men can be brought into this association. I mean by closer affiliation with the local bar associations, the district bar associations, and the state bar associations. (The report is printed in appendix, p. 127.)

I move that the recommendations be adopted by this association.

MR. DUXBURY: I second the motion.

THE CHAIRMAN: Any debate? As many as are in favor of the adoption of the report of the committee and the resolution, accompanying it say Aye,—opposed, No. The motion is carried. The next order of business is the report of the Committee on Jurisprudence and Law Reform which will be found on page 116 of the appendix. Mr. Miller, I understand, is to present this report. In connection with the report is a communication from Mr. Chester S. Wilson concerning county attorneys' associations which he requested to have read at the association.

The secretary read the following letter from Mr. Chester S. Wilson, chairman of the Executive and Local Committee of County Attorneys' Association to Mr. Wilbur H. Cherry, chairman of the Committee on Jurisprudence and Law Reforms:

June 28, 1924.

Wilbur H. Cherry, Esq.,
Chairman, Committee on Jurisprudence and Law Reform,
Minnesota State Bar Association,
600 New York Life Building,
Minneapolis, Minnesota.

Dear Mr. Cherry:

I have been handed the job this year of Chairman of the Executive and Legislative Committee of the State County Attorneys' Association. I notice in the printed announcement of the annual meeting of the State Bar Association the report of your committee on Jurisprudence and Law Reform, in which you say you have in preparation a proposed revision of the code of criminal procedure. Your report further says that your committee has assurances of support from the County Attorneys' Association. I wish to add to whatever assurances of this kind you may have already received the further assurance that our Executive and Legislative Committee will be glad to do everything we can to assist you in your work along this line of reform in criminal precedure, and we have no doubt that you will reciprocate. In the past the County Attorneys' Association has had poor success in trying to secure reforms in criminal procedure, but now that the matter has been taken up by both the State Bar Association and the American Bar Association, we feel that the prospects are good for getting at least part of the reforms which are so urgently needed.

You may have seen the resolutions adopted by the Prohibition Law Enforcement Conference, including all of the County Attorneys and Sheriffs of the state, held at the State Capitol last December. In case you have not, I enclose a copy. These resolutions included recommendations of a number of very desirable legislative measures.

The County Attorneys' Association at the last annual meeting decided to concentrate its efforts at the coming session of the legislature upon the three measures which they thought were most urgently needed and which were most likely to pass, namely: 1. Giving the State the same number of peremptory challenges of jurors as the defense; 2. Giving the State a chance to reply to the defendant's argument; 3. Providing for joint trials of joint defendants unless otherwise ordered for cause. The adoption of these measures would cost nothing, and the last mentioned would

save the taxpayers considerable money in court expenses. We felt that there might be some difficulty in getting any of the other measures through, though we hope that some time they will all be enacted into law.

In carrying out our program we plan to put on a publicity campaign and appeal directly to the people for support of the proposed measures. We also intend to try to get the various candidates for the legislature to announce their position on these questions before election as far as possible. Our past experience has been that if we wait until the legislature meets we get nowhere. The lawyers on the Judiciary Committee are usually engaged in defending criminals, not prosecuting them. Trying to get them to recommend our measures is like bumping up against a stone wall. However, we have assurances of support from some young ex-county attorneys in the legislature who have not been out of the game so long that they have lost all touch with their former work, so we hope for better luck this time.

It will be impossible for me to attend the Bar Association meeting at Bemidji, so I am writing you this account of our plans. I am also sending a circular letter to all the county attorneys in the state in regard to our program. No doubt a number of them will be at the annual meeting and will take part in the discussions along this line. I should appreciate it if you would write me after the meeting advising me as to what action was taken along this line of criminal procedure and giving me any suggestions which you may have to make in regard to getting results with the next legislature.

Again assuring you of our co-operation, and thanking you for any assistance you can give us, I am,

Sincerely yours,

Chester S. Wilson.

THE CHAIRMAN: The report will be read by Mr. Miller.

MR. MILLER: The Committee on Jurisprudence and Law Reform is taking itself very seriously this year and in the first place I call attention to the first part of the report which relates to the adoption by probate judges of rules of procedure governing probate matters. The committee worked with the probate judges, first, in committee, and second, with the judges themselves, at their last meeting in St. Paul on rules governing probate procedure. These rules have been adopted and now it is up to the association to encourage the probate judges to go forward and put them into effective operation. Other than that the committee has nothing to report at this time. We have held meetings and discussed at considerable length proposed changes in the code of criminal procedure. The probate judges committee has suggested that we might go further with them in working out some changes in the probate code, and we have discussed some changes in the corporation laws of the state, and real property laws. We are not ready to report on these matters at this time. We have gone further in the matter of criminal procedure than any other and have had some assistance from the county attorneys. We have asked for, and they have sent in to us, many suggestions involving changes in criminal procedure. Judge Olson, one member of our committee, has undertaken to work over these suggestions and to draft in the form of legislation, bills that would cover the various proposals. Another one of our members has been working with the probate judges and lawyers in probate practice. The same thing in connection with probate procedure. Further than that we have developed nothing to date. The meeting of the association, coming at this

time, interrupted us to some extent and so, supporting the president's suggestion and the suggestion of the Board of Governors, we ask that the association hold another meeting later in the year at which time the report of our committee can be made in full. We realize that any one suggestion concerning criminal or probate procedure might be something well worth a fight on the floor, and we want the report to be as complete as possible before submitting it to you and we want the best possible assistance from every lawyer of the state on all phases of the question, in order that we may be fortified with all possible arguments for and against it. We are very much committed to some legislative changes, and we think they should have the geenral support of all the lawyers of the state. We are convinced that we should reach the members of local bar associations all over the state. We believe that the method which has been adopted in Illinois, of organizing the local associations on a basis of closer co-operation with the state bar association, sending representatives of the state bar association out into the state to submit to local associations the particular propositions, and getting an intelligent support from them, is the only way that our work can be made effective. You have all heard the argument made against legislative proposals coming from the bar association, by lawyers on the outside. To overcome this we need intelligent support from every lawyer in the state.

So all that this committee asks now is that you grant the suggestion of the Board of Governors that there be an adjourned meeting held at some time in the fall or winter at which time we can present our report in full and be prepared with specific propositions at that time. For the present I move the adoption of the report.

Motion seconded and carried.

THE CHAIRMAN: This ends the business of the day unless there is some matter that a member wishes to bring up.

MR. MILLER: May I suggest in connection with the letter from the county attorneys that it might be proper for us to pass a resolution acknowledging its receipt and welcoming the co-operation of their committees in the work which they have suggested doing. I offer a motion to that effect.

MR. BARNARD: That is an important subject, and before we go on record as favoring that it would require a very definite and intelligent discussion. Until the matter is fairly before the meeting I do not think we should take any action on the County Attorneys' Association. I remember a good many years ago I had a part in organizing the County Attorneys' Association and Mr. Peterson, my friend sitting at my right, and His Honor, Dick O'Brien and myself, and we used to pass those same resolutions and send them out and fight hard for them and never get anywhere. Now there is a great deal in those suggestions that should be thoroughly threshed out before going on record as favoring them.

MR. MILLER: I will withdraw my motion and make it read that we do not endorse any specific recommendation, but that we do agree to cooperate with them in proper legislation which will be reported back to this association for its approval or rejection.

Motion seconded.

THE CHAIRMAN: Is there any debate on that motion?

MR. JONES: I do not think this bar association is right to authorize this committee to say to these county attorneys that they will co-operate with them in the furtherance of anything of that kind. I agree rather with the statement made, that this is an important matter and ought not to be threshed out by anybody that is in a hurry and wants to go home. I do not think that should be done. I am not ready to co-operate with the county attorneys.

THE CHAIRMAN: Any further debate? All those in favor of the motion as recorded say Aye, opposed, No.

MR. JONES: No.

THE CHAIRMAN: The motion prevails. Any further business at this meeting?

PRESIDENT STONE (From the floor): For the good many years that I have been connected with this association we have had a committee working hard on this matter, and we have never had a harder working committee than this one that has just reported through Professor Miller. Of course we cannot make any invidious distinctions, but that committee has had two experiences at least that are somewhat unusual. I think this association ought to make some formal acknowledgment to the association of probate judges, expressing our appreciation of the fact that they have seen fit to ask for the co-operation of the state bar association in a matter pertaining to court practice. I move you that Mr. Miller and his committee express to the probate judges' association formally the sense of appreciation of this association with respect to their work in the past year. In that connection you will remember that for some time this association busied itself to some extent with the matter of the unauthorized practice of law. With this action of the probate judges, as I am advised, more has been accomplished to that much desired end than has been thus far accomplished in any other particular. I think we ought to recognize it and I move that the committee be authorized to express our appreciation of the action of the probate judges, and I think we ought to recognize and to express our thanks for the unusual amount of effort that has been put into the work of this committee. That is rather informal, but I submit it as a motion.

Motion seconded.

THE CHAIRMAN: You have heard the motion as made and seconded. All those in favor say Aye, opposed, No.

The motion was unanimously carried.

MR. BARNARD: Many of the committees have not filed a written report, and I happen to be on one of those committees, the one on Noteworthy Changes in Statutory Law. The members of this committee very generously left the matter of making the report to the chairman, and he seems to have failed in getting his report before the association. There have not been very many important changes in our statutory law since our last meeting, as there has been no legislative session. There are some changes that the committee has in view that we thought to be presented here. One of them was an enactment with reference to the enforcement of the

eighteenth amendment. Another was the enactment that would affect the organization of the Ku Klux Klan, and the other as to the Teapot Dome. These were thoroughly threshed out by one of the great political parties a short time ago, and during the last few days they have been again very thoroughly discussed by the other and one of the leading political parties in New York—

MR. JANES: What is the name of it? (Laughter.)

MR. BARNARD: The action taken by these two parties in reference to these three important matters should be taken under consideration by this association. I notice that the friends of the eighteenth amendment won a signal victory at Cleveland, and now those opposed to it have won a signal victory both at Cleveland and New York (laughter),—and the Ku Klux Klan got just what they wanted, and those opposed to it got just what they wanted. And as to the Teapot Dome affair the same was true in both conventions. So that the only three subjects that appear to this committee really important have been thoroughly settled by the conventions.

MR. JANES: I have understood that this committee reports on Notable Changes in Satutory Law. If the legislature has not been in session, where were those changes made?

MR. BARNARD: I say they have been threshed out by the political parties in conventions.

MR. JANES: Of course we know the changes made as applicable to the three-quarters rule,—that has been permanently changed by Senator Walsh of Montana. (Laughter.)

MR. BARNARD: I think that should be left to the chairman of the committee who has had most of the work to do.

MR. RIEKE: That does not explain why the Mississippi is going dry at Red Wing.

JUDGE CATHERWOOD: One committee that takes its work seriously is the one on nomination of Board of Governors. It is important that we should have a meeting this afternoon.

THE CHAIRMAN: Before the representatives of the seventeenth district leave, I wish they would get together over here so we can talk that matter over.

Gentlemen of the Minnesota Bar, this closes the program of the meeting today. This has not really seemed to me like a meeting of the Minnesota Bar Association. It has seemed too much like a peace conference. I hope we will get into the harness a little bit tomorrow morning and stir things up. A motion to adjourn will be considered.

MR. WASHBURN (Duluth): Mr. Chairman, Mr. Justice Stone has just told me that Mr. Cordenio A. Severance is seriously ill at his home near St. Paul. Mr. Severance is a former president of this association, a former president of the American Bar Association, and I move you that the secretary, who can word things better than I can, be instructed to send a wire of greeting to Mr. Severance, reminding him that we regret his illness and expressing our hope for his recovery.

The motion was put and unanimously carried.

The meeting adjourned until July 2nd, at 10 A. M.

July 2, 1924, 10 A. M.

The meeting was called to order by President Stone.

PRESIDENT STONE: Before we take up the regular business as it is written down in the program we will have the report of the special committee which the president took the liberty of appointing during the year. Three of our district judges have resigned within a very short time, each one of them resigning because he had become tired of trying to support his family and educate them on the salary of a district judge. I feel that we should not neglect any opportunity to secure from the legislature of this state adequate salaries for the men who are serving us so splendidly on the district bench. I appointed on that committee, with their permission, the three gentlemen whose resignations had just been accepted, Judge Dancer, of Duluth, Judge Converse of South St. Paul and Judge Buffington of Minneapolis. The report we have here is prepared by them. I also drafted Senator Rockne and Hon. Oluf Gjerset, but none of that committee is present and the secretary will kindly read the report. Judge Converse was the chairman.

Now gentlemen, don't pass this up with too little attention. The committee makes certain recommendations to you. Let us give it some consideration.

SECRETARY CALDWELL: This is a report of the meeting of the committee, upon the salaries of district judges held in Minneapolis, dated June 10, 1924. (See appendix p. 129.)

PRESIDENT STONE: You have heard the report, gentlemen; what is your pleasure concerning it?

MR. WEBBER: To bring the question before the association I move the adoption of the report of this committee by the association.

Motion seconded.

PRESIDENT STONE: Is there any debate, if not, all in favor of the motion please signify by saying Aye, opposed, No. The motion is carried.

May I suggest that it would not be amiss for you to submit the whole matter to the incoming board of governors for such action as seems fit, during the coming year, and particularly before and during the session of the legislature? Apparently the suggestion does not meet with your approval. We next, then, have the report of the committee on the unauthorized practice of law. Mr. Fosness.

MR. C. A. FOSNESS: The chairman of the committee is not here and I promised to make the report for him. (See appendix p. 123.)

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

MR. A. V. RIEKE: I second the motion.

PRESIDENT STONE: May I just make this suggestion? That the work of this committee and its predecessors has contributed to a result which means more to the lawyers of this state than the annual upkeep of this organization for a great many years would amount to,—and yet some lawyers say we have not done anything for the profession.

All in favor of the motion say Aye, contrary, No. The motion is carried.

The next is the Committee on the Organization of the Bar. (For report, see appendix p. 126.)

MR. PAUL THOMPSON: Our chairman said yesterday that he was sorry no subject had been brought before the meeting which would be the occasion of some fireworks. The reception which the bill for the incorporation of the bar received, after the action of the house of representatives of the last legislature, would seem to indicate that the time for fireworks has arrived. I am sorry Mr. Mitchell, who is the chairman of this committee, and has been working on the subject many years, could not be present this morning. He called me up at the last moment and said he would not be able to be here, and wanted me to present the report. I was a member of this committee and also of the committee of the Hennepin County Bar Association which worked on this bill, after its troublesome passage through one house of the legislature, and I wish to state just a little bit of the history of the bill and what the committee proposes to the bar of the state at the present time.

The Hennepin County Bar Association seems to be the storm center of all the new movements which have to do with the practice of law, and when this bill went through the lower house of the legislature a great storm arose in Hennepin County, to such an extent that they even organized another bar association, to fight against the bill, and numbers of lawyers went over before committees of the legislature to protest against the bill. In almost every case it seemed that those who had signed protests against the bill did not understand it; either they had not heard of the bill or the bill had been misrepresented to them by a certain few lawyers who had a personal financial interest in seeing that the bill did not pass. The committee of the Hennepin County Bar Association that was appointed to consider the matter included at least two of the lawyers who had been violently opposed to the bill. One of these lawyers, after studying the matter and becoming convinced that there was merit in it, suggested that instead of the method of the election of Board of Governors as provided for in the original bill, a different method should be employed. He called our attention to the way in which fraternal societies had organized; that delegates were sent from local bodies to a central body, and he suggested that that procedure be followed with reference to the organization of the bar. To find out whether or not that could be done the committee wrote the West Publishing Company and got from them a list of all the lawyers of the state,—that is by cities and towns, so that by consulting that list we could tell just how many lawyers there were in every city and village and also in each judicial district. There was a meeting of the committee of the State Bar Association on this subject about two weeks ago in Minneapolis and after considerable debate, which lasted all afternoon, we came to the conclusion, which is arrived at in this report, that the best unit for representation would be the judicial district. It was claimed, in reference to the former bill, that the cities would be disfranchised, and so that might not be accomplished by the new bill, and also that the cities might not have undue proportion of delegates, this report provides that Hennepin County shall have four members; Ramsey County, three members; St. Louis County, two; and the other judicial districts one from each, making

a board of governors of twenty-five members. That is the proposition that we put up in the report of the committee. This report provides for local bar associations, by judicial districts; that the district shall choose a delegate for the member of the board of governors. It also provides that matters of disbarment or bringing charges against attorneys, shall be considered by the organizations of the judicial districts; and it provides that the matter shall be referred to a district judge to take the evidence, and that, preferably, the county attorney or an assistant attorney general shall have charge of the prosecution of the case, and that the local bar associations, if the case is not deemed sufficiently grave to warrant disbarment, may reprimand or take such other action as they see fit. The law would also provide that a fee of six dollars be fixed, three dollars of this would go to the state organization, and three dollars would be the dues of the local organization. It also provides that every lawyer in this state must be a member of these organizations and pay this annual fee. The proposed bill would also provide that the rules of conduct be not changed at the present time. The original bill provided that the board of governors should formulate new rules of conduct. That provision of the law was the subject of a great deal of debate on both sides, and the committee thought that in starting out it would be wiser to leave that out of the bill and leave the law as it is on that subject at the present time. The recommendation of the committee is that the bill as outlined be approved, and that the task of the organization and conducting of the campaign for its passage be left to the incoming officers. The report goes on to say that unless a determined campaign is made for this bill, and unless the money can be raised so that the provisions of the bill may be explained to all attorneys of the state, there is no use to take it up. In a minute or two more I wish to call attention to some of the arguments made against the original bill and against the whole proposition, and some of the advantages, and then I will move the adoption of the report. The original bill, for some reason, had a clause that the state bar, if incorporated, should have the right to receive gifts. That was used as a talking point by many lawyers who opposed the bill, saying that corporations or other people who had some financial interest in getting rid of a certain lawyer would contribute money to the bar association, and influence its judgment in that way. That particular clause of the bill had nothing to do with the organization of the state bar and, of course, will be left out in the coming bill. It makes no difference one way or the other, but it made a very good talking point for the opposition; many lawyers who were opposed to it had no reason for opposing it except that one provision. Among the claims against the original bill was that it was not representative, but this proposed plan is representative of all the bar of the state, in every judicial district. As I have already said, the provision in the original bill with reference to the board of governors laying down rules of conduct met with a great deal of opposition, and that has been eliminated from this proposed plan, but it goes without saying that if this organization should be a success, that the time will come when the board of governors will have considerable to do with laying down the rules of conduct for the governing of attorneys. This proposed organization, like any other organization, will either suc-

ceed or be a failure, depending upon the personnel of the lawyers who are elected to fill the positions upon the board of governors. If a man is simply elected to give him a sort of honorary position, and for no other reason, and the members of the board of governors are made up in that way, the organization will probably come to a sudden end. But if the members of the board of governors are chosen for their ability to render service to the profession, and if they take the job seriously, as they will, if they are chosen for that purpose, the organization in time will gain the confidence of a large majority of the lawyers of the state, and in that event the organization will gradually accumulate more power, as our members see that the power should be given to the organization.

The original bill, it seems to me, had one objection. That was, as originally framed, the board of governors were to be chosen by ballot, from all over the state. That had this objection, that no lawyer would want to run for a position of that kind which would carry with it a great deal of grief and no honor. The present arrangement, lawyers being elected by judicial districts, and delegates representing a local constituency, while there would be a great deal of trouble and hard work connected with it, possibly there would at least be some honor and there would always be the supporting advice of the local bar association to spur on representatives to do their best.

Now, the advantages of this plan, are that we would have a uniform bar, we would have all the lawyers of the state in one big organization, and we would perhaps start to put our profession upon the map as other professions have already been doing. It has always seemed to me, of late years, that doctors and dentists have been much more progressive than the lawyers, in looking after their professions and seeing that all the members of their professions belong to local, state and national organizations. They have done much more than the legal profession have done to elevate the tone of their professions, and to provide for specialists. For instance, a dentist was telling me that out of the dues paid by all dentists all over the United States, they maintain a laboratory where experts are hired by the year to do nothing but study improved methods of dentistry for the benefit of the whole profession.

Again, it would put the responsibility for the conduct of the bar where it really belongs, upon the whole body of lawyers themselves. Now someone may ask: What will happen to the present State Bar Association if the bar should be incorporated under this plan? That is not referred to in this report, but my own impression would be that the State Bar Association, as a separate institution, would be merged into this organization, and this organization would in no way prevent us from having our annual meetings and discussing problems and going on as we do at present, but it would make all of the lawyers of the state have a vital interest in the work of the association.

Judge Sanborn has been very much interested in this proposition. I was talking with him at the hotel this morning. He had to leave, or he would be here to say something in favor of it. He suggested, and I think it is true, that whenever this proposition has been explained to any lawyer, truthfully explained to him, the lawyer has been in favor of it. If the

matter can be explained to the lawyers of the whole state, just as it is, as we propose it shall be, there would be very little opposition,—a great majority of the lawyers of the state would be in favor of it.

So, Mr. President, I move the adoption of the committee's report, which means that the committee shall go ahead and draft a bill along the lines laid down in this report, that they recommend that a sufficient amount of money be raised to conduct a campaign throughout the state among the local bar associations in favor of the proposition, and bring strong pressure to bear upon the legislature to pass the bill.

Motion seconded.

PRESIDENT STONE: You have heard the report and the motion for its adoption which was seconded. A good example was set yesterday by a representative of my own old judicial district, the sixteenth, and I wish we could follow that example, this morning, and see if we cannot get a little interesting excitement out of this proposition.

MR. CATHERWOOD: I don't know whether I am with Jones or not this morning. I have a question or two. What has occurred to me is that unless the promoters of this measure want to lay themselves open to the charge that it is a Twin City project, I think there should be some changes. I cannot understand what Mr. Thompson's idea is in reference to the provision which gives Hennepin County four, Ramsey County three, and St. Louis two representatives on this board of governors, and only one from each of the remaining districts of the state. I do not know why that is. I do not know why it is necessary. I do not know why it is fair, and certainly I do not know why it is considered advisable. There will be extreme difficulty in getting a measure of this general character through. This purports to be one of the main features of the bill. Whether there is anything suggestive of trouble in what we might call the minor features, we do not know,—at least I don't, because I have not seen the full report. I think first that this association should have the benefit of the entire report before the committee and themselves recommend it. And I should like to understand why there should be different representations from the three counties, different from the representation from the country counties; as I say you will find opposition to it at best. Now, why invite, at the very start, the charge that it is a Duluth and Twin City measure? I am not going into the merits of that feature of it, but on this feature it at least to me very strongly appears as being exceedingly objectionable and exceedingly ill-advised. Before there is any discussion, and I don't know that there will be,—I do wish that Mr. Thompson would explain the reason which prompted the committee in providing the different representations of the different counties.

MR. THOMPSON: May I answer that? When we started out on this subject of representation we had before us a number of lawyers from the different judicial districts, and the first proposition was to divide the state up not by judicial districts but by larger units, so that the number of lawyers in each unit would be approximately the same, giving each unit the same representation. But when we had the meeting the committee of lawyers from different parts of the state were present and they said that we would have to go by judicial districts, we could not combine several

judicial districts and get the lawyers together, with any proposition such as the election of the board of governors. They argued that so strongly that we came to the conclusion that it would be impossible to divide the state up into districts, so that the constituency of the lawyers in each state would be practically the same. Now the bill as proposed, does not to a large extent disfranchise the lawyers of the three cities, because when you figure out the numbers of lawyers who are represented in Minneapolis by four, St. Paul by three, and in Duluth by two, you will see that the city lawyers have a very much smaller representation, in number of lawyers, than do the other judicial districts. The objection was made to the former bill by the Twin City lawyers, over at the legislature, that the former bill was practically disfranchising the lawyers of the cities and that the result would be, if passed in its original form, that the conduct of such lawyers would be governed entirely by members of the board of governors chosen entirely from the country. So the committee considered that, in cutting down the representation of the city districts to as small a number as they did, they were being very unselfish rather than in any way doing any harm to the country districts.

MR. HALL: Is there a motion before the house?

PRESIDENT STONE: There is a motion before the house to adopt the report.

MR. HALL: I would like to move an amendment to that motion: that action upon this matter be deferred until an adjourned or another meeting of this association be held during the present year. I understand there has been some talk of having a later meeting before the meeting of the legislature to consider several matters, and if that is the desire of the association, it certainly would seem well to defer action on such an important matter, with so much detail, until that meeting. I move that amendment.

MR. BARNARD: I am not seconding the amendment. I would like to have the discussion this morning, while we are all here, continued a little further. I would hate to see this amendment prevail and the matter go over without any discussion this morning.

MR. HALL: My plan was not to shut off debate.

PRESIDENT STONE: Perhaps you will withdraw the amendment for the time being?

MR. HALL: I will, at this time.

PRESIDENT STONE: It may be considered later, if you wish.

MR. PUTNAM: Have you a copy of the bill before the legislature last year in relation to this matter?

MR. THOMPSON: No, I have not.

MR. PUTNAM: In stating something about this recommendation,—in a way the speaker was somewhat the center of a cyclone over at the legislature last winter, and he has some very vivid remembrances of the transactions which took place which did not give him a very high idea of the good faith of at least a portion of the Hennepin County Bar. I am not talking about the entire bar, but a portion of it. The representation that was proposed in the old bill did not disfranchise Ramsey, Hennepin

or St. Louis. The proposition in the old bill, if adopted just as it stood.—because we did not feel in offering that bill that we wanted to take any decisive measure that would disfranchise anybody,—the old bill,—and now remember that the lawyers of Hennepin and Ramsey county constitute a large body. They can come and go easily. But the lawyers of the country are scattered and cannot get together. But under the old bill, put up to the last legislature by active co-operation of the lawyers in the cities, they could have elected every member of the board of governors. And it is unfair at this time for them to get up here and say that the old bill disfranchised the city lawyer, when on the other hand the effect of the bill was to more disfranchise the country lawyers than it did city lawyers. That is what I want to protest against here. I am not saying anything in particular one way or the other on this bill, but I do want to say that the purpose of the bill originally was not to disfranchise the cities, it was not to kill lawyers, it was not to kill off any lawyers at all, but it was to afford the bar itself a chance to clean its own house. There is no question, and I do not think that any lawyer of experience or standing, one of good moral character, and who pays any attention to the ethics of his profession, but what knows that the bar of the state of Minnesota does need some cleaning, and the purpose of that act, and the sole purpose of it, was to enable the bar itself to clean its own house without asking somebody else to clean it up. How is it that the doctors get by, and handle their own profession? It is because the doctors discipline their own members. The dentists discipline their own members, and all the other professions discipline their own members, but we lawyers are afraid to discipline ourselves, and that is what we are trying to do there, and you will never clean house in the legal profession until you can get the profession together to act for itself. That was the sole purpose of the bill before. The stuff about disfranchising was put up as a smoke screen, there was nothing to it. That could have been cut right out of the bill in two minutes and the proposal was made right there to cut it out. But that was not the purpose at all. They offered to cut that out, there were two or three other little things in it we offered to cut out, but the reason for the fight on that bill was that there was a certain class of lawyers in the state of Minnesota who did not want the legal house cleaning and nobody knows it any better than the speaker from Hennepin County, who just stood there. I am not throwing any stones at him. I do not see anybody here in this body today from Hennepin county, or Ramsey county or St. Louis county that I want to throw any stones at on that account, but there was a bunch over there that ought to have some stones thrown at them for the attitude that they took on that bill, because they did not want the bar to clean itself. Now, if you are going to have a law by which the bar will take hold of the proposition itself, you have got to have something in that act which gives the board of governors, or whatever board you may call it, some power and authority to act. It has got to be not voluntary. It has got to be something besides a voluntary act or a permissible act. It has got to be something which the ruling board of the bar can enforce, themselves, without having to go to the supreme court or somewhere else. But in that connection the law should be so framed that the lawyer has the ultimate right to have the

supreme court itself pass ultimately on the question of disbarment. I don't want it put up,—nor that act did not put it up originally,—so that the board of governors had the complete power of disbarment of any lawyer. I think the bar of the state of Minnesota, in the years that I have lived here, and practiced law, have confidence in the good faith, integrity and honesty of the court, so far as the disbarment and treatment of attorneys is concerned, and the bar look upon the supreme court as the father of the attorneys, and when you come to disbar a man from his profession after he has been admitted to practice, and turn him loose, fit for nothing else, the condition under which he is disbarred ought to be sure and certain and there ought to be a valid reason for disbarment before he is disbarred. That question should be submitted not as a matter of mere appeal to the supreme court, but to the supreme court to pass upon the evidence itself and give its judgment and its views upon it, irrespective of any judgment that has been passed below that supreme court. And when you do that you will have protected every lawyer in the state of Minnesota and you will have protected the public and you will have protected the courts. Now, all of that should be in this bill for the organization of the bar. This is all the purpose of the original act, it was not an incorporation act because the legislature could not pass such an act incorporating any body, but it was simply forming the bar itself into an administrative board, allowing the usual functions to be carried on within the bar itself. Now the simple question to answer is: Has the bar confidence enough in itself to go ahead and do it? If you have not any confidence in yourself as a bar you cannot do it.

MR. FREEMAN (Olivia): I am very glad Senator Putnam has expressed himself, because he has given us a lot of food for thought, and it seems to me that we are entering upon a very important subject that perhaps has not had sufficient study.

SECRETARY CALDWELL: Six years.

MR. FREEMAN: In the first place Judge Catherwood's suggestion as to the committee's provision for representation was a proper one and is deserving of considerable thought. As I understand it the opposition to this movement has come from the cities. Is that correct, Mr. Thompson?

MR. THOMPSON: That is correct.

PRESIDENT STONE: Principally from Minneapolis. (Laughter.)

MR. FREEMAN: I think all the Minneapolis delegation is not present. I think the opposers of this plan must have remained at home. However, if I understand the committee's plan correctly, it proposes to give to the three judicial districts eight members, eight of the twenty-five members.

PRESIDENT STONE: Nine out of twenty-five.

MR. FREEMAN: Nine out of twenty-five. Well, that is bad enough. The thought that comes to my mind is this, and I would like to have Mr. Thompson's view of it: Minneapolis is to have four members under this arrangement. Now then, every lawyer in Minneapolis will, under this law or under this incorporation, become a member of the corporation. That is correct, is it not?

MR. THOMPSON: That is right.

MR. FREEMAN: Now then, can the bar of Minneapolis,—I was going to say the judicial element of the bar,—but the better element, I will say, —will the better element of the lawyers of Minneapolis be able to elect for that judicial district four members for the board of governors? Will the better element of the Ramsey county and St. Louis county bars be able to do that? Now, if you are not in sympathy, if the bar generally of those three districts are not in sympathy with this movement, then I fear that there will be nine members from those districts that will be opposed to this very plan. I would like to know from Mr. Thompson whether or not his judicial district will be able, under this arrangement, to elect four representative members of the bar to the board of governors. Now just a moment: Now it seems to me that the proper thing to do here along the line suggested by the gentlemen a few minutes ago, is to enlarge this committee if it is necessary, have this committee hold public hearings and actually frame a proposed bill, taking into its confidence the members of the legislature who will ultimately have to act upon that bill, and then at our next meeting, at this special meeting of the bar association to be held some time next winter, have the entire matter in detail submitted to the association, in order that we may have as much harmony as possible. I can plainly see that the danger lies in a board of governors who will not propose to carry out the will of the members of this association. This is just a suggestion. I am not making a motion, because I don't want to put off debate.

PRESIDENT STONE: Gentlemen, let me call to your attention the fact that this particular matter has been before this association for six years. A great many hearings (I don't know just how public, Mr. Freeman) have been held, and a carefully prepared bill was submitted. The literature of the association for several years has been full of it. The idea of the extra, special meeting this year was suggested by the board of governors with this situation in mind, but please observe what the committee says about our doing something with respect to this or letting the matter drop. That is said by way of suggestion and not at all by way of debate, and I hope the matter may be wholly debated here.

MR. FREEMAN: I am heartily in favor of this plan.

MR. WASHBURN (Duluth): I don't want much. But if the bar of Hennepin county is as dangerous as Brother Freeman suggests, and if the bar of Ramsey county is under suspicion of being the same thing, where will we be when we get together some time next winter in a special session, in one or the other of the Twin Cities to consider this bill? We have not a very strong representation, in point of numbers, from any one of these three cities. I put that out as a suggestion of when it is best to consider in earnest this bill. In answer to the question by the last speaker, I would say for St. Louis county, as far as I am concerned, I don't care whether we have one member or two, but I will say for St. Louis county that I believe the better element of the bar in the eleventh judicial district (a part of St. Louis county) can send either one or two men to this board of governors from the better element of the bar, and have no difficulty in

doing it. I am in pretty strong sympathy with this bill or something very nearly like it. I never did take very seriously spending much time here over some of this disbarment stuff, where some poor devil had collected ten dollars and a half and didn't see how he could part with it to pay it over to his client, without any hope of reaching such a beneficial committee as our president spoke of yesterday, to enable him to help make the remittance. (Laughter.) We all know that the bar has members who ought to be disbarred, but some way there seems to be no way of reaching them. It is only the little devils who get punished, or some man now and then who is convicted, and ought to be, "without benefit of clergy." (Laughter.) I believe that some measure of this kind will not only have a remedial power, but I believe it will be a deterrent against future wrongs, which is of still greater importance, and I hope that no small feature of the bill will prevent it from getting to the legislature in the form where it ought to be passed, and can be passed. I am wholly in sympathy with Senator Putnam and Judge Catherwood on this question of representation, but if Minneapolis cannot elect four good men, they can elect one or two good ones out of the four. You have had much less representation in the matter of district judges, and I care little about that feature of it. So far as I am concerned, I am quite willing to trust these great questions to a board made up of one, but maybe everyone will not feel like that. But is it quite fair to require them to do so, and on second thought and more reflection are you quite fair in saying they should not have some increased representation, somewhat in proportion to the population and number of district judges? I am very glad indeed to support one of the suggestions of Senator Putnam, in the matter of having the record of these trials go to the supreme court, so that the supreme court may pass upon the record. I am an old timer in Minnesota,—too much of an old timer to be worth anything any more except to come here and have a good time, partly with old timers and others, with the younger ones who are active,—but I know something about the history of Minnesota and a little something about the conditions now existing. And there have been district court judges, Mr. President, in the state of Minnesota, who did not need to have their salaries raised. (Laughter.) There have been district judges in the state of Minnesota who got too much salary if they got any. (Laughter.) You leave these disbarment cases to a district court judge to try, have the case prosecuted before him and have him make up findings of fact that cannot be gotten away from on appeal, and he can whitewash his favorites and punish his enemies, and some of them have; and it is astonishing how little it takes sometimes to make a condition of enmity between a practicing lawyer and the district judge. That can be protected, as Senator Putnam suggested, by having the record go to the supreme court so that they are not tied up by findings of fact. I hope that none of these little differences will prevent some such measure as this from giving power to the bar of the state organization,—if you please, by compulsion of law. (Applause.)

SENATOR DUXBURY: This matter of the organization of the bar has been considered to my knowledge since the meeting at St. Cloud, I can't say how long ago.

SECRETARY CALDWELL: Before that, in Duluth.

SENATOR DUXBURY: And it is evident from all we have heard so far that nearly every member of the bar that belongs to that class said to be reputable has concluded as a matter of self-respect that the bar ought to do something by which it can rid itself of disreputable practitioners. I was convinced for many years that there is such a need, and I have always been convinced that the means of disciplining attorneys in the state of Minnesota is wholly inadequate, but I confess that I am rather astonished at the inference that there are so many in Minneapolis and St. Paul of that character, that we cannot trust them to have anywhere near an adequate representation in the instrumentality by which they can be disciplined. I am shocked at that. If there is any justification for that inference, we never should adjourn here until we get together upon some instrumentality and stay at the game until we clean up. I am not quite convinced that St. Paul, Minneapolis and Duluth are quite as bad as is involved in the inference that they ought not to have a reasonable representation there. I have the rather dubious reputation of having at one time in the legislature fathered and fought for a bill known as the "Seven Senator Bill," and that bill was moderate beside the suggestions that are in this, that they will be satisfied in Minneapolis with four, while down in my district, where we have one judge, we are to have one. It does not seem to me that that feature of the proposal is unreasonable at all. I believe,—I want to believe,—I would hate to indulge a suggestion that there is practically any of the bad element in those cities among the bar,—that we cannot put that feature in the bill that has been suggested. But, however, as Mr. Washburn says, those details are of little importance. We want to make all concessions possible in these small details, because the important thing is to get the instrumentality that will work, and the better element of the bar in St. Paul and Minneapolis (and I believe that is a very large majority) would welcome the instrumentality if it cut them out entirely,—if you gave them something that would work and do the business as it ought to be done. Now, it is not well tc put anything in the bill that is going to offer an opportunity for this sort of camouflage, what I mean is clouding the real issue. And so the truth is that these fellows are talking about opposition to the fundamental principles of the bill by which the bar can purge itself. Many lawyers have had occasion to blush for the conduct of members of the profession. Where I speak of a purge, we deserve it. They say, why don't you clean up the bar? Why doesn't the bar of the state of Minnesota do it? They don't know that the answer is that we have no effective means of accomplishing it. We ought to get that. There is nothing this association can consider of more importance than this very question. I don't think we ought to talk about the details here at all. We ought to put this committee at work to draft a bill, and let them determine these things and then when the bill has been drafted and you have something definite, you have something to talk about. Then if there is something in the bill that isn't right, we can cut it out, but get the bill so something can be accomplished, the fundamental purpose, and let us stand on it and get an instrumentality to enable the bar to purge itself. Mr. Washburn suggested a moment ago the most important thing: If you have the instrumentality to reach these things you will have less of this

kind of practice from the same men. The deterring influence of the instrumentality will itself correct these practices to a great extent, and you will have but little to do. The fact that you have this instrumentality and that it works will make those fellows quit that kind of practice, and when you go after one of them you want a means by which you can get them. However, a failure of prosecution is often just as good as a conviction. They know we are after them and are on their track, and we will have better conduct. So we want the means. Some fellow has said that down in Texas you don't need a revolver very often, but when you need it you need it bad. It is the same situation here. I hope we won't need this thing, but when we need it we need it bad, and it should be effective. (Applause.)

MR. PAUL THOMPSON: Mr. Chairman.

PRESIDENT STONE: Mr. Thompson, are you rising to give information?

MR. THOMPSON: I am rising to answer these questions.

PRESIDENT STONE: All right, I will recognize you for that purpose.

MR. THOMPSON: I don't want to take too much time, but Senator Putnam and Mr. Freeman have asked some questions, and I will say in answer to both that I do not think that the Hennepin county bar needs any defense at all, when the bill allows them four high-class members of the bar to represent them. In support of that I will state the fact that before every primary and general election we take a secret straw vote by all the members of the bar, whether members of the association or not, on the subject of who the judges shall be, and by an overpowering majority in this secret ballot in all cases the names of the sitting judges are recommended. And I must call the attention of the gentlemen to the fact that at the recent annual meeting of the Hennepin County Bar Association (which has a membership of a large majority of the members of the bar), a straw vote was taken for president and the president of our bar association, Mr. Frank Morley, is here, you all know him, and the candidate that he won out against was Hon. George R. Smith, formerly probate judge and member of congress. The secretary of our bar association for many years was Mr. Morris Mitchell, who was re-elected every year until this year, when he voluntarily withdrew his name. Mr. Mitchell has been the most enthusiastic supporter of this plan since the time it was first proposed. I may have mis-spoken myself a little in saying that the original bill would disfranchise the city lawyers. I should have said that it is claimed that it would do that, that that would be the result, that that was one of the arguments put up against it. When the matter has been thoroughly threshed out before the Hennepin County Bar members, there is no doubt but two-thirds or three-fourths of all the members will be in favor of this bill. I am heartily in favor of everything said in reference to the proposed bill and what it will accomplish.

MR. FREEMAN: I second the motion to adopt the report.

MR. L. E. JONES: For the first time in my life I am in hearty accord with Mr. Freeman and Senator Putnam. I think Brother Putnam stated the situation when he said it was necessary for us to clean house, and nobody can clean house better than a body like ours. This matter has been

before this association for six years, and I have been coming before this association twenty years, on the board of governors fifteen years trying to get something like this, and met with procrastination year after year. Now let us do this thing and do it today. As was said about the payment of specie, the way to resume is to resume. The way to get action on this matter is to get action and to take it now. We should allow this committee and such men as Brother Putnam in the legislature to work out the details. Brother Catherwood says why should Hennepin county have four delegates? Why in the name of good should they not have four delegates? They have a thousand lawyers, where in our little country district our judicial district, we have twenty-five! The majority should control. If they are so bad in Minneapolis as some of them claim they are, they have a right to rule. The majority has got a right to rule. That is the foundation of American government. Give them their representation and let them work. Nothing wrong about it. (Laughter.)

My younger brothers from the country come down here and don't say a thing. You sit around here and don't even vote unless you vote Aye with the majority. Here is a place for you to vote Aye. Here is a place for you to get into this game and help this bar association that has been trying for years to go to the legislature with something that could be accomplished. Let us pass this report and pass it today, and let Brother Putnam and our other brother members of the legislature work out the details. Let us get started and get it before the legislature and then let us, every one of us, go to our member of the legislature and tell him what we want. Don't tell me you can't do something with the man in your county if you go to him in good faith meaning what you say. I know better. I could go to my member in the legislature and lay my cards on the table and tell him why and I will get somewhere, but if I go as a lawyer and say, now do so and so, he won't do anything, but you ought to go to him with the fire of courage in your soul and some reasons to back it up, and your member of the legislature will listen to you. We should resolve ourselves into a committee of one, each of us, to go down to the legislature and tell our members, "For God's sake help us lawyers clean house," and you bet we will get the members of the legislature to help us clean house. (Applause.)

MR. HALL: I do not see how the gentleman can ask the adoption of the report which specifies, as I understand it, the representation of the counties and at the same time leave that for the committee to determine.

SENATOR JOHNSON: As one of the lawyers of the country districts, I want to say that I have full faith in the Twin City and Duluth bar. There is as large a percentage of honorable men in the profession in the large cities as in the country. There is one singular fact, probably, that we from the country overlook, and that is, that we send all of our disreputable lawyers from the country to the Twin Cities, and that is why they have so many there. (Laughter.) When it gets so hot out in the country that a lawyer cannot practice law there for lack of decency, he gets out and lives in the Twin Cities. I am not mentioning any names, of course (laughter), but you can look up the records and decide for yourself what the facts are. I think that it is right that the Twin Cities should have the larger representation in this body. When we send men to the legislature from the

Twin Cities, we give them a representation according to the population, and we do the same when we send men to congress, and it is only right that this body should give them representation according to the number of lawyers. This question has been before the bar, in its meetings, every year, for many years, and we have passed resolutions the same as the one we have now, different in language, and a little different in detail, possibly, and they have gone before the legislature, and undoubtedly we will do the same thing today; and then probably the membership will go home and forget all about it, and leave the matter to Senator Putnam and others. Our recent experiences in the last legislature convince me that the work we do here is of no effect whatever, unless we follow it up with some active work in the legislature. Had you gentlemen sat on the judiciary committee of the senate, as Senator Putnam and myself did at the last session, and seen the flock of these bills coming before that body in numbers—and, I have no doubt there was not one of the men that opposed the bill that was not present on one side, and on the other side only three or four of the reputable lawyers,—they fairly stampeded our committee, and threatened to carry the fight to the floor of the senate, where they knew there were others besides lawyers, and by prejudicial propaganda would have overcome any bill that could have been presented to them. The work of this body is not only to pass this resolution or these resolutions, but to follow them up by active work with a good respectable committee to appear before the judiciary committees of both house and senate and carry it onto the floor if necessary, because there is where you will meet the enemy, and that is where the battle begins. All that we do here is hollow talk, unless you meet the enemy where you find it. I think we should pass this resolution, and I repeat it is absolutely useless, it is hollow talk, unless you follow it up by some active work before the legislature next January. (Applause.)

SENATOR PUTNAM: I think perhaps some of you misunderstand what I said, or intended to say. What I did say was that the old law, as put up last winter, would have permitted every member of the board of governors to have been elected from the Twin Cities. There was no restriction whatsoever. It is far from me to want to throw any stones at the reputable members of the bar in the cities, but they are just exactly as good as in the country and no better. We all stand on the same plane. But the old law did permit every member of the board of governors to be elected in the cities, without the country having any representation at all. That is what I was trying to bring before this convention, the argument of the opposition that was brought up last winter that it disfranchised the country bar. As far as I am personally concerned, I do not care whether Hennepin has four or five or seven, and the other counties in proportion, that is not anything for or against this bill. I am willing Hennepin should have four representatives, and start out that way if we can only get something going onto which you can build and to which you can add or take away from effectually. That is all. It is not the number of members on the board of governors from Hennepin, Ramsey and St. Louis counties,—that does not cut any ice at all. I am willing they should have four or seven if they want it, or anything. I don't want to be misunderstood as saying anything on that score.

MR. BARNARD: We do not want to take any hasty action, and if we are to have another meeting, either before or during the legislature, it would be a good plan to have a bill drafted by a committee of this organization and acted on at that time, and after we have considered it a little more than we have this morning. As Senator Putnam says, no doubt there are reputable members of the bar control in Hennepin and Ramsey and St. Louis, but at the same time I understand that they had a referendum on this bill before the legislature and it was voted on by the bar of Hennepin county and a very large majority were opposed to it, and I think those matters should be taken up between now and the adjourned meeting, and a bill that is complete presented to the organization before they act on it. I am not in favor of delay, and if it would mean carrying it over to another year, I would be much opposed to it, but I am rather in favor of having the matter presented to the organization by way of a completed bill and one that we can discuss then and eliminate any objectionable features.

MR. WASHBURN (Duluth): Mr. President, I am quite in sympathy with Mr. Jones' attitude. We have had this up long enough for discussion, and we ought to act, but I do not see how we will be conclusively acting by merely adopting the report, it is somewhat alternative in its wind-up, and says that if we do not do one thing we might as well do another. If the motion to adopt the report was not seconded,—

PRESIDENT STONE (interrupting): The Chair's recollection is that it was seconded.

MR. WASHBURN: Then I will move you—it seems to me we must have some more comprehensive motion, I am not entirely satisfied with what I have written here, because I have written it while I was listening, but I would like to make some such motion as this: I move that it be substituted for the motion to approve the report,—by so substituting, I take it, that it is so substituted as a matter of parliamentary law. It will then be before the association and can be amended if it is not in good form. Therefore, I move

MOTION

That there be substituted in place of the motion generally to approve the report, the following resolution:

"That we approve generally the bill as outlined in the report; that the details or the reconcilement of minor differences be left to the board of governors to work out with the legislative committee; that this association put its force behind the adoption of such a measure, and that the president of this association be authorized to appoint such committee or committees as he may deem best, to further the matter of education concerning this bill and its adoption by the legislature."

I don't believe in any more meetings about it. I don't believe in any special meetings about it. I would rather leave it to the board of governors, after we act, than to have a special meeting.

MR. BIERCE (Winona): I second the motion.

SENATOR DUXBURY: It has been suggested that your motion, Mr. Washburn, rather ignores this committee that has prepared this report, and their experience and interest in the matter, and that ought not to be.

MR. WASHBURN: Let us cover that by saying that the committee be continued,—

MR. DUXBURY: May be continued to co-operate with this other agency?

MR. WASHBURN: Yes.

MR. DUXBURY: They will probably be the best part of the agency. (Motion seconded.) (Cries of "question.")

MR. EWING: I think what Mr. Duxbury has reference to is that Mr. Washburn in his motion mentioned the legislative committee. If you just strike out that word legislative, and the committee on the organization on the state bar,—

MR. WASHBURN: No, this will go before some legislative committee, one in each branch of the legislature.

SENATOR JOHNSON: I would like to inquire if I understand Mr. Washburn's resolution, that it provides for the appointment of some additional members to constitute this committee? We now have a standing committee. The one that I now have in mind is the legislative committee, not large enough in number to handle the matter before the legislature. We are fairly stampeded there, and if your resolution is put up to that committee, we should see that the bar will be represented in considerable numbers at the next session of the legislature.

MR. WASHBURN: Let us reframe that last clause, "that the present committee on organization of the bar be continued and that the president of this association be authorized to appoint any additional members thereof which may be deemed wise, and appoint any other committee that he deems necessary to further the work of education with respect to this bill, and to further its adoption." Let that cover it. This is a substitute.

PRESIDENT STONE: If there is no objection, the motion of Mr. Washburn will be considered amended to stand as he has last read it. Is there any further debate concerning it? (Cries of "question.") If not, the question is on Mr. Washburn's motion. All in favor, say Aye. Contrary, No. (The motion was unanimously carried.)

PRESIDENT STONE: Now I understand that your motion was to substitute this motion for the other and that is the motion now before the house for debate. The question is now on the merits. The other was to substitute. All in favor, say Aye. Contrary, No.

(The motion carried unanimously.)

PRESIDENT STONE: Just a word from the Chair, if you will be so kind. As has been said and repeated and re-repeated, again and again, the question has been before this association at least six years. Our literature has been full of it, and a formal bill was drawn under the auspices of this association two years ago, which was introduced in both branches of the legislature and was passed by the House of Representatives. Then the opposition was awakened. Minneapolis does not deserve all the credit nor all the discredit for it. Your association selected two or three sacrificial representatives to appear on behalf of that bill, and I happened to be one of them. I know that the opposition was before the judiciary committee

of the senate, Senator Putnam presiding, and he was one of the best friends of the State Bar Association. All during the session we were met by opposition that was founded,—I speak plainly,—wholly on falsehood. Since then a great deal of the opposition has disappeared. A great many members of the bar appearing there that night were wholly sincere and utterly misinformed. One of them, the leader of them, has signed this report. A great many more have expressed their regret for what was done there that evening, and the attitude which they took. We will begin to get actual results on this just as soon as we begin to do our plain, professional, ethical, civic duty in this connection. (Applause.)

MR. BIERCE (Winona): There was a suggestion made by the Chair a few moments ago, which was seemingly ignored. It had to do with the suggestion for bringing proper measures before the legislature to increase the salary of district judges. I move that that matter be referred to the incoming board of governors, with instructions to act during the session of the incoming legislature.

(Motion seconded and carried unanimously.)

PRESIDENT STONE: The next report is that of the committee on uniform procedure in the Federal Courts. Mr. Quigley will present that report.

MR. QUIGLEY: It is to be regretted that Mr. Shearer, the chairman of this committee, could not present this report. This is one of the few meetings in the last years and years that he has not attended, but it seems that he had to choose between London and Bemidji, and he chose London.

PRESIDENT STONE: He will never do it again.

MR. QUIGLEY: The report of this committee will be found on pages 123-25 of the appendix. The report refers to three particular bills now before the National Senate and House of Representatives, Senate Bill 2061, the bill to give the Supreme Court of the United States authority to make and publish rules in common law actions. Senate Bill 2060 is a bill to amend the Judicial Code, and the members of the Supreme Court of the United States are anxious to have these bills passed. I presume that is the best reason in the world for their passing. Bill 2061 merely refers to the rules that the Supreme Court may make and promulgate for the expedition of business in that court. Bill 2060 is for the purpose of eliminating the congestion in the court and do away with a great deal of work which is now being done by a great many lawyers over the country who prepare their cases and come into that court, only to find, it seems, that they are there in error, and have wasted a great deal of time and money. The third bill is a bill which would strip from the federal judges the right to direct verdicts and comment on the evidence in the trial of jury cases.

The committee's recommendations are that the Minnesota State Bar Association approve of Senate Bills 2060 and 2061; that is, the bills referred to for the elimination of congested conditions and the making of certain rules by the Court. The committee also recommends that the incoming committee on this subject be requested to study and report to the next annual meeting of the association upon their recommendation as to the advisability of enactment of the Senate Bill 624, which refers to the

curbing of the power of the federal judges. The informal opinion of the committee is that this last bill should not be passed, but we are now asking that this association recommend for passage the two bills, 2060 and 2061. About all you can do, of course, is to write to our representatives and senators in congress. Mr. Shearer has had two letters, one from Senator Johnson and one from Senator Shipstead. They are both here and I will read them. (Letters read.)

I now move the adoption of the committee's report.

(Motion seconded and carried.)

PRESIDENT STONE: The next is the report of the special committee on the grand jury. (See appendix, p. 128.)

MR. PAUL THOMPSON: At the meeting of this association in 1923, we endorsed the majority report of this committee which was to the effect that the use of the grand jury in the ordinary criminal cases should be dispensed with, but that a grand jury might be called for any term of court, or during any term of court, upon written demand of the county attorney, the county commissioners, or twenty-five taxpayers of the county. The last legislature amended the grand jury law so that the use of a grand jury in any case where the punishment did not exceed ten years was not necessary, and that was borne out in State vs. Kenney, 189 N. W. 1023. The majority report of the committee does not recommend what can be done in the form of a bill to carry out the recommendation of the association, of a year ago, that the grand jury need not be called in any criminal case, but the law would be so amended that prosecutions would be upon information for all crimes. Mr. Montague, one of the present county attorneys, called my attention to the fact that if this amendment is made the statute of limitations should also be amended providing that the statute of limitations does not run in case information is the basis of prosecution. As it is now, the statute runs unless an indictment is found. He stated further that in his county he was obliged to call a grand jury to prevent the statute of limitations running in one particular case, whereas that would not be necessary if the law were so amended. This matter was discussed a year ago and unless the members of the association care to discuss it again, I will move that the report of the committee be adopted.

MR. JANES: What was the theory on which this bill was to provide that grand juries might be called on petition of a certain number of taxpayers? Was that on petition to the district court?

MR. THOMPSON: Yes, that was copied from a provision in another state. The committee sent out letters to county attorneys in the state and to attorneys general in different states, to get suggestions, and I might say by the way, that in one issue of the Law Review, Professor Miller wrote an article on the subject of information and indictment, which the committee wished to send to newly elected members of the legislature. Probably you all read it. The committee raised $20 to provide for the publication of additional copies to be sent to new members. The article is not an argument one way or the other, but it states the arguments pro and con, and the disadvantages and advantages of either system.

I move the adoption of the report. (Motion seconded.)

PRESIDENT STONE: By the way, I take it that that report should be considered amended to the extent of including the suggestion of Mr. Montague. Is that the understanding?

MR. THOMPSON: Yes, Mr. President.

(The motion was put and carried unanimously without further debate.)

PRESIDENT STONE: This ends the program for this session. Is there anything else you care to bring up?

JUDGE MEIGHEN: Mr. Chairman, a special committee was appointed yesterday to draft a resolution with reference to the communication from the American Bar Association. That communication had to do with the American Bar Association being made a clearing house for information concerning disbarments. That special committee recommends the following resolution:

RESOLUTION

"*Resolved,* that this association co-operate in the plan of the American Bar Association acting as clearing house for the registration of disbarments in the various states, as outlined in its communication of June 19th. That our secretary forward to the American Bar Association, by September 1st, next, a list of final disbarments effective in this state, and a supplemental list quarterly thereafter, and that he communicate to the State Board of Law Examiners all information as to disbarments received by him from that association."

I move the adoption of the resolution.

A. V. RIEKE: I second the motion.

(Motion carried unanimously.)

(At this time a recess was taken until two o'clock P. M., of the same day, at the same place.)

AFTERNOON SESSION

Wednesday, July 2, 1924.

The meeting called to order by President Stone.

MR. LENDE: It is apparent that Senator Cliff won't be here and I can state to the association that the committee on drainage law worked a few days and Senator Cliff has done a lot of work on this matter. We have here a report submitted to the association, to the effect that we have compiled or revised the county and judicial ditch laws of the state. As we state in our report our aim has been to retain so far as possible the general plan and policy or language of the drainage law, but to revise some parts of it, but eliminate some uses and abuses of it in its administration. The committee recommends as a part of this report that the committee be continued for another year with the view to enable them to complete their work of securing the passage of the revision of the drainage laws at the next session of the legislature.

Gentlemen, this is the first time that I know of for several years, where four members of the drainage committee have been together at one time. We are arranging between the four of us for an early meeting during the summer, when we can devote a week or ten days entirely to this revision, and I think we are going to be successful in arranging such a meeting, and when we are through we hope to present a codification which is an improvement over the present drainage statutes as we now have it.

I move, therefore, Mr. President, that the report of the committee so far submitted be adopted.

(Motion seconded and carried unanimously.)

MR. BARNARD: I put in some time in the legislature with the committee attempting to frame a codification of the drainage laws so far as I could, and I never until then realized what a task it was. I do not believe this committee can do much in three or four days. It is a tremendous work to codify these laws. I think I stated before the convention at Duluth that about all there is to that law to a person who has not followed it step by step,—you can find the source and termini,—that is about all you can do. I believe there should be placed at the disposal of this committee leave to print, and have it generally circulated among the members of the bar, some time before it goes before the legislature, or at the time it goes before the legislature, so that we can have a chance to look it over carefully and make suggestions. I do not know whether the association would be inclined to dip into the treasury for such a purpose, but the committee has a tremendous work to do, and we will have to have some typewriting and I believe it to be a splendid idea to have the results of their work circulated among the members early.

MR. WASHBURN: In other words, the committee ought to have some allowance for printing.

MR. BARNARD: Yes.

SECRETARY CALDWELL: For your information, Mr. Barnard, I will state that the committee has submitted already this voluminous report which covers a considerable portion of their work, I understand. Is it the intent of Mr. Barnard to have this printed?

MR. BARNARD: Yes, the final proposition, I would like to have circulated.

MR. LENDE: The report, I think, would be expensive to print, and the association, from my recollection of its finances could hardly afford to stand that expense. We had hoped that the legislature would defray the expenditures of the members of the committee who devote their time and work for the actual expenses, and whether they will do that or not, we do not know, but that part of it was taken care of by the individual members as far as our committee is concerned. We borrowed a clerk from one of the departments in the Capitol, and that part of it is eliminated, and the only way we could do is to have some stenographer strike off a number of copies, typewritten copies, and circulate among those members of the bar who are interested in this branch of the law. I do not know what it would cost to print it.

MR. WASHBURN: How much would it take?

MR. CALDWELL: It depends on the amount of matter to come from the committee in the future.

MR. LENDE: I move that the Board of Governors be given the power to act in this matter as to whether or not an appropriation of funds, and how much, should be used and expended for this purpose.

(Motion seconded and carried, unanimously.)

PRESIDENT STONE: I think we are under great obligation to the members of this committee, particularly to the majority of them who spent four solid days at work in St. Paul. And that does not represent by any means all that they have done. We have in this committee one of the hardest working and most conscientious committees this association has ever had.

MR. MIDDLETON: As to putting the matter up to the Board of Governors, I would say that at the meeting we expect to have early in August, we hope to have the entire committee and boil down that report so that the final report that we make later on is the one that should be submitted to the Board of Governors for their determination as to whether it shall be printed or not.

PRESIDENT STONE: The additional work would be in the way of compensation and further revision, I take it?

MR. MIDDLETON: Yes.

PRESIDENT STONE: Is there anything further on this subject? If not, I will say that there was submitted last year to this association at the Minneapolis meeting, at a time and under circumstances, which prevented our taking any action, the proposal of the American Bar Association on the organization of the bar, particularly that the association should carry out the bar's share of the work of Americanization so-called. During the year we appointed a committee to formulate and recommend to this meeting a plan for our action in that connection. Is Mr. Hurley of that committee present? If he is not, we will pass it for the time being.

Several suggestions have been made here concerning the possible desirability of holding another meeting late in the year, not long before the meeting of the legislature. No action has been taken on that one way or the other. I suggest that it might be proper for this meeting to declare itself on that question now. What is your pleasure concerning it?

A MEMBER: I move that the advisability of holding another meeting be left to the Board of Governors and be subject to their call.

PRESIDENT STONE: If there is no objection, that will be taken as the sense of the meeting, that that disposition be made of the question. The next will be the report of the membership committee.

Mr. Thayer C. Bailey presented the report of the membership committee. (See appendix page 122.)

MR. BAILEY: I move the adoption of the report.

(Motion seconded and carried.)

PRESIDENT STONE: The report of the Auditing Committee, because of the absence of the treasurer, must be finished later and will be submitted to the Board of Governors, with your permission.

ANNUAL REPORT OF TREASURER
MINNESOTA STATE BAR ASSOCIATION

		July 1, 1924.
Amount on hand, August 27, 1923		$ 921.72

RECEIPTS

Current Dues	$2,625.00	
Delinquent Dues	482.00	
		3,107.00
Total Receipts August 27, 1923, to July 1, 1924		$4,028.72

DISBURSEMENTS

1923			
Aug. 30.	Arch L. LeRue (serv. and exp.)	$ 23.20	
Sept. 5.	Jesse Carey Smith (1923 proc.)	100.00	
Sept. 6.	Evans & Co. (postcards)	26.00	
Sept. 6.	Chester L. Caldwell (Curtis)	7.90	
Sept. 25.	Western Union Tel. Co. (Brown funeral)	25.05	
Sept. 27.	Jesse Carey Smith (Bal. Steno. report)	81.00	
Oct. 6.	Holm & Olson (Brown funeral)	25.00	
Nov. 5.	Evans & Co.	20.50	
Nov. 13.	Chas. L. Alexander (refund)	5.00	
Dec. 26.	Minn. Law Review	500.00	
1924			
Jan. 10.	Chester L. Caldwell (postage)	5.00	
Jan. 10.	Evans & Co. (postals)	8.75	
Jan. 19.	Rollo G. Lacy (refund)	3.00	
Jan. 29.	Minn. Law Review	400.00	
Feb. 20.	Minn. Law Review	161.00	
Feb. 25.	Evans & Co. (cards and records)	14.00	
Apr. 7.	Chester L. Caldwell (allowance)	400.00	
Apr. 8.	Minn. Law Review	160.00	
Apr. 24.	Minn. Law Review	164.25	
May 2.	Evans & Co. (postals)	15.75	
May 17.	Minn. Law Review (May)	182.00	
May 17.	Evans & Co. (circular letters)	27.00	
May 31.	Chester L. Caldwell (McDonald funeral)	3.57	
June 10.	Holm & Olson	25.75	
June 23.	Minn. Law Review (June)	228.75	
June 23.	Chester L. Caldwell (allowance)	200.00	
June 26.	Evans & Co. (receipts, etc.)	19.75	
June 26.	Kennedy & O'Brien Ptg. Co.	9.50	
	Total Disbursements	$2,841.72	
	Amount on hand, July 1, 1924	1,187.00	
		$4,028.72	$4,028.72

The Committee appointed to audit the report of the treasurer of the Minnesota State Bar Association respectfully reports that they have audited the annual report of Roy H. Currie, treasurer, as submitted, from August 27, 1923, to July 1, 1924, showing a balance on hand on the latter date of $1,187.00, together with the vouchers submitted and find that the disbursements charged are accounted for by proper vouchers and all funds appear to be accounted for. We accordingly approve the said report and return same with vouchers herewith.

Yours truly,

AUDITING COMMITTEE.

By C. S. KIDDER.

We pass now to the head of new business. Has anybody anything in that line of new business to be presented at this time? Judge Catherwood, are you ready to report for the committee on the nomination of the Board of Governors?

JUDGE CATHERWOOD: The committee recommends for the Board of Governors the following nomination (See page 3.)

I will waive any feeling of modesty and move that the report of the committee be adopted and that the gentlemen selected be declared elected as our Board of Governors for the ensuing year.

The motion was seconded and unanimously carried.

PRESIDENT STONE: Mr. Hurley, are you ready to report for the Committee on Americanization?

MR. M. B. HURLEY (Pine City): Gentlemen, your committee on American Citizenship has no reason to point with pride to the past, but merely looks to the future with hope, and will undertake to set before you some of the things to be done. Incidentally, we will start with things to be done by ourselves, rather than to start out with the work to be done by someone else.

This Committee consists of five members: Herbert T. Park of Minneapolis, Carl W. Cummins of St. Paul, John Gannon of Hibbing, Warren E. Greene of Duluth, and myself.

The committee was brought into being to act in co-operation with a similar committee of the American Bar Association. You may all be familiar with the shibboleth of that committee, which is "to establish and maintain the constitution of the United States, and the principles and ideals of our government in the minds and hearts of the people." To that end the committee of the American Bar Association, and the bar associations as a whole have adopted a Citizenship Creed, the first two paragraphs of which this committee wishes to refer to as a part of its report, and as fixing upon you and upon us the civic duties necessary in carrying out this work.

The first is:

"I am living under a government, and am myself a part of such government, wherein at least an elementary knowledge of the nature and principles of this government must be generally diffused among the great mass of its citizens. I therefore believe it to be my duty to inform myself on

American history, the foundations of our government as embodied in the United States constitution, and the application of the principles therein contained to present-day problems."

And the second is this:

"Since ours is a government of, for, and by the people, it is by the very same token government of and by public opinion. It is, therefore, my duty as a good American citizen to help form public opinion in the community which I live, in order that all citizens may hold intelligent, just, and humane views on governmental questions, and endeavor to have such views embodied in our laws."

Our committee recommends that we put into practice the first article, and inform ourselves on American history, and again, that we take an active part in moulding public opinion.

The particular field in which our activities are desired and recommended are those pertaining to the constitution, and our system of government, and in that connection we wish to recommend that emphasis be placed upon the dual character of our government, and the independent character of our judiciary,—the two points which are peculiarly characteristic of our government, and the two points that are now being most attacked.

In the report on American citizenship of the Committee of the American Bar Association, which will be submitted next week, they have a paragraph with reference to making a hierarchy of this nation, and they point out very clearly the dangers of it and condemn, of course, that policy.

Your committee recommends that a speakers' bureau be formed, in order that what are termed "minute men of the constitution" may be available for the purpose of getting before the people, through the schools and other community gatherings, the fundamental principles of this government in a way that will be inspiring as well as informing, in order that the constitution may be brought to children and all the people, so that it will not be considered as a preachment, but very interesting, a living thing, pulsating with the fundamental principles of our government, life, justice, human brotherhood and divine fatherhood.

It is recommended that this organization co-operate with all existing organizations in every field of constructive American citizenship; that we co-operate with the American Bar Association and its committee on American citizenship; that we co-operate with the Nebraska Bar Association, in the oratorical contests or essay contests which the American Bar Association is fostering; that is contests in which each state authorizes three prizes, I believe. The plan is to have a contest in which additional prizes will be offered; the essays will be upon the Constitution, and the contest is in line with the oratorical contest on the constitution which was fostered by certain leading newspapers during the past year.

Your committee also recommends the enlistment of the co-operation of the press in fostering such movements as they had last year, the oratorical contest on the Constitution.

Your committee recommends that the bar co-operate with other organizations in the proper carrying out of naturalization ceremonies at the time of the admission of applicants for citizenship. Other organizations have already taken leadership, or assumed leadership in that particular

field. This organization can co-operate in those instances, and in other instances where no body has taken the lead, we recommend that bar associations and members of the bar assume leadership of responsibility for such ceremonies.

We recommend that support be given to the play programs, such as that of the Boy Scouts of America; it being recognized that the average boy is said to have an average of 3,000 hours of unsupervised play, per year,—a much greater period of time than he has in school, and that the plan and program for the Boy Scouts of America has been found fascinating, constructive and wholesome,—it is recommended that a similar program be fostered and supported by this organization.

With reference to the educational minimum, your committee, following the action of the American Legion of this state, recommends that this organization further the idea that was adopted by the Legion, which reads as follows:

"We believe that every child should have an education equivalent to the completion of the eighth grade, in order that he may be a happier and more effective citizen. This should be a compulsory rule."

The reason for that is that our practical school problem of elementary education is a rural problem. The problem is to get the children in school and keep them there. Excuses for farm labor have been so numerous that any number of children have not a fair amount of elementary education, and a great deal of time is lost. There are many children who are simply marking time until they are sixteen. It is thought to change the law, so far as farm excuses are concerned, and make a minimum of education required, such as the eighth, or seventh, or sixth, perhaps, but have some minimum, so that there will be a definite thing to be accomplished, and help solve the rural school problem and other school problems. Your committee recommends co-operation in that regard.

With reference to the other particular in which the bar may be of great assistance in constructive citizenship, the view of your committee is with reference to patriotic observance of holidays. There are a number of holidays which are not generally observed. We think this is peculiarly an idea of the American Bar Association, and the American citizenship committee of that association, and something in which the bar and its members can well take leadership and assume responsibility. We would mention particularly Constitution Day, September 17th, Flag, Day, June 14th, Patriots' Day, April 19th. And Thanksgiving Day—we feel that much of the patriotic significance of Thanksgiving Day has been lost sight of, and should be regained. Your committee would recommend that during the coming year this organization assume responsibility and take leadership for the proper observance of Constitution Day and Flag Day, and that patriotic observance of the other days mentioned be accomplished as soon as feasible.

The idea of your committee is that it is much better for us to center on one or two definite objects, and a few definite activities, and carry out those, rather than to enumerate all the activities and undertake to carry them all out, and then, at the end of the year, possibly, find that we have accomplished little or nothing.

And your committee recommends that the Committee on American Citizenship be continued, as a standing committee of this organization.

(Applause.)

One other thing which I omitted to mention: There is in this state the Minnesota Council of Americanization. It is not exactly a federation of societies, neither is it an organization of individual members, but it has this method of membership: individuals may join, but they may join in the name of an association. The vote, however, is in the individual, and it gives the organization some representation. So we would recommend that some officer of the Association, or some member of your American Citizenship Committee be authorized to take out, without expense to the organization, a membership in the Minnesota Council of Americanization, which is a sort of clearing house for activities in constructive citizenship throughout the state.

PRESIDENT STONE: You have heard the report and the chairman's motion, which I take it should be considered a motion to adopt the report. Do I hear a second?

MR. JONES: I second the motion and ask a vote of thanks to the gentlemen of the committee who make the report.

MR. HALL: I do not want to follow Brother Jones in starting something.

PRESIDENT STONE: A splendid example, Mr. Hall.

MR. HALL: But one thought has come to me, maybe I am not right about it, but I would like to express it. Very often, on legal holidays, for example, Armistice Day, which occurred on Sunday of last year, but was observed on Monday,—there is some tendency on the part of the bench to set ex parte matters or hear court cases on holidays. Now, we all understand that when a jury is in it is often necessary, or in the case of criminal cases, but without any personal references at all, I cannot understand why this is necessary. I have known the bench and the bar to take up court cases or other matters of the kind which could just as well wait another day. Now, if the legal profession of the country, the bench and the bar, do not think enough of the great national holidays to stop work and observe them, except in cases of necessity, how can we expect other citizens to do it?

(Applause.)

MR. WASHBURN: I simply want to caution the secretary or the reporter that it is Mr. Jones, not Mr. Hall, who asked for the vote of thanks. It would not have looked good for Mr. Hall.

PRESIDENT STONE: I think we can trust our very efficient reporter to get that straight. I am glad to note the idea that judges should not work on holidays. (Laughter.) Is there any further debate? All in favor of the motion by Mr. Hurley, and the somewhat informal but sincere amendment by Mr. Jones, say Aye, contrary No.

(The motion was unanimously carried.)

PRESIDENT STONE: Is there anything further you care to bring before us under the head of new business?

It now becomes my disagreeable and unpleasant duty to declare the election of officers for the ensuing year is the next in order.

MR. WASHBURN: Unpleasant?

PRESIDENT STONE: Certainly, it means that I have to go out.

The following officers of the association for the ensuing year were then duly elected.

President, Mr. Bert W. Eaton.

Vice-president, Mr. Howard T. Abbott.

Secretary, Mr. Chester L. Caldwell.

Treasurer, Mr. William G. Graves.

An invitation to have the next meeting at Rochester, having been extended to the association, it was voted as the sense of the meeting that the invitation be left to the incoming Board of Governors for their action.

On motion unanimously carried, a vote of thanks was extended to Mr. Caldwell for his work during the last year.

It was moved and seconded that a resolution of thanks be extended to the entertainment committee, particularly to those who were responsible for the decoration of the hall.

On motion duly adopted, the secretary was instructed to prepare a resolution expressing the sympathy of the members of the association, and to send a copy to the family of Mr. E. E. McDonald.

MR. WASHBURN: I do not want to make a motion.

PRESIDENT STONE: What is the matter?

MR. WASHBHRN: I will tell you why. There is one man in this association whom I regard as in many respects the most useful man in it. He has rendered it great service, and that service which he has rendered it has been a service rendered in the discharge of his own public official duties as he sees them. And there does not live or breathe a man nor an organization that could move him to do otherwise than what he feels to be his duty as an official and as a member of the legislature of this state. Therefore, I deem it improper to make any motion extending the thanks of this association to him. It wouldn't do any good. It would only do harm, possibly, but I do want to know, and I will find out by your looks, by your expression or otherwise, whether or not what I say agrees with your views when I say that this association, in its endeavors to benefit the people of this state and to improve the laws of this state, is under no mean obligation to Frank E. Putnam of Blue Earth City. (Prolonged applause, all standing, except Mr. Putnam.)

PRESIDENT STONE: Certainly nothing the Chair could say would make any more emphatic that expression of appreciation, Senator Putnam, and the approval of your brethren of the bar.

Is there any further business?

MR. BIERCE: I ask the privilege of the floor for a moment. I do not wish to break any precedent, or necessarily to establish any new precedent, and I am not going to make a motion, but I want to say just a word or two. I think I am expressing thoroughly the views of the members of the bar of Minnesota, both here assembled and those who are not present, when I say that no man has endeared himself more to us during the past two

years than has the present president of this association. Perhaps few lawyers have been better known to the bar of Minnesota, than our present presiding officer, and during the time that he served as vice-president, he was called upon to carry on much of the active work of this association, because of the illness and subsequent death of Judge Lancaster. And during the past year when very busy with his duties as a member of the supreme court, he has always carried on very actively the duties of the office of the president of the Minnesota State Bar Association. No man has become better known than our present presiding officer, Royal A. Stone. And I say to you, Mr. President, in behalf of the members here assembled, that we take this means of expressing to you our appreciation of the service you have rendered as the president of this organization.

(Prolonged applause, all standing.)

PRESIDENT STONE: I thank you.

Upon motion, duly made, seconded and carried, the meeting was then adjourned to 8:00 o'clock P. M. for the purpose of listening to addresses by Chief Justice Wilson and Hon. J. Adam Bede.

ADDRESS BY CHIEF JUSTICE WILSON

My friends: My subject tonight is a serious one, an important one at least, and one that should concern every man who is interested in the best welfare of the citizenship of our country.

Our constitution has stood for some hundred and thirty-five years. It has been amended but a few times. If you remember, the first ten amendments substantially promised in the constitutional convention, in order to have the constitution adopted, before it was passed. So there have been really only nine amendments to this constitution during the hundred and thirty-five years of its existence. The constitution is our fundamental law, the highest law of our land, and next to that comes the valid acts of Congress. Subordinate to these two, and third in place, are the constitutions of the various states. And below that and fourth in position are the valid acts of the state legislatures. Now, when these laws conflict, naturally the inferior must give way to the superior.

But it is necessary in the performance of governmental function for someone to be charged with the duty and responsibility of deciding which law is to stand, when it comes to a conflict between these laws. Clearly and essentially, that question is a judicial one, judicial in character, judicial in substance, and there is no branch of the government so well qualified to pass upon it, as the judiciary.

We can look back through history at the bitter fight that was made in opposition to the adoption of the constitution which brought about as

a compromise the promise for the adoption of the first ten amendments. Popular sentiment at that time fell like a drenching rain upon the enthusiasm of our statesmen who were doing their utmost to serve the people. This constitution, our fundamental law, was adopted against strong and sincere opposition. Men of the highest type of patriots of their day, such as Thomas Jefferson and Patrick Henry—to the latter of whom we are indebted for that famous utterance which has become classic of American liberty: "Give me liberty, or give me death."

These men who framed this law lived largely in the silence of the forests. But they were actuated by high moral and religious ideas, and they met, and they successfully met, the most unusual task of framing this fundamental law, by which an independent nation was to be governed. And, as has been suggested by your chairman here, this feature of having these questions determined by the judiciary is, to my mind, the only original contribution of America to the science of government. It is recognized by foreign countries as ideal, commended by men in Oxford, Cambridge and all the great universities of the world.

And yet it is attacked from many sources, and I shall endeavor to point out in a general way some of the points from which these attacks are made.

At the time of the constitutional convention these same questions came up, and no sooner had this constitution been adopted than there began to develop in the American Congress opposition to the power of the courts to hold acts of Congress unconstitutional. It developed under Thomas Jefferson's leadership on the one hand, and Jefferson was President at that time, and John Marshall, then Chief Justice of the United States Supreme Court, as the leader on the other hand. John Marshall has made a larger contribution to the judiciary, perhaps, in this country, than any other man, and he succeeded in establishing beyond any contention as the settled law of the land that the courts had the power to hold acts of Congress unconstitutional.

Why, my friends, these men in Congress—and you hear them today, a century later, the same arguments made there again—they offer nothing new. They tell you that the courts have too much power. But the irrepressible answer to that is that Congress should not be the judge of its own acts; that if the judges act dishonestly they may be impeached; that a judge has never any shelter but the protection of his own innocence.

This constitution. Did you notice in the newspapers during the last thirty days headlines that tell you that in the last congress one hundred bills had been offered to submit amendments to the constitution of our country? I refer to this last session of Congress with some timidity, because in my mind they have spent less time looking after the interests of their constituents than any other Congress which has ever sat in Washington. (Applause.) Now, if the McNary-Haugen bill is not right, the people of the Northwest are entitled to have Congress examine it and see what is the matter with it. If it is all right, it should be passed. But it was sidetracked for reasons known to the men in Congress, and these are the men who want to pass laws; who want to go further and hold the absolute power. And let me suggest to you that among these hundred bills

is one to give Congress the power to veto the decisions of the United States Supreme Court, so that if that Court should hold a law unconstitutional, Congress can pass it over their heads, the same as they do a measure that the President vetoes. What do you think of that kind of a law?

And they propose another law: That Congress shall have the power to withdraw from the Supreme Court any man appointed there. In other words: "When he ceases to do as we want him to do, regardless of what the law is, we want the power to take him off the bench."

These are typical of the kind of bills you will find among these one hundred proposed.

They have finally succeeded in recognizing that the court is the right power to pass upon the validity, the constitutionality of an act of Congress, and then there has been a bill proposed to change the American rule, as I term it, that the majority shall rule—there being nine members of the United States Supreme Court. Instead of deciding by a mere majority, say five to four, they want to change the rule so that, before an act of Congress can be held unconstitutional, there must be seven votes in the affirmative; yes, and only two dissenting votes. They are satisfied, if you and I have a lawsuit, that the majority rule could apply to us. And the peculiar thing is that never was there an act of Congress brought up and held unconstitutional by a five-to-four vote, or by any other majority, that did not involve the rights of some individual who brought it there for that purpose, or who, with the government on the other hand, perchance, brought it to the courts for the purpose of determining rights between parties.

I am not taking the position that there is anything so sacred about the constitution that it should not be amended. Absolutely it should be amended when the people want to amend it. I take issue with the men in Congress, and that is the place where the objection comes from, and where it emanates, and it is the source of all this trouble about the constitution —coming from these men who pass these laws. They seem to think it is a disgrace to them to have a power above them, which can hold one of their acts invalid, and they want to judge their own acts. They are passing laws by a majority of one, and will turn around and repeal them by a majority of one. They are willing to have your lawsuit decided by a majority of one, but when they pass their laws, if the validity is in question, they want to change that rule, and say that you must have seven votes, instead of five, before you can hold it unconstitutional. Why? What is there sacred about these acts of Congress? My friends, great men have been members of the American Congress, and great men are there today. I do not aim to belittle them at all in taking issue upon an important matter of this character and of this type where they seek such power, where, as I contend, they want to put the control in the hands of three members of the court instead of the majority. If anyone can figure out why there should be a different rule to apply to a lawsuit involving the validity of an act of Congress from that which shall apply to any other kind of lawsuit, I would be glad to hear the reason. And I do not belittle them. I am not like the Cherokee Indian who went to Washington

on behalf of his people, a highly polished, educated Indian, and when he appeared before the committee one of the Senators said to him, "You are So-and-So, the brightest Indian, sent by your people as the brightest one they have to represent them?" "No," the Cherokee replied, "that is not the case." "Well, you are an educated Indian, and I presume you come here to tell us what we should do?" "No," he said, "Senator, that is not the case. My people are a good deal like your people. They seldom send their brightest and ablest men to Congress." (Laughter.)

Now, that brings up the question, What is there so sanctimonious about their acts that there must be a different rule to apply to them? I claim there is no reason for it. I claim more than that, and that is this, that we can judge the future by the past, and we should before we undertake to change this rule. I make the assertion that the men who are claiming such a rule should be passed are holding red lights before the American people for purposes other than for good government, for purposes that are personal, that are political, that are for self-aggrandisement, and not for the purpose of serving the American people. What are we to be governed by? I take the position that we can look over what has happened in the past, and if we find that the United States Supreme Court, in their decisions where they are five-to-four that have held acts of Congress unconstitutional, are particularly harmful, then it is time to listen to this. And if you find, by looking back through the past that our history shows in this respect that it does not indicate that our people have suffered from it, or that there has been harm from it—or, put it in another way: If there has not been more harm than good resulting from those decisions—then there is no occasion for this agitation. This is agitation of the worst type, for the very simple reason that it gets publicity in the newspapers; it is read by the people generally who do not stop to study constitutional questions; and it comes from men high in office, high in statesmanship, holding the highest office, almost, in the nation, perhaps United States senators and congressmen. If these men are pointing out to the people that great harm is resulting (and they have done so) it causes many people to become suspicious of the courts, to become doubtful and dissatisfied, and to go out and begin to fall in line preaching the gospel of hate, dissatisfaction and discontent, and that is what those men who are agitating this issue are doing.

Even among lawyers, we very seldom stop and go into the analysis of the five-to-four decisions that we have had in this country, which have held acts of Congress unconstitutional. And lawyers are the men who will have to answer for their respective communities, largely, in questions of this kind. And I can see the time coming when you will say that never was there a more serious responsibility placed upon the lawyers of the state and the nation than will come to them by this very agitation, because the lawyer is a man with a trained, conservative mind, versed in the affairs of state. True, throughout the history of our country and European countries, the pendulum of popular opinion swings back and forth for and against the lawyer. Sometimes he has been in bad repute; sometimes, good. Napoleon said: "Lawyers get their living on the mistakes and troubles of others." And men in high office, clear down the line of

history to the present time, have expressed such opinions, showing that in many cases the lawyer of that age was not high in the popular confidence; but, in every crisis of our country, the lawyer has been in the confidence of the people, and he has held the public confidence and has given service of the highest type to the people of this country. So that even today, and in the last quarter of a century, in fact, he has been in such standing that the public have felt safe in taking his advice in matters of this character. And they will look to him, if this agitation goes on, and it will depend on the bar of the nation to set the people right on this issue, because they are not familiar with these decisions of the United States Supreme Court of this type.

And how many are there? You might think there are hundreds of them, but there are just nine of them. It is not much of a task to glance over nine decisions. And this is what I want to do now, in a concrete way, and the layman has just as good judgment in these matters as I have, or any of your legal friends, as to the propriety of the courts holding as they have. I will mention these cases briefly, and when I have done that, you will all know just what reason there is, and what justice there is, for men holding political office to agitate and urge a change of this character.

The last one of these decisions involves a minimum wage law for women. The District of Columbia, under the constitution, is under the control and legislation of Congress, and this particular law that Congress passed applied exclusively to the District of Columbia. It did not apply to us, nor to any of the people of the states, but we are interested in it because it affects a part of the nation. They passed this law creating a minimum wage commission, authorized to fix the wages of women employes. What reason did they give? This is an economic question. We have a minimum wage law in Minnesota; it has been held constitutional; it is based upon economic as well as legal reasons. The District of Columbia can pass the same kind of law if they want to do so. But they passed a law, and they said that these wages must be fixed in accordance with the necessities and moral conditions of the woman employe. The commission was appointed, and they went out to a children's hospital and found a woman working there, at about $35 a month and three meals a day. They went across the street to a hotel and found a woman there operating a passenger elevator in the hotel, drawing substantially the same wages. This commission said to the employers: "You must pay these women more money." "Why?" "Because they need it, because of their moral surroundings." And the employers said: "Well, we are paying these people all they earn; they will admit that; they are satisfied and we are satisfied. Why do you people make this demand upon us?" "Well," they said, "Congress has said that we can fix these wages, and we fix them because of the necessities of the employes." The employers refused to pay the wages demanded. It went to the United States Supreme Court, the employers claiming that the fifth amendment to the constitution (which says you cannot deprive a person of his property without due process of law) was being violated. The Court adopted their theory in substance, and in their opinion said this:

"That to the extent that this law compels the employer to pay the employe more money than she is earning, you are taking his property away

from him without due process of law. The mere fact that the woman needs more money is no reason why the employer, as an employer, should be burdened with her necessities. He owes her no duty as a relative. Economically, such a law is not right. He is already contributing to her relief to the extent that he pays her for what she gives him. This duty that you would put upon his shoulders belongs to the public, and, to the extent that you make the man pay for more than he gets in labor, you are taking his money and property away from him without due process of law."

And illustrating, the court said:

"That it would be just as reasonable for a man who goes to a butcher shop or a grocery to say to the merchant, 'I have so much money, but I need so much meat, and I need so much groceries; I need more than I have money to pay for.'"

The Court said:

"You might just as well say to that merchant that he had to give that man the amount of merchandise he needed, for the amount of money he had, as to say to these employers, you will have to pay these women more money than they earn, merely because they need it. You say she needs this protection, this help. But that is something that economically and legally should rest upon society at large, and the taxpayer at large, for they must support her. But you cannot put that burden upon the employer merely because he is already helping her."

Now, that is one of these much talked of decisions. Congress can pass a law that is all right. They did not do it, and the law is knocked out. Did any harm come from it? That law was economically and legally unsound. All they have to do is to follow the examples of many of the states of the Union and pass a law that will be upheld by the courts. Four men dissented, of course, and that is one of the cases that have been talked about.—*Adkins v. Children's Hospital*, 43 Sup. Ct. R. 394.

Now, going backward, the next one of these cases was the famous Newberry case. You remember that a very wealthy man in the state of Michigan was elected United States Senator, or, rather he was seeking the nomination at the hands of the Republican party in the state of Michigan, in the party primaries. Through the enthusiasm of his friends, they spent more money than the Corrupt Practice Act of Congress would permit. He was indicted and convicted, and appealed to the United States Supreme Court, and that Court said that back in 1787, at the adoption of the constitution, it was provided that United States Senators were to be elected by the state legislatures; and later (it was about the sixteenth amendment) that was changed so that it was put to a vote of the people. And the constitution says that Congress shall regulate the manner of holding elections of United States Senators. "Regulate the manner of holding elections." And the Court said that that language meant an election, and did not mean a party primary, nor to select a candidate for the party, and they pointed out that the convention that adopted the constitution never dreamed of the day when there would be a primary system, with the people having the direct vote for United States senator in a political party, and a selected candidate of that party. And, following that line of reasoning, they said that the language of the constitution which permitted Congress to regulate the manner of holding the elections did not include the party primary, and did not apply to what happened when a political party was in their pri-

mary selecting their candidate to run at the general election. And they said that matter was something that belonged to the state, a local matter. And now remember the tenth amendment says: "All powers not delegated to any one shall revert to the various states or the people thereof."

And I like the idea that the constitution of this country is held in the palm of the hand of the people. They have more to say about the amendment of this law than of almost any other law. They are holding all the power of government that that instrument has not given to some branch of the government. And they never gave to Congress any power of regulating the manner of holding a party primary. Consequently, this decision was upheld by a vote of five to four. Now, this opinion has been criticized as a political decision. Mr. Newberry was a Republican. The opinion was written by Mr. Justice McReynolds, appointed to the Supreme Court by President Wilson, a former member of President Wilson's cabinet. That ought to be sufficient answer as to whether it was a political opinion. It was a masterly opinion, one that will stand the analysis of any man, and will be found, from a legal standpoint, to be as nearly right as man could make it. What has been the harm from it? Of course Mr. Newberry escaped punishment. But if the various states want to pass laws (and we have them in this state), it is said in this opinion that it was a matter belonging to the states, for their legislation.—*Newberry v. United States,* 256 U. S. 232.

We have another one of these laws, in which the final decision has been questioned. Congress is given power and jurisdiction over maritime matters. An employe in the maritime service was injured, and he sought compensation under the Workmen's Compensation Act in New York state. Congress had not passed any law giving relief to this man, as a compensation act. The courts of New York state said that the employe was under the exclusive jurisdiction of Congress, and not entitled to receive compensation under the state law, and the courts so held. Then Congress undertook to legislate, and instead of passing a law creating a compensation act or protecting men engaged in interstate shipment, they passed a law saying that men in maritime service should go to the laws of any state and receive their workmen's compensation. Well, a man named Stewart, a workman on a vessel lying in the waters of the Hudson River, was thrown overboard and drowned. He left a wife and children and they made application under this law. The employers contested it, and the United States Supreme Court said that Congress was delegated under the constitution with authority to legislate for those employed in the maritime service, but instead of doing it, in the language of the street, they "passed the buck" to the state legislatures, and attempted to delegate the authority that the people had delegated to Congress, to the various state legislatures; and the court said they could not delegate that authority; that they were the ones empowered by the people to pass that kind of law, and they must pass it if there was to be any law.

This was held by a vote of four to five, and within a very few weeks Congress did pass a law that they should have passed in the first place. So there has been very little criticism of this law.—*Knickerbocker Ice Co. v. Stewart,* 253 U. S. 149.

Another one of these measures is a matter that has to do with stock dividends and income on stock dividends. Congress passed a law imposing an income tax on stock dividends. We all know what income tax is, it is a tax upon our income, it is the tax upon our increase in wealth, whether it is an increase in your earnings as a professional man, in the salary that you draw, or in the profits on your investments, or whether it is the interest that comes into your hands by reason of savings. It is that increase in wealth which comes into your hands during the year, upon which you are to pay income tax, and if you are not any richer than you were, or if you have not made any money during the year, of course you should not pay an income tax, because there is no income.

Let me illustrate what I mean, which is consistent with the language of this opinion: If you have a corporation of $100,000, and you own $10,000 worth of stock, it is worth dollar for dollar, but time goes on and your corporation has made money, and this corporation of $100,000 capital has undivided profits of $100,000, so that back of this stock of $100,000 there are $200,000, and your stock is worth two for one, two dollars for one dollar; your $10,000 worth of stock is worth $20,000. Well and good. Then the board of directors say: "We will declare a stock dividend of one hundred per cent; we will distribute our undivided profits; we will have a capitalized stock of $200,000, and we will have no undivided profits." You, who heretofore held a certificate for $10,000 of stock which was worth $20,000, hold another just like it for $10,000, but the two together are worth only $20,000. They are worth no more. The form of your holdings is changed, but the value is just the same. You are not worth a cent more than you were before. Why should you pay an income tax upon that kind of transaction? I don't know how any four men in the United States Supreme Court should say that you should, but they did; the other five said you should not, and they said in unmistakable language that you were not any richer; that you were not worth a penny more than before; that the form of your holdings had changed, but that the value remained the same, and that the law which tried to make you pay an additional income tax was taking away your property without due process of law, and they held it unconstitutional. What was the result? Congress immediately recognized the propriety of this decision and conclusion, but they apparently had in mind a condition that they wanted to meet and should meet. It seems that in some of the larger centers, large corporations were making money, and letting the dividends accumulate, and would not distribute them, in order to protect the stockholder from paying an increased income tax. So they passed a law imposing an income tax upon the corporation, allowing them some certain percentage, and levying a tax of 25 per cent on the undivided profits not distributed. That met the conditions that they were aiming at in the first place. So there has been no severe criticism of this opinion.—*Eisner v. Macomber*, 252 U. S. 189.

And this brings us back to one of the most important questions and to one of the live issues of today. That is, the child labor law: Under the interstate commerce clause the constitution gives Congress the power to regulate interstate commerce, and assuming to act under this power and under this title, Congress passed a law which prohibited the transporta-

tion from one state to another of any product of any mill, manufacturing plant, quarry or any place where children under certain ages were employed during the day, and certain other ages during the night. A man who had two minors or small boys working for him, in South Carolina factories, refused to abide by it, and went to court, and the case went to the United States Supreme Court, and that court held, by a five-to-four vote that this act did not regulate commerce, it did not regulate interstate commerce, in fact, that it prohibited it. They said that, looking at this bill, it is plain enough that it was not the intent of Congress to regulate interstate commerce, but what they intended to do was to prohibit child labor. And they went back to the old question of state rights, whether or not they would sustain a law for more centralization of government and power in this country, and this question is still alive today. But they said here: This is a local matter, and they reverted to the tenth amendment which says that the power not given to some part of the government is reserved to the state or to the people thereof; that, if Congress wants power to pass a child labor law, they must get that power from the hands of the people who hold that power; that, if the people want to part with that power and give it to Congress, well and good; but they have not done it; and under this present law, they said it could not be sustained, and by a vote of five to four they held the law unconstitutional. And what was the result? Severe criticism has been made. It has been said that this decision retarded social progress in this country. But, my friends, since that time, twenty-seven states of this Union have passed child labor laws. Criticism was made that the members of the court did not believe in protecting children. But right after that Illinois passed a law such as the court had said the states had a right to pass; that law went to the United States Supreme Court, and they unanimously upheld and sustained the law, showing that this criticism was unjustifiable, charging their opposition to such legislation. Of course those men cannot be governed by their individual wishes, but they pointed out the way: If the people want this law, they must, by amendment, give Congress the power to pass it.

What is the result? We have a child labor law in Minnesota, and many other states in the Union; there are a few states, particularly the southern states, which do not seem to fall in line with child labor laws, and they have not passed them. The demand for a federal act concerning child labor is for the purpose of reaching the children in the factories of the south. Whether or not this should be done, is a question for you to decide, and the people of this country; and during the last session of Congress they passed a resolution to submit to the people the twentieth amendment to the constitution, authorizing you to vote upon the question of whether or not Congress shall have power to pass a federal act known as the child labor law.—*Hammer v. Dagenhart*, 247 U. S. 251.

The decisions of the United States Supreme Court of this kind merely point out an orderly and constitutional way. There is no impediment to Congress passing a law when the people authorize it, and if the people authorize it of course it will be passed and upheld, because then the people will have given that power which up to the present time they have not given.

This same matter involves the question of state rights. Many people in this country, particularly in the south, are jealous of state rights, and they do not like the centralization of government. And there are people in our own state who are not very enthusiastic about it. Of course, the people of Minnesota who want this realize that it is purely a humane measure to protect children in other states, where the people, apparently through interests in factories, and so on, do not wake up and realize the importance of protecting their children.

This is one of the issues that will be submitted to you in the near future. It is on its way to come before the people of the nation to vote upon as the Twentieth Amendment; it is a live measure and an active question before the American people today. And this decision, I submit, has not been harmful any more than holding the line of action of Congress along reasonable, legitimate grounds, known as constitutional limitations.

Another one of these bills was one that had to do with railroad employes. Under the interstate commerce clause, Congress had the power to control interstate commerce, and under that clause they undertook to pass a law fixing liability to railroad employes in case of injury. Well, they passed the law, and they said that it applied to employes working for common carriers engaged in trade or commerce—to all employes. They took in too much territory. They did not distinguish between the employe working for common carriers or a railroad company engaged in interstate commerce. They did not distinguish between the employe who did and the one who did not participate in the interestate commerce character of employment.

Maybe I do not make myself plain. Here is a railroad company, the Great Northern, which runs through this state. The man who is engaged in interstate commerce here—carrying commerce from one state to the other—is engaged, of course, in interstate commerce; but perhaps right in this town, or in some town they go through, they may have an employe working exclusively here, and in some branch of their employment which has nothing to do with interstate commerce, and he is not included. But under this law that they passed, they included him, when he himself did not participate in work that was interstate commerce. Some of you railroad lawyers can explain that better than I. But the United States Supreme Court merely said that they could not take in those employes; and they said this by a vote of five to four—and Congress immediately saw the wisdom of that decision, and in less than three months they passed the kind of law they should have passed, and made it apply only to employees who were themselves individually engaged in the character of work that was interstate commerce—and then the law was sustained, of course. No harm came from that decision. *Employers' Liability Cases,* 207 U. S. 463.

So far, as to these decisions I have referred to, what harm has come from them, that prompts the criticism?

Another case: Back in the time of the constitutional convention, delegates from South Carolina (when that state was engaged in raising a great deal of cotton)—again zealous for state rights—were doubtful as

to the propriety of their coming in and voting for the adoption of this constitution, and finally they said they would not vote for it. By their insistence there was written in it, before they would support it, a clause that you could not lay or impose a direct tax upon the exports from any state. Having gotten that written into it, they voted for the adoption of the constitution. That went on until in 1898, following the Spanish-American war, a revenue act was passed, and, jumping from South Carolina to Minnesota, or the northwest, Congress attempted to and did impose, in that law, a tax upon the export of wheat that went to London or to foreign countries. A man named Fairbank, who was shipping wheat from Minnesota to Liverpool, protested, and claimed that this tax violated the provision of the constitution I have referred to, which was written in at the instigation of the South Carolina delegates. The case went to the United States Supreme Court and they said: "Of course this is a direct tax upon exports from the state, and violates that provision of the constitution." Did anybody in the northwest who was raising wheat in 1898 find any fault with that kind of law? Our farmers at that time were in the same position that the farmers in North Dakota were in in 1923, when one-third of the farmers of North Dakota did not have a cow on their farm, and one-third did not have a hog on their farm, and one-third did not have a garden. They were dependent exclusively on wheat production. And Minnesota was almost as bad at that time. And it was the product of Minnesota that was protected by this provision. Not a man in Minnesota or the adjoining state tried to make the farmers of this country believe that that five-to-four opinion was vicious, or characterized the courts as out of sympathy with the people.—*Fairbanks v. United States,* 181 U. S. 283.

Then there is another one of these decisions, the one having to do with the original income tax itself. You may remember, back in 1892 I think it was—about that time. Congress passed an income tax. Now, there is a provision in the constitution which says that direct taxes must be apportioned among the several states or the people thereof, according to their respective number. Well, they passed this law without doing that, and it could not be done, it could not be so apportioned. Someone objected. It went to the United States Supreme Court. And you see all these cases involve the rights of some individual who has seen fit to go into court and test it. It went to the United States Supreme Court, and the court pointed out this provision of the constitution, and says: "This tax cannot be apportioned, it is a direct tax, and it cannot be apportioned"; and they said that the people have never parted with the authority that is necessary to give Congress power to pass an income tax unless it is apportioned, and they said you cannot apportion an income tax according to respective numbers.

This decision was severely criticised. And there are men within the sound of my voice who know that in 1896 the People's party and the Democratic party in this state and many other states, put planks in their platforms demanding an income tax, and attacking this very opinion—the Republican party at that time remaining silent. This was used as a political football for four or five campaigns, and then someone began to get a

little more calm, cool and collected, and looked the opinion over, and said: "Well, this decision does not mean that we cannot have an income tax; this decision merely means that up to the present time the people have never parted with the authority which they have in their hands, which they can give to Congress, if the people want it done." And then they proposed an amendment (I have forgotten the number of it) authorizing Congress to pass an income tax law. Congress submitted to the people, and they voted on the income tax; and, pursuant to the authority there voted and extended to Congress, given by this amendment, Congress passed a law creating an income tax, and we have it.—*Pollock v. Farmers Loan and Trust Company,* 158 U. S. 601.

Now, it only meant that we were restrained and held down to where we had to follow a constitutional and orderly procedure. It meant, my friends, that Congress could not go wild, and pass laws and uphold them, and put them in force in this country, unless those laws would stand the test of reason and the application of legal principles in protecting the personal property and rights of every man in our country—just as secure under these laws as if a man were in jail, as if it were a question affecting his personal liberty and his property rights.

I think now we have referred to about eight of these decisions. What harm has come from them? Where has anybody suffered in this country? Where have they suffered, I ask you frankly, from these decisions, any more than from any unanimous opinion. Of course, it is easy enough to dissent to an opinion. It is easy enough to find supporters for the other side of the question. If there were not two sides to these questions, they would never come to court. They are presented there upon briefs and arguments of counsel; and the men who listen to them and study the questions involved, are prepared, I submit, much better than we are to make a decision. Take the United States Supreme Court. Those men who hear these arguments from able counsel who come there, filing extensive briefs covering the law; those men take these cases and study them. Wouldn't you rather have your property rights or your personal rights passed upon in that way, than to turn them over to a thousand men holding political office who are thinking more about re-election than they are thinking of doing justice to their constituents? (Applause.)

And there is another one of these decisions and then I am through. The citation is *Ex parte Garland,* 4 Wall. 333.

This is a decision which, I submit to you, has done more than enough good to offset any possible harm which may have come from any five-to-four decision ever rendered.

This matter came up during the Civil War. All of us who lived during war time know what is in the atmosphere. We know the tension of war times, and yet, my friends, I doubt if we know just what it means to have a civil war, a most insidious kind of war, the kind of war that was experienced in the early sixties, when people did not know where their neighbors stood, when there was such a rebellion as there was in this country at that time—people who were sincere and honest, and who thought they were right, and yet divided—yes, our country was divided against itself. Not only that, but families were divided; brothers were

fighting against brothers; relatives against relatives. During the terrible tension of that war, Abraham Lincoln appointed four men on the United States Supreme Court. And when I mention the name of Abraham Lincoln, I thank God that there was an Abraham Lincoln at that time of our Civil War (applause); a man educated as he was, honest, sincere, sympathetic, thoroughly imbued with a sense of responsibility as to his duty, he stood, a heroic figure in the center of a heroic epoch—a great friend to the south—it was to Abraham Lincoln that the south surrendered finally. And he it was who wished to bind up the nation's wounds, and who asked that the south come back into the Union.

But there was a man in the southern army, named A. H. Garland. Now, while the war was going on, Congress passed a law that before any man is allowed to hold office in this country, he must take an oath that he has never taken up arms against the country, and that he has never given aid or comfort to the enemy in time of war. Do you see what that meant? This was a test oath, and every man who was given an office had to sign that oath. Mr. Garland was a lawyer practicing in all the courts of this country before the war. He went south and became a member of the southern confederacy and when the war was over, he with the others received at the hands of Abraham Lincoln a pardon for the offense he had committed which was punishable at that time by death. When the war was over he asked to be reinstated to practice law in this country, and he was asked to sign this oath. But, he said, I cannot sign this oath. I am guilty of those things. Then, he was told, you cannot be permitted to resume the practice of law. "Well," he said: "The constitution of this country protects me; the constitution forbids the passing of a retroactive law; the constitution forbids the passing of a bill of attainder." A bill of attainder is a bill that provides punishment for a man without judicial trial. He says: "This bill that you have passed is retroactive." He said: "I have been pardoned by Abraham Lincoln, from punishment by death, but now you are punishing me again, by depriving me of the means of making my livelihood in my profession. You are also punishing me without trial." The United States Supreme Court, by a vote of five to four adopted his views, and they held that this law was retroactive; that it was a bill of attainder. Those four men who were appointed during the war dissented, and voted "No."

You can imagine what the effect would be in this country, to have such a law stand on the statute books, a law contrary to the sentiments of Abraham Lincoln who was trying to harmonize and bring the south back into the Union, and make this nation solidified forever. Cannot you see what would have been the result of that law? An outrageous law, I term it. Carpetbaggers from the north would have swarmed into the south, to hold office, and not pay taxes. Do you think that would have been conducive to the spirit of harmony and co-operation which the welfare of this nation depended at that time, and which Abraham Lincoln expected when he was binding up the wounds of the nation? No, that was not his idea. And the Supreme Court wiped out this law by a five-to-four decision. If the rule had been seven-to-four, it would have stood. And in that event A. H. Garland would never have held the office of attor-

ney general of the United States under Grover Cleveland, and Chief Justice White and Justice Lurton would never have served on the United States Supreme Court bench. Well, you may say, that would not make any difference, and as far as those men are concerned in their relation to this country, that may be true, we would go on, perhaps, just the same whether these men served in office or on the bench, or not. But there were thousands of other good, sincere, honest men, citizens of this country, who never could have followed their profession or held office in this country, if that law had been upheld, as it would have been upheld had the rule been that we had to have seven votes before the Court could hold an act of Congress unconstitutional. I claim that more good has come from that one decision, than would be possibly needed to offset any harm from all others. And I think that the majority rule is best exemplified by that decision. And I think you would not have chosen any other decision at that time, but if the rule had been otherwise, you would have had to submit to the other kind of decision.

Now these are the nine cases I have had in mind, and, if you can see any harm that has resulted from them, that justifies these claims made from various sources—from men holding seats in Congress, and they do not come from other sources—if you can justify it upon any theory except that it is men wanting to use it for political purposes of their own, you are able to do something that I cannot do.

I thank you for your attention.

(Prolonged applause.)

ADDRESS BY HON. J. ADAM BEDE

It is certainly a delight to address this audience here tonight. And I have found, in addressing various audiences, that I have to be careful what I say, lest my words may be taken as meaning more than I intend to say. I remember once I was invited by a certain committee to give a talk in a town where they were trying to establish a skimming station, and I went at my subject so strong that they started a creamery. (Laughter.) About two months ago I was talking in a town in Southern Illinois, in which I tried to drain out the poison and pour in the milk of human kindness, giving them a sort of heart-to-heart community talk. Two weeks later I received a note from that community, telling me that they had had a basketball game there between the Ku Klux Klan and the Knights of Columbus, in a negro gymnasium for the benefit of the Jewish Welfare. (Laughter.)

An Irishman, once, making an address on St. Patrick's Day, said that a man should love his native land, whether he was born there or not. (Laughter.) So I am sure we all love America, whether we were born

there or not, and I shall not take much time tonight in talking patriotism to you, or waving the Old Flag, or defending the Constitution. Those things I take as a matter of course. But it seems to me that all of us who love this land might well ponder on the meaning of the words "The earth is crowned with heaven, and every common bush is afire with God." But only he who sees, takes off his shoes. If there is anything the matter with this great country, or with its people, it is that we do not sufficiently appreciate that the soil of liberty is holy ground. But there is something the matter with this old world, and I intend to say just a few words along that line.

There have been some changes the last fifty years. We have made marvelous progress. Fifty years ago, when I first saw a sewing machine, I thought, now the women folks will do their sewing all up before breakfast, and then they will sit down and read good books all day. Did they do it? No. They just put more frills on less cloth. (Laughter.)

And it is well that they did so. For, to my mind, the greatest menace to our civilization today is leisure without purpose. Leisure without purpose begets idleness, and idleness spells degeneracy. And one of the causes of crime in America today is that we have too much leisure and too little civilization, too little purpose. Two boys in Chicago killed another boy, to get a thrill, and to see how it feels to have killed someone. One of those boys had never, until he was more than fourteen years of age, laced his own shoes. He was idle. Learned to be a criminal, because he could not stand idleness. Idleness spells degeneracy. If I were giving any advice to the world today, it would be to get the world ready for the leisure that is sure to come. Thomas Edison tells us, and other great scientists have informed us, that in a few years, with modern invention, we shall have a four-hour day. If we get a four-hour work day, with the present standard of civilization, it will strike us into dust. The question is not how long you work, it is a question of what you do when you are idle. If we could work four hours, and sleep eight, and use the other twelve for culture, what a wonderful world it would be. But you would not use it for that purpose.

And so I say to you men and women of Minnesota, get ready for the leisure that is before us.

If I were to tell you in a single word what I think is wrong with the world today, I would say it is rickets! By that, I mean that its body has outgrown its soul. We have been so busy the last ten years fighting a great world war, rebuilding the world after the war, paying our taxes, local, state and national, making out our income tax report—and wondering afterwards whether we are Christians or criminals,—for no two experts can make them alike—(Laughter) that we really have not had time to look after the spiritual side of civilization. But after a time all this rough work will be cleaned up. Then we will take hold of the spiritual side of civilization, and I trust we will restore it, or even improve on what it was in the past.

They tell a story of an Oklahoma Indian who made a fortune in oil last summer, which illustrates the condition of our country. Having made his fortune, he thought he would see America first. So he bought him-

self a car, and drove away. Next day he returned to the salesman, all banged up. "What's the matter?" The Indian said, "I drive out big car; buy gallon moonshine; step on gas. See fence; he hop fence; pretty soon see bridge coming down road. He turn out to let bridge go by. Bang! Car gone. Gimme 'nother." That's it. We all of us turn out to let the bridge go by.

They say that when Woodrow Wilson reached the gates of paradise, he was detained by St. Peter who had read much about him, and sought an extended interview. After a long conversation Wilson passed in, walked around the golden streets, and finally reached the throne and talked with God. God said to him, "Woodrow, they are making lots of sport of your fourteen points, down on earth, these days." "Yes," Wilson replied, "but may not I suggest that you just ought to see what they are doing to your ten commandments." (Laughter.)

No, we are not living up to the laws, very well, in America today. Now, I never did understand how any man who had ever read a law book, or had ever studied the constitution of the United States, could believe in the eighteenth amendment. I am not going to discuss the liquor question. I have voted dry all my life, and always shall vote against the saloon, but I never believed in the eighteenth amendment. I began voting against the saloon, in Ohio in 1882, and I am still against it; but why anyone who ever studied law could stand for the eighteenth amendment, I do not understand. Why? Why, the constitution of the United States was intended to regulate the government, not the citizen. There is not a line in the constitution of the United States, outside of the eighteenth amendment, that tries to regulate the conduct of a private citizen. (Applause.) And it doesn't belong there. Scientifically, it doesn't belong there. Why do we have a constitution? Well, our forefathers had been used to governments in which the king was a despot, and could throw a man in jail or out, without a writ of habeas corpus. He could hang him, or cut his head off, and the man had no appeal. When we laid the foundations of this government, our fathers said, Now we must have a government, but we are going to show our government where it gets off. These things shall not be. And so, they conceived the idea of dividing the government into three divisions, legislative, executive and judicial. I don't know the limits of each division—but they tell the government what it can do and what it cannot do, and there were ten original amendments,—at the time of the original adoption of the constitution, giving a guaranty of rights to the individual. They never intended to regulate the citizen. No. Because the eighteenth amendment regulates the private life of citizens, it is illogical from the American standpoint of government. That is why it does not work. President Coolidge, under that law, is the chief of police of the United States, and he cannot control a policeman outside of the District of Columbia. If he wants to use anyone anywhere else, he has to send out an extra man and duplicate our form of government. So he sends out an officer, calls him a prohibition officer, he gets $1,800 a year if he is straight, and about $18,000 a month if he is crooked. (Laughter.) I say I don't understand how a student of government can believe in that sort of thing. Centralize the government at Washington, for

a while, and we will quit thinking at home. That is one of the things that is the matter.

I say that any state in the union that has not manhood and womanhood enough in it to regulate child labor, is not fit to be in the Union. This has all been submitted to the people by Congress, the child labor measure, and already adopted by the state of Arkansas, and will no doubt be adopted by thirty states. But you are centralizing the power at Washington. In a little while, the government at Washington will be doing all the thinking, and no one will care whether he votes or not. There is a great movement to take the control of our school system to Washington. It is insidious. People don't know what it means. After awhile it will mean absolute control of the school system of America from a central government, while you will have a crystallized system that you cannot make a dent in in a hundred years.

Today we have forty-eight experiment stations. You better keep them.

Two months ago there was a convention of 15,000 superintendents of schools held in Chicago, and a resolution was unanimously adopted asking the government for a Department of Education, with an annual appropriation of one million dollars. In ten years they will have a billion dollars, and ninety per cent of it will be wasted. Now, I am for de-centralization, so far as local government is concerned. I believe in strong centralization of government so far as the acts of Congress are concerned, and a strong local government for the control of individual action. (Applause.) Now, in Washington we have a peculiar Congress,—it has been going to the bad ever since I quit giving it advice. (Laughter.) For six months they have been running around in circles down there, as dizzy and as busy as a Ford car with a Packard gland. (Prolonged laughter and applause.) Now, I am not sure what it is all about. I am just throwing out a few little civil warnings. If you want to keep the people awake, you have got to give them something to do.

Remember that today seventy per cent of all the crime in America is committed by juveniles. Something the matter with the American home when that can be said. Hadn't you better get busy and do something at home, and not leave it all to "silent Cal"? (Applause.)

I brought up a pretty big family, seven children, and a dozen of my relatives. I specialize on children. I am starting in with the second generation now. If I had to start life over again I would do nothing but raise grandchildren. (Laughter.) But I want to say a few words, and I am aiming this particularly at the women who are newer in politics: Civilization, and not law, governs America. To my notion, the statute is little or nothing more than a signboard on the highway that tells the distance and direction to St. Paul, or Minneapolis, or Duluth. Civilization is a highway, itself. Build a highway, and the signboard will come as a matter of course. But what is a signboard good for if you haven't the highway? What is a statute good for if you haven't civilization behind it?

I live up in a backwoods community in Minnesota. All the power of the nation cannot protect me from my neighbors. They can destroy my stock, burn my buildings, cut down my trees,—and I am helpless.

There are not enough soldiers or policemen to go around. My only protection is the civilization of my neighbors. We must build on civilization. Some of us make too much fuss about laws and constitutionality. They amount to nothing if you neglect civilization. The crux of the whole thing is the standard of civilization. If you neglect that, we will go to pieces.

Take hold of that great, big problem, and see if we cannot work it out. Lift the childhood of the nation on a little higher plane. Now they will pass a child labor law, so a boy cannot work until he is eighteen years old. I was teaching a country school when I was sixteen. Most every one else was, a generation ago. Now, under this amendment, Congress could legislate up to eighteen, and then legislate just as far as you give it the power. A lot of folks will go down there, weeping and sobbing on the shoulders of your members to make them put over a lot of that legislation. Why, one of the very causes of crime in the big cities is that boys under eighteen are not working.

(A VOICE: "That's right.")

A boy ought to be busy. It doesn't hurt him. It gives him something to do. Keep him busy. Fifty years ago, when his father had a little shop, and he could work with him, or could be apprenticed to a neighbor, there was no juvenile crime. And no boy was oppressed. One of the greatest dangers in big cities today is the idleness of boys under eighteen. Let us not be foolish about this thing. Under this law they could prohibit children from picking up potatoes in the state of Minnesota. Why, we'd better take over some of these powers, and run this old nation as we know it should be run.

But there are so many things I want to say. I want to say that I stand for representative government. And by "representative government" I don't mean just the man down at Washington who is by name a representative. I mean the lawyer who tries my case in court is my representative on that case. He has no more right to betray me than the governor of my state or the member of congress that I have elected. He should be true to the man he represents. I would not hire a lawyer to try a case for me, if I did not think he cared more for securing justice than for any fee in connection with the case. I would not hire a doctor to practice in my family, if I did not believe that he cared more for healing the sick than for any reward he would get for his services. I would not do business with a banker that I did not believe cared more to serve me than he cared for the use of what little funds I could place in his keeping. I say, my banker is my representative; my doctor is my representative; my lawyer is my representative. In the old days when every man did everything for himself, it was otherwise. In 1820 my grandfather came from New England to Ohio, went into the backwoods, cut the logs and lumber in his own woods, built his own home with his own hands, gathered the wood from his own forest to warm his home, cleared a little land, raised a crop and fed his family; made the shoes they wore, and raised the cotton which went into their clothing; and the wool; tapped the maple trees to get the sugar which was so hard for us to get during the war,—he was monarch of all he surveyed. He had no representative but

himself. But the world made no progress when every man did everything for himself.

But today when men specialize,—when one man makes lumber, another builds the house, another makes the clothing, another makes shoes,—and so on. On that day we began to make progress. So that all the troubles complained of in the civilization of today have literally come through our blessings. We are trying to readjust ourselves to the new conditions.

Fifty years ago when a farmer stood at one end of a crosscut saw, and his hired man at the other, there was no trouble between capital and labor. They had their feet under the same log. They were pulling the same saw. They were looking each other in the eye. They were acquainted. But some man came along with a big invention, a great band saw, and you built a great mill, and the manager had his private office, and he worked out the problems there, and he did not come in personal contact with the men under him. Then you began to have these misunderstandings. The employer did not know his own employes. The only way to solve it is to get your feet back under the same table,—if not under the same log,—and look each other in the eye again. Pull at the same problem. Get acquainted. That is all you have to do in this whole country, if you would really solve our problems.

In the last fifty years we have made marvelous progress. When I left my native state of Ohio—I sometimes admit that I was born in Ohio, but purely for political purposes. (Laughter.) It has been said that when a man hails from Ohio he is apt to reign in Washington. (Laughter.) Some of them do. But when I left my native state of Ohio, I had never seen a bicycle. I had seen an old-fashioned contraption called a velocipede, with a front wheel about as high as the gallery, and the rear wheel trailing in the dust. If you fell off, you would break your neck, to say nothing of your engagement. I had never seen a telephone, electric light, moving picture, music box, cash register, and many of the things which are so common today in modern civilization. Oh, we have been making progress, and we have been making problems. But I trust we have also been making for the happiness of our fellowmen, which is what we are after. When Thomas Jefferson wrote the Declaration of Independence, he declared our right to the pursuit of life, liberty and happiness,—the pursuit of happiness. Oh, Jefferson used the English language very adequately. He did not tell us we would ever overtake happiness. He just said we might pursue it. Whether we catch up with it or not, depends on us. Our inalienable right goes no further than pursuit. Some folks think, we will get enough riches to overtake it. But most always we find that to most of us, riches spells unhappiness; few men and women can have great riches and great happiness at the same time. No, happiness is not measured in dollars and cents. The man or woman who can listen to beautiful music and get more pleasure out of it than I can, is that much richer than I am in that regard. The man who loves nature more than I do, or the song of birds, or the beauty of flowers, is richer than I am, richer in his capacity for enjoyment. You can't play a tune on a crowbar. You must have a more delicate instrument than that.

When I was on the Chautauqua platform down in a southeastern

state, there was a farmer came to town in an automobile, swearing at the government because of the high cost of living, quarreling with the hotel clerk because he couldn't have hot and cold water with a bath in his room —like he had on the farm. Swearing about the high cost of living. He was responsible for the high cost, he was not willing to live as his father did. He wished to enjoy all the blessings of modern civilization, and none of its burdens. "Let George bear them." It reminds me of conditions in my district. Up there a Jersey cow won't give down her milk if you don't light the barn with electricity, and have a Caruso song for her benefit while she is being milked; and she won't stand for any jazz. The Jersey cow wants a Red Seal record. It costs to run the world as it is run now.

A friend of mine went to Alaska in the early days, and he took along some phonographs and some records. Up there Indians and white folks lived on canned foods and canned everything. An old Indian came in one day, and when he heard the records played, he cried out, "Canned white man." That is but another synonym for our marvelous civilization.

But if I have any purpose in any of my talks, it is to get hatred out of the hearts of mankind, the men of America. We can't afford to hate another nation. That is what war does to us, that is where war gets us. You can hate us into a war, or keep us out by the opposite course. That is where war comes from—hate. I don't know as we will ever get the people to the point where, as Kelly said, he couldn't tell whether the band was playing God save the Weasel, or Pop goes the King. But we have got to get rid of hate, if we love the world. We have had religious hate, political hate, national hate, social hate, commercial hate,—and you have got to get rid of all of them, if we are to get rid of friction in the wheels of progress.

I remember, when I was a boy, a big Methodist church in our town held a revival. They took in many converts, some of whom wished to be immersed. (They used a double standard, sometimes.) It was in the winter time, and the streams were frozen, and the church had no font. They didn't know what to do with those sinners, so they sent a committee to the Baptist church to find out if they would allow them the use of their font. The Baptists took it under advisement, but after giving it considerable thought, they said, "No, you go back and tell your pastor that the Baptist church is not taking in washing." (Laughter.)

That is the way folks used to feel. Fifty years ago you could not hold a union meeting in the Protestant churches of America, every preacher was preaching about what the other preacher thought, or what he thought he thought. They don't do that now. They get together, because the world is better than it used to be. Two or three hundred years ago in New England, the best people on earth used to hang witches. They have not hung a witch here since I can remember. The world is getting better all the while. I was brought up in the Baptist church myself, and still have a hankering after the old institutions, but as I have grown older and perhaps a little more tolerant, I have come to a point where I don't care whether a sinner is washed or dry cleaned, just so he learns not to hate. This thing of hating a man because he does not agree with me in politics is all wrong. We used to do it. When I was a boy we had politi-

cal parties, and we had factions. Why, if we all belonged to the same political party today, we would be split in two factions of a party inside of a week, and it would be worse than two parties could possibly be. For political factions are just like family factions. They know where the sore spots are. They know what to say and where to hurt. So give me parties, but deliver me from political factions. Just so long as there are centripetal and centrifugal forces in nature, there will be radical and conservative forces in men. If you were going to buy an automobile, the chances are you would buy a machine with a self-starter. But there is not a man in Minnesota a big enough fool to buy a machine that has not also a stopper, and sometimes you will want to stop worse than you ever wanted to start. I remember when the automobile was new, and a man up in our northwestern country bought one. He hadn't learned to operate it very well, one day when he was driving into town he overtook an old farmer and gave him a lift. He was running down hill, and he lost control of it, ran into a tree, and scattered the old farmer all over the landscape. As the old man got up, reassembled himself, and dusted himself off, he said, "How on earth do you stop that contraption where there ain't no tree?" (Laughter.) He was entirely satisfied with his *ride*. (Laughter.) He thought he had been put out in the usual way. (Laughter.) But, with the altruistic disposition of the farmer, he merely began to worry about folks that lived on the prairies and couldn't stop the car. (Laughter.) No, we need the starter *and* the stopper. We need the radical and the conservative. We need the Republican and the Democrat. We need the centripetal and the centrifugal forces, to keep the world on even ground. Then why go around hating folks?

I believe in two strong political parties,—one in power and the other almost in. (Laughter.) One running the government, and the other watching it while it runs it. (Laughter.) And I have often said that one reason I vote the Republican ticket in national affairs is because it has always seemed to me that the Democrats make the best watchers (laughter)—anyway, they have had the most experience. (Laughter.) Then, why go around hating each other? But having said that, let me add this, that in a government like ours, a government "By the people, of the people and for the people," such as we boast our government to be, watching is just as essential as working. Constructive criticism by the party out of power is just as essential to good government as constructive legislation by the party in power. And if any party in America thinks it has no obligation resting upon it, no duty to perform to the American people, it has another think coming. The problems that present themselves to us today are oftimes larger than states, they are larger than parties, sometimes they are almost larger than nations, and we need all the manhood and all the womanhood of America to join hands in their solution.

Then why go around hating each other?

I have always felt sorry for any man not born on a farm. I feel sincerely sorry for any man who didn't spend his boyhood on a dairy farm. He has never had to get up on a frosty morning in October or November, and go out, barefooted, after the cows, he has never kicked the cows to make them get up, and then warmed his feet where the cows had been

lying down. (Laughter.) That is the first lesson of American politics, to make someone else move on, and then warm yourself where they used to be. (Laughter.)

I am glad to see so many of the ladies here tonight. They are doing much to help us solve our problems. We ought to solve them more correctly and more readily than we used to do. I was sent to Ohio recently to address a bunch of women there, on what they call a political Plattsburg. I felt considerably embarrassed to address them, for I have been so long trying to get the last word with one woman, that I felt it would be even more difficult to get the last word with a big bunch like that. I felt like refusing to go, but a friend of mine says, "No, go on," he says, "you will get by, these American women are not half so bad as they are painted." (Laughter.) When I think of the wonderful work that they had done, or that they did in the world war, and since, I feel like saying, in the words of that Colonial patriot, "My only regret is that I have only one wife to give to my country." (Laughter.) For I have certainly given all that I have. (Laughter.) Oh, it is wonderful work we are doing in the world today, but the women are not getting out,—they don't get out a majority of them. I want to say to the women that if they have the right of suffrage, they should exercise it for this reason: If you don't vote regularly, you will become uninformed in political affairs. We know you are intelligent, but intelligence has nothing to do with lack of information. A serious man of the world may lack the information necessary to vote intelligently. I don't know how anybody could be intellectual enough to know how to vote in our recent primaries. Oh, it takes a lot of information to vote intelligently, and unless you vote regularly and keep informed, and get a political background, along will come a great exciting campaign like that of 1896, and the uninformed but interested and intelligent voter will cast his vote for the wrong party. If you had the 1896 campaign on now, Mr. McKinley would not get within a thousand miles of the White House. You would not have time to inform the uninformed voter of the United States, between now and November. I am saying that sincerely. I know how difficult it is to keep informed. It costs a good deal, and takes a lot of time to keep informed on the political situation. And I didn't push suffrage on to the good women folk. I didn't know whether they wanted it or not, or whether they would exercise it if they had it. There is no logical reason why they should not have it if they want it. But the time you give to politics you are subtracting from something else possibly of more value to civilization. Don't neglect civilization for suffrage. Let's have both. Let's speed up the old world, and have not only the law, but civilization to back the law. If the women neglect that, there is nobody else can do the work. We want the women in the home, in the church, in the school, and in social affairs. If they neglect them, all the voting on earth can't make it up. We are putting a great big burden on you, but if you help run America, it must be run right. The delinquent vote is a great danger to this republic. We have fifty-four million voters, according to census,—men and women entitled to vote at the polls. You got twenty-six million in the great presidential campaign of 1920. That is all you got. Twenty-six out of fifty-four.

It is a damage when you do that. There is not a senator in the United States today, but one, who has as much as forty per cent of the vote of his state behind him. The average senator has twenty-five per cent of the total vote of his own state. What is the matter with us? Maybe we do not exercise our privilege of suffrage. It would not do so much harm to neglect voting, if we kept informed, but the average man or woman will not be informed. How many people have read the constitution, and know the fundamentals of our government? Some of you ought to read it frequently. How many people know the real distinction between your Articles of Confederation, and our Constitution? A lot of folks don't know. If they did, they would know why certain things are in our constitution. There are things in the constitution about a president, a supreme court, control of Congress, and a lot of things, that we did not have in the old articles of confederation. We required a vote of nine to four in those old articles, to pass any important law. And as to the legislation, it took nine out of thirteen states to pass anything of importance. They couldn't pass anything. It just tied up the legislatures. Why go back to something that we have tried, which has failed? So, I say, the women ought to get the political background. And men ought to get a political background. Many of you don't know why certain things were put in the constitution, and certain things not. You haven't read up on it. If people had done that, they would not be advocating many things today. Take the constitution of Mexico, and compare it with the constitution of the United States, and you will see that they are almost identical. But do we have the same kind of government? No. Why? Because you don't have the same kind of civilization. It is civilization that governs. All the constitutions on earth cannot make us a free people, if we have not civilization. Mexico has not the civilization that makes for freedom. They have a good enough law, but laws don't govern the people. It is the standard of civilization that governs.

The biggest day in America was not the day that the Pilgrims landed on Plymouth Rock. That was a big day, but not the biggest day in our history. To my mind, the greatest day in our history was away back in Creation, when some power took the time to tip the earth up 23½ degrees from the plane of its orbit, thereby giving us a temperate zone to live in,—the north temperate zone. Oh, it is our climate, more than all other things combined, that has had to do with our marvelous civilization. Go down to the tropics. Go to Mexico, Central America, South America, and you won't find our kind of civilization. It takes a cool climate to build up a great governing people. And so I say thank God that he tips up this old world, so that we could have a temperate zone to live in and to work out the marvelous form of our government. Take California, in 300 years civilization would run out, if you didn't flood it from the north, send more folks down there from the cooler climate. You can take the climate of Southern California, and in 300 years you couldn't produce the men and women that are produced in New England. So thank God for the climate. I know, in Minnesota, when a man gets rich, he can't stand this climate. He has to go away for the winter. But it is good for a poor man. (Laughter.) And I personally think that any man, rich or poor,

who has been biting off our ozone for fifty years, better stay and keep on biting, for he will live longer. He is used to this climate; therefore, stick to it.

But I am taking too much time. Let me say that in government affairs I hold to this principle, that a public man should not only do right, but he should do right in such a way as will demonstrate that it is right, to the American people. This government belongs to the people, not to office holders. It is not enough just to *do* right. If he does right under such a form as deceives the public, it may lead to a suspicion that something is wrong. Do right under such a form as will demonstrate that it is right to every voter in the republic.

Let me give you a little illustration. At the close of the Civil War, some big men in the South came to General Robert E. Lee, and asked him to become the head of an insurance company, with a princely salary. It was a great temptation. General Lee's fortune was broken, but he answered, What do you wish of me? I have had no experience in the insurance business. Oh, they said, we want your name, your influence. General Lee replied: They are not for sale, they are not for sale. So he went over to the Washington College, now the Washington and Lee University, and spent the few years that remained to him, at a salary that would not have paid the insurance company's president's office expenses. Why, that is what we need in American life, someone who can turn down his temptations, and do the manly thing. A little while ago I was talking with a life insurance man, and I pointed out certain things and stated what I thought would follow it if it continued for fifty years. He said, "What do I care? I won't be here." Now, a man might make that statement carelessly, and mean nothing by it. But any American who says he does not care what happens in America in fifty years, because he will not be here then,—is not fit to be here now. (Applause.) What America needs is men and women who do care what happens in fifty years. Somebody in Bemidji cares what happens, or you would not have had these magnificent decorations here,—it looks like Birnam wood had come to London town. Somebody cares. Oh yes, for fifty years, for five hundred years and many more, great men and grand women have been doing things to get this old world ready for you and me. Shall we now sit down and accept all these blessings that have been passed down from them, and still say we do not care what happens in the future? Shall we not strive to augment those blessings, and pass them along to another generation? How would you like to repeal 500 years of civilization, and go back before the discovery of America, and live in a dugout, or a sod house or cave, and fight your neighbor with a bone or a club? That is what it means, if nobody had cared what would happen in fifty years. Repeal five hundred years of civilization, and life would not be worth living. Somebody has been doing something for us. What have we been doing for the world?

In the great world war, I remember the story of two colored soldiers leaving France and getting back home to Carolina, and Rastus says, "Sam, this world war has changed everything. White man and black man all look alike now. When I get back to Carolina, I am going to get me a white suit of clothes, white hat, white gloves, white shoes, white tie and a white

girl, and I am going to take her to a drug store, and buy her some white ice cream. What you goin' to do, Sam?" And Sam said, "Yes, I know this world war has changed a lot of things. And when I get back to Carolina, I am going to get me a black suit of clothes, and a black hat and black gloves and black shoes, and a black girl, and I am going to follow you right into that drug store, and then I'll follow you right out to the cemetery." (Laughter.) He knew where that procession was going to end. Oh, the world war changed things, fifty million boys and three hundred billions in wealth destroyed. And some folks think you can fix things up all in a minute. It takes time, a long time. It took from 1865 to 1879 to get back to any kind of stability, after the Civil War. How are Germany and France to come back? It can't be done in a minute. It takes time. During the world war we made some changes. But we got behind in building houses, there was scarcity of lumber, high transportation costs. You can't get the farmer back where he was, so far as the cost of living is concerned, in a minute. It takes time. Sometimes it takes hard time. We are short of houses, short of clothing, and most of the clothing was too short, too. (Laughter.) Don't you remember, they sawed it off at both ends, lower at the neck, and higher in the instep, and the less there was, the more it cost. (Laughter.) No, it takes time, a long while, to get back to normal. I read in a society paper a year ago that for 1923 women's dresses would be eight and a half inches from the floor, but it didn't say how far they would be from the ceiling. (Laughter.) It takes quite awhile to readjust things. But you can't regulate things by law. Taste in the American people will regulate that, in a little while, but how would the women like to have a law passed fixing the length of their skirts? Those things just can't be done. It is the standard of civilization that fixes a lot of things, and probably it is the fashion that fixes that. They will never have the old-fashioned skirt again that dragged on the sidewalk, and swept up the dust and microbes and scattered the epidemic. We don't want that condition. If the skirts will come down half way to the sidewalk, it will satisfy me. (Laughter.) Nor do I want to see the old-fashioned hoopskirt that they wore when I was a child, so big it looked like a Chautauqua tent. The skirts were so big around when I was a child, that a boy actually could not shake hands with his grandmother. You couldn't get more than three "sisters" into a prayer meeting. Oh, gradually, things adjust themselves. You don't have to pass laws to regulate things like that.

Two years ago the farmers in the west started selling corn for 16c a bushel. They had to pay 25c for a shave. And when a farmer has to pay more for a shave than he gets for a bushel of corn, the tendency is to raise whiskers. (Laughter.) And when farmers raise whiskers, it spells political revolution. (Laughter.) Now, you can't fix these things up in a minute. In the agricultural world the clock ticks about once a week, and it takes a lot of patience. If the government could devise some means of letting some of these local banks open up again and function, it might do some good. But just to lend more money can't do much good and it may do harm. The trouble is, they have loaned too much, not borrowed. They have been too good to people. Down in Iowa, I know as a fact that if

a man went to a bank and asked for $500, they would shell out a thousand, and say, "Give your family a good time." They were too good to us. But you know they tell a lot of stories. There was a banker that had one glass eye, and a man came in and wanted to borrow some money of the banker, and he was pretty tight, this banker, and he didn't want to lend any money, and so he said to this man, "I will lend you the money on one condition, if you can tell me which one of my eyes is glass." And the man says, "Your right eye." The banker says, "You guessed it, but how could you tell?" "Well, I could see just a little more sympathy in that eye than in the other." (Laughter.)

Oh, they loaned too much to the West. The Federal Reserve Bank was pretty liberal. They were new, and they wanted to show the wonderful good they could do, all intended for a good purpose, but they loaned too freely to the local banks, and the local banks loaned too much to their neighbors, and started a boom, and then you had a collapse,—as you always have after a boom. And then you think there is something wrong with the government, and the trouble is right at home. We complain of the government of high taxes, but look at home, when you talk about taxes. Ninety per cent of them is your own making,—about ninety per cent. The state does not get much,—the federal government a little, but the most of your taxes are right at home. The school tax is about half the tax in Minnesota, in a country town, but no one wants to do without schools. Don't complain of your government because you have burdens. Modern civilization costs. Everywhere I have been—I have attended several conventions—and everyone is asking for higher salaries. Higher salaries for the teachers. I attended a convention of railway clerks, and they were asking for more. And I attended one convention where they were asking more salaries for judges. Everywhere I go they want more pay and less taxes. I am not complaining of paying judges more, if you will have a convention or a governor or a commission or something to pick the judge. But if you will have a primary, you will have some rascals on the bench, running just for the salary. You'd better get a different way of picking out judges. Judges should be well paid, but you ought to have good judges, and you won't always get them under the system we now have. The same way with Congress. If you raise the salaries of congressmen, you increase the cost of living in Washington, and that will affect every one of 700,000 clerks working for the government, and you will do the congressman no good, because they will take it away from him, anyway.

I am for judges getting good salaries, but I am for having them selected in a different way.

I say to you that the government of the United States is the biggest going concern in the world, and that under the present system you are turning it over to a mob. It is time to do some thinking. I am for going back to the old fashioned caucus, because people went and did their duty. It is the delinquency of the voter that makes the trouble, not the conventions. Select your delegates, and let the delegates do some thinking, and go to the convention and fight. This is too big a government to be run without thinking. If I cannot trust my neighbor whom I have known for

twenty or forty years, to go to a convention and fight for me, my answer is that every government is a failure and we'd better go back and have some despot to tell us where to get off. Why, up in Toronto, with six hundred thousand people, they have a wonderful government, a city government divided into ten departments, each department under a specialist, and while mayors come and go, the specialist stays on the job. A banker at the head of the financial department, specialists in the different lines at the heads of the transportation—street cars,—park system, educational system—students, specialists, looking after the affairs of a great municipality. But we tip things upside down every two years. Something wrong. We must think about these things, and establish ourselves on a firmer basis.

But I am detaining you too long. I am glad to see so many attorneys here from the cities. It recalls to my mind the story of the man who took a trip to New York City a few years ago and after he had reached the city his wife wired him: "Dear John, while you are in the city, remember that you are a married man." He wired right back: "Telegram received too late." (Laughter.) He had already had the other girl out to lunch. I hope your conduct while here has been entirely proper, and that you will not forget your duty to your home, your state and your nation. I think happiness, like wealth, ought to be distributed. You ought to have just as much happiness in your home as in your business. Sometimes the men feel that home life is a little prosy, and lacks enthusiasm and inspiration. Sometimes the women folks don't get out of the home often enough to get that inspiration, and some women cannot even appreciate the humor of their own husbands. Some years ago a man I know told his wife a very humorous story, and she didn't even smile. It grieved him very deeply, and he said that when he told the same story to his stenographer, she laughed so hard she almost fell off of his lap. (Laughter.) So, I say, let's distribute happiness. Let's have happiness in the home as well as in the office. (Laughter.) One man said to another, "Bill, did you ever see one of those little inventions that can detect a lie when you tell one?" "Seen one!" says Bill, "Hell, I married one." (Laughter.) So, have this little detector in your home, and have a little more care for your conduct than we used to have. We ought to solve our problems a little more readily than we used to, a little bit better, we ought to get along in this old world and make it a little better than it used to be. For there is a solution of every problem. We must get back to the simple life and the golden rule, and nothing else will save America—the simple life and the golden rule. If we live that, we will get by. It is because we have neglected both, that we are where we are. We have gotten away from the simple life, and almost forgotten the golden rule.

I heard of a town where some people got together and raffled off a Packard car. When it came to the finish, the man who had won the car was a poor man with a big family, living in a rented cottage, hardly able to pay his grocery bill. The man having the raffle in charge went to see him and said, "Now, Bill, we know you cannot afford to maintain a Packard car, so we have come to offer you $7,000 in cash, in lieu of the car, and you can buy a little home and fix up your family." Did he take it?

No. He almost jumped over the courthouse. Why, he says, "I won't take it. It is my car, my family will ride in it, and the neighbors are going to see them ride in it." The first time he has a puncture he will be in an asylum, and they will be in the poorhouse. That is where America is today. That is all that is the matter, just living a little too swift, forgetting the simple life and the Golden Rule.

Well, we may sometimes forget some of the fundamentals of our government; but so long as we have twenty million boys in public and private schools and colleges, there can be no serious danger. For if we are forgetting the lessons of liberty, they are learning them anew. They have upon their class room walls the portraits of all the heroes of wars. They see Washington at Cambridge, at Valley Forge, at Yorktown, in the beautiful fields and in the dignified retirement of Mount Vernon. They behold the waving folds of Old Glory, upon the walls of the distant Capitol. They drink in the inspiration of the Fathers, and know why this nation was born.

They see Lincoln at Gettysburg, as he tells the world of the government "Of the people, by the people and for the people." They hear for the last time the clanking of the chains of slavery now stricken from every limb, and they know why this nation shall live.

They see Dewey at Manila, and Sampson and Schley at Santiago, and they see the stars and stripes, the emblem of liberty, flying above the crumbling castles of hate; they hear the dying groans of despots, swelling the anthem of the free, and they know why this nation shall never die.

"Columbia, Columbia, to glory arise,
The queen of the world and the child of the skies.
Thy genius commands thee; with rapture behold,
While ages on ages thy splendors unfold."

I thank you.

(Prolonged applause, all standing.)

MEMORIALS PRESENTED BY THE COMMITTEE ON LEGAL BIOGRAPHY

WILLIAM E. ALBEE

WILLIAM E. ALBEE, born near Rockford, Illinois; coming to Minneapolis in 1885, where he resided during the remainder of his life. He was a graduate of the college of law of the University of Minnesota. Practiced his profession since graduating, but giving most of his time to abstract work. Died on the 11th of March, 1924, leaving his wife and one sister surviving.

JOHN H. BALDWIN

JOHN H. BALDWIN of Frazee, Minnesota, was born in 1851 near Janesboro, Indiana. He was educated in the common schools and at Spiceland Academy, Indiana. Following his admission to the Bar, he was County Criminal Prosecutor from 1877 to 1882, when he removed with his family to South Dakota, and continued the practice of law.

Senator Baldwin came to Frazee in 1900. In 1914 he was elected to the State Senate and served until 1922. Senator Baldwin was always active in politics and took an especial interest in all matters pertaining to the upbuilding of the County of Becker and the Village of Frazee.

HENRY WILLARD BENTON

HENRY WILLARD BENTON, son of Daniel Webster Benton and Harriet M. Wharton. Born on a farm near Canton, Ohio, May 10, 1857. Married on June 26, 1885, to Henrietta A. Van Hook. Graduated from high school at Canton, graduated from the Ohio Wesleyan University at Delaware in 1881, and the Cincinnati Law School in 1883; coming to Minneapolis immediately after his graduation. He practiced up to the day of his death. Left surviving, his wife and four children, Margaret Eichorn, Van Hook Craig Benton, Henrietta Hill, and Harriet Way.

WILLIAM WELDON BILLSON

WILLIAM WELDON BILLSON was born at Springfield, Illinois, on June 7, 1847. He was the son of Thomas and Hester (Watson) Billson. He attended the public schools of Springfield, Illinois, and graduated from the high school of that city in 1864. He was married to Alice L. Harford of Portland, Maine, on the 20th day of November, 1872. Five children were born to them. One only, Harford L. Billson of Los Angeles, California, and his wife survive him. He was admitted to the Bar in the state

of Minnesota in the year 1868, before becoming of age. This was made possible by the passage of a special act of the legislature of the state of Minnesota, being Chapter 129 of the Special Laws of 1868, authorizing his admission without regard to age upon passing the necessary examination.

He practiced in Winona, Minnesota, from 1868 to 1870, removing to Duluth in the latter year.

Mr. Billson was a member of the Minnesota State Senate in 1872, and again for two years from 1883 to 1885. He was United States District Attorney for the District of Minnesota from 1873 to 1881 under a Republican administration.

In 1893 the law firm of Billson, Congdon & Dickinson was formed, consisting of Mr. Billson, the late Chester A. Congdon and the late Daniel A. Dickinson, for many years Associate Justice of the Supreme Court of the state of Minnesota. This partnership continued until 1902, when Judge Dickinson died, and from that time on, until 1910, the firm consisted of Mr. Billson and Mr. Congdon. In 1910 Mr. Billson retired from the actual practice of law, owing to ill health, and for many years spent his winters in Los Angeles, California, and his summers in Duluth. His health became such, however, a few years before his death, that he was not able to return to Duluth in the summer, spending all his time in Los Angeles. He died on the 2nd day of September, 1923, at Los Angeles, California.

While Mr. Billson's formal schooling terminated at an early age, he remained a scholar and student all of his life. This was attested by his fine library, consisting of books of all kinds of a social, economical and judicial character, which he gave to the Bar Library Association of the city of Duluth before his death. He was a man who consciously cultivated the habit of concentration to such a point that at times he was totally oblivious to what was going on around him. In trying a case either to the court or to the jury, he always had a consistent theory of his case, and of the points that were vital to its success. He never "scattered" in his objections to the introductions of testimony or in introducing testimony himself. He usually ignored all matters or evidence that did not bear upon his theory of the case.

Mr. Billson was acknowledged by all the members of the Bar of his district to be in a class by himself. He had a keenly analytical mind and a wonderful and discriminating use of the English language, always selecting intuitively the right word to express his meaning, and always ready to illuminate his point with a wealth of illustration. His disposition was extremely even and kindly, and his manner courteous, whether in social life or the trial of a lawsuit.

Although forced to retire by ill health from the practice of his profession, he devoted as much of his time as possible to its study, spending a great deal of time in the Law Library at Los Angeles, and producing during those years a study, entitled "Equity in Its Relations to Common Law," published in 1917.

EDWIN J. BISHOP

EDWIN J. BISHOP, a member of this Association, was born at Mankato, Minnesota, March 4, 1873.

His father, General Judson Wade Bishop of Mankato and later of St. Paul, was Commanding Officer of the Second Minnesota Regiment during the Civil War. His mother's maiden name was Ellen Husted.

Mr. Bishop fitted for College at the St. Paul Academy, and graduated from Amherst in 1895, when he received his academic degree of Bachelor of Science. In 1903 he received his LL.B. from the St. Paul College of Law, and was admitted to the Bar of this state the same year.

Practical experience as cashier, and later as realtor, with the St. Paul Trust Company, extended from 1895 to 1902. His interest in municipal accounting and organization, of which he became a recognized authority throughout the Northwest, began with his experience as Deputy and as City Comptroller of the City of St. Paul from 1902 to 1910, when he entered the field of public accountancy. He received his degree as certified public accountant in 1913, and later became a member of the American Institute of Accountants, occupying the position of Director in the Minnesota Chapter.

He was married June 19, 1911, to Dorothy, daughter of W. H. Mingaye, of St. Paul. He died without issue on February 14, 1924, and was buried in Oakland Cemetery, St. Paul, Minn.

He was a member of the Minnesota Club, St. Paul Athletic Club, White Bear Yacht Club, Midland Hills Country Club, Kiwanis Club, Elk's Lodge, Junior Pioneers and Macalester Lodge No. 290, A. F. and A. M.

At the time of his death he was Senior member of the firm of Bishop, Brissman & Co., certified public accountants, with offices in St. Paul, Minneapolis, Virginia, Minn., and Fargo, N. D.

CALVIN LUTHER BROWN

CALVIN LUTHER BROWN, Associate Justice of the Supreme Court of the state of Minnesota from 1899 to 1912, and Chief Justice from then until his death, was born at Goshen, New Hampshire, April 26th, 1854, and died at his home in Minneapolis, Minnesota, September 24th, 1923.

Like his close friend and predecessor, Mr. Chief Justice Start, he possessed the heritage of New England ancestry. His great grandfather, William Brown, was a soldier of the Revolution; his grandfather, Luther Brown, took part in the war of 1812, and his father, John Harrison Brown, for many years a District Judge in this state, was in the Commissary Department of the Union Army during the Civil War, stationed at Madison, Wisconsin, with the rank of Captain.

When the late Chief Justice was but one year old, his parents settled at Shakopee, in this state. Minnesota was then a territory, so that during

the subsequent sixty-seven years of his life, he witnessed and took part in the development of the state to its present position.

As a boy in Shakopee, he saw the trembling fugitives from the Sioux massacre of 1862; he experienced the thrill of horror which swept over the nation at the assassination of Lincoln; he saw the survivors of the Minnesota regiments return to their homes after the suppression of the rebellion; he knew when the first mile of railway was constructed in Minnesota and when the Indians ceased to come with their Red River carts to barter with the fur traders; and then, when the St. Paul and Pacific Railway pierced the "Big Woods" and emerged upon the prairie, he joined in the movement which filled the western lands of Minnesota with happy homes and prosperous citizens.

In 1870 the family removed to Willmar, Kandiyohi County, Minnesota, and there, on September 1st, 1878, the late Chief Justice married Miss Annette Marlow, who bore him five children; one, Olive, dying in infancy, and four, who survived him—Alice A., now the wife of Dr. B. J. Branton, of Willmar; Edna M., and Margaret E., residents of Minneapolis, and Montreville J. Brown, attorney at law of St. Paul.

Mrs. Brown, an ideal mother and helpmeet, died at Minneapolis, October 13, 1919.

After some ventures into other fields, usually to be expected of a restless and ambitious young man in a frontier state, Calvin L. Brown seriously took up the study of law, and was admitted to the Bar of Minnesota, February 22nd, 1876. He first practiced in Willmar, in partnership with his brother, Horace W. Brown, and in 1878 removed to Morris, Stevens County, where he served as County Attorney from 1883 until his appointment by Gov. McGill on March 10th, 1887, as District Judge of the Sixteenth Judicial District.

Presiding for eleven years as District Judge, he earned the approbation and love of all with whom he came in contact, with the result that in 1898 he was elected Associate Judge of the Supreme Court for the term commencing January 1st, 1900. Before the beginning of his term, Mr. Justice Buck resigned, and Gov. Lind, on November 20th, 1899, appointed the newly elected Justice to fill the vacancy. In 1912, when Mr. Chief Justice Start refused to accept a re-election, Justice Brown was elected Chief Justice, and continued to serve in that position until his death.

The real life work of the Chief Justice began with his elevation to the Supreme Court, and his legal attainments, his clear vision and commonsense, his gentle heart and intellectual honesty may be gathered from the opinions written by him, beginning with Skone v. Barnard, 78 Minn., 210. Since then he delivered the opinion of the court in cases which cover the whole field of law, and show him to have been a profound lawyer as well as a practical man of affairs.

The dignity, poise and patience with which he presided in the Supreme Court as its Chief Justice, and the unfailing courtesy which he extended to

counsel appearing in that tribunal, won him the universal esteem of the members of the bar in addition to their admiration for him as a jurist.

The Chief Justice was essentially an original thinker, and in the performance of his judicial duties he first endeavored to arrive at what he felt should be the law and justice of the case under consideration. Following this, he studied precedents to test the correctness of his judgment, and when he found sufficient authority to support his own conclusions, he immediately, and in long-hand, wrote his opinion, the first draft of which was generally so clear and simple as to need little or no revision.

Although occupying the highest judicial position in the state, he never lost his simplicity or kindness of heart, and although pre-eminently of a domestic disposition, he mingled freely with other men in a spirit of fraternity, and was Grand Master of the Grand Lodge of Masons of Minnesota during the years 1894 and 1895.

His sympathetic and broad Christian charity came into full play in connection with the performance of the duties imposed upon the Chief Justice as a member of the Board of Pardons. No shrinking waif, unhappy parent or distracted wife failed of a sympathetic hearing from him, and even when he could give no assurance of mercy, his sympathetic bearing and kindly counsel brought solace to the class upon whom the punishment for crime often bears the heaviest.

His is the story of a real American, and although to some the maxim "noblesse oblige" may present the picture of an armored knight of the old regime, to the American, saturated with traditions of his country, it brings a vision of a sturdy, self-reliant and self-supporting man who reveres God, believes in the sanctity of the home, recognizes the dignity of labor and equality of all men before the law; of one who appreciates a government of laws and not of men, and who classifies humanity not by wealth, religion or race, but by conduct and attainments.

And so this man, who endured the privations of the frontier, remained unsullied by its rudeness. With only the scant aid of inadequate educational institutions he mastered the intricacies of the great legal profession. Called to high positions, he remained a kindly, simple gentleman, unspoiled by the temptations of place and power. He thought upon the things which are good and true and beautiful; and we do not so much sorrow at his death as rejoice in the fact that we knew him and loved him, and that his name will always stand high on the Honor Roll of Minnesota.

ARTHUR M. CARLSON

ARTHUR M. CARLSON, born in Minneapolis in September, 1898; educated in high schools and in the law department of the University of Minnesota. He practiced his profession in Minneapolis up to the day of his death, January 13, 1924. Unmarried.

WILLIAM DALTON DWYER

THE parents of William Dalton Dwyer emigrated from Ireland to New York in 1848, and William was born in Liberty, in that state, on the 22nd day of September, 1859. He graduated from Cornell University in 1879, Albany Law School in 1880, and after practicing for three years in his native town, was elected to the office of Special County Judge of Sullivan County, New York.

Professional business having called him West, he realized the possibilities of an increased practice there, and, in 1885, established himself in West Superior, Wisconsin, where his high character, legal attainments and marked ability attracted so much attention that in 1908 he was induced to remove to the city of St. Paul and accept the position of Chief Counsel of the St. Paul City Railway Company.

Here, again, his success was so great that in 1917 he became General Counsel of the Twin City Rapid Transit Company and allied corporations, and continued to act in that capacity with marked success until his death, which occurred January 30th, 1924.

On November 27th, 1890, Mr. Dwyer married Miss Anna M. Mayer, of Milwaukee, and to them were born Irene, William Dalton, Jr., Thomas, John, Catherine, Lael and Dalton, all of whom survive him.

For many years prior to his death he was a member of the Supreme Board of Directors of the Knights of Columbus, a position to which he was elected while a resident of Wisconsin; but so great was the esteem in which he was held by the members of that Order, that he continued to be elected to the position of Supreme Director after his removal to Minnesota, although such action resulted in two directors from this state.

Few men have achieved greater success at the Bar than did Mr. Dwyer. His industry, thorough preparation of cases, coupled with his power to clear thinking, made him an especially strong lawyer, while his intense devotion to the public good, his domestic virtues and love for those dependent upon him, his kindliness and sympathy with those with whom he came in contact, and his personal integrity and upright life made him respected and valued as one exhibiting the highest traits of good citizenship. He died while in the active practice of his profession, and left to his family and professional associates the memory of a great lawyer.

JOSIAH DAVIS ENSIGN

JOSIAH DAVIS ENSIGN was born in Erie County, New York, on May 14, 1833, and died at Duluth, Minnesota, on November 24, 1923. His life, therefore, spanned more than ninety years.

His ancestors were among the original settlers of Connecticut, where they lived for generations, and attained distinction. His grandfather moved to Erie county in Western New York, where the Minnesota jurist

and his father were born. When he was very young, his father moved to Ashtabula County, Ohio, in the Western Reserve, and there young Ensign spent his youth and early manhood. His education was in the common schools and academies of Northeastern Ohio. In 1870 he came to Duluth, then a pioneer hamlet, with great ambitions, where he lived until the end.

In Ohio, in 1857, he was admitted to the bar, so that when he retired from the judicial service on January 1, 1921, he had been active in legal work for sixty-four years. He was always drafted for public service. In Ohio he was made the clerk of important courts, and in Duluth he became city and county attorney, mayor of Duluth for several terms, and at last, for thirty-two years, judge of the district court of the state. Before going upon the district bench in 1889, he had been active as a legal practitioner and prominent in public affairs of the sort that appertain to new and growing communities. He came to Duluth when it was a hamlet and its hinterland an unbroken wilderness. He lived to see and enjoy great changes. He was always prominent in laboring for progress, moral and economic.

After his thirty-two years on the bench he retired voluntarily. He was beloved by everybody. He had no enemies. This was by no means because he was lacking in decision, because no one had more fixed views of duty than he had, and there was no one whose views were more generally known. But he was so tolerant, without being merely complaisant, so just, so courteous and so brave that he never gave offense and seemed to be a man apart.

His courtesy to others was altogether notable and it was extended in equal measure to everyone. He made no distinction of persons unless he was most tender and courteous to the ailing, the aged and the young. He felt that he was a member of a learned profession and that this was a real distinction, and in his dress and speech he lived up to that conception. He was easily the best known and most loved of all the people of his city and Northeastern Minnesota.

Judge Ensign was a lawyer of high ability. He had a wide knowledge of the common law, a remarkable capacity to unravel complicated questions of fact, great patience and utter fairness and fearlessness. He held fast to the very best traditions of the profession. Anything mean or furtive was repellent to him. With these things as a base, he easily mastered the intricacies of case law and the effect of decisions. He respected precedent, but he was not its slave.

It is remarkable, too, that this fine lawyer, who revered the good in all things, never allowed himself to fail to see and understand that this is a changing world, and that the law is a living, growing organism. He kept pace with it. This was natural in a Western pioneer. His decisions, based on wide learning, much experience, understanding of human nature, respect for precedent, and at the same time a grasp on the just movements of the day in legal thought, were in most cases approved by the higher courts when appeals in rare instances were taken from his rulings.

From what has been said, the personal characteristics of Josiah Davis Ensign fairly appear. His life was orderly and well arranged. No duty seemed small to this distinguished man. During his last years on the bench he was, for a part of the time, in charge of the juvenile department of the District Court. Because he loved and understood children, cases involving them were allotted to him. Many a youth who started wrong was shown the right path by him. They remember him with affection and lament his death. But he gained them, not by undue sympathy, but by showing them the true path in solemn, albeit, kindly fashion.

To know him was to love him. He had a real influence in uplifting the bench and bar and people of his city and county to a plane higher than they would have reached without him. To know him was worth a journey across the continent, as a great man has said. He made a deep impression for good. He ornamented the bench and dignified the bar. As indicated, he gave his support openly to causes he approved. He lived a full life. The world is better because of his having lived in it.

His busy life did not allow time for him to indulge his fine taste for literature except in perusing it. But he had a remarkable memory and loved to reminisce on things past. Some historical papers by him are preserved, among them a History of the Duluth Harbor, The First Lawyer in Duluth and Personal Reminiscences. These are quoted widely in local and State histories.

He will not soon or easily be forgotten. Quite otherwise. In the annals of Northeastern Minnesota his name will always be prominent, and those who knew this kindly, tolerant and learned judge and man, will not fail to treasure the fact of this knowledge as a choice possession. They will pass his fame along to the next generation. Who hereafter traces the history of Duluth and Northeastern Minnesota, who explores any field of past good work in this region, will never fail to meet his name.

Retiring from the bench on January 1st, 1921, he lived until November 24th, 1923, a period of nearly three years. He was not inactive even during that time although the last months were a time of debility. His old cheer and courtesy never left him until the end. His greatest suffering then was that he was a care to others. When the call came, his passing was a signal for popular mourning, in which a big city and its environs took part. In due season, the bench and bar of his district assembled to do him honor. The record of that participation is a monument of respect to the man, the neighbor, the jurist and the pioneer.

SILAS M. FINCH

SILAS M. FINCH, born at Woodstock, Illinois, August 22, 1840. Served as a private in Company H, Eighth Illinois Volunteer Cavalry. Mustered out on the 17th of May, 1866, as a first lieutenant. He came to Minne-

apolis in 1884. He died on April 25, 1923, leaving surviving him one daughter, Mrs. George F. Weber, of Detroit, Michigan.

DANIEL FISH

DANIEL FISH, born in January, 1848, on a farm a short distance from Rockford, Illinois. Was too young to enlist at the opening of the Civil War, but in 1864, a month before reaching his sixteenth birthday, he finally enlisted. He came to Minneapolis in May, 1871, taking up his residence at Delano, Wright county, this state. Was elected judge of probate of that county for the period from 1875 to 1876. He came to Minneapolis in 1876. During the subsequent years he acted as attorney for the Park Board, city attorney of Minneapolis. Was appointed to the district bench by Gov. Eberhardt, serving on the district bench until January, 1922, when he voluntarily retired. Judge Fish was a close student of Lincoln, and at his death probably had the largest collection of items on the life of Lincoln. He died on the 10th of February, 1924, and was laid to rest at Lakewood Cemetery, Minneapolis, on Lincoln's birthday. Surviving him, his wife and five children.

SIEGFRIED E. FREUND

SIEGFRIED E. FREUND, born in the city of Vienna, Austria, July 20, 1875. After finishing the public schools in Austria, he completed his education at the University of Vienna, after which he served in the Austrian army. He was admitted to the bar in 1897. He came to Chicago in 1902, received the degree of Bachelor of Laws at the John Marshall Law School of Chicago in 1907. He died on the 13th of May, 1923, leaving a wife and a sister.

GEORGE H. GJERTSEN

GEORGE H. GJERTSEN, born at Lake Amelia, Minnesota, in 1875. Graduated from the Red Wing high school and from the law department of the University of Minnesota in 1896. He started to practice law at Wahpeton, North Dakota, and there married Jenny E. Lind; coming to Minneapolis in 1912. He practiced law until the time of his death, in February, 1923. Left surviving, his wife and six children.

FRANK HEALY

FRANK HEALY, born in Syracuse, New York, in 1854; coming with his parents as a child to Filmore county, Minnesota. Received his education there; graduating from the University of Minnesota in 1882. Received his

law education at the University of Michigan, graduating in 1884. Admitted to the bar in Minnesota the same year. He was city attorney of Minneapolis for fourteen years. He died on the 6th of March, 1924, leaving his wife, one daughter, and one son surviving.

EMIL W. HELMES

THE late Emil W. Helmes, with great credit to himself, practiced the profession of law in the City of Saint Paul, Minnesota, for several years. It may well be said of him that he was an honor to the legal profession. Devoted to the principles of justice, his professional efforts were always directed toward the furtherance of that immortal and magnificent principle. He was a zealous student of the law and indefatigable in searching for authorities to guide him in giving counsel and in presenting before judicial tribunals the causes which he advocated. His was a life full of zeal and enthusiasm. Ardent by nature, he espoused with the utmost warmth, the prosecution of what he deemed to be a just demand or the defense of a client against a claim which he deemed unjust. He was a pleasing, eloquent and effective advocate. He gloried in forensic efforts and to him the *"gaudium certaminis"* was joy enthralling, enrapturing and inspiring.

His efforts at the trial of actions, either civil or criminal, met the approbation of the courts before which he appeared, because of his intellectual gifts, his painstaking preparation for trial, his courtesy, fairness and sincerity, his respect for the judiciary, and his zeal for the establishment of truth and justice.

Outside the field of jurisprudence, Emil W. Helmes labored to promote what he deemed to be measures essential for the welfare of humanity. He always shaped his course in political affairs with a view to the abolition of all special privileges and to the conservation of the inalienable rights of his fellowmen.

He was a fiery, zealous and impetuous adherent of the political principles advanced and formulated by Thomas Jefferson and embodied, as he firmly believed, in the Democratic Party of the United States of America. His advocacy of his own political principles was coupled with a vigorous and sometimes fierce denunciation of the opponents of democracy.

He was a faithful friend. Ever grateful for favors which he had received, he cherished an inextinguishable desire to evince his gratitude and to repay the favors conferred upon him.

His domestic life was one of serene happiness. He was favored with a wife who was ever a sympathetic and devoted companion; and his only child, a son, was most fondly cherished and was the recipient of the tenderest care and solicitude.

The highly esteemed object of this Memorial, Emil William Helmes,

was born at the City of Waterloo, in the State of Wisconsin, on the twenty-third day of May, A. D. 1872. He received a common school education and was graduated from the High School in the same City. Coming to the City of Saint Paul, Minnesota, in the year 1890, he studied the law and, at the same time, served as a clerk in the wholesale grocery house of Messrs. Seabury and Company. His great energy and perseverence were shown by the arduous course of his professional studies. After the hard work of each day in a commercial establishment, he would attend lectures and recitations in the City of Minneapolis at the College of Law of the University of Minnesota, and was rewarded with the commendations of the faculty. When the University classes were not in session, Mr. Helmes received valuable encouragement, assistance and instruction from Asa G. Briggs, Esq. He readily won the honors and the Diploma of the Law College. Admitted to the Bar on the first day of June in the year 1899, he soon became a well-known practitioner. In the year 1903, he was appointed by the Hon. James C. Michael, now one of the Judges of the local District Court, and, at that time, Corporation Attorney of the City of St. Paul, to be an Assistant Corporation Attorney. In that capacity, Mr. Helmes displayed noteworthy zeal, industry and professional efficiency. In prosecuting cases cognizable by the criminal branch of the Municipal Court, he placed himself in the category of the men often described by the phrase, "a terror to evil-doers." No social or political influence could swerve him from the line of absolute duty or from a close adherence to the principles of justice. He declined to prosecute any person against whom he believed that an unjust charge had been preferred, and often relieved the innocent from the penalties and personal disgrace with which they were threatened.

He was, only once, and that in the year 1914, a candidate for public office; and such candidacy was for the office of Judge of the Municipal Court. No other candidate, at the primary election in which he was defeated, surpassed him in the qualifications necessary to adorn the office which he sought. The disappointment which resulted from this political contest, never rankled in his heart; but he remained the same blithe, cheery and well-disposed individual that he had always been.

The death of Emil W. Helmes occurred at his home, in the City of St. Paul, on the ninth day of April, A. D. 1922. Surviving him, are his widow, Ida Theobald Helmes, and an only child, a son, named William.

Mr. Helmes was tall, slender and always moved about in an energetic way, although a slight lameness gave him a somewhat slouchy gait. His blue eyes, blond complexion and hair bespoke his Teutonic descent. His father and mother, Peter Helmes and his good wife, Katherine, were immigrants into the United States from Germany. However, no man could be a more ardent American than was Emil W. Helmes; and, in peace and in war, he showed his abiding faith in American institutions and his reverence for the stars and stripes.

He was a marked character. His ardent nature made it impossible for

him to live a colorless life. He made a decided impression upon the community. The lofty principles which he cherished gained for him the respect of all his fellow-citizens, even those who, from time to time, rated themselves as enemies. As a good citizen, an upholder of civic virtue, and as a learned, diligent practitioner of the legal profession, his memory will be cherished by all his contemporaries.

GEORGE HENRY JACKSON

GEORGE HENRY JACKSON, born at Freehold, New Jersey, in 1869. Received his literary education in the public schools of New Jersey, and at Lincoln University. Received his legal education in the law department of the University of Pennsylvania. He was the first colored man to be admitted to the bar in the state of New Jersey. He came to Minneapolis about seventeen years ago (1907). He practiced law in that city up to the time of his death, July 16, 1923.

CHARLES L. KANE

CHARLES L. KANE was born on a farm near Green Isle, Sibley County, Minnesota, on September 27th, 1869, and died, the victim of cancer, at St. Joseph's Hospital at St. Paul, October 18th, 1923.

He was educated in the rural school of his district and at the grade school of Green Isle. With this foundation, aided by self-study and application, he secured a teacher's certificate and was for a time principal of the schools at Winstead and Fairfax. While teaching, he took up the study of law, and completed his legal training in the law offices of McClelland & Tift, at Glencoe, and was admitted to the bar at Sioux Falls, S. D., in 1895. In the following year he returned to Minnesota and located at Fairfax, where he continued to practice his profession, until the spring of 1899, when he removed to Benson, where he resided and was engaged in active practice up to the time of his death.

In 1911 he was married to Miss Helen Hoban of Benson. Three children, Michael, Mary Ellen and Ann Margaret, with their mother, survive him.

Though somewhat independent in politics, he affiliated with the Democratic party, and was recognized as one of its leaders, was active in its conventions and often on the stump in behalf of its principles.

He was a lover of the home and the outdoors. He was a man of excellent character and a clean liver. His wife was his sweetheart and his children his chums.

During the period of the war he was Chairman of the Red Cross for his County and he did herculean service for that organization and in fur-

thering the sale of Liberty bonds. He took a leading and active part in all civic affairs and as a citizen he was public-spirited, broad-minded, sympathetic, charitable, kindly and unassuming, and his strict adherence to the standard of rectitude endeared him to the people of his community.

As a lawyer he was industrious, capable, painstaking, fair, just, efficient and successful. He earned and retained the friendship of his clients, and the respect and confidence of the bench and bar.

His passing is a distinct loss, not only to family and friends, but to the profession and the community.

ANDREW SANFORD KEYES

ANDREW SANFORD KEYES, born in Pennington, Vermont, December 2, 1854, the youngest of seven children. Educated at Williams college, graduating in 1877. Obtained his legal education at Columbia University. He came to Minnesota shortly after graduating, and practiced his profession there until his death, July 15, 1923. Left surviving his widow, Eva S. Keyes, and two sons, Malcolm B. Keyes and Dr. Leslie S. Keyes.

WILLIAM ATWOOD LANCASTER

WILLIAM ATWOOD LANCASTER, President of this Association in 1922, died February 7th, 1924, after an illness of nearly a year. For years he had been one of the leaders of the Bar of this state, and in the front of many of the civic movements of his community. His death caused grief among an unusually large circle of people drawn from all social, business and professional ranks.

William Atwood Lancaster was born in Detroit, Maine, on December 29th, 1859, the son of Henry and Sarah Lancaster. He graduated from Maine Central Institute of Pittsfield, Maine, in 1877; was a student at Dartmouth College in 1877 and 1878, from which institution he received in 1922 the well merited honorary degree of Master of Arts. In 1879 and 1880 he was a student at Colby University, Maine. All three of these institutions, at which he received his scholastic training, are beneficiaries under his will.

His preliminary legal training he received as a law student in the office of Vose & Farr at Augusta, Maine, an old-fashioned office, where the members were not too busy to give conscientious and systematic instruction to a student of such natural aptitude for the law. In 1881 he was admitted, after passing the examination, to practice law at the bar of the State of Maine. Soon thereafter he was admitted to practice in Massachusetts and opened an office at Boston, where he spent two years with only a small practice. He returned to Augusta for a brief period and then moved to

Minneapolis in 1887 with his bride of a year, who was Kate I. Manson, the daughter of Dr. and Mrs. John C. Manson, of Pittsfield, Maine.

He selected Minneapolis as a field for his work solely because of his belief in the future of the northwest. With no connections to help him when he came to Minneapolis, his unquestioned ability and his capacity for work, soon brought him a growing and enviable clientele. His thirty-seven years in Minneapolis were spent in continuous practice, with the exception of a two-year period which he served as appointed Judge of the District Court of Hennepin County in 1897-1899. For various terms he was associated in partnerships with several of the present and former leaders of the Hennepin County bench and bar. For the past several years he had been a valued counsellor and attorney for many of the great business and industrial organizations of the northwest and of the men in control of them.

Judge Lancaster's life exemplifies the standards of our profession. In court he was a consummate advocate, resourceful and indefatigable in trial, clear and forceful in argument. Of prodigious industry, he insisted and demonstrated that preparation was more than half the battle, and a trial or a business negotiation equally found him familiar with all his facts and ready with the law that applied. His brothers at the bar came to him for frequent advice on their own problems, both legal and personal, and he gave to them freely. Many a younger lawyer feels toward him a deep sense of gratitude for the encouragement, employment and opportunity that Judge Lancaster was always anxious and frequently able to supply. Not only did public and private charities find him generous, but the public welfare, particularly during the world war, drew on his professional ability and time large drafts that he was ever glad to honor.

Few men equalled him in his ability to grasp a legal point, a complicated set of facts, or the application of a legal theory. His mind worked with keen precision that must have afforded its possessor some of the pleasure that it gave to the observer. A trenchant humor illuminated his basic kindness. Beneath everything, in every move and in every situation was an instinct for the right that tolerated no sham or deception. No man who had a cause that did not square with his rigid ideals of honesty could have him for an attorney.

Most intangible and most outstanding of his personal characteristics was a magnetism that attracted to him with an affectionate liking practically all with whom he dealt. The Bar of this State can find in its roll but few who can be claimed the peer, as a judge, as a lawyer and as a man, of William Atwood Lancaster.

GEORGE D. McCARTHY

GEORGE D. MCCARTHY was born at Hancock, Michigan, on November 9th, 1887, and graduated from the public high school there at the age of sixteen. He soon entered upon the work of a newspaper reporter in that

city. In 1907 he moved to Duluth and took a position as a reporter for the Duluth Herald, the biggest daily of that city. He afterwards became city editor of that publication and served very successfully in that capacity for some time. He held the position of assistant secretary of the Commercial Club of Duluth, and took a very prominent part in the work of the Northern Minnesota Development Association. He was deeply interested in public questions.

Notwithstanding his very busy and active life, he managed to read law during these times, and in 1918 passed the Bar Examination at St. Paul, and was admitted to practice in Minnesota, and then became a member of the local, state and American Bar Associations. He assisted the lawyers very materially in their successful efforts to elect their choice to the positions of justices of the Supreme Court of Minnesota. Shortly after his admission to practice law the city attorney of Duluth selected him as a member of his legal staff and put him in charge of the prosecution of the criminal cases for said city. Upon retiring from that position he entered the general practice in Duluth, specializing in criminal law, in which he was very successful. He was well read and a skilled and eloquent speaker. He was endowed with brains and a natural quick wit; and these, with his experience and practical knowledge of affairs, and his good common sense and sound judgment made him a leader among the younger members of the Bar. He was intensely patriotic, charitable, honest, clean of speech, and gave liberally of his time, ability and means for the betterment of the community in which he lived.

He was a home lover and devoted to his wife and three children, with whom he took dinner within an hour from the time of his fatal injury. The ground along the cement road upon which he was driving his car had softened by a recent rain. Upon meeting another car he turned out and the wheels of one side of his car sank into the soft earth and the machine tipped over, causing his death on December 21st, 1923, and a distinct loss to the legal profession.

ELMER E. McDONALD

ELMER E. McDONALD was born at New Richmond, Wisconsin, June 15, 1861. He received his early education in the common schools of that community, going thence to the University of Wisconsin, where he graduated, and at the early age of twenty-one years was engaged in the active practice of the law. He was in the office of Senator Spooner of Wisconsin until 1884, when he removed to St. Paul and opened an office there.

He served one term in the Minnesota State Senate, having been elected from one of the Senatorial Districts of Ramsey county.

In 1891 he was united in marriage with Miss Addie Clyde, who survives him, and in 1903 they removed to Bemidji, where he formed a partnership with the late L. H. Bailey, and on the death of the latter in 1905,

continued the practice of his profession alone and built up a large and lucrative practice. He was a charter member of the Minnesota State Bar Association and at the time of his death was Vice President.

He was generally recognized as, and justly earned the reputation, of being one of the best civil trial lawyers in Minnesota.

His unfailing good nature and remarkable tact in the trial of a lawsuit often enabled him to turn to his own advantage and that of his client a situation which would have been embarrassing to many less tactful practitioners.

He loved to live, and enjoyed living. He made friends easily, owing to his genial personality, and retained their friendship and esteem to the end. Large hearted and public spirited, he gave generously and graciously of his time and money to every movement for the relief of human suffering, and for the betterment and upbuilding of Bemidji,—the city—his home, which he loved above all others.

He made his home at a beautiful spot near Lavinia on the shore of Lake Bemidji, and there, surrounded by books, works of art, and trophies of his skill as a hunter, he lived an ideal life, and there the Angel of Death called him May 30th, 1924.

He loved the great outdoors. He loved flowers and birds and all the little denizens of the woods, with many of whom he had made friends, and who, overcoming their natural shyness, partook thankfully of his never-failing bounty.

The Bar of the State of Minnesota and Beltrami County, has suffered a great loss in the death of Elmer E. McDonald, Bemidji and Northern Minnesota, a valiant, ever-ready and outspoken champion.

And though he has left us, his kindly smile and warm handclasp will never be forgotten by those who had the pleasure of his acquaintance.

And we, the surviving members of the Beltrami County Bar Association, fondly hope that his spirit is enjoying supreme happiness—"Over There, where the living waters flow," the beauties of which "eye hath not seen, nor ear heard, nor it is given to the mind of man to understand the beauties thereof."

FRANK HOWARD MORRILL

FRANK HOWARD MORRILL, son of David Tilton and Alida Lansing Morrill. Born in the city of Newark, New Jersey, March 27, 1864. Attended public schools at St. Louis, Missouri, graduating from Shurtliff College in 1885. Received his legal education at the Cincinnati Law School. He came to Minneapolis in 1889, and followed the practice of his profession up to the time of his death, December 27, 1923. Surviving him, his wife, Alice V. Morrill, and two brothers, Rev. G. L. Morrill, Robert S. Morrill, of Indianapolis, and two sisters.

ROBERT L. PENNEY

ROBERT L. PENNEY was born on November 25th, 1850, at Watertown, Connecticut. His father was William Penney, a farmer, who, in 1870, moved to New Haven, Conn., and engaged in the boot and shoe business until the time of his death in 1884. His mother, Julia Maria Weller Penney, was the daughter of Justus Weller of Bridgeport, Connecticut.

His parents were not able to give their son a collegiate education, which Robert finally achieved by working his way.

Up to his 13th year, his education was received in the district schools. He then went to Millertown, Duchess County, New York, and for three years attended an academy at that place. Later by working on farms and teaching school he earned enough money to carry him through Oneida Conference Seminary at Cazenovia, New York. He graduated from that Seminary as Salutatorian of his class. He then attended Yale College Law School, graduating in 1876. He stood third in his class and received honorable mention by Chief Justice Waite of the United States Supreme Court, who delivered the graduation address. For some time afterward he lived at Newark, New Jersey, but, thinking the West afforded him better opportunities, he came to Minnesota in October, 1880, and located at Minneapolis. His practice at first was rather limited, but in 1882 he went into partnership with L. L. Baxter, who later was Judge of the District Court at Fergus Falls, Minn., and Anthen Grethen, under the firm name of Baxter, Grethen & Penney. This partnership continued until Mr. Baxter's elevation to the bench. He continued in practice alone for some time until the law firm of Jordan, Penney & Hammond was formed. This partnership was dissolved by the removal of Messrs. Jordan and Hammond to Tacoma, Washington.

In 1886 Mr. Penney was elected to the office of Special Judge of our Municipal Court, but the Supreme Court declared the election unconstitutional and void.

Two years later he was on the Democratic ticket for County Attorney, but was defeated by Robert Jamison. In 1890 Mr. Penney was nominated on the legislative ticket, his former opponent being nominated on the Republican ticket for the same office. Mr. Penney won, and his success had not been announced more than ten minutes before he and Mr. Jamison had formed a law partnership under the firm name of Penney & Jamison, which continued until Mr Jamison's appointment to the District bench. Mr. Penney then formed a partnership with Mr. Victor Welch and Mr. Marcus P. Hayne, under the firm name of Penney, Welch & Hayne. This partnership was dissolved in 1895, since which time Mr. Penney practiced alone. He has for many years enjoyed a large law practice.

Mr. Penney was married in 1875 to Mary E. Lette, daughter of Thaddeus Lette, of Madison, Connecticut.

After an illness of several months, Mr. Penney departed this life at the Leamington Hotel in Minneapolis on February 3rd, 1924.

He is survived by his wife, one daughter, Mrs. A. H. K. Roehl, of this city, two grandchildren, Robert and Elizabeth Roehl, and two brothers, Fred H. Penney, New Haven, Conn., and Theodore Penney, Meriden, Conn.

Such is the brief biography of a man who has been a successful lawyer and a good citizen in our community for more than 40 years.

It was my good fortune to make his acquaintance in a business way in the autumn of 1883, and from that time Mr. Penney and I have always been the staunchest of friends.

During the 14 years last past we have occupied the same suite of offices, but most of our work has been independent of each other.

Our relations during these years gave me ample opportunity to form an estimate of his character and qualities.

I learned long ago that he was a splendidly equipped lawyer. His mind was alert; his insight was keen and his judgment was of the best.

As a citizen he held high ideals. He was always polite and exceedingly thoughtful of the feelings of others. He seldom, if ever, offended, and was quick to forgive an offense. He was a man of deep spiritual feeling and held in great reverence all religious sentiments relating to an overruling Providence. Mr. Penney held high standing in the Masonic Fraternity and the Order of Elks.

An eminent divine has truly said, "Life is a great struggle. It is one splendid campaign, a race, a contest for interests, honors and pleasures of the highest character and of the most enduring importance.—It is not he that enters upon any career, or starts in any race, but he that runs well, and perseveringly, that gains the plaudits of others, or the approval of his own conscience."

Viewing the career of Robert L. Penney as I have seen him and known him, I esteem his memory as one of whom it can be truthfully said, he was a splendid specimen of an American citizen, an American lawyer and an American gentleman.

GUSTAVE AXEL PETRI

Gustave Axel Petri, educated in the practice of law at the University of Minnesota. Practiced his profession in the city of Minneapolis for a number of years. He died suddenly on the 27th of September, 1923.

ALZIS ZEBINA PUTNAM

In the passing of Judge Alzis Zebina Putnam, which occurred at his home in Minneiska, November 26th, 1923, the Wabasha County Bar loses its oldest member, and the county one of its most worthy and distinguished citizens.

Judge Putnam was born in Florence, Oneida County, New York, October 1, 1829, and was the son of Pliny and Flora Putnam, whose ancestors had settled in New England in 1634. Both Mr. Putnam's grandfather and great grandfather fought in the Revolutionary war. The Putnams moved west with the migration of settlers, first to Oswego County, New York, and later to Northern Illinois. Mr. Putnam read law at Elgin, Illinois, and was admitted to the bar in 1856. He came to Wabasha county the same year and took up his residence in Minneiska, where he has made his home ever since. He was elected to the office of Judge of Probate in the fall of 1859 and served four years, and in 1871 he was again returned to this office for two terms, and in 1882, was again called to the office for the third time. The Judge was always active in all things that were for the betterment of his community, and also things pertaining to the county and state in general.

EARL SIMPSON

EARL SIMPSON was born in Winona, Winona County, Minnesota, September 24, 1872, and was the youngest son of Thomas and Isabella Simpson. He inherited the legal traits which marked his career as a lawyer and public official. His father, Thomas Simpson, was a pioneer lawyer of this county and state and lived to see two of his sons established in the honorable practice of the profession of law. Earl Simpson died July 18th, 1923.

He received his early education in the public schools of his native city and was graduated from its High School, completed his academic course in the University of Minnesota, and was later graduated from the law department of the same institution. He returned to the City of Winona in 1900 and engaged in the practice of his profession and continuously so remained until called by the Master of Men. He became County Attorney January 1st, 1907, and was repeatedly and without interruption selected by the voters of this county for that position.

For many years he was secretary of the Margaret Simpson Home, a charitable organization of this city, named after his mother, and organized to carry on the work she was so actively engaged in during her life.

Earl Simpson was a man among men and man in the highest sense of the word. He liked the lighter side of life and its diversions. He liked best those of the outdoor sort, and was fond of hunting and fishing and of the things that brought him close to nature. He was always kind and charitable and always the friend of the poor and gave freely of his means to the less fortunate and without ostentation. He cultivated many friendships and he was fond of friendships and those who knew him best were his warmest friends. He did not like to speak ill of men, yet he dispised the practices that are petty and mean.

Earl Simpson, as a lawyer, was modest and his word a bond; he was

slow to impose or intrude his opinions and beliefs upon others, but when they were invoked, they were thoughtfully and conscientiously given. He seemed ever to have in mind the need of forever allying law and justice and always saw in a clear light the great trust the people had reposed upon him when he became County Attorney, and that trust was never violated. In performing his official duties, problems were solved in the best interests of those immediately concerned, but never at the expense of the public welfare.

He was a staunch friend, an honest man, a capable lawyer, and an ideal public servant.

FREDERICK C. STEVENS

On July 1, 1923, the Honorable Frederick C. Stevens passed away. As "Fred Stevens" his name has been a household word in Minnesota for a quarter of a century. Mr. Stevens was born in Boston in 1861. He graduated from Bowdoin College in 1881. He came west and was graduated from the law school of the University of Iowa in 1884. He came immediately to St. Paul, where he made his home for nearly the last forty years of his life. Here he practiced law. But it was in public life that he gave greatest service and achieved most fame. He was a member of the State Legislature during the sessions of 1889 and 1891. From 1891 to 1896 he, as Secretary of the State League of Republican Clubs, devoted much time to the work of party organization that resulted in the election of William McKinley as President in 1896. In that same year Mr. Stevens was elected to Congress and there he represented his district for 18 successive years. After leaving Congress, he re-entered the active practice of law and practiced successfully until his death, in 1923.

As a Congressman, Mr. Stevens was a marked success. No man in Minnesota was ever better educated in public affairs. Public service was to him both a business and a science. Before taking a stand, or planning a course of action, he was always well-informed and his course was dictated, not always by what he thought was popular, but always by what he thought was right. His public life was at the same time an example and an inspiration to all who cherish devotion to high ideals of public service.

Mr. Stevens was married to Ellen Fargo of St. Paul, who survives him.

EDWARD E. TENNER

Edward E. Tenner, born in Stillwater, Minnesota, on the 7th of April, 1885. Son of Joseph A. Tenner and Genevieve Tenner. Attended public schools in the city of St. Paul, and the St. Paul College of Law. Admitted to the bar in 1905. Began the practice of his profession in Whitefish, Montana; settling in Minneapolis in 1915. Died on April 5, 1923, in the city of Brooklyn, New York.

LOUIS R. THIAN

LOUIS R. THIAN, born in New York; coming to Minneapolis when a young man. He practiced law in Minnesota for thirty years. He served one term as county attorney of Hennepin county. Candidate for mayor of the city of Minneapolis twice. He died in California on the 16th of June, 1924, leaving surviving his widow, two sisters and one brother.

APPENDIX

REPORT OF COMMITTEE ON ETHICS

To the President and Members of the Minnesota State Bar Association:

Of chief significance in the report of any Committee on Ethics of this Association must under present conditions be its comparative insignificance.

The committee met once in joint session with, and at the request of, the State Board of Law Examiners. A judge of the United States District Court had referred to the State Board of Law Examiners the matter of the manner of procurement of certain personal injury cases brought in that court. The Ethics Committee appeared in merely an advisory capacity. The State Board took the matter under consideration and at the date of this report has not again met to determine what action, if any, shall be taken upon the charges.

Upon adjournment of the joint session of the committee with the board, the committee met and considered briefly three complaints made against attorneys practicing outside of the big cities.

Two of the complaints were on account of failure to account for small amounts of money collected and the third for negligence in failing to act. It was decided that all three cases be referred to the State Board of Law Examiners for such action as that board might see fit to take.

The chairman of the committee has since written several letters in other similar cases to attorneys complained of and upon failing to receive a reply has in each case referred the complainant to the State Board of Law Examiners.

Upon the face of this record it might seem that the bar of the state is to be congratulated because of the fact that complaints are so few. However, the reverse is probably true, because such complaints are of a character to cause chief concern to disciplinary bodies when they realize that probably comparatively few of the many complaints of this character which exist, if those coming to the attention of Ethics Committees of local bar associations and those referred to in conversation with other lawyers are to be credited with foundation, actually come to the attention of the Ethics Committee under present conditions.

Successive committees on ethics must have felt their limitations. Any such committee must naturally have felt reluctance to allow the committee to be made an agency for the collection by some credit bureau, law list or some outside seller of goods, wares or merchandise of some small account placed with or collected by the attorney complained of.

Upon presentation of the complaint the attorney may, and if actually at fault is likely to, settle direct with his client. If the attorney charged with negligence or wrong doing pays no attention to the complaint, or denies that grounds for complaint exist, the committee, if it act at all, is bound first to determine that the complainant will produce the necessary evidence and prosecute even though the attorney offer and make settlement, and second, actually to expend much time and energy, and individual members perhaps incur considerable expense, to investigate, institute and see through, the charges made.

It is natural that a voluntary committee without express duties or specific responsibilities should be reluctant under such circumstances to take action, and should consider that its position is one of comparative

insignificance. Effective action in such cases is to be anticipated only when there exists (1) duty to discipline (2) power to discipline and (3) accountability for failure to act in all proper cases.

This Association will find that while in exceptional and flagrant cases of misconduct with persistent or particularly deserving complainants as prosecutors its Ethics Committee will act, in the ordinary case, although the conduct may be clearly unethical or dishonest, the complainant will be unable or unwilling to render the necessary assistance, or the committee will lack incentive to proceed. In any case where an attorney complained of happens not to be a member of this association, neither this committee nor the association itself is in a good position to act.

If the bar of the state were so organized that this association had some real control over all lawyers assuming to practice within the state, the Ethics Committee of this association would function with much greater degree of certainty that its work would be effective.

Respectfully submitted,

WILLIAM G. GRAVES, Chairman,
HENRY S. MEAD,
REUBEN G. THOREEN,
DAVID L. GRANNIS,
JOHN JUNELL.

REPORT OF COMMITTEE ON JURISPRUDENCE AND LAW REFORM

TO THE PRESIDENT AND MEMBERS OF THE MINNESOTA STATE BAR ASSOCIATION:

Your Committee on Jurisprudence and Law Reform begs to submit the following report:

In our report submitted last year we called attention to the enactment by the Legislature of a statute (Chapter 400, Laws 1923) providing for an annual meeting of the judges of probate to formulate rules of practice. We have now to report that the first meeting, in accordance with the statute, was held on January 9th, and resulted in the adoption by the judges of seventeen rules, which will be found in 8 MINNESOTA LAW REVIEW 269-272. At the request of the judges, your committee co-operated with the Legislative Committee of the Probate Judges Association in the drafting of proposed rules in advance of the meeting. We also attended the meeting by invitation and assisted in the actual formulation of the rules. Your committee hopes that such co-operation may continue from year to year in the task of perfecting probate procedure.

Your committee has had a number of meetings and has begun the work outlined in the report of last year. It will be remembered that the committee then reported its purpose to undertake, with the co-operation and assistance of the faculty of the State University Law School, the preparation of a proposed revision of one or more chapters or topics of the statute law of the state. In accordance with this plan we are now able to report that we have in preparation proposed revisions of the Probate Code, Criminal Procedure, the Law of Real Property and the Law of Corporations. In view of the plan to hold an adjourned meeting of this association later in the year for the discussion of proposed legislation, your committee makes no detailed report at this time for the proposed legislation. It is our purpose rather to submit at the later meeting proposed legislation upon one or more of these topics and to report progress upon any which may not then be ready for submission to the association.

Inasmuch as it is hoped that the work of this committee may result in the recommendation to the association of proposed legislation, it seems of the greatest importance that interest should be aroused and co-opera-

tion secured both in the preparation of the legislative bills and in aid of their passage. We are fortunate in having the active support of the Probate Judges' Association and in assurances of like support from the County Attorneys' Association. We trust that it will be possible to enlist similar efforts of other groups. Your committee feels that it would be advisable also to present any legislative program which may be adopted by the association to the lawyers of the state through local bar associations, to the end that the proposed legislation may be familiar to lawyers generally throughout the state and may command their support before the Legislature.

Respectfully submitted,

GEORGE W. FRANKBERG,
R. JUSTIN MILLER,
I. M. OLSEN,
BRUCE W. SANBORN,
WILBUR H. CHERRY, Chairman,
Committee.

REPORT OF COMMITTEE ON UNIFORM STATE LAWS

TO THE MINNESOTA STATE BAR ASSOCIATION:

Your Committee on Uniform State Laws respectfully submits the fourteenth annual report of the committee.

The Uniform Commercial Acts in force in Minnesota were listed in the 1922 report of this committee, and a separately printed table furnished showing the states in which each of these acts has been passed with the year of passage in each state. We would also refer to that report for a discussion of the importance of uniform judicial decisions under the acts in the states where enacted, and of uniform methods of citing their sections, to secure the full benefit of the Acts.

Minnesota has adopted nearly all of the Uniform Commercial Acts, except for the Uniform Acts promulgated by the National Conference of Commissioners on Uniform State Laws in 1922. The report of this committee last year listed these new Uniform Acts and gave a synopsis of each one. They are the Uniform State Law for Aeronautics, Uniform Declaratory Judgments Act, Uniform Fiduciaries Act, and Amendments to Sections 32 and 38 of the Uniform Sales Act and to Sections 40, 47 and 20 of the Uniform Warehouse Receipts Act. This association passed a resolution last year that the Minnesota Legislature should adopt these Acts. Although only put out by the National Conference and recommended by the American Bar Association for passage in all states in 1922, these Acts have already been adopted in a number of states as follows:

Aeronautics Act, 8 jurisdictions, Delaware, Hawaii, Michigan, Nevada, North Dakota, Tennessee, Utah, Vermont.

Declaratory Judgments Act, 5 states have the uniform act, Colorado, North Dakota, Pennsylvania, Tennessee, Wyoming; 5 other states have a statute authorizing declaratory judgments, passed before the uniform act was promulgated, New York, Michigan, Wisconsin, Florida, Kansas. Total, 10 states.

Fiduciaries Act, 5 states, Colorado, Nevada, New Mexico, North Carolina, Pennsylvania.

Amendments to Sales Act, 2 states, Tennessee, Vermont.

Amendments to Warehouse Receipts Act, 4 states, Alabama, California, Colorado, Vermont.

There was no legislative session in Minnesota this year; but it is probable that some of these acts will be passed at the 1925 session, and we ask a renewal of the resolution favoring their adoption. This association is familiar with their nature from last year's report.

The National Conference did not put out any new Uniform Acts in 1923 at its meeting in Minneapolis. However, it has been working for several years on a number of important acts, on some of which final action will be taken shortly, probably this year at the annual meeting in Philadelphia, the first week in July. These include the Uniform Mortgage Act, Chattel Mortgage Act, Sale of Securities Act (Blue Sky law), Arbitration Act and Incorporation Act. The work on the Mortgage Act has been done largely in Minnesota, S. R. Child, chairman of the Mortgage Committee, and Donald E. Bridgman, draftsman, both being of Minneapolis. The Mortgage Act follows the Minnesota method of foreclosure, and will probably be adopted this year.

The 1923 Legislature failed to renew the usual appropriation for the Uniform State Law Commission; and it is to be hoped that the next Legislature will make the appropriation granted by past sessions. The item is a small one, used to meet the expenses of the commissioners, who give their time and services for many days each year without charge, and also to make the contribution of this state to the budget of the National Conference, whose income consists of sums paid in by the various states of the Union and by the American Bar Association. The states benefit by the work of the National Conference, and should share the expense and not let the cost fall too largely on the Bar Association, which, while it started and has supported the movement, has done so for the advantage of the states. As the relations among the states become closer and more complex the importance of the work of the conference for uniformity becomes more important year by year. Minnesota has used and is using the product of the National Conference in the Uniform Acts adopted here, and has had a prominent place in its work. The present commissioners are Rome G. Brown, S. R. Child and C. A. Severance.

RESOLUTION

We recommend the following resolution:

Resolved, by the Minnesota State Bar Association, that the Legislature at its next session should renew the appropriation for the cause of Uniform State Laws made by past Legislatures, and should adopt of the Uniform Acts especially the Uniform Declaratory Judgments Act, the Uniform State Law for Aeronautics, the Uniform Fiduciaries Act, and the amendments to sections 32 and 38 of the Uniform Sales Act and to sections 40, 47 and 20 of the Uniform Warehouse Receipts Act.

Respectfully submitted,

DONALD E. BRIDGMAN, Minneapolis,
HENRY N. BENSON, St. Peter,
ALFRED H. THWING, Grand Rapids,
Committee.

REPORT OF COMMITTEE ON LEGAL BIOGRAPHY

As chairman of the committee on Legal Biography of the Minnesota State Bar Association, I have the honor to submit the following memorials on members of the bar whose deaths have been announced the past year. I have corresponded with all the members of the committee, and note the loss of the following members:

William M. Albee, John M. Baldwin, Henry Willard Benton, William Weldon Billson, Edwin J. Bishop, Calvin Luther Brown, Arthur M. Carlson, William Dalton Dwyer, Josiah Davis Ensign, Silas M. Finch, Daniel Fish, Sigfried E. Freund, George H. Gjertsen, Frank Healy, Emil W. Helmes, George Henry Jackson, Charles L. Kane, Andrew Sanford Keyes, William Atwood Lancaster, George D. McCarthy, Elmer E. McDonald,

Frank Howard Morrill, Robert L. Penney, Gustave Axel-Petri, Alzis Zebina Putnam, Earl Simpson, Frederick C. Stevens, Edwin E. Tenner, Louis R. Thian, all honored members of our profession.

Respectfully submitted,
THOMAS FRASER, Chairman.

REPORT OF THE COMMITTEE ON STATE LIBRARY

TO THE PRESIDENT AND MEMBERS OF THE MINNESOTA STATE BAR ASSOCIATION:

Your Committee on State Library begs leave to report as follows:

The Minnesota State Library, located in the Capitol Building, St. Paul, Minnesota, occupies the entire east wing of the third floor and has about 2,700 sq. ft. of space. It contains 94,150 bound volumes and approximately 4,000 pamphlets, including United States and State documents. Current accessions for this year numbered approximately 1,635 volumes received from the following sources:

By Purchase	843	
Exchange from other states	489	
Exchanges from Foreign Countries	29	
From the United States Government	164	
Miscellaneous Donations	76	
Minnesota Laws, Records, Briefs, etc	34	
Total	1,635	

The library staff consists of:

Librarian, salary	$ 3,000.00	
Assistant Librarian, salary	2,500.00	
Reference Librarian, salary	1,500.00	
Clerk, salary	1,200.00	
FUND FOR PURCHASE OF BOOKS AND BINDING		
Cash on hand, January 2, 1923	$ 3,160.57	
Annual Appropriation, July 1, 1923	12,500.00	
		$15,660.57
Paid out for books and binding	$10,022.40	
Balance, January 2, 1924	5,637.28	
Cancelled by State Auditor	.89	
		$15,660.57
FUND FOR CONTINGENT EXPENSES		
Cash on hand, January 2, 1923	$ 1,085.85	
Annual Appropriation, July 1, 1923	2,000.00	
		$ 3,085.85
Cancelled by State Auditor after July 1, 1923		4.04
		$ 3,089.89
Amount expended	$ 2,309.77	
Balance January 2, 1924	780.12	
		$ 3,089.89

The work on binding and re-binding is progressing as fast as available funds will permit. There will be added this fall four large additional steel stacks to accommodate the material ready for the shelves.

The library is indebted to Governor Preus for some valuable government documents received through his efforts from the late Senator Nelson's official library at Washington—material otherwise unobtainable through the usual government sources.

Respectfully submitted,
OSCAR HALLAM,
EDWARD LEES,
JAMES E. MARKHAM,
JAMES PAIGE, Chairman.

REPORT OF COMMITTEE ON LEGAL EDUCATION AND ADMISSION TO THE BAR

GENTLEMEN:

Your committee made an examination of the records of the State Bar Examinations for 1923. In the three examinations the total number of candidates was 171, of whom 168 were passed within the year, 4 of them on a second examination. The other 3 did not appear a second time. The ratio of failures to candidate appearances was 4%. The ratio in other states having over 100 candidates in 1923 was: Tennessee 14%, Missouri 27%, California 31%, Wisconsin 32%, Illinois 36%, Michigan 43%, New Jersey 48%, New York 54%, Connecticut 55%, Ohio 59%, Massachusetts 62%, an average for the 11 states of 42%. Reports from 25 states show that excepting North Dakota, which had only a few candidates, Minnesota was the most liberal in admitting candidates to the Bar.

These figures might lead one to expect that larger educational preparation for the examinations is required in Minnesota than in other states. On the contrary, few of these states have lower requirements for admission to the examinations and several of them have higher requirements with respect to both general and legal education. Of the 171 candidates in Minnesota in 1923, 6 had only a common school education, 13 others had only part of a high school education, 36 others had high school education, 12 high school and business college training, 35 high school and college work of less than two years, 69 high school and two or more years of college work.

The candidates who had less than a high school education stated in their applications that they had tutoring as an equivalent. This tutoring appears to have been received at the same time that they carried on a regular employment and studied law. As to some of these candidates there is no evidence in the records that they passed any examinations in the work in which they were tutored. Others presented unofficial certificates from a man connected with the public school system declaring that they had accomplished work equivalent to a high school education. Your committee submits that such statements or certificates should not be accepted, that candidates should be required to complete their general educational preparation before they begin the study of law and not be allowed to complete it concurrently with the study of law, and that the successful completion of their general education should be evidenced by certificates from an accredited high school or college or by passing the examinations for admission to the State University, or to a degree-conferring college accredited by the State University. These examinations are open to anyone without charge.

The legal training of the 171 candidates was recevied as follows: 66 in University law schools requiring two or more years of college work for entrance and law study for three years; 21 in night law schools requiring generally but not always a high school diploma for entrance and part time law study for four years; 81 in night law schools requiring generally but not always a high school education for entrance and part time law study for three years; 3 in law offices for three years.

The standard course for law students fixed by the American Law School Association and the American Bar Association is two years of college work and three years of full time law study. Sixty per cent of the candidates of 1923 had no college work or less than two years of college work, and nearly fifty per cent, generally the same candidates, had only three years of part time law study. To put it in other words, students who give all their time to their studies spend five years in study; students who give part time to their studies spend three years in study. Two night law schools in the Twin Cities now require four years of law study for a diploma, but two other night schools still require only three years. The shorter course is naturally most attractive since it suffices for admission to the Bar. Your committee submits that four years of law study should be required of students in part-time law schools and in law offices.

The methods of ascertaining the character of the candidates for admission are so defective as to be almost worthless. The only evidence of character required is the affidavits of two responsible persons of the town or city wherein the candidate resides. These are secured by the applicant himself. He will, of course, carefully avoid anyone who knows anything detrimental to his character, and can always find persons ignorant of his delinquencies. Your committee recommends the method of investigating character used in the state of New York as a model for this state.

The above analysis of the Bar Examinations is for 1923. An examination was held in February, 1924, in which there were 52 candidates. The board passed 17, conditioned 20, and failed 15. Your committee doubts that candidates should be allowed to pass the Bar Examinations piecemeal. It seems to be contrary to the practice in other states. We believe that candidates should give evidence of capacity to pass all the examinations at one time.

There is ample evidence that persons lacking in general and legal education and of unfit character are being admitted to the Bar in this state. Your committee addressed a questionnaire to the judges of the District and Municipal Courts in Hennepin and Ramsey counties. They were thought to be in the best position to judge the qualities of persons recently admitted to the Bar. They were asked to answer certain questions from their observation and experience. Answers to the questions were received from thirteen.

In answer to the question, "Are persons of a low grade of intelligence being admitted to the Bar?" eleven replied in the affirmative, one commenting, "I would say that there are a great many persons of a low grade of intelligence being admitted to the Bar and it is often a puzzle and wonder why, when and where they received their admission." Two replied, "Not more than formerly."

In reply to the question, "Are persons of inadequate legal training being admitted to the Bar?" eight answered "Yes" unqualifiedly, one adding, "My general impression is that admission to the bar in this state is made too easy. When we think of the fact that it takes seven years devoted exclusively to their study to enable students to be admitted to the practice of medicine and only three or four years of night training to be admitted to the legal profession it is easy to be seen that the legal profession is very easy to get into, comparatively speaking." Four replied, "Yes, but not a larger proportion than in former years." Another states, "Not so much inadequate legal training as unfitted by lack of previous training and experience."

In reply to the question, "Are persons of unfit character being admitted to the Bar?" ten answered "Yes" unqualifiedly; one replied, "Not to my knowledge," one answered "Yes, but not more than formerly," adding that some way should be found in which a more thorough survey of the applicant's character may be obtained. Another answered, "There probably have been in the past, but in my opinion the board is using excellent judgment now."

In reply to the question, "Are the standards of scholarship and character now being maintained by the Board of Law Examiners as high as they should be?" nine replied in the negative. Other answers were: "The present standard of scholarship requisite under the law appears to me sufficiently high if rigidly exacted." "As to scholarship, yes; as to character I fear not." Two assumed the question to require an estimate of the examination papers, but as their answers to the other three questions were in the affirmative they would doubtless say from their observation that the standards are not sufficiently high.

Seven years of full time college work are now required for a license to practice medicine in Minnesota. Dental students in this state must study five years. Admission to the Bar can be had on little more than a common school education and three years of law study carried on concurrently with a regular occupation. The comparatively easy way to the Bar is causing an enormous increase in the number following that ap-

proach to a profession. There were 1,340 students in the law schools of the Twin Cities in October, 1923, an increase of 200 over the preceding year. In the schools of the state last fall 102 freshmen began the study of medicine, 100 dentistry, 553 law. Persons lacking the ability, industry, patience and perseverance necessary to get into other professions are naturally attracted to law. Unless the Bar awakens to the situation it will be inundated by a flood of persons, many of them unfit for the duties of the profession to which they aspire.

Your committeee calls attention to the fact that three states, Illinois, Kansas and Montana, have adopted substantially the requirements recommended by the American Bar Association in 1921 and by the Minnesota State Bar Association in 1922. The rules adopted in Illinois are admirable and should be seriously studied by your committee next year as a basis for recommendations to the Supreme Court of this state.

The committee presents the following resolutions:

1. That the Minnesota State Bar Association is in favor of a higher standard in the Bar examinations of this state and approves the change of policy manifested by the State Board of Law Examiners in the examination of February, 1924.

2. That in the opinion of this association the board should require a high school education or its equivalent for admission to the Bar examinations; that it should require that this general education be completed before the study of law is begun; that candidates who have no high school diploma give evidence of an equivalent by passing the entrance examinations of the State University or a degree-conferring college accredited by the State University; and that the board should notify the law schools that candidates will not be admitted who do not comply with these requirements.

3. That this association urges the board to make careful scrutiny of the character of candidates for admission to the Bar, and recommends the methods used in New York for the purpose.

4. That this committee next year arrange a conference with the State Board of Law Examiners in order to prepare a revised draft of rules for admission to the Bar for submission to the Supreme Court.

5. That the secretary of this association send copies of this report to the justices of the Supreme Court and to members of the State Board of Law Examiners.

Respectfully submitted,
A. L. YOUNG,
FRANCIS B. TIFFANY,
EVERETT FRASER, Chairman.

REPORT OF THE LEGISLATIVE COMMITTEE

TO THE SECRETARY OF THE MINNESOTA STATE BAR ASSOCIATION:

Dear Sir:

Your Legislative Committee begs to report that since there was no session of the Legislature since the last annual meeting of the association, no meetings of the Legislative Committee were held, nor did any duties devolve upon it.

Yours truly,
PIERCE BUTLER, JR., Chairman.

REPORT OF MEMBERSHIP COMMITTEE

TO THE PRESIDENT AND MEMBERS OF THE MINNESOTA STATE BAR ASSOCIATION:

Your Committee on Membership respectfully submits that during the current year there have been added 63 new members and, from present appearances, this number will be materially increased at the date of the annual meeting.

Acting under authority granted by the Board of Governors, compromises were made with a number of delinquent members, while others paid up their back dues in full, to the end that considerable money has been paid into the treasury from that source, as will probably appear from the report of the treasurer.

The committee has been greatly aided by our worthy president, whose circular letter to the bar of the state is largely responsible for the showing made by your committee.

Respectfully submitted,

THAYER C. BAILEY, Chairman.

REPORT OF COMMITTEE ON THE UNAUTHORIZED PRACTICE OF LAW

TO THE OFFICERS AND MEMBERS OF MINNESOTA STATE BAR ASSOCIATION:

Your Committee on the Unauthorized Practice of Law respectfully reports:

(1) That, apparently, by reason of the continued activity of this committee during the past years, the majority of those agencies whose activities were the occasion for the appointment of this committee, have discontinued their practices. At least no complaints with reference to them have been brought to the attention of the committee. It would seem, therefore, that the occasion for advocating new legislation had passed, at least for the present, and that about all that is necessary is to continue the committee so as to have an agency that can resume activities whenever needed.

(2) Complaint with reference to probate practice would now seem to be met by the code of rules adopted by the State Association of Probate Judges. The enforcement of these rules would, in the opinion of your committee, eradicate all of the evils complained of in the probate practice.

Your committee therefore recommends:

FIRST: That a standing committee on this subject be continued.

SECOND: That the association commend the probate judges of the state upon the adoption of their code of rules, the enforcement of which will, in the opinion of this committee, eradicate all of the evils complained of in probate practice.

Respectfully submitted,

HENRY DEUTSCH, Chairman,
FRANK G. SASSE,
ALEXANDER SEIFERT,
C. A. FOSNES,
GEORGE W. GRANGER,
JOHN M. BRADFORD.

(Frank Putnam, member of the committee, not reporting.)

SPECIAL COMMITTEES

REPORT OF THE COMMITTEE ON UNIFORM JUDICIAL PROCEDURE—FEDERAL COURTS

DEAR SIRS:

The undersigned, your Committee on Uniform Judicial Procedure in Federal Courts, beg leave to make the following report:

Three bills have been before the Congress of the United States which have been receiving the attention of your committee.

Senate Bill 2061—"A bill to give the Supreme Court of the United States authority to make and publish rules in common law actions."

Senate Bill 2060—"A bill to amend the judicial code, further to

define the jurisdiction of the circuit courts of appeal and of the Supreme Court, and for other purposes."

Senate Bill 624—A bill taking away the common law powers of Federal Judges to comment on the evidence and direct verdicts.

Your committee have not convened during the past year but have discussed the above bills somewhat by correspondence.

1. S. 2061. This bill is, with one exception, a substantial copy of a similar bill that has been before Congress since the year 1912. It simply empowers the Supreme Court of the United States to make and promulgate rules in law actions as has been done in equity actions. The present bill was introduced by Senator Cummins, who is the chairman of the sub-committee on judiciary of the Senate, which has had the bill under consideration. The other members of the sub-committee are Senator Spencer of Missouri, and Senator Overman of North Carolina, both in favor of the bill. The present bill differs from previous bills on the same subject in no substantial respect except by addition of Section 2 in the present bill as follows:

> "The court may at any time unite the general rules prescribed by it for cases in equity with those in actions at law so as to secure one form of civil action and procedure for both: Provided, however, That in such union of rules the right of trial by jury as at common law and declared by the seventh amendment to the Constitution shall be preserved to the parties inviolate. Such united rules shall not take effect until they shall have been reported to Congress by the Attorney General at the beginning of a regular session thereof and until after the close of such session."

This bill and the reasons for its enactment and the vigorous fight that has been made against it, principally by Senator Walsh of Montana, have been so frequently reported to you that repetition is unnecessary. At the hearing thereon before the sub-committee of the Judiciary last February, Associate Justices Van Devanter, McReynolds and Sutherland of the United States Supreme Court, appeared before the Committee and strongly advocated the enactment of the law. At that hearing Mr. Justice Van Devanter said,

> "There is no doubt that under those rules (existing equity rules) the practice in equity is more simple and more conducive to a real straight ascertainment and display of merits than is the ordinary common law proceeding under the statutes of the several States."

Your committee favors and has always favored the passage of this bill and our Senators and Representatives have been urged to lend their support to its passage.

2. S. 2060. This is known as the jurisdiction bill. It amends and reenacts Sections 128, 129, 237, 238, 239 and 240 of the Judicial Code. It repeals Sections 130, 131, 133, 134, 181, 182, 236, and 241 to 252, inclusive, of the Judicial Code. Other sections are amended.

The primary object of the bill is to relieve the congestion resulting from the present overcrowded docket of the Supreme Court, and thus enable a more expeditious disposition of the cases which that Court is called upon to decide, by restricting the obligatory appellate jurisdiction of the court to cases and proceedings of a character and importance which render a review of right in the Supreme Court desirable from a public point of view.

The bill was prepared just as it is by members of the Supreme Court all participating at one time or another in conference and by Committees. It was several times revised until it came to represent the composite judgment of all members of the Court.

Mr. Justice Van Devanter said before the Committee:

> "Easily one-third of the cases that now come before the Supreme Court of the United States involve jurisdictional questions, and it is

not too much to say that of the time which the Supreme Court must bestow upon the cases now brought before it at least one-third is given to the solution of questions either of its own jurisdiction or the jurisdiction of the circuit courts of appeals. Lawyers from all over the country, after they have prepared their cases and have come to the Supreme Court and are there presenting them, learn for the first time there either that the case in hand is one that has no place in the Supreme Court, under the existing law, or that it has not been brought there by the right procedure. This is not a matter that concerns the court alone; it chiefly affects the litigants of the country. It tends to embarrass litigation, to prolong it, and to defeat the purposes for which it is had. We think there is a real need for a revision and restatement —a bringing together in a harmonious whole—of the statutes relating to the appellate jurisdiction of the circuit courts of appeals and of the Supreme Court."

Associate Justice McReynolds said,

"The general theory is that after one has had two trials in the Federal Courts, one in the District Court and one in the circuit courts of appeal, mere *private litigation* should stop. But where it is a matter of general importance or some statute to be construed or some Constitutional provision, it should come to us for final decision."

If this bill becomes law, every case now reviewable in the Supreme Court will still be subject to review there if the Court finds that it presents any question which should in public interest, engage its attention. The change of many cases from the obligatory jurisdiction of the Court to certiorari class will enable the Court by a denial of the writ to give immediate notice to the parties of the disposal of the case. It will greatly reduce the number of cases in the Supreme Court and the taking of appeals for mere purposes of delay will be largely removed. If the bill is passed it will also have the virtue of revising and restating in one law the complete appellate jurisdiction of the Supreme Court so that the ordinary lawyer may ascertain the right and method of appeal.

Most of the members of our Committee have written our Senators and Representatives in support of this bill.

3. The third bill, which our committee has partially considered, is S. 624. Our Committee has not had the benefit of copies of this bill for study and discussion. The Chairman has seen the bill and its purpose is fairly stated at the beginning of this report. Considerable newspaper comment for and against (mostly against) this bill has taken place. The Committee of the American Bar Association headed by Mr. Thomas W. Shelton of Norfolk, Virginia, have to some extent at least, been opposing this bill. Some of the members of your Committee are not ready to oppose this bill but as presently advised, are not in favor of it. Therefore your Committee is not ready to take a position relative to this last bill.

RECOMMENDATIONS

1. That the Minnesota State Bar Association approve of Senate Bills 2060 and 2061 and recommend and request that Congress enact them into law.

2. That the incoming committee on this subject be requested to study and report at the next annual meeting of the Association upon their recommendations as to the advisability of the enactment into a law of Senate Bill 624.

Respectfully submitted,

JOHN W. HOPP,
CARL W. CUMMINS,
JAMES J. QUIGLEY,
WILL A. BLANCHARD,
JAMES D. SHEARER.

(At the time of going to press, the signatures of the other members of the committee had not been received.)

REPORT OF THE COMMITTEE ON ORGANIZATION OF THE STATE BAR

TO THE BOARD OF GOVERNORS AND MEMBERS OF THE MINNESOTA STATE BAR ASSOCIATION:

Your special committee appointed to re-draft the bill organizing the bar of Minnesota submits herewith its report:

Because of the size of the committee, which consists of one or more members from each judicial district of the state, only one meeting of the committee was attempted. This meeting was attended by the undersigned committeemen, and after an extended discussion of the whole matter, the members present unanimously agreed upon the main features of the bill. Before the meeting of the association at Bemidji, a bill will be drafted and will be ready for presentation at the time this report is read.

The main features of the bill as agreed upon by the committee are as follows:

A board of governors of the state bar shall be created consisting of one member from each judicial district with the exception of Hennepin County, which shall have four, Ramsey County, which shall have three, and St. Louis County, which shall have two, making a total of twenty-five members in all. The lawyers of each judicial district shall elect the member or members from their district in a vote by mail to be conducted by the secretary of the state bar, the results to be canvassed by a committee of three to be appointed by the president.

The entire bar of each judicial district shall be constituted as a local bar association for the district, and shall have the power to unite with other adjoining districts if desired. The judicial district bar associations shall adopt their own form of organization, elect their own officers, and hold an annual meeting and as many other meetings during the year as they desire. It will be their duty to bring the lawyers of their district together and encourage them to work together as a unit for the affairs of common interests to the lawyer of their district and for their mutual betterment. The district associations will also have the duty and power to investigate all complaints against its members, to reprimand privately, and to institute disbarment proceedings, which will automatically be referred by the Supreme Court to a district judge of the district from which they originate, and will be prosecuted either by the county attorney or by a special assistant from the Attorney General's office.

Every member of the bar shall pay a license fee of Six Dollars ($6.00), one-half of which shall go to the state organization and one-half to the judicial district association.

In view of the opposition of a considerable portion of the bar to the provision of the previous bill authorizing the board of governors to make rules of conduct for members of the bar, it was decided to eliminate this provision.

Your committee is of the opinion that if this bill is properly backed by the lawyers of the state, it can and will be passed by the 1925 Legislature. Meetings to discuss it should be held in each judicial district to acquaint the lawyers of the state with its provisions, and with the benefits to the legal profession and to the public, which will result from its passage.

This will involve a rather extensive campaign and a special fund will probably have to be raised to finance it. If such a campaign is to be successfully carried on, it will have to be made the main work of the Association for the ensuing year.

For this reason, your committee recommends that if the bill as outlined be approved, the task of organizing and conducting the campaign for its passage be made the duty of the incoming officers and of the Board of Governors. Unless the association is willing to put its whole force behind the campaign for the adoption of this bill, your committee feels that it would be advisable to drop the whole project for the present. At this

time, half-way measures only serve to create doubts and misunderstandings which can only injure the whole project in Minnesota.

Respectfully submitted,

E. D. BUFFINGTON,
HENRY S. MEAD,
HORACE W. ROBERTS,
VICTOR STEARNS,
PAUL J. THOMPSON,
A. L. YOUNG,
MORRIS B. MITCHELL, Chairman.

REPORT OF THE COMMITTEE ON THE REVISION OF THE DRAINAGE LAWS

DEAR SIRS:

We have the honor of submitting herewith our report as the Committee for the Revision of Drainage Laws and have pursuant to instruction, completed the work of compiling and revising the county and judicial drainage laws of the state and submit herewith as a part of this report a copy of such revision. By way of explanation of the work submitted we add that in order to aid in understanding, the changes made and facilitate comparison with existing laws, we have in some instances given the full text of the existing statute and crossed out the language omitted and underscored new language included.

The aim of the committee has been to retain so far as possible the general plan of the county and judicial laws now existing and to the extent practical, the language of the sections for the purpose of preserving the benefit of judicial construction of the present law, and with a view to causing as few changes as possible in the general practice that has developed in the use of the present law.

The revision so far as herewith reported covers all matters relating to the general procedure in utilizing the county and judicial ditch laws, but there are a number of sections in the general drainage laws which largely relate to uses and abuses of our system of drainage; that the committee contemplates considering, at another session and provide for correction and repeal of a large number of those sections. This can be included in the general bill which will be prepared before the Legislature convenes.

The committee further recommends as a part of this report that the committee be continued for another year with the view to enable them to complete their work of securing the passage of the revision of the drainage laws at the next session of the Legislature.

Respectfully submitted,

F. L. CLIFF,
O. A. LENDE,
JULIUS J. OLSON.

REPORT OF COMMITTEE ON CO-OPERATION OF LOCAL AND STATE BAR ASSOCIATIONS

TO THE MINNESOTA STATE BAR ASSOCIATION:

Your committee is strongly of the opinion that the State Bar Association should encourage the formation of more local Bar Associations in sections of the state not already so organized; also that it should establish firmly as a part of its organization an annual conference of local Bar Associations.

At the 1922 meeting of the association, upon recommendation of President Bailey, such a conference, the first of its kind, was held. Twenty-six

counties were represented, the organization was made permanent, and Mr. F. G. Sasse of Austin was elected President. At the 1923 meeting of the association there was no meeting of the conference.

Your Committee recommends:

1. That the State Bar Association each year set aside, in advance of its meeting, one half day of its sessions for the purpose of such a conference.

2. That it recommend to the conference, that the secretary thereof be authorized and directed to investigate and report to it what counties in the state have no local associations, and aid in bringing about the formation of such local bar associations, either by counties, by judicial districts, or in such units as seem best to serve the needs of the locality, where none now exist.

3. That it consider providing funds of the association to meet the reasonable expenditures of the secretary of such conference in carrying forward such investigation and assistance in organization.

Respectfully submitted,

BRUCE W. SANBORN,
BURT W. EATON,
HENRY H. FLOR,
GEORGE W. BUFFINGTON,
EDWARD P. TOWNE, Committee.

REPORT OF SPECIAL COMMITTEE ON THE GRAND JURY

The annual meeting of the Association of 1923 endorsed the majority report of this committee to the effect that the use of the Grand Jury be dispensed with in the ordinary criminal case, unless summoned by the judge of the district court, county attorney, county commissioners or a certain number of tax payers. Chapter 257 of the Laws of 1923 provided that,

> "A grand jury shall be drawn whenever the judge of the Court shall so direct by order, etc."

However, if there were any criminal cases to be brought to trial where the punishment exceeded 10 years imprisonment, it was necessary to draw a grand jury because the amendment did not give the county attorney the right to proceed by information. The majority of the committee suggests the following amendments to carry out the action of the Bar Association last summer:

1. Amend 257 of the Laws of 1923 by adding at the end thereof, "Provided also that a Grand Jury shall be called for any term of Court or during any term of Court upon the written demand of the County Attorney, County Commissioners, or of 25 tax payers of the County.

2. Amend section 9159 of the General Statutes of 1913 by striking out the words in line 4 as follows: "specified in section four of this act" and by striking out the word "the" before the word "crimes," in line 3 of said section and inserting in place thereof the word "all." See State vs. Keeney, 189 N. W. 1023.

In addition to this the Committee has raised $20.00 for the purpose of furnishing enough reprints of Prof. Miller's article in the MINNESOTA LAW REVIEW on Information and Indictment, to send to newly elected members of the Legislature.

THOS. HESSIAN,
GEO. W. PETERSON,
FRANK HOPKINS,
HORACE W. ROBERTS,
PAUL J. THOMPSON, Chairman.

Mr. W. A. Blanchard, member of the Committee and County Attorney of Anoka County, is in favor of the present system.

REPORT OF MEETING OF COMMITTEE UPON SALARIES OF DISTRICT JUDGES

At a meeting held in Minneapolis June 10, 1924, of the committee appointed by Justice Stone, President of the State Bar Association, to consider what steps could be taken to secure an increase in the salary of district judges in the State of Minnesota, the following members were present: Judges Buffington, Dancer and Converse. The other members of the committee, Honorable A. J. Rockne and Honorable Oluf Gjerset, were unable to be present.

Your Committee desires to call the attention of the members of the Minnesota State Bar Association to the inadequacy of the compensation paid the district judges of the state. You are doubtless all aware that the salary is $4,800 a year with an additional $1,500 paid by the counties in the second, fourth, eighth and fifteenth districts. It will be apparent to all when the present high cost of living and the increased litigation of the last few years is taken into consideration, that this salary is wholly inadequate.

Your Committee desires to call attention to the fact that the New England states, composed of Maine, New Hampshire, Vermont, Massachusetts, Connecticut and Rhode Island, pay their trial judges an average salary of $6,600 a year. New York, Pennsylvania, New Jersey and Delaware pay an average salary of $8,400 per year. California, Wyoming, Illinois, Iowa, Wisconsin, Michigan, Indiana and Ohio pay an average salary of $6,600 per year, while, on the other hand, states like North and South Dakota, Idaho, Kentucky, Tennessee, and Oklahoma pay an average of approximately $4,000 per year. In this tabulation special provisions for increased salaries in the large cities like New York, Philadelphia, Chicago, and Detroit are not taken into consideration. These are general salaries paid by the states. We think Minnesota belongs in the first three classes of states above given and not the last.

Your Committee has been advised that a voluntary organization is being perfected among the ex-judges of our district courts who, largely from financial considerations, have within the last few years, either resigned their positions to re-enter practice or have declined to stand for re-election, and that this committee proposes to go before the next legislature and to make an earnest effort to secure additional compensation for our district judges.

Your Committee therefore recommends that each and every member of the Minnesota State Bar Association be a committee to do all in his power to assist this voluntary committee in their efforts along the line suggested and that this organization pledge itself and its membership to actively respond in every way when called upon by said committee to accomplish something along the line suggested.

Respectfully submitted by the Committee,

WILLARD R. CONVERSE, Chairman.

SUBJECT INDEX

GREAT NORTHERN VALUATION SHOWS NO "WATER"

In response to assertions that railroad stocks were watered and that the investments recorded in the companies' books were inflated, Congress, in 1913, by the LaFollette Act, directed the Interstate Commerce Commission to determine, among other things, the cost of reproduction new, cost of reproduction less depreciation, and the value of the various railroads in the United States.

The corporate assets of the Great Northern Company consist of two classes of property: One is the physical property used for transportation purposes and located in the United States; the other consists of investments in stocks and bonds of other companies, including lines located in Canada, and other miscellaneous property used for non-carrier purposes. The Interstate Commerce Commission recently has completed its tentative valuation of the first of these, that is, the physical property used for transportation purposes and located in the United States. It has not valued the second class property, because not required to do so by the terms of the Act.

The value as found by the Commission for Great Northern properties used for transportation purposes and located in the United States as of June 30, 1915, was as follows:

Total owned	$391,740,302.00
Total used	395,353,655.00

In arriving at these figures, the Interstate Commerce Commission deducted $65,140,474.00 from the cost of reproduction new on account of assumed depreciation. The Company, of course, contends that the depreciation of certain parts of the properties, such as the aging of its roadbed, is more than offset by the depreciation of the property as a whole, as it is well known that a railroad property in use for several years is better and worth more for transportation purposes than a newly built property.

Included in the second class of property and not valued by the Commission is:
604 miles of railroad in Canada.
Nearly 49 per cent of the Stock of the Chicago, Burlington & Quincy Railroad.
One-half of the Stock of the Spokane, Portland & Seattle Railway.
Also the stocks of some other smaller railway companies, and the stocks of coal, lumber, land, and other subsidiary corporations.

The investment in securities not valued by the Commission amounts to $227,076,312.83. Other property not used for transportation purposes amounts to $24,315,418.31, so that the Commission's value on the first class of property, plus the value of the second class of property, which the Commission did not value, amounts to $643,132,033.14.

Since the valuation date, June 30, 1915, there has been added $104,881,141.26, which brings the total value of Great Northern property to July 1, 1924, up to $748,013,174.40. The total par value of stocks and bonds of the Great Northern as of July 1, 1924, was $563,258,165.16, showing an excess of $184,755,009.24 of value above the total capitalization. The following table makes these statements clear:

PROPERTY		CAPITALIZATION	
Portion of owned property valued by the Commission as of June 30, 1915	$391,740,302.00	Great Northern Stock	$249,477,150.00
Stocks, bonds and other properties not valued by Commission as of June 30, 1915	227,076,312.83	Great Northern Bonds	313,781,015.16
Other property as of June 30, 1915	24,315,418.31	EXCESS OF PROPERTY OVER CAPITALIZATION ON JULY 1, 1924	184,755,009.24
Property added since June 30, 1915	104,881,141.26		
Total	$748,013,174.40		$748,013,174.40

This furnishes a most conclusive answer to the charge of watered stock.

The Great Northern never did have and never will have a dollar of watered stock.

LOUIS W. HILL
Chairman of the Board.

Talk No. 15.
October, 1924.