M I N N E S O T A

STATE BAR ASSOCIATION

P R O C E E D I N G S

1922 - 27

M I N N E S O T A

STATE BAR ASSOCIATION

P R O C E E D I N G S

1922 - 27

MINNESOTA LAW REVIEW

JOURNAL OF THE STATE BAR ASSOCIATION

Volume VII

SUPPLEMENT

PROCEEDINGS OF THE
MINNESOTA STATE BAR ASSOCIATION
1922

MINNEAPOLIS, MINN.
LAW SCHOOL
UNIVERSITY OF MINNESOTA
1922

OFFICERS OF THE AMERICAN BAR ASSOCIATION 1922-23

President

JOHN W. DAVIS ..... New York, N. Y.

Secretary

W. THOMAS KEMP ..... Baltimore, Md.

Treasurer

FREDERICK E. WADHAMS ..... Albany, N. Y.

Vice-President for Minnesota

BRUCE W. SANBORN ..... St. Paul, Minn.

Member of General Council for Minnesota

JOHN JUNELL ..... Minneapolis, Minn.

Local Council for Minnesota

HENRY O. CHRISTENSEN ..... Rochester, Minn.

MORRIS B. MITCHELL .....Minneapolis, Minn.

WILLIAM B. GRAVES ..... St. Paul, Minn.

HUBERT H. D'AUTREMONT ..... Duluth, Minn.

MINNESOTA STATE BAR ASSOCIATION.

OFFICERS 1922.

WILLIAM A. LANCASTER, Minneapolis ..... *President*
ROYAL A. STONE, St. Paul ..... *Vice-President*
ROY H. CURRIE, St. Paul ..... *Treasurer*
CHESTER L. CALDWELL, St. Paul ..... *Secretary*
CHARLES F. EBEL, St. Paul ..... *Librarian*

BOARD OF GOVERNORS FOR 1922.

District
1st—CHARLES P. HALL ..... Red Wing
2nd—JOHN M. BRADFORD ..... St. Paul
3rd—HENRY O. CHRISTENSON ..... Rochester
4th—PAUL J. THOMPSON ..... Minneapolis
5th—E. H. GIPSON ..... Faribault
6th—J. L. LOBBEN ..... St. James
7th—JAMES J. QUIGLEY ..... St. Cloud
8th—A. L. YOUNG ..... Winthrop
9th—ALEXANDER SEIFERT ..... Springfield
10th—HENRY A. MORGAN ..... Albert Lea
11th—H. G. GEARHEART ..... Duluth
12th—GEORGE F. GAGE ..... Luverne
13th—J. A. CASHEL ..... Worthington
14th—A. N. ECKSTROM ..... Warren
15th—E. E. MCDONALD ..... Bemidji
16th—FRANK W. MURPHY ..... Wheaton
17th—FRANK E. PUTNAM ..... Blue Earth
18th—GODFREY G. GOODWIN ..... Cambridge
19th—REUBEN G. THOREEN ..... Stillwater

STANDING COMMITTEES FOR 1922

ETHICS

FREDERICK N. DICKSON, *Chairman* ..... St. Paul
GEORGE W. BUFFINGTON ..... Minneapolis
S. D. CATHERWOOD ..... Austin
C. H. MARCH ..... Litchfield
H. G. GEARHART ..... Duluth

JURISPRUDENCE AND LAW REFORM

WILBUR H. CHERRY, *Chairman* ..... Minneapolis
BRUCE SANBORN ..... St. Paul
N. T. DOWLING ..... University of Minnesota
S. H. SOMSEN ..... Winona
WARREN E. GREENE ..... Duluth

UNIFORM STATE LAWS

DONALD E. BRIDGMAN, *Chairman* ..... Minneapolis
HENRY N. BENSON ..... St. Peter
THAYER C. BAILEY ..... Bemidji

Legal Biography

Thomas Fraser, *Chairman*, Rochester, 3rd District

Judicial District
1st—Willard L. Converse ..... So. St. Paul
2nd—Grier M. Orr ..... St. Paul
3rd—Charles E. Callaghan ..... Rochester
4th—W. W. Bardwell ..... Minneapolis
5th—Arthur B. Childress ..... Faribault
6th—W. L. Comstock ..... Mankato
7th—W. L. Parsons ..... Fergus Falls
8th—C. M. Tifft ..... Glencoe
9th—I. M. Olsen ..... New Ulm
10th—John F. D. Meighen ..... Albert Lea
11th—Bert Fesler ..... Duluth
12th—Richard T. Daley ..... Renville
13th—L. S. Nelson ..... Worthington
14th—Andrew Grindeland ..... Warren
15th—W. S. McClenahan ..... Brainerd
16th—S. A. Flaherty ..... Morris
17th—E. C. Dean ..... Fairmont
18th—Arthur E. Giddings ..... Anoka
19th—Jasper N. Searles ..... Stillwater

Library

James Paige, *Chairman* ..... University of Minnesota
Oscar Hallam ..... St. Paul
Clifford L. Hilton ..... St. Paul
James E. Markham ..... St. Paul

Legal Education

W. G. Graves, *Chairman* ..... St. Paul
A. L. Young ..... Winthrop
Harold G. Cant ..... Minneapolis

Legislative Committee

Pierce Butler, Jr., *Chairman*, St. Paul, 4th District

Judicial District
1st—John Moonan ..... Waseca
2nd—Julius E. Heycraft ..... Fairmont
3rd—Julius J. Coller ..... Shakopee
5th—T. V. Rieke ..... Minneapolis
6th—J. D. Sullivan ..... St. Cloud
7th—Charles A. Oberg ..... Willmar
8th—C. E. Adams ..... Duluth
9th—N. F. Fields ..... Fergus Falls
10th—William H. Lamson ..... Hinckley

Membership

James J. Quigley, *Chairman*, St. Cloud, 7th District

Judicial District
1st—W. L. Converse ..... So. St. Paul
2nd—Wilfred E. Rumble ..... St. Paul
3rd—Oscar C. Ronken ..... Rochester
4th—H. N. Rogers ..... Minneapolis
5th—John Moonan ..... Waseca
6th—John Regan ..... Mankato
7th—Constant Larson ..... Alexandria
8th—W. F. Odell ..... Chaska
9th—William H. Dempsey ..... New Ulm

10th—Bennett O. Knudson ..... Albert Lea
11th—Oliver S. Andresen ..... Duluth
12th—John M. Freeman ..... Olivia
13th—J. A. Cashel ..... Worthington
14th—L. S. Miller ..... Crookston
15th—A. L. Thwing ..... Grand Rapids
16th—L. E. Jones ..... Breckenridge
17th—Albert R. Allen ..... Fairmont
18th—George H. Tyler ..... Elk River
19th—P. S. Olson ..... Mora

Committee on Unauthorized Practice of Law

Henry Deutsch, *Chairman* ..... Minneapolis
Frank G. Sasse ..... Austin
Alexander Seifert ..... Springfield
C. A. Fosness ..... Montevideo
Leeds H. Cutter ..... Anoka

Noteworthy Changes in Statute Law

H. E. Randall, *Chairman* ..... St. Paul
James E. Dorsey ..... Minneapolis
L. D. Barnard ..... Renville

Finance Committee

Royal A. Stone, *Chairman* ..... St. Paul
David F. Simpson ..... Minneapolis

SPECIAL COMMITTEES

Committee on Uniform Procedure in Federal Courts

James D. Shearer, *Chairman* ..... Minneapolis
Herbert M. Bierce ..... Winona
Edward S. Stringer ..... St. Paul
Henry A. Morgan ..... Albert Lea
H. A. Carmichael ..... Duluth

Incorporation of State Bar

Morris B. Mitchell, *Chairman* ..... Minneapolis
Victor Stearns ..... Duluth
John B. Sanborn ..... St. Paul
Samuel G. Anderson ..... Hutchinson
John H. Ray, Jr. ..... Minneapolis

Committee on Small Debtors' Court

Fred W. Reed, *Chairman* ..... Minneapolis
C. R. Magney ..... Duluth
Thomas F. Salmon ..... Minneapolis
Oscar C. Ronken ..... Rochester
George W. Morgan ..... St. Paul
C. O. Dailey ..... Mankato

Codifying Drainage Laws

F. L. Cliff, *Chairman* ..... Ortonville
O. A. Lende ..... Canby
E. E. McDonald ..... Bemidji
Julius J. Olson ..... Warren
J. B. Ormond ..... Morris

Co-Operation of Local and State Bar Associations

Walter F. Dacey, *Chairman* ..... Duluth
Fred H. Stinchfield ..... Minneapolis
Bruce W. Sanborn ..... St. Paul
(Others to be appointed.)

SPECIAL COMMITTEE TO PREPARE LEGISLATION ON UNAUTHORIZED PRACTICE OF LAW

JOHN H. RAY, JR., *Chairman* ..... Minneapolis
F. E. PUTNAM ..... Blue Earth
GEORGE W. GRANGER ..... Rochester
ALEXANDER SEIFERT ..... Springfield
CHARLES S. MARDEN ..... Moorhead
CHARLES T. HOWARD ..... Pipestone
M. J. DOHERTY ..... St. Paul
F. G. SASSE ..... Austin
HENRY DEUTSCH ..... Minneapolis

COMMITTEE ON ABOLISHMENT OF GRAND JURIES IN ORDINARY CRIMINAL CASES

PAUL J. THOMPSON, *Chairman* ..... Minneapolis
WARREN E. GREENE ..... Duluth
GEORGE W. PETERSON ..... St. Paul
HORACE W. ROBERTS ..... Mankato
FRANK HOPKINS ..... Fairfax
THOMAS HESSIAN ..... Le Sueur
WILL A. BLANCHARD ..... Anoka

MINNESOTA LAW REVIEW

Journal of the State Bar Association

VOL. VII NOVEMBER, 1922 SUPPLEMENT

PROCEEDINGS OF THE MINNESOTA STATE BAR ASSOCIATION 1922

MEETING called to order, Judge Lancaster, vice president, in the chair.

THE CHAIRMAN:

This is the opening session of the 22nd annual meeting of our Bar Association, and in order to give you a thorough welcome to our city I have had the Mayor come up here who will make a few remarks.

MAYOR LEACH:

Gentlemen: It would probably be easy for any of you men in your profession to be called upon at a moment's notice to make an address of welcome; but it is not easy for me under any circumstances, and your committee just notified me two or three minutes ago that I was to make an address of welcome. However, if it lacks in eloquence, I want you to know that it does not lack in genuine feeling in my heart.

Gentlemen, the people of Minneapolis are very proud to have you here. You men who live here, I know, share the same pride in the city that I do and you who do not live here ought to share the same pride, because the whole territory around here has that same pride in this city. The people who live here like to have you come here and hope that you will accomplish everything that you have in view to accomplish.

I just want to say one word, as long as I have this opportunity. I believe that the most dangerous situation today is legislation for special privileges. You men probably have more to do with the drafting of the laws of our state than any other class of professional men and I want to call your attention to what I consider a very great danger with our legislature, both in the state and the national legislature. They are too much given to legislation for special privileges. We have a high dam, as you have probably noticed in the papers in Minneapolis and St. Paul, and we have a very critical situation facing us and it is not fair that Minnesota should be the only state in the union to have no laws by which we can regulate electric light and power energy. Now I know that most of you, outside of your business life, are politicians. I think that kind of goes hand in hand with law business (laughter) and I am going to ask you to come to the defense of Minnesota in this crisis and help us get some legislation on our books that will protect us. I have a meter that I can put on the river if you will give me a chance, so we can know how much this electric light and

power energy should cost. That is the high dam. It belongs to the people of Minnesota, and we are going to lose it unless the next Legislature protects us from either Henry Ford or some other private monopoly. I hope you will go into the subject and see that the members of the Legislature from your district come to the help of the city of Minneapolis in this fight.

If I had not drawn this in, I would have run out of material in greeting you (laughter) but I am just as pleased to have had the opportunity. I want to assure you that it is a great pleasure to the whole city of Minneapolis to have you here and it is a great honor to me to have this privilege of welcoming you.

THE CHAIRMAN: As most of you probably know, Mr. Bailey, our president, is ill, confined to his home, and although he was very anxious himself to come down here and attend at least one session of this meeting, his doctors advised against it and he very reluctantly abided by their decision and telephoned to me last Friday that he had decided that it would not be well for him to make the effort to come down even for one session.

The work of the association, as you know, this last year has been quite heavy and Mr. Bailey has devoted a great deal of time and effort to the work that is in hand, some of it being left over from last year; and it is with great regret that we find that he is unable to be here and participate in our work now.

Mr. Bailey, while he has made no formal report, has written a letter and I think it is due to him and to you that that letter should be read at this time. Mr. Caldwell, will you read the letter to us?

Mr. Caldwell read Mr. Bailey's letter as follows:

August 28th, 1922.

TO THE MEMBERS OF MINNESOTA STATE BAR ASSOCIATION:

It is a matter of great regret to me that I am prevented by my doctors' orders from attending the annual meeting of our Association.

I believe that no three speakers in the country could be secured whose addresses would be more acceptable to our members than Senator Beveridge, Ex-Governor Hadley, and our own Judge Lees, and I wish to express to each of them my appreciation of their acceptance of the invitations which I extended to them.

Vice-President Lancaster, Secretary Caldwell and Treasurer Currie and the Committee on Arrangements, of which Mr. Herbert T. Park is Chairman, have been exceedingly kind in taking up and completing the arrangements for the meeting. I know that the Hennepin County Bar, famous for its hospitality, has laid out a program for entertainment that should make the meeting most enjoyable.

At the suggestion of some of our members, I appointed a Committee, of which Walter F. Dacey is Chairman, to call a Conference of Delegates from Local and County Associations, to correspond in a measure with the Conference of Delegates from State and Local Associations which meets annually in connection with the American Bar Association. Mr. Dacey informs me that the responses have been very satisfactory. At such a conference of delegates every unit represented

should have an equal voice. There are matters of interest to many districts where our membership is numerically weak, which, if agreed upon by such a Conference, would undoubtedly be endorsed by the Association and embodied in legislative or other appropriate action. Some of the subjects which have been suggested for consideration by such a Conference are: measures for the adoption of a uniform probate practice, a minimum fee bill, the removal of cases from one district or county to another, the encouragement of local and county associations and their relation to the State Bar Association, etc. I hope to see the day when it will be considered a matter of comment, and perhaps suspicion, if an attorney is not a member of both his local and State Associations. Our medical brethren have made their Associations so efficient and useful that such is the case with them, and there seems no reason why our Associations, state and local, should not be held in like esteem, even if they remain unincorporated.

There will be presented for consideration the matter of joining forces with the MINNESOTA LAW REVIEW and making it the official publication of the State Bar Association. I worked out with Dean Fraser and the managers of the Law Review a proposed contract. The matter was submitted to the Board of Governors and had the practically unanimous endorsement of the members present, and a Committee, of which Mr. Harry Gearhart is Chairman, has further considered the matter with the LAW REVIEW managers. I am satisfied that this contract is as favorable to our Association as the LAW REVIEW people can give us, and I understand that some of them thought I was driving too hard a bargain, although such was not my purpose, the only thought being to get the matter in such shape as not to impose too heavy a burden upon our Association. They have been exceedingly fair and open-minded in our discussions. Entering into this contract will require our membership dues to be carried on more of a business basis and the dropping within a short time of the names of members who do not pay. This seems to me unobjectionable, as we have heretofore been carrying two or three hundred members who were several years in arrears. By the contract, if made, the LAW REVIEW will take over the publication of our annual report, which will appear as an issue in November and be in addition to the seven issues of the REVIEW heretofore published. This arrangement will bring our Association in touch with its members eight times a year where now, with many members who do not always attend the annual meetings, it comes in touch only once through the annual report. This arrangement should be desirable also now that a chair in the University Law School is to be established, devoted largely to research work and possibly the framing and drafting of legislation desired by our Association and the revision of statutes as outlined in the report of the Committee on Jurisprudence and Law Reform. The Association having an official organ should be of advantage in the publication of committee reports and communications of members who have something of general interest to our members. I realize that this arrangement may be in a measure an experiment. But it will not break the

Association to try it and I believe it should be tried out for a couple of years anyway. The Board of Governors voted to recommend to the annual meeting an increase in dues before this LAW REVIEW matter came up. I believe the Association should mean more to its members and that this plan will make it mean more and be of more use to its members.

I thank the committee-men for their good work. In only two or three instances did anyone refuse to serve on a committee and then for good reasons. Some of the committees have had difficulty in getting full attendance at meetings, but it was largely due to the fact that lawyers are not masters of their own time and must needs be at the call of courts and clients. I know there is in some quarters a disposition to criticize the Association because it is thought insufficient results are obtained. It should be remembered, however, that ours is a voluntary association, with no employees who devote their whole time to it, and that the work is carried on largely through committees, and if results are not accomplished we have only ourselves to blame.

The Committee on Legal Education, Messrs. Graves, Young and Cant, attended the Conference of the American Bar Association on this subject in Washington in February. Their report recommends the adoption by this Association of the recommendations of the American Bar Association for admission to the Bar. This subject was the occasion of extended consideration of the American Bar Association at its last year's meeting and was considered of sufficient importance to hold a special mid-year meeting in Washington. While the question may not be as vital in our western states as in some of the eastern, still I believe the recommendation is in the right direction and hope that our own state may be amongst the first to raise the requirements for admission. Undoubtedly a majority of the older lawyers, great and small, in the country today were admitted under less requirements than these recommendations specify, but with our present day great educational facilities, few if any of them would be prevented from meeting the requirements if they were seeking admission today.

While I am not convinced that the future activities of the Ethics Committee of this Association will or should be confined to that of an observing or advisory body, as suggested in the report of the Ethics Committee, of which Mr. Grannis is Chairman, yet I heartily concur in the recommendation of this Committee that the law be amended, so that ungrounded charges against a lawyer will not be made public without first obtaining the approval or permission of the State Board of Law Examiners or our own Ethics Committee. One instance where the present law might have permitted great embarrassment to a lawyer by publication of charges without sufficient foundation occurred this year.

The very full report of the Committee on Jurisprudence and Law Reform, of which Mr. Cherry is Chairman, indicates that a happy solution of the need for a Research or Drafting Bureau has been found in the creation of a chair in the Law School largely devoted to that work.

The recommendations of the Committee on Uniform State Laws, of which Mr. Bridgeman is Chairman, are well worthy of adoption. As suggested by the Committee and shown in its report, Minnesota is amongst the foremost of the states in the adoption of uniform laws, and yet, as also suggested by the report, I think few of us realize that we have many of these statutes on our books, and that where one exists the decisions under it from other states should be of controlling force in our own courts in the absence of decisions by our supreme court, and if anything like uniform in other states, should be almost conclusive that any contrary decision of our own courts should be overruled.

The suggestion of the Committee on Noteworthy Changes in the Statute Law, of which Mr. Randall is Chairman, that some plan be devised for a "Continuous Revision" of the statute law, as attempted in some states, is well worthy of consideration. I think we all agree that our method of revision at one time by a committee appointed for the special purpose and whose functions end in a year or two, has not proved a success. When each of our biennial legislatures passes upwards of five hundred statutes, about four-fifths of which are passed or at least receive approval of the governor during the last ten or fifteen days of the session, it is no wonder that we have much undigested and ill-advised legislation and no wonder that many conflict with existing legislation. If some method could be devised to cut down our legislation to a third or half what it is and have that which is passed go through a good Drafting or Revision Bureau, so as to have some conformity to that already in existence, I think we would have accomplished much for the peace of the average citizen.

While the subject of Uniform Procedure in the federal courts is important, yet it is evident from the report of the Committee, of which Mr. Shearer is Chairman, that there is little that can be done by our Association at the present time that would assist the work of the American Bar Association in that regard.

The divided report of the Committee on Abolishment of Grand Juries in Ordinary Cases, of which Mr. Thompson is Chairman, shows a vast amount of work, for which the Committee is entitled to great credit, and is very interesting.

The report of the Committee on Incorporation of the Association, of which Mr. Morris B. Mitchell is Chairman, presents a well considered bill for the Incorporation of the Minnesota Bar pursuant to the vote in two previous years for incorporation. In some minor details I think the bill should be made more definite—amongst others, that it should be made clear that vacancies to be filled by the Board should be only for the unexpired term, and that the method of holding elections after the first should be more clearly outlined, and that it should be made clear whether annual or triennial elections are contemplated. I would suggest also that sufficient latitude be allowed so as to permit of moderate disbursements for expenses of speakers for the annual meeting and for Bar Association publications and reports.

At the last annual meeting the subject most discussed was that of Unauthorized Practice of Law. I obtained the impression that it was a matter of vital interest in certain districts at least, and took special pains in selecting the committee to draft bills on this subject for presentation to the next legislature. This Committee, of which Mr. Ray is Chairman, consisted of nine members, scattered throughout the state, and so selected that I believe that no one would consider it otherwise than a fair committee, without favoring any faction. Mr. Ray made several attempts to get a meeting, but I think never succeeded to date in getting more than three together, two of whom were residents of Minneapolis. He is to attempt another meeting the day before our annual meeting, and I trust the Committee will agree upon a report satisfactory to the Association. If this meeting and report do not materialize, I think we must deem there is no such general interest in the subject as was supposed, or else conclude it is inadvisable to appoint so representative a committee so widely scattered. I am sure that the failure so far to obtain a satisfactory meeting is in no measure due to lack of effort on Mr. Ray's part.

With best wishes for a large and satisfactory meeting and again expressing my appreciation of those who cheerfully have done some of the work I wished, but was unable, to do and of the many courtesies and good wishes I have received from the members during the year.

Respectfully,

WILLIAM D. BAILEY,
President.

THE CHAIRMAN: It will be taken for granted as the wish of the Association that Mr. Bailey's letter will find itself in the annual report. I think it is appropriate at this time that some resolution or expression on the part of the members, of regret because of the absence of our president should be made and I will call upon Mr. Shearer.

MR. SHEARER: Mr. President I suggest that in view of President Bailey's illness and inability to be present at this meeting that the following resolution be adopted:

"Whereas the President of this Association, W. D. Bailey of Duluth, is unable to be present at this annual meeting on account of illness, therefore, be it resolved that the members of this Association commend Mr. Bailey's faithful services as President and that the Secretary of the Association be directed to send a letter to President Bailey expressing our regret for his illness and our hope for his speedy recovery."

I move the adoption of the resolution.

MR. ROME G. BROWN: Motion seconded. Motion put and carried unanimously.

THE CHAIRMAN: It was a part of our program this morning to have an address by Governor Preus, on how to prevent crime. As you all know, Governor Preus has made a good deal of a study and effort in the establishment of what we call a state constabulary and he was very anxious to be here and deliver an address on that subject for the purpose of getting the Bar of the state to co-operate with him in that

effort. At the last moment he was obliged to cancel his engagement to be here this morning and he has written a letter to the secretary which I think ought to be read.

Secretary Caldwell read a letter from Governor Preus printed on page 100.

THE CHAIRMAN: It will be taken as the wish of this Association that the governor's letter will be made a part of the report of the Association and that the thanks of the Association be extended to the governor for his letter.

It is a matter of legend I understand for the Chair to appoint a committee to nominate a Board of Governors and pursuant to that custom I will make the announcement now of the appointment so that the committee may have plenty of time to consider the candidates for the Board of Governors for the ensuing year. On that committee I will appoint George W. Buffington of Minneapolis, Senator Putnam of Blue Earth and Bruce W. Sanborn of St. Paul.

It is usual to have a committee of two to audit the treasurer's account, and I will appoint at this time Royal A. Stone of St. Paul and Herbert T. Park of Minneapolis. I have an appointment in a few minutes to meet Senator Beveridge and it will be necessary for me to leave the Chair, and in doing so I will call on Judge Buffington to preside in my absence.

At this point Judge Buffington took the Chair.

JUDGE BUFFINGTON (in the chair): Mayor Leach said that lawyers were politicians. I know of one lawyer that is not much of a politician (laughter). But I suppose a mere judge can preside over the deliberations of this Association and I know nothing in the constitution to prevent that, in view of the fact that that one is a member for life. The next on the program will be the report of the Special Committee on the Abolition of Grand Juries in ordinary Criminal Cases. Mr. Thompson is not here. We will pass that for the present and take up the report of the Library Committee.

REPORT OF COMMITTEE ON STATE LIBRARY

July 8, 1922.

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, contains 90,540 bound volumes and approximately 2300 pamphlets including United States and State documents. The current accession for this year numbers approximately 1,599 volumes.

These volumes were received from the following sources:

By purchase	729
From the United States Government	211
Exchanges from other States	490
Exchanges from Foreign Countries	17
Minnesota Laws, Records, Briefs, etc.	89
Miscellaneous Donations	63
Total	1599

The Library is supported entirely by State appropriations, and its financial statement as to income for support, salaries, and disbursements for the year ending January 1st, 1922, is as follows:

For Salaries.

Librarian	$3000.00
Assistant Librarian	2500.00
Second Assistant Librarian	1500.00
Library Clerks	1200.00

Fund for Purchase of Books and Binding.

Cash on hand January 7th, 1921	$1071.97	
Special Appropriation, 1921 Session	1200.00	
Annual Appropriation, July 1st, 1921	8000.00	$10,270.97
Paid out for books and binding	7084.87	
Balance, January 2nd, 1922	3185.82	
Canceled by State Auditor	.18	$10,270.97

Fund for Contingent Expenses.

Cash on hand January 7th, 1921	$ 226.69	
By Special Appropriation 1921 Session	300.00	
Annual Appropriation, July 1st, 1921	3000.00	$3526.69
Amount expended	$2553.30	
Balance January 2nd, 1922	973.20	
Canceled by State Auditor	.19	$3526.69

The Legislature of 1920 increased a standing appropriation for the Books and Binding Fund from $6,500 to $8,000.

Owing to the fact that there has been little binding done for several years, a great accumulation of book binding and rebinding of old volumes was found at the beginning of the year to be necessary. There was not sufficient funds available to relieve the situation entirely, and there still is a vast amount of library material not available because not in proper shape for use.

Several changes in the arrangement of the Library have been inaugurated during the past year, the most outstanding one being the assembling of textbooks under subjects instead of authors. This has met with the approval of the Bench and Bar as well as others who have had occasion to use the Library.

The Library is now properly located in its new quarters, commodious and convenient as to space and location. The next step should be to increase its Support Fund so as to secure its normal growth and bind up all material so as to make the entire Library available. It should be the privilege and pleasure of the Bar to bring its influence to bear on the Legislature to this end.

CLIFFORD L. HILTON,
JAMES E. MARKHAM,
OSCAR HALLAM,
JAMES PAIGE, *Chairman*,
Committee.

MR. JAMES PAIGE: The committee's formal report is printed here and I do not think it is necessary to read it. I propose its adoption as printed in the records. Motion seconded and carried.

THE CHAIRMAN: Next is the report of the committee on Uniform State Laws.

REPORT OF COMMITTEE ON UNIFORM STATE LAWS

To the Minnesota State Bar Association:

Your committee on Uniform State Laws respectfully submits the twelfth annual report of this committee:

Use of Uniform State Laws

Minnesota now has in force seven of the Uniform Commercial Acts, which are identical with like acts in force and effect in a large number of other states. The acts, the date of their enactment in Minnesota, and the number of states in which they are in force, are as follows:

Uniform Negotiable Instruments Act, passed in Minnesota in 1913, adopted in forty-seven states (all except Georgia).

Uniform Warehouse Receipts Act, passed in Minnesota in 1913 and adopted in forty-four states.

Uniform Sales Act, passed in Minnesota in 1917 and adopted in twenty-four states.

Uniform Bills of Lading Act, passed in Minnesota in 1917 and adopted in twenty-three states.

Uniform Limited Partnership Act, passed in Minnesota in 1919 and adopted in ten states.

Uniform Partnership Act, passed in Minnesota in 1921 and adopted in twelve states.

Uniform Fradulent Conveyance Act, passed in Minnesota in 1921 and adopted in eleven states.

This statement of the number of states passing these acts does not adequately indicate the importance of the uniform acts in Minnesota, since it is the larger commercial states and the states in which people in Minnesota chiefly transact business, that have adopted the acts in greatest number. Illinois, Wisconsin, Michigan, South Dakota, Iowa, New York, Pennsylvania, and Ohio have passed all or nearly all of these acts, while North Dakota and Montana have a number of them in force. It is largely the southern states and some of the far western states that do not have most of these commercial acts.

How many lawyers realize that the law of sales and partnership is conveniently codified in a uniform act in Minnesota, as well as the law of bills and notes and warehouse receipts, and that a problem arising in any of these large fields of law generally involves the construction of a section of a uniform law? How many realize that the law whether or not a conveyance by a debtor of his property can be set aside by creditors, is found in detail in a uniform act which introduces somewhat stricter rules against fradulent conveyances than formerly existed? How many make full use of these logically arranged and clearly worded acts in the solution of legal points that arise? How many realize that the uniform act which they may have to construe is in force in a large number of other states, and that the decisions of those states have a binding force on the construction of the law in Minnesota, and supersede decisions of the Minnesota court rendered on the common law before the act took effect. and realize that it is not necessary to wait for the Minnesota court to interpret a uniform act, since the interpretation of the court of other states is authoritative by the terms of the act itself? How many realize that there is statutory authority for citing these acts by their short names, as "Uniform Sales Act," etc., instead of "Ch. 465, Laws of 1917," etc. How many lawyers in their correspondence with persons outside the state, or in their briefs, and how many judges in their decisions, cite the provisions of these acts as a section of a uniform act as well as a section of the state statute—Sec. 52, Uniform Negotiable Instruments Act, instead of or in addition to G. S. 1913, Sec. 5864? For instance, in *Torgerson vs. Ohnstad,* 149 Minn. 46, the name of the act is given, but not its section number. It is believed that to a large extent the importance and purpose of our uniform acts have not been generally or fully realized, and that the acts are not so completely understood and so used as to derive the full benefit of the advantages and conveniences that they offer.

It is the intent of these acts to make the law uniform not only through identical wording of the statutes in the various states, but also through uniform judicial decisions, construing the acts. In nearly all the acts

it is expressly declared that "The act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it;" and in such act or acts as do not contain this express provision the obvious purpose and rule of construction is the same. It is, therefore, an obligation of the courts, where there are decisions in other states on some point interpreting such an act, to follow those decisions, by reason of the purpose of the acts and the rule of construction expressly laid down therein by the Legislature.

The uniform acts expressly provide that they may be cited as the "Uniform Sales Act," "Uniform Partnership Act," etc. Not only are the acts identical in language in the different states, but the same section numbers are preserved. This is very important. It is to be hoped that the rule may be recognized by lawyers and judges to cite and refer to the sections of the uniform acts as Sec. 52 Uniform Negotiable Instruments Act, etc. If the section of the general statutes is desirable, let it be in addition to the citation of the uniform act but never exclusive of it. When a lawyer talks about Sec. 52 Uniform Negotiable Instruments Act, every other lawyer in the United States knows what he is talking about. Such a citation is widely understood; and it is permanent. The general statute citation is not understood outside of the state, and is not readily understood within the state after the next compilation of the statutes. It remains easily intelligible perhaps ten years. The citation to a section of a uniform act lasts indefinitely, as the chance of any serious modification or change of section numbers is very small. The justices of the supreme court will render a great benefit if in their decisions they refer to the sections of the uniform act, describing the act by its short name. These decisions are read throughout the United States and also by future generations. Only by such citations can the decisions be readily understood; and in this manner the cause of uniformity of judicial decisions will be promoted. It is a great convenience for judges and lawyers in Minnesota in reading the decisions in other states, to find that they refer to the sections of the uniform acts. Reciprocity would lead our courts likewise to refer to the sections of such an act. We note that some of the justices refer to the Uniform Acts by their short names.

The General Statutes 1913, unfortunately, do not refer directly to the sections of the uniform act. The section number of the act can only be ascertained by looking at the end of the section to see what numbered section it is of a certain chapter of the session laws of a certain year. This section number is the same as the section number of the uniform act. It is to be hoped that in the next compilation of our state statutes this will be remedied. For instance, the heading of G. S. 1913, Sec. 5864 should be "5864-52 N. I. A." or something similar. The Minnesota Digest likewise should refer to sections of the uniform act and to leading cases in other states interpreting it, especially cases found in the Northwestern Reporter, American Law Reports, and other collections of cases of other states generally distributed in this state. The annotations to the sections of the Uniform Acts in the General Statutes, should likewise cite the decisions of other states.

In our statutes we have certain acts which have an identity of their own. They are part of the statutes, but they are something more, they are uniform acts, part of the commercial code of the nation; and they may to advantage be thought of, talked of and cited in a manner to reveal their distinctive character and usefulness.

Table of States Having Uniform Acts

There are many occasions when a lawyer has a problem of commercial law involving the law of some state other than Minnesota, some interstate transaction, and wishes to know if the other state has the uniform act and the same law as ours. Or again, he may have occasion to investigate the meaning of one of the uniform acts we have adopted in Minnesota, and desires to know what other states have the same act, and

whose decisions would be in point. The table printed on the inserted sheet shows the states in which each of the uniform commercial acts have been enacted, and the year of their passage. The form of table was originally invented by S. R. Child, Minneapolis, and admirably serves the purpose of a compact statement for ready reference. It can be removed and pasted on a card or on the inside cover of the General Statutes, as there may be many occasions to consult it. It is believed that it will serve a useful purpose.

The importance of the uniform acts for lawyers is illustrated by the fact that Edward Thompson Company, Northport, N. Y., is publishing them in a series of volumes, entitled "Uniform Laws Annotated," giving lengthy notes to the various sections, and citation of cases decided under the provisions of the acts in the different states.

National Conference of Uniform State Laws

The National Conference in 1921 did not adopt any new uniform acts, but reported substantial progress on a number of important drafts of acts, which have been before it for some time; and it is to be expected that several of these will be adopted within a year or two. These include the Incorporation Act and Declaratory Judgment Act.

A beginning has been made on other uniform acts, including the Aviation Act, Fiducaries Act, and Mortgage Act. The first report of the Committee on a Uniform Mortgage Law was accepted and approved. and the draft of the Act referred back for further report. The Uniform Mortgage Act is one of the most important that the Conference has considered up to date. The credit for this act thus far belongs to Minnesota, for its planning and drafting have taken place in this state, S. R. Child, Chairman of the Committee, and Donald Bridgman, Draftsman, being both of Minneapolis. The draft for a Uniform Mortgage Act follows in general the Minnesota law on foreclosure by advertisement, as being the simplest method which at the same time protects both parties to the mortgage. A Uniform Mortgage Act involves special difficulties on account of the great diversity of foreclosure methods in the states, and the fact that a field of law is involved different from that in which most of the uniform acts are found. It concerns the law of real property.

Uniform Acts for Minnesota

There are a number of the uniform acts which have not yet been passed in Minnesota. Among these are the Uniform Stock Transfer Act and the Uniform Act for Extradition of Persons of Unsound Mind.

The Uniform Stock Transfer Act makes certificates of stock negotiable in the same manner that the Uniform Warehouse Receipts Act and Uniform Bills of Lading Act have already made warehouse receipts and bills of lading negotiable in Minnesota; and it adopts the same advanced commercial or mercantile view of certificates of stock that the other two acts mentioned adopt with regard to warehouse receipts and bills of lading. The Uniform Stock Transfer Act thus co-ordinates with the uniform acts just mentioned which have already been adopted in Minnesota; and its passage will complete this series of uniform acts, and will bring the law of Minnesota on this subject in harmony with that of most of the important commercial states.

The Uniform Act for the Extradition of Persons of Unsound Mind passed the House in 1917 and again in 1919. By providing a method of returning insane persons to the state from which they have escaped, it incidentally relieves this state of the expense of their care.

These acts have been previously recommended by this Association for passage; and in view of the coming session of Legislature this winter it is asked that they be again recommended. It is believed that the beneficial effect of the Uniform acts already adopted justifies the desire that additional uniform acts be adopted.

It is to be hoped that the appropriation for the Uniform State Law Commission granted by past Legislatures will be renewed at this session

of the Legislature. The three commissioners gave their services without charge, the appropriation being for expenses and for Minnesota's contribution to the National Conference to aid in carrying on its work, other states likewise contributing. The American Bar Association makes a large contribution each year to the same cause. The item is a small one, especially considering the benefits derived, but is important for the proper carrying on of the movement for uniform state laws. The American Bar Association has thus far approved all the Uniform Acts; and its members are pledged to procuring their adoption in all the states.

RESOLUTIONS

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 especially of the Uniform Acts, the Uniform Stock Transfer Act and the Uniform Act for the Extradition of Persons of Unsound Mind.

We also recommend the following resolution:

Whereas, it is important for the cause of Uniform State Laws, that the uniform acts be uniformly interpreted by the courts of the states where they are enacted, and

Whereas, it is a great aid toward such uniformity of judicial decisions, and also is a great advantage and convenience in the use of the uniform acts and in the study of decisions interpreting such acts, both as between different states having the same uniform acts, and also for the better understanding and application of the law within a single state, that lawyers and judges, when points of law arise in connection with bills and notes, sales of goods, partnership or other branch of law covered by a uniform act, should refer to the provisions of the uniform act which govern the points in question, mentioning the act by name, and should cite the section number of the uniform act (which is the same in all states and will remain the same), as well as the section number of the general statutes or chapter of the session laws of the state, (which apply only in one state, and change with the next compilation of the state laws), and

Whereas, like reference to the uniform acts by name, and to the sections thereof, by publishers of the Minnesota Statutes and Digest, and of reports, compilations of cases and other legal publications, would be a great convenience to the members of the bar, and promote the cause of uniform state laws:

Be It Resolved, by the Minnesota State Bar Association, that it recommends, that the lawyers of the state in their correspondence, briefs and elsewhere in discussing points arising under the law of bills and notes, sales, partnership or other subjects covered by a uniform act, refer to each uniform act by its short name, and to its provisions by the section number of such act; that likewise the Bar Association express its sense of the importance of the judges in their decisions make a like reference to the short name of the uniform acts, on points arising thereunder, and to the section numbers of such acts, in addition to citation of the section of the state statutes, believing that thereby the conveniences and advantages of the uniform acts will be more fully realized;

Resolved, that it would be beneficial if in future compilations of the state statutes, the uniform acts were distinguished and their section numbers identified by printing at the beginning of each section of such an act, in addition to the section number of the statutes, also the section number and the initials of the uniform act, thus "5864-52 N. I. A.", there being authority by law citing the uniform acts by their short names; and that it would also be a great advantage if in such future compilations, the annotations under each section of the uniform acts cited decisions in other states.

Resolved, that the Minnesota Digest would be of greater usefulness if in its future editions it refers to the sections of the uniform acts, and includes in its citation of cases, leading cases in other states interpreting the sections of such acts on matters not covered by Minnesota decisions,

especially such cases as may be found in the Northwestern Reporter and in such complications of cases of the different states as are generally distributed in Minnesota;

Resolved, that it would be a convenience if the Northwestern Reporter would include, in the reports of cases in the different states rendered under the uniform acts, a reference to such act by its short name, and to its section number, where the same is not otherwise noted in the decision, thus rendering the reports more intelligible to lawyers of other states, and

Resolved, that a copy of this resolution be sent to the secretary of each of the justices of the supreme court and to the judges of the district courts of Minnesota, to the West Publishing Company, to the editors of the Minnesota Digest, and to the publishers of such compilations of cases as are generally distributed in Minnesota.

Respectfully submitted,

DONALD E. BRIDGMAN, Minneapolis,
HENRY N. BENSON, St. Peter,
THAYER C. BAILEY, Bemidji,
Committee.

MR. HENRY N. BENSON (St. Peter): Mr. Donald E. Bridgman of Minneapolis, who is the chairman of your committee, is unable to be present. I am a member of the committee and he asked me to present the report of this committee at this time. The report of the committee on Uniform State Laws in printed on page 15 of the advance sheets and I take it that the members of this Association have already read this report. The committee makes two recommendations and asks for resolutions of adoption and those are found on pages 18, 19 and 20. It will not be necessary to read the entire report, but I would like to read the resolution on page 19, at the request of Mr. Bridgman: (The resolutions recommended by the Committee were read.)

I would like to move the adoption of the first Resolution as read. Motion seconded, put and carried.

MR. BENSON: I move the adoption of the second Resolution as read. Motion seconded, put and carried.

MR. BENSON: I move that the report be adopted. Motion seconded put and carried.

THE CHAIRMAN: The next order of business is the report of the Membership Committee. The secretary has the report.

MR. CALDWELL: Mr. Currie has been called away and unable to be here until later in the day and I will read this.

REPORT OF THE MEMBERSHIP COMMITTEE

W. D. Bailey, President
Minnesota State Bar Association.
Dear Sir:

Your Membership Committee begs leave to submit the following report:

Mr. James J. Quigley, Chairman of the Membership Committee, tendered his resignation early in June, on account of ill health, and the President of the Association requested me, as Treasurer, to assume the duties of the chairmanship of this committee.

Owing to the fact that the annual meeting was so close at hand, the Membership Committee confined itself largely to the collection of delinquent dues of the Association, and has succeeded in collecting the sum of $548.00, and in getting the following new members:

Joseph W. Finley, St. Paul
Albert B. Clarfield, Duluth
Felix E. Moses, Minneapolis
Harold W. Rogers, Minneapolis
Tracy J. Peycke, Minneapolis
Edward Lindquist, Olivia
James G. Mott, Worthington
P. J. Nelson, Anoka
F. B. Kalash, Lakefield
Cleon Headley, St. Paul

I would suggest that an active campaign be put on for members in our Association and invitations be extended to members of the graduating classes of the University Law School and the St. Paul College of Law each year.

Respectfully yours,
ROY H. CURRIE,
Chairman Membership Committee.

THE CHAIRMAN: What is the pleasure of the Association in connection with this report? Unless I hear to the contrary the report will be adopted. It is adopted.

The next order of business is the report of the Committee on Noteworthy Changes in Statutory Law.

REPORT OF COMMITTEE ON NOTEWORTHY CHANGES IN STATUTE LAW

The Special Committee on Noteworthy Changes in Statutory Law submits the following report:

The Legislature not being in session, it was thought advisable, in accordance with a suggestion from the president of the association, for the committee to study some of the recent statutes of other states with a view to bringing to the attention of the members of the Association such matters as might be of particular interest as affecting the development of the law in this state. It was, of course, impossible to make an extensive search because of the amount of material. The committee therefore, concentrated attention on one particular subject which has received legislative consideration within the last few years in three of the larger and important states. This involves the revision or consolidation of statutes and keeping the compilation of statutes up to date.

REVISION OF STATUTES IN PENNSYLVANIA

Several years ago, Pennsylvania created what is designated as the "Legislative Reference Bureau." The laws of Pennsylvania, 1921, page 81, continue the Bureau and to some extent adds to its activities. There is a director or chief of the Bureau and who is versed in the legislative procedure and parlimentary practice, and who shall, when called upon, be ex-officio advisor of the General Assembly. There is an assistant director, learned in the law, who is a skilled bill drafter, and several compilers and bill drafters, search clerks, stenographers. The director must prepare, and have available for use, indices of Pennsylvania laws, digests of such public laws of this and other states as may be of use for legislative information, records and files of all bills and resolutions presented in either branch of the General Assembly, loose leaf files of acts of Assembly, catalogued files of such reports of departments, boards, and commissions, and other public documents of this state, as well as general books and pamphlets, as pertain to the work and service of the bureau, files of newspapers and periodical clippings, and of such other printed matter as may be proper for the purposes of the bureau. The director must, when requested by the Governor, heads of departments, or members of the General Assembly, promptly procure available information, not on file in the bureau, relating to legislation of other states, and investigate the manner in which laws have operated. From time to time must prepare and publish such bulletins, pamphlets, and circulars, containing information collected by the bureau, and such compilations of this or of other states, as he shall deem to be of service to the governor, the several departments of the state government, the members of the

General Assembly, and the citizens of the commonwealth. From time to time he must cause to be prepared, for adoption or rejection by the General Assembly, codes, by topics, of the existing general statutes, arranged by chapters or articles and sections under suitable headings, and he shall add thereto lists of statutes of the existing law to be repealed. He must assist in or supervise, when called upon by any proper authority, or when directed by the General Assembly so to do, the compilation and preparation of any general revision and codification of the existing laws of the commonwealth.

With the aid of the Legislative Reference Bureau the revision and consolidation of the statutes of Pennsylvania have been proceeding. The Legislative Reference Bureau, under the authority thus vested in it, has drafted several codes and revisions of various chapters and titles of the Pennsylvania statutes, and these have been adopted or modified by the Legislature of Pennsylvania and are now embodied in the statutes of the state.

Wisconsin Plan of Handling Statutes

In Wisconsin, several years ago, there was created, under legislative authority, the office of a revisor of statutes. The revisor is charged with the duty of formulating and preparing a plan for the classification, printing and binding of the statutes, and, between and during the sessions, he is charged with the duty to prepare and, at the beginning of each session, to present to the judiciary committee of the Senate, in such bill or bills as may be thought best, such consolidation, revision and other matter relating to the statutes or any portion thereof as can be completed from time to time. The revisor is authorized to renumber any chapter or section for the purpose of revision, and to change reference numbers to agree with any renumbered chapter or section. See Wisconsin Statutes, 1921, 43.08.

Massachussetts Plan of Continuous Consolidation of Statutes

A general consolidation and revision of the general laws of Massachusetts was adopted by the Legislature of 1920 under the title "General Laws of Massachusetts 1921." At the extra session of 1920, called for the purpose of adopting the general laws, the speaker of the House, at the opening of the session, urged that the suggestion of the commission which had just prepared the General Laws of 1921 be adopted, namely, a plan for continued systematic revision and consolidation of statutes, because, as it was urged, the plan of revision and consolidation by commissions was unsatisfactory, in that it involved delay and enormous expense, the work having lasted over six years, at an expenditure of a half a million dollars, and that as a result of the whole consideration of the subject of revision of statutes, the General Court enacted an act entitled "An act to provide for the continuous consolidation of the general laws." This now appears as section 51-55 of Chapter 3 of the General Laws of 1921. This act has for its object the avoidance of the necessity of any new consolidation or revision of the statutes in the future, by having all new legislation enacted in such form that it will automatically take its proper place in the General Laws of 1921. To facilitate such formulation of new legislation and such continuous consolidation or revision, provision has been made for the appointment of permanent counsel to the Senate and to the House of Representatives, respectively, these officers being charged with the duty of preparing annually a table of changes in the general statutes and index to the acts and resolves of the Legislature; with the duty of, from time to time, consolidating and incorporating in the General Laws of 1921 all new general statutes; with the duty of assisting members and committees of the Legislature in drafting bills, specific provision being made that, so far as possible, such counsel shall draft all bills proposed for enactment as general statutes in the form of specific amendments of, or additions to, the general laws.

Such counsel are given authority to submit, from time to time, to the General Court such proposed changes or corrections in the general statutes as they may deem necessary or advisable, and they are required, as early as practicable after prorogation of the Legislature, to file in the office of the state secretary a copy of all amendments and additions to the general laws. At the session of 1921 this plan was carried out to the letter. Every general act of 1921 can be clipped from Blue Book or session laws and inserted in its proper final location among the general laws as printed. Thus under this plan of continuous consolidation there is always available in the General Laws of 1921 and the several Blue Books one official compilation of all statutes of general application. At suitable intervals, say every ten years, the plan is to reprint, in a single set of books, eliminating the Blue Books, this official compilation as corrected each year by the counsel above referred to, with a permanent index, also corrected to date. To serve the convenience of lawyers in the interval between such reprintings, it has been arranged that a loose leaf edition of the General Laws be printed, thus enabling members of the bar to have on hand at all times, in a single set of books, all of the general statutes of the state.

It seems evident that the complete success of this plan will depend to a large extent, upon the ability and clear-sightedness of the counsel chosen to advise the Legislature. Ordinarily a member of the Legislature, in pressing for the adoption of a particular piece of legislation, is primarily and principally concerned in so framing the proposed bill that it will be most effective in securing the desired object. His knowledge of the existing statutes, or his previous training, will frequently not be sufficient to enable him clearly to discern the effect of the new legislation upon the old, and he concerns himself not at all with proper place in the general body of the statutes of the statute which he wishes enacted. To make the plan of continuous consolidation a success there must be at hand an expert advice and special ability along particular lines. The persons giving such assistance to committees of the Legislature in framing new legislation should be able lawyers with the discipline of mind that this implies. They should, further, be familiar not only with the entire body of the general statutes but with the history of these statutes, and should have the ability (which not every lawyer possesses) of the trained scientific investigator to classify the objects of investigation and to fit each new statute into the general scheme of statutory law so as best to serve the convenience of the bench and bar. Given these conditions, and a consolidation and revision of all the general statutes of the state, worked out on scientific principles, there seems to be no reason why the plan of continuous consolidation cannot be made available to incorporate all future legislation of a general character and to eliminate the great expense and inconvenience of any further revision or consolidation of the general laws.

In carrying out the plan of continuous revision or consolidation, the question of numbering becomes important. The revisor in Wisconsin, at the instance of the Legislature, has, in numbering sections, adopted the decimal system. That is arabic figures are used to designate both chapter and section, a whole number being used to donate the chapter and a decimal to indicate the section. Thus a given chapter and section may read 24.13. This plan has the advantage of avoiding the constant repetition of the word "section," and is more convenient for the purpose of reference than the ordinary method of numbering.

Under the Wisconsin plan, the revision is piecemeal, as the official revisor finds time and opportunity, and apparently it is proposed to print each year in full the general statutes as they exist down to the date of publication.

Application of Plan in Minnesota

Your committee, therefore, submits whether or not the time has not come when the question of the revision and compilation of the stat-

utes of Minnesota should not be handled in some such way as obtains in Massachusetts, Pennsylvania or Wisconsin. Your committee, therefore, recommends that the chairman of the association appoint a committee to study the question with a view to embodying recommendations to the next Legislature for appropriate action.

JAMES E. DORSEY,
L. D. BARNARD,
HENRY E. RANDALL, *Chairman.*
Committee.

MR. H. E. RANDALL: Mr. Bailey asked me to act as chairman of this committee. It being an off year, so far as the Minnesota legislature is concerned, the legislature not being in session, Mr. Bailey, the very able and accommodating President of the Association, who took so much interest in carrying out the work in the past year, and whose illness we so deeply regret, then told me he thought it would be of assistance to the members of the Association if the committee should study certain questions of statutory law in other states, leaving the committee to select the subject. Well, of course that is a very large order,—the forty-seven states turning out legislation at the rate they do, it was impossible to do anything except to hit the high spots. Being interested in the subject of statutory revision at this time, I suggested to the members of the committee a study of the question and we went into the legislation that had taken place in the last few years in three of the most important states, bearing upon this subject of revising the statutes and the consolidation of statutes. You all, as lawyers, know the extreme difficulty that usually confronts a lawyer in keeping up with the statutes and keeping up with any revision or compilation of any statutes. Now it is a fact that the other states, notably Pennsylvania, Wisconsin and Massachusetts, have had this question very much at heart and have solved it in a measure; and we thought it would be of interest and value to the profession to bring to the attention of this Association the solution which they have arrived at. You have seen the report that the committee has made, it is printed on pages 29, 30, 31 and 32 of the advance sheets and it is not necessary for me to read it in detail. But I wish you would all read it because it embodies very valuable information and it is necessary that the lawyers of this state shall understand the situation presented and the solution that is worked out. For instance, in Pennsylvania for several years they have had what is designated as a legislative reference bureau. Now that, in a way works in with the report of the Committee on Jurisprudence and Law Reform of this Association, and it has been thought that a professor of the state university would be set aside or would be designated to study questions of drafting of bills for the legislature and in a way also have in mind the co-ordination of the statutes.

Passing that by, simply saying that it seems that the same plan might be worked out in this state as was worked out in Pennsylvania, either in connection with the law school or in connection with the attorney general's office of this state, or a new office created which would have this particularly in mind. The way it is worked in Penn-

sylvania, as I understand it, is that the Legislative Reference Bureau is working all the time, and especially when the legislature is in session, in co-ordination of the laws, indexing them, presenting to the legislature and its committee the result of their investigations, so that the judiciary committee of the House or the Senate does not have to do all the work of investigating. Some of that is done to some extent now in Minnesota, but it has not worked out in detail as far as it has in Pennsylvania. They have as a member of this Legislative Reference Bureau the assistant director, who is a skilled lawyer and draftsman, who is working continuously on revisions of the statutes piecemeal,—by titles and topics,—not attempting, of course, to revise all the statutes at once, but methodically by chapters and titles and presenting the result to the legislature. When he has finished his work he mulls over it and goes over it and usually the result has been its adoption. That is one plan that is pursued in Pennsylvania. Now in Wisconsin they have created under legislative authority the office of revisor of statutes. The task is one similar to that I have designated and what is accomplished by the Reference Bureau in Pennsylvania, except that he has had the onerous task, at the end of every biennial session to take what session laws passed at the last session, read them and compile them and put them into the existing statute book in Wisconsin and publish the result almost immediately.

The result has been that it has worked out fairly satisfactorily, but not altogether satisfactorily, so far as I understand the situation. Anyone who has had to do with the mechanics of handling a mass of statutes and trying to get new laws fitted into the existing compilation or revision and numbering sections without losing himself in a mass of a's and b's and c' and d's and double a's and so forth, knows what a task it is; and the revisor in Wisconsin in a measure fell down. I have had lawyers in St. Paul ask me, after they have found a section in the Wisconsin statute book, in the index with reference thereto, to find it in the statutes themselves, it was so intricate.

But now the revisor has taken a method of renumbering and revising statutes piecemeal and the result is being published from time to time, partial revision having resulted in this last compilation, the last publication.

I could not say that the results have been altogether satisfactory, from my observation in Wisconsin, but it is a method along the right track. Mr. Nash was the official revisor, and afterwards one of the judges of the supreme court succeeded him,—and he is now on the bench,—they are very able men and have not had sufficient facilities or support from the legislature to accomplish their task absolutely, but I think they will in process of time.

The most interesting development is in Massachusetts. The report covers that plan. Massachusetts is one of the models in several respects, in its supreme judicial court, its records, and, in a way, its statutes. The history of the state has been that somewhere about eighteen or twenty years ago an attempt was made really to revise the statutes by carefully considering all the statute laws and weave

them into a coherent plan and I am bound to say, from long and protracted study of the statutes, the revision of the statutes and the consolidation of statutes, that it has been as satisfactory in Massachusetts as anywhere until the consolidated laws of New York, which were published a few years ago. But with all that, Massachusetts has come to the conclusion that they are engaged in an impossible task or in a task that takes too long and is too awkward to attempt complete revision of the statutes at intervals, and after the statutes of 1920 had been adopted, Mr. Benjamin Loring, the speaker of the House, who was one of the commissioners, moved and had passed in the legislature a plan for the continuous consolidation of the statutes. He called attention to the fact that this last revision that was published had taken a hard-working commission of several men six years to do the work; that it had cost the state half a million dollars; that in the meantime, until the result was published, lawyers and the laity knew not definitely what the existing statute law was. He therefore recommended, and the legislature passed an act which you will find referred to in the report; and it provides for the continuous consolidation of the statutes by having what it called two counselors, one of the House and one of the Senate, who are continually working and studying and keeping the statutes up to date.

Now, the plan, as I understand it, is that whenever proposed legislation is attempted in the House or the Senate, these counselors work on the bills and draft them so as to fit into the existing statutes, and if any existing statutes are repealed or in any way affected, it is referred to; so that lawyers and judges know what the legislature is aiming at.

As I said, these men are designated as counselors, one from the House and one from the Senate; and, in a measure, Mr. Loring writes me, it results in these offices being somewhat political; but as a matter of fact the result has been that they have had very competent men, and that at the last session of the Massachusetts legislature almost all the acts were passed in form so that you knew exactly where they fit into the existing law and paste it in its compilation or revision and there he has the whole thing so that there is no question as to what the latest legislation is on the subject.

This is the plan adopted in Massachusetts and of course it has only been tested a couple of years, but it looks like a fairly workable plan.

Now all this is by way of preliminary by the committee, with a view of bringing it to your attention. The committee were very modest in their recommendation. I will read the resolution that they propose for your adoption which you may act upon as you see fit.

"Your committee, therefore, submits whether or not the time has not come when the question of the revision and compilation of the statutes of Minnesota should not be handled in some such way as obtains in Massachusetts, Pennsylvania or Wisconsin. Your committee, therefore, recommends that the chairman of the Association appoint a committee to study the question with a view to embodying recommendations to the next legislature for appropriate action."

I move the adoption of that resolution.

THE CHAIRMAN: You have listened to the very interesting report of this committee as presented by Mr. Randall. You are now asked to take action upon the recommendation or resolution contained in the report as read by Mr. Randall.

MR. MERCER: May I move an amendment, that the Chair continue the same committee for the purposes recommended? Motion seconded.

MR. RANDALL: Now if you will permit me to address the Chair again I question whether it would be wise to have the same committee appointed although I would be perfectly willing myself to serve upon it, and I suppose Mr. Dorsey or Mr. Barnard would, too. I have not been able to see any of them present at this meeting, but I think we ought to have a fairly representative, or perhaps a larger committee to affect the Legislature. It is hard to get these gentlemen together into action. I had a hard time getting Mr. Barnard there, and Mr. Dorsey cames away from the western part of the state in order to attend the meeting.

THE CHAIRMAN: I think I may be pardoned if I suggest to the members of the Association that it has been the experience of officers of the Association that no better man could be procured as chairman of this particular committee than Mr. Randall and if it is desired that the personnel of the committee be changed by having members other than Mr. Randall, that can be arranged by the appointment of such members by the incoming president.

Mr. Mercer's motion seconded.

Question of Mr. Mercer's amendment put and carried.

THE CHAIRMAN: The matter now refers back to the original motion that the report of the committee as read be adopted and amended.

Motion put and carried.

THE CHAIRMAN: The report is accepted as amended. The Chair sticks by Mr. Randall. It seems to be the consensus of opinion that Mr. Randall remain as chairman of this particular committee, and if it is desired the other two members shall be chosen by the incoming president.

MR. SHEARER: May I ask the chairman of that committee a question which I hope he can answer and I think he can. I have been curious for a good many years to know about the Wisconsin method. The chairman of the committee said that it had worked pretty well but I would like to know in what respect it has not worked well, if he knows, whether it is inaccuracies on account of hasty work, or what it is.

MR. RANDALL: No, I think it has worked fairly well, but I have heard criticisms of members of the Bar in Wisconsin and here owing to the fact that the revisor has got to publish the results,—he has got to republish the statutes every two years, and he has got to take a bite of the session laws and get them together so as to get it to the printer in very short order,—and that it has resulted, especially in the numbering of sections,—in some confusion. They are required to bind statutes over again every two years and there is a criticism that the price is too large. I have forgotten what the charge is, it is not very

large, about five dollars I think, so the criticism perhaps is rather forced, but the result has been, Mr. Shearer, that Mr. Lyman J. Nash, who was the revisor, was replaced by another revisor (for what reason I don't know) who afterwards became one of the supreme court judges and was a very capable man. I don't know who is the revisor now, but they are trying now to revise their revision as they go along.

THE CHAIRMAN: Any further discussion on this report? The Chair observes that we have some time before noon and we have accomplished listening to the reports of various committes assigned for this morning with the exception of the report of the Special Committee on the Abolition of Grand Juries in Ordinary Criminal Cases. The Secretary has here this package containing some data or reports of this particular committee, there being a minority and majority report of members of this committee on this question. Is Mr. Horace Roberts here?

MR. WILLIAM ROBERTS: I don't believe he will be here.

THE CHAIRMAN: I understand Mr. Thompson is in Europe and Mr. Warren E. Greene will be here later. I think the committee is an important one and the subject is an important one and I trust some member of the committee will be here to present the report so that there may be a full discussion and so that the people will understand that the lawyers are interested in this question and that we may get the judgment and advice and work of the men who have been in this work.

Adjourned until 2 P. M.

August 31st, 2 P.M.

Meeting called to order by the secretary who announced the program.

JUDGE LANCASTER (in the chair):

Ladies and Gentlemen: Early in the spring, Mr. Bailey, President of our Association, began negotiations, I may say, to secure the author of the Life of John Marshall to address us on this occasion, and wrote me shortly afterwards that he had failed. A little later on, through the kind offices and assistance of Judge Fesler of Duluth, he was able to re-open negotiations and finally secured the Senator to address us today. It would seem very proper that there be called to the Chair to preside at this meeting and to introduce the speaker, Honorable Albert Fesler of Duluth.

JUDGE FESLER at this point, took the chair.

JUDGE FESLER: It is rather difficult for one to know what to say in introducing a speaker distinguished in so many fields as is the gentleman who will address us this afternoon. One might fittingly speak of him as an orator. It was as the winner of an interstate oratorical contest, participated in by the leading colleges and universities of the Upper Mississippi Valley, that I first knew him; and the reputation that he then earned as an orator has grown with his years, until today he has no superior in the forum where statesmen speak. To this audience, his rapid rise to eminence at the Indiana bar, his merited conspicuousness in the front rank of that bar within ten years after his admission, would be an appropriate subject for an introductory

talk. A senator of the United States for two terms, and the bellwether of the second offensive on the field of Armageddon (laughter), we who dream dreams and see visions might well renew the springs of our faith by presenting him as a statesman, to whose counsel we would gladly listen and whose leadership we would confidingly follow, even to the other end of Pennsylvania Avenue (Applause). And there might be those, who, like your presiding officer for the moment, conscious of the distinction which is theirs because they came from Indiana (laughter), would enjoy having him, merely as a Hoosier, tell the world why we glory in our shame. I think it must be true that Edgar Allen Poe did not know Indiana when he wrote, only, of "the glory that was Greece and the grandeur that was Rome" (Laughter).

But it is not as an orator, for almost forty years the inspiration and the model of the youth of Indiana; not as a lawyer; not as a statesman, called by Roosevelt himself to lead the Administration forces on the floor of the Senate; not as a Hoosier, the most versatile and brilliant of his generation; that we will listen to him this afternoon. In his later years he has raised himself to a higher pedestal. And it is from that loftier station, as the indefatigable student, as the charming stylist, as the scholarly author of The Life of John Marshall, upon which subject he will address you, that I prefer to introduce the Honorable Albert J. Beveridge of Indiana (Applause, all standing).

Senator Beveridge then delivered his address. (See page 102.)

Senator Putnam in the chair.

SENATOR PUTNAM: It is for you gentlemen to decide whether you wish to proceed to the unfinished business.

On motion, adjourned, till ten A. M., Sept. 1, 1922.

September 1, 1922, 10:00 A. M.

Meeting called to order, Judge Lancaster in the chair.

THE CHAIRMAN: The first item on the morning's program is the report of the Committee on Legal Education.

MR. WILLIAM G. GRAVES: Members of the Bar, the report of the Committee on Legal Education has been drafted after as careful consideration and study as the committee can give it. I will ask your indulgence while I read the report. I would like to read it at this time in order that the questions—those for consideration this morning—may be presented and understood from the start.

REPORT OF COMMITTEE ON LEGAL EDUCATION

Saint Paul, Minnesota, June 30, 1922.

Board of Governors, Minnesota State Bar Association, Saint Paul, Minnesota:

Gentlemen: The matter of what should be done to create conditions which would improve the efficiency and strengthen the character of those coming into the practice of the law has received very careful consideration and study in the last few years. The American Bar Association has been taking and is likely to continue to take a very active interest in the problem.

The branch of the American Bar Association devoted to Legal Education was reorganized into a Section on Legal Education and Admission to the Bar. The section appointed a special committee, of which Mr. Elihu Root was chairman. This committee asked for the views of and suggestions from the heads of all of the Bar Associations, State and Local, all the law schools of the country and a great number of leaders of the bar in different parts of the country. It then held meetings at which the heads of law schools and bar examiners and members of the bar in active practive appeared and gave assistance.

As a result of its studies the committee submitted its recommendations to the American Bar Association, and at the meeting of that Association held in Cincinnati in 1921 the recommendations were adopted by an immense majority.

The recommendations were as follows:

(1) The American Bar Association is of the opinion that every candidate for admission to the bar should give evidence of graduation from a law school complying with the following standards:

(a) It shall require as a condition of admission at least two years of study in college.

(b) It shall require its students to pursue a course of three years duration if they devote substantially all of their working time to their studies, and a longer course, equivalent in the number of working hours, if they devote only part of their working time to their studies.

(c) It shall provide an adequate library available for the use of the students.

(d) It shall have among its teachers a sufficient number giving their entire time to the school to insure actual personal acquaintance and influence with the whole student body.

(2) The American Bar Association is of the opinion that graduation from a law school should not confer the right of admission to the bar, and that every candidate should be subjected to an examination by public authority to determine his fitness.

(3) The Council on Legal Education and Admission to the Bar is directed to publish from time to time the names of those law schools which comply with the above standards and of those which do not and to make such publications available so far as possible to intending law students.

(4) The President of the Association and the Council on Legal Education and Admission to the Bar are directed to co-operate with the state and local bar associations to urge upon the duly constituted authorities of the several states the adoption of the above requirements for admission to the Bar.

(5) The Council on Legal Education and Admission to the Bar is directed to call a Conference of Legal Education in the name of the American Bar Association, to which the state and local bar associations shall be invited to send delegates, for the purpose of uniting the bodies represented in an effort to create conditions favorable to the adoption of the principles above set forth.

ELIHU ROOT, *Chairman*, New York, N. Y.
HUGH H. BROWN, Tonopah, Nev.
JAMES BYRNE, New York, N. Y.
WILLIAM DRAPER LEWIS, Philadelphia, Pa.
GEORGE WHARTON PEPPER, Philadelphia, Pa.
GEORGE E. PRICE, Charleston, W. Va.
FRANK H. SCOTT, Chicago, Ill.

Pursuant to the mandate contained in the foregoing recommendations a conference on Legal Education was called in the name of the American Bar Association, and met in a special session of Bar Association Delegates in Washington, D. C., on February 23rd and 24th, 1922.

Delegates were present from every state in the union, and both state and local bar associations were represented. Very many law schools were also presented at the conference.

The problem received very full discussion. Many prominent men spoke on both sides of the question. While varying in seriousness in different localities, the evils in the situation were found to be similar in their general aspects all over the country.

As a result of its deliberations the Washington Conference adopted by an overwhelming vote the following resolution:

"RESOLVED, That the National Conference of Bar Associations adopt the following statement in regard to legal education:

"(1) The great complexity of modern legal regulations requires for the proper performance of legal services lawyers of broad general education and thorough legal training. The legal education which was fairly adequate under simpler economic conditions is inadequate today. It is the duty of the legal profession to strive to create and maintain standards of legal education and rules of admission to the bar which will protect the public both from incompent legal advisers and from those who would disregard the obligations of professional service. This duty can best be performed by the organized efforts of bar associations.

"(2) We endorse with the following explanations the standards with respect to admission to the bar, adopted by the American Bar Association on September 1, 1921:

"Every candidate for admission to the bar should give evidence of graduation from a law school complying with the following standards:

"(a) It shall require as a condition of admission at least two years of study in a college.

"(b) It shall require its students to pursue a course of three years duration if they devote substantially all of their working time to their studies, and a longer course, equivalent in the number of working hours, if they devote only part of their working time to their studies.

"(c) It shall provide an adequate library available for the use of the students.

"(d) It shall have among its teachers a sufficient number giving their entire time to the school to insure actual personal acquaintance and influence with the whole student body.

"(3) Further, we believe that law schools should not be operated as commercial enterprises, and that the compensation of any officer or member of its teaching staff should not depend on the number of students or on the fees received.

"(4) We agree with the American Bar Association that graduation from a law school should not confer the right of admission to the bar, and that every candidate should be subjected to examination by public authority other than the authority of the law school of which he is a graduate.

"(5) Since the legal profession has to do with the administration of the law, and since public officials are chosen from its ranks more frequently than from the ranks of any other profession or business, it is essential that the legal profession should not become the monopoly of any economic class.

"(6) We endorse the American Bar Association's standards for admission to the bar because we are convinced that no such monopoly will result from adopting them. In almost every part of the country a young man of small means can, by energy and perseverance, obtain the college and law school education which the standards require. And we understand that in applying the rule requiring two years of study in a college, educational experience other than that acquired in an American college may, in proper cases, be accepted as satisfying the requirement of the rule, if equivalent to two years of college work.

"(7) We believe that the adoption of these standards will increase the efficiency and strengthen the character of those coming to the practice of law, and will therefore tend to improve greatly the administration of justice. We therefore urge the bar associations of the several states to draft rules of admission to the bar carrying the standards into effect and to take such action as they may deem advisable to procure their adoption.

"(8) Whenever any state does not at present afford such educational opportunities to young men of small means as to warrant the immediate adoption of the standards we urge the bar associations of the state to encourage and help the establishment and maintenance of good law schools and colleges, so that the standards may become practicable as soon as possible.

"(9) We believe that adequate intellectual requirements for admission to the bar will not only increase the efficiency of those admitted to practice but will also strengthen their moral character. But we are convinced that high ideals of professional duty must come chiefly from an understanding of the traditions and standards of the bar through study of such traditions and standards and by the personal contact of law stuents with members of the bar who are marked by real interest in younger men, a love of their profession and a keen appreciation of the importance of its best traditions. We realize the difficulty of creating this kind of personal contact, especially in large cities; nevertheless, we believe that much can be accomplished by the intelligent co-operation between committees of the bar and law school faculties.

"(10) We therefore urge courts and bar associations to charge themselves with the duty of devising means for bringing law students in contact with members of the bar from whom they will learn, by example and precept, that admission to the bar is not a mere license to carry on a trade, but that it is an entrance into a profession with honorable traditions of service which they are bound to maintain."

In order to provide a part of the machinery necessary to procure action upon the resolution the Washington conference passed the following further resolution:

"RESOLVED, That the delegates and alternates from each state shall nominate one person to represent the state on a committee to be known as 'The Advisory Committee on Legal Education of the Conference of Bar Association Delegates.' The duty of the Committee shall be to advise and co-operate with the Section of Legal Education and Admissions to the Bar of the American Bar Association to promote the adoption of the standards of legal education and admission to the bar approved by this Conference, and encourage the improvement of legal education."

The Advisory Committee met and organized and is now functioning. The American Bar Association at the meeting to be held in San Francisco of this year will receive reports as to the progress which may so far have been made in various states.

The procedure of the Washington Conference Bar Association Delegates have been published in full in pamphlet form. The pamphlets are available for distribution.

All of the members of your Committee on Legal Education attended the Washington Conference as delegates from your Association. Mr. William D. Bailey, President of your Asosciation, Mr. Stiles W. Burr. Saint Paul, and Mr. Henry Deutsch of Minneapolis, were also in attendance as delegates.

Your committee recommends the adoption of a resolution approving of the recommendation adopted by the American Bar Associaion at its meeting in Cincinnati, in 1921, and of the resolution adopted at the Conference of Bar Association Delegates held in Washington.

Respectfully submitted,

WILLIAM G. GRAVES, St. Paul.
A. L. YOUNG, Winthrop,
HAROLD G. CANT, Minneapolis.
Committee.

MR. GRAVES: Now the standard suggested here is of course higher than the standard we have, and in order that so far as it lay within our means to do so, we might present this question in advance of this meeting, there was sent to about one hundred members of the Bar all over the state, copies of the report of the Washington Conference, in which were set out in full all of the arguments both for and against. It was not easy to present in a short time so that the question can be understood, the entire problem; and it was for the purpose of doing a little something to give the members of the Bar an opportunity to consider this question in advance of this meeting that these reports were sent out. I would like to add only this: that the American Bar Association has just concluded a session in San Francisco and at that meeting reports were submitted from State Bar Associations all over the country as to the work which has been done in the several states, and although the time which elapsed between the February meeting in Washington and this meeting was only about five months, yet it is significant that about a dozen states have approved this recommendation.

MR. BURR: Will you state also that there were no disapprovals of the report, is that a fact?

MR. GRAVES: No disapprovals were reported.

THE CHAIRMAN: Mr. Bailey, our President, was exceedingly fortunate in being able to secure the presence of our distinguished guest. He is a man who is peculiarly qualified upon the question we have under consideration. He is a lawyer from deliberate choice, a politician a few years by compulsion, and a professor of law at the University of Colorado by force of circumstances. I take great pleasure in introducing Ex-Governor Herbert S. Hadley. (Applause, all standing).

Governor Hadley here delivered his address. (See page 122.)

THE CHAIRMAN: I take it for granted that a motion has been made and seconded that the thanks of this Association be extended to Governor Hadley for his splendid address upon this occasion. Those in favor of the motion will signify their vote by rising—(all rising)—the vote is carried.

MR. ROME G. BROWN: I second the committee's motion for the adoption of the report.

THE CHAIRMAN: You have heard the report of the committee, will Mr. Graves state the motion?

MR. GRAVES: The motion for your approval is the recommendation of the conference of Bar Associations which is stated on page 25 and 26 of the announcement, and the adoption of the report of the Committee on Legal Education of this Association.

MR. CHAIRMAN: Those in favor of the motion for the adoption of the report signify by saying Aye, those opposed, No. The motion is carried and the report is adopted.

MR. GRAVES: May it not be noted that the vote apparently was unanimous?

MR. BURR: That, I think, would be very grateful to the conference.

THE CHAIRMAN: The Chair will say that the vote apparently was unanimous.

MR. PUTNAM: There was no opportunity given for debate on that motion. I want to register one vote against that report.

THE CHAIRMAN: Well, it will be so registered, Senator. Mr. Deutsch has a motion which I think should be presented at this time.

MR. DEUTSCH: The signs would seem to indicate that we have a very good chance to obtain the meeting of the American Bar Association for the city of Minneapolis next year. In view of that I want to offer the following resolution in the form of an invitation from this Association:

"RESOLVED, That an invitation on behalf of the President, Board of Governors and members of the Minnesota Bar Association be extended to the American Bar Association to hold its 1923 meeting in Minneapolis and that said invitation be substantially in the following form:

"To the President, Executive Committee and Members of the American Bar Association:

"The President, Board of Governors and members of the Minnesota State Bar Association extend to your organization a most cordial invitation to hold the 1923 annual meeting of your Association in the City of Minneapolis.

"The acceptance of this invitation will be esteemed as a great honor and pleasure to the members of the Bar of the State of Minnesota and as a compliment to the State and the City of Minneapolis.

"You may have the assurance that nothing will be left undone in the way of arrangements for taking care of your Association meetings and in extending to the officers and members of your Association the courtesies and hospitality of the state.

"Your acceptance of this invitation will be greatly appreciated."

And also the further resolution that the incoming President be authorized to go to Hot Springs where the meeting of the Executive Committee is to be held this winter to extend this invitation in person, or that he have the power and authority to appoint some member of this Association to take his place.

I move the adoption of the two resolutions.

MR. REGAN (Mankato): Second the motion.

THE CHAIRMAN: Any remarks? If there are no remarks those in favor of the motion will signify by saying Aye, those opposed, No. The motion is carried and the resolutions are unanimously adopted.

MR. BURR: May I call your attention to the graciousness of the members from St. Paul who made no comment on the fact that the invitation was from Minneapolis and not from the Twin Cities?

THE CHAIRMAN: Your graciousness was especially noted by the Chair.

MR. BROWN: May I state for the information of the members here and Mr. Burr that the invitation had already been extended by the Hennepin County Bar Association and by the official acts of the Association and also by the Ramsey County Bar Association, by Mr. Severance at San Francisco, with the agreement that the Ramsey County Bar would co-operate with the Minneapolis Bar the same as the Hennepin County Bar co-operated with the Ramsey County Bar sixteen years ago (applause).

MR. BURR: When Rome Brown was younger and his intelligence more elastic it was not necessary to label a jest for him (laughter).

THE CHAIR: The next item is the report of the Committee on Jurisprudence and Law Reform. Mr. Cherry is the chairman.

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:

I.

MATTERS DISCUSSED IN LAST YEAR'S REPORT

1. A year ago your attention was called to Chapters 161, 297 and 334, Laws 1921. These statutes were enacted at the instance of this Association, substantially in the form in which they had been prepared by your committee with the assistance of other members of the Association. Chapter 334 repealed the existing provisions for disbarment proceedings and provided a new procedure. It was pointed out in the committee's report last year that the new procedure makes possible effective action in disbarment cases. This has since been demonstrated in the case of *In re Garrett,* 188 N.W. 322, opinion filed June 2, 1922, and we submit the following summary of the proceedings in that case for the information of the Association.

Complaint was filed with the Grievance Committee of the Hennepin County Bar Association, and, after investigation, reported by the Committee to the executive council of that Association for prosecution. The executive council ordered accusation to be made in behalf of the Association by its president and secretary. An accusation was filed, and the supreme court made its order referring the matter for hearing to Judge Bardwell of the district court of Hennepin county, with power to rule upon evidence offered and with instructions to report the evidence with his findings thereon. At the request of the Bar Association the order also designated a member of the Hennepin County Bar to assist the secretary of the Board of Law Examiners in the prosecution of the proceeding. Hearing was promptly had before Judge Bardwell and the evidence and findings reported to the supreme court. The matter was then argued before the supreme court and resulted in the opinion above cited. Less than eight months elapsed from the filing of the complaint with the Grievance Committee to the judgment of disbarment.

Your committee feels that this case is a clear demonstration of the value of the legislation proposed by this Association. Means are now provided for the prompt and efficient prosecution of disbarment proceedings, probably for the first time in the history of Minnesota.

2. In last year's report your committee presented a resolution, which was later adopted by the Association, approving the establishment of scholarships in the Law School of the State University. The purpose of this resolution was to secure the services of young graduates in the Law School in the collection of data and in the drawing of proposed legislation for the Bar Association. It was hoped that their services might also be available in the task of gradual or piecemeal revision of the statutes. The Association instructed this committee to proceed with the organization of the scholarships and, under the direction of the Board of Governors, to devise means for carrying out the plan, and to make a further report to the Association. Your committee has carefully considered this matter and has concluded that the plan as proposed was open to serious objections. In the first place, while it would secure assistance of considerable value, it would undoubtedly necessitate a frequent, and probably annual, change in the personnel of the holders of scholarships. In our judgment this would be an unfortunate situation because it would deprive the Association of experienced helpers, and because it must frequently mean a change in personnel during the progress of a particular piece of work. In the second place, the plan would re-

quire the solicitation of considerable sums of money from members of the Association, and inasmuch as any such project requires time to demonstrate its worth, it is conceivable that contributors to the necessary fund would grow weary before the results of the work attempted were apparent. Your committee is therefore gratified to be able to report that a method has been devised which, in our opinion, will afford the facilities desired and at the same time be free from the objections above mentioned. Briefly stated the arrangement is as follows: An additional member of the faculty is to be provided at the Law School of the State University, who will have considerable time to devote to research of the kind contemplated. It is also understood that other members of the faculty of the Law School will devote as much of their time as may be possible to similar work. Your committee feels that this arrangement will be a very happy one and that it will now be possible for the various committees of your Association to secure expert assistants in their several tasks. We are confident that the Association will now be in a position to do effective work in many fields, and especially that the Committee on Jurisprudence and Law Reform will hereafter be able to command such assistance as will enable it to put before the Association important matters coming within the scope of the Committee's duties, in shape of intelligent discussion and proper action by the Association and by the Legislature. Your committee recommends the approval by the Association of this arrangement.

II.

Specific Matters Held Over From Last Year

1. *Proposed Amendments to the Torrens Law.* Your committee has found that the matters covered by this suggestion can be cared for by rules of the district court. It appears that the rules now in force in Hennepin county in this respect are satisfactory. We feel, therefore, that this matter is one for consideration by the district courts in the several districts and that further study should be made by this committee, in co-operation with the judges of the district court and the examiners of title, with a view to recommending the general adoption of these rules, probably with some modifications to suit the particular requirements of the several districts.

2. *Notice for the Taking of Depositions.* Upon consideration of this suggested change in the statute your committee feels that the present statute is reasonably satisfactory and that such an amendment is not required.

III.

New Matters

1. *Appeal from Probate Court.* Mr. Chester L. Caldwell has suggested an amendment to Section 7493, G. S. 1913. This section provides for the return to the district court of a certified transcript upon the filing of notice of appeal from probate court. No time is specified within which the return must be made. Your committee is informed that, in some counties at least, considerable delay is encountered in such appeals when the appellant fails to pay the fees for the transcript and when, consequently, the clerk delays the transcript. Your committee recommends the adoption of Mr. Caldwell's suggestion that the statute be amended to provide notice to the appellant that the return is ready and that unless the fees are paid within a reasonable time, say thirty days, the appeal shall stand as dismissed and the order or decree appealed from shall be reinstated. The several probate courts of the state seem to differ upon the question of the propriety of charging for the making of this transcript, and it would seem that this question should first be settled. If fees are properly charged, however, such a provision would seem expedient to prevent delay.

2. *Depositions in Probate Court.* Upon the suggestion of Mr. Charles E. Houston, your committee has considered the situation in the probate

court where a deposition is desired to be taken within the state upon notice. Section 8381, G. S. 1913, authorizes this procedure in a civil cause. Under Section 7211, G. S. 1913, the probate judge has the same power to issue commissions as a judge in the district court. Section 8384 grants such power, which applies only to depositions without the state. Your committee understands that in some counties the probate judges issue commissions and permit the taking of depositions upon notice, but that in other counties the statute is construed as not giving such power. Your committee therefore recommends the amendment of Section 8381 so that this power may be clearly granted to the judges of the probate court.

3. *Revision of the Probate Code.* Two members of your committee met, by request, with a committee of the Probate Judges Association and discussed two matters. The first was the necessity of a revision of the Probate Code. The judges expressed their interest, and the interest of the Association, in the plan of this Association to attempt each year the revision of a chapter or topic of the general statutes. Your committee feels that this is a suggestion of great importance, and that it again indicates the scope of the work which will be possible under the plan which provides expert assistance to your committees. The second matter discussed was proposed legislation to require an annual meeting of the judges of probate, similar to the meetings of judges of the district court now held, at which rules of the probate court might be adopted to apply to all probate courts in the state. As a result of these two suggestions, your committee recommended to the President of the Association that the Probate Judges Association be invited to present these matters to the Association at its forthcoming annual meeting. We trust that these matters may have the attention of the Association in that fashion. If such an arrangement shall not be made, your committee will present a further report at the meeting upon these questions.

4. *Chattel Mortgages.* Section 6979, G. S. 1913, provides that a creditor who attaches personal property or levies thereon upon a judgment may prevent the holder of a chattel mortgage upon such property from proceeding under his mortgage by filing an affidavit that the mortgage is not valid or that amount claimed thereunder is excessive. Mr. Louis Sachs has called the committee's attention to the fact that the mere filing of such an affidavit, which may be only upon information and belief, is sufficient to hamper the holder of a mortgage made and filed long prior to the attachment or levy. There is no requirement for the commencement of any action by the creditor who has levied or attached to determine the rights of the several parties and a mortgagee, so situated, is put to the necessity of instituting such an action. Your committee recommends that the statute be amended in two particulars: *First,* to require a bond from the creditor; and, *Second,* to require that he commence an action within a specified time to determine the rights of the parties.

5. *The Position of a Lessee Who Sub-lets for His Entire Term.* Mr. E. C. Garrigues has called to the attention of the committee the holding in *Cameron Co. vs. Tobin,* 104 Minn. 333, which is in accord with statements in two previous cases, that a lessee who has attempted to sub-let for the remainder of his term has in effect assigned his lease, and that having left no estate or interest in the property, he cannot reserve a right to re-entry. In an article by Dean Everett Fraser of the Law School of the State University, entitled "Future Interests in Property in Minnesota," 3 MINNESOTA LAW REVIEW 320, it is argued, at pages 334 and 335, foot note 62, that this holding is contrary to a well considered English case, and that it is not consistent with other decisions of our supreme court. A lessee in such a position may, under this decision, find himself in a perilous position. For example, if his sub-lessee or assignee should, in his use of the premises, come within the provisions of the abatement law, the lessee is unable to enforce the conditions of his sub-lease or assignment by re-entry or use of the forcible entry and unlawful detainer statute. At the same time such use of the premises may

result in the termination of his own rights under his lease. Your committee recommends a statutory provision, in accordance with the contention of Dean Fraser, which shall state that no reversion or other interest shall be necessary to support the right of re-entry.

6. *Suggestions Contained in the Minnesota Law Review.* Mr. Alfred J. Schweppe, recently president of the Student Editorial Board of the MINNESOTA LAW REVIEW, has called the attention of the committee to the unsettled state of our statutory law relating to recovery for wrongful death. He has submitted an excellent exposition of the two existing statutes on that subject, one the socalled "wrongful death statute" (G. S. 1913, Section 8175), the other the statute applicable only to railroad employes (Laws 1915, Chapter 187), pointing out their differences and suggesting methods for harmonizing them or making them mutually exclusive. As the statute now stands there is considerable doubt about their application. The committee is informed, however, that a case is now pending before the supreme court upon appeal from the district court of Hennepin County, which involves these questions, and consequently feels that any recommendations concerning them should await the disposition of this case.

Mr. Schweppe has also called attention to the fact that from time to time articles and editorial comment in the MINNESOTA LAW REVIEW contain suggestions concerning omitted or defective provisions of the Minnesota statutes. He has submitted a list of such suggestions, from which the following are taken:

(a) Statute amending motor vehicle law by changing basis of taxation. 6 MINNESOTA LAW REVIEW, 334.

(b) Statute extending the disability of a murderer to inherit beyond the relationship of husband and wife. 5 MINNESOTA LAW REVIEW, 77, 397.

(c) Statute providing for equitable division of property in putative marriage. 5 MINNESOTA LAW REVIEW, 149.

(d) Statute requiring prompt action on an insurance application. 5 MINNESOTA LAW REVIEW, 224, 479.

(e) Statute making rent apportionable. 5 MINNESOTA LAW REVIEW, 234.

(f) Statute giving trial court discretion in granting new trials upon grounds other than those specifically enumerated. 5 MINNESOTA LAW REVIEW, 565.

The foregoing is an incomplete list, but serves to show what the committee is quite convinced of, that the MINNESOTA LAW REVIEW is a valuable source of suggestions for the work of this committee.

In conclusion, your committee feels that the plan for co-operation with the faculty of the Law School of the State University herein proposed will enable the Association to render efficient public service in presenting to the Legislature and to the courts carefully considered and properly drafted proposals for the betterment of the statutes and of rules of court. We are confident that an abundance of material will be available, through the suggestions contained in the MINNESOTA LAW REVIEW, and through suggestions from members of the bar, for the work of this committee. We desire to emphasize the importance of the interest of every member of this Association in the work of the committee, and to express the hope that an increasing number of members will send to the committee suggestions for its work. In the active practice of the profession questions constantly arise which suggest the desirability of some modification in our existing law, particularly in the statutory law. This committee has had the advantage of the co-operation of members of the Association, who have referred such questions to it. We bespeak for our successors a continuance of this helpful attitude.

Respectfully submitted, WILBUR H. CHERRY, *Chairman*,
HAROLD J. RICHARDSON,
N. T. DOWLING,
S. H. SOMSEN,
WARNER E. WHIPPLE, Committee.

MR. CHERRY: Inasmuch as our report is fully printed in the announcement of this meeting, beginning on page 9, I do not propose to read it. I would like, in behalf of the committee, preliminary to a short statement of the several matters in this report, to move at this time that it be received and placed on file, and if that motion prevails, then to make a brief statement of the several recommendations. I so move.

MR. BURR: Motion seconded.

THE CHAIRMAN: All in favor say Aye, opposed, No. The motion is carried.

MR. CHERRY: By way of explanation of a few statements in the report. The first division is a statement of matters discussed in last year's report, the first part of which consists merely of a report of this body of what has been accomplished under some legislation this committee put in shape and which was enacted by the Legislature at the 1921 session, and specifically under Chapter 334 of the Laws of 1921 which changed the disbarment procedure in this state. I do not want to go into the history of that at this time, further than to say that anyone acquainted with the activities of this Association will know that for at least seven years there has been an attempt, sometimes taking one form and sometimes another, to secure a good, efficient disbarment procedure, and that in the opinion of the committee, and as signified at your meeting last year, Chapter 334 of the Laws of 1921 was a great step in that direction. Briefly, that chapter abolished the old procedure and provided for the making of a new one by the supreme court, and placed the matter, as we thought, where it belonged, in the hands of the supreme court. There has been one case of which your committee has knowledge, coming under the new procedure, and that was the case *In re Garrett*, reference to which is made in the report. In that case a Bar Association, (which happened to be the Hennepin County Bar Association) made an investigation of a charge against an attorney; ordered through its proper officials the prosecution of the charge, had the charge presented to the supreme court —and completely and successfully presented—which ends that phase of it. The important fact from the point of view of the Committee of Jurisprudence and Law Reform is this, that for the first time, as far as we knew, in the history of such matters in this state, there has been a case which, following the charges and presentation to the supreme court, received efficient and speedy treatment. Within eight months from the filing of the original complaint with the Grievance Committee of the Hennepin County Bar Association the accused attorney was disbarred. Every step of the procedure was satisfactory. A lawyer whose name was suggested by the Hennepin County Bar Association was designated by the supreme court to assist the Board of Law Examiners in the prosecution. He conducted the prosecution. The hearing was had before a judge of the district court, as referee. This case avoided the many unsatisfactory features of the former procedure, which provided a referee with no power to rule upon evidence or to make findings, and left the supreme court simply with a stenographic report of questions and answers, and very much in doubt as to the merits of the case. We got away from that, I say, and had a hearing in a court room before a judge

acting as referee, who made a report of the testimony, with his findings, to the supreme court.

We wish merely to inform the Association of what has been accomplished and to report that it seems to your committee that the Ethics Committee of the State Bar Association and similar committees of local Bar Associations are now in a position to present, and to have heard and determined efficiently any charges which they deem worthy of presentation to the supreme court.

In last year's report this committee suggested a method which was approved by the Association, of carrying out a previous resolution of the Association, for co-operation between this Association and the law school of the State University, the purpose of which was to get the services of the University in working out some of the problems with which committees of this Association have to deal. We desired help, not in determining the policy of the Association but in the work which a busy committee composed of lawyers in active practice could not be expected to do—such as running down the history of legislation similar to that under consideration, the examination of experiences of other states; in short. the time and services which are needed by many of the committees of this Association. The plan proposed last year, when we came to work it out, presented difficulties; and with the approval of the officers of the Association with whom we discussed the matter, we worked out a new plan by which we would have faculty help from the University instead of student help, which seemed to us a better scheme. We simply ask at this time that, in accordance with the resolutions which this Association adopted and with the work which we have done to carry it out, this Association approve the arrangements which we have made, and which we are confident will prove of decided value.

I move, therefore, Mr. Chairman, that the Association approve the arrangements made by this committee and allow it to work out this coming year.

MR. GRAVES: Second the motion.

THE CHAIRMAN: You have heard the motion and the second. Are there any remarks? If not, those in favor say Aye, those opposed, No. The motion is unanimously carried.

MR. CHERRY: I would like to say one further word, if I may, on this report. We have a number of matters which are suggested for legislative action. I understand from the Chairman that the time is getting very short and that we should pass on to other business. I do not like to make a blanket motion, but if there is no objection I would move the adoption by this Association of the suggestions made under sub-division three, with items one, two, three, four, and five, which in brief, are recommendations for amendments to the statutes of various sort. to take care of what appear to be defects in our present procedure and which can be remedied by simple amendments.

THE CHAIRMAN: Does that need a separate motion?

MR. CHERRY: We ask for the approval of the Association.

THE CHAIRMAN: They have adopted the report.

MR. BURR: The motion was that the report be adopted and placed on file. so specific recommendation is necessary.

MR. CHERRY: I so move.

MR. BROWN: Second the motion.

THE CHAIRMAN: Any remarks? Those in favor say Aye, those opposed, No. Unanimously carried. The next item on the program is the report of special committee on co-operation with local state Bar Associations, Mr. Walter F. Dacey.

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

Honorable William D. Bailey,
President Minnesota State Bar Association,
Duluth, Minnesota.

Dear Sir:

The Committee on Co-operation of Local Associations with the State Bar Association desires to report that it has been in communication with lawyers in every county in the state, and has provided either for the appointment of two delegates from each county or local association to the Conference or has requested two lawyers in each county to attend and participate in its discussions. The responses to these invitations have been most gratifying.

The Conference will be held at 10 A. M. on August 31st, which is the opening day of the meeting of the Minnesota Bar Association.

The purpose of the Conference is to stimulate greater interest in the State Bar Association and to see if it may be possible to have the lawyers in each county provide for the organization of a local association in their county that will be in close touch with and participate in the activities of the Association.

Respectfully,
WALTER F. DACEY, *Chairman.*
F. H. STINCHFIELD,
BRUCE W. SANBORN,
Committee.

MR. DACEY: The Committee on Co-operation of Local and State Bar Associations has been in communication with lawyers in every county throughout the state and extended invitations to the various Bars and District Associations in the counties and districts to send delegates to a conference to be held at the Radisson hotel on August 31st, and report as follows:

The conference of Delegates from Local Bar Associations to the State Bar Association met at the Radisson Hotel August 31st at eight o'clock P. M., and was presided over by Mr. Walter F. Dacey, Chairman of the Committee on the Conference, who explained its purpose, and the interest President Bailey of the State Association had taken in the matter, and the fact that it was meant to be a clearing house for ideas of interest to all delegates and to afford a medium for an exchange of information and ideas, which no other meeting of the Bar Association presented.

The attendance at the meeting was very gratifying and after a lively and extended discussion it was declared to be the sense of the Conference that Associations be organized throughout the state in such units as local conditions warrant, either by judicial districts, where feasible, or by counties having identity of interest, as the case may be, and that the State Bar Association recommend that this be done; that the President appoint a Committee of three to aid in carrying out the recommendations.

It was moved, seconded and carried that the Conference of Delegates from Local Associations to the State Bar Association perfect a permanent organization, and Mr. F. G. Sasse of Austin, Minnesota, was elected President of the Association, and given authorization to appoint a secretary for the coming year, and requested to recommend a charter or working basis for the conference and to suggest topics for discussion at the meeting to be held next year.

There were some other matters discussed, among them the importance of raising the standard of practice in probate courts, and a motion was made and carried that it was the sense of the meeting to recommend to the State Bar Association that its Committee on Jurisprudence and Law Reform present to the Legislature a bill for an act to provide for a meeting each year of an Association of Probate Judges for the purpose of formulating rules of practice and procedure.

I move the adoption of the report and the recommendation of the committee.

MR. BROWN: Second the motion.

THE CHAIRMAN: You have heard the motion, are there any remarks?

MR. BURR: Just a suggestion. I am heartily in sympathy with the purpose of the motion and with the plan, but it occurs to me that there might be some misunderstanding, a question that has arisen as to the relation between the National Conference, the State and Local Bar Associations, and the American Association. If it were made clear, as I believe it is the purpose, that this organization as proposed shall be an adjunct to the Minnesota State Bar Association and not a rival institution,—

MR. DACEY: Oh, that is positively so.

MR. BURR: I understood that it was so, but I wanted all to understand it.

MR. DACEY: The real purpose is to discuss questions of local interest to the different local Bar Associations.

THE CHAIRMAN: Are you ready for the question? Those in favor say Aye, those opposed, No. Resolution is unanimously adopted.

(At this point Judge Lancaster was called out and Senator Putnam took the Chair.)

MR. BROWN: I want to introduce a resolution that was adopted at the Hennepin County Bar Association and by a dozen other State Bar Associations on the recommendation of the Hennepin County Bar Association. May I say in advance it is a resolution that needs no argument, except the masterly treatment given by Mr. Beveridge yesterday and the remarks by Governor Hadley this morning. It is to put this Association on record as to the LaFollette proposition to amend the constitution, giving Congress the power to recall decisions.

RESOLUTION

(Introduced by Rome G. Brown and adopted at the Annual Meeting of the Minnesota State Bar Association, held at Minneapolis, Minnesota, August 31-September 2, 1922).

WHEREAS a proposition is being urged upon the people of the United States to pass an amendment to the federal constitution, under the terms of which the courts shall be deprived of their power finally to decide as to the constitutionality of legislative enactments, by giving

to the Congress the power to annul or veto any decision of the federal Supreme Court declaring a federal statute unconstitutional, or by making any such judicial decision subject to recall by legislative or popular referendum;

AND WHEREAS such amendment would have the effect to nullify the safeguards of our constitutional government for the protection of the rights of the individual and of minorities against encroachment and oppression by the whim of majorities, and would lead to a government by the temporary whim of legislative or popular prejudice and to inconsistency, inequality and discrimination in the application and enforcement of constitutional safeguards, and thereby be subversive of our constitutional democracy;

AND WHEREAS such amendment would be contrary to the fundamental theory of our constitutional government, as urged by Hamilton, when he said:

"There is no liberty where the power of judging be not separate from the legislative and executive power"; and as stated by Washington, when, urging respect for the judicial power to enforce constitutional limitations, he said:

"The constitution which at any time exists, till changed by the explicit and authentic act of the whole people, is sacredly obligatory upon all"; and is stated by the Supreme Court of the United States, speaking through Chief Justice Marshall in the case of *Marbury v. Madison*, 1 Cranch 368, 388, when, referring to the safeguarding provisions in the constitution that the legislative powers be kept separate from the powers of the judiciary, that Court said:

"To what purpose are powers limited and to what purpose is that limitation committed to writing if these limits may, at any time, be passed by those intended to be restrained, . . . It is a proposition too plain to be contested, that either the constitution controls any legislative act repugnant to it, or that the legislature may alter the constitution by an ordinary act . . . If the latter be true, then written constitutions are absurd attempts, on the part of the people, to limit a power in its own nature illimitable";

and, as stated by Abraham Lincoln, when referring to our present system of constitutional checks and limitations and the power of the courts to enforce them, he said:

"Whoever rejects it does of necessity fly to anarchy or despotism"; and as stated by Elihu Root, when he said:

"A sovereign people which declares that all men have certain inalienable rights, and imposes upon itself the great impersonal rules of conduct deemed necessary for the preservation of those rights, and at the same time declares that it will disregard those rules whenever, in any particular case, it is the wish of a majority of its voters to do so, establishes as complete a contradiction to the fundamental principles of our government as it is possible to conceive."

AND WHEREAS the adoption of such amendment would have the effect to eliminate all distinctions between the powers of legislation which have by the constitution been retained by the respective states and those which were specifically granted to the federal government, and would thereby tend to deprive the states of their reserved rights of self-government, and to centralize all powers of government, local and national, in the Congress, according as the Congress might from time to time choose; and thereby such amendment in the aforesaid respects and in other respects would tend to become the basis of arbitrary and unlimited legislative powers in the Congress to disregard, in chosen instances, all other constitutional limitations on legislative power and through such processes to change our system of government from a government by law to a government by men; and further would tend to leave the individual citizen and minorities subject to the caprices and whims of temporary majorities and with-

out the protection of the safeguarding principles of the Bills of Rights established by Magna Charta and written into all American constitutions, state and federal.

AND WHEREAS the advocacy of such constitutional amendment can be founded only upon disregard or ignorance of those principles of government which have made our American system the most efficient protection against oppression and a scientific model for the establishment of constitutional democracies having in view the freedom of the citizen from the tyranny of either a pure democracy, on the one hand, or of an arbitrary monarchy or oligarchy, upon the other hand;

NOW THEREFORE, BE IT RESOLVED by the Minnesota State Bar Association that we express our unqualified opposition to such constitutional amendment or to any amendment of similar character as a most dangerous menace to our American institutions; and

BE IT FURTHER RESOLVED that we individually and collectively urge upon all lawyers and upon all citizens, both within and without this Association, to exercise the utmost activity in opposing any such amendment and in teaching its repugnance to the principles of our constitutional government and its menace to the individual liberties guaranteed by our American constitutions.

That has been adopted by several Bar Associations as I say, starting with the Hennepin County Bar Association and I move its adoption by the Minnesota State Bar Asociation.

MR. BURR: The motion is seconded.

THE CHAIRMAN: It is moved and seconded that the resolution presented by Mr. Brown be adopted. Is there any debate. If not, as many in favor of adoption of the resolution say Aye, opposed, No. The resolution is adopted.

D. E. McLAUGHLIN (Ada, Minnesota): I want to go on record as voting No.

MR. McLAUGHLIN: So many of the members have called for my name, evidently they want to know the reason why I vote No. It is simply this: At the present time I am not convinced as to whether the attitude of Senator LaFollette, or the attitude of Mr. Beveridge is absolutely correct. This matter is a political issue at the present time and I do not think that this organization should go on record at this time and take any position upon a matter which is a strictly political issue, and take the attitude of a political organization at this time. That is my position.

THE CHAIRMAN: The next business will be the report of a Committee on Uniform Procedure in Federal Courts. Mr. Shearer.

SPECIAL COMMITTEE ON UNIFORM PROCEDURE IN FEDERAL COURTS

To the Minnesota State Bar Association:

Your Committee on Uniform Practice and Procedure in the Federal Courts begs leave to make the following report:

At the second session of the 67th Congress, Senator Kellogg introduced the following bill known as S. 2870.

"A BILL TO AUTHORIZE THE SUPREME COURT TO PRESCRIBE FORMS AND RULES, AND GENERALLY TO REGULATE PLEADING, PROCEDURE, AND PRACTICE ON THE COMMON-LAW SIDE OF THE FEDERAL COURTS."

Be it Enacted by the Senate and House of Representatives of the United States of America in Congress Assembled:

That the Supreme Court shall have the power to prescribe from time to time and in any manner, the forms of writs and all other process; the mode and manner of framing and filing proceedings and pleadings; of giving notice and serving writs and process of all kinds, of taking and obtaining evidence; drawing up, entering, and enrolling orders; and generally to regulate and prescribe by rule the forms for, and the kind and character of the entire pleading, practice, and procedure to be used in all actions, motions, and proceedings at law and in bankruptcy of whatever nature by the circuit courts of appeals and the district courts of the United States and the courts of the District of Columbia. That in prescribing such rules the Supreme Court shall have regard to the simplification of the system of pleading, practice, and procedure in said courts, so as to promote the speedy determination of litigation on the merits.

Sec. 2. That when and as the rules of court herein authorized shall be promulgated, all laws in conflict therewith shall be and become of no further force and effect.

This was referred to the Judiciary and by it referred to a sub-committee composed of Senators Ernst, Cummins, Shortridge, Shields and Ashurst, and hearings before this sub-committee were had last February upon this bill and a number of others looking to simplified court procedure and practice. These other bills are as follows:

S. 1011. A bill to amend the judicial code by adding to Section 28 thereof the following:

"In all cases of removal where defendant is not a resident of the state, district or division of the district in which suit is brought, the District Court for the United States for the proper district shall be the one having jurisdiction in the district or division thereof where suit is brought."

SS. 1012. A Bill to amend the judicial code by adding a new section to be known as 274-D as follows:

"Sec. 274-D. No action or proceeding shall be open to objection on the ground that a mere declaratory judgment or order is sought thereby, and the court when there is an actual controversy between the parties may make binding declarations of right whether any consequential relief is or could be claimed or not."

The Supreme Court may adopt rules for the better enforcement of this provision.

S. 1546. Amend Section 335 of the penal code, providing that all offenses punishable by death or imprisonment for a term exceeding one year shall be deemed felonies and all other offenses misdemeanors. Providing further that no trial, plea, conviction or sentence for a crime shall carry with it the loss of citizenship for civil rights unless the verdict of the jury or the sentence imposed shall expressly so specify.

S. 2610. A Bill abolishing the writ of error in civil and criminal cases, and substituting appeal.

These bills, with S. 2870 above quoted, are the bills, most of which have been pending for some time.

The purpose of S. 2870 clearly appears from its text. Senator Nelson informs us that a similar bill has been pending in the Judiciary Committee for many years, but has never found great favor in the committee, and in fact that most of the members of the committee are to a greater or less extent opposed to the bill.

The agitation for the passage of these bills providing for simplified procedure in all courts, especially the federal courts, began in the American Bar Association in 1910 at its meeting at Chattanooga.

Its first committee to take up the subject was appointed at its annual meeting in 1912. In December of that year the first procedure bill of the American Bar Association was introduced in the House by chairman Henry D. Clayton and about the same time in the Senate by Senator Culbertson. Ever since that time bills on this and other procedural subjects have been pending in Congress. At every annual meeting since 1912 the American Bar Association has endorsed these or similar bills.

Several hearings have been had before the Judiciary Committee of the Senate. In January 1917 after a hearing the Senate Judiciary Committee reported a similar bill favorably, but there was a minority report. In May, 1919, Senator Kellogg introduced a bill quite similar to S. 2870 above quoted, and last year the present bill was introduced by him. He writes that since that time he has ceased to be a member of the Judiciary Committee and necessarily is unable to give it the support he formerly did. But he favors the bill. During the recent session of Congress a large committee of prominent members of the American Bar Association appeared before the Senate Sub-Committee above named in support of these procedural bills, at which the arguments pro and con were set out before the committee. Senator Walsh of Montana seems to be the head and front of the opposition to S. 2870, although some other eminent lawyers on the committee also oppose it.

It may be said that the general program of the American Bar Association to simplify procedure and practice in the federal courts has been endorsed by the National Association of Credit Men, the Chamber of Commerce of the United States, the Southern Commercial Congress, the Commercial Law League of America, the National Civic Federation, forty-five State Bar Associations, Deans of leading law schools, law journals and periodicals and the Judicial Section of the American Bar Association.

The present Federal Statute (Sec. 1281 Barnes Fed. Code) provides that the practice of proceedings in other than equity and admiralty causes, shall conform "as near as may be" to practice in the courts of the State.

Objections Urged Against This Bill S. 2870.

1. It is not practicable to make the federal procedure the same in every state.

2. Uniformity of federal procedure in all states would make two dissimilar systems of practice in each state—a state system and a federal system.

3. As it is, lawyers find no difficulty in entering federal courts because of that uniformity.

4. That under the federal constitution, law and equity cases are separately considered, cannot be combined as they may be in code states. Which rule then, would the Supreme Court adopt, the code system or the common law system?

5. It would be as difficult to get a court rule changed which does not work well, as to get a statute passed.

6. That federal practitioners would be required to learn a new system of practice.

There were other arguments urged in opposition to this bill.

ON THE OTHER HAND THE PROPONENTS OF THE BILL SAY:

1. There are many instances now in which the federal practice does not, and cannot conform to state practice; so that the lawyer is continually going up against exceptions to the rule that the federal practice shall follow the state practice.

2. The Supreme Court of the United States in many specific cases has held that uniformity with state practice is impracticable. Following are some such instances. An equitable counterclaim cannot be set up in a law case. Substituted service not applicable to federal courts. State garnishment proceedings will not be followed in federal courts. Mandamus proceedings will not follow state practice. Everything to be done to secure a review of judgment in an appelate court is regulated solely by Acts of Congress. There are many other exceptions.

3. Instead of administering federal law under 48 different procedures, federal law would be administered under one procedure in every state the same.

4. The State Legislatures are constantly changing the laws governing practice and procedure, so that federal practice and procedure is constantly changing in about 48 ways.

5. It is hoped by many proponents of this bill S. 2870 that it may result in a model of simplicity to be emulated and finally adopted by all the states, thus securing uniformity in all courts.

CONCLUSION

Your committee has in this report chosen to inform the members of the Association of what has been done and is being done along the line of simplifying practice and procedure in the federal courts, rather than to take sides, violently either way. After considering the debate before the Judiciary Committee by eminent lawyers of the Senate and the American Bar Association for and against S. 2870, we are unable to arrive at the unhesitating conclusion that the bill should pass. Nor, if our judgment were asked, that it will pass.

It is something of a burden to cast upon an already overworked court, this making of uniform rules of practice, but considering how well it has discharged a similar duty in equity cases, and the trend of legal sen-

timent of the country toward simplifying the processes of justice, it may be well worth trying.

Respectfully submitted,
HENRY A. MORGAN,
EDWARD S. STRINGER,
H. A. CARMICHAEL,
HERBERT M. BIERCE,
JAMES D. SHEARER, *Chairman,*
Committee.

MR. SHEARER: In view of the fact that this committee made no report last year I am going to occupy about three minutes of your time. The report of your committee is quite long and I am going to indulge the somewhat violent presumption that you have all read it, and if you have not read it, I wish you would read it because it summarizes the arguments on both sides as shown in the American Bar Association report of last year. Now in brief, the purpose of this bill, Senate File 2870, introduced by Senator Kellogg—and by the way it is the second time that a senator from Minnesota has introduced a similar bill in response to the results of the wide work of the Committee of the American Bar Association, headed by Mr. Wadhams, among other eminent people who have been working for this thing since 1913. In brief the bill provides that the Supreme Court of the United States shall formulate uniform rules of procedure and practice in law cases as they now have done in equity cases, as you all know. Opposition comes from a number of centers, but especially determined and apparently irreconcilable opposition comes from Senator Walsh of Montana. Your committee has made rather a neutral report. The conclusion you will find on page 36 of the advance sheets. Now that is not because of the fact that we do not believe that it would be wise for the Supreme Court to do this work, but as you will see from reading this conclusion it is a very serious question, in my judgment, whether this law can be forced through Congress and unless a good deal more is done from now on than has been done in the past—and there has been a vast amount of work done in the past—I doubt whether the bill can pass. Nevertheless, while the arguments against the law are at first flush somewhat convincing, your committee has taken the position and I wish to emphasize that to you—that we have studied the matter just briefly, and we do not wish, even though we felt otherwise—we do not wish to emphasize our views as against the views of that committee of eminent gentlemen who have studied this question and who know ten times more than we do about it, who have studied it and impressed it upon Congress for the last ten years. Therefore, I move that the report of your committee be received and placed on file; that the committee to be appointed by the incoming president—that the committee be continued—I mean that the committee be appointed by the incoming president for the purpose of co-operating with the work which the American Bar Association is doing upon this subject.

MR. REGAN: Motion seconded.

THE CHAIR: You have heard the motion, moved and seconded. Is there any debate.

THE CHAIRMAN: Moved and seconded that the report of this committee be adopted. All in favor say Aye, opposed, No. The report is unanimously adopted.

MR. SHEARER: Mr. Burr has just suggested that at the San Francisco meeting the Chief Justice was there and he strongly favored the formulation of uniform rules of practice and procedure in the federal courts, on the law side. I think that should go a long ways towards convincing you that he would not take any such position unless it were the best thing for the Bar.

THE CHAIRMAN: Next is the report of the Committee on Small Debtors Court. There is no report on that and we will pass that over for the time being.

The next is the report of the Committee to Codify Minnesota Drainage Laws. That is a short report and as neither Mr. Cliff nor Mr. Lende are here, Mr. Caldwell will read the report:

SPECIAL COMMITTEE TO CODIFY MINNESOTA DRAINAGE LAWS

Hon. W. D. Bailey, President State Bar Association, Duluth, Minn.:

Dear Sir: The undersigned Committee on Drainage respectfully reports that for various reasons they have been unable to secure a meeting of the members of the committee for a conference to settle upon proposed amendments to the drainage laws, and would therefore recommend that the committee be continued with instructions to secure such meeting and submit to the Board of Governors, proposed amendments before the next session of the Legislature.

F. L. CLIFF, *Chairman*,
O. A. LENDE,
J. B. ORMOND,
Committee.

MR. CALDWELL read the report of the committee which was duly adopted.

THE CHAIRMAN: Next is the report of the Committee on Legal Biography on page twenty-one of the Advance Sheets. Mr. Fraser is chairman.

MR. FRASER: The report is on page twenty-one of the advance sheets. If there are any additional names known to members of the Bar please communicate them to the secretary or to myself. I move the adoption of the report as it will be amended.

REPORT OF COMMITTEE OF LEGAL BIOGRAPHY

Rochester, Minn., June 23, 1922.

Mr. Chester L. Caldwell,
503 Guardian Life Building, St. Paul, Minn.

My dear Sir:

As Chairman of the Committee on Legal Biography of the State Bar Association, I have the honor of reporting to you as secretary of the Association, the following memorials on the members whose deaths have been reported during last year.

I have corresponded with all of the members of the committee and note the loss of the following members:

John Birdseys Atwater, Edmund W. Bazille, Edwin Henry Bither Walter C. Brandt, Alfred Harris Bright, Hascal R. Brill, Clayton C.

Cooper, Thomas Jones Davis, Neil Donohue, John H. Driscoll, John Dwan, Gordon Grimes, William Edward Hale, Charles Edward Hamilton, James R. Hickey, J. Henry Hintermeister, Theodore T. Hudson, Robert Jamison, Charles S. Jelley, Aaron B. Kaercher, Thomas R. Kane, Anson Luther Keyes, John A. Larimore, Charles D. LaDue, Herbert S. Lord, Michael Marx, Albert C. Middlestadt, Clarence Benjamin Miller, Charles Sumner Mitchell, Albert R. Moore, Edward V. Moore, John P. Nash, John H. Norton, Milton E. Powell, Richard A. Randall, McNeil V. Seymour, F. Alex. Stewart, Dormen C. VanCamp, John Jarold Woolley, all honored members of our profession.

Yours very truly,
THOMAS FRASER, *Chairman.*

Report duly adopted.
(For Memorials see page 143.)
Adjourned till 1:45 P. M.

FRIDAY, SEPTEMBER 1, 1922

2:00 O'Clock P. M.

Meeting called to order, Judge Lancaster in the chair.

THE CHAIRMAN: Owing to an engagement which Mr. Stone has later, I am going to call on him at this time to make a financial report.

MR. ROYAL A. STONE (St. Paul): Gentlemen, this is the Report of the Finance Committee, addressed to the president and members of the Minnesota State Bar Association:

Owing to the fact that the Board of Governors has been considering, and will report to the annual meeting, concerning a plan which may change entirely the Association's financial system, the Committee on Finance has not considered it proper to make any recommendations other than the one hereinafter submitted.

Certain it is that some scheme should be adopted to relieve the Association, and particularly its officers, from the annual embarrassment resulting from a shortage of funds. For many years there has been delay in printing our annual proceedings. Moreover, in the annual report, as well as along all other lines, retrenchment has been necessary to such an extent that the work of the Association has been handicapped.

If the Association is to do its part in the present era of reconstruction and advancement, we must find some way of raising more money. A proper budget requires it. However, because of the pending plan to enter into a contract with the MINNESOTA LAW REVIEW (which is the matter now under consideration by the Board of Governors) it seems improper for this committee to go farther.

At the date of this report the Association has substantially 982 members, 512 of which are in good standing so far as the payment of dues is concerned, leaving 470 delinquent.

There are 32 life members who have bought and paid for their life membership, as originally contemplated by our constitution.

During the war the Association very considerately voted a life membership to each member of the profession engaged in the military or naval service. There are substantially 425 members of the Minnesota Bar entitled by reason of that action to a life membership without initial expense or continuing financial obligation.

We respectfully submit that this action was a mistake and should be rescinded. It is not believed that any member entitled to the bene-

fit thereof will object. On the contrary, it is thought very confidently that they will be the first to approve.

Respectfully submitted,
DAVID F. SIMPSON,
HERBERT H. d'AUTREMONT,
ROYAL A. STONE, *Chairman.*
Finance Committee.

My suggestion was that our recommendation concerning the life memberships, as granted to service men, should go over for your consideration along with the recommendation which I understand the Board of Governors will make concerning an affiliation with the MINNESOTA LAW REVIEW. If it is the pleasure of the meeting to consider it, I will move the adoption of the recommendation.

MR. DUETSCH: I second the motion.

THE CHAIRMAN: You have heard the motion; any remarks—are you ready for the question? Those in favor of the motion will say, Aye, those opposed, No. The motion is unanimously adopted.

The next is the report of the Special Committee Relating to the Unauthorized Practice of Law.

MR. JOHN H. RAY, JR.: The report is as follows:

REPORT OF SPECIAL COMMITTEE TO PREPARE LEGISLATION ON UNAUTHORIZED PRACTICE OF THE LAW.

To the Board of Governors and Members of the State Bar Association:

At the 1921 meeting of the Bar Association there was considerable discussion concerning the three bills relating to the Unauthorized Practice of the Law which had been presented to and endorsed by the Association in 1919 and 1920. The bills had failed of passage at the 1921 session of the legislature, and in the 1921 meeting of the Association it developed that there was considerable question as to whether or not the Association really favored those bills. Accordingly this committee was appointed, with instructions to study the situation and report to this meeting of the Association such legislation upon the subject as the committee thought the Association ought to endorse and push before the legislature. The committee has had nine members, scattered throughout the state, and, although repeated efforts were made, it has been unable to hold a full meeting until yesterday morning, at which time five of the members of the committee were in attendance.

It is irregular and contrary to the rules of this Association for a committee to present a report upon which it requests action, unless that report has been printed and in the hands of the members a sufficient length of time to permit them to digest its contents and form a deliberate judgment on its subject matter. However, in view of the fact that this committee has decided to recommend only one of the three bills heretofore endorsed by the Association, and in view of the fact that the two bills that are omitted are the bills which aroused most controversy in the Association last year and before the legislature at its 1921 session, we are presenting this report in the hope that the one resolution we are recommending will so appeal to the Association that it can be considered and adopted under suspension of the rules.

Perhaps no argument is necessary on the resolution. It simply recommends a bill designed to deter individuals and corporations from drawing wills and instruments creating trusts under which they themselves are to be either executors or trustees. The conflict of interest where such action is permitted is apparent. Your committee sees no distinction between the individual and the corporation who draws papers in that way.

The bill is as follows:

"A BILL

For An Act to Prohibit Certain Persons and Corporations from Acting As Executors or Trustees.

BE IT ENACTED By the Legislature of the State of Minnesota:

Section 1. No person or corporation shall be appointed as Executor or Trustee under any will or other instrument creating a trust hereafter executed, if such will or other instrument was prepared by or under the advice of the person or corporation named therein as Executor or Trustee, or by any employee or officer of any such person or corporation.

Section 2. This Act shall take effect upon its passage and approval."

We believe this law not too drastic, and that it goes far enough to remedy the evil about which so much complaint has been made.

The matters covered by the other two bills referred to this committee have been left to the Standing Committee on Unauthorized Practice of the Law.

Respectfully submitted,
HENRY DEUTSCH,
GEORGE W. GRANGER,
ALEGANDER SEIFERT,
CHARLES S. MARDEN,
F. G. SASSE,
F. E. PUTNAM,
M. J. DOHERTY,
JOHN H. RAY, JR.,
Chairman.

In order to bring the subject before this meeting I move that this Association approve the subject matter of that bill:

MR. DEUTSCH: May I suggest the insertion of the word "officer or employee" of the corporation. I believe that an officer is not always an employee.

MR. RAY: If the rest of the members are willing we would accept that that.

A MEMBER: Would that affect anybody who was a stockholder of a corporation?

MR. RAY: Officer or employee.

THE MEMBER: It would not affect the stockholder of a corporation?

MR. RAY: No, sir.

MR. DEUTSCH: Second the motion.

THE MEMBER: Suppose a man was guilty of violation? I do not see any punishment provided.

MR. RAY: There is not; it is a disqualification which when brought to the attention of the probate court appointing an executor or the district court appointing a trustee, would prevent the appointment of the person named in the document.

MR. BURR: May I ask Mr. Ray one question? I may not have followed the language closely enough, but I am wondering whether the bill as drawn reaches this situation or whether it was the intention of the committee to reach it—where a will is drawn by the attorney for the corporation, and the executor or trustee is another officer or employee of the corporation.

MR. DEUTSCH: Yes, it does cover. It says, drawn by an officer or employee of a corporation.

MR. RAY: That is the corporation named, yes.

MR. BURR: That clearly would disqualify the corporation. I am wondering whether it would disqualify the trust officer of the trust company where the will was drawn by an attorney of the trust company.

MR. RAY: I don't think that particular problem came to the attention of any of the members of the committee.

THE CHAIRMAN: If that be true—I followed it as well as I could—an attorney who was a director or officer, if he drew the will and named the trust company as executor or trustee the provision would apply.

MR. RAY: I would be a little in doubt whether the director of a trust company would be considered as their officer or employee. The question is asked as to whether or not a director of a corporation, who is an attorney, and draws a document naming the corporation as executor or trustee, whether or not that would disqualify the corporation from acting. The language of the proposed act was "officer or employee."

JUDGE CATHERWOOD: Suppose a member of a corporation or an individual lawyer in his professional capacity draws a will and names himself executor?

THE CHAIRMAN: The bill clearly covers that.

JUDGE CATHERWOOD: Would it apply to copartnerships as well?

THE CHAIRMAN: Oh, yes.

MR. RAY: I have moved the adoption of the recommendation of the committee, that the Association get behind the recommendation and have that enacted in the law.

THE CHAIRMAN: You have heard the motion and it has been seconded and it is open for discussion.

MR. KIDDER: I understand the purpose of the bill is largely concerning a trust company or a lawyer who creates a trust and who may be a candidate for trustee; but doesn't that bill prohibit the trust company from drawing an ordinary trust deed, the same as a bond, and thereafter being trustee under the trust deed? I don't think that is intended by the bill, but it seems to me the language is broad enough; also the same applies, does it not, in the common law asignment of property for the benefit of creditors?

MR. RAY: I think in the ordinary trust agreement the trust deed is prepared by the counsel for the trustee and the counsel for the borrower jointly.

MR. KIDDER: My experience is that the trust company does the whole business and says "Sign on that dotted line." Isn't it intended to hedge trusts which go into operation after death of the man?

MR. RAY: Not entirely because it is becoming more the practice to have an agreement of trust executed during the life of a person and take effect during the life of that person and do away with the necessity of probate proceedings under a will.

MR. KIDDER: Yes, but isn't the party creating the trust then in a position where he can judge for himself whether he wants it drawn by the trustee or not.

MR. RAY: I don't think he is in any different position from a man drawing a will.

MR. KIDDER: I think you are getting it pretty broad, if none of us here are certain just how far it will reach.

THE CHAIRMAN: I would be glad to have any discussion on the subject.

MR. MARTIN: Do I understand that the bill is intended to prohibit lawyers from naming themselves as executors in wills?

MR. RAY: Yes, sir.

MR. MARTIN: And in any other instrument—

MR. RAY: Creating a trust.

MR. MARTIN: And a contract or agreement—whoever draws it must draw it at the instance of the man who makes it, not at the instance of the trustees?

MR. RAY: Yes.

MR. MARTIN: Any deed of trust, any contract or agreement must be drawn by the other side?

MR. RAY: Not solely, Mr. Martin. Both sides may participate in it.

MR. MARTIN: There is nothing about participation in the act.

MR. RAY: It was the idea of the committee that if a document was prepared jointly by the two you could not say it was a document prepared by the one and the disqualification exists only where it is a document prepared by the one.

A MEMBER: Does that refer only to wills?

MR. RAY: And agreements creating trusts.

MR. DEUTSCH: The point of the committee was to get one bill, a bill that would have some remote chance of getting through the legislature. None of us thought it was a complete bill as drawn but it did meet one of the great evils. It is a disgrace to any lawyer to draw a will, unknown perhaps to any of the family, naming himself as executor. No lawyer ought to be willing to do that. Neither should any trust company do that. The bill as originally recommended had another provision but it was seen that we were in a maze and so the few of us began again on simple lines to get something that we thought would appeal to the legislature. Perhaps some of you have been there when these bills recommended by the Association came before the legislature; the very fact that they were presented from here made them subjects of attack. the few lawyers in the legislature—especially in the House, have had to run the gamut of considerable abuse. We tried to make this simple, hoping it might get through and knowing it would not get through, or that it might need more brushing up, so that it would be of some benefit.

MR. DUXBURY: It occurs to me in connection with what the last speaker said that proper ideals and ethics would probably take care of the abuses of lawyers drawing wills or other instruments and making themselves executors or trustees. It seems to me that so far as the provisions of this bill are concerned, that they are so easily avoided that it would not amount to anything. If a lawyer was so corrupt, if he were to have so little regard for ethics as to try to be appointed as executor of a will under circumstances that would reflect on his professional integrity he would probably be shrewd enough that he could go down and ask some man to draw it so he could be appointed. He could easily avoid that, with this kind of a bill and some of the trust companies that

have a reputation of doing things that are rather contrary to good ethics, in attempting to gather business of that kind—I apprehend that they would be able to think up some way to get around the terms of this bill. It seems to me that this bill as drawn suggests a good motive but not any very effective means of accomplishing its end. I believe it would be more effective if the purposes of the bill and the objects to be accomplished were recommended to the Legislature, and let the bill be drawn with more deliberation, and that it be considered with a great deal more deliberation with respect to what its provisions should be, than we have time to do here today. I have no doubt that this body of men, if they get together on the subject would probably draw a bill that might be of some consequence. But a bill of this kind is so easily avoided, it seems to me it rather detracts from the dignity of this Association to frame it up and say: "This is what we recommend for your consideration." We would better, a great deal, put the subject matter up to them and show them that some measure of that kind ought to be drawn to avoid those abuses, rather than to try to define the exact terms of the legislation which would not accomplish our ends, which is so easily avoided. I do not mean to reflect upon the work of the committee. From the report it seems that they did not have much time to consider it and I should regret to have the bill recommended to the legislature in the form that it now is.

MR. DEUTSCH: I had hoped, as chairman of the original standing committee on the unauthorized practice of law, to avoid the necessity of speaking at any length today on this question; but inasmuch as it is opened by remarks made by Senator Duxbury on this last measure, I want to present for your consideration just one or two facts and ideas relative to this question which in a way present a paradox. You will note in the letter from our president, Mr. Bailey, as well as from the proceeding in the previous meeting of this Association that this subject of the unauthorized practice of law is apparently one of the most interesting subjects to come before the Association; and yet here is where the paradox comes in. Apparently it is the one subject upon which it is most difficult to get concentrated interest of the lawyers in promoting something for the benefit of the profession only indirectly and directly for the benefit of those measures which they are trying to put through which will maintain the integrity of the constitution of this country and will annul and annihilate and exterminate, if you please, the great wave of disrespect for the law which is threatening to overwhelm this country at the present time. Now it is three or four or five or six years that we have had before this Association the question of some measures to be taken to stop unauthorized practice of law, or practice of law by other than lawyers. It has been reiterated over and over again, that in presenting these measures the committee at no time had in mind the thought that the lawyers were trying selfishly to monopolize anything or to prevent anybody doing something for the good of the community; but rather that they were trying to discipline themselves, by raising the standard of the profession so that the public might be protected in the relation that exists between the client and attorney, which perhaps is one of the most sacred, if not the most sacred of relations, at least it

is in the business world today. Now we have gone on from year to year. This Association has approved bills which have been passed by the legislatures in other states; and, in passing, I might say for the benefit of Judge Duxbury that the bills of this character—even though they may present opportunities for abuse in actual practice, have been found to be efficacious in stopping the things against which this bill is directed. I may also say, in passing, that the bill against the unlawful practice of law which was approved by this Association two years ago, and before that also, has now been passed in New York and is working effectively; it has been passed in Illinois and Massachusetts if I am not mistaken, in Pennsylvania, in Missouri, in California, and is now fairly in the way of passing in many other states. In spite of the objections that have been raised today, in spite of the fear that it would be impossible to get these bills passed in the Legislature, the fact remains that in the important states in this country bills of this character have been passed. And let me tell you, in passing, that after the bill had passed in California the trust company against whom the bill was particularly directed thought it was executing a clever move by calling, under the laws of California, for a referendum of the voters of the state on the question of this bill; and the result is that California today is in a state of turmoil and the trust companies are sorry that they ever started anything, because it is becoming apparent that the people of the state are going to be overwhelmingly in favor of the legislation. I am not urging, and it is not the purpose of our committee to urge, the introduction of any bill at the next session of the Legislature. It seems unfortunate, but nevertheless it is true, that the members of this Association are somewhat lacking in interest on this question which means so much to us attorneys, not selfishly but in the maintenance of the integrity and the ideals, and the character of the bar. I say they are somewhat lacking in interest because it is almost impossible to get even a meeting of the committee that has been appointed to consider these bills. But granting that is true, we know it to be a fact that all great progressive measures, all great remedial measures, all measures that stand for the advancement and progress in the matter of human ideals take time, energy and work; and that is why, perhaps, the members of my committee have been patient and willing to work without the reward of progress for all these past years. But let me say in connection with this bill, it strikes at an evil that we know exists. It strikes at an evil that we know ought to be remedied and although the bill, as drawn by the committee, may not be one hundred per cent proof against attack, there is nothing in the resolution that compels the legislature, or the judiciary committee of the legislature, to accept the bill as drawn by us; but as I understand the purpose of the committee, it is merely to suggest, as Mr. Duxbury intimated, to the legislature some form of legislation which will meet the ends intended to be met by this bill; and I sincerely hope the Association today will gather a new interest in this proposition, that not only will they act favorably upon this motion but that they will take it home with them and give enough thought to it so that when the matter comes up before the legislature we may be prepared to say that the lawyers of this state who, as in every other state, really and actually dictate

the lawmaking and the legislation of the state, are not afraid to go in and tackle the job of passing a feature of legislature which is intended for the best interests of the people of Minnesota even though it may be that some of these provisions are for the benefit of lawyers. This resolution ought to be adopted. We want to go further, but the committee is ready and willing to wait and when I make the report of my committee it will be very brief and we hope to suggest that something can be done during the coming year which will tend to remedy the condition which now exists. Just in passing let me note a statement that was made by one of the leading lawyers of the National Association of Credit Men in considering this question of the ethics of lawyers whom they are condemning. He said, very tritely: "You would never have a crooked lawyer, if you did not have a crooked client." These measures which we are advocating are for the purpose of preventing the laymen from entering into unfair competition with lawyers, and thus placing in the path of lawyers the temptation to which they ought not to be subjected in holding up the standard and the ideals of the profession. It is true we ought to be one hundred per cent proof against temptation. Unfortunately we are just human, and it is no more right that in a certain sense, just as all other classes of citizens are protected by the laws of the state, we lawyers should be entitled to some protection in the practice of our profession and saved from the unlawful and unauthorized competition of the laymen who are encroaching more and more each year on the field of the practicing attorney. And I say this not because any of us lawyers are afraid that we are going to lose anything in the way of professional business or emolument, but because the efforts of these laymen agencies are having a tendency to deteriorate the standards and ideals of the profession. It is to save the law, to save our profession and to protect the people whose needs are such that they must have business with the legal profession that these measures are advocated.

MR. RAY: I want to add to what Mr. Deutsch has said, that it has not been the idea of any of us that this particular measure is a perfect one. Indeed, it has been the history of measures endorsed by this Association, that when the legislative committee have taken them to the legislature they have gone over the purpose of those bills, and, as was the case at the last session, with the bill concerning the disciplining of attorneys and admission of attorney to practice, the bill, as recommended by the association was changed in order to carry out this purpose and meets the wishes of the legislature.

MR. BURR: Do I understand that Mr. Deutsch's committee will recommend no other bill, so that this will be the only bill on that general subject presented for endorsement at this meeting?

MR. DEUTSCH: Our committee recommends that our committee be continued by the chair, to present to the legislative committee of this association, such measures as in their judgment—or to take such procedure as in their judgment they may deem fit, to carry out the wishes of the association, as heretofore expressed.

MR. DUXBURY: I don't know that it is important, but I don't want to be understood as opposing the purposes of this bill. I have been quite heartily in favor of something, if it can be done, to regulate the abuses

which this bill is evidently aimed at. I think it is quite unfortunate, however, if we do that, as the speaker suggested, in the interests of the profession. The interests of the profession are not of important consideration, and the interests of the profession—that basis of advocating this bill—will not recommend it very strongly to people generally. It will not recommend it to the lawyers in the legislature, because I want to say, what I do not often say—unless it is in the presence of lawyers, because other people would not believe it—but I had the privilege of serving on the judiciary committee of the senate for a great many years. That committee was composed entirely of lawyers. More bills passed through the consideration of that committee than any other three committees, except probably the appropriation committee. And now I want to say that during the time I was in the legislature never did I hear a man advocate the passage of a bill, or pass it, because it would affect the legal profession one way or another. Lawyers are above that, I am proud to say, and if this bill is to be advocated as a business measure for the profession of law, it won't get very far, and ought not to. This ought to be on a better basis than that. This ought to be put on the basis of the best interests of the people, and the interests of lawyers is not the consideration which will get it very far.

MR. BURR: And it ought not to be.

THE CHAIRMAN: Those in favor of Mr. Ray's motion signify by saying, Aye. Opposed, No. The motion is adopted. (Mr. Martin voting No.)

THE CHAIRMAN: Any further discussion?

MR. DEUTSCH: As you will notice from Mr. Ray's report, our committee just had to mark time, pending the action of his committee, and his committee not having acted until yesterday morning, it was impossible for us to prepare a report for printing in the record, and so at this time, after conference with members of my committee, *I propose simply a resolution under the suspension of the rules,* that the standing committee on the Unauthorized Practice of Law be continued as a committee, but with such personnel as may be appointed by the incoming president, and that this committee have the authority to continue its work and take such steps as may be necessary to carry out the measures which have been approved by this association.

In connection with that, let me just add as an explanation, which I thought I had made clear, and for Mr. Duxbury's benefit, at all times this committee have tried to co-operate, and we have at no time had in mind the consideration of selfish interests of the lawyer. The only way we were interested, in the interest of the profession, was in measures which would assist us in maintaining the ideals and standards of the profession at that high mark, which would bring to the profession the respect of the community and of the people of the state, which would work out by reason of these facts for the best interests of the people of the state, so far as the legal profession is concerned.

I want to put this as a motion. I propose the adoption of the resolution, and then, I have another resolution to offer.

MR. BURR: I do not know whether suspension of the rules is in order or not, but I would like to make a suggestion, that to my mind

an objection to this resolution, if I correctly understand it, is that the committee shall be authorized to prepare measures and submit them to the legislative committee for action.

MR. DEUTSCH: No.

MR. BURR: Then I understand; but I would object to any approval of any bills we have not seen. If I remember correctly, at the meeting last year, on the debate on this subject, it developed that if there was not a majority opposed to the particular measures then discussed, there was at least a very strong minority opposed; and the solution of the problem as I interpreted it at that time was the appointment of a special committee to formulate proposed bills, continuing the standing committee for recommendation. Now it may be that Mr. Deutsch and I really are of the same mind, but I do not like the idea of this Association taking an action, which can be construed as an endorsement of measures on the subject, that have not been submitted to the association. There is some mention of the fact that similar measures have been endorsed at previous meetings, but I am not at all sure, in fact, I do not personally believe that the action at those meetings was an expression of the sentiment of the association as a whole, and certainly it was not expressive of the sentiment of the members who participated in the debate and the vote at Duluth last summer.

THE CHAIRMAN: What is the particular motion?

MR. DEUTSCH: My motion was that the committee be continued as a standing committee, but with such personnel as may be appointed by the incoming president.

MR. BURR: You understand I have no objection to that.

MR. DEUTSCH: No—and that the committee is authorized to continue its work and take such steps as they believe necessary to carry out the proceedings of the association.

Now, there are two measures before the association on which action has not been taken yet, so that there might be made a report. For example, some two years ago, I believe, we passed a resolution authorizing a committee to take up with the judges of the federal court, the question of some rule or proceeding whereby might be discountenanced and discontinued actions in the bankruptcy courts which result in the treating of bankruptcy estates, as so much grain upon which the vultures of the law may feed. That committee has never completed its work, and its work is entirely within the province of this committee, and it is my thought that under the power to be granted by this resolution, the committee might continue that work and obtain that order.

There is also, under the present conditions, the possibility and the probability and the right on the part of this association or its committees, to appeal to the supreme court for such rules as might remedy some of the conditions which were presented when these bills were offered to the association, and it was my thought that inasmuch as the association is on record approving the general policy and the general purpose of prohibiting the unauthorized practice of law, that the committee, without committing the association to any drastic measures, might proceed along

the line heretofore adopted and be in position to report next year some progress in the way of having a remedy applied to meet these conditions.

I want to say in passing, to Mr. Burr, that the bills which were presented, (and I think the question was raised last year) were presented at the joint meeting of this association with that of the Wisconsin association, at the La Crosse meeting at a time, when perhaps we had the largest representative attendance of any meeting that I have ever attended of this association. And the bills, after a very strong discussion, were passed unanimously with the exception of two votes as I recollect. When the matter came up at Duluth last year, it came up by reason of a mix-up that occurred in the matter of appointment of legislative committees at the previous session of the legislature, which, to use a common term, gummed up the whole proceeding, and then the question was raised, not as to the purpose of the bills, but whether under the language of the bills, extensive as they were, it would be possible to have them passed by the legislature; and then, for the purpose of clarifying the situation, and with the hope that possibly we might have a bill presented which would meet with the approval, as being the least drastic or inclusive, this special committee was appointed at the suggestion and motion of myself as chairman of the standing committee. So far as I know at the present time, the association, in its largest session that I know of stands committed to the proposition that some remedy ought to be obtained against the abuse of the practice of the law by persons who are not authorized under the laws of the state. And it was with that in mind that I introduced the resolution providing for the continuance of the committee and giving it authority to carry out, so far as practical, the purposes of the association.

MR. REED: Is this a standing committee of the association?

MR. BURR: No, it is a continuing special committee. It has never been made a standing committee.

THE CHAIRMAN: I dislike to continue this discussion beyond the hour for the ride, and my own judgment is that this matter would better be left until tomorrow morning, as the first order of business at ten o'clock, unless you want to dispose of it now. You have head the motion. Those in favor of the adoption say Aye. Opposed, No. The Ayes have it. Adjourn until ten o'clock tomorrow morning.

FRIDAY, SEPTEMBER 2, 1922
10:00 o'clock A. M.

The meeting called to order, Judge Lancaster in the chair.

THE CHAIRMAN: Ladies and gentlemen, I was somewhat surprised when I saw the topic on which Judge Lees of our supreme court was to speak this morning. It reads: "Current Criticism of the Bench and Bar." We, as lawyers, knew there were current criticisms of the Bench, and when we are sure of our company, we have indulged in those criticisms ourselves. But, I did not suppose there was any criticism of the Bar. But this morning we will have one address us here who is amply qualified to tell us, at least, of the criticisms of the Bar, if he is not able to tell of those of the Bench. (Laughter and Applause.)

JUDGE LEES: The president's introduction reminds me of something I saw the other day in a paper with reference to a Minneapolis gentleman, who was temporarily sojourning in Chicago. His presence was wanted in this state in connection with some criminal charge. He did not want to come and his friends had written him and advised him to get a mouth-piece, and perhaps he would not have to come. Now, the reason the Bar has not learned from the Bench the weight of its criticism is that the Bench had no mouth-piece; and with your permission for just a few minutes, I will try to act as the mouth-piece of the Bench and tell the Bar what criticisms we have to offer, and incidentally to accept some criticisms for the Bench itself.

It has been the practice at previous meetings of this association that I have intended to indulge in a good deal of talk about the short-comings of the legal profession. We have heard about how imperfectly we are educated, how many men are admitted to the bar who are not qualified either intellectually or morally to practice, and how many men are allowed to remain in the Bar who ought not to be left within it. I am not going to talk along that line. It seems to me that that subject has been pretty well threshed out. I believe there are some good things that may be said of the Bar and possibly of the Bench, Mr. President, (Laughter), and with your permission, I shall dwell somewhat on the bright side of the picture instead of the dark side.

Judge Lees here delivered his address. (See page 133.)

THE CHAIRMAN: Judge Lees' talk reminds me of the story of the little girl who had been very naughty, and whose mother sent her up stairs to tell the Lord how naughty she had been, and to ask for forgiveness. The little girl went up stairs and shortly came down, and the mother said, "Well, Mabel, did you do as I told you?" and Mabel said, "Yes, Mamma, and the Lord said, 'Well, Mabel, there are lots worser girls than you are'." And, I feel that there are a lot worser people in this world than the lawyers. I am very greatful, indeed, and I am sure every member of the Bar is grateful, for your address here today Judge Lees. (Applause, all standing.)

MR. HAUSER (Sleepy Eye): It is undoubtedly true that the lawyers are to blame for a whole lot of the disrespect for the system of jurisprudence on the part of the general public. We all know that every once in a while an article appears in one of the daily papers citing just these circumstances which the Judge has mentioned, where every one of them could be easily explained away, if someone would take the trouble to answer them; but I have never yet seen anyone answering any of these articles. These articles appear either in the form of an editorial or some correspondent's letter, often published on the editorial page, and making these various charges. All of this has its effect on the general public, and it seems to me it ought to be the duty of some committee or some officer of this association to answer these charges when they appear. The editor of these daily papers are great men. You can tell that from the tone of the editorials that they write. They are right-minded men, and they would, no doubt, publish these answers explaining away these charges made in the daily papers. I do not know just

exactly how we should go at it. I think some of the older lawyers are better qualified to take some action on this matter; but it seems to me this association should take some action, appoint a committee or some officer of the association whose duty it would be to answer these articles as they appear in the daily papers.

THE CHAIRMAN: The suggestion made by Mr. Hauser is undoubtedly a good one, and doubtless something of that kind might be worked out. The next business on the morning program is the report of the special committee on the Incorporation of the State Bar Association. Is the chairman ready to report?

MR. MORRIS B. MITCHELL (Minneapolis): I will read the report as it is printed on page 36 of the advance sheets. (Reads the report).

SPECIAL COMMITTEE ON INCORPORATION OF ASSOCIATION, ETC.

To the Board of Governor and Members of the Minnesota State Bar Association:

Your Special Committee appointed to draft a bill providing for the organization and self-government of the Bar of Minnesota reports as follows:

This committee is the direct descendant of a line of committees which have been appointed annually since 1915 to consider the question of incorporation of the Minnesota State Bar. At the 1920 and 1921 meetings, this Association voted unanimously in favor of such incorporation of the Bar of Minnesota, with self-governing powers, and at the 1921 meeting, this committee was instructed to draft a bill for presentation to the 1923 Legislature.

The committee herewith submits as "Appendix A" a bill which it believes is constitutional, and which provides a practical method for incorporating the Bar of Minnesota and investing it with self-governing power. In drafting this bill, the committee has followed as much as possible the model for the incorporation of state bars, as drafted by the committee of the American Bar Association on this subject.

The committee has not included control of admission to the Bar in the powers of self-government conferred on the state Bar. It was felt that the matter of admission to the Bar was being admirably handled at the present time by the State Board of Law Examiners, and that the inclusion of this power would only arouse opposition to the whole measure on the grounds that the lawyers were attempting to run a "closed shop" and would use the power granted by the bill for the purpose of keeping down the numerical membership of the Bar. The committee believes that there will be little or no opposition to the bill in its present form, and that if adopted, it will accomplish two very definite things for the future welfare of the state of Minnesota.

First, it will enable the Bar of the state to exercise an effective supervision over any members of the profession whose conduct tends to bring the whole legal profession into disrepute. It has been suggested from some quarters that the new rules for the conduct of disbarment proceedings, as worked out by the supreme court on the authority of Chapter 334 of the Laws of 1921, are sufficient to accomplish such supervision. Your committee, while recognizing the great advance in disbarment procedure which these rules accomplish, nevertheless feels that the procedure is still cumbersome and poorly organized, and that, even assuming that efficient disbarment procedure is all that is wanted, the present system is unsatisfactory, and will not accomplish the best results obtainable. One reason for this is that the present system relies for its efficacy upon volunteer work by voluntary bar associations, and these associations do not always function

as they theoretically should. But your committee's chief reason for believing that the organization proposed by this bill is necessary is that it believes disbarment alone to be insufficient as a means for obtaining the desired ends. Experience in grievance committee work on the part of some of the committee has convinced them that in most cases a friendly warning to an erring brother, by some member of the Bar with power to speak with authority, will effectively prevent practices on which disbarment proceedings might later be based. The power to set standards and to publicly or privately censure certain conduct is indispensable in preventing a lowering of ethical standards, and there is absolutely no provision for this procedure in the present disbarment statute.

Second, the proposed bill will create an organized body charged with the duty of improving the administration of justice and of making the legal machinery of the state run smoothly. At present, the Bar is blamed by the public for any delays or any miscarriages of justice, but with the exception of a few voluntary bar associations containing a small proportion of all the lawyers, there is no organization charged with the duty of locating the knocks in the engine of justice and of eradicating them. With an organized Bar charged with the duty of bringing the administration of justice to an efficient and satisfactory stage, consistent and constructive efforts along these lines will be possible. By suggesting statutory amendment to the Leglisature, and by suggesting to the courts changes in rules and procedure, such an organized Bar would eventually be of inestimable aid in making the Minnesota Courts and the Minnesota procedure the best in the United States.

Your committee recommends that a committee of five be appointed to procure the passage of the proposed bill by the 1923 Legislature.

Respectfully submitted,
JOHN B. SANBORN,
VICTOR STEARNS,
SAM G. ANDERSON,
MORRIS B. MITCHELL, *Chairman*,
Committee.

A BILL FOR AN ACT TO PROVIDE FOR THE ORGANIZATION AND GOVERNMENT OF THE STATE BAR INCLUDING THE CREATION, ELECTION AND ORGANIZATION OF A BOARD OF COMMISSIONERS OF THE STATE BAR, AND THE VESTING OF SUCH BOARD WITH DISCIPLINARY POWERS OVER ATTORNEYS AT LAW; AND PROVIDING THE PROCEDURE TO BE FOLLOWED IN DISCIPLINARY CASES, AND PROVIDING FOR THE PAYMENT OF A STATE LICENSE FEE BY ATTORNEYS AT LAW; AND IMPOSING A PENALTY FOR THE UNAUTHORIZED PRACTICE OF THE LAW.

Be It Enacted by the Legislature of the State of Minnesota:

Section 1. Board of Commissioners Established. That there is hereby established a Board of Commissioners of the State Bar, consisting of nine members, to hold office for three years, and to be selected in the manner hereinafter provided. The Board shall have perpetual succession, use a common seal, and be authorized to receive gifts and bequests designed to promote objects for which it is created and the improvement of the administration of justice.

Section 2. Selection of Commissioners. The Board of Commissioners shall be selected by the members of the State Bar, who shall vote by ballot. The ballot shall be deposited in person or by mail with the Secretary of the Board. Vacancies in the Board shall be filled by its remaining members. The Board shall fix the time for

holding the annual election and prescribe rules and regulations in regard thereto not in conflict with the provisions of this Act. The Board shall, in accordance with its rules, give at least sixty days' notice of the time for holding the election.

Section 3. First Election of Board. For the purpose of the first election of Commissioners, the Clerk of the Supreme Court, with two assistants to be selected by himself, shall constitute an election and canvassing board; they shall

(a) set a time for closing the voting not less than sixty days from the time of notice to the members of the State Bar;

(b) notify all such members by mail of the time for voting and the time for closing nominations, which latter time shall be thirty days from the time of mailing notice;

(c) receive nominations and prepare a ballot containing the names of all persons nominated according to the provisions for nomination hereinafter set forth;

(d) mail such ballot to every member of the State Bar at least fifteen days before the time for closing the voting.

(e) receive and canvass the vote and certify the names of the nine candidates receiving the largest number of votes to the Secretary of State as the first Board of Commissioners.

Notices provided for in this Section shall be mailed to the address of each member of the State Bar as listed in the records of the Supreme Court. Failure of any member of the State Bar to receive notices or ballots shall not invalidate any nomination or election.

Section 4. Nominations. Nomination to the office of Commissioner shall be by the written petition of any ten or more members of the Bar in good standing. Any number of candidates may be nominated on a single petition. For the purposes of the first election, the petitions shall be sent through the mails to the above provided election and canvassing board. Thereafter, such nominating petitions shall be mailed to the Secretary within a period to be fixed by the rules made by the Board of Commissioners. Nominations shall be made from the membership of the State Bar.

Section 5. Organization of the Board. On the fourth Tuesday following the certification of their names, the first Commissioners shall meet at the office of the Clerk of the Supreme Court and organize by the selection of the following officers of the State Bar and its Board of Commissioners, namely: a president, a first and a second vice-president, and a secretary. The Commissioners shall be divided into three groups holding office for one, two and three years respectively, and at the first meeting their terms shall be determined by lot. Their successors shall hold office for three years.

Section 6. Authority Conferred. The Board shall formulate rules governing the conduct of all persons admitted to practice and shall investigate and pass upon all complaints that may be made concerning the professional conduct of any person admitted to the practice of the law. In all cases in which the evidence, in the opinion of a majority of the Board, justifies such a course, they shall take such disciplinary action by public or private reprimand, suspension from the practice of the law, or exclusion and disbarment therefrom, as the case shall in their judgment warrant. A review by the Supreme Court of the action of the Board of Commissioners, or of any committee authorized by it to make a determination on its behalf, pursuant to the provisions of this Act, may be had by the person complained against, and the procedure upon such review shall be such as the Supreme Court may prescribe.

The Board of Commissioners shall also have power to make rules and by-laws not in conflict with any of the terms of this Act concerning the selection and tenure of its officers and committees and their powers and duties, and generally for the control and regulation of the

business of the Board and of the State Bar. The Board shall also present to the State Legislature at each session such recommendations for changes, both in civil and in criminal procedure, as may be deemed advisable.

Section 7. Licence Fee. Every member of the State Bar shall, prior to the first day of July in each year, pay into the State Treasury as a license fee the sum of $5.00, and the fund thereby created shall constitute a separate fund to be disbursed by the State Treasurer on the order of the Board of Commissioners. Expenses, fees and compensation for services in connection with disciplinary proceedings shall be paid by the Board, from the separate license fee fund created hereunder.

Section 8. Disbursements. For the purpose of carrying out the objects of this Act, and in the exercise of the powers herein granted, the Board shall have power to make orders concerning the disbursement of said fund, but no member of the Board shall receive any other compensation than his actual necessary traveling expenses connected with attending meetings of the Board.

Section 9. Discipline—Procedure. The Board of Commissioners shall establish rules governing procedure in cases involving alleged misconduct of members of the State Bar, and may create committees for the purpose of investigating complaints and charges, which committes may be empowered to administer discipline in the same manner as the Board itself, but no order for the suspension or disbarment of a member shall be binding until approved by the Board. The Board, or any such committee, may refer any accusation to any member of the State Bar, and such member shall have all the powers of a referee under Section 7823, General Statutes, 1913.

Section 10. Supreme Court's Power to Annual Rules. The Supreme Court may annul or modify any rule or regulation adopted by the Board.

Section 11. Power of Subpoena. In the investigation of charges of professional misconduct, the Board, and any committee appointed by it for this purpose, shall have power to summon and examine witnesses under oath and compel their attendance and the production of books, papers, documents and other writings necessary or material to the inquiry. Such summons or subpoena shall be issued under the hand of the Secretary of the Board and shall have the force of a subpoena issued by a court of competent jurisdiction, and any witness or other person who shall refuse or neglect to appear in obedience thereto, or shall refuse to be sworn or testify or produce books, papers, documents or other writings demanded, shall be liable to arrest upon application to the Supreme Court of the State or to any judge of any court of record for the district where the investigation is conducted, as in cases for contempt.

Section 12. Rights of Accused Member. Any member of the Bar complained of shall have notice and opportunity to defend by the introduction of evidence and the examination of witnesses called against him, and the right to be represented by counsel. He shall also have the right to require the Secretary to summon witnesses to appear and testify or produce books, papers, documents or other writings necessary or material to his defense in like manner as above provided.

Section 13. Record of Proceedings. A complete record of the proceedings and evidence taken by the Board, committee, or referee, shall be made and preserved by the Board, but it may, where sufficient reason appears, and the accused gives his consent, cause the same to be expunged.

Section 14. Annual Meeting of Bar. There shall be an annual meeting presided over by the President of the State Bar, open to all

members of the Bar in good standing, and held at such place as the Board of Commissioners may designate, for the discussion of the affairs of the Bar and the administration of justice.

Section 15. Unauthorized Practice of Law. Every person not duly admitted to practice, or whose license to practice shall have expired, either by disbarment, failure to pay his license fee, or otherwise, who shall appear as an attorney at law in any action or proceeding in a court of record, except in his own behalf when a party thereto, or who for any consideration shall give legal advice, or in any manner hold himself out as qualified to give it or as being an attorney at law, shall be guilty of a gross misdemeanor, of which the district court shall have sole original jurisdiction, and which the county attorney shall prosecute; but an attorney admitted to practice and residing in another state, who shall attend any term of court here for the purpose of trying or assisting in the trial or conduct of an action or proceeding therein pending, may be permitted to do so without being subject to such penalty. The fact that any member of the Bar shall not have paid his license fee shall not invalidate any trial or proceeding in which he may have been acting as counsel.

Section 16. Definition. The words "State Bar" and "Bar" as used in this Act shall be construed to mean all persons now or hereafter admitted to practice in Minnesota as attorneys-at-law in accordance with Chapter 35, General Statutes, 1913.

The word "Board" as used in this Act refers to the Board of Commissioners of the State Bar as hereby created.

Section 17. Repealer. Sections 4947, 4948 and 4957, General Statutes, 1913, and all Acts or parts of Acts inconsistent with this Act, are hereby repealed; Provided, however, that until the election and organization of the first Board of Commissioners created hereunder, said Sections shall remain in full force and effect.

In talking with some of the lawyers who have read this report, and endeavoring to ascertain the feeling of the Bar on this subject, I have been asked a number of times as to what was the advantage of this statute. It seems to me that to state the advantage of this charge in a word, is to state that any group of people without organization can accomplish very little. There is no use citing instances of this. We all know that any organization of people who aim to do anything must have a very definite organization. In general, the stronger the central governing body, the more authority they have, the more effective is the organization. At the present time our state Bar, as a Bar, is absolutely unorganized. It is true that we have our voluntary associations but no one knows better than the men who are active in the association, the limitations of the association, both on account of their financial limitations and on account of the fact that they are unable to say that they represent and include in their membership all the Bar of the state, and also the fact that they have no authority outside of mere advisory authority. Your committee feels that this act will do a great deal for the legal profession in Minnesota, and also for the cause of the efficiency of the administration of justice. We believe that if the Bar of the state and if the members of this Association will unite in their efforts to pass this bill, that it can be gotten through the 1923 legislature.

If there are any questions on this bill or any doubt in anybody's mind, I hope they will express them now; and not go away feeling that they have adopted this report without going thoroughly into it At the two previous meetings at which it has been approved, this has

been merely perfuntory approval, and I, personally, have not been sure that every member in the audience was convinced that the bill was really advisable. I would like to feel that this organization votes heartily in favor of this bill, and that we can count on the help of every one here in getting it through the legislature. We don't want to do a lot of work getting it through if the members of the Bar do not feel that it is a good thing. We feel that it is and we are willing to do what we can to help it through if the members want it. Mr. President, I move that the report be adopted, and that a committee of five be appointed to procure the passage of the bill through the coming legislature.

MR. ROME G. BROWN: Second the motion.

MR. PUTNAM: One thing, does this mean incorporation or is it a provision for an administrative body—an administrative law or a corporation?

MR. MITCHELL: I would say it is the latter, an administrative body.

MR. PUTNAM: In Section 9, does that provision—I have not taken time to read it thoroughly.

MR. MITCHELL: It was the idea that the Bar Association would be charged with the duty of conducting disbarment proceedings.

MR. PUTNAM: Well, what I am getting at, does it ultimately get to the court, or is it entirely determined and passed upon by the Bar Association itself ?

MR. MITCHELL: There is a power of appeal given to the supreme court in any case, and the difference between this system and the present one is that in the present system the supreme court is the court of original jurisdiction on disbarment proceedings. In this case, it would be the board of governors who would disbar the man and then he has his appeal to the supreme court. The supreme court is always given power to make rulings. In the last analysis, eveything is still in the hands of the court, except that the Bar is charged in the first instance with the original action and the conduct of the proceedings.

MR. PUTNAM: I take it that the review that you refer to is in Section 6 in these words:

"A review by the supreme court of the action of the board of commissioners or of any committee authorized by it to make a determination on its behalf, pursuant to the provisions of this Act, may be had by the persons complained against, and the procedure upon such review may be such as the supreme court may prescribe."

Now, what kind of a review is contemplated by the supreme court under that provision? It is very indefinite. What effect does the order have, that is made by the Bar Association, when it reaches the supreme court? What kind of a review is contemplated by the court? That is what I would like to know.

MR. MITCHELL: I would say in my opinion, this review would be the same as the review of any decision of a lower court. That is, the decision of a board of commissioners or any of its committees which are given power, would be the same as the decisions of a lower court and until reviewed by the supreme court it would have the force of law.

MR. PUTNAM: Do I understand then from that view that the findings and order of the board would have the same force and effect in the supreme court as a verdict by a jury or the finding of a court on a particular

fact? In other words, if the court should find the least evidence sustaining the finding order, that it must be affirmed without any review by the supreme court? If that is the theory, I should be dead against it.

MR. ROME BROWN: No.

MR. PUTNAM: Because I think in the last analysis the supreme court should determine whether or not an attorney could be disbarred. I would not feel like leaving it to any committee of the Bar Association to simply determine whether or not a man could be disbarred. I should want some action or review before the court on the facts—not take it without any review—simply to determine whether there was any evidence to sustain the findings of the court; but I would want really an original review by the supreme court of that order, and of the evidence.

MR. CALDWELL: A trial de novo.

MR. PUTNAM: Yes, substantially, and let the supreme court give their views. Now, I feel personally, that the Bar would feel better satisfied with that kind of a review by the supreme court. I think the Bar of the state looks upon the supreme court in something of the light of a father to the Bar and they should have much more faith in the ultimate judgment of the supreme court than they would in the Bar Association. I have been following this thing a little bit and it is my observation that these grievances against attorneys have been conducted by the younger members of the Bar. They are young and full-blooded and there is no mercy in them. Some of us who have grown older have acquired a little bit of the milk of human kindness and we look at these things altogether different from what the younger men, fresh from the law school, do. I want ultimately that the manner of disbarment of an attorney shall be finally left to the judgment of the supreme court and not to any committee of the Bar. That is the feeling I have, and if it is the purpose of the incorporation for a committee of that association to determine whether or not any given man shall thereafter practice law, I do not want to see that put upon the books. The right to practice a profession, when it is given, is a valuable one. A man goes into it and works twenty-five or thirty years, and somebody gets sore at him and they present evidence to a committee of the State Bar Association, and they disbar him; that man is out forever. There is no occupation that he can go into, no other work that he can go into. I want in the last analysis the judgment of the supreme court, and under that review that you have given there, I don't believe it gives the supreme court the review that I am speaking about. I am passing off as a lawyer—there is no question about it; but I do want so far as it lies in my power to protect the individual members of the Bar of the state of Minnesota. I have seen these grievances that have come up. I know personally of many instances which have come to the knowledge of some of the members in these local bar associations—particularly the Hennepin County Bar Association —a grievance that ought to have been looked into, but it was never picked up. A man was robbed of $1,000 of his good money, and it was done to the absolute knowledge of some of the members of the Hennepin County Bar. They have been quick to pick up certain cases against certain lawyers and consider them, but not a move was taken in this

case. I don't know why. For that very reason I do not want it left to a committee; and personally, whatever the vote of this Association is on this incorporation, unless that provision is stricken out relating to the disbarment of attorneys, or unless it is amended so that it will safe-guard the rights of the individual attorney, I shall reserve the right to oppose it.

THE CHAIRMAN: Mr. Putnam, you have in mind a suggestion as to the amendment?

MR. PUTNAM: I have not.

THE CHAIRMAN: Would the words, "review the merits," answer?

MR. PUTNAM: "Trial de novo," or something.

MR. BURR: It occurred to me that I might state something that perhaps would interest Senator Putnam. I heard discussion on that, Senator, in the National Conference of Bar Associations when this general project was first taken up. And I am quite clear that it was the understanding there—and I feel just as you do about the desirability of a complete review on the record—that under this general pattern of law, the action of the supreme court would be like the old review in equity, where they would consider all the evidence on the record and would make a final decision. They would not be bound in any way by the finding below, although they would be confined to the record of the evidence unless they themselves ordered a further hearing or taking of further testimony. Now, if I correctly interpret your position—that if the bill is amended so that would clearly appear—that it is your feeling that it is not sufficiently clear now; but would that remove your objection?

MR. PUTNAM: What I want to get at is this, if the state Bar itself is to have the power to disbar from practice any member of the Bar of the state of Minnesota, I want the findings of that committee, the findings of the Bar Association to be simply advisory only, and that the court is not bound by them. I want them, as an independent body, irrespective of what action the Bar Association has taken, to review the testimony and make it their judgment and not the judgment of the Bar Association.

MR. CALDWELL: Suppose there is no appeal taken, what then?

MR. PUTNAM: Then probably the order stands, then. If the man is satisfied to abide by the order, I have no further interest in him.

MR. ROME BROWN: I agree with Senator Putnam in his argument but I have the same opinion as suggested by Mr. Burr. You will notice in clause 9, that the board or committee may refer any accusation to any member of the state Bar and such member shall have all the powers of a referee. It says the board of commissioners shall establish rules and create committees and then the matter comes before the association for their review of the facts and their conclusions. I had in mind that when this got to the supreme court it would be just the same as the findings and conclusions—for instance, of a master, to whom had been referred a subject to hear and determine, his hearing and determination would be only subject to review both on the facts and on the conclusions of law, and I think this would have, under this act as now written, the same effect. But I would ask the committee if there would be any

objection to making this dead sure in some such way as this for instance: In section 6, where it reads now, "review by the supreme court of the action of the board of commissioners, it may be reviewed," and so forth. Now in order that it can not be misconstrued, and I do not think it would be so construed by the supreme court, as they are the Fathers of the Bar, as has been said, and they will construe this thing liberally, but lest it might be misconstrued or that there might be any possibility that it could be taken as a review of the judgment of the trial or the lower court, and that the findings of fact should be held true, if there is a scintilla of evidence to support them—now, to obviate that, couldn't you have it read in section 6 as follows—"that the findings of fact and conclusions of law by the board of commissioners shall be reviewed" and so forth. It is not exactly a trial de novo, because they do not go into new evidence, but they take the evidence before them and the findings of fact on the record and they judge whether those findings of fact are proper or not under the testimony, and then they can find whether the conclusions and determination of the board on these facts are justified in their judgment. Wouldn't that satisfy you?

MR. PUTNAM: Mr. President, now I think that the suggestion made by Mr. Brown leads right back to the very thing I have been fighting against. It places it in the same position by that amendment that a finding of fact in a trial court in ordinary civil cases has before the court of appeal, as to whether the evidence warrants the findings. If there is a scintilla of evidence there—as they call it—I don't know what the word means—but if there is a scintilla of evidence there, they affirm the findings of fact. That is what I want to get away from. I want a review on the evidence by the supreme court itself, not on the findings of fact of the referee who has heard it. A person, under this law, who is accused has no choice in the referee. The referee is picked by the committee of the Bar Association. There is no provision made for him to object to that referee. He may go up against a man who is hostile to him, who is prejudged in the first instance. There is nothing in there that protects his rights; and you get a finding there and have the Supreme Court treat it as the findings of fact by a trial court, and where is the attorney? He is dumped into the streets without an impartial trial or an impartial hearing. You would not accept such a man as a juror in a case, yet you would let the board pick the referee.

THE CHAIRMAN: Would you kindly suggest what you have in mind?

MR. PUTNAM: At this late minute I cannot pick up an amendment.

MR. BROWN: May I suggest that with the referee provided here, his only duty is to take the evidence, he does not make any findings but takes the evidence for the board and they consider it?

MR. MITCHELL: I would like to propose the following amendment on the part of the committee, that after the words in section 6, "A review," that the words "on the merits," be added, and that instead of the words "action of the board," the words "findings of fact and conclusions of law of the board," be substituted. That is, "A review on

the merits by the supreme court of the findings of fact of the board of commissioners or of any committee authorized by it to make a determination on its behalf."

MR. BURR: May I make another suggestion that it seems to me may run with what the Senator has in mind, and with which I fully sympathize. I take it from Senator Putnam's remarks that what he wants to make sure of is that the supreme court will consider the evidence in such a case on appeal without feeling itself bound by the findings or judgment of the committee below. Going back in my memory to a discussion which we had some years ago on one of these acts, perhaps it might be well, and perhaps it would satisfy Senator Putnam's objection if you added also a clause which would declare clearly that the supreme court was to consider the evidence and was not bound by the findings or judgment below. Does that, Senator meet your objection?

SENATOR PUTNAM: Well, to some extent. But if this matter gets to the legislature, it will probably be amended somewhat.

MR. BURR: Oh, yes. I think there are details in the bill that might be changed if you come to study it critically. I am heartily in favor of the general plan, but in sympathy with the suggestion of the Senator, and there might be a suggestion which would really put it into effect—where there is an appeal asked on the testimony.

MR. BROWN: May I suggest that this Bar Association has been working on this very important proposition for a long time. The committee has done long and very good work, and if we do not make a definite recommendation to enact at this session, it must go over two years and it seems to me that we ought to thresh out these objections here and make something definite so that we can report an act which can be the basis at least of action by the very next Legislature and not get gummed up here and pass this session without some definite action.

MR. SHEARER: I have great sympathy in the view of the Senator and in the purpose of his objection, and what he has said with reference to the disbarment of lawyers, but everybody in this Association knows that we have not been drastic in this state on that subject. We never have. One other point, this proposed incorporation of this Association was brought up at the meeting in St. Cloud several years ago, in 1914, and this thing has been pending every since. Now, we all know about the law's delay and the lawyer's delay, and unless we take some action now, I full sympathize with what Rome Brown said, that we will be accused of dilly-dallying and all sorts of things. Let us go forward and take some final steps. I think the committee has made a splendid report, and I do not see much objection to it, just as it reads for this reason. Now. if, as the chairman of the committee has suggested, he begins to put in there "on the merits" or in some other way—a *"review,"* that is generic—it means everything that is necessary, and whenever you begin to put in words there, you limit it. A review by the supreme court of the action of the board of commissioners or any committee authorized to act on its behalf, and so forth—it seems to me it safe-

guards all a man's rights. Otherwise, how is it to be done. It seems to me the supreme court is the proper body to determine the whole matter. A review is a review on the law and on the facts.

Now, further, we cannot, in a large body like this formulate a law which will come to the legislature full-fledged and without the necessity of amendment. Don't you think for a minute that any law that this body puts up will go through there as letter perfect. It is going to be amended. It may be amended in the House, but I should expect that there won't be any holes in it so long as we have men in the Senate like Senator Putnam, that no law which shall be too drastic as to lawyers or on any other subject will ever get through there without the finest and most careful surveillance; and I think we can fairly pass this bill in this body as the committee has formulated it and put it into the Legislature and it will be unquestionably amended, and so long as there are the number of lawyers in the Legislature that are there, there won't be any law that will get through there that will be unjust to the Bar.

MR BROWN: To end the discussion, there being a very plain issue between the committee and Senator Putnam, I move, in order to facilitate getting this thing into shape, that we refer this question back to the committee, to consult with Senator Putnam, and report back such amendments, if any, to this session the first thing this afternoon. They can do better than we can here.

Motion seconded.

THE CHAIRMAN: Are you ready for the motion?

MR. PUTNAM: Now, Mr. President, I am not trying to throw any monkey-wrench into the gearing at all, but I want to come back to this referee business. It says now that the board or any such committee may refer any accusation to any member of the state Bar and such member shall have all the powers of a referee under section 7823. Now, I understand that to be the general referee statute, which enables a referee to report or make findings of fact. Now, does this Bar Association want to go before the supreme court with a bill with that clause in there, which does not give the accused any right in the selection of the referee who is to make the findings, a man that may be personally hostile to him, and that he has no right to kick about it? Does this Association want to go before the Legislature with any such clause in a bill—for some person opposed to the measure to pick up and show the inference that may be drawn? You give a man a right to examine a juror in a dog case and see whether he is competent to pass on the ownership of a dog, but you will give the individual that is accused here no chance to question the fairness and capacity of the person chosen as referee, whether he is personally hostile against him or not. I am calling your attention to these as matters that are vital to the success of your proposed bill.

MR. BROWN: That is just the point of the motion, Senator. You take it up with the committee and thresh it out. We know your power on these things. If you are against this in the Senate, it is going to die. (Laughter.)

MR. SCHMITT (Mankato): I am very grateful to the Senator for the remarks he has made here this morning. Now, the position is taken, that the bill, if unsatisfactory, may be modified in the Senate. It seems to me that our Legislature has a right to expect that this Association will present bills which the majority will support. When a lawyer is disbarred, it means taking away his capital, amounting to perhaps thousands and thousands of dollars which he has accumulated, disgracing him in the community; and it seems to me that the supreme court should not be embarrassed by any recommendations or any findings, but that the trial should be de novo, if there is going to be any evidence taken or any finding of any kind, and that the supreme court, as I said before, should not be embarrassed in any way in determining the merits. There might be an objection on the part of some lawyers against his fellow practitioner. Let us get away from that and let the supreme court pass on this itself.

MR. SHEARER: Is a lawyer any better than anybody else?

MR. SHEARER: Does the supreme court try anything else do novo?

A MEMBER: Yes, habeas corpus.

THE CHAIRMAN: The motion before the house is that this shall be referred back to the committee to confer with Senator Putnam and report this afternoon, the first order of business on the progam. Are you ready for the motion? Those in favor say Aye, those opposed, No. The motion is carried. The committee should be ready to report at 1:45.

THE CHAIRMAN: The next matter is the report of the Ethics Committee.

REPORT OF ETHICS COMMITTEE

To the Minnesota State Bar Association:

Gentlemen: Your Ethics Committee begs to submit the following report as of July 1, 1922:

After this committee was organized, there was submitted to it by the committee of the preceding year three cases, involving charges of misconduct of attorneys. Upon investigation of the papers it was found that further proceedings in these cases were barred by the statute of limitations contained in Chapter 334, Laws of 1921, and the cases were dropped, so far as the committee is concerned.

There have been brought to the attention of this committee, for investigation, complaints against four attorneys. Two of these cases were disposed of to the satisfaction of the committee and of the parties in interest without the filing of complaints in the supreme court. One complaint submitted was of a character which did not appear to call for action by the committee and the parties were referred to their rights under Chapter 334, Laws of 1921, to file accusations directly with the clerk of the supreme court, if they saw fit to press the charges made. So far as we are advised no such complaint has been filed. One other case, involving serious charges of professional misconduct, is still in the hands of the committee and undisposed of.

The small number of cases, involving charges of professional misconduct, which have come directly to the attention of this committee, for investigation, is not necessarily indicative of the number of cases of that

character which may have been considered by the supreme court, the State Board of Law Examiners or by local bar associations. Chapter 334, Laws of 1921, above referred to, and which was enacted pursuant to the recommendations of this Association, has effected a radical change in the investigation and disposition of complaints against attorneys for professional misconduct. Under the provisions of that statute accusations may be filed, in the first instance, with the clerk of the supreme court. It is therefore open to any person or to any local bar association to file complaints with the clerk of the supreme court, without reference to or even the knowledge of the Ethics Committee of the State Bar Association and certain proceedings have been instituted in this way, during the past year, without previous reference to this committee. This is not said in any spirit of criticism of the law or its administration, but as indicating a change in the activities of the committee. It seems reasonable to expect that as this law becomes more generally known and practice thereunder becomes settled, there will be few occasions when this committee will be called upon to take an active part in the investigation or prosecution of specific charges against attorneys and such cases will generally be handled by the State Board of Law Examiners or by local bar associations. In that event, the Ethics Committee of this Association will, in the main, be an observing and advisory body. In this capacity, and relieved in large part of the details of investigation of complaints, the Ethics Committee of the future may perform an important and real service along constructive lines. However, notwithstanding the changes brought about by said statute, or the practice thereunder, this committee should always feel free to make investigations of professional misconduct, with or without preferred charges, where such course seems advisable and in proper cases to present complaints to the supreme court or the State Board of Law Examiners.

During the year the committee conferred with the supreme court relative to the operation of Chapter 334 and the formulation of rules of practice thereunder. It appears that on the 20th of May, 1921, following the enactment of said statute the supreme court adopted rules requiring all complaints thereunder filed with the clerk of the supreme court, to be forthwith transmitted to the State Board of Law Examiners and making it the duty of said board to investigate such complaints and if after such investigation the board shall find reasonable grounds for further proceedings, in a particular case, it is directed to cause a verified accusation to be made and presented to the court. These rules are still in force and others have been suggested, but not as yet acted upon. While there is no rule on the subject, it is the practice of the supreme court to refer cases brought under said statute, to a local district judge, where practicable, to hear the evidence and report findings to the supreme court. The advantage of such reference is obvious. This practice was followed in the case of *In re Garrett,* 188 N. W. Rep. 322.

This committee is of the opinion that there is a serious defect in said Chapter 334 and that the same should be remedied by amendment. The law now reads: "Accusations may be made to the clerk of the supreme court and shall be investigated, prosecuted, heard and determined, in accordance with rules which may be made from time to time by the supreme court." It will be noted that the statute leaves it open to any

person, irrespective of his responsibility or character, to make a public record of accusation against any member of the bar of this state, though such charges may be wholly unfounded in fact and may be prompted by selfish or other unworthy motives. Every lawyer who has served on an Ethics Committee knows that persons, devoid of responsibility or actuated by malice, quite frequently make the most absurd and unfounded charges against reputable members of the profession. It is the proper policy of the law and in the interest of the profession that attorneys guilty of professional misconduct be disciplined or disbarred, but it is equally important that reputable members of the bar be protected against the making of a permanent public record and the possible extensive publication of unfounded and unjust charges and which a preliminary investigation would show to be such. A lawyer's professional reputation is his most valuable asset and cherished possession and should not be subjected to the dangers which we believe are inherent in the law as it now exists.

To remedy the situation involved in that portion of the statute to which we have just referred, this committee recommends that the statute be amended so as to require all complaints or accusations against attorneys for misconduct to be filed, in the first instance with the secretary of the State Board of Law Examiners, which board or some member thereof, to be designated by the board, shall make prompt investigation of the charges and if reasonable grounds for further proceedings against the accused are found to exist, the board shall, within 30 days after the filing of such charges, cause a formal complaint to be presented to the supreme court, for such action as the court may direct, provided, however, that charges filed with said State Board of Law Examiners by the Ethics Committee of the State Bar Association or the Ethics Committee of any local association shall require no further preliminary investigation by said state board before being presented to the supreme court.

We would also recommend that an appropriation of not less than $2,500.00 be requested from the next Legislature, to defray expenses of the investigation and trial of cases involving charges against attorneys for unprofessional conduct, including reasonable fees for attorneys appointed by the court to conduct the prosecution of such cases, all payments to be made under the direction of the supreme court.

If the Association adopts the recommendations of this committee, above referred to, we would further recommend that the Legislative Committee of this Association formulate appropriate bills to carry these recommendations into effect and that said committee and the members of the Association endeavor by all proper means to secure the adoption of the amendment and passage of the appropriation at the next session of the Legislature.

A matter which this committee believes deserves the serious attention of the members of this Association is the publication and distribution among its members and so far as possible among the members of the bar throughout the state, of the Canons of Ethics, adopted by this Association many years ago and which are substantially the same as the

Canons of Ethics of the American Bar Association. We venture to say that many if not the greater part of our members are unaware of the adoption of these Canons by the Association.

It would seem too much to expect of those entering the legal profession that they conform to the niceties of the ethics thereof, without affording them ready access to the rules which this Association has adopted governing professional conduct, and while the older members of the bar are perhaps expected to have gained by experience an understanding of the requirements of professional conduct, it may be well for them also to be reminded, from time to time, of their obligations as members of the legal profession and of the high standards of professional conduct laid down in the Canons of Ethics. In the judgment of this committee, the Association can render the bar and public of this state no greater immediate service than to take measures for the publication and circulation of these Canons of Ethics and to insist that the same be fairly respected by the members of the profession.

We would recommend that the Canons of Ethics be printed in the forthcoming annual report of this Association, that copies of the Canons be furnished to each attorney when he is admitted to practice in this state and also that such further circulation of the Canons be made, as the finances of the Association will permit.

In conclusion we wish to acknowledge the assistance rendered this committee by Mr. Daniel Carmichiel, chairman of the former Ethics Committee, and by Mr. Chester L. Caldwell, Secretary of the Association.

Respectfully submitted,
H. J. GRANNIS, *Chairman*,
S. D. CATHERWOOD,
JOHN M. BRADFORD,
C. H. MARCH,
LEE B. BYARD,
Committee.

MR. GRANNIS: In this report which appears on page 6 of the advance sheets, there is a reference to Chapter 334 of Laws of 1921, which chapter, as you all know, regulates disbarment proceedings, and there was a law enacted at the solicitation and recommendation of this Association. Mr. Cherry detailed the particular procedure which was followed under this chapter—the case of *In re Garrett* which arose in Hennepin County, and his report has gone into this case at some length, I assume with the idea of indicating the particular procedure which the court recommends. In that case, a reference for trial was made to the district judge—that is a district judge was appointed referee, and I understand that it is the policy of the court wherever possible to appoint a district judge as referee in cases of this kind, and this practice is commended by the committee as reasonable. Shortly after the enactment of that statute in May 1921, the supreme court adopted rules requiring complaints filed under this chapter, (disbarment complaints)—to be referred to the State Board of Law Examiners whose duty it would be to make investigations and report to the court, and in case they found the case warranted further consideration, this state board was required to file formal accusations

in court. Now there is one feature of this law to which our committee has given some attention and to which I wish to call the particular attention of the association, and I will read a part of the report bearing on that point:

"This committee is of the opinion that there is a serious defect in said chapter 334 and that the same should be remedied by amendment. The law now reads: 'Accusations may be made to the clerk of the supreme court and shall be investigated, prosecuted, heard and determined, in accordance with rules which may be made from time to time by the supreme court.'"

Now, that is quoted from the act. I will read further:

"It will be noted that the statute leaves it open to any person, irrespective of his responsibility or character, to make a public record of accusation against any member of the bar of this state, though such charges may be wholly unfounded in fact and may be prompted by selfish or other unworthy motives. Every lawyer who has served on an Ethics Committee knows that persons, devoid of responsibility or actuated by malice, quite frequently make the most absurd and unfounded charges against reputable members of the profession. It is the proper policy of the law and in the interest of the profession that attorneys guilty of professional misconduct be disciplined or disbarred, but it is equally important that reputable members of the bar be protected against the making of a permanent public record and the possible extensive publication of unfounded and unjust charges and which preliminary investigation would show to be such. A lawyer's professional reputation is his most valuable asset and cherished possession and should not to be subjected to the dangers which we believe are inherent in the law as it now exists.

"To remedy the situation involved in that portion of the statute to which we have just referred, this committee recommends that the statute be amended so as to require all complaints or accusations against attorneys for misconduct to be filed, in the first instance, with the secretary of the State Board of Law Examiners, which board or some member thereof, to be designated by the board, shall make prompt investigation of the charges and if reasonable grounds for further proceedings against the accused are found to exist, the board shall, within 30 days after the filing of such charges, cause a formal complaint to be presented to the supreme court, for such action as the court may direct, provided, however, that charges filed with said State Board of Law Examiners by the Ethics Committee of the State Bar Association or the Ethics Committee of any local association shall require no further preliminary investigation by said State Board before being presented to the Supreme Court."

Now the particular evil to be remedied, as the report indicates, is the possibility of filing charges in the office of the clerk of the supreme court and the publicity of such charges—possibly the wide publication of such charges, no matter how absurd or how unfounded they may be, before there has been an opportunity for a weeding out process and a preliminary investigation by some proper tribunal. This law has not been in force very long, but in the operation up to date there has been at least one very unfortunate instance in this connection, the matter of charging a very prominent and reputable attorney of the Bar of this state in connection with pending litigation. This was brought to the attention of this committee with the idea that we would stir the matter up, as we were convinced, solely for the purpose of discrediting the standing of that attorney in that particular litigation and to prejudice the interest of his client. Now under the law, as it at present

exists, it is possible for any person to file charges of that character with the clerk of the supreme court. That immediately becomes a public record, and of course, any newspapers or others interested in circulating scandalous matter can get it, as it is a public record in the office of the clerk. Now we believe that this suggested amendment would obviate that difficulty. The charges would be filed in the first place with the Secretary of the State Board of Law Examiners, a quasi-public body, and they could readily control the entire matter. I wish to say further that the committee is not wedded to this particular method of procedure, if some better one can be suggested, but we suggest that, as a way out. And this amendment further does not accomplish any other radical change because under the present rules of the supreme court all of these complaints are now referred to the Board of Law Examiners for investigation, unless as I understand the same have been previously investigated by some Bar association of the state. Of course, if the Bar Association is incorporated with any such powers of disbarment procedure as has been indicated here this morning, that would supersede this present statute necessarily and all other amendments; but this is the statute which we now have. Perhaps we can get an incorporation of the Bar, but we must have this present statute, and while we have it, it seems to me (and that is the view of the committee), that if there are any glaring defects in the statute, they should be remedied.

MR. BROWN: If that recommendation was adopted and also this incorporation act should be recommended, wouldn't that be passing or making a recommendation that would be in conflict?

MR. GRANNIS: Well, no, I don't so look on it. We already have this disbarment statute, which was suggested by this Association. This is simply to clear up a certain defect in it. We do not know whether we can get the Incorporation Act through or not.

MR. BROWN: But if we recommend that at the same time that we recommend some other acts inconsistent with this, are we not working at cross purposes?

MR. GRANNIS: I do not view it that way. We are simply seeking to remedy a glaring defect in the law now.

THE CHAIRMAN: If the law under discussion this afternoon, the Incorporation Law, is adopted, it would repeal the present one?

MR. GRANNIS: It would necessarily be inconsistent, and I assume some proper repealing provisions could be made.

MR. BROWN: We have recommended the Incorporation Act as substantially read this morning, and if at the same time, we approve your recommendations, we are doing something inconsistent.

MR. GRANNIS: This is simply to remedy a particular defect in this law.

MR. BROWN: Your recommendation would only take effect in case there was no Incorporation Law recommended or passed?

MR. GRANNIS: Manifestly. That is my view. (Reading);

"We would also recommend that an appropriation of not less than $2500 be requested from the next legislature to defray the expense of investigation and trial of cases involving charges against attorneys for unprofessional conduct, including reasonable fees for attorneys appointed

by the court to conduct the prosecution of such cases, all payments to be made under the direction of the supreme court. If the Association adopts the recommendations of this committee, above referred to, we would further recommend that the legislative committee of this association formulate appropriate bills to carry these recommendations into effect and that said committee and the members of the Association endeavor by all proper means, to secure the adoption of the amendment and passage of the appropriation at the next session of the legislature."

Another matter to which I wish to call attention in connection with the report of the committee is found on pages 8 and 9 of the advance sheets. This Association, in 1909, it seems, adopted as the code of ethics of the Association, the Canons of Ethics of the American Bar Association which had been recently worked out. It occurred to this committee that possibly that action of the Association was not known to its more recent members and I think we are safe in saying that it was not generally known that this state Association is governed by the code of ethics of the American Bar Association. So in that connection we conceived that it would be doing the bar of the state, as well as the members of the Association and the public, a service, if we could devise some means of having attention called to the fact that this Association had adopted the Canons of Ethics of the American Bar Association, and also secure as wide publicity of the Canons as possible. We made some recommendations on that subject but in going into the matter further, on the suggestion of a member of the committee, we approached the West Publishing Company with the notion that possibly they could arrange through some of their numerous publications which are generally circulated, to print and circulate among the members of the bar generally, of the state, these Canons of Ethics which were adopted by our Association. The result is this, that the West Publishing Company finds among their archives the plates with the Canons of Ethics adopted by the American Bar Association which were printed by them for some purpose or another a good many years ago. So having on hand these plates, they have agreed to reprint the Canons of Ethics at their expense and to have the same circulated under the imprint of the State Bar Association, to furnish the envelopes, and address the envelopes and pay the postage and have the same sent to every member of the Bar in the state; and all they ask us to do is to supply a circular letter to be enclosed explaining the purpose of the circulation and how it was brought about. I have been assured that the expense of preparing such a letter will not exceed $30. That will be the entire expense to the Association. Then the Canons of Ethics will be mailed and will reach every member of the bar of this state as coming from the State Bar Association; and we trust that that procedure will meet with the approval of the members of the Association. In view of that arrangement we withdraw our recommendation that the Canons of Ethics be printed in the forthcoming report of this Association.

We have another recommendation, however, and that is, that copies of the Canons of Ethics be furnished to each attorney when he is admitted to the Bar of this state. We believe that that is important. We understand that there are some arrangements which are now in force the details of which I cannot give—but under some arrangement the new

members of the Bar, when admitted are furnished with a pamphlet, which as I understand, contains the Canons of Ethics of the American Bar Association. Now assuming that this is so, I wish to make a suggestion. We do not want to make it as a recommendation. It might seem to be instructing the supreme court as to their duties, but we wish to make a suggestion to the supreme court, on the admission of new attorneys to the Bar, make it a point to admonish the attorneys of their obligation to conform to the ethics of the profession, referring particularly to the Canons of Ethics of the Association. It occurs to us that this would be a very opportune time to make an impression upon those who are entering into the practice of the law.

Now, going back to the recommendations, in order to get the matter before the Association, I will make a formal motion for the adoption of the recommendations with reference to the proposed amendment, relating to the filing of accusations with the State Board of Law Examiners instead of with the clerk of the supreme court in the first instance. And I will move the adoption of the recommendation as to the appropriation of $2500 and promotion of legislation as suggested.

Motion seconded.

MR. CHERRY: Might I ask if it would be proper to consider the first part of this, the amendment of section 334 in the Laws of 1921, after considering the other? I would move to postone it to the afternoon session, and take it up in connection with the other report.

Motion seconded, put and carried.

MR. GRANNIS: One other motion. I wish to offer this resolution:

Resolved that the thanks of the Association be extended to the West Publishing Company for its generous offer of assistance to the Association in furnishing each member of the Bar of this state, a copy of the Canons of Ethics of the Association, and that the secretary send a copy of the resolution to the West Publishing Co.

MR. BROWN: As we get to that point I was going to suggest that we already have before the Association here, the very recommendation that he has withdrawn. The recommendation is that the Canons of Ethics adopted by the Association be printed in the next annual report. I was going to move, to begin with, that they be printed in every annual report of this Association year after year, so the lawyers cannot miss seeing them at least once a year, and that the West Publishing Company's circularization doesn't amount to shucks. I have the American Bar Association Report and it is in there every single year; and then, ask the lawyers if they have read it.

MR. GRANNIS: This is just a resolution on the first motion.

MR. CHERRY: I second Mr. Grannis' motion.

THE CHAIRMAN: Any remarks? Those that favor, say Aye; opposed, No. The motion is carried.

MR. BROWN: I want to put that recommendation up to the committee, that it appear in the next report and in every report.

MR. GRANNIS: Mr. Brown, of course, the committee has no objection to your suggestion.

THE CHAIRMAN: The next item is a report of the committee appointed to audit the treasurer's account. Mr. Stone and Mr. Park are members of that committee. (See Treasurer's Report audited by committee.)

REPORT OF THE TREASURER

August 31, 1922.

Balance on hand as reported by treasurer July 26, 1921	$1,210.14
Receipts from banquet	768.00
Dues collected at annual meeting, July 26, 27, 1921	100.00
*Current dues	1,191.00
*Delinquent dues	548.00
Total receipts	$3,817.14

*Dates and items omitted.—[Editor].

Disbursements:

1921.			
July 27.	Glen E. Plumb (exp. Wash. to Duluth and return)	$ 143.10	
July 29.	Selma R. Benson (R.R. fare etc. Duluth)	23.14	
Aug. 1.	Walter Mallory (services $45.00; exp. to Duluth $48.36; Robt. Gehan, Ernest Dahlquist and Walter Mallory)	93.36	
July 27.	Jessie Carey Smith (services at Duluth meeting)	15.00	
Aug. 1.	W. S. Hotchkiss (Chicago to Duluth, exp.)	59.36	
Aug. 6.	Thomas Mott Osborne, (Auburn to Duluth, exp.)	140.00	
Aug. 8.	Spalding Hotel, Duluth (Annual Meeting)	933.05	
Aug. 10.	F. Dumont Smith (exp. from Hutchinson)	150.00	
Aug. 8.	Evans & Co. (Envelopes, banquet tickets, etc.)	175.25	
Aug. 24.	Evans & Co. (Letterheads, envelopes, etc.)	16.25	
Nov. 23.	Jessie Carey Smith (payment on report)	75.00	
Dec. 3.	Clarence N. Goodwin (exp. to Duluth)	70.16	
1922.			
Jan. 16.	Jessie Carey Smith (bal. on 1921 report, transcript)	171.00	
Jan. 18.	Evans & Co. (1200 dues notice postals)	18.75	
Jan. 24.	Chester L. Caldwell, Secy. (stamps)	6.00	
Jan. 25.	Harold N. Rogers, Mpls. (com. on col. delinq. dues)	3.90	
Apr. 4.	Louis F. Dow Co. (letter file)	.65	
Apr. 13.	Evans & Co. (Copies Proceedings $856.25, labor, etc.)	956.98	
Apr. 13.	Chester L. Caldwell (Secy. allowance)	300.00	
July 31.	Chester L. Caldwell (stamps)	8.00	
Aug. 29.	Chester L. Caldwell (stamps)	3.00	
	Total Disbursements	$3,261.95	
	Cash on Hand, August 31, 1922	555.19	
		$3,817.14	$3,817.14

List of New Members—July 26, 1921-August 31, 1922.

Joseph W. Finley, St. Paul.
Albert B. Clarfield, Duluth.
Felix E. Moses, Minneapolis.
James G. Mott, Worthington.
P. J. Nelson, Anoka.
F. B. Kalash, Lakefield.

Harold W. Rogers, Minneapolis. Cleon Headley, St. Paul.
Tracy J. Peycke, Minneapolis. Burton A. Shay, St. Paul.
Edward Linquist, Olivia.

Sept. 2, 1922.—Examined and found correct. Auditing Committee.
By ROYAL A. STONE, Chairman.

Recess until 1:45 P. M.

SATURDAY, SEPT. 2nd, 1922
2:00 o'clock P. M.

Meeting called to order. Mr. Marshall B. Webber in the chair.

MR. WEBBER: We had some business unfinished at the close of the forenoon session, and I will be glad to hear further from that committee.

MR. MORRIS B. MITCHELL: The committee has at present two amendments which it wishes to submit to the bill in the form printed in the announcement. The amendments are as follows and I believe that these are acceptable to Senator Putnam. The amendments are to add to the first paragraph of section 6, the following:

"On such review, the supreme court shall consider the evidence de novo, and shall not be bound by the findings of fact nor the conclusions of the referee, nor the board of commissioners; and the supreme court may permit additional testimony to be taken in such manner as it may direct; if it deems the ends of justice require it."

And, to further substitute for the last sentence in section 9, the following sentence.

"The supreme court upon the request of the board shall refer any accusation to any member of the state Bar or to any judge of the district court and such member or such judge will have all the powers of a referee under section 7823, General Laws of 1913."

MR. BROWN: Why don't you say instead of the word "any," "some" member?

MR. MITCHELL: Oh, that can be changed in the legislature.

THE CHAIRMAN: What shall you do with the proposed amendments?

MR. BROWN: I second the motion that it be adopted.

THE CHAIRMAN: Moved and seconded that the proposed amendments to section 6 and section 9 of the committee's report should be amended as stated by the chairman of the committee. Are you ready for the motion?

THE CHAIRMAN: All in favor of the amendments signify by saying Aye; contrary, No. The amendments are adopted.

It now recurs to the original motion of the adoption of the report as amended, what is your pleasure.

All in favor of the adoption of the report as amended signify by saying Aye; contrary, No. The report is adopted as amended.

MR. MITCHELL: There was included in the report a motion that a committee of five be appointed to prepare the passage of bills for the 1923 legislature. I renew that motion.

THE CHAIRMAN: That was included this morning, wasn't it?

MR. MITCHELL: Yes, it is included in the report.

THE CHAIRMAN: Then, that is carried. The next is the Report of the Ethics Committee.

JUDGE CATHERWOOD: Mr. Grannis was called away and he asked me to present the features particularly under consideration, which is that

shown on page 7 of the advance sheets, regarding a proposed amendment to the existing law. The law as created in 1921, provides that accusations may be made to the clerk of the supreme court and shall be investigated, prosecuted, heard and determined in accordance with rules which may be made from time to time by the supreme court.

We suggest that that be amended so that instead of reading the "clerk of the supreme court," it will be the "secretary of the Board of Law Examiners." That was suggested by Mr. Grannis, to avoid making public record of what might be simply an idle charge, or merely a charge —I don't say idle—because the supreme court's records are public records, open to everybody, and a charge filed without being fully considered, if filed maliciously, as was done a short time ago against a very reputable member of the bar of Ramsey County—would tend to disgrace somebody by condemning him because there was a charge against him. If this is amended to provide that the accusation shall be filed with the secretary of the Board of Law Examiners, and then investigated, they can provide for whatever investigation they please in a preliminary manner, before making a charge.

I move that the recommendation of the committee to the effect that the existing law be changed, shall be adopted.

MR. CHERRY: There is something more to that amendment than has been stated, I think. There is no question that there ought to be in some form, a rule of court, a statute, or an amendment, a provision which shall prevent premature publicity of charges, such as Mr. Grannis and Judge Catherwood have described. But I call your attention to the fact that this proposal of the committee would leave to the Board of Law Examiners the investigation of charges and the making of complaints. As I understand the question, it would not relieve the accusation from the necessity of going through the hands of the Board of Law Examiners. The practice as followed by the supreme court in the *Garrett case,* which I spoke of yesterday, when reporting for the Committee on Jurisprudence and Law Reform, was as follows: The accusation was made directly to the court on behalf of the Bar Association of this county, and was at once referred for hearing. At no time was it in the hands of the Board of Law Examiners, except that they were charged with the conduct of the prosecution together with a lawyer designated by the court at the request of the Bar Association. I should like to move, as an amendment that this Association resolve that changes in the existing practice should be made, whether by rules of court or by statute, which would prevent untimely publicity of these charges, but that we leave to the Legislative Committee and to the Ethics Committee to work out what that change should be, and eliminate the rest of the committee's resolution, which I think goes further than it needs to go. I make that as an amendment to the motion.

THE CHAIRMAN: Do you make that amendment to Judge Catherwood's motion?

MR. CHERRY: His motion was for the adoption of the resolution as printed.

THE CHAIRMAN: Changing the report as printed, I understand?

JUDGE CATHERWOOD: No; we make the straight resolution that the existing law be amended in that respect by providing that the complaints shall be filed with the secretary of the Board of Law Examiners instead of with the clerk of the supreme court.

THE CHAIRMAN: Does that motion receive a second? Motion seconded.

THE CHAIRMAN: You have heard the motion that this report be amended as stated. All in favor signify by saying Aye; contrary, No. Motion carried.

All in favor of the adoption of the report as amended signify by saying Aye; contrary, No. The report is so adopted.

The next is the Report of the Auditing Committee.

MR. STONE: The examination made and a written report consisting of three or four sheets is appended to the treasurer's report—simply that it has been examined and found correct.

THE CHAIRMAN: What will you do with the Report of the Auditing Committee?

MR. ROME G. BROWN: Move that it be adopted.

Motion seconded, put and carried.

THE CHAIRMAN: New business. Are you ready for the discussion, Mr. Gearhart?

MR. GEARHART: I wanted to wait until Judge Lancaster is here.

JUDGE CATHERWOOD: He wishes to have an impartial presiding officer.

MR. HERBERT T. PARK: At the resquest of the secretary I have prepared a resolution:

Resolved, by the Minnesota State Bar Association in annual meeting assembled: That the legislature of the state of Minnesota should restore capital punishment for the crime of premeditated murder.

MR. BROWN: I second the motion.

SENATOR PUTNAM: I have prepared some data; if there is any argument on the other side, I would like to be heard later. I have the results of what other states have done and would be glad to give you the record if you feel you want it.

THE CHAIRMAN: You have heard the resolution read and seconded. What is your pleasure?

MR. BIERCE: I wish to rise in opposition to the adoption of the motion. I feel that a return on the part of Minnesota to capital punishment is a step backwards. Perhaps it is sufficient to say that I want to vote No upon this motion.

THE CHAIRMAN: Any further remarks?

MR. STEARNS: I happen to have heard a number of people who at least pretended to have had some experience in connection with crime speak very emphatically on this matter, and there is at least some room for argument on the question, whether it is the form or the severity of punishment that has the greatest deterrent effect, and I join with Mr. Bierce in opposition to this motion.

MR. FREEMAN: I strikes me that we are passing upon a very serious question. It is at least a question that is in the minds of men and women of the state of Minnesota today, and it is a serious question, whether

the Bar of this state should go on record either for or against this resolution when the Bar of the state is represented by so few of its members. Now we have waited until the close of this session to take up this question.

MR. CALDWELL: We had to.

MR. FREEMAN: To look about, I would say there are about fifty lawyers in this room, out of a membership of how many?

MR. CALDWELL: Nine or ten hundred.

MR. FREEMAN: Now, the question is, whether fifty members of our organization, which is composed of nine or ten hundred, should put the association on record as being against or in favor of capital punishment. If we vote upon this question now, then the newspapers will rightly say that the Bar Association of Minnesota has either condemned or favored capital punishment when it is not the fact. It is not a fact and I do not think this is a proper time to vote upon it at all, and I move that the resolution be laid on the table.

MR. STEARNS: I wish to go on record as opposed to the resolution.

THE CHAIRMAN: It is moved and seconded that the resolution be laid upon the table. Any further remarks?

SENATOR PUTNAM: I simply wanted to second that motion.

THE CHAIRMAN: The motion has been seconded. All in favor of laying the motion on the table, signify by saying Aye; opposed, No. The Ayes have it and the motion is carried—laid on the table.

The next is a resolution and discussion on the abolishment of the Board of Parole.

MR. DEUTSCH: I have been requested to present to the meeting this question of the Parole Board—not necessarily the subject indicated in the program as to its abolition—

MR. BROWN: Well, where is the resolution?

MR. DEUTSCH: There is no resolution at present.

MR. CHERRY: I move to lay Mr. Deutsch on the table.

JUDGE CATHERWOOD: Go ahead. (Laughter).

MR. DEUTSCH: I should think it would be a serious injury to the association if we should, at the present time, assume to introduce or to pass any drastic resolution on this question, relating to the activities of the Parole Board, by reason of the slimness of representation of this Association at this meeting. There are also other considerations which restrain us from taking drastic action. I heard somebody say not very long ago in a very excellent speech on Americanism that it is a characteristic of Americans that they are never for anything—that they are always against something. And it seems to be true, by reason of excessive propaganda and the easy method by which news and other things may be circulated, that our first reaction on every proposition is to be "agin' it." And for that reason we have had very little in the history of this country the last two years that has been constructive or reconstructive, and at no time in its history is there a greater necessity for an attitude of thought that is constructive or reconsructive, rather than purely destructive. We have been agitated during the past few weeks by newspaper and other extended comments on the action of the Parole Board with reference to some very notorious criminals. Undoubtedly most of us feel that the

action of the Parole Board in letting these men out of prison after they had committed crimes of a very grave character, and after only a short period of incarceration; and the particularly glaring example of the case of a man who had not been incarcerated but was simply acting as a chauffeur for the warden of the penitentiary and had his liberty, as I understand it, practically all the time—entitles us to be somewhat perturbed about the matter. But it occurs to me that as lawyers it is not for us to pass snap judgment on the proceedings of an executive body of this state; and perhaps, after the excitement has subsided and the community has had time to give a little more thoughtful consideration to the action of the board, we will not be so ready to punish the board because of its apparent leniency towards criminals. I do not want to be understood as approving the action of the board. If I were to express my personal opinion—curbstone opinion as the lawyers call it—I should say it was in favor of disapproving the action of the board in the specific instances which are indicated. Likewise, I think a few of us can follow the board in its reasoning that its action should be, so to speak, under cover, and that when it releases notorious criminals a secret should be made of it and the public not become conscious of it except by accident or by meeting some of our old time friends on the street when we only expected to meet them in Stillwater. (Laughter). But be that as it may I do not think the occasion justifies drastic action. I had, in years past, quite a little experience in criminal law, and since then I have had quite a little experience in the handling of the business of criminals which has come to my office. Possibly it is because of accruing age that I have been impressed by the thought expressed by that distinguished divine John Wesley when one day he noticed a man staggering down the street under the influence of that liquid refreshment which inebriates but does not cheer, he said, "There, but for the grace of God, goes John Wesley." And I think we all need to remember that it is not always an intentional lapse from the path of virtue and morality that constitutes criminals; and while we feel that society should be protected, still I am of the opinion personally that we have reached a stage in our development where we ought to be ready in a certain sense at least, so far as revenge or retaliation is concerned, to quote with the Bible authority, "Vengeance is mine, saith the Lord." But there is a view point with reference to the question of the punishment of criminals which I have not seen advanced lately, and which perhaps would constitute a middle ground upon which we could all meet in our consideration of this proposition. The studies in psychology and the anatomy of the mind, if you please, lead us to the almost irresistable conclusion that a criminal is a man who is diseased mentally. He is a product of a disease of the mind. because, whatever may be his action, it is an act of the mind which is prolonged or continued into a definite action. And it is true that the course of criminal procedure and the study of phrenology leads us to the conclusion that these men need to be healed. I imagine someone says immediately, "Well, that is all right, but what is going to happen to society?" Well, I am going to say what is going to happen to society. If we have a man who is diseased mentally to the extent that he is insane and becomes injurious to society we confine him. We

do not confine an insane person to punish him or to take vengeance on him, nor as a deterrent to others from becoming insane; but we confine him because it is for the good of society that a man in that condition who is dangerous to his fellow men should be put where he will not be permitted to do things which result in crime.

MR. REED: I rise to a point of order. Is there any resolution before the house?

THE CHAIRMAN: I have been waiting for Mr. Deutsch to make a motion.

MR. DEUTSCH: I am going to make a motion.

THE CHAIRMAN: I assume these remarks are preliminary.

MR. DEUTSCH: As I understand it this subject was thrown open to argument for the purpose of creating discussion and I have been speaking in reference to a resolution which I shall offer, a resolution that a recommendation be made to the Board of Parole that more careful attention be given to the consideration of cases of parole which are presented to them, and that so far as it seems possible and right, the privilege of parole be extended only to those who are committeed for a first offense and not extended to those who have previously been confined within the reformatory or penal institutions. I move the adoption of that resolution and then I want to speak on it.

THE CHAIRMAN: You have heard the resolution. Does it receive a second?

The resolution was seconded.

MR. DEUTSCH: The reason for the resolution is this: it seems that if a man is committed to a penal institution, before he is paroled or permitted to go out among his fellows, there ought to be a definite finding, not only that he has been good, so that he is entitled to a good mark, but that from a careful examination, it can be determined, as would be done in the case of any disease, that the man had been healed or cured of the difficulty which caused his crime; that is, that there is a change of thought, the thought that caused him to commit the crime; and if we had such a test, and if the Parole Board understood that the community was opposed to the indiscriminate parole of men who have committed crimes and particularly those who have committed flagrant crimes like that, for instance, of our recent example, Mr. Schaefer, or Mr. Thompson, in Judge Catherwood's jurisdiction (laughter)—if they understood that the public will not stand for what we might call a mere latter day repentance or conversion, it might be well. It is a known fact, in the history of the world's revivals, that a good many of those who are first to strike the saw-dust trail, are also the first to back-slide, and so many a man who has committed a crime of the character I have mentioned is the first to become apparently humble and penitent and yet has absolutely not been healed or cured or reformed of the mental state which caused the commission of the crime. Furthermore, it would seem that if a man has had his chance, if he has once been convicted and after that conviction has either served his time or has been paroled or pardoned, and then in spite of that fact he violates the very conditions upon which he obtained his liberty, there would not seem to be very much room except in exceptional cases, for the exercise of the clemency of the

Parole Board. It is with that in mind and with comparatively little preparation on a subject as important as this, that I have felt—(and it has been the view of some with whom I have consulted)—that our action today should not be drastic but should be of sufficient character to indicate to the Parole Board that there is a feeling in the community that possibly they have not acted with that wisdom and prudence and discretion with which we feel they ought to act, and which we feel they ought to exercise in matters of as great importance as the setting free of convicted or self-confessed criminals who have struck the pocketbooks of thousands of citizens, some of our best citizens as well as some of our poorest, but also those who have committed crimes which shook the moral conscience of the community. That is the position I take and the basis for the resolution which I have offered.

MR. ROME G. BROWN: I have not had personal experience with capital punishment. (Laughter.) And I have had no personal experience with parole. But I don't believe that an Association that feels itself incompetent for any reason to pass upon this question of capital punishment, after the district judges, assembled in large numbers in this building yesterday, after careful deliberation of a year or more passed a definite vote upon the subject with a recommendation to this Association to restore capital punishment—if this Association feels incompetent to pass upon that question under that situation, I think it ought not to assume to be competent to pass upon the question of parole or any feature of it. (Applause). I don't think these things can be cured by reform or faith or Christian Science or any other thing except drastic treatment, and we seem to have admitted our incompetence. I, therefore, move as a substitute for all motions that this matter be postponed until next year.

MR. STONE: I move as an amendment to Mr. Brown's motion that it be referred to the board of governors; then they can make it a part of next year's program.

MR. BROWN: I accept the amendment.

Motion accepted.

MR. STONE: The board of governors is responsible for our program and I fear that we are becoming somewhat subject to the citicism of spreading out too much, trying to cover too much territory.

THE CHAIRMAN: The amendment to the resolution—

MR. BROWN: Substitute.

THE CHAIRMAN: —is that the matter be referred to the board of governors. Are there any further remarks?

MR. SHEARER: I presume that is the best way to dispose of it. I shall vote for it. But as long as I sat here and heard the suggestion of Mr. Deutsch, with much of which I agree, but with the essential points of which I do not agree, I want to register right here and now, my protest against this Bar Association, which is composed of judicial minds, interfering or advising a state body, a body of men with constituted authority to do a certain thing, which unquestionably they are doing to the best of their ability—I want to protest against our taking up a matter of that kind at all without any knowledge of the facts. Now because a few meddlesome people and idle rumors—Dame Rumor on the

street has been saying, because a certain man has been let out, who wrecked some banks, after that man had served three years of his sentence—the advisory action proposed by Mr. Deutsch means this in my judgment: that whenever a man is convicted and sent to prison you must write over the door that he enters, "Abandon hope, all ye who enter here." Now, that is old stuff. We are away beyond it. The nineteenth century doesn't believe in that stuff any more. We have outlived it. And if a man who is sent to prison—I don't care for what offense, no matter how heinous—has no hope, he is a dead man when he enters the prison. And I shall never stand for any resolution or motion or any other thing to deprive the constituted authorities of this state of the right to say to a man when he is convicted and enters prison, "Yes, there is hope—there is hope for you to begin life over again," and I don't feel to advise the Parole Board—I don't want to offer a bit of advice. I take for granted they have done their duty, and the right thing; whenever any public body acts, there is a strong presumption that they knew the facts before they acted, and they acted wisely and well under the facts known to them. I do not want to meddle with this. I feel, if the whole state bar were here they would, upon complete discussion, feel the same way; I don't want to do anything about it. I have no brief for anybody and never had for this man at all; I am saying this simply conscientiously as I feel, and I think we ought not to meddle with it, or we will simply depress our influence in the state.

THE CHAIRMAN: Any further remarks? The question is upon the substitute motion to refer this matter of the resolution to the board of governors. All in favor of that motion signify by saying Aye. Contrary, No. The substitute motion is carried.

One matter that was not passed on in the first day of the session was the Report of the Committee on the Abolition of Grand Juries in ordinary criminal cases. The members of that Committee, I believe, are not present, but the resolution is printed and there ought to be some action taken on it. Will the secretary read the resolution?

MR. CALDWELL: The report of this committee is on pages 43 and 44 of the advance sheets. I wish to state that Mr. Thompson, who is chairman of this committee, is in Europe. Before he left he placed the matter in the hands of Mr. Roberts, another member of the committee. Mr. Roberts is unable to be here because of very serious illness of his wife; and the other members of the committee are not present.

SPECIAL COMMITTEE ON ABOLISHMENT OF GRAND JURIES IN ORDINARY CRIMINAL CASES

Your committee appointed to consider the subject of whether or not the Grand Jury should be abolished in ordinary criminal cases, begs leave to report as follows:

The committee was not able to hold a meeting but by correspondence agreed upon their method of procedure. Letters were written by the committee to all of the attorney generals of the country asking the question: first, whether or not the grand jury system was employed in their respective states; and second, how it worked. Thirty-eight answered.

Generally it may be said that each attorney general was in favor of the system in vogue in his particular state. As a rule, the eastern and southern states have the grand jury system and the middle and western

states do without. The attorney general of North Dakota and the attorney general of Wisconsin praise the system in their respective states. In neither of these states is a grand jury used in the ordinary criminal case, the prosecution being brought by the prosecuting attorney. In fact, the letters received present many arguments on both sides well worthy of consideration. They are too long, however, to repeat in this report.

Following these letters to the attorney generals, letters were sent out to each of the county attorneys of the state. Nearly all of the county attorneys have answered two questions: Whether or not they favored the use of the grand jury, and whether there was any difference in the advisability of the use of the grand jury in the large cities and in the country.

About one-half of the answers favored the use of the grand jury and about one-half against. Many good arguments are given both for and against the use of the grand jury. We will not be able to state these arguments at length, but we may summarize the arguments in favor as follows:

The grand jury is an ancient institution designed for the protection of the accused; by bringing an indictment it leaves the county attorney merely as the prosecutor and not the originator of the prosecution; it disposes of frivolous and technical cases with a "no bill"; it furnishes a means to get evidence which could not otherwise be brought out; where the prosecution is not preceded by a complaint it protects the complainant witness against a "come back" in the form of an action for malicious prosecution in the event there is nothing to the state's case; it provides a means of bringing dishonest public officials to trial; it spurs on the lazy or laggard county attorney; it unearths and lays bare vicious and corrupt conditions in both city and country, especially the former.

The arguments against the use of the grand jury are as follows:

The system is antiquated, cumbersome and expensive; in most cases the grand jury acts as the "rubber stamp" of the county attorney; instead of being independent, grand juries are sometimes subject to outside influence; the county attorney uses the grand jury to "pass the buck to"; grand juries often "leak" information; in order to get necessary testimony to indict it is sometimes necessary to give immunity where it need not have been given could the county attorney prosecute by information; the accused is not protected from unjust indictment by the grand jury, but many unjust indictments are found owing to the fact that ordinarily only the state's side of the case is heard; by presenting a case direct to the grand jury in many instances defendants are deprived of their right to preliminary hearings. Grand juries are prone to hear incompetent and hearsay evidence; the grand jury under our laws is an ungoverned and ungovernable body, responsible to no one, working in secret and blasting by an indictment the reputation of many a person against whom it finally develops there is no evidence to convict.

After careful consideration of these arguments and of the information contained in these letters, a majority of the committee recommend as follows:

That the use of the grand jury be dispensed with in the ordinary criminal case. That the county attorney file information against persons whom he believes should be prosecuted for crime. That every such person should have a right to preliminary hearing before a magistrate. The magistrate should either dismiss the information or bind the defendant over to trial at the next term of court. If a hearing is necessary in order to discover evidence, as is sometimes claimed, provision should be made whereby the county attorney could summon witnesses before a magistrate for the purpose of getting information to start prosecution.

As the use of the grand jury is sometimes necessary and desirable in cases involving county officials or unusual conditions arising in a community, we further suggest that the law provide that a grand jury may

be summoned by the presiding judge of the district, by the county attorney, by the county commissioners or by a certain number of tax payers.

We believe that the adoption of the foregoing suggestions will preserve all of the benefits of the grand jury system and do away with its bad and expensive features.

THOMAS HESSIAN,
GEORGE W. PETERSON,
HORACE W. ROBERTS,
PAUL J. THOMPSON, *Chairman*,
Committee.

MINORITY REPORT

It is apparent that the opinion is pretty evenly divided, even in this state, upon the advisability of doing away with the grand jury. I note that in the letters of those who favor its abolition or modification, the greatest stress is laid upon the expense, and upon the proposition that it practically records the opinion of the county attorney. It seems to me that the first argument is a very legitimate one, but the second does not impress me as particularly vital. Unquestionably, the grand jury is an expensive matter, since it involves the per diem and mileage of the grand jury itself and of all the witnesses subpoenaed for it. On the other proposition, however, although it is of course true that in many cases the grand jury adopts the view of the county attorney, yet my experience has been that they are inclined to be independent; and, except in those cases where there is no question, their inclination is to take about the same view that a petit jury would upon a trial. To my mind the great value of the grand jury lies in this latter function. I know that in my own experience I have had a great many cases presented where the complainant had a technical case which, on strict interpretation of the law could not be turned down, and yet in which my experience has dictated it would be impossible to obtain a conviction before a petit jury. These cases cannot be satisfactorily taken care of at a preliminary examination. Any one familiar with preliminary examination must realize that it is merely an opportunity for the defendant to obtain a line on the state's case. What happens is that the state puts in its evidence and the defendant refrains from doing so in nine cases out of ten, and even in a larger proportion. The state makes a prima facie case and the presiding magistrate binds the defendant over to the grand jury. This is the situation in these technical cases, and yet, invariably, when such cases are presented to a grand jury they will look at it as a petit jury does, and, almost invariably, return a "No True Bill." When the county attorney in such a case issues a complaint, he does so under the law because he has no discretion in the matter, although he knows perfectly well that it is a futile thing. Failure to proceed upon a prima facie case would not only subject him to criticism, but possibly to more severe penalties. If any change is to be made in the system it should involve giving the county attorney discretionary powers. Otherwise, upon such cases as mentioned being presented, he would be obliged to issue the complaint, go through a preliminary hearing, file an information and go to trial, all of which would be at the expense of the county, and all of which would be entirely useless in the results.

Another argument contained in one of the letters is also, I believe worthy of more consideration than it has received, and that is the fact that if the county attorney becomes the informant that fact will be used very strongly by the attorney for the defense upon the trial. A shrewd lawyer will insist upon the position that the case resolves itself into a personal matter between the county attorney and the defendant, and such argument will not be without great weight in creating a prejudice.

It seems to me that the great problem in this matter is to eliminate the expense of the grand jury in those cases which present no difficulties from the standpoint of the state. I think it might well be dispensed with in all misdemeanors or gross misdemeanors, as suggested by

Mr. Stone of Itasca county, in any instance, and perhaps, if sufficient safeguards can be provided for the protection of the county attorney in such cases as I have above mentioned, and also if provisions can be made for the call of witnesses by the county attorney for the purposes of investigation, it might well be dispensed with in felony cases.

It is apparent from the letters that the country districts encounter some difficulties which I do not believe obtain in the cities. For instance, some of them complain of a defendant having friends upon the grand jury who prevent a prosecution. In my experience this occurs only in the rarest instances. Again, they complain about the grand jury leaking. This also has not been a source of trouble with us. Of course these troubles are due in the country to the fact that the community is smaller and the defendant's acquaintance larger in proportion; while in the city people on the grand jury are, in practically every instance, dealing with cases involving entire strangers.

Taken altogether, after consideration of the arguments pro and con, I am inclined to the view that the argument relative to the expense incident to a grand jury outweighs most of the arguments in its behalf, and I would desire to be understood as favoring the prosecution by criminal information and the use of the grand jury only in special cases, but with the following modifications:

First: That any law establishing this system should contain provisions safeguarding the county attorney and the state against the expense incident to prosecutions on purely technical cases, where experience dictates that they would be futile in their results.

Second: That such law should provide for the summoning of witnesses by the county attorney for purposes of investigation.

I note that in the majority report it is suggested that such witnesses be summoned before a magistrate. I am utterly opposed to any such system because it would involve a public record of such evidence. There is no reason why the defendant in a criminal case should be advised of all the state's evidence. The provision which should be embodied is one which would require the attendance of the witnesses before the county attorney, that he might get their testimony for use in the case without its becoming a public record.

Warren E. Greene.

Mr. Hopkins, a member of the committee, favors the use of the grand jury on the ground that it is a democratic institution of value to the community and in the country districts exercises a considerable influence in preventing crime.

Frank Hopkins.

Mr. Blanchard, a member of the committee, is inclined to favor the grand jury system and in a general way supports the report of Mr. Greene.

Will A. Blanchard.

MR. BROWN: I move that we pass that to next year.

MR. JOHN RAY: It seems to me the committee has done a lot of work here and the majority of the committee think that there ought to be some legislation adopted at the next legislature changing the present system. It is unusual for us to leave such matter to the board of governors, perhaps, but I think in view of the unusual circumstances surrounding this committee's work that the proper way to handle this would be to receive the report and refer it to the board of governors for such action as it sees fit.

MR. BROWN: I accept that amendment. Motion seconded.

THE CHAIRMAN: It is moved and seconded that the report be referred to the governing board, for such action as they may see fit.

MR. BROWN: Is that the motion that they take such action as they see fit?

MR. DUXBURY: This is a divided report and there is a lot of information in there; the committee did a lot of work. It seems to me this ought to be referred to the legislative committee, and they may use it in such way as they think best, that is they can bring it before the legislature; and I would like to amend the motion, that the reference be to the legislative committee.

MR. BROWN: I accept the amendment if you leave it without any power to the committee of the Association as such on this question. I do not believe in the abolition of the grand jury.

MR. DUXBURY: This is an important matter. I do not feel that we ought to commit the Association one way or the other; just refer it to the legislative committee without recommendation.

MR. BROWN: Without the power to act?

THE CHAIRMAN: What are they going to do with it then?

MR. DUXBURY: We might refer it to them and they can do what they think ought to be done; they can bring the matter before the legislature and let them take such action as they can.

MR. BROWN: I think that is fair enough.

MR. DEUTSCH: Wouldn't it be fair to the committee who have spent so much time upon this, at least, to show them that the report was considered and acted upon either favorably or otherwise; and in view of the circumstances wouldn't it be fair to postpone the matter, and have this brought into the program for the next session of the Association?

THE CHAIRMAN: Do you make that as a motion?

MR. BROWN: I will make that as a substitute motion.

MR. DUXBURY: The only objection to that is that we get a conglomeration and congestion of this sort of thing and we never get through and don't have time to consider them all. This matter has been before the Association once or twice before.

THE CHAIRMAN: No, no.

MR. CALDWELL: It came up last year at Duluth and the committee was appointed.

MR. DUXBURY: Of course, it would be a remarkable thing if you could get any unanimous expression out of a body of lawyers. This committee report itself indicates the radical difference of opinions. I believe when there is a decided sentiment in regard to the matter, it is well enough for the Association to express itself. But I think this idea of forcing through by a divided vote, just enough to carry it, some resolution, and then bringing that before the legislature as indicative of the opinion of the bar of this state, does not accomplish anything and it hurts the influence of the Association in matters that we do recommend. When we get behind anything all together it might have a good result, but when we just barely get a resolution through and it goes before the legislature, it dissipates our influence; and this is one of the things where a resolution one way or the other of the Association would not have any power at all in the legislature, because they would realize that probably the friends of the resolution might have

been present in larger number than the others, and that the next meeting might reverse it. This is a question of much importance, so much so that we cannot take the time to deliberately consider it and come to any conclusion, and for that reason I want to refer it, with the information in this report, to the legislature. They will be interested in that question, and if in their wisdom they want to do that, we will all stand for it. I do not want to decide the question here upon so short debate this afternoon, with the banquet in view and everybody thinking about that and not about this important question.

MR. BROWN: My objection to a motion of that kind is that it might be taken by the public or the legislature as an adoption by this Association of a resolution in favor of the abolition of grand juries as recommended by the committee—I come back to my original motion now which was that the subject matter be postponed until next year and the committee continued.

THE CHAIRMAN: That is the only motion before the house.

THE CHAIRMAN: All in favor of the motion that the subject matter of the report of the committee be postponed until the next meeting of this Association signify by saying Aye. Contrary, No. The motion is carried.

MR. GEARHART: At a meeting of the board of governors of the association held in January last, there was one matter seriously considered, the financial condition of the Association and what might be done to improve that, what might be done to increase the interest in the Association so that we would have at our annual meeting a representation of all the lawyers of the state. It developed at that time that notwithstanding the efforts of the membership committee, many who had been induced to join the Association would pay one year's dues and then not pay any further dues and would be carried on the books of the Association as active members, when as a matter of fact they should probably be dropped or some arrangement should be made whereby their dues could be collected. It came down finally to a proposition as to whether or not we should increase the dues and the matter was considered from all angles at that time and the board of governors passed a resolution reading as follows:

"Resolved, that the board of governors recommend to the Association that the annual dues for membership therein be fixed at $5.00 per year, subject, however, to a membership fee of $3.00 per year for newly admitted members to the bar; provided that they apply for membership within sixty days after being admitted to practice in Minnesota; and when such new practitioner shall have been thus admitted to membership in the Association, that his dues shall continue at the rate of $3.00 per year for the first five years thereafter."

We hoped in that manner to get new people into the Association. Later, Mr. Bailey, who had given the condition of the Association very deep and interested thought during the year, took up with the publishers of the MINNESOTA LAW REVIEW, the idea of making the MINNESOTA LAW REVIEW an official publication of the Minnesota State Bar Association. He had many conferences with Dean Fraser which finally resulted in a tentative agreement in the form of a contract which might be entered into between the Association and the MINNESOTA LAW REVIEW.

Thereupon on June 30th, another meeting of the board of governors was called at which twelve of the board of governors were present and ten were absent. I will read in the minutes of the meeting of that board:

"The chairman stated that the purpose of the meeting was to consider a proposition made by the officers of the MINNESOTA LAW REVIEW to make the said publication the official organ of this Association, and called upon Dean Fraser to explain the proposed arrangement in detail. A general discussion followed culminating in the following motion by Mr. Hall, which was duly carried:

"Moved that the board of governors recommend to the Association the consideration and adoption of the plan proposed by the University of Minnesota Law Review authorities, by which the MINNESOTA LAW REVIEW will become the official publication of the Association; and further, that a committee of three be appointed by the president to investigate the financial matters involved and prepare for the proper presentation of the question to the Association."

Whereupon Mr. Bailey appointed a committee consisting of Mr. Quigley of St. Cloud, Mr. Currie of St. Paul and myself, to report at this meeting. The report of the committee and the resolution to be submitted necessarily go hand in hand. The report of the committee reads as follows:

"Upon the recommendation of the board of governors that the Association adopt a plan whereby the MINNESOTA LAW REVIEW becomes the official publication of this Bar Association,

"Messrs. Quigley, Currie and Gearhart upon behalf of the board of governors present the following resolution:

"Resolved, that the annual dues for membership in this Association be fixed at $5.00 per year;

"Resolved further, that the MINNESOTA LAW REVIEW be made the official publication of the Association upon the terms set forth in a tentative contract which has met the approval of the officers of the said MINNESOTA LAW REVIEW and of the board of governors of this Association, as follows:

TENTATIVE CONTRACT BETWEEN MINNESOTA LAW REVIEW AND MINNESOTA STATE BAR ASSOCIATION

The MINNESOTA LAW REVIEW, first party, and MINNESOTA STATE BAR ASSOCIATION, second party, each in consideration of the other's agreements herein, agree as follows:

1. During the continuance of this contract first party shall edit, publish and distribute in each month from November to June, both inclusive, herein referred to as the "school year," a publication to be known and designated as "MINNESOTA LAW REVIEW," to be also described on its cover page as the "JOURNAL OF THE STATE BAR ASSOCIATION," of substantially the size and type of the present MINNESOTA LAW REVIEW except that the November issue shall be the annual report of the Minnesota State Bar Association (not exceeding 192 pages). Issues other than the November issue shall contain such other Bar Association matter as such Association shall desire to place in the hands of its members and is suitable for such issues, such as advance reports of committees and other Bar Association matters of general interest to its members. A copy of each issue shall be distributed by first party by mail to such of second party's members as second party from time to time shall designate and to not exceed 150 exchanges of the November issue designated by second party, but the November issues, containing second party's annual report, shall not be distributed to first party's subscribers who are not members of second party.

2. In consideration whereof, second party agrees to designate not less than 500 of its members, and may designate as many more as it

chooses to whom said publication shall be sent, and second party agrees to pay and first party to accept payment as follows:

(a) Second party shall pay first party $3.00 each for deliveries to 500 of second party's members.

(b) In case second party designates more than 500 of its members to whom deliveries are to be made, it shall pay first party $3.00 for each membership dues for the calendar year 1923, which it collects in excess of 500 membership dues, and a like amount for each subsequent calendar year for each membership dues in excess of 500 it may collect; but second party agrees that it will in any event pay first party at least $1.50 for each of its members above 500 so designated, and it is agreed that if payment at the rate of $3.00 each for 800 of second party's members is made for any school year, then first party will make deliveries to any of second party's members it may designate in excess of 800 at the rate of $1.50 for each member so designated for two years, after which time this last limitation shall be subject to revision.

3. Payment shall be made as follows: On or before November 15th of each year second party shall pay $900.00, and commencing with the following first of February there shall be paid on the first of each month to and including July 1st $100.00; plus 1-6th of any amounts earned at $1.50 each for members in excess of 500 so designated for the current school year. Any further payments agreed to be made hereunder shall be made substantially as and when membership dues are collected by the second party.

4. In case second party designates members for part of a school year, the amount to be paid shall be proportional to the number of issues to be sent for the balance of the school year.

5. This contract may be terminated by either party on or before the first of September of any year as to subsequent school years.

MINNESOTA LAW REVIEW,
By .....
MINNESOTA STATE BAR ASSOCIATION,
By .....

And, that the president and secretary of this Association be, and they hereby are instructed to execute, as such, a contract with the said MINNESOTA LAW REVIEW embodying the terms and in substantially the language of the foregoing tentative contract.

I move that this report be received and placed on file. Motion seconded.

THE CHAIRMAN: It is moved that the report of the committee be received and placed on file. Any remarks? All in favor say Aye. Those opposed, No. The motion is carried.

MR. GEARHART: This is the resolution:

"Upon the recommendation of the board of governors that the Association adopt a plan whereby the MINNESOTA LAW REVIEW becomes the official publication of this Bar Association, resolved that the MINNESOTA LAW REVIEW be made the official publiciation of the Association upon the terms set forth in the tentative contract, which has met the approval of the officers of the said MINNESOTA LAW REVIEW and the board of governors of this Association, and that the president and secretary of this Association be, and they are hereby instructed to execute, as such, a contract with the said MINNESOTA LAW REVIEW embodying the terms and in substantially the language of the foregoing tentative contract."

Now, I am not as competent to speak on this as Mr. Bailey would be, but I move that the resolution be adopted.

Motion seconded.

THE CHAIRMAN: Any remarks?

MR. BROWN: There are two resolutions.

MR. GEARHART: No, it is embodied in one, because the increase in the subscription is dependent on the action in connection with the MINNESOTA LAW REVIEW. I may say here, of course, Mr. Bailey wished me to present this matter to the Association. It is something to which as I have said, he has given a great deal of thought, with the idea that it would or might increase interest in the Association, and that it could be terminated at the end of any year, if it is worth while trying out. It is the opinion of the board of governors that we get new blood in the Association. We want to reach the younger men. I am told that among the members of the law school this publication has a circulation of approximately 250. Those men, as they graduate, can become members of the Association, at an additional expense of $2.00, that is assuming that they would continue their subscription to the MINNESOTA LAW REVIEW; it would cost them an additional $2.00 to secure membership in the Association. Now Dean Fraser is much more competent to speak about the negotiations with Mr. Bailey and certain facts which induced Mr. Bailey to take the interest in the matter which he did, and I would ask that Dean Fraser express his views of the matter.

DEAN FRASER: Members of the Bar Association: I had several discussions of this matter with Mr. Bailey, and I will give you as briefly as I can the considerations that move both the MINNESOTA LAW REVIEW and Mr. Bailey in proposing this arrangement. Several years ago the State Bar Association of West Virginia had a publication of its own which was not a success. It called upon the law school of the state for help and the law school took over that publication, entering into an arrangement of this nature with the State Bar Association. Last year the Michigan State Bar Association entered into a similar arrangement with the Law Review of its State University. The details differ, but in substance the arrangement is the same. Massachusetts several years ago, in 1915, I think it was, wishing to have a publication of its own, attempted to carry on the publication by the Association. The committee of the Michigan State Bar when they were considering their plan investigated the result of the Massachusetts experiment and reported that it was impossible for a State Bar Association, judging from the experience of the Massachusetts association, to carry on a publication of its own without the kind of articles that appeared from time to time in the regular legal periodicals. That is the reason they called upon the law school to join with them in furnishing to their members a publication similar to that which we propose here. So this plan is already in effect in at least two states and similar arrangements are being discussed in other states.

Now, the nature of the arrangement is a little difficult to understand from the reading of this more or less complicated contract. It might appear to you that the Association is going to pay the LAW REVIEW a considerable amount of money, and it is, but not so much as might appear from the casual reading of the contract. The publication of your annual proceedings now costs the Association about $900. That was the cost last year, and the Association by its arrangement will be relieved of that expense. The first provision of the contract is that the LAW REVIEW will publish the annual proceedings of this Association in November. So

that the money (the $3.00 per member that is to be paid by the Association) to the LAW REVIEW, $1.00 at least, perhaps more, because it is doubtful if you will furnish 900 subscriptions to the REVIEW, $1.00 at least is going to pay an expense you already have. The present subscription price of the LAW REVIEW is $3.00, but members of the Association will be receiving the REVIEW for roughly $2.00 instead of $3.00 which the regular subscribers pay.

So for about $2.00 paid by you your members will receive the seven regular issues of the REVIEW from December to June both inclusive. The REVIEW carries legal articles by lawyers and law teachers, and notes and recent cases written by the ablest students in the law school. Each issue contains from 80 to 90 pages of matter on legal subjects. In addition the contract provides that the REVIEW shall carry a department containing all matter which the Association wishes to send to its members suitable for publication in a law review. It will contain reports of your committees, the June issue particularly will contain the reports to be acted on at the annual meeting, so that it will be unnecessary to send them out separately as has been done in the past. There should be some saving to the Association in this way.

Now, I want to say that it would not be possible for you to get the REVIEW for $3.00 together with the annual proceedings but for the fact the REVIEW is a going concern and has 800 subscribers who are paying $3.00 for the REVIEW alone. Under this arrangement these old subscribers will continue to carry the overhead cost. The REVIEW could not be sent to all the subscribers at $2.00, but the Association gets more liberal terms, because Mr. Bailey was very desirous to have this arrangement perfected and he thought that the Association would experience some difficulty in financing it for the first year or two, until the arrangement came to be appreciated, so we agreed that we should publish these extra copies at estimated cost to the REVIEW, which is much less than the cost of the first 500 copies. Our printing arrangements are a contract for 500 copies, for any copies above that we get a reduced price and you get the benefit of that reduction.

On the part of the LAW REVIEW the only motive for this arrangement is the greater public service it can render. No one connected with it receives any salary. The students and the members of the faculty, even the editor-in-chief and business manager, pay the regular subscription price. The students pay for their copies, the only exception is the student editorial board, fifteen to twenty students. They are the only ones who receive complimentary copies. All the money received from all sources goes into the REVIEW to make it the best possible. The University does not contribute any money to its support but its financial position is quite satisfactory.

I am not going into the advantages to the Association from adopting the REVIEW as their journal. You can appreciate them yourselves.

There is one matter, however, that is closely associated with this and was in Mr. Bailey's mind when he proposed the arrangement. That is, that under the plan you have adopted in the Report of the Committee on Jurisprudence and Law Reform, some aid will hereafter be given by the University Law School faculty to your committees in the way of

research on problems with which they are dealing. Matters referred by your members to your committees will be referred, if they think it desirable, by your committees to the faculty, for such research and report as the committees themselves may not be able to give them. These reports will be published from time to time, it is hoped, in the LAW REVIEW. That can only be done effectively, of course, if the LAW REVIEW goes to all of your members. At the present time it goes to 400 lawyers in the state; the others are students and subscribers outside the state. Incidentally, I may say that 200 of these lawyers in the state are members of your Association, and that under the proposed agreement, they will save $1.00, because they will get the LAW REVIEW with their membership for $5.00, whereas they are now paying $6.00.

MR. SHEARER: Why isn't it a good scheme to add to your suggestion that the $200 saved by these 200 lawyers be loaned by them to the Association? We need the money. (Laughter.)

MR. BROWN: Isn't it a fact that at the present time the REVIEW, as now published is on a sound financial basis? That is, that its advertising and other receipts at least equal its expenses?

DEAN FRASER: Yes, I should say, and I attribute it to the financial genius of Professor Paige, that the REVIEW at the end of last year had a surplus of $833.00.

MR. BROWN: Isn't it a further fact that its increased circulation which would be given it—and the class of the circulation, which, of course, is very desirable, would increase its attractiveness as an advertising proposition and probably increase its advertising receipts?

DEAN FRASER: We have discussed that matter and Prof. Paige is of the opinion that he is now extracting from the advertisers about as much as he can hope to get.

MR. BROWN: At least, then, isn't it a fact that the REVIEW itself as now published is on such a financial basis that there would be no delinquency on the part of the REVIEW in carrying out the contract with the Association?

DEAN FRASER: We are quite confident of that Mr. Brown, on the part of the REVIEW we have no fears at all. (Laughter.)

MR. BROWN: Well, I trust this Association will carry out its contract.

MR. GEARHART: I may say to the Dean and to Mr. Brown that this committee at least has some assurance that if the contract is entered into the Association will not lose by it.

MR. BROWN: I am trying to emphasize that idea.

A MEMBER: Dean Fraser, may I inquire where the editorial supervision rests?

DEAN FRASER: It will rest with the faculty of the law school. On that point I may say that Professor Fletcher has been the editor-in-chief for six years and continues to be such. This, we regard as a tentative arrangement. What the future arrangement will be, if the present one proves a success, and if the REVIEW proves acceptable to you, we are not prepared to say. That there might be some arrangement by which the Association would be represented on the editorial staff, if desired, is I think entirely possible.

MR. BROWN: I am asking questions to emphasize some of the features that I think I know. Isn't it a fact that the REVIEW itself, and the editorship, is simply the selections of the contributions to be published—that is, there is no editorial policy and editors, as such of the REVIEW. Therefore the Association would not, by this means, become committed editorially to a proposition to which they could possibly object.

DEAN FRASER: I would ask Mr. Fletcher to answer that question.

MR. FLETCHER: I would say in regard to that that the LAW REVIEW has no editorial policy, except to print the very best law review that it is possible to print.

DEAN FRASER: I was talking with one of the editors of the American Bar Association Journal this summer. He told me that when it was proposed a year or two ago, that the American Bar Association should publish a Journal, the treasurer was very much disturbed, he feared the treasury would be depleted, but he has since become an enthusiastic supporter of their Journal because he finds membership fees have been paid as never before, and new members have been acquired as never before.

MR. BROWN: If Mr. Wadhams, the treasurer of the American Bar, is enthusiastic on anything involving the finances of the Association, you can be very sure they are pretty safe. I have known the man for many years. I move the adoption of the resolution.

THE CHAIRMAN: Any further remarks? All in favor say Aye. Opposed, No. The resolution is unanimously carried.

I will call for the Report of the Committee on Nomination of the Board of Governors.

MR. BRUCE SANBORN: In connection with the report of the nomination committee I should say that the action of the committee in selecting the members for the seventeenth judicial district was not unanimous. Senator Putnam thought that he should not again stand as a nominee for the board of governors, but the balance of the committee believed with his experience and counsel he should be saved to the board.

The secretary cast the ballot for the election of the board of governors, as submitted by the committee.

Election of officers:

President, W. A. Lancaster, Minneapolis.
Vice-President, Royal A. Stone, St. Paul.
Secretary, Chester L. Caldwell, St. Paul.
Treasurer, Roy H. Currie, St. Paul.

Motion of thanks to the Minneapolis Bar and to the Hotel Radisson for entertainment and courtesies throughout the session.

Adjourned.

(Banquet at 6:30).

ANNUAL BANQUET
OF THE
MINNESOTA STATE BAR ASSOCIATION
AT RADISSON HOTEL, MINNEAPOLIS
September 2nd, 1922
AFTER DINNER

Col. Warren E. Greene, Toastmaster. Hon. Frank M. Nye.
Hon. Herbert S. Hadley. Hon. Cordenio A. Severance.

COMMUNICATION FROM GOVERNOR J. A. O. PREUS

Hon. Chester L. Caldwell,
Secretary State Bar Association,
Radisson Hotel,
Minneapolis, Minnesota.

My Dear Mr. Caldwell:

It is with the greatest regret that I find it impossible to keep the tentative engagement which I made to speak to the State Bar Association tomorrow morning. I should have liked very much to have appeared before you because I desired to call attention to the lawyers of the Association to certain problems that I believe them all interested in and to which they could contribute much to solve in the interest of our state.

Crime has been on the increase in Minnesota in the last few years. When this class of individuals awaken to a realization that when crime is committed, the offender will with almost absolute certainty be apprehended quickly, tried and committed, clemency extended only in extreme cases, then and only then can we hope that crime will be abated. I recently expressed myself about as follows on this situation:

"Good roads and high powered cars have made the escape of criminals far more easy than was the case before the advent of good roads and automobiles. In a half or three-quarters of an an hour a person can pass into and out of the jurisdiction of almost any sheriff in Minnesota by crossing his county. When a criminal adopts this method of escape, you should determine whether the present system is adequate to changed conditions. It is no reflection upon sheriffs that their tasks have been made more difficult and at times almost impossible for they are not equipped with the funds or methods of operation suited to modern means of locomotion. I am of the opinion that if criminals are to be apprehended quickly and with certainty, we must have some central bureau of identification as well as a state police system. While we have constables, municipal police, sheriffs, etc., nevertheless we have game wardens protecting the game and fish of the state. No opposition is made thereto by local officials and if the game and fish are worth protecting, so are people both in person and property. We have a state fire marshal's office, the duty of his deputies being largely that of detective work to apprehend incendiaries. If it is important to reduce the loss ratio by fires, which it is, and a state office is necessary for that purpose, it is equally necessary to do away with the lawlessness, the burglar, the highwayman and most especially in the country and in the villages.

"Comparative statistics are unnecessary but they prove that law enforcement in the United States is a farce compared with European countries, as well as Canada. In a well organized community our ambition should be to substantially do away with the commission of crimes. It is a reflection upon the efficiency of a government in a community that it cannot practically eliminate all crimes committed out of desire for

gain. The objection will be raised that it will cost too much money and add to the taxes of the public. I believe a great part of the expenditures necessary for such a system, if not all of it, can be collected in connection with taxes, fines and penalties for violating the automobile tax law. Insurance companies writing theft insurance upon automobiles, could well afford to pay a tax for the maintenance of such police officers if thefts thereby could be substantially reduced, just as the fire companies do for the maintenance of the state fire marshal's office.

"When our constitution was amended two years ago to provide for a state hard surfaced road system of seven thousand miles, it would not have been unwise had it been provided that out of the taxes upon automobiles the patroling of these roads might be provided for. The amount required would have been trivial upon each car.

"Unless traffic laws are passed in this state as regards the weight of trucks and truck loads our roads are going to be destroyed. Such a law will be violated unless there are people charged directly with the duty of checking up violations of traffic laws. I hope that you will consider the advisability of a state police system and consider methods of financing one if you believe it advisable."

Another problem which the Bar Association could with propriety in my opinion consider is the placing of limitations upon the granting of bail to prisoners after conviction. No criminal has such a right but it has been the custom to grant bail under such circumstances altogether too frequently.

The manufacture and sale of fire arms, as well as the carrying thereof as a deterrent of crime, is an important problem.

In the last few weeks, the indeterminate sentence law has been under discussion. I believe that it would be extremely helpful to the state if the Bar Association would charge a small committee of its members with the duty of studying the indeterminate sentence law and its operation in this state and its effect upon crime and criminals.

Some time ago I appointed a crime commission, the chairman of which is Chief Justice Calvin L. Brown of our state. On that commission are many good lawyers, judges, and social workers. That commission is studying the various problems to which I have referred above. If the Bar with its experience and knowledge of these questions can assist in this situation, it may mean much for the state of Minnesota.

Very truly yours,

J. A. O. PREUS.

DEVELOPMENT OF THE AMERICAN CONSTITUTION UNDER JOHN MARSHALL

By ALFRED J. BEVERIDGE

LADIES AND GENTLEMEN: Let me say in the beginning that if you think my remarks are prolonged, you must lay the blame where it should be laid. When I was honored with this invitation of your president, Mr. Bailey, I explained to him, that in view of the fact that I had never found time to write out these observations on the development of the American Constitution under John Marshall, because of the extended ground which I attempted to cover, that my speech was interminable in length and that they must expect that. I do not like an extemporaneous speech. I do not like to listen to one nor to make one. My observation has been that the extemporaneous speaker seldom says anything and never gets through saying it. (Laughter). I am reminded of the description which that great statesman, William M. Evarts, gave of his sentences. He used sentences nearly as long as Henry James. You club women who honor me with your presence know how long they are. I remember an argument of Mr. Evarts, where one sentence covered a page and a half. One day in addressing the Supreme Court of the United States in a railroad case, he got tangled up in an interminable sentence. He stopped and said to the court, "Your Honors will perceive that my sentences are like this railroad, they lack terminal facilities."

I am comforted with the thought that at least you are safe from the fate Mr. Dooley said I visited upon the American Senate when I first addressed that august body. In describing the occasion to Mr. Hennessy, he said, "Finally, up 'riz' young Senator Beveridge, and proceeded to deliver a few hundred carefully prepared extemporaneous remarks." (Laughter).

Several gentlemen, since I have arrived here, have asked me how I happened to write the life of John Marshall, and I told them that I would tell you that this afternoon. It involves the story of my life. Do not be alarmed—I am not going to give you that in all its details.

I was born when the Civil War was reaching its ripe red climax. My father and all my brothers were officers of the Union Army, and because of that, it happened that the atmosphere in which I was brought up was one of intense nationalism. Beneath our rooftree, anything that detracted from the power and glory of the American government was considered evil, and everything which exalted it was holy. In our family, nationalism was not so much a political philosophy as it was a religious creed, and so it was that the very air I breathed as a boy and youth and young man, was that of nationalism. And that feeling, which is more than an opinion, has grown until now this minute, from the soles of my feet to the top of my head, I am a nationalist, an American nationalist and nothing but an American nationalist. (Applause).

I began to study law in the office of Joseph F. McDonald, whom some of you knew, and who was the best equity lawyer I knew, and indeed, a good common lawyer. I was at first as much bored by law books as Mr. Marshall—not quite, but nearly. One day, as I firmly believe, guided by Providence—you know I am Scotch, and you never saw a Scotchman who was not firmly convinced that God had nothing to do but look after him and his interests—so I believe, guided by Providence, I took up at random—I do not know why—a volume of the supreme court reports of the United States, and I happened to open to that marvelous opinion in the case of *McCulloch v. Maryland* and read that opinion. I was no longer bored. There was no dullness nor prolixity. But all that I had learned, through my father and members of my family—all that I had learned, and that members of my family had believed in, became a part of my being, there it was explained, and the whole philosophy and the reason for it, with filling eloquence. Uplifted, I went with that opinion to Senator McDonald, and I said, "The man who wrote the opinion of the Supreme Court in *McCulloch v. Maryland* was a soldier." He said, "What makes you think that?" and I said "Look at this," and I cited a few of those marvelous paragraphs, that one beginning, "From the St. Croix to the Gulf of Mexico, armies must be raised." I said the man who wrote that was a soldier. McDonald said he didn't know. And I went back and took up the next, the opinion in the *Dartmouth College Case*. And I went back to McDonald, and I said, "Senator, I have another theory about this man, the man who wrote the opinion in the *Dartmouth College Case*, and the man who wrote the opinion in *McCullough v. Maryland*, never wrote them indoors." And McDonald said, "What makes you think that?" I said, "It is so invigorating, it must have been written out of doors," and I learned afterwards that the opinion in the *Dartmouth College Case* was written by Marshall under his trees down in Richmond, on his vacation, in the summer of 1818. And so I began to look about for some account of the marvelous creature who had written these immortal things. Someone must have written his life, I thought. But there were only short sketches; and so there was formed the ambition of my life, and I went to Senator McDonald, and I said, "Before I die, God willing, I intend to write a definitive life of the greatest chief justice the world has ever seen." But I had to earn my living, so I had to practice law, and there was no opportunity. Then the people elected me to the Senate, and I gave an imitation of a man trying to do that work, and there was no opportunity. And then came the time at the end of my second term, when the Democrats carried the state—and it was a good thing in one way that it happened, (although I don't say I would like it to happen again)—so the time had come when I could write the life of John Marshall, and that is the reason you and the country have had inflicted upon you these four volumes.

The subject I am going to talk about is the development of the American Constitution under John Marshall, because I have concluded to leave out all but one of the cases which I meant to illustrate and that will be the case of *Marbury v. Madison*.

In the first place, it must be understood that the dignity and power of the Supreme Court, the universal respect in which that great tribunal

is held, the fact that it has developed into the most powerful government agency in the whole world is due more than to any other man, or all other men, to John Marshall. At the time he ascended the bench, the Supreme Court did not amount to much, either actually or in the public esteem. When the Supreme Court was established, and when it came to a question of appointing by Washington of the first members of the Supreme Court, he had very great difficulty in finding anybody to accept the position of chief justice. He offered it to two or three men and they declined. He offered it to Patrick Henry and he declined. Then Adams had great difficulty in finding someone who would accept the appointment. At that time no national office except that of president was held in very high esteem, and the senator from New York, Bryan, resigned in order to take the post office of the then infant metropolis. And in 1805 Mr. Jefferson said in a message that the most important office of that day, next to president, was governor of the territory of Orleans.

Perhaps I can dramatically bring to your mind how insignificant the Supreme Court was when Marshall went to the bench by reminding you that when the capital was planned by its great architect, who designed it to be the most magnificant government building on earth, (and it still is)—so little was known and thought of the Supreme Court, that he actually forgot to create a room for the Supreme Court to meet in, and that was why, for so many years, the Supreme Court of the United States met in a basement room in the capitol, there was no place for it elsewhere, and the room where the Supreme Court now meets is the place where the Senate of the United States met. That then was the condition of the Supreme Court when Marshall ascended the bench. It did not have the respect of the people, and it was considered as having no power, and there can be no doubt that Marshall accepted the place purely as a matter of patriotism. When it was offered him he took two or three weeks to ponder whether or not he should accept it, and he took it solely to strengthen that great arm of our government and to make it what it has since become, a mighty agent for the administration of justice, which shall have the power definitely and with authority to tell all the people in all branches of the government what the law is, and that says where the constitution shall not be transcended. When Marshall went on the bench he began this by an act of audacity. And I might say that everyone of those great opinions—which all lawyers now agree have really vitalized the American nation and made it what it is—every one of them was an act of audacity, so great, that it can be compared only to some of the Napoleonic conceptions in war.

The first thing he did when he ascended the bench was to impress the whole nation with the unity of the Supreme Court. Up to that time the opinions were delivered seriatim, one after another, as is now the case, and which I trust will continue to be the case. Marshall immediately assumed the authority of delivering all opinions of the Supreme Court himself. In that way, by that psychological method, he began to impress the bar and the entire people with the unity and with the dignity and with the centralized power of the highest tribunal of the nation. They knew it was speaking with a single voice, and they caught and sensed

from that fact, that there was a power there that they had not known before. At that moment the respect for the Supreme Court began.

Then came that series of marvelous opinions, which are as important as the constitution of the United States itself, and which in reality made the constitution of the United States, itself, what it is, the most vital instrument over produced by human wisdom.

Then I examined the case of *Marbury v. Madison.*

Because I have been told that I am honored today by having in the audience, those who are not members of the bar, I shall essay to make it plain enough so that the lay mind will understand it. You should all grasp this critical and important fact, without which it is not possible to know what the opinions of Marshall meant. Every one of these opinions, *Marbury v. Madison, McCulloch v. Maryland, Fletcher v. Peck, Cohen v. Virginia* and *Gibbons v. Ogden,* and the *Dartmouth College Case,* all of them without any exception were great state papers. They were not simply judicial opinions; they were not chiefly judicial opinions; they did not grow out of the element of the mere legal cases before them. They grew out of the proven fundamental and economic conditions. Those opinions were not addressed merely to the people before the court; they were addressed to the entire American republic. They resembled more the tables of law handed down by Moses from the mount. Neither were the litigants before the court the real contenders. In nearly every case there were great forces which were the real contenders. And, finally, in the case with which I will deal, the great contestants there were not the appellant and respondent in *Marbury v. Madison;* but they were nationalism vs. localism. So that it is essential that you men and women who are not lawyers, when you hear the opinions of the great chief justice spoken of—that you should realize that they were not judicial utterances even chiefly, but on the other hand they were state papers and state papers of dignity, as much as the Declaration of Independence, or Washington's Farewell Address, and that is what makes them fundamental, and unless that fact is firmly grasped, not only do you lose all the color of the human interest in those decisions, but also you will lose their meaning.

The first of these was *Marbury v. Madison,* and I must devote all the time to only one case, because the great attack which was immediately made upon it and continued for a century, is now being renewed, and you will see a very great deal more of it. Indeed, it has been called by the most daring radical leader, Senator LaFollette, in his speech before the American Federation of Labor, the supreme issue of the hour.

I hope you lawyers will excuse me for being a little bit prolix in order to make it clear to those here who are not lawyers. Let me say then to you who are not versed in law, that what was pointed out in *Marbury v. Madison* was this: That when Congress passes an act which in the opinion of the majority of the Supreme Court is forbidden by our national constitution, or when a legislature of a state passes an act which transcends the provisions of the national constitution, then it is the power and duty of the Supreme Court to invalidate that act and declare it null and void, and no law. I will state that again, so you will get it. It was

held in *Marbury v. Madison,* that whenever Congress passed an act which the court finds unconstitutional, the court has the whole power and the duty to overthrow that act of Congress.

Now that was definitive and it has grown until all lawyers agree that it is the heart of America's constitutional system, the power of the courts over legislation, and their authority and duty to strike out the laws which violate our constitution—a power that does not exist in any other nation in the world. It is distinctly and exclusively American.

It is America's only original contribution to the world's science of jurisprudence, the power of the courts over legislation.

In making that decision, as is contended by those who oppose it now, and have for one hundred years, Marshall practically amended the constitution; because in our written constitution there is not a word which specifically gives the supreme or federal courts that power. When I come to their argument, I shall dwell more at length with that. There was some debate in the constitutional convention upon the general theory, but it was very scanty and it was not upon this question at all. The proposition was never made to the men who framed our national constitution that the Supreme Court should have or should not have the power to declare acts of Congress unconstitutional. The scanty discussion on that subject came up upon an entirely incidental and wholly impracticable proposition, the proposition to create an advisory council consisting of the president and a court who should have the negative of all legislation constitutional or otherwise, and who should then advise Congress of the legislation which should pass. What little debate there was on the subject showed that the leading minds at the constitutional convention felt that it was the inherent power of the courts, a part of the judicial function of the courts, to of course overthrow any legislation that transcended our written constitution. But that was all that had occurred upon that subject.

Now, then, why was that decision made? What was the historical origin of that decision? Because, unless we know that, we have no notion of the depth and power and the convincing quality of those most important judicial utterances in American history, and even in the history of the world. The roots of *Marbury v. Madison* reach back to the French Revolution. The American people, of course, are the best and ablest people of the world. We admit it ourselves. But, of course, we have a national defect—not important; but if I might point out one, it would be the curious lack of information that we have concerning the history of our own country. (Laughter). Nearly everybody can make a statement concerning the early history of America and get away with it. For example, I suppose that ninety-nine out of one hunded of our text books teach that the French Republic helped us gain our independence, and I have seen that stated in so many words in the school books, from which our children are learning American history. As a matter of fact, of course, we all know (now that I remind you) the aid given us in the rebellion was not given us by the French Republic but was given us by the French autocrat, Louis XVI, at the time when the French autocracy had reached its full climax—and far beyond the recent autocracy of Russia, or Turkey —and that is what produced the French Revolution; and Louis XVI

gave us that aid in soldiers and money, not in the least because he cared anything about us, but as the literature of his foreign minister shows, in order to injure his traditional enemy, England. He wanted to separate England from her colonies. The French Revolution did not occur until eleven years after that. That French Republic was not established until six years after we had won our war of independence; as soon as the French Republic was established, it so turned out that the United States got into a serious complication with the infant government; they interferred with our commerce, and finally, it looked as though war would be inevitable. As a matter of fact, a war on the ocean did occur that lasted two years. And you will find it very interesting to read "The Naval War With France," by G. W. Allen, one of the most scholarly books that I know of.

In order to prevent formal war, President Adams sent a commission to France in order to adjust conditions.

Mind you, I am talking about *Marbury v. Madison.* I am leading up to the control of the courts over legislation.

On that commission was Elbert Gerry of Massachusetts, a pompous fellow who did not amount to much, Charles Cotesworth Pinckney, of South Carolina, a fine man, but without much character of intellect, a comparatively young lawyer from Virginia, and John Marshall, who had established a reputation through the country for ability at law, combined with great common sense. They went to Paris, and of course, you remember what occurred in the great X, Y, Z Case, as it was called. When our commission arrived they were confronted by a demand from Talleyrand for douceur. They were informed that they would have to pay a bribe of about a quarter of a million dollars before they would deal with them. In a short time the middle-aged lawyer from Virginia, became the master mind of the American mission. It was he who wrote the American Memorial, which to this day is unsurpassed in reasoning and eloquence in the archives of our states department. And he did another thing. He jotted down everything that occurred—the dramatic instance of the attempt to bribe; the tremendous demands made upon us; he wrote those out, and the commission sent them in despatches to President Adams, and the names were named; but instead of putting the names in the despatches themselves, which were afterwards published, in the place of names they used letters, X, Y, and Z. That is the reason why in history this was known as the great X, Y, Z mission.

At that time the new Republican party was led by the master politician, Thomas Jefferson, who was formulating and organizing his new party. When these despatches came, the president sent them to the Senate, and they were published. At once, one of those tremendous storms of patriotism that sometimes sweep over a country swept over America. On every hill-top the fires of loyalty to America were lighted. Young Joseph Hutchinson, who became one of the leaders of the American Bar—then in Philadelphia—wrote the president's march, Hail Columbia. Marshall returned and he was received with such enthusiasm as up to now, no one who has been abroad has ever received.

Just at this time, the federalist party, which was renewed in its strength by reason of this exposure, committed a fatal blunder. It is

important for you to know that the reaction on the public mind in England and America as to the French Revolution in that day was precisely, to the smallest particular, the same as the reaction now to the Russian revolution on the British and American public mind. And I would advise everyone here to get out of the library or buy May's Constitutional History of England, the American edition, and read the ninety-first chapter of the second volume, that he may know what was done in England by reason of the terriffic alarm that was raised in that country by the French Revolution, and the even greater alarm raised here in this country. In this country and in England societies were formed upon the basis of the Jacobean Clubs of Paris, composed mostly of humble people, but including men of learning, standing and dignity. These democratic societies, as they called themselves, indulged in very extravagant language. They were great admirers of the principles of the French Revolution, and they even more admired after it was published, the French constitution, felt its superiority to ours and advocated the abolition of ours and the adoption of the French constitution.

At that particular point the federalist party, the greatest constructive political party the world has ever seen—the party that, if any party can be said to have given us our constitution, gave it to us—the party that originated our fiscal system on which our financial system is based, the party that originated our foreign policy, which we have followed from that time to now, and I hope always will follow (applause); the party of Washington and Adams and Hamilton and Marshall, and, those intellectual and moral giants of the time—committed a fatal blunder. They committed it from the highest and loftiest motives—tremendously alarmed by what was going on in France; their nationalization of land, their overturning everything that everybody thought was established. Those men concluded, actually believed—and they were in earnest—that the principles of the French Revolution, if applied to America, would not only overturn all government, but destroy society. And so it was that through the noblest motives and highest patriotism, those very, very wise men, who had done so much for America and liberty throughout the world, committed a fatal political mistake. They passed the Alien and Sedition laws and those sedition laws were very mild compared to what has been passed by our states in the last two or three years. But then they were considered a terriffic restraint upon free speech, and that is what they were. They were rather mild. The penalties provided were not very great. But it was provided that anybody criticising in a certain way the government or officials should be prosecuted and if found guilty sent to jail. And the alien part of the Alien and Sedition Laws provided that the president might deport at any time, any person whom he thought detrimental to the interests of America.

Here, the master politician, Thomas Jefferson, saw his opportunity to rehabilitate his party, which had been almost wrecked by the publication of the X, Y, Z despatches. He saw where he could appeal to the people—that here was an attempt to restrain the freedom of speech, and he did it, and in a very wonderful way, so simply, and yet so perfectly in its political significance—he did it by means of the Ken-

tucky and Virginia resolutions. The Kentucky act he wrote by his own hand. The Virginia resolution, practically the same thing, he induced Mr. Madison to write.

Now, you remember I am talking about the case of *Marbury v. Madison*. You must know that the Virginia and Kentucky resolutions—you are all familiar with them, but you will pardon me reciting what they mean—(laughter)—those resolutions asserted that our constitution is not what Marshall afterwards called it, an ordinance of nationality, but merely a contract between the general government and the particular states—that our form of government does not make a nation but a league; that therefore, whenever the national government, through Congress, passes a law which violates that contract, it is the power and duty of every state to say that that is a violation of the contract, and that they won't obey it; in short, that it is the duty of the states to interpret the constitutionality of an act of Congress; so that as Mr. Jefferson reasoned, it was the duty of the president or Congress, not the courts, independently and in control of the entire department, to say what is or what is not the law, that they will obey.

There was stated the philosophy of secession. The moment the Kentucky and Virginia resolutions passed, the Civil War began. Kentucky and Virginia immediately sent those resolutions to the other states of the Union and requested a reply.

All the New England states, and Maryland, Delaware, New Jersey and Pennsylvania replied denying the doctrine. All of those states said in formal resolutions in their legislatures that the power to declare a law unconstitutional was the exclusive province of the judiciary, and in the last analysis, of the Supreme Court of the United States. They asserted the doctrine that the courts inherently, and they alone, had the power to say what is and what is not the law, throughout the republic. That is as far as most people go. Up to recent time, when historical scholars discovered that that was only the opinion of the majority, in all the New England states, New York, Pennsylvania, New Jersey, Delaware and Maryland—in every other one of those states, those resolutions were fought to the last ditch by the minority party. That was Mr. Jefferson's party, and this supression of the power of the courts by the legislatures of those states, was only the opinion of the majority of those legislatures. In New York, I think the number was about fifty. There were fifty federalists and forty-five republicans. The Jefferson party was called the republicans; and forty-five republicans voted that the courts did not have the power, and the same was true in Massachusetts, and in all those states. Another thing, the party in those states which announced the power of the courts over the legislation was the failing party, the party of the middle-aged and old men—what today would be called the conservative party. The other party, which denied that the courts had power over legislation was the growing party—the radical party, the party of localization, chiefly of young men.

Within two years many of the states had absolutely reversed themselves in the presidential election, and thus it came about that the presidential election of 1800—perhaps the most important in all our history—was fought upon the fundamental issue—because in those days political

campaigns were fought out on fundamental issues—things that men believe in enough to die for—and it was fought out upon the great fundamental issue: What power under our constitution has the authority definitively to say what is and what is not law, wherever floats the flag?

Mr. Jefferson's party insisted that the states had that power or the president or the departments. The other party insisted that the courts had that power, and that, in the last analysis, the Supreme Court of the United States was the final arbiter over the legislation passed by Congress or in the states, in violation of the constitution of the Republic. On that great issue, which was debated from every stump, and discussed in every newspaper of the times—on that tremendous issue, which in reality, as it was presented to the people, was the issue of their safety—since it involved the Alien and Sedition Laws, that election was decided and Mr. Jefferson became president of the United States, and the great federalist party was completely destroyed. It was fatally hurt. Its blunder had overturned it forever. It lost control of the House and the Senate. The new republican party which denied the power of the courts to declare legislation unconstitutional, which made according to the opinion of men like Marshall, complete chaos, the dissolution of the nation, defeated the federalists. Jefferson came into office.

Another thing, incidental to this, not only did the federalist party give Mr. Jefferson his opportunity politically, by attacking this as suppressing free speech, but the judges, in interpreting the Alien and Sedition Laws accumulated a tremendous public hostility to themselves. It is incredible when we read today the decisions of those men on the bench, their charges to juries, and their conduct of cases. Nobody—much less a judge— should use the language they did. They browbeat witnesses in cases that were tried before them under the Sedition Law—they acted not as judges, but as prosecutors—not as prosecutors, but as persecutors. The result was a growing and violent hostility to the courts, and especially to the national judiciary. Of that fact, the greatest party general in the world, Mr. Jefferson, immediately took advantage. He assailed the courts. Just at this time another thing occurred, one of the greatest acts of the federal party. You will let me explain to the men and women here who are not lawyers, that a judiciary act is the law which establishes our courts. For instance, a state judiciary law here is the law which establishes the courts in the state. The national judiciary law was the law which established the national courts. As soon as the constitution was adopted, the first Judiciary Act was passed, which lasted until 1795, I believe. It was drawn by Oliver Ellsworth, member of the constitutional convention, and the second Chief Justice of the United States, one of our greatest lawyers. In drawing that act he was aided by other eminent men. The Ellsworth Judiciary Act established this national tribunal. I have no time today to describe the law but it had been the purpose of federalists in Congress, nearly every one an eminent man and good lawyer, to revise that act. When they found the radicals had carried the election to control Congress, they resolved that before they went out of Congress, they would frame up and pass the Judiciary Act of 1801—one of the wisest and ablest pieces of constructive work ever known. Nearly one hundred years has passed

and the federalist Judiciary Act of 1801 is today the judiciary act that creates our federal courts and governs the national judiciary. In passing this new law, and retaining the Ellsworth law, the federalists created sixteen new federal judges. They were evidently needed, but they cost $50,000. Immediately the republicans raised a tremendous cry that they were expensive—you know in that day, I may say that they paid some attention to appropriations—they cared something for the people's money. And they said that sixteen judges were not necessary, that it was merely to give some office-holders jobs. Mr. Adams had appointed to these sixteen places federalist congressmen who had been beaten—what we call in this day lame ducks. So Mr. Jefferson ordered a repeal of that law. The very last day of President Adams' administration, was a very important thing, on which has turned American judiciary history and our constitutional system. He appointed forty-two justices of the peace, for the District of Columbia, the last day. He nominated them to the Senate. The Senate confirmed them. They sent the commissions back and Adams signed and sent them to Marshall, then Secretary of State—the only man to hold the office of chief justice and secretary of state at the same time. Marshall countersigned them, and affixed his seal. He laid them on his desk in his negligent way, because probably he was the most negligent man in personal affairs in his day.

Jefferson was sworn into office. James Madison became secretary of state, and Madison found on his desk those forty-two commissions. All of them were federalists, nine republicans—and Mr. Jefferson, the politician, at once said—"Another instance of federal spirit! My God! Forty-two justices for the District of Columbia; it is absurd; it is unnecessary; it is bleeding the people; twenty-five are enough," and undoubtedly he was right. He said to Madison, "You deliver twenty-five, and hold the other seventeen. We are guardians of the pockets of the people." And Madison proceeded to do that.

Remember that particular instance, because it is the beginning of the case of *Marbury v. Madison*.

Congress assembled and the republican party under Mr. Jefferson ordered that the federal Judiciary Act of 1801 be repealed. On the first day of the session, John Breckenridge of Kentucky, the man who introduced the Kentucky resolution in the legislature, raised the question of the repeal of the Judiciary Act of 1801. Then, my friends, began a debate, which, for brilliancy, learning and importance has not in my mind its equal in parlimentary annals. For four months it was waged. It soon came down to the great point on which the presidential election has been waged, to-wit, who has the power to say what is and what is not constitutional law? The federalists maintained with tremendous learning, that that power is in the courts. The republicans insisted with equal brilliancy and eloquence and equal reasoning and equal learning that that power did not exist in the courts. For four months it lasted. When you hear this matter discussed now, and it is being brought up as I shall show you—I want you to realize that every argument for and against the power of the courts over legislation that had been advanced before or since, to this very day, was advanced in that judiciary debate. I do not consider that any lawyer is an honorable man who will permit

himself to be called a constitutional lawyer, who has not mastered the judiciary debate of 1802, because it is the foundation of our constitutional system.

While this was going on, four of the men who had been denied commissions as justice of the peace—William Marbury, William Hughes, James Ramsey—I have forgotten the fourth—brought an original suit in the Supreme Court of the United States, asking for a mandamus, which is an order of court, commanding James Madison, as secretary of state, to deliver their commissions which he had withheld. That was the case of *Marbury v. Madison.* In order to prevent the Supreme Court passing on that case, the republicans, after repealing the Judiciary Act of 1801, resorted to the abolition of the Supreme Court for a while to prevent their passing on the question in that case. We know this is true—they stated this as the reason for the abolition of the Supreme Court. They abolished the Supreme Court for fourteen months by the simple expedient of changing the time that the court was to meet. They passed a law of saying that thereafter the court should meet once a year in February, and the result was that fourteen months elapsed before the court could lawfully meet. It was supposed if they did not go on, those sixteen displaced federal judges would bring suit, and it was in the minds of the republicans that there was a man on that court who had the resourcefulness to inaugurate and the nerve to put it through, to overturn it, and declare it unconstitutional. They made up their mind to prevent him doing this for fourteen months. They reasoned that at the end of fourteen months those judges who had been legislated out of office would get over their heat and anger and go on to practice law, and at the end of fourteen months they would not fight it, and that is what happened. But in the meantime, the little insignificant case of *Marbury v. Madison* was on the docket of the courts, so that in February, 1803, when the Supreme Court of the United States met, on its docket—its slender docket —was the little case of *Marbury v. Madison,* which was the application of four men, who had been appointed justices of the peace, whose commissions had been witheld from them their application for the granting of an order to Secretary Madison to deliver their commissions. But practically two years had passed; they had not been in office; the case amounted to nothing; the compensation of justice of peace was very small; the importance of the office was very low; it was indeed so insignificant that of the twenty-five commissions that Madison had delivered to the men appointed justice of the peace, three resigned and one refused to accept. The salary for the remainder of the term was negligible and so it was that the case of *Marbury v. Madison,* which is the greatest historical case in our jurisprudence or in that of the world—that case came up. It was what Mr. Jefferson later called it, a mere moot case, which amounted to nothing. That was the situation. Very well.

Then appeared, not Marshall the judge; nor Marshall the lawyer; but Marshall the patriot and statesman. There were three things he could have done, and only three as everybody thought. He could have simply passed the case over on the docket. It did not amount to anything. It was a thing that was done time and again by the Supreme Court, even the great *Greenville Case,* involving hundreds of millions of acres in

South Carolina, from year to year was continued on the docket. He could have struck it from the docket on the ground that this was an application for an interference by the judiciary department in the executive department of the government, or he could have issued the mandamus. That is all anybody thought he could do. And if he issued the mandamus, he knew that Mr. Jefferson would tell Mr. Madison not to obey the mandamus and the Supreme Court had no means of enforcing it; it was without power or patronage; and if that happened, the court would have been lower in dignity than ever before, and would have been made the laughing stock of the people. John Marshall was too good a politician to risk the reputation of that great tribunal which he was triying to build up.

If, on the other hand, he had passed that over and had struck it from the docket as an attempt to interfere with the executive department, then the mighty question upon which the presidential election of 1800 turned, the tremendous issues which had been debated for four months in the Senate and in the House, the great question as to what authority exists under our constitution to pass upon the constitutionality of laws would have been dropped probably forever. (As a matter of fact no other case arose until 1857 in the *Dred Scott Decision,* where the Supreme court again had a chance to pass upon the question as to whether it had power to overthrow legislation as being unconstitutional). That would have meant that seventy-five years would have elapsed from the formation of our government until the Supreme Court would have passed upon the question; and nothing is more certain in human nature, than that if Congress had been considered omnipotent for three-quarters of a century, that power never would have been exercised, and therefore it was that John Marshall took his official life in his hands and for reasons of patriotism, just as strong as urged him to the suffering he endured at Valley Forge, he resolved to take this little insignificant moot case of *Marbury v. Madison,* to which nobody was paying any attention and use it as his occasion for laying down the tablets of constitutional law that has made our republic what it is. That is how *Marbury v. Madison* happened to be decided. Now, what was the decision?

In the first place this case was an application to the Supreme Court originally for an order of court ordering the secretary of state to deliver the commissions. Marshall began by saying: "Is this a proper remedy?" Yes. Why? Because the delivery of the commissions is a ministerial duty. It is a duty enjoined by a law of Congress. That law of Congress must be obeyed. Does it apply to a secretary of state? Yes, said Marshall. Does it apply to the president? Yes," said Marshall.

And then he delivered that amazingly eloquent passage commencing: "In order that ours may be a government of laws and not of men,"— a thing that we ought to keep in mind all the time in this country. Then he said: "Have we the power to issue this mandamus? Yes. Why? Because section 13 of the Ellsworth Judiciary Act of 1787 gives us the authority to issue mandamus and writs of prohibition. But does Congress have the power to give us that authority?" said Marshall. "Congress did not have that power. Why?" said Marshall. "Because the constitution which is the fundamental law of the republic, which es-

tablished the Supreme Court, which gives Congress life, the president life, and everything in our government life—declares that the Supreme Court shall have original jurisdiction of only certain cases. Whereas this section 13 of this act provides that the Supreme Court shall have original jurisdiction." There was the act of audacity. In order to show you how marvelous that thing was, bear in mind that this law was written by Chief Justice Ellsworth, immediately after the constitutional convention adjourned. He was a member of the constitutional convention that framed the constitution, one of the ablest lawyers in America, a member of the first Senate of the United States, and it was he who drew this act. James Madison helped him. There were a dozen of the first lawyers of the constitutional convention, including Justice Patterson, who was at that moment sitting by Marshall's side—who were members of the convention and who had drawn this law. They knew, according to one of them, that they were drawing an unconstitutional provision. The government had recognized the constitutionality of the provision for fourteen years, had said that the law was constitutional in that very form. In spite of that, so marvelous was the power of Marshall over his associates that he actually convinced all of the associates on the bench, so that the opinion was unanimous that that particular provision of the law was unconstitutional. "Very well," said Marshall, "if it is unconstitutional, if it violates the fundamental law of the republic, shall the court enforce the law and grant a writ of mandamus or shall it maintain the constitution and strike down the unconstitutional law?"

He took more than 3,000 words to write that point, and then came the greatest piece of judicial reasoning ever written by anyone in the annals of this or any other country.

I will give you a little illustration of his method of reasoning—I do not repeat the exact words. He said in substance: The constitution of the United States is not merely a contract between states, it is an ordinance of nationality. It controls the whole government. It creates Congress, it creates the president, it creates the courts. It is the people's law, as nearly as anything can be the law of the people; the constitution of the United States was established by the people. It was meant to be permanent law. It controls the government and the people. That constitution says what powers Congress shall exercise and what powers it shall not exercise, and when Congress passes an act which violates the constitution, the people's fundamental law, the basic law of the republic, the permanent ordinance of nationality—when Congress passes an act, which violates that, which the constitution says it shall not pass, and it comes before the court, what shall the courts do? Shall they uphold the statute which violates the constitution? If so, they must strike down the people's constitution. Shall they uphold the constitution they have sworn to interpret and support? If so, they must strike down the statute passed by the people's representatives; and therefore, said Marshall, if Congress passes a law, which the constitution forbids, it becomes the right and the duty of the courts of America—and in the last analysis of the United States Supreme Court, inherently, under the constitution, itself, to strike down that statute or act of the legislature which violates the fundamental law of the republic.

That then is the reason for the outgoing of the great opinion in *Marbury v. Madison.*

As I said in the beginning, this is the heart of the American constitutional system and it is America's only original contribution to the science of the jurisprudence of the world—the power of the courts to overthrow unconstitutional legislation. That has been assailed more than any other judicial opinion ever rendered, except one, *Fletcher v. Peck.*

It was assailed violently as soon as Jefferson had an opportunity to do so by himself—he led the attack on courts. From time to time the assault was renewed. Every conceivable method that an alert and fertile mind could invent to overthrow that power of the court was proposed. The impeachment of Justice Chase grew out of this case. It was an attempt, not to impeach the chief justice of the Supreme Court, but as John Quincy Adams said, (he was senator at the time)—to wipe the entire Supreme Court clean—to put off the bench everybody who took this view of the power of the courts over legislation. The Chase impeachment should be read by every lawyer. It was there established that a man cannot be impeached, who holds a federal office, except for an offense for which he can be also indicted. And when you hear anyone say that so and so ought to be impeached, you know that is all idle, and please remember whenever you hear an impeachment mentioned that no impeachment under our constitution can be accomplished, no man can be put out out of office by impeachment, unless he is guilty of a crime for which he could be indicted in the courts. That failed. It failed because the raising of that argument showed that the common sense of the country did not approve of the doctrine of overthrowing the power of the courts through legislation. Those attempts, however, continued until 1884. Judges were removed from office; repeated attempts to impeach justices of the Supreme Court were made. Mr. Jefferson even advised Congress to impeach John Marshall for his opinion on the law of treason in the trial of Aaron Burr. Amendments were offered to the constitution to limit the jurisdiction of the court in this respect and that respect and the other, and they proposed in one amendment that an appeal could be had to the Senate. In short, the power of the courts to overthrow legislation was attacked for nearly a third of a century. But violent as those attempts were, able and sincere as were the men who made them, and supported by the great body of people, all of whom were informed of the issue, supported as they were by a great body of states, violent as the matter had become—frequently the states being urged to resist with arms the operation of the power of the courts over legislation; nevertheless all assaults failed before the common sense and second thought and mature judgment of the people as a whole.

Now, these attempts have not been renewed until recently, and the Supreme Court has grown in the respect and confidence of the American people, until in its wisdom, integrity and patriotism, there is no body of men which so commands the confidence and respect of the people as a whole, as the Supreme Court of the United States, and it is a court without any inherent or extraneous power of sustaining itself. It has grown solely by reason of its own merit in the judgment of our people.

But now the attack has been renewed. At the last convention of the American Federation of Labor, as I said at the beginning the most daring and brilliant leader of extreme American radicalism, LaFollette, attacked the power of the courts, then, as in the past, to pass upon constitutionality of legislation. He called it an octopus and a Frankenstein, which he said would devour us if we did not destroy it. I may say, by the way, that the use of the simile shows no matter how great a student of constitutional law LaFollette may be, he is liable to error in some direction, because Frankenstein created the monster, he was not the monster itself. LaFollette said to cheering thousands of men that the time had come to lay the axe at the root of this monster upon our body politic, and he proposed to do it by constitutional amendments which deny the inferior federal judges the power to pass upon the constitutionality of any act of Congress; which provides that when the Supreme Court declares any law unconstitutional, then Congress may pass it again; after which the Supreme Court is forbidden to touch it, and it becomes law.

Now this is no sporadic manifestation of an irritated agitator—not in the least. It is the manifestation of a pretty general movement, which I have seen growing up within the last five years. At that meeting there was passed a resolution favoring an amendment to the constitution—the resolution to Congress simply declaring that the Supreme Court should not pass upon the constitutionality of legislation, and that when any judge did so, it vacated his office by that fact. So we are again face to face with the ancient assult on the power of the courts to overthrow unconstitutional legislation, and that means that the American people once more confront a radical revolutionary attempt to destroy our distinctly American form of constitutional government.

That is the reason I have given so much attention to this case. You are going to hear this sentiment, on the streets of Minneapolis and St. Paul in the next three or four years. You will hear it from the lips of sincere but uninformed men, and the argument to the populace is really very effective. They say: this is not the constitution; it is a usurpation of power to give the courts power to overthrow the people's law, an attempt to create a judicial hierarchy; that it is not necessary for the rights of the people; it has only been used (and they will say this on your streets) for the protection of evil and unjust interests, and it must be overthrown; we must make the courts obedient to the popular will; and finally, they will say: this does not exist in any other countries. Take England, they will say, where parliment is omnipotent and supreme, and see in that country how the liberty of individuals, the rights of the minority, and the sacredness of property are preserved and protected; if that is so there, without the power of the courts to overthrow legislation, it will be necessarily so here.

But think a little more deeply. Can it be said that democracy in England has reached its ultimate crisis? Can it be said that it has yet stood its final test? What is it that up to the present time has secured the liberty of individuals and the rights of minorities and the protection of private property in England. Macaulay tells what it is and other schol-

ars tell what it is. It is the restraining influence of the wisest, most far seeing body of men, who, generation after generation, have moulded the policies of the people.

But in 1911 under the leadership of Asquith, who wrote every word of that debate which proved him to be the greatest parliamentarian since Gladstone—the House of Lords was practically overthrown.

But in domestic affairs it is only a short time when their influence is gone, and in ten years, perhaps only five, the influence of that class will be gone, and then it is, when the red sun on that day arises—then, when in England the creature of an hour burning with opposition and prejudice, can register its decree through an act of Parliment that no court can touch, then we will see what becomes of the security of liberty and private property and the rights of the minority in England.

Thus it is that I am convinced that when the tale is finally told, when that experiment has been tried out to the end, the whole world will come to see that our American theory of constitutional government, developed by five generations—the power of the courts to hold legislatures to the constitution—that in that theory, we have laid the foundation for the wisest system ever devised by the ingenuity of man, not only for the preservation of justice, but human liberty. (Applause.)

In view of the assault—I know these men, they are very able and determined and perfectly sincere—but I do not think they have thought the thing out—in view of the assault that has already begun—the first gun being recently fired by the American Federation of Labor—I take all the publications and I find it supported in all of what are called the radical publications. I don't like that word, it is so often mistaken. In view of the propaganda that is going on among the people, of the persuasiveness on the surface of the arguments against the power of the courts over legislation—the illustrations they can bring, some of them, appeal very profoundly to me, in view of the facts that our courts frequently are divided five to four, and that reason and intelligence lie often on the side of the four—in view of all these facts, we might as well make up our minds that this assault is formidable, and I think Senator LaFollette was quite moderate when he declared it to be the supreme issue of the times. The tariff, we will settle some time. Strikes and everything else will be settled; but here is a thing around which gathers our whole American system of government; and in view of that fact it is essential that we lawyers shall be as patriotic today as those who have gone before us in the profession were in their days, and that we shall take the time and trouble and energy to go out and tell the people constantly and simply what the reasons are, why their liberty, their security, their life, their property depends on this power of the courts over legislation; to explain to them the philosophy of the Ameican constitutional system; and for that reason, I will repeat two or three illustrations so you men can take them away.

For example, we all agree that we live under a written constitution, that that constitution creates our government, that that constitution came from the people themselves as nearly as anything can come from the people themselves; that it is our basic law, our fundamental law; a creative popular ordinance which establishes our government and makes

us a nation. We all agree that that is what the constitution is; it creates the president and says what he shall do and what he shall not do. It creates the courts and says what they shall do and what they shall not do. It creates Congress and says what it shall do and what it shall not do. Very well. Among other things, the fundamental, basic, popular, creative law, which creates the American nation, which creates the American government, which creates the American Congress and gives it all its power—among other things it says, "Congress shall not pass any law that shall deny free exercise of religion, or the freedom of the press." Suppose Congress does, as it frequently has, pass a law, denying any of these rights—those are the rights about which our institutions are builded, they are the fundamental rights. Suppose Congress can disregard that and pass a national statute that shall deny the freedom of speech or the freedom of the press or the freedom of religion, and there are such movements right on hand now—your personal rights are taken from you without recourse or appeal. This fundamental law says Congress nor nobody can take your property without due process of law. Very well, suppose in a movement of excitement Congress passes a law which does take your property without due process of law—and such laws have been passed time and again; and then there is not a farmer in Minnesota—there is not a man or women in the United States whose property cannot be confiscated by Congress.

The crime of treason—the only crime described by the constitution is the crime of treason—that is the only constitutional crime and that is established by the constitution itself, because treason is the most infamous of crimes and because of the fact that when a person is accused of it, no matter how idly, it is certain to arouse public passion—for those reasons our law says exactly what treason is, and that nothing else shall be treason but that, and it says exactly how a person shall be convicted of treason and only in that way can he be convicted of treason.

Suppose in a moment of terrific passion, and this has occurred several times in our history, and so violently in Marshall's time that for his ruling on the law on treason he was hanged in effigy; suppose the courts in a time like that should pass a law saying treason should be something less than the constitution says—an attempt has been made to do that. If that were true, every man or woman's reputation and liberty and life would be at the mercy of the passions of the hour.

Or take the ex post facto law—this basic ordinance upon which the government is builded, says, that not Congress nor anybody else shall pass an ex post facto law, that is, a law concerning something which has already occurred. Now, suppose the courts passed an ex post facto law, making something a crime which when it was done was an innocent act, or if they pass a law making your contract to mean something totally different than when you made it; if that could be done, not only everyone's property but liberty and life itself is in peril.

The constitution forbids Congress to lay a duty on exports. Very well. Suppose in a moment of tremendous need of revenue such as now, someone should say, "We would better raise some money from these exported goods," and should put a tariff on exports as well as imports. Well, of course, the country's foreign trade would be utterly ruined.

Suppose any of these instances should occur that would go to the question of liberty and safety of property rights. Suppose Congress passes any of those laws and the injured party appeals to the courts. What shall the courts do? My friends, shall the courts obey that statute, passed by a temporary majority of Congress in obedience to a popular whim which may end tomorrow—or a popular majority which may turn into a minority tomorrow? Shall the courts do that? If so, the courts must strike down and belie our constitution. Or, shall the courts maintain the constitution of the United States? Shall it uphold the basic fundamental law of the Republic established by the people themselves? If so, the courts must say that any law making treason something besides what the constitution describes or the ex post facto law, or a law denying liberty in religion, or a law putting a tax on exports—that any such law as that is null and void, because it violates the fundamental law of the Republic—in other words that temporary statutes of the day must observe and conform to the permanent constitution, which is the fundamental law of the Republic. I am sorry that this issue happens to have been raised right now. If time ever was or can be when we need tranquility, it is now. If time ever was or can be when no fundamental changes in our institutions should be made, when no assault upon any agencies of the government should be done, that time is today. The need of the hour is public tranquility and the duty of the hour is to maintain at all hazards, and at any cost, the laws of the constitution of the land as they stand. (Applause).

If everybody thinks—and I do not question anyone's motives at all because I disagree with him—but if anybody thinks that a revolutionary change in our government should be made, it is his strictly legal right to advocate that change at any time; but one should remember that he has that right solely and exclusively because the constitution of the United States gives him the right, and all men, as patriots and good citizens, should propose those things reasonably in normal times, instead of making up mock passions in an hour of danger.

John Marshall came to his end the most unhappy man that ever lived. He thought he saw the mighty work of his life in ruins. He went to his grave believing that his great work to build up a system in democracy, to create a nationality, was in ruins forever.

But he could not see the mighty forces that he had released nor their operation.

"The hand that rounded Peter's dome,
And groined the aisles of Christian Rome,
Wrought a sad sincerity;
Himself from God he could not free;

The conscious stone to beauty grew;
He builded better than he knew."

We have fallen upon tremendous times; and it is fortunate for us that we have; because the heroic work done by our forefathers we now must do over again. When I see the conditions forming about us,

and the mighty questions that are rising, I think of Wordsworth's words, addressed to Milton, and I would apply them to Marshall, and to America, and say:

> Marshall, thou shouldst be living at this hour,
> America hath need of thee; she is a fen of stagnant waters; . . .
> Thy soul was like a star that dwelt apart;
> Thou hadst a voice whose sound was like the sea;
> Pure as the naked heavens, majestic, free.
> Oh, lift us up, return to us again,
> And give us manners, virtue, freedom, power.

I have spoken with some feeling this afternoon, more than I usually do on merely a constitutional question, because for some years I have felt that we are approaching the most difficult period of our history. I feel that we may soon have a real test of the American constitution—more, the test of the American character itself; that we shall be called upon to go through trials which will make clear whether or not we are worthy of the great men, the devoted men who formed this republic; that we have come upon a time when propositions of the most extraordinary nature will be made; that some of these propositions may be wise and some foolish; many not only destructive, but totally annihilative of our institutions as they stand, and as five generations have developed them.

Two years ago when I was speaking to the St. Louis Bar Association, there was a circle of young newspaper men in front of me; and the next day when I got home I had a letter from one of them. I had known him for years, a very, very brilliant young man who had made a profound impression upon me. He wrote me: "Dear Senator: In justice to myself, I must write you this letter to tell you that from now on I can never be with you again. As you know, I have stood by you all the time you were in the Senate and believed in the things you believed in,"—and he quoted to me what I had said about the constitution being for the people and not the people for the constitution. He says, "Of course, the constitution is not sacred, nor is it a fetish, nor can you describe it as holy; and when it fails it must be changed or done away with altogether."

It made a deep impression on me; I knew he was sincere, and that he represented the opinion of many young men and young women, and I took the time to write him a letter. I said to him: Oh, yes, all that is true; why repeat to me that banality? Of course the constitution is for the people and not the people for the constitution, as I have said. But, I said, young man, don't you see that we are now approaching a time when, within this very decade, there may be an ultimate test of the constitution, of American liberty as it has been builded? And don't you see that propositions will be showered upon us which we must decide upon, and in order to decide what is right and wrong, we must have some permanent settled statute upon which to plant our feet, from which we can make an accurate survey and give accurate judgment and make a wise choice? Some rock of ages, within whose shadow we can rest and retain our safety? And don't you know that we have no traditions, no ruling class, nothing that answers that purpose, under heaven, except the constitution of the United States? And don't you, therefore, realize

that those who attack it attack the safety of our institutions, the life of our nation, and that we should look upon it as sacred and holy, and that we should stand by it at all hazards and maintain the established institutions of our country?

And then he wrote me: Yes, I see it now. It is so big, I was so close to it, I didn't see it before. You can count on me from now until the end of the fight, to stand with you for the constitution of the United States and for the faith of our fathers. (Applause).

And I wrote back to him and thanked him, and I said: I want you to do me a favor; it will help you as much as it has helped me; I want you to commit to memory these lines from Longfellow, the only lines he ever wrote that are good lines, that are, I believe, inspired by Almighty God. And if I were the autocrat of America, I would require them to be written over every mantelpiece and in the hearts of every young man and young woman of the United States. I have committed them to memory, and they have stood me in good stead and they have been my rock in a desert land in many a long contest—these lines of Longfellow, written as though they were penned for this very day and this present emergency:

"Thou, too, sail on, O Ship of State!
Sail on, O Union, strong and great!
Humanity, with all its fears,
With all its hopes of future years,
Is hanging breathless on thy fate!
We know what Master laid thy keel,
What Workman wrought thy ribs of steel,
Who made each mast, and sail, and rope,
What anvils rang, what hammers beat,
In what a forge, and what a heat
Were shaped the anchors of they hope!
Fear not each sudden sound and shock,
'Tis of the wave and not the rock;
'Tis but the flapping of the sail
And not the rent made by a gale.
In spite of rock and tempest's roar,
In spite of false lights on the shore,
Sail on, nor fear to breast the sea."

Sail on, America, our America.

(Prolonged applause, all standing.)

LEGAL EDUCATION, CONSIDERED IN RELATION TO PROFESSIONAL STANDARDS AND IDEALS.

By Herbert S. Hadley.

Mr. President and Members of the Minnesota State Bar Association: By accepting your very complimentary invitation to speak on the subject of legal education, I want to disclaim any intention of claiming to possess much expert knowledge or authority as an educator. I have, however, been connected with the work of legal education for five years, and I have formed some opinions as to its influence and importance in making our great profession an honored and effective agency in promoting the welfare and security of modern civilization. It is of legal education in this relation that I desire particularly to speak. And thus considered it is simply one phase of that larger subject of education that is in my opinion the most important problem in the world today. As we see around us, and particularly in Europe, the challenge that the forces of destruction and disorganization have offered to civilization itself, we must realize that the dissemination of knowledge is the greatest work, as it is the greatest hope, of the future. All adjustments and agreements looking to international, domestic or industrial peace will prove futile if we underestimate or neglect the work of the proper training and education of the coming generations.

The character of the general and of the professional education to be required of those admitted to the practice of the law, must be considered in full realization of the fact that it is upon the lawyers that the world must largely rely, both for guidance and execution in the working out of those great problems which will determine not only the future welfare but the continued existence of that complicated system of relations, adjustments and reactions which we call modern civilization. President Wilson was quoted as saying that he did not want the treaty of peace that was to settle the problems of the great War written by lawyers. And I assume that it was in this thought that he selected our representatives to the Peace Conference. To what extent the unsatisfactory and inconclusive results of the Versailles Treaty and Covenant for the League of Nations are to be explained by the fact that politicians (I use this term, of course, in its broader rather than in its limited significance) rather than lawyers were the directing influence in the Peace Conference, must remain a matter of opinion not entirely free from political prejudices and interests. But I hope I do not suggest a comparison offensive to anyone present when I say that the definite and satisfactory results of the Conference on Disarmament held in Washington last winter, are to be largely attributed to the fact that its practical program was outlined and its deliberations directed by such trained and able representatives of our profession as Senator Underwood, Elihu Root and Charles Evans Hughes.

It is only in recent years that the subject of legal education in its relation to professional standards and ideals has been given serious and practical consideration by representatives of our professional organizations. The extreme democracy that characterized the early periods of our national life had its controlling influence upon our profession. It was considered of more importance that it should be free from aristocratic practices and influences than that there should be any definite requirements as to periods of training and standards of preparation. The right to practice law was placed on the same basis as the right to run a farm or a store, or to "tend bar," all of which could be generally classified under the constitutional guarantee of the right of life, liberty and the pursuit of happiness. A perusal of Blackstone's Commentaries and a few other works discussing fundamental legal principles, were considered sufficient educational preparation for admission to practice, while association with, and the recommendation of one already engaged in practice, furnished the necessary assurances as to character and devotion to professional ideals. The vast extent of our national domain, and the pioneer conditions that continued incident to its development down to the lifetime of the present generation, had the effect of continuing in the greater part of the country these free and easy processes and standards for admission to the bar. It would be reported, simply as a mater of neighborhood information and not as anything unusual, that John Jones, who had been working as a clerk, a farm hand, or who had been teaching school, was now reading law with Judge or Colonel So and So, and expected soon to be admitted to the bar.

But there were some, even in those primitive and democratic days, who understood the nature of the preparation necessary for the practice of the law. One of these was Abaham Lincoln, whose career as a lawyer has so frequently and so feelingly been offered as an argument against raising the standards for admission to the study of law and to its practice. The story is told by his law partner, Herndon, with whom Mr. Lincoln was associated in the practice for many years, and with whom he expected to resume practice on the expiration of his term as president, that while Lincoln was living in the village of New Salem he decided to become a lawyer, and that shortly afterwards his employer found him one day seated in the shade of a tree intent on his consideration of a book. In reply to his employer's question as to what he was reading Lincoln answered, "I am not reading. I am studying law." With the exclamation, "Good God!" his employer, perhaps somewhat awed, or at least impressed by the seriousness and the latent greatness of his employee, passed on. Mr. Lincoln understood that he could not become a lawyer by reading law, but that it was a subject to be studied and pondered over; and he also understood that which Mr. Henry Adams has recently and interestingly told us in his Education—that life itself is a continuing work of education. After he had reached the age of forty years Mr. Lincoln took up the study of and mastered Euclid and higher mathematics. He was not a reader of many books, but such books as those of Shakespeare, Bunyan, Aesop's Fables and the Bible he read and studied until he became an almost unequalled master of our mother tongue. His whole life, says Lord Charnwood, his interesting English biographer,

was a continuing work of education to fit himself so to express his thoughts as to be able to carry conviction to the minds of others. And that he did carry conviction to the rough and uneducated juries before whom he argued facts, that he did carry conviction to the able though sometimes uncultured judges before whom he argued law, is clearly shown by the record of his professional career. That he failed to carry conviction to the South, that slavery was both wrong and inadvisable, that secession was unwarranted by conditions and prohibited by the constitution, was only because selfish interests and sectional hatred had closed men's minds to the truth. As we read in the calm retrospect of a half century the eloquent and logical appeals with which he sought to avoid the awful issue of civil war, we can clearly understand that no one could have succeeded where Abraham Lincoln failed.

With the fuller development of the West, when the Indians were safely located on their reservations and the few remaining buffalo in their mountain parks, when their was no longer a frontier, men began to consider whether something more than a set of professional whiskers should be required as a test of one's qualification to practice medicine, and a few months association with a lawyer and a perfunctory reading of some books on the general principles of jurisprudence were sufficient qualifications to admit one to the practice of law. The college and the university had been established coincident with the building of homes and cities, and the law school followed hard upon. But until the last twenty or twenty-five years the American law schools were generally in the nature of trade schools, and study therein accepted merely as the equivalent of reading law in a lawyer's office.

It is beyond the scope of my present discussion to describe the various stages in the development of legal education, or to emphasize our debt of gratitude to those far-seeing and able men who established the case system of instruction. It is also beyond the scope of my present discussion to trace the various stages in the development of a public opinion within the profession for higher and better standards of general professional education. These efforts, extending over a long period of years, found expression in 1921 at the meeting of the American Bar Association in what is known as the Root resolution. This provided that evidence of graduation from an accredited law school with a course of at least three years of study, and with a requirement of two years of college work for marticulation therein, should be required of applicants for admission to the bar. At a conference called under the auspices of the American Bar Association of delegates from state and local bar associations held in Washington last February, these resolutions were fully and ably discussed. After such discussion they were approved without substantial modification, and a committee appointed to see that they were brought to the consideration of state and local associations.

It is evident that a considerable public sentiment in the profession is demanding that we shall do in our profession what has been done in the last fifteen or twenty years in the medical profession, viz., endeavor to raise the standards of professional ability and honor by raising the educational requirements for practice. The question of course arises as to whether the analogy between the practice of medicine and the practice

of law is sufficiently exact to make the experience of the medical profession of value to us, and second, as to whether the standards proposed by the Root resolution are necessary and contributory to the end sought to be accomplished. This latter question is the one that I will discuss with you today—though so much has been said and so well said on this subject that it seems almost a work of supererogation to try anything more.

But before presenting what I have to offer on the broader phases of this subject I want to say that I feel there is a need of higher educational standards for beginning the study of law and for admission to the practice of law upon considerations other than those affecting the efficiency of the lawyer. A consideration of existing facts makes it clear that we are furnishing legal education far beyond the country's needs and demands, and this education seems to be increasing in quantity and not improving in quality. The figures show that the number of medical schools have decreased since the medical profession has begun to put its house in order, just about in the same proportion as the number of law schools and the number of those attending law schools have increased during the same period. Apparently we have been receiving in our profession those who have been deterred from the study of medicine by the higher educational standards required for its practice.

Statistics gathered some years ago by the University of Michigan show that only about one out of every five of those who are educated for the law pursue it as a life occupation; that less than 20 per cent of the graduates of that law school were, ten years after graduation, making their living by the practice of their profession. I know of no reason why these statistics should not prove to be true with the graduates of other law schools. So, considered from this practical standpoint, it would seem that there is a great economic loss; a whole lot of wasted effort and lost motion in fitting men for professional careers who do not pursue them as a life vocation. I do not mean to say that the study of the law, even for those who do not practice, is without beneficial results, yet I do say that the justification for the modern law school is the production of lawyers.

But the question can be placed upon a much higher and more controlling basis than this, and that is the welfare of the profession, the proper administration of justice in our courts, and the influence of such administration upon civilization. It is frequently stated that ours is a learned profession. My idea is that at the present time no presumption of learning or culture is indulged by the general public in favor of one simply because he is a lawyer, and what is of greater importance, I doubt if any presumption of good moral character is indulged by the general public in favor of one simply because he is a lawyer. Reports by experienced investigators have disclosed that there are in all of our large cities lawyers who work in cooperation with those belonging to the criminal class. While we may contend that such men are comparatively few in numbers, yet that there are any is a disgrace to and a reflection upon our profession.

I spent six years of my official life in the prosecution of crime—two as prosecuting attorney and four as attorney general, and during the

four years I served as governor I was frequently required to examine the records in criminal cases. I know I am conservative in my statement when I say that in more than one half of the cases perjured testimony was offered on behalf of the defendants. And yet I believe that the bar of the state of Missouri will compare favorably with the bar in any state west of the Alleghenies. But whether or not I am correct in my opinion as to the attitude of the general public towards our profession, I think it can be said, with no fear of successful controversy, that there is a general public distrust and dissatisfaction with the administration of justice in our courts, and for this condition the legal profession must be held responsible.

It is from our profession alone that the judges are selected, and the lawyers are the officers of the court through whom the evidence is submitted and arguments are offered upon questions of law and fact.

It is only a little over ten years ago that the paramount issue (if I may use an expression which was once a favorite one in American politics) was the attitude of the American people towards their courts, and that attitude, as we can all recall, was by no means a favorable one. The causes of dissatisfaction were two-fold. First, there was the dissatisfaction based upon a faulty administration in ordinary civil and criminal cases, and then there was the alleged reactionary attitude of the courts in the decisions of questions of social and industrial justice. The dissatisfaction upon the latter ground became so pronounced that it constituted one of the leading causes for the organization of a great national party, and one of the greatest leaders of American thought and action—Theodore Roosevelt, advocated the submission of the decisions of the courts upon such issues to recall by popular vote.

The dissatisfaction over the failure of the courts effectively to administer justice in ordinary civil and criminal cases was no less generally pronounced, and the present chief justice of the United States stated in a number of addresses that "the administration of the criminal law in all of the states in the Union, with possibly one or two exceptions, was a disgrace to our civilization." I believe it can be said that no statement by any public man in the last fifty years on a non-political issue, attracted so much attention or has been so often quoted as this strong indictment of our judicial situation by Chief Justice Taft. We should not delude ourselves with the idea that this dissatisfaction has ceased. The absorbing issues incident to the world war and its aftermath have simply diverted public attention from these questions to questions more immediately important to the welfare and civilization of the world. This public inquisition as to our profession and the courts may come again at any time, and when it does come will we be able to give a better defense than we were ten or fifteen years ago?

The figures showing the remarkable increase in crime in recent years are sufficiently alarming to demand the attention of every citizen. In 1912 there were 9500 prosecutions pending in the United States courts, while in 1921 this number had increased to 70,000. I understand only 25 per cent of the increase was due to prosecutions under the Volstead Act. From 1912 to 1921 there were, according to reports of the committee of the American Bar Association, approximately 9000 homicides in the

United States each year, making the total number of people murdered during that period almost twice as large as the number of American soldiers killed in the world war. In 1921 the property loss from thefts and burglaries on the transportation lines of the country alone amounted to one hundred millions of dollars, and in the last ten years the number of burglaries has increased 1200 per cent.

While the faults and weaknesses of our profession are not, of course, the only cause of this most discreditable record of crime, yet that this is one of the causes cannot be denied. A comparison of this record with the record of criminal offenses in Great Britain and Canada, and particularly the record of homicides, presents the strongest corroborative evidence that the more effective prosecution of criminals in those countries is largely responsible for their comparatively small, and our alarmingly large, number of criminal offenses. It is needless to say to this audience that a profession of low standards and ideals means courts incompetent, inefficient, and at times corrupt, and that such courts mean an ineffective administration of the criminal law, and that the ineffective administration of the criminal law means an increase in crime. Is it not high time that we began the work of correction? For we have today the same needless delay, the same glorification of technicality, and the same failure effectively to punish the guilty which was the cause of the forceful indictment against our courts and our profession made by Chief Justice Taft over ten years ago.

It is also evident that dissatisfaction exists with our courts on account of decisions in cases involving questions of social and industrial justice, and that we are about to enter another period in which our judicial system will again become an important, if not controlling issue in public affairs. The American Federation of Labor at its last meeting adopted a resolution favoring an amendment to the federal constitution, by which a decision of the Supreme Court of the United States, holding unconstitutional a congressional enactment, can be recalled by an action of Congress in repassing the law. The support of this resolution by Senator LaFollette and other radical members of Congress, gives to this proposition an importance that cannot be lightly disregarded.

The real importance of this proposal, in my opinion, is to be found in the fact that it is an expression of the attitude of the rapidly increasing forces of organized labor towards our courts. That attitude for years has been one of distrust, suspicion and opposition. To what extent is this feeling justified by the faults or weaknesses of our profession, and to what extent may the causes thereof be corrected or removed? This is to my mind a question of fundamental importance, for it is the rapidly growing conviction of the American people that we cannot continue to leave the settlement of industrial controversies to the disorganizing and destructive methods by which such controversies have been settled in the past. Are the orderly processes of adjudication unavailable for or unsuited to the decision of controversies that arise between organized labor and organized capital? Why can we not avail ourselves of the orderly processes of adjudication for the settlement of such controversies, so as to prevent the impairment and oftentimes the practical breakdown of those enterprises necessary to the health, welfare and prosperity of the people

as a whole? If the answer to this question is that adjudication is unavailable, then do we face a serious and dangerous situation, for civilization has an insecure tenure of existence if industrial controversies must be settled by methods of contest approximating civil war.

Some months ago, while traveling across the country, I happened to meet an old friend who, starting life in a small way as a laborer, had become, by reason of his ability and force of character, secretary of one of our international labor unions. In addition to making his living by his trade, he had attended a night law school and had been admitted to the bar. He is a clear-headed, sensible, courageous and conservative representative of organized labor. It was natural that our conversation should turn to the discussion of industrial controversies, and how they can be settled without the great loss and injury to society incident to existing methods. He readily admitted that our system of jurisprudence furnishes the best methods known to the world for settling the ordinary controversies between man and man. "Then why," I asked, "can we not use these same methods to settle controversies as to wages or conditions of labor in those industries whose orderly and continued operation is necessary for public health and welfare?" The discussion was a long one, and sometimes went far afield; but in his fair-minded consideration of the essential issue, he finally stated that labor's objection to adjudication of industrial controversies was that the laboring classes did not have confidence in either the fairness or the integrity of our courts. By this he did not mean that our judges were venal, or subject to direct or grosser forms of influence, but that they do not understand or sympathize with the interests of labor, or appreciate the necessity for an uninterrupted improvement in the conditions of life for the man who works. Our judges, he said, were rarely men who have come from the ranks of labor; their associations and interests are almost exclusively with the employer class, and they regard labor as a commodity to be dealt with as a commodity under the law of supply and demand. They fail to appreciate the true value and importance in modern society of the contributions of those who work with their hands, and they fail to understand the great lesson of history—that human progress is to be measured by improvement in the conditions of the laboring classes. The antidote of socialism, the safe-guard against such an upheaval as we have seen in Russia, is, he contended, a clearer understanding of the right of those who do the work in the world to a larger share of the wealth they produce; is a better understanding of, and a fuller sympathy with the hopes, ambitions and interests of the workers and producers of society.

This conversation may seem to some of you as somewhat irrelevant in the discussion of my subject, but to me it does not. Is it true that we as a profession are essentially the representatives and advocates of one class of our society? Is it true that the distrust of the laboring classes—which must continue to be an increasingly large portion of our population, is justified by the fact that our courts see these industrial controversies narrowly and with reference to the interests of one class of our society? And if this distrust of the courts on the part of our laboring class constitutes a sustainable count in the indictment against our profession, what reference does that fact have to the sub-

ject of higher educational standards? This will be a question I will try to answer further along in this discussion. But whatever may be your or my opinion as to the justification or lack of justification of labor's feeling of antagonism to, or distrust of our courts, we must recognize the fact that it exists, and we must concede that its existence helps to create a demand for the present examination to which we, as lawyers, are subjecting our professional standards and ideals.

The question will naturally be asked, conceding that higher educational standards would decrease the yearly crop of lawyers, would it improve the profession as a whole, the administration of justice and the confidence of the people in lawyers and the courts? I know full well the argument that education does not always make one a wise man or a good man, and I have known many capable and well educated men who have had but little advantage of school or university. But unless the whole theory of our public education is wrong; unless the whole theory of representative government is wrong, then the cure for existing unsatisfactory conditions is education and more education. Unless our schools and colleges and universities are contributory to the moral and mental development of our people, then are we engaged in a work of folly in the vast sums that we expend in this country on their support.

Let us consider for a moment another phase of the question as to the necessity of higher educational standards for our profession. "The theory of democracy," as James Bryce says in his very able discussion on that subject, "is that the right to vote will carry with it the will to vote." And the will to vote should go hand in hand with the ability to understand the questions to be decided. When England took its first step towards universal suffrage, Robert Lowe, one of the leaders in opposition, declared in parliment, "Educate your masters." The justification of the expenditure in this country of more money by the states and local governments upon the support of education than in the support of any other, and in many cases than in all the departments of government, is that we must have an educated electorate. To be educated it is not sufficient, as Mark Twain said, "to be able to sign your name without sticking out your tongue." An educated voter does not mean one with merely the ability to read and write. It means one with a mental development through education, capable of understanding and deciding public questions. And as James Bryce well says in his work upon Modern Democracy:

"Men can best acquire wide and impartial views in the years of youth, before they become entangled in party affiliations or business connections. The place fitted to form such views is a place dedicated to the higher learning and to the pursuit of truth. Universities render a real service to popular government by giving to men whose gifts fit them for leadership that power of distinguishing the essential from the accidental, and of being the master instead of the servant of formulas which it is the business of philosophy to form, and that comprehension of what the past has bequeathed to us by which history helps us to envisage the present with a view to the future."

Particularly is it necessary for the welfare of the country that our lawyers should be educated men within the best and broadest meaning of that term. All of the members of one department of government come from our profession; two-thirds of the executives of the nation and the states, I believe it can be safely said, have been and are lawyers,

and if we have not furnished a majority of the members of the legislatives bodies, both in the states and national government, we have certainly a larger number of the members of such bodies than all other professions, or than any other trade or occupation. We are in a sense a governing class, and as DeTocqueville said in this country, "our profession constitutes a counterpoise to the dangers of democracy." If it is necessary that our electorate should be educated and informed upon public questions, how much more important it is that the members of our profession should be. And if this is true in so far as our professional duties are concerned, it is even more true in so far as our public duties are concerned. If our system of jurisprudence consisted of a set of arbitrary rules; if it was based solely on a system of logic or philosophy, one might properly become a practitioner who had not enjoyed a comprehensive general and professional education. But such is not the case. Our system of jurisprudence is the result of struggles and achievements, the hopes and aspirations of men who have lived and wrought since civilization began. It consists of rules of conduct born of human experience and needs.

Some years ago, when the question of the recall of judicial decisions was a question of public importance and discussion, Dean Pound of Harvard University Law School suggested that what we really needed was a recall of teachers of law. I am more disposed to favor recalling, or at least substantially changing the courses of instruction in many of our law schools. Since my law school days, which I regret to say began thirty years ago, the course of study has been increased from two years to three and four years. This increase has generally been occasioned by an increase in the number of subjects taught, through a division and sub-division of fundamental legal subjects. Pleading, equity, torts, constitutional law, contracts and other subjects have been divided and sub-divided and specialized subjects which twenty or twenty-five years ago were covered by a few lectures, have now been increased into three or five hours a week courses. The result is an increase in the number of subjects and an increase in the length of the courses of study without, I believe, a corresponding increase in the mental development of the students; and I doubt if any increase in the actual sum of their information.

Our law schools have continued to be, generally speaking, trade schools, where one has been given concrete information as to rules of law in different and independent subjects, to an extent necessary to enable him to pass a bar examination. My conception of the true purposes of the law schools is that they should give the students knowledge of the controlling and the fundamental principles of the important subjects of our jurisprudence; legal habits of thought and statement; and a knowledge of the use of books. Further, the student should be made to understand, through the study of such subjects as history and the philosophy of law, comparative jurisprudence and the civil law, that law is a progressive science, the product of centuries of life and experience, and that it is the most powerful agency and influence in the world today for the adjustment of differences between men and between nations. Students of law should be made to understand and to feel that law is, as Sir

John Simon said in his address before the American Bar Association a year ago, "the instrument of justice; the hand-maid of order; the guarantee of individual right; the arbiter of dispute and the reconciler of differences. It is the cement which binds together the fabric of human institutions."

There should, of course, be required of a student of law a preliminary or contemporaneous study of such subjects as history and particularly the history of Great Britain and of our own country; political economy, philosophy, sociology and other departments of education related—indirectly at least—to the science of jurisprudence. One cannot comprehend the rules of law unless one knows something of the conditions of life out of which they have developed, and by reason of which they have been established. A lawyer should also be a scholar in the broadest and best sense of the word, and if he is a scholar his chance of being a gentleman and an honest man are greatly increased. How can a lawyer, either as an attorney or judge, deal fairly with the industrial controversies of the day unless he knows the history of the long, slow struggle for advancement of the man who works, and of the controlling forces of economic and industrial life?

A lawyer should of course know what the great judges of England may have said on this or that subject, but he should also know the industrial history of Great Britain when she was establishing her factory system, developing her mines and commerce, and incidentally writing one of the blackest pages of oppression and injustice through the influence of human greed that has ever been recorded. If a lawyer is to be progressive he must be educated in the broadest and best sense of the word. If he knows only rules of law and procedure he is very likely to be a reactionary or at least a conservative. If he knows history—the story of human life, if he knows the controlling rules of political, social and industrial affairs as he should know them, he will be better qualified to deal with the great social and industrial problems of the day; better fitted to serve the people as a whole, and to promote the cause of justice between man and man and between the individual and society. Considered, therefore, from the standpoint of the interests of our profession or the interests of the public, I feel that we must move forward with advancing educational standards, both along general and professional lines. For I assert again that unless our whole theory of public education is wrong; unless our theory of representative government based upon an educated electorate is wrong, then the need of higher standards of education for admission to the study of law and for admission to the practice of law is clearly evident.

There are a few practical suggestions that I wish to offer in conclusion. The work of raising the standards of ability and integrity of our profession, and the integrity and efficiency of our courts, is in my mind the particular work of our bar associations—national, state and local. I do not believe that those who are assuming responsibility for improving conditions should under-estimate the difficulties that are confronting them; and on the other hand I hope they do not over-estimate the difficulties of their undertaking to the extent that they will be discouraged or move forward too slowly. The adoption of the eighteenth

and nineteenth amendments to the federal constitution shows what can be accomplished by those who know exactly what they want and are determined to secure it. The work that we have undertaken to accomplish is no more difficult than that accomplished by the medical profession in raising the standards and increasing the efficiency for service to the public of that great profession in recent years. And as we go forward in this work let us heed the admonition of Scripture: "No man having put his hand to the plow, and looking back, is fit for the kingdom of God." (Applause.)

CURRENT CRITICISM ON THE BENCH AND BAR

By Edward Lees.

Though we know that dissatisfaction with the existing order of things is as old as the human race, we are prone to believe that never before has the spirit of discontent been so much in evidence. No institution escapes attack. The schools, the churches, the government, our industrial system, and even the family relation are undergoing radical criticism. It is not strange that the administration of justice should be subject to the same treatment. Chief Justice Marshall once said that "the judicial department comes home in its effects to every man's fireside. It passes on his property, his reputation, his life, his all." Small wonder that it has always come in for its full share of popular criticism.

Granting at the outset that there are defects in the system under which we attempt to administer justice, I venture to deny that they are so serious and fundamental as to justify everything that one hears and reads about the courts and the lawyers, who are charged properly enough with responsibility for their existence. The violence of the attacks has alarmed many good people who see in them a deep-rooted hostility to law itself, and a readiness to overthrow its reign, and substitute arbitrary power or brute force. A glance at the past will show that men have always chafed under restraint. The individual craves freedom to do as he will. In theory, he concedes to his neighbor the same right to freedom, but in fact, he wants it restricted wherever its exercise conflicts with his own interests.

To regulate and control this conflict of interest by law has been the inevitable solution of the problem to which men have come. But laws are not self-executing. To give them force and effect, there must be some sort of machinery, and so we have courts and lawyers, and the trial of cases. There is, and always has been, a notion that the machinery is needlessly cumbersome, expensive and uncertain in its operation. Few men are good losers, hence those who have gone to the mill of justice to assert or defend a right to which they have laid claim, unsuccessfully, are very apt to be resentful critics of the machinery, and since it is operated by judges and lawyers, they receive the brunt of the attacks.

I said a moment ago that the legal profession has never been popular with the masses. We all recall the colloquy between Dick, the butcher, and Jack Cade, as Shakespeare gives it: Said Dick, "the first thing we do let's kill all the lawyers." And Jack replied, "Nay, that I mean to do. Is it not a lamentable thing that the skin of an innocent lamb should be made parchment? that parchment being scribbled o'er should undo a man?"

From Warren's History of the American Bar, I have selected at random a few passages to illustrate the attitude of the public in the past. In 1677, an anonymous writer published a tract, in which he said:

"There was law before lawyers; there was a time when the common customs of the land were sufficient to secure Meum to Tuum. What has made it since so difficult? Nothing but the comments of lawyers, confounding the text and twisting the laws like a nose of wax to what figure best serves their purpose."

From Letters of An American Farmer, written in 1787, this is quoted:

"Lawyers are plants that grow in any soil that is cultivated by the hands of others. . . . (They) promoted litigiousness and amass more wealth than the most opulent farmer with all his toil. . . . What a pity that our forefathers who expunged from their new government so many errors and abuses . . . did not also prevent the introduction of a set of men so dangerous."

John Adams, before he became a lawyer, wrote thus:

"Let us look upon the lawyer. We see him fumbling and raking amidst the rubbish of writs, indictments, pleas—and a thousand other lignum vitae words which have neither harmony nor meaning. He often foments more quarrels than he composes, and enriches himself at the expense of impoverishing others more honest and deserving than himself."

So much for the past. Today it is court procedure which is undergoing adverse criticism, the Bar being less frequently assailed.

In a recent number of the Literary Digest, we find extracts from editorials in leading newspapers, charging courts with the failure to prevent the frequent miscarriage of justice and urging sweeping reforms in order that "thimble-rigging and hocus-pocus within the law" shall cease, and we are told that the average citizen has lost respect for the courts because he feels that a smart lawyer, and the tricks of evidence are potent in the protection of law-breakers. It is to be noted that the editors do not direct their attacks to substantive law, but confine them to its application to men and their affairs.

The assertion that in the field of procedural law there has been a complete failure to secure a fair degree of efficiency is most commonly made by men who are not familiar with the trial of cases. It is fair to assume that judges and trial lawyers possess average intelligence, and would discover and seek to remove serious defects in court procedure, rather than continue to work under bad rules badly administered. It would seem that interest in the public welfare as well as their own interests would lead them to secure reforms, if present conditions were so intolerable as they are pictured by the merciless critics of things as they are. I feel certain that most of the highly colored statements we hear are like the erroneous report of Mark Twain's death, which he said was grossly exaggerated.

I recall hearing that eminent lawyer, Elihu Root, say in an address to the American Bar Association, that he doubted whether criticism regarding the conduct of litigation sank very deep in the public mind, because there is a strain of common sense in the American layman which leads him to discount the noisy fault-finding of litigants who have not had their way, and of theorists who have had little or no experience in conducting trials in the American courts. He added that all records, past and contemporaneous, might be searched in vain to find that the

preservation of order, the security of property, the protection of individual liberty, and the maintenance of the fundamental ideas of an enlightened system of jurisprudence had attained a degree of efficiency, higher than that attained in the United States through the service of the American Bench and Bar.

When we reflect upon our own experience, are we not reassured? Behind the surface of fault-finding, is there not a real respect for honorable lawyers, and are not most lawyers honorable men? Do their clients not trust them implicitly in their vital affairs, and have not the American people repeatedly turned to them to carry on the most important of all business, their free self-government under the constitution and laws of the land? Is it not true that the trust reposed in them is seldom betrayed, and that whatever a lawyer's faults may be, lack of fidelity to his client is rarely one of them? For my part, I am wearied by and resentful of the thoughtless repetition of libels upon the Bench and Bar, made possible because, unfortunately, some members of our great profession have disgraced it.

It is impossible, within the limits of this paper, to advert to all the current criticisms of the conduct of litigation with which we are chiefly concerned. I can only touch upon the most commonly heard. Broadly speaking, they fall under the following heads: Delay, cost, uncertainty and technicality. I shall not enter upon the field of criminal procedure, but deal only only with procedure in civil actions.

Delay.

In an address to the Virginia Bar Association, Chief Justice Taft said that a dilatory defendant can keep the plaintiff stamping in the vestibule of justice until time has made justice impossible. Mr. Root later expressed the same thought in these words:

"While law is enforced, justice waits. The possibilities of delay induce litigation by those who wish to escape the faithful performance of their contracts. The calendars are crowded with such cases."

But it can hardly be said that all delays are bad. Hot-tempered and spiteful litigation is stayed and often discontinued while the suitors are cooling their heels in the ante-room of the court. Appeals are one of the chief causes of delay.

In the review of a case on point of law, a fair degree of deliberation is both necessary and desirable. Without it, there cannot be a searching and painstaking examination of the authorities, and a thoughtful consideration of conflicting doctrines, and both are necessary if legal questions are to be correctly determined. However, there seems to be no reason why the periods of time allowed by our statute for the various steps in an appeal could not be shortened. In the ordinary civil action tried by jury the statute gives the defeated party so much time in taking the steps to review the proceedings that a maximum of 540 days may be consumed between the return of the verdict and the entry of final judgment thereon. Usually, motions for judgment, notwithstanding the verdict, or for a new trial are heard on the day when the case or bill of exceptions is settled and allowed. The trial judge may consider the motion as long as he pleases, before deciding it. The only spur to action is found in the statute requiring him to certify that he has to decide all cases and

motions within five months after their submission in order to get his pay. When the motion is decided, the defeated party has thirty days after notice of the order to appeal therefrom, and six months within which to appeal from the judgment when entered. After appealing, he must print and serve the record and his brief within sixty days. The respondent has thirty days thereafter to serve his brief, and finally, the case is argued and submitted to the appellate court. There is no limit as to time for deciding the case, but in Minnesota decisions are usually filed within a month or six weeks after a case is submitted. There may be an application for a rehearing, required to be filed within ten days, and usually disposed of within two or three weeks. Surely, it is not necessary to loiter so long upon the road that leads to the final disposition of the case. In fact, when the parties are equally anxious for a prompt decision, a case may be, and not infrequently is, reviewed in a sixth of the maximum time mentioned. This is fair evidence that it is entirely possible to cut down the delay incident to appeals. I venture the opinion that the right to appeal from a judgment might be limited to less than six months, without doing wrong to anyone. Of course, where there is a money judgment, or one for the recovery of specific property, the appeal must be taken as soon as judgment is entered, in order to stay its enforcement, and the supersedeas bond secures the respondent in his judgment.

But judgments in many cases stand on a different footing, and the delay I have indicated is possible.

Practicing attorneys complain of delay in the decision of cases by some trial judges. Speaking of this, Judge Taft said:

"In our courts of first instance, it is almost as important that the judges should decide promptly as that they should decide right. If they do so, they would become more attentive to the argument during its presentation, and would be more likely on the whole to decide right, while the evidence and arguments are fresh in mind."

Responsibility for delay rests sometimes on the lawyers themselves whose habit of procrastination is well known. They put off the trial of their cases, grant unnecessary extensions of time to one another, and exercise that fine degree of courtesy and consideration for their brethern that is not found elsewhere, outside of the United States Senate. As between themselves, this is commendable, but when carried too far, their clients suffer, and justly complain of the law's delay when, in fact, it is only their lawyer's delay.

Finally, it is the opinion of many competent critics that too many appeals are permitted by our statutes. It is generally agreed that there should be but one trial upon the facts, and that preliminary questions should be settled in advance of the trial. The supreme court of Minnesota has repeatedly said so in so many words and its rulings are all in that direction. A recent case where a change of venue was involved illustrates the point. In early cases, it was held that on appeal from a denial of a new trial, a party might take advantage of error in changing or refusing to change the venue of the action. Under this rule, a case thoroughly and fairly tried, might have to be tried over again, because it was not tried in the proper county.

In the case of *State v. Dist. Court of Waseca Co.*, it was held that the proper and only way of having a question of venue determined was by mandamus, and that the supreme court would issue its writ to the district court to compel the sending of a case to the proper county for trial. This is a novel use of the writ, contrary to all our preconceived ideas as to the remedy afforded by mandamus, but it serves the desirable purpose of speedily disposing of a preliminary question, and insuring a trial that need not be repeated merely because the first trial was had in the wrong county.

COST.

Ordinary litigation is expensive. Is it wholly desirable that it should be cheap? Is it needlessly expensive? Should a greater portion of the cost be borne by the state? These are some of the questions that have occurred to all of us. The fact that he who would sue his neighbor must put his hand in his pocket and pay out good money for the privilege, undoubtedly, deters some men from suing, who otherwise would rush to court with every trifling or fancied grievance. Even as it is we find the district courts engaged in hearing cases in which large damages are claimed for slight personal injuries, assaults or defamation of character, and little or nothing at all is awarded by the jury. Another nuisance is the use of the courts not to obtain redress for genuine wrongs, but to make business for a certain class of lawyers by exploiting the mistakes and lapses of people of good intentions. Obviously, litigation of this sort ought not to be encouraged by freeing it from expense. On the other hand, there are hundreds of small demands justly due to men and women of little or no means, and unjustly denied by dishonest or arbitrary debtors, because they know that the claim is too small to pay the expenses of a suit, and so hope to escape payment, or compel a compromise for a fraction of the amount. This abuse, which in the past was commonly referred to as the denial of justice to the poor, has been remedied by the establishment in most of the larger cities of the United States, of small claims courts and conciliation courts, and by the effective work done by the legal aid organizations. In the small towns and rural districts, the abuse has not existed to any great extent. I have never known a country lawyer who was too busy to take a case for a working man or woman against an employer who wrongfully withheld wages justly due, or who would not cheerfully donate his services to make an example of one who set out to oppress the poor and humble, by repudiating an honest debt.

In spite of all that has been asserted concerning the denial of justice to the poor, I venture the opinion that there never was a time in America when conditions were so bad as they have been painted, and that today, such assertions are quite unfounded. Of course, it always will be true that a man with money can command services of all kinds which are beyond the reach of the poor man. But the services of the distinguished president of this association are no more indispensable to the proper trial of an ordinary lawsuit than are those of Dr. Wm. J. Mayo to the proper performance of an ordinary surgical operation.

Aside from claims for wages, disputes with landlords and domestic broils, the principal source of litigation in which working men or women

are parties, is personal injuries. In this field, the poor man occupies a favorable position. If he sustains an injury, he has no trouble about getting a lawyer. Indeed, he will seldom have to go in search of one. If his injuries are sufficiently serious, and a solvent corporation is responsible for them, he will find himself much sought after. On the one hand, representatives of the corporation will besiege him with offers of settlement, without the intervention of lawyers, or the necessity of splitting up the amount he receives. On the other hand, representatives of specialists in personal litigation will vie with each other in offering him favorable terms in contracts of employment. If the injured man has a sense of humor, it will be tickled by the protestations of interest in him, which he hears from the lips of the rival callers. For a time, at least, he will find himself in the position of the maiden lady who inherited a small fortune in late life, and suddenly found herself courted, where before, she had been neglected, but whose pleasure was spoiled by doubts as to the sincerity of her suitors' profession of devotion.

In litigation, the largest item of expense is the lawyer's fee. Lawyers' charges are not uniform for the same service. I doubt whether they can be standardized. A fee bill may be adopted by a local bar association, but at most, it can only fix minimum charges. As a rule, lawyers do not set too high a price upon their services. It is the exceptions to the rule that have placed a stigma upon the profession in the eyes of the unthinking public. Most of us have personal knowledge of instances in which extortion has been practiced, by one of the black sheep of the profession who occasionally gain an entrance to the Bar. Usually, it is practiced upon some ignorant or helpless person who is charged with a crime, or who is the relative of one so charged. Without conscience, the crime is magnified, the certainty of conviction is pointed out, and the anxiety and fears of the victim dwelt upon until he has been sucked dry of his money. There is but one way of dealing with lawyers such as these. It is the duty of every one of us to see that men who engage in such practices are summarily expelled from the Bar, and never readmitted.

But, to return to the fees charged by the very great majority of lawyers, is it not true that without any bargaining in advance, a client may place his case in the hands of any reputable lawyer, and rest assured that he will not be robbed? Most men do not have occasion to employ lawyers frequently, and hence, they are not familiar with the rules by which the value of lawyers' services are measured. This is the principal source of the occasional misunderstandings which arise with respect to lawyers' charges. If lawyers generally adopted the plan of setting down from day to day how their working time has been occupied, and for whom, they could prepare a client's bills more satisfactorily. In the long run it pays to do so, both financially and from the standpoint of the possible necessity of being called upon to justify a charge to a client.

Uncertainty.

The uncertainty of the outcome of a lawsuit is held up as a reproach to our system of court procedure. A moment's reflection makes apparent the injustice of the reproach. It is self-evident that if the

result of submitting a controversy to the arbitrament of a court could be foretold with a certainty, all controversies would end before they reached the courts. It is equally self-evident that until both sides of the controversy have been presented, and their comparative merits have been weighed and considered it is difficult if not impossible to know how that particular controversy should be decided. Naturally, the parties view a case from diametrically opposite positions, and when each is sure he is right, the one who loses sometimes attributes his defeat to the capriciousness of jury or judge, and pronounce a lawsuit no better than the cast of dice to determine a question in dispute. Trial by jury is specially assailed, and the perversity of some verdicts lends color to the accusations against the system. Some reformers favor repeal of the right of trial by jury secured by the constitution. Others, impatient of the delay which this would entail, would substitute something else, without going to the trouble of changing the constitution. Among the substitutes, arbitration seems to be the most popular. In controversies in which business or trade usages are involved, with which the triers are familiar, there is much to be said in favor of arbitration. Its use in chambers of commerce to adjust differences among members has given satisfaction. Probably it may be extended successfully to other fields of business activity. But, as a substitute for a court trial in every cause, it is not likely to fulfill the expectations of its advocates. Every lawyer who has had experience with arbitration proceedings, whether common law or statutory, will testify to the weaknesses inherent in this system of determining disputes. Am I not voicing the consensus of professional opinion, as well as that of intelligent and disinterested laymen, when I say that, after all, fallible judges and common-place jurors, working together under rules which have been tested in practice, are the best triers of cases that the wit of man has, as yet, discovered? Is it not also true that since the human element enters into every case, the uncertainty of human action under the stress of emotion, prejudice and environment is bound to come into play? There have been verdicts which we have been unable to account for on any rational basis. The statement also holds good as to occasional findings by trial judges, and perhaps to some decisions of appellate courts as well. I imagine that the unexpected will continue to happen under any system devised to settle controversies between men for, in solving the problems bound to arise, it is impossible to go from premise to conclusion with the same degree of certainty as when solving a problem in mathematics. The psychologists insist that the present system of conducting litigation works badly because it does not take into account the mental deficiencies of witnesses and jurors, (perhaps judges should also be included). They have advocated the application of their list of tests to witnesses to determine their ability to observe correctly, remember accurately, and relate clearly what they have observed, and would give the result of their tests to judges and jury so they may properly weigh the testimony they hear. They would also apply their tests to those called for jury service to ascertain whether they measured up to a required standard of intelligence and ability to reason logically, before they were accepted as jurors. The trouble with all this is that psychologists are as human as the rest of us, and when

they apply their tests to a man, they sometimes get results as surprising as the verdicts of juries, and as inconsistent as the testimony of medical experts on opposite sides of a case. In short, so far as I can see, we shall continue to labor with the uncertainty of the outcome of litigation, without much hope of overcoming it, or reducing it to any appreciable extent.

TECHNICALITIES.

We often hear it said after a case has been decided that that may be law, but it is not justice, or that the defeated party lost his case on a technicality. Two principles come in conflict in deciding a case. One is that precedents should be followed in order that there may be a fair degree of certainty in the law; the other is that what seems right and just in the particular case should determine the judgment pronounced by a court. Since most men desire to have their notions of justice carried out in the determination of every case, the latter principle probably has greater influence than the former with judges, and certainly with juries. There was a time when the courts openly announced that they would be guided only by that principle. In 1800 the judges of the supreme court of New Hampshire declared that they would not listen to citations from musty, worm-eaten books, and that common sense and not common law would control their decisions. If I am not misinformed, a somewhat similar announcement was made by at least one of the judges of the supreme court of a neighboring state more recently.

To the man on the street, both the statute of frauds and the statute of limitations make technical defenses possible, and the statute which forbids a party to an action to testify to a conversation with a deceased party seems indefensible. We who are familiar with the reasons which lie behind these statutes are apt to forget that the layman has never had them brought to his attention, and naturally, looks with disfavor upon what he regards as arbitrary and unjust rules of law. Prejudices due to ignorance can usually be dissipated by explaining the origin and necessity of a rule, and how, in the long run, it makes for right and justice between man and man. Surely, we should make it our business to overcome prejudices of this sort whenever there is an opportunity to do so.

In Magna Charta King John covenanted that no freeman should be deprived of his freehold or in any way molested in the enjoyment of his personal or property rights, save by the "lawful judgment of his peers, and by the law of the land."

In Bryce's American Commonwealth, the bills or rights in the federal and state constitutions are called the legitimate children of Magna Charta. The colonist learned from the arbitrary conduct of some of the royal governors that it was not safe to rely upon men for justice, when they had it in their power either to follow or to disregard all rules and precedents to meet the exigencies of a particular case. Some of the so-called technicalities of criminal procedure have their origin in provisions of the constitutions they adopted and were intended to safeguard men charged with crime. Without stopping to defend the wisdom of these provisions, sanctioned as they were by centuries of experience, it is enough to say that unless and until they are duly appealed or amended, it is the duty

of the Bench and Bar to see that they are given effect, and not to heed the cry of "technicalities." It is said of our procedure in civil cases that it was suited well enough to the colonists. They were self-reliant, homogeneous people, living on farms, and in villages. There was not much litigation. The simplest judicial machinery sufficed. It was the day of the justice of the peace, when nearly every man was his own lawyer, and could plead his own case. In his History of the American Bar, Mr. Warren tells us that "lawyers are repeatedly excluded by assembly enactments from appearing in the courts." There had been a revulsion from the English practice under which, until 1649, statutes and reports of cases were not published in the vulgar tongue for fear, as Coke says, that "the unlearned by a bare reading, without understanding, might suck out errors, and trusting to their own conceit, might endanger themselves and sometimes fall into destruction." The growth of urban population, and the mixture of races has changed conditions. Modern business affairs have bred litigation, and the law has become complicated. There are over thirteen thousand decisions of courts of last resort each year, and the annual output of statutes runs up into the thousands. Today no man can determine his legal rights without the aid of a lawyer. Inflexible rules of procedure have been enacted by the legislatures, and technical knowledge is required merely to set the judicial machinery in motion. These facts give rise to the criticism that the machinery is needlessly complicated. Some critics favor a return to the simplicity of earlier times, but it is no more possible to go back to simple judicial machinery than it is to discard the automobile for the ox-cart. We may change and improve our system of practice but it would be just as foolish to do away with definite rules as it would be to throw chart and compass overboard and set sail upon a sea where there were no landmarks or lanes of travel.

It sounds well to say that we who are the living will no longer be ruled by the dead, but the rules they worked out are not mere lignum vitae words, to quote Adams again. Take, for example, the rules of evidence. We are asked why they should not be abolished. Why not let every one who knows anything about a case come into court and tell what he knows in his own way? The answer is that the experience of men long dead has taught us that the observance of the rules which that experience developed is best calculated to elicit the truth and sift the grain from the chaff. When it can be shown that a given rule does not work to that end, it is time enough to abolish it. We are asked why a case should go out of court without a decision on the merits, because the plaintiff's lawyer drew a complaint which failed to state a cause of action? Why should there be demurrers and motions for judgment on the pleadings? Why should a judge be premitted to send a case to the jury, take their verdict, and then set it aside and grant judgment to the loser, notwithstanding the verdict? May we truthfully say to inquirers that these and other features of our procedural law are worthy of respectful consideration? The average man believes that courts should go straight to the heart of a case, and decide it on the merits. Is not that just what a court is doing when it passes upon a general demurrer or motion for judgment? The answer depends on what one understands the merits

of a case to mean. If it means, as most lawyers will agree, that the right of a party to prevail shall be determined according to established legal principles, there can be but one answer to the question. If it means a decision, according to the dictates of the judge's conscience, another answer is possible. It cannot be said that we, in Minnesota, have been too conservative in adhering to the established rules. The states are few in which the code of pleading and practice is administered with greater liberality. The elder members of the bar are apt to say, regretfully, that there are no rules of pleading, practice, or evidence anymore, though they can hardly say, as yet, that we have come to the point where a plaintiff may serve a summons on A, get judgment against B, and have execution against C, all in the one action. That statement was recently made by a lawyer of the procedural law of Ohio.

In conclusion, I would say that much of the criticism of law and lawyers, comes from those who resent the restraints which the law imposes, and chafe when the courts interfere with their programs for doing as they please. It comes, too, from those who, having had a law enacted, find that it is not popular, and is not enforced as they think it should be. These blame lawyers for defending, juries for not convicting, and judges for not sustaining every conviction of men who have violated their pet statute.

Finally, there are professional reformers in our ranks who, when freed from the necessity of making a living by practice before the courts, turn to the inviting field of criticism, practicing in it before lunch clubs and at gatherings of the newly enfranchised sex, anxious to learn about jury duty and court procedure.

When these sources of crtiicism are dried up, I fancy much of the current talk about the wickedness of lawyers, and the inefficiency of the courts will cease, and perchance, once more will it be said of us, as DeTocqueville wrote in 1835:

"If I were asked where I place the American aristocracy, I should reply, without hesitation, that it is not composed of the rich, who are united by no common tie, but that it occupies the judicial bench and bar."

MEMORIALS

JOHN BIRDSEYE ATWATER

JOHN BIRDSEYE ATWATER was born in Minneapolis, Minnesota, March 23, 1855; son of Isaac and Permelia A. Atwater. His father in 1850 removed from the state of New York to Minnesota, where he became a large factor in the upbuilding of the new state. Mr. Atwater received his preparatory training in the Minneapolis public schools and Phillips Academy, Andover, Mass. He was a member of Phi Beta Kappa. In 1879, after studying at the Yale School of Law for a time he was admitted to the Minnesota Bar, and from that time until his retirement on April 1, 1920, he practiced his profession in Minneapolis. For twelve years he was in partnership with his father, then with A. B. Jackson and Samuel Hill, under the firm name of Jackson, Atwater & Hill, and for nineteen years until his retirement with Emanuel Cohen and Frank W. Shaw under the firm name of Cohen, Atwater & Shaw. He served on the State Board of Arbitration and Conciliation, as a director of the Minneapolis Public Library, the Minneapolis Trust Company, the Minneapolis Athenaeum, and the Minneapolis Charter Commission. He was married in 1889 to Miriam B. Hinkle. Mr. Atwater died May 20, 1921, leaving no near relatives.

EDMUND W. BAZILLE

EDMUND W. BAZILLE was elected judge of the probate court of Ramsey county, Minnesota, at the general election in 1898, and filled that office with marked ability until his death, January 25, 1922.

Judge Bazille was the son of Charles Bazille, who came to St. Paul in 1843, and who took an important part in the building up of this city. His mother was Annie Jane Perry, the daughter of Abraham Perry, who came here in 1838. His grandfather was here as early as 1825, long before the little log chapel was named in honor of the Apostle Paul, which in turn gave the city its name.

All the romance involved in the early explorations of this territory by the French—all the courage, heroism and love of adventure which characterized the early explorers, was shared and participated in by Judge Bazille's forbears, but they possessed, in addition, sturdy characteristics of mind and heart which made them faithful to the highest ideals of life, and valuable public spirited citizens. A striking illustration of this is furnished by the gift of Charles Bazille to the state of the block upon which the old capitol is situated.

Judge Bazille was born in St. Paul, April 5, 1855, in a house located at Ninth and Wabasha streets. On February 15, 1882, he married Miss Clara M. Gravel, an estimable lady whose antecedents were very similar to his own, and who continued during his long public career to be his true and loving wife and helpmate.

After receiving the education then obtainable in the common schools of St. Paul, he was admitted to the bar and filled various minor positions until his election as probate judge. This was the opportunity of his life, and immediately there became apparent the really great characteristics of mind and heart which he possesed.

Judge Bazille's sympathetic nature, his alert mind, his strong common sense, his complete mastery of probate law and procedure, his unimpeachable honesty, his knowledge of human nature and his intimate acquaintanceship with the families and lives of the individuals who came

before him, made him a judge of remarkable power and accomplishment.

Inflexible in the administration of justice and the performance of his judicial duties, he nevertheless was easy of approach. He never acquired the austerity and forbidding manner which sometimes characterizes able and upright judges. This affability, kindness and disposition to be helpful to others brought upon him many arduous duties which he might have avoided, and in this way his influence was exerted on behalf of a vast number of citizens, resulting in the welfare of the suitors coming before him.

To such a man activity in civic affairs appeared a duty, and in every movement for the public good, whether in the form of building the Auditorium, the Cathedral, or the establishment of important historical facts, he was a foremost advocate and exerted great influence in bringing such projects to a successful issue.

A consistent and conscientious Catholic, he was entirely tolerant of all beliefs, and difference in religious views never affected his treatment of others.

Because he added to the prestige, dignity and officiency of his court, and supported it with an honest and capable official staff, and because his life and work was of such high value to the court and community, we ask leave to present this slight tribute to his memory, and that it be perpetuated upon the records of this court.

EDWIN HENRY BITHER

EDWIN HENRY BITHER was born in Sherburne county, Minnesota, March 8, 1864, and died in Bovey, Itasca county, Minnesota, Feb. 19, 1922. He was educated in the schools of Minnesota till his father removed to Howard county, Iowa. He graduated from the business college of Decorah, Iowa; then to Cornell College at Mt. Vernon, Iowa; thence to Ann Arbor, Michigan, where he received his diploma from the College of Law. He was admitted by examination to practice in the courts of each state bordering on Minnesota, as well as in Michigan. Gradually he purchased land in Itasca county, till he was the owner of several large farms. He studied surveying and was able to locate lands lost in the wilderness as quickly as the most practiced surveyor.

From 1894 to 1899 he practiced law at Estherville, Iowa, going thence to form a partnership with State Senator Julius E. Haycraft at Madelia, (now of Fairmont.) In August, 1920, he was married to Miss Inez Myers, principal of the Estherville, Iowa, high school, whose home was at Hampton, Iowa. His partner at Estherville was Frank P. Woods, for many years a member of Congress from that district.

A wider field seemed to open up and in April 1901, Mr. Bithers removed to St. James, Minn., where he was city attorney. It was here that the strong friendship between himself and the late Governor W. S. Hammond was formed; the sudden death of Mr. Hammond was a shock and the loss of this friend was a sorrow to him always.

In 1906 his friend, Attorney Arthur G. Otis, of St. Paul, whose failing health demanded a change, persuaded him to come up to the Iron Range country and look around, with the result that both men cast in their lot with Itasca county and each spent the rest of his life there. Every project that made for the advancement or progress or uplift of his home community met with his hearty support both in money and labor. He was Chancellor Commander of the K. P. lodge while a member of this order; city attorney for years; township attorney for Iron Range; secretary of the Water and Light commission; member of the school board for seven years; trustee of the local Presbyterian church.

Mr. Bither's ancestors on his mother's side came from Wales in 1642 and settled in what is now Cambridge, Mass.; on his father's side from England in 1754, the first comer serving for seven years in the Revolutionary army. These facts may explain his never failing courage in the face of the greatest obstacles, his unyielding determination to see a

cause through. Mr. Bither was a nephew of former Governor Felch, who was also Dean of the Law School of Ann Arbor, Michigan, for many years; and of the late U. S. Senator Edwin C. Burleigh, of Maine, for whom he was named. Besides his wife and son, Harold E., he is survived by a brother, Attorney W. A. Bither of Chicago, and a sister in Waterloo, Iowa. Interment was at Hampton, Iowa, February 24, 1922.

WALTER CONRAD BRANDT

WALTER CONRAD BRANDT was born at St. Paul, February 8th, 1888, and died after an illness of six months at his home in St. Paul, on the 10th day of May, 1922.

His early education was had in the St. Paul schools and he completed his education at the St. Paul College of Law, where he graduated in June 1910, and was admitted to the Bar of Minnesota the same year. He commenced in the law practice associated with John I. Levin at St. Paul, Minnesota, and afterwards became associated as senior member of the law firm of Brandt, Spencer & Berryman and continued with said firm until the time of his death. Prior to his admission to the Bar he was engaged as a court reporter in the Ramsey county and federal courts for a period of three years.

Mr. Brandt was a man possessed of high ideals, unusual personality, and a lawyer of marked ability, and all persons who came in contact with him, either in the business world or in a social way, held him in the highest esteem. He was active in church and social work and was a member of the St. Paul Athletic Club and the St. Paul Association of Commerce.

His untimely death was a great shock to all who knew him and by his death we all lost a true friend and his family a devoted husband and father, and the Ramsey County Bar Association one of its most highly respected and esteemed members.

ALFRED HARRIS BRIGHT

ALFRED HARRIS BRIGHT was born at Adams Center, Jefferson county, New York, on the 29th day of October, 1850. Mr. Bright received his early education in the common schools of Wisconsin, later entered the university of that state, from which he graduated in 1874 with the degree of Bachelor of Arts, and in 1876 with the degree of Bachelor of Laws. Owing to ill health for some years after graduating he lived in Wyoming upon a sheep ranch. From 1884 to 1887 he engaged in the practice of law in the territory of Wyoming, during which time he served as district attorney of Fremont county in that state. He moved to Milwaukee in 1887, and acted as attorney for the Milwaukee & Northern Railway Company until 1891. While there he was a member of the law firm of Williams, Friend & Bright. In 1891 Mr. Bright came to Minneapolis to accept the position of general solicitor with the Minneapolis, St. Paul & Sault Ste. Marie Railway Company, and in 1908 was appointed general counsel of that road; later he was made vice-president and general counsel of the Wisconsin Central Railway Company, a subsidiary of the Soo Line. For a number of years he was a member of the board of directors of the Associated Charities of Minneapolis, and for one year was president of the Minneapolis Bar Association. He was married on the 15th of September, 1887, to Amelia Haskell, of Evanston, Illinois. He died suddenly September 20, 1921, leaving his widow and three children surviving.

HASCAL RUSSELL BRILL

HASCAL RUSSELL BRILL was born August 10, 1846, at Phillipsburg, Province of Quebec, Canada, upon the shores of Lake Champlain. When twelve years old he removed with the family to Minnesota, coming by river from Dubuque to Read's Landing. He attended, but not continuously, Hamline University, at Red Wing, between 1862 and 1866. He spent one year, 1866-67, at the University of Michigan. He taught school near Faribault and Kenyon. Having through friends become acquainted

with Judge Palmer, then a practicing lawyer of St. Paul, he accepted an opportunity to enter Judge Palmer's office as a student, and on December 1, 1867, he came for that purpose, by river from Red Wing. He slept in a room adjoining the office, which was at Bridge Square. Later he was a clerk in the office of Morris Lamprey and Stanford Newell.

Judge Brill was admitted to the bar at St. Paul on the 31st of December, 1869, where he practiced until 1873, when he was elected probate judge of Ramsey county. In this office he served two years. In 1873 he married Cora Gray.

On March 1, 1875, Governor C. K. Davis appointed Mr. Brill judge of the court of common pleas, now merged in the district court, of which Westcott Wilkin was then the judge. Then began the forty-seven continuous years of that devoted and splendid service rendered by Julge Brill to the people of this county and this state.

The work was at all times heavy and Judge Brill was far from robust; but with two inconsiderable absences, he hardly missed a day from the bench until his last illness in January, 1922. His death came on the 1st day of March, 1922, on the anniversary of his appointment to the bench.

It was Ramsey county's gain and Minnesota's loss that Judge Brill remained a nisi prius judge in the court to which he was originally appointed. Notwithstanding his lack of opportunity for service in an appellate tribunal the bar of the whole state learned his sterling worth and he enjoyed a state-wide reputation. For more than a generation the bar of the state knew him for one of the state's greatest judges.

Judge Brill would have adorned any bench. No lawyer of whatever experience and accomplishments came before him in a difficult case without surprise and admiration at Judge Brill's learning, which covered unusual and unexpected fields, and at his lucid and sure insight into legal principles. Notwithstanding he was only a district judge of Ramsey county, he was a great judge and we of the Ramsey County Bar loved him. Of modest and retiring disposition he was strong in his convictions and fearless in their statement and in their application to the cases that came before him. He was a patient and courteous judge, without undue pride of opinion.

Judge Brill was a man of deep religious convictions, a life-long member of the Methodist Episcopal church, faithful in attendance on religious services, and contributed to the church organization constant service in many important capacities.

Words are inadequate to describe what sort of a man Judge Brill was and how different from others. We of the Ramsey County Bar will long cherish his memory and will long regard him as one of the greatest, both in attainments and character, among the growing galaxy of those who have served Ramsey county in the judicial office.

CLAYTON C. COOPER

CLAYTON C. COOPER, an attorney of Mahnomen, Minnesota, died at Abbott Hospital on April 16th, at the age of 36, by reason of an operation.

Mr. Cooper was born at Adrian, Minnesota, and was a graduate of the Law School of the University of Minnesota, graduating six months before arriving at age, and was admitted to the Bar when twenty-one years old and opened his practice at St. Paul, later moving to Mahnomen and opened practice in the spring of 1908, and although dying while still a young man made a good record as a lawyer and business man.

He was married to Cora Aamoth and left three children. Mr. Cooper filled the office of county attorney for eight years and as village attorney and was a member of the school board for some years. He was active, faithful and conscientious in his work and strove to master his profession and was faithful in all his undertakings and the community felt that it had lost a good citizen by his untimely death.

THOMAS JONES DAVIS

THOMAS JONES DAVIS, whose death occurred at Duluth on the 28th of October, 1921, was for thirty-four years a member of the Bar of this state. While during that period Mr. Davis maintained his residence office at Duluth, his varied professional and business interests brought him a wide acquaintance in the state and throughout the country.

Mr. Davis was a native of New Hampshire and was born October 22, 1849. His academic education was obtained in the common schools of his native state and at the State Normal School at Farmington, Maine, from which institution he was graduated. He first came to Minnesota in the year 1874 and for two years taught school in the vicinity of St. Paul. In the meantime he was studying law and later entered the Law School of the University of Michigan, but did not complete the course at the law school. He was admitted to the Bar at Pontiac, Michigan, where he practiced until 1887, when he moved to Duluth and formed a partnership with the late Warren N. Draper. Mr. Davis continued active in his profession, at Duluth, until the summer of 1913, when he retired on account of failing health.

While in active practice, Mr. Davis represented, personally or in connection with his firm, many corporations and other business interests, including the Minnesota Iron Company and The Duluth & Iron Range Railroad Company, now a part of the United States Steel Corporation. He was also personally interested in banking, mining and other corporations, in some of which he was an officer and director. Mr. Davis possessed the rather unusual combination of the qualities of a good lawyer, active in the practice of his profession, and a good and successful business man. These qualities enabled him to accumulate a competence which left him free from financial worries in his later years.

Throughout his professional career Mr. Davis was noted for untiring application to his work. He brought to the consideration of legal problems a mind well trained in the fundamentals of the law and a well balanced judgment. In the preparation of cases no detail was overlooked, and while he served the interests of his clients in the fullest measure, without thought of his own personal comfort, he did not overlook the courtesy due to the court and his associates. Though much of the time burdened by ill health, Mr. Davis nevertheless gave all that was in him to his work and to the several interests which he represented, from time to time. It would have been remarkable if such devotion to duty, coupled with a keen and well trained mind, unbending integrity and a high sense of justice, should not have marked the subject of this memorial as one of the leaders of the Bar of his city and state, and it is gratifying to his friends that this rank was accorded him.

There was probably no one thing in which Mr. Davis took greater interest than the Duluth Bar Library, which he was largely instrumental in founding, and the lawyers and judges who have occasion to make use of the splendid law library, which is now housed in the Court House at Duluth, have reason to remember with gratitude the struggles of Mr. Davis and others in establishing and maintaining the library during the early period of its existence.

Mr. Davis had many interests outside of his professional and business connections. He did not seek political office, but always took a keen interest in public affairs. He was particularly interested in forestry and for a time served as a member of the state forestry board. He was also interested in agriculture and to the last maintained the farm, on which he was born, in New Hampshire. Notwithstanding professional and worldly success, he remained simple in tastes and habits and democratic in manner and associations.

Mr. Davis was a member of the Congregational church, of several Masonic orders and was Past Commander of the Duluth Commandery 18 Knight Templars. He was also a member of various commercial and social organizations in Duluth.

Mr. Davis is survived by his widow, Martha Mills Davis, a son David Lavis and a daughter Millett Davis Raymond, all of Duluth.

NEIL DONOHUE

NEIL DONOHUE, the son of John H. and Ann D. Donohue, of St. Paul, was born April 19, 1889. He attended and graduated from the grade and high school of this city. He took his B. A. degree at the University of Minnesota in 1911. After graduating he was employed on the editorial staff of the St. Paul Daily News from 1912 to 1914, when he entered the Law School of the University of Minnesota, graduating in 1916. In 1917, he commenced practicing in St. Paul.

On May 12, 1917, after a few brief months at his choice profession, he closed down his desk and left his office never to return. On that date he entered the first officers training camp at Fort Snelling, Minnesota. On August 15, he was commissioned a Second Lieutenant, and assigned to the 88th Division at Camp Dodge; arriving at Camp Dodge he was one of a detail of about fifty officers transferred to the 42nd Division at Camp Mills, Long Island. He was assigned to Company D 168th Infantry. This regiment was formerly a part of the Iowa National Guard. He sailed for France on the President Grant in October, 1917. The ship's machinery had been tampered with, and broke down on the high seas, so that it could not risk passing through the submarine zone, and was forced to return. He again sailed November 14, 1917, arriving in France December 9th, and was with his division during a training period in the vicinity of Neuf Chateau. In the latter part of February, 1918, the division first went into action, taking over a section of trenches in Lorraine in the vicinity of Badonvillier. On March 5th occurred the first hard fighting in which the 42nd Division engaged.

The position of the first battalion of the 168th Infantry was apparently the objective of the German attack. At the time of the attack Lieutenant Donohue was with a patrol in No Man's Land, and was cut off from the American lines both by the German bombardment, and our own protective barrage. He worked his way back to his battalion, took charge of his platoon, and repulsed the attack against the portion of the front line it occupied. About thirty per cent of his platoon were casualities. The battalion received a French citation for its conduct in this action.

In June 1918, he was transferred to Company C of the 162nd Infantry, and on July 28, was assigned to the 23rd Infantry of the 2nd Division, a regular army organization at that time training for the St. Mihiel drive. He was with his regiment at St. Mihiel, and on September 16th, was mortally wounded in that action. He died at Base Hospital, Toul, France, October 10, 1918, and lies buried in the American Military Cemetery there.

The members of this committee grew up with Lieutenant Donohue, and knew him for many years. He was a quiet man, and rather retiring in disposition. As a student he was much above the average. We believe that had he lived, he would have made a success as a member of this Bar. The other members of the Bar whom we commemorate on this occasion were men with many active years of professional service behind them. They were men who both as lawyers and citizens performed many important services to the community; their names are well known, yet we believe that the roll would be incomplete without giving equal notice to the young and almost unknown practictioner who gave his community all that he had, his life.

JOHN H. DRISCOLL

JOHN H. DRISCOLL died at his home in Renville, June 9th, 1922. He was 59 years of age and began to practice in May, 1892. He was married and left surviving two daughters.

He was born at Ripon, Wisconsin, and had a high school and normal school preparation and graduated from the University of Iowa Law School

and taught school for some time. He was admitted to the Bar in the district where he practiced, this state, where he continued to follow his profession.

He was an ardent Democrat, and occupied a high position in the councils of his party, having been a delegate at three national conventions. As a lawyer he was successful and gained and held the confidence of the Bench and Bar. He was eloquent as an advocate and without a peer as an entertainer, a man of splendid presence, by his native wit, his quip and jest, by his impersonations and dialect stories. How often would he banish dull care. Alas! All vanished, but not forgotten, as long as his companions meet to recall the happy past, John H. Driscoll's name will often be recalled.

JOHN DWAN

JOHN DWAN was born October 1, 1862, in Sanilac county, Michigan, graduated from the University of Michigan Law School in 1891, and located at Two Harbors, Minnesota, in September of the same year for the practice of law. Within a few years he became the recognized leader of the Bar of Lake county and continued in active practice there until his death on October 9, 1920. He was married in 1889 to Helen R. Stockdale, at St. Ignace, Michigan, and is survived by his wife and six children, John C., Charles W., William S., Ralph H., Paul F., and Helen S.

Mr. Dwan was always active in the political, civic and business life of his city and state, and held many positions of honor and distinction. He was county attorney of Two Harbors almost continuously from 1891 to the day of his death, county attorney of Lake county for six years, examiner of titles for Lake county from the installation of the Torrens System, Democratic candidate for attorney general of Minnesota in 1908, and a member of the staffs of Governors Johnson, Eberhart, Hammond and Burnquist. During the war he had charge of the legal aid work and the four-minute men of Lake county, and was active in every war movement. At the time of his death he was city attorney of Two Harbors, member of the board of governors of the Minnesota State Fair Association, member of the Minnesota State Agricultural Society, secretary-treasurer of the Minnesota Tax Conference, president of the Lake County Agricultural Society and of the Lake County Development Association, and a member of various business organizations and Bar associations. He was also a member of the Elks, Knights of Columbus, Modern Samaritans and the Royal League.

Notwithstanding his varied non-professional activities, Mr. Dwan was an active, able and successful practitioner of the law and a competent business man. His character was clean, his integrity unsullied, and his pleasing personality made him one of the most likeable of men. His death was a loss to the Bar of one of its fine representatives, but the community in which he lived all his active professional life, it may be said without disparagement to any other, lost its leading and most useful citizen.

GORDON GRIMES

GORDON GRIMES, born on the 9th of August, 1888, at Minneapolis, Minnesota. A son of George S. and Jennie Grimes. Educated in the public schools of Minneapolis, high school, and the state university, receiving his degree of Bachelor of Laws and Bachelor of Arts in 1911. During the time he attended the state university he was quite active in athletics. Practiced his profession in Minneapolis from his graduation to the date of his death, which occurred on the evening of the 13th of July. 1921. He was a member of the B. P. O. E., and the Plymouth Congregational church. He leaves surviving him a wife and two children.

WILLIAM EDWARD HALE

WILLIAM EDWARD HALE was born in Wheeling, West Virginia, on May 11, 1845. His father was a descendent from Samuel Hale, who came

from England and settled in Glastenbury, Connecticut, in 1637. Judge Hale came to Minnesota in 1858 when thirteen years of age; moved to Plainview, Minnesota, and at fifteen years of age entered the Civil War in the fall of 1861 with the Third Minnesota; served as a private, and was honorably discharged after three years of service. He returned to Minnesota after the war and began the study of law at Hamline university, located at Red Wing, and was admitted to the bar in 1869. He located first for the practice of his profession in Buffalo, Wright county, and served in the capacity of county attorney for two years. In 1872 he came to Minneapolis, where he resided up to the date of his death. He was elected county attorney of Hennepin county in 1878, and re-elected for a second term, serving until 1882, when he formed a partnership with Judge Seagrave Smith. Later he was associated with Judge Pond, with Charles B. Peck, and for a number of years in partnership with Judge E. A. Montgomery. He was appointed to the district bench by Governor Eberhardt in 1909 to fill a vacancy created by the death of Judge William H. Donahue, and was re-elected to that position at subsequent elections. Judge Hale was a direct descendant of Nathan Hale. He died at Minneapolis on the 13th day of July, 1922, leaving surviving two daughters, Mrs. Helen H. Ainsworth of Minneapolis, Mrs. Daniel Agnew of Detroit, Michigan, and one son, Frank Hale, of Los Angeles.

CHARLES EDWARD HAMILTON

CHARLES EDWARD HAMILTON was born in Ireland about the year 1847. His father was a colonel in the British Army. In his boyhood young Hamilton was brought by his parents to Canada, where he received his early education at St. Catherine's in the Province of Ontario. At the age of nineteen he became a member of the "Canadian Volunteers," and during his service with that organization he participated in the Battle of Ridgeway during the Fenian Raid in the year 1866. Subsequently he entered upon the study of law, and received his barrister's degree at Osgood Hall, Toronto. Entering the practice of his profession, in which he early achieved marked success, he moved in 1881 to Winnipeg, Manitoba, and became a member of a law firm, of which Sir James Aikins (now Governor of Manitoba) was senior partner. In 1882 he was married to Elizabeth Ashworth.

At Winnipeg Mr. Hamilton became interested in politics, and in 1884 he was made mayor of the city of Winnipeg. A year later he was elected attorney general of the Province of Manitoba, and enjoyed the unique distinction of administering the duties of both offices together. During his term as attorney general he became the author of the Torrens System of registering land titles, which was adopted by the province and is still in force there.

In the year 1887 Mr. Hamilton came to the United States and settled in St. Paul, Minnesota, where he practiced law successfully to the time of his death.

About 1900 he was made British Vice Consul at St. Paul. He was a man of religious convictions, being a communicant of the Established Church of England, and during his residence in St. Paul was a member of St. Clements Episcopal Church.

During his residence in Minnesota of over thirty years he formed a wide acquaintance, and made many warm friends. The delightful geniality of his character endeared him to all with whom he came in intimate contact.

His last years were years of bodily weakness, but his mind was alert to the end. He remained genial, interested and hopeful. He passed from earth in May, 1919, survived by his widow, Elizabeth Ashworth Hamilton, and four daughters, Mrs. Arden Parks of Duluth, Mrs. Hugh Sampson, and Miss Eva Hamilton of St. Paul, and one son, Charles A. Hamilton of Yellowstone Park.

Loved by his family and friends, and honored by his fellow citizens, Canadian and American, he leaves a golden memory as his best bequest to posterity.

JAMES R. HICKEY

JAMES R. HICKEY was born in Scott county, Minnesota, in 1873, and while still a small boy removed with his parents and other members of the family, to Graceville, in Big Stone County, Minnesota. He received his education in the schools at Graceville, later attending the Law School of the University of Minnesota, from which he was a graduate.

Following his admission to the bar, he entered upon the practice of his profession at St. Paul, becoming associated with Henry Conlin, said association continuing until Mr. Conlin left St. Paul for other fields of endeavor, after which Mr. Hickey continued the practice of his profession alone, up until the time of his death, which occurred on the 16th day of November, 1919, at Rochester, Minnesota, where he had gone for treatment at the hands of his friends, the Doctors Mayo.

Mr. Hickey early developed a tendency for public service. While still in his early twenties, he became a member of the Minnesota Legislature. During his term as Legislator, he introduced and fathered the passage of laws which provided for the Fireman and Policeman Pension Fund. He was chairman of the committee which investigated the building of the state capitol. At the time of his death, Mr. Hickey was vice-president and director of the Minnesota State Fair Association. He was an advocate of good roads, and used his influence in establishing East and West highways, in this state, and was one of the pioneers of the State in this movement. For years he was associated as counsel for the transportation companies that made the wonders and beauties of Yellowstone National Park available to tourists.

All through his life, Mr. Hickey manifested great interest in matters of a public character, which made for the betterment of citizenship. He gave unstintingly of his time to public institutions whose aim was to provide solace and comfort for the unfortunate, and for years he was a director of the Salvation Army Rescue Home located in St. Paul. Mr. Hickey never married.

As a citizen he was ever loyal and true to his country he believed in its institutions and its laws. His heart glowed with sympathy for the unfortunate, and was filled with love for all mankind. His charity was as limitless as the wants of those about him, and as silent as the descending dew of heaven. He was sympathetic and responsive to every human appeal. Endowed with the spirit of unfailing kindness, he was the personification of generosity. Friendliness was his birthright.

He enjoyed an extensive practice, and was uniformly successful. His public life, which brought him in close and intimate contact with all classes of people, gave him an insight into human motives and feelings, which made him unusually successful in the trial of jury cases.

He enjoyed the confidence and hearty good wishes of his associates at the bar, and his career as an attorney was marked by uniform respect and fairness to the court, honorable and courteous treatment to his associates and loyalty to the interests of his clients.

Such a man was Jim Hickey in his lifetime, as he was known to those who were his associates, and as such we desire that he be known to those who shall come after us.

JOHN HENRY HINTERMISTER

JOHN HENRY HINTERMISTER, was born on the 15th day of February, 1861, at Ithaca, in the state of New York, and died on August 1, 1921, at St. Paul, Minnesota.

His father came to the United States from Switzerland and was engaged in the business of manufacturing organs and pianos at Ithaca.

The deceased had a rather varied career, due to some extent to frailities of health, which necessitated changes of climate and occupation. At the early age of nineteen he became bookkeeper for his father, at Ithaca. A few years of this work made it necessary for him to go to Texas for recuperation, and after a short sojourn there, he came to St. Paul in the year 1886, and engaged in the real estate business. Being ambitious, he at the time took up the study of law at the University of Minnesota, and graduated from that institution in 1892.

The double work of carrying on a real estate business and studying law again impaired his health to such an extent that he concluded to go West, and take up fruit farming and to combine this with the practice of law in a country place where the demands upon his energies would not be so great as in the city. Accordingly, in 1893 he went to Chelan on the Columbia River, and planted fruit trees and otherwise improved it. While at Chelan he was married (1894) to Miss Brillie M. Tenner, who survives him, so also does one daughter, Mrs. Doctor Hartley Mars of Chicago.

High water on the Columbia River inundated and completely destroyed his ranch, and practically wiped out his financial resources, so that he returned to St. Paul in 1894 and again entered into the practice of law with Calvin A. Fleming. Subsequently he formed successive business connections with John M. Gilman, one of the pioneer practitioners of the city, and with Munn & Thygeson, attorneys for the St. Paul City Railway Company, and with this company he made a direct connection with the legal department thereof in 1900, which continued until his death.

John Henry Hintermister was a man whom his friends and brother practitioners always liked to meet. He was always friendly, always courteous, and always interested in the welfare of his fellow practitioners. He was simple, guileless, and harmless as a child, and had not, we believe, an enemy in the world at any time in his career.

His domestic relations were always happy and harmonious, and he was a kind and considerate husband and father.

As a lawyer he was most painstaking, careful and thorough. He had a sound and comprehensive grasp of legal principles, which he was able to apply to the facts with a discriminating judgment, so that his opinion and conclusion on legal questions were almost invariably correct. His integrity and standing as a lawyer were of the highest, and he always commanded the respect and confidence of the court.

His brother practitioners deplore his loss, and hereby attest the high esteem in which he was held by them, both as a lawyer and as a man.

THEODORE T. HUDSON

THEODORE T. HUDSON was born at Galva, Henry county, Illinois, on February 9, 1858, the son of David and Martha Irwin Hudson, and died on February 21, 1922, at Duluth. His parents moved to a farm in Lorraine Township, Henry County, Illinois, where he grew up as a farmer. He was educated in the public schools of his county, in the select school of Prof. S. H. Waldo, of Geneseo, Illinois, and at Western College, Iowa. He studied law in the office of Judge George E. Waite, at Geneseo, and was admitted to the bar by the supreme court of Illinois, at Ottawa, Illinois. He came to Duluth on October 3, 1883, and began the practice of law, in which he was actively engaged until his death, being a member of the law firm of Jaques & Hudson. In 1897, Mr. Hudson married Mary I. Craig, of Fergus Falls, Minn., who with two daughters, survive him.

Mr. Hudson's firm was the oldest in Duluth and from the beginning enjoyed a large and lucrative practice. Never interested in the mere game of winning, right or wrong, Mr. Hudson had the con-

fidence of Bench and Bar to a degree not surpassed by any of his colleagues. Well versed in the law, indefatigable, painstaking, thorough and wise, his high character, clean life and flint-like integrity rounded out a type of lawyer that may well be emulated by the younger members of the profession.

He was attorney for the chamber of commerce of Duluth in the proceedings which it instituted to abolish the method of price-fixing on metal products known as the Pittsburg-plus system, and conducted the matter with such success that the federal trade commission has taken over the prosecution of the case.

Always interested in public affairs, he was a leader in every movement for the benefit of the people of his adopted city. He was indefatigable in his efforts to secure the transfer of the Duluth Water & Gas plant to the city of Duluth. For many years he acted as a member of the Duluth Water & Light Board, and the city of Duluth is largely indebted to him for the remarkably successful municipal operation and development of this public utility. He was appointed a member of the first Duluth Charter Commission by the judges of the district court, and served as chairman of that commission for many years before his death. He was a member of the executive board of St. Luke's Hospital, and was active in the management of that institution. In all of these positions and many others making heavy calls upon his time and energy, his only reward was a sense of service well performed.

He was always active in politics, and contributed largely of his time and money in the furtherance of progressive and liberal principles within the Democratic party. He was a delegate to the Democratic National Convention of 1888, a member of the Democratic National Committee for Minnesota from 1904 to 1908, and for twenty-five years a close personal friend of W. J. Bryan. He never held any political office that paid a salary or carried an expense account.

He was always kindly and courteous to everyone with whom he came in contact, faithful, conscientious and upright in all that he did, whether public or private. He commanded universal respect. All good causes will lose by the death of this modest, able, upright man.

ROBERT JAMISON

ROBERT JAMISON was born at Red Wing, Minnesota, on the 4th day of September, 1858. Son of Alexander and Marie Robert Jamison. Both of his parents were born in the north of Ireland, and established their residence at Red Wing in 1857. Judge Jamison received his early training in the Red Wing schools, and in 1877 came to Minneapolis to continue his studies at the University of Minnesota. He was a member of Chi Psi fraternity. He was admitted to the Bar in 1883. Three years after his admission to the Bar he was appointed assistant county attorney of Hennepin county. In September, 1893, Judge Jamison was appointed by Governor Knute Nelson to fill a place on the district bench of Hennepin county vacated by the death of Judge Hooker. After serving five years as judge of the district court of Hennepin county Judge Jamison resigned to form a law partnership with Judge Belden and Mr. N. F. Hawley under the firm name of Belden, Hawley & Jamison. During the administration of Governor VanSant, Judge Jamison acted as private secretary to the governor. At the time of his death he was a member of Jamison, Stinchfield & Mackall. Judge Jamison was married in 1883 to Adaline L. Camp of Minneapolis. Judge Jamison died suddenly in California on the 21st day of April, 1922. At the time of his death he was a member of the Masonic and Elk lodges. His widow and three children survive him.

CHARLES S. JELLEY

JUDGE CHARLES S. JELLEY was born in Wilmington, Ohio, on the 16th of May, 1849. After completing work in the grade and high schools he

entered Yale, and graduated from there in 1871. He first began to practice law in Aurora, Illinois, coming to Minneapolis in 1885, engaging in practice in Minneapolis as a partner of Louis K. Hull. He was attorney for the county board, later assistant county attorney of Hennepin county, assistant attorney general, and was appointed to the district bench of Hennepin county to succeed Judge Holt in December, 1911, which position he held to the date of his death, which occurred in Boston on the 24th day of February, 1922. He left surviving him his widow.

AARON B. KAERCHER

AARON B. KAERCHER died suddenly while at work, on Monday, February 6, 1922. He was born in Fillmore County, Minnesota, 62 years ago. At the age of 20 he married Miss Gertrude Johnson, who with 10 children survive him. In 1861 Mr. Kaercher moved to Ortonville where he lived with his family until his death.

In 1890 Mr. Kaercher was admitted to the practice of law and continued in such practice until the time of his death. He was an honest conscientious lawyer, and devoted much of his time to assisting the unfortunate where he seldom sought or obtained remuneration. He was county attorney of Big Stone county for eight years. The characteristics that dominated his career as a lawyer were an unusual amount of common sense, an unyielding persistence and a never failing energy.

Aside from the practice of law he was interested extensively in real estate holdings and sales of real estate, and was a tireless and influential worker in the advancement of western Minnesota and a booster for his home community. He was a man of strong personal magnetism and a leader in any matter in which he became interested. He had a rare faculty for making friends and holding them, and was doubtless the best known man in western Minnesota at the time of his death.

Mr. Kaercher's home life was ideal. He was greatly devoted to his wife and children, and took great pride and satisfaction in their company. To his family he was always kind and considerate, and seldom left home on business or pleasure without taking his wife and some of his children with him.

In losing him Minnesota lost one of her most progressive sons and the Bar an upright, forceful, and loyal member.

THOMAS R. KANE

THOMAS R. KANE was born on a farm near Green Isle, Sibley county, Minnesota, on August 9, 1859, and died at St. Paul on June 22, 1921.

He attended the public schools of Green Isle and later the Minneapolis Academy. He received his legal education at the University of Michigan and was admitted to the Bar of this state on October 11, 1885. He practiced his profession actively in St. Paul from that date until his death.

He served as county attorney of Ramsey county three terms from 1901 to 1907. He was elected a member of the Assembly of the Common Council of the City of St. Paul in 1910 and re-elected in 1912.

He was married August 5, 1892 to Leuella Hoyt, who with one son survive him.

Mr. Kane early acquired and held until his death a statewide reputation as a public speaker. He was one of the most eloquent men in the Bar of this county, and one of its leading trial lawyers.

He enjoyed a high reputation for honesty and integrity, both in public and private life. His uniform courtesy and fairness made him popular with the Bench and Bar as well as with the general public. He was a sincere man and fearless in upholding the right.

ANSON LUTHER KEYES

ANSON LUTHER KEYES was born in Lempster, N. H., February 6th, 1843, and died in St. Paul, at St. Luke's Hospital, May 6th, 1919.

He was graduated from Kimball Union Academy, Meriden, N. H., in 1868, from Dartmouth College at Hanover, N. H., in 1872, and from Albany Law School in 1873. Came to Faribault, Minn., in 1878, where he began the practice of law. He was city attorney of Faribault and county attorney of Rice County. Was president of the Rice County Bar Association at the time of his death and a member of the executive committee of the Southern Minnesota Bar Association. He was local attorney for the Chicago, Rock Island & Pacific Railroad for a number of years, also a member and secretary of the Faribault Board of Education. He was a trustee and deacon in the Congregational Church, a member of the A. F. & A. M. and a republican in politics.

CHARLES W. LA DU

CHARLES W. LA DU, born at Hartford, Wisconsin, March 10, 1875. He was educated in the high school and Mankato Normal school. Graduated from the Law School, University of Minnesota in 1904. Married Blanche Waggoner, who graduated in the law class with him. Practiced his profession in Minneapolis from 1911 in partnership with Mr. Frank Healy to the date of his death, which occurred on the 13th day of July, 1921.

JOHN A. LARIMORE

JOHN A. LARIMORE, born at Bryan, Ohio, January 26, 1869. Received his education in the public schools at that place, and the high school in Columbus, Ohio. He came to Minnesota in 1885, entered the Law School, University of Minnesota, graduated with the degree of Bachelor of Laws in the class of 1890 and immediately upon admission to the bar began the practice of law in the city of Minneapolis, where he practiced his profession continuously up to the time of his death. For eighteen years he was secretary of the Minneapolis Bar Association. He was a member of the House of Representatives during the session of 1915, serving as chairman of the Judiciary Committee. He was a member of the Masons, Odd Fellows and Elks. He died on the 26th of October, 1921, leaving surviving him his widow and three sons.

HERBERT S. LORD

HERBERT S. LORD was born at Minnesota City, Winona County, in 1859, and attended the public schools and the Winona State Normal School. He read law in the office of M. B. Webber, of Winona, and was admitted to the Bar in 1882. After practicing a few years at Anoka and Fergus Falls, he came to Duluth in 1890 and formed a law partnership with the late John H. Norton. In 1898 he moved to Carlton County and practiced his profession at Carlton and Barnum until his death on March 14, 1922.

In 1912, Mr. Lord was elected county attorney of Carlton County and was reelected in 1918 and 1920. He had held other local offices of honor in his community. At the time of his death he was president of the Carleton County Bar Association. He is survived by his wife Margaret Lennon Lord and four children, Elbridge L., Stella N., Herbert S., and Mrs. W. F. Gardiner.

Mr. Lord was engaged actively in the practice of the law until a few days before his death. He was a courageous fighting lawyer, industrious in the preparation of his cases, confident in the right of his client and vigorous in the presentation of his cause. Above all else he wished to be known as a fair antagonist, and never knowingly attempted to mislead the court or secure an unfair advantage or engage in unethical conduct. He was sincere in all his work, honest in all his dealings, conscientious in the performance of every civic duty, and in his home an ideal father and husband.

MICHAEL MARX

MICHAEL MARX was born in Pepin township, Wabasha County, Minnesota on May 21st, 1871. His youth was spent on the farm and his early education acquired in the local district school. Having shown a talent for learning he was sent to the LaCrosse Business College where he took a business course. Following this he entered the Winona Normal School where he distinguished himself as a ready speaker. After completing the course at the normal school he took up teaching, which he followed for three years and then went to the state university where he studied law and was admitted to the Bar in 1898. He first located at Fergus Falls, where he remained for a time and then returned to Wabasha County, opening an office in Mazeppa, where he practiced for several years and then moved to Wabasha. While in Mazeppa he was village attorney, and after moving to Wabasha he was elected county attorney in 1912 and held the office for six years. He was city attorney of Wabasha at the time of his death. Michael Marx was a very likeable man and had many friends. He died at Wabasha, Minnesota, March 13th, 1922. He was not married.

ALBERT C. MIDDLESTADT

ALBERT C. MIDDLESTADT was born at Prenzlaw, Germany, on the 23rd of April, 1859. He was admitted to the bar at Minneapolis in 1883, and practiced there until the date of his death on the 9th of August, 1921.

CLARENCE BENJAMIN MILLER

CLARENCE BENJAMIN MILLER was born near the village of Pine Island, Goodhue County, Minnesota, on March 13, 1873, and died at the city of St. Paul, Minnesota, on January 10, 1922, in his forty-eighth year.

His father's early death left him entirely dependent on his own resources, but by dint of his own indomitable will and ambition he was, at the time of his death, one of the most widely known natives of this state, as well as one of its most brilliant citizens.

From the time the ambition for a liberal education took possession of him, he earned his own way through school and college, graduating from the Minneapolis Academy in 1891, from the University of Minnesota in 1895, and from the Law School of the University of Minnesota in 1900. From 1895 to 1898 he was superintendent of schools at Rushford, Minnesota.

After admission to the bar, and in the fall of 1900, he began the practice of law at Duluth, which was his home thereafter until his death. He early won recognition at the Duluth Bar as one of its most promising members and was active in the practice of law there until his election to Congress.

He was elected to the House of the Minnesota Legislature in 1906, serving one term with distinction. In 1908 he was elected as a Republican to the national House of Representatives and served continuously in that body until March, 1919.

While a member of Congress he made a special study of Philippine questions and made two trips to the Philippine Islands for the purpose of studying conditions there. The reports of his observations there gave him general recognition as high authority on all Philippine questions.

In the fall of 1917 he was sent to France and England as a special investigator for the War Department and spent several months on the battle fronts and in England. Both before and after this mission he spoke in all parts of the country and his stirring appeals were most effective in arousing patriotic sentiment.

By a peculiar combination of political circumstances Mr. Miller met defeat in the campaign for relection to Congress in 1918, and on

retiring in March, 1919, he was immediately made assistant secretary of the republican national committee, later becoming its secretary, which position he held at the time of his death. He was the genius of the republican campaign organization of 1920, and his brilliant leadership in that campaign won him many new friends in all parts of the country.

Immediately on closing up the important business of the republican national committee, Mr. Miller resumed the practice of law in the city of Washington and soon received many important retainers. He was promptly ranked as one of the leaders of the Washington Bar and a brilliant future in the law seemed assured.

Mr. Miller was a lawyer of indefatigable industry and brilliant attainment; gifted as a debater and public speaker; a patriotic and loyal citizen during the war, devoting all his energies to his country's cause. By reason of his long public service in Congress and with the republican national committee he had a nation-wide acquaintance among public men and his early demise was a distinct loss to the profession and the republican party that he served so loyally and well, and to the state which gave him his opportunities for education and his field for political service.

CHARLES SUMNER MITCHELL

CHARLES SUMNER MITCHELL was born in Wilkinburg, Pennsylvania, on November 13th, 1856. He came to St. Cloud, Minnesota, with his parents in May, 1857. He was graduated from the University of Michigan in 1880, and was admitted to the Minnesota Bar on December 6th, 1881.

Although he liked the company of lawyers and was a member of different Bar associations, Mr. Mitchell did not engage in active law practice, devoting his life to newspaper work, in which he was eminently successful.

He was editor at various times of the St. Cloud Journal-Press, Alexandria Post News, the Fairmont News, the Duluth News Tribune and the Washington (D.C.) Herald, and for two terms was president of the Minnesota State Editorial Association. He passed away in Washington, D. C., on January 9th, 1922.

He was noted as a courageous writer and public speaker and was one of the most wholesome forces in the molding of public opinion in every community in which he lived. Personally he was one of the most likeable of men. Jolly, loyal, sincere, sympathetic, well-informed in almost every field of knowledge, he was always a delightful host and a welcome guest. A commoner in all sincerity, he wanted to be remembered as one who liked folks.

He is survived by his widow Rizpah DeL. Mitchell; two daughters, Elizabeth and Adade, and one son, Scott.

ALBERT RANDALL MOORE

ALBERT RANDALL MOORE died after a brief illness in Paris, France, on July 17, 1921. He was born in Brooklyn, September 14, 1869, the son of James E. and Eliza A. Moore, and with his family came to St. Paul, in 1878. He attended the public schools of St. Paul, and after graduating in 1889 from the Central High School spent two years at Harvard University. He pursued his legal studies at the University of Minnesota where he received, in 1891, the Degree of Bachelor of Laws, and in 1899 the Degree of Doctor of Civil Law. At the University he was a member of the Delta Upsilon and Phi Delta Phi fraternities.

Mr. Moore was admitted to the bar shortly after his graduation from the Law School and at once commenced practice with John E. Stryker under the firm name of Stryker & Moore. In 1897 he formed the firm of Markham, Moore & Markham and in 1900 became asso-

ciated with the late Edmund S. Durment, an association which continued until Mr. Durment's death. Bruce W. Sanborn was later a member of the firm until his temporary retirement from active practice, and in 1913 William Oppenheimer became associated with Mr. Durment and Mr. Moore and shortly afterward the Hon. Charles C. Haupt, until his appointment to the bench. With the accession of George W. Peterson a little later the business at the time of Mr. Moore's death was conducted under the name of Moore, Oppenheimer & Peterson.

Mr. Moore had two paramount interests in life, his family and his profession.

He was an able lawyer, his mind was keen and penetrating, his capacity for the prompt and efficient dispatch of business was enormous, his industry was unlimited and it can be truly said no lawyer ever served his clients more faithfully and more zealously than he did.

He was intrusted with much important business and his advice and counsel was sought in many large enterprises and intricate business undertakings. He was master in chancery in the receivership proceedings of the Chicago, Great Western Railway and was legal adviser in the settlement of several large estates.

In 1898 Mr. Moore married Miss Caroline E. Weed of St. Paul and is survived by his widow, two daughters, Caroline W. Moore and Elizabeth W. Moore, and a son, James W. Moore. When stricken he had just reached France with his family on a well earned vacation trip to which he had been looking forward for a long time.

In private life Mr. Moore's interests, pleasures and recreations centered about the home. He was a devoted husband and father and the family relationships were little short of ideal. In the death of Albert Randall Moore, the Bar loses an honored member, the community a valued citizen and his associates a loyal friend.

EDWARD V. MOORE

EDWARD V. MOORE was born at Green Isle, Minnesota, February 28, 1871. He was a graduate of the state university and was admitted to the bar in 1900. On June 24th, 1900, he was united in marriage to Miss Nellie E. Boylan of Glencoe, Minnesota. In 1901 he moved to Eagle Bend, Minnesota, where he practiced law until his death.

Mr. Moore was a man of high character and courteous bearing. He was active and helpful in all that advanced the welfare of others. He had the high esteem and friendship of his neighbors and of all others who knew him. His death accurred December 7th, 1921.

JOHN P. NASH

JOHN P. NASH was born in the city of Minneapolis on the 15th day of April, 1881. Son of John P. and Anna E. Nash, pioneers of Minnesota. He received his education in the public schools of Minneapolis, high school, and the Minneapolis Academy. Was admitted to the bar on the 10th day of November, 1903, and practiced his profession in Minneapolis until his death on the 4th day of January, 1922. Surviving him are his widow and one son.

JOHN H. NORTON

IN THE death of John H. Norton on September 5th, 1920, the Duluth Bar lost one of its most striking characters. A man of rugged personality and peculiar gifts, he occupied an unique position during his long and strenuous service at the Bar.

Mr. Norton was born in Milton Falls, Vermont, on May 20th, 1862, and came of old New England stock. When a boy his parents moved to Michigan, and it was in that state he passed his boyhood and early manhood. Like many other practitioners of a generation

ago he received his education in the common schools, supplemented only by much reading and study.

He was admitted to the Bar at Alma, Michigan, about 1887, and removed to Duluth in 1891, where he continued to practice until his death. From the time of his arrival he was prominent in the public life and politics of the state, and took an active interest and part in behalf of the republican party. For many years because of his gift of oratory he was in demand as a public speaker, and gave much service in that way. From 1907 to 1913 he was county attorney of St. Louis County, an office which he handled with efficiency, wisdom and humanity. In 1912 he declined to run for reelection and resumed his private practice.

For years before his death Mr. Norton was one of the best-known men of Duluth. His acquaintance was wide and varied, his likes and dislikes were strong and pronounced. He was one whose friends valued him for his sterling qualities, and whose enemies mingled their opposition with respect. In his attitude toward others he exemplified the teachings of democracy. For him class distinction simply did not exist. Whether a man was a millionaire or a pauper literally made no difference in his attitude toward him. Such things merely did not count in his estimate of a man or his manner of treating him. In consequence it is doubtful if any man in the community could count a more widespread friendship.

At the bar he typified well what has come to be known as the old school of lawyers. If an intricate question of law was involved in a matter wherein he was retained, he prepared himself thoroughly and exhaustively and argued it well. In addition thereto he had a peculiar strength in the trial of cases to a jury. Here his accurate knowledge of the mental processes of the average man permitted him to handle matters to his client's best interest, and his ability to grace his plea with passages from his wide reading, and to point his argument with a native wit and humor, and to clothe it all in a vocabulary both forceful and unique, gave him an advantage which an opponent found most difficult to overcome. Some of his passages at arms and some of his pithy sayings will long be remembered by his brothers of the Bar.

He was greatly interested in his community and in the growth of the section in which he lived. Raised upon a farm, and passing some of his early life upon the Great Lakes, he found his greatest pleasure and delight in his mature years in the development of a farm, which was situated upon the south shore of Lake Superior, and to which he would retire whenever his work permitted. There, far from the grind of the city, surrounded by the beauties of a primitive world, and upon the shores of the great lake, he found that in which he most delighted.

He died after a long and painful illness, which he bore with the utmost fortitude and courage. He left surviving him a widow, Ida Kingdon Norton, and two daughters, Madge Lilith Williams and Agatha Marie Norton. His passing left a distinct gap in the ranks of the Bar of northern Minnesota.

MILTON E. POWELL

Milton E. Powell was born in New York State in 1840. He came with his parents to Minneapolis in 1853, and shortly thereafter removed with them to live upon a farm near Sparta, Wisconsin. Later he returned to East Aurora, New York, to study law and remained there until the outbreak of the civil war, when he enlisted in the Union army and served with honor until the war closed. He then returned to Sparta, Wisconsin, and completed his studies and was soon thereafter admitted to practice law in the courts of Wisconsin. In 1867, he came to Redwood Falls in this state and engaged in the practice of his profession, and practiced law in that place for more than forty years and until his re-

tirement from active work. He remained a resident of Redwood Falls and died there on March 20th, 1922.

Mr. Powell served as county attorney of Redwood county for many years. He was an active member of the Masonic order and served as Grand Commander of the Knights Templars of the state in 1891-92.

Mr. Powell was a man of forceful character and strong personality, with high aims and ideals and a deep love and reverence for his country and its laws and institutions. He ever lived up to the best standards of his profession and was an honor to the Bar of his district and the state. He took an active part in the upbuilding of his county and city in the early days and was widely known and had many friends throughout the state. In his death the Bar of the ninth judicial district has lost its senior member and a man greatly loved and respected by his associates.

RICHARD A. RANDALL

RICHARD A. RANDALL was born August 11, 1863, at Fort Ridgely, Minnesota. He was the son of Major B. H. Randall. He studied law at the University of Minnesota, and was for a time in the office of Tawney & Randall in Winona. After his admission to the bar he entered into partnership with his brother, Frank L. Randall, who also died during the past year. He continued as a member of the firm of Randall and Randall until his brother became superintendent of the state reformatory at St. Cloud. He served one term as county attorney of Winona county, having been elected to this office in 1904. In 1905 he became city attorney of this city, and thereafter held that office continuously, for over 16 years, until his death. A large portion of his time was devoted to this work. He always took a very active interest in municipal affairs and his long experience had made him a valued counselor. He was for many years secretary of the Winona County Bar Association. During the past few years he was also a member of the College of St. Teresa, and devoted several evenings of each week teaching law at the college He greatly enjoyed this work, and his pupils found him a very interesting instructor.

Mr. Randall's death occurred on November 23rd, 1921 at St. Mary's hospital at Rochester after a very short illness. He is survived by his widow and three children, Mrs. James Miller of Minneapolis, Estelle Randall of Rochester, and Charles Randall of Winona.

We shall naturally remember Mr. Randall as a brother attorney; but while we think of him thus we unconsciously find our attention turning from his profession to his personality, until, before we know it, we have almost forgotten his professional character and are affectionately regarding him as a personal friend.

As a lawyer Mr. Randall was a careful and conscientious worker. He never drew a paper or gave an opinion without thorough preparation, never relying upon intuition, and always giving the most careful attention to all details. As the result of his painstaking methods his work was uniformly accurate, and his opinions reliably sound. He worked long hours—more than his strength could endure—and his short vacations were far apart. He gave his work the fullest measure of dutiful attention and sincere devotion.

McNEIL V. SEYMOUR

MCNEIL V. SEYMOUR was born at Mt. Morris, New York, October 28, 1857. In 1879 he graduated from Hamilton College with the degree of Bachelor of Arts. He studied law in the office of Faulkner and Bissell at Dansville, New York, and then came to Minnesota and was admitted to the Bar of this state in 1881. For some years he resided and practiced law in the city of Hastings, and then, requiring a larger field for professional endeavor, removed to St. Paul, where, until his death April 10, 1921, he was a member of the firm of Stringer & Seymour, the senior member of which, for some years, was his brother-in-law, the late Edward C. Stringer. He here married the daughter of the

late Henry Horn, himself one of the leaders of the Bar of the last generation. He was city attorney for the city of Hastings from 1882 to 1890, and for West St. Paul from 1890 to 1894. The place he made for himself in his early years at Hastings is disclosed by the fact that after his removal to St. Paul, his old clients and neighbors in Dakota county so frequently came here to seek his counsel. For some years he performed useful service in this city as a member of its Library Board, an example of that type of able public servant, whose services the public may command by appointment, but who will never seek an elective office. His real effort and energy were, however, devoted to the practice of his profession, and it was in that field that he became conspicuous. Looking back over his long and successful career at the Bar of this county and state, it is not difficult to analyze his attainments as a lawyer nor to point out those distinctive qualities of mind and character which gave him his commanding position at the Bar.

In him were combined sound business judgment, common sense, painstaking care in his work and his methods, absolute and entire honesty, and a high sense of responsibility to his clients. Add to these qualities a thorough knowledge of the law, and particularly those branches which have to do with investments, business management and corporate affairs, and the resulting product was inevitable. As a wise counsellor in the conduct of business enterprises, in the management and investment of family estates, and in the direction of corporate activities, he was pre-eminent. He showed thrift, good judgment and orderly methods in his own affairs, and applied the same qualities in his work for his clients, many of whom will find his place hard to fill. Somewhat diffident in social intercourse, he nevertheless made a host of friends. He was unfailingly kind to and considerate of others, and if he ever felt bitterness of spirit or harbored animosity toward anyone with whom he came in contact, evidence of it was wholly wanting.

His reputation for stainless integrity and high standards of professional conduct should be to us an inspiring example, and to his children a priceless heritage.

F. ALEX STEWART

F. ALEX STEWART was born in 1879; son of Alexander Stewart, a pioneer business man of Minnesota. Mr. Stewart graduated from the University of Minnesota in 1904; served as vice consul at Nagasaki, Japan, in 1902. At one time was a member of the United States secret service in the Philippine Islands. He died on March 27, 1922, leaving surviving him a wife and two sons.

DORMEN C. VAN CAMP

DORMEN C. VAN CAMP was born at Sisterville, West Virginia, August 12, 1849. While yet a lad he saw service in the Union army against guerrilla bands operating in the Virginia mountains. In May 1875 he married Miss Lillian Traux at Roanoke, Indiana, and shortly afterwards began the practice of law at Legonier, Indiana. In 1882 he removed to Sauk Center, where he practiced law until shortly before his death.

Mr. Van Camp was of a genial and cheerful disposition. He was highly esteemed in the community and had a host of friends. His death occurred at St. Cloud, Minnesota, August 14th, 1921.

JOHN JAROLD WOOLLEY

JOHN JAROLD WOOLLEY, one of the leading lawyers and one of the most widely known citizens of Wright county, died at his home in Buffalo, Minn., April 24, 1922. He was born in Illinois, March 12, 1853, and with his father and mother made the trip by ox team from Illinois to the town of Hale, McLeod county, Minnesota, in 1864. There the family built a log cabin, opened up a farm and endured all the hardships and privations of pioneer life. As a boy he was always a hard worker both on his father's farm and in the harvest fields of southern Minne-

sota. He insisted upon acquiring an education and attended school whenever he could. He was quick to learn, worked his way through the common schools and later attended high school at Hutchinson, Minnesota. After he had finished his schooling he taught for several years with great success, reading law meanwhile. In 1885 he began to give his entire attention to the study of law, first in the office of John T. Alley, now of Buffalo, Minnesota, and later in the office of F. E. Latham at Howard Lake. He was admitted to practice in 1887, located at Howard Lake and later moved to Buffalo. He speedily acquired a prominent and well deserved position at the bar and became well known as a successful practitioner throughout a large portion of the state. August 7, 1889, he married Miss Emma Hyatt, who survives him with two children, Jaroldine and Margaret. In November 1894 Mr. Woolley was elected to the office of judge of probate court in Wright county, held the office continuously for ten years and was thereafter elected to the office of county attorney of Wright county, serving six years. He discharged the duties of both offices efficiently and ably. In 1898 he was a prominent candidate for judge of the district court for the eighteenth judicial district.

Judge Woolley was a kind husband and father, a good neighbor, a patriotic citizen, an honest man, an able counsellor, very effective and convincing in the trial of cases. He was by nature extremely generous and unselfish, deeply loyal to his friends and always commanded the respect of those with whom he disagreed. He always gave abundantly of his time and talents in support of any movement for the betterment of the community. The Bar of the district and of the state has lost one of its ablest members, one whose many fine personal and professional qualities will forever remain in the memory of those who knew him best.

SUBJECT INDEX

MINNESOTA LAW REVIEW

JOURNAL OF THE STATE BAR ASSOCIATION

Volume VIII

SUPPLEMENT

PROCEEDINGS OF THE
MINNESOTA STATE BAR ASSOCIATION
1923

MINNEAPOLIS, MINN.
LAW SCHOOL
UNIVERSITY OF MINNESOTA
1923

OFFICERS OF PREVIOUS YEARS

PRESIDENTS

HIRAM F. STEVENS, St. Paul 1901
MARSHALL B. WEBBER, Winona 1902
FREDERICK V. BROWN, Minneapolis 1903
EDWARD C. STRINGER, St. Paul 1904
A. C. WILKINSON, Crookston 1905
ROME G. BROWN, Minneapolis 1906
J. L. WASHBURN, Duluth 1907
PIERCE BUTLER, St. Paul 1908
LAFAYETTE FRENCH, Austin 1909
JAMES D. SHEARER, Minneapolis 1910
CORDENIO A. SEVERANCE, St. Paul 1911
JOHN G. WILLIAMS, Duluth 1912
HUGH V. MERCER, Minneapolis 1913
HARRISON L. SCHMITT, Minneapolis 1914
STILES W. BURR, St. Paul 1915
FRANK CRASSWELLER, Duluth 1916
GEORGE W. BUFFINGTON, Minneapolis 1917
L. L. BROWN, Winona 1918
ALBERT R. ALLEN, Fairmont 1919
AMBROSE TIGHE, St. Paul 1920
WILLIAM D. BAILEY, Duluth 1921
WILLIAM A. LANCASTER, Minneapolis 1922

VICE-PRESIDENTS

MARSHALL B. WEBBER, Winona 1901
FREDERICK V. BROWN, Minneapolis 1902
EDWARD T. YOUNG, Appleton 1903
A. C. WILKINSON, Crookston 1904
ROME G. BROWN, Minneapolis 1905
J. L. WASHBURN, Duluth 1906
PIERCE BUTLER, St. Paul 1907
LAFAYETTE FRENCH, Austin 1908
JAMES D. SHEARER, Minneapolis 1909
CORDENIO A. SEVERANCE, St. Paul 1910
JOHN G. WILLIAMS, Duluth 1911
HUGH V. MERCER, Minneapolis 1912
HARRISON L. SCHMITT, Mankato 1913
STILES W. BURR, St. Paul 1914
FRANK CRASSWELLER, Duluth 1915
GEORGE W. BUFFINGTON, Minneapolis 1916
L. L. BROWN, Winona 1917
ALBERT R. ALLEN, Fairmont 1918
AMBROSE TIGHE, St. Paul 1919
WILLIAM D. BAILEY, Duluth 1920
WILLIAM A. LANCASTER, Minneapolis 1921
ROYAL A. STONE, St. Paul 1922

TREASURERS

FREDERICK V. BROWN, Minneapolis 1901
F. W. GAIL, Stillwater 1902
JAMES D. SHEARER, Minneapolis 1903-5
W. H. YARDLEY, St. Paul 1906-8
ROYAL A. STONE, St. Paul 1909-15
JOHN M. BRADFORD, St. Paul 1916-20
ROY H. CURRIE, St. Paul 1921

SECRETARIES

STILES W. BURR, St. Paul 1901
WILLIAM R. BEGG, St. Paul 1902
CHARLES W. FARNHAM, St. Paul 1903-12
CHESTER L. CALDWELL, St. Paul 1913

MINNESOTA STATE BAR ASSOCIATION

OFFICERS 1923

ROYAL A. STONE, St. Paul ..... *President*
ELMER E. MCDONALD, Bemidji ..... *Vice-President*
ROY H. CURRIE, St. Paul ..... *Treasurer*
CHESTER L. CALDWELL, St. Paul ..... *Secretary*
CHARLES F. EBEL, St. Paul ..... *Librarian*

BOARD OF GOVERNORS, 1923

Judicial District
1st—CHARLES P. HALL ..... Red Wing
2nd—WILLIAM G. GRAVES ..... St. Paul
3rd—HY O. CHRISTENSON ..... Rochester
4th—PAUL J. THOMPSON ..... Minneapolis
5th—E. H. GIPSON ..... Faribault
6th—J. L. LOBBEN ..... St. James
7th—A. H. VERNON ..... Little Falls
8th—A. L. YOUNG ..... Winthrop
9th—HY A. BENSON ..... St. Peter
10th—S. D. CATHERWOOD ..... Austin
11th—A. MCC. WASHBURN ..... Duluth
12th—O. A. LENDE ..... Canby
13th—J. H. CASHEL ..... Worthington
14th—A. H. EKSTROM ..... Warren
15th—THAYER C. BAILEY ..... Bemidji
16th—FRANK W. MURPHY ..... Wheaton
17th—FRANK E. PUTNAM ..... Blue Earth
18th—GODFREY C. GOODWIN ..... Cambridge
19th—REUBEN G. THOREEN ..... Stillwater

STANDING COMMITTEES FOR 1923

ETHICS

WILLIAM G. GRAVES, *Chairman* ..... St. Paul
HENRY S. MEAD ..... Minneapolis
REUBIN G. THOREEN ..... Stillwater
DAVID L. GRANNIS ..... So. St. Paul
JOHN JUNELL ..... Minneapolis

JURISPRUDENCE AND LAW REFORM

WILBUR H. CHERRY, *Chairman* ..... Minneapolis
BRUCE SANBORN ..... St. Paul
R. JUSTIN MILLER ..... University of Minnesota
GEORGE W. FRANKBERG ..... Fergus Falls
I. M. OLSEN ..... New Ulm

UNIFORM STATE LAWS

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

Legal Biography

Thomas Fraser, *Chairman*, Rochester, 3rd District

Judicial District	
1st—Willard L. Converse	So. St. Paul
2nd—Grier M. Orr	St. Paul
3rd—Charles E. Callaghan	Rochester
4th—W. W. Bardwell	Minneapolis
5th—Fred W. Senn	Waseca
6th—W. L. Comstock	Mankato
7th—W. L. Parsons	Fergus Falls
8th—C. M. Tifft	Glencoe
9th—A. B. Gislason	Minneota
10th—Norman E. Peterson	Albert Lea
11th—Bert Fesler	Duluth
12th—G. E. Qvale	Willmar
13th—L. S. Nelson	Worthington
14th—Andrew Grindeland	Warren
15th—W. S. McClenahan	Brainerd
16th—S. A. Flaherty	Morris
17th—E. C. Dean	Fairmont
18th—Arthur E. Giddings	Anoka
19th—Jasper N. Searles	Stillwater

Library

James Paige, *Chairman*	University of Minnesota
Oscar Hallam	St. Paul
James E. Markham	St. Paul
Edward Lees	Winona

Legal Education

Everett Fraser, *Chairman*	University of Minnesota
A. L. Young	Winthrop
Francis B. Tiffany	St. Paul

Legislative Committee

Pierce Butler, Jr., *Chairman*, St. Paul, 4th District

Congressional District	
1st—John F. D. Meighan	Albert Lea
2nd—Julius J. Coller	Shakopee
5th—A. V. Rieke	Minneapolis
6th—J. D. Sullivan	St. Cloud
7th—Geo. F. Gage	Olivia
8th—C. E. Adams	Duluth
9th—N. F. Fields	Fergus Falls
10th—William H. Lamson	Hinckley

Membership

Thayer C. Bailey, *Chairman*, Bemidji, 16th District

Judicial District	
1st—Thore R. Johnson	Cannon Falls
2nd—Wilfred E. Rumble	St. Paul
3rd—J. W. Murdock	Wabasha
4th—John R. Coan	Minneapolis
5th—Joseph N. Mooner	Waseca
6th—J. W. Seager	St. James
7th—James J. Quigley	St. Cloud
8th—W. F. Odell	Chaska
9th—Henry H. Somsen	New Ulm
10th—Frank G. Sasse	Austin
11th—William Watts	Duluth

12th—THEODORE S. SLEN ..... Madison
13th—GEORGE P. GURLEY ..... Pipestone
14th—LUCIUS S. MILLER ..... Crookston
16th—VICTOR E. ANDERSON ..... Wheaton
17th—ALBERT R. ALLEN ..... Fairmont
18th—GODFREY G. GOODWIN ..... Cambridge
19th—ALFRED P. STOLBERG ..... Center City

COMMITTEE ON UNAUTHORIZED PRACTICE OF LAW

HENRY DEUTSCH, *Chairman* ..... Minneapolis
FRANK G. SASSE ..... Austin
ALEXANDER SEIFERT ..... Springfield
FRANK E. PUTNAM ..... Blue Earth
C. A. FOSNES ..... Montevideo
GEORGE W. GRANGER ..... Rochester
JOHN M. BRADFORD ..... St. Paul

NOTEWORTHY CHANGES IN STATUTE LAW

H. E. RANDALL, *Chairman* ..... St. Paul
JAMES E. DORSEY ..... Minneapolis
L. D. BARNARD ..... Renville

COMMITTEE ON AMERICAN CITIZENSHIP
(To be selected later)

SPECIAL COMMITTEES

COMMITTEE ON UNIFORM PROCEDURE IN FEDERAL COURTS
JAMES D. SHEARER, *Chairman*, 5th District, Minneapolis

Congressional District
1st—JOHN HOPP ..... Preston
2nd—JULIUS HAYCRAFT ..... Fairmont
3rd—A. B. CHILDRESS ..... Faribault
4th—CARL W. CUMMINS ..... St. Paul
5th—JAMES J. QUIGLEY ..... St. Cloud
7th—J. M. FREEMAN ..... Olivia
8th—WARREN E. GREENE ..... Duluth
9th—CHARLES S. MARDEN ..... Moorhead
10th—WILL A. BLANCHARD ..... Anoka

INCORPORATION OF STATE BAR

MORRIS B. MITCHELL, *Chairman* ..... Minneapolis
VICTOR STEARNS ..... Duluth
JOHN B. SANBORN ..... St. Paul
SAMUEL C. ANDERSON ..... Hutchinson
HENRY S. MEAD ..... Minneapolis

COMMITTEE ON SMALL DEBTOR'S COURT

FRED W. REED, *Chairman* ..... Minneapolis
C. R. MAGNEY ..... Duluth
THOMAS H. SALMON ..... Minneapolis
OSCAR C. RONKEN ..... Rochester
GEORGE W. MORGAN ..... St. Paul
C. O. DAILEY ..... Mankato

CODIFYING DRAINAGE LAWS

F. L. CLIFF, *Chairman* ..... Ortonville
O. A. LENDE ..... Canby
C. R. MIDDLETON ..... Beaudette
JULIUS J. OLSON ..... Warren
J. B. ORMOND ..... Morris

CO-OPERATION OF LOCAL AND STATE BAR ASSOCIATIONS

BRUCE W. SANBORN ..... St. Paul
BURT W. EATON ..... Rochester
HENRY H. FLOR ..... New Ulm
GEORGE W. BUFFINGTON ..... Minneapolis
EDWARD P. TOWNE ..... Duluth

COMMITTEE ON ABOLISHMENT OF GRAND JURIES IN ORDINARY CRIMINAL CASES

PAUL J. THOMPSON *Chairman* ..... Minneapolis
WARREN E. GREENE ..... Duluth
GEORGE W. PETERSON ..... St. Paul
HORACE W. ROBERTS ..... Mankato
FRANK HOPKINS ..... Fairfax
THOMAS HESSIAN ..... Le Sueur
WILL A. BLANCHARD ..... Anoka

OFFICERS

of the

AMERICAN BAR ASSOCIATION

1923-1924

President

R. E. L. SANER ..... Dallas, Texas

Secretary

W. THOMAS KEMP ..... Baltimore, Md.

Treasurer

FREDERICK E. WADHAMS ..... Albany, N. Y.

Vice President for Minnesota

JAMES E. O'BRIEN ..... Minneapolis

Member of General Council for Minnesota

BRUCE W. SANBORN ..... St. Paul

Local Council for Minnesota

PAUL J. THOMPSON ..... Minneapolis
HARRY A. PETERSON ..... St. Paul
HAROLD A. CARMICHAEL ..... Duluth
HENRY O. CHRISTENSEN ..... Rochester

ROYAL A. STONE
PRESIDENT 1923-24
SAINT PAUL

MINNESOTA LAW REVIEW

Journal of the State Bar Association

VOL. VIII NOVEMBER, 1923 SUPPLEMENT

PROCEEDINGS AT THE ANNUAL MEETING OF THE MINNESOTA STATE BAR ASSOCIATION, FOR THE YEAR 1923, HELD AT THE CURTIS HOTEL, MINNEAPOLIS, MINN., AUGUST 27th, 28th AND 29th, 1923

Monday, August 27th, 10 o'clock A. M.

Meeting called to order, Vice President Royal A. Stone in the chair.

THE CHAIRMAN: For the second time in two years the Minnesota State Bar Association is so unfortunate as to be deprived of the services of the president. This year, as last, illness is the cause. Last year Mr. Bailey was not able to be with us. This year Judge Lancaster is prevented from attending by an illness which is more or less serious. I believe that it would be exceedingly appropriate that our first act would be the formulation of a message of good will and good wishes to Judge Lancaster and I will entertain a motion to that effect.

MR. F. W. REED: (Minneapolis) I move that the secretary be instructed to make such an expression to our president.

MR. BURR: Second the motion.

Motion duly put and carried, by rising vote, unanimously.

THE CHAIRMAN: Mr. Secretary will you attend to this at once? Frankly I am somewhat at a loss to know how to proceed, there are so few of us here; we can do one of two things, we can proceed with business now or we can consider ourselves recessed informally, or we can adjourn until two o'clock. Measures have been taken to get a larger attendance this afternoon. Mr. Junell attempted to twit me this morning about the smallness of the St. Paul attendance. This was some time ago and I called his attention to the fact that from St. Paul we had Mr. Caldwell and myself present and he was the only Minneapolis attorney in sight. As usual St. Paul was one hundred percent in the lead.

MR. BURR: And the average is more than maintained at this moment.

THE CHAIRMAN: My idea is that inasmuch as we have several chairmen of committees with us that we can at least hear their reports but I will abide by your pleasure. If there is no motion to adjourn we will call on Mr. Reed, the Chairman of the Committee on Conciliation and Small Debtors' Courts. Mr. Reed will you make your report? (See appendix p. 124.)

MR. F. W. REED: (Minneapolis) The Committee was appointed to draft an act for conciliation court. That was a long time ago. In 1917 we got a conciliation court for the city of Minneapolis. This has been a success. Of course, such courts are always criticized, but this one has already disposed of something like forty thousand cases in the meantime. Then the same thing, almost a duplicate, was established for the city of Stillwater which seems to work well. Then in 1921 St. Paul put an act through for such a court and at the same time the committee got an act through the legislature providing that any city having a municipal court might, by resolution of its governing body, inaugurate such a court under the terms of this chapter, and that has been done in substance. I don't know as there is anything further to say about it. This act was drawn so as to make the conciliation court a branch of the municipal court with a jurisdiction which the court has in Minneapolis of one thousand dollars. The other end of it is the small debtors' court. Of course, in the conciliation end the court has no power to render a decision except by consent of the parties. That end of the court has not worked very well. We Americans are too much given to controversy and there are too many lawyers, and when they come before the court and one side begins to see that perhaps he is going to get the worst of it he drops out of the conciliation, and the court has no further jurisdiction. The other end of it, which is the small debtors' court, the original jurisdiction of which was up to fifty dollars, the court there has absolute power to enter judgment and does so. The last session of the legislature increased the jurisdiction to seventy-five dollars. You are familiar with the terms of the Act and I won't go into it. The only thing that I can submit is this question: When this act was originally drawn it made the jurisdiction of the small debtors' court one hundred dollars and that was made compulsory, that is, it provided that no suit should be brought on claims for one hundred dollars or less in the regular manner until they had a certificate from the conciliation judge that there had been an attempt to conciliate. That met with a great deal of opposition, I don't know why. The conciliation courts in foreign lands, the Norwegian court, for instance, have been in existence for twelve hundred years. There they are not, properly, a court, but commissioners, they are not law judges, and they meet at certain times, a body of three of them in certain parts of the country at certain times and it has met with great success. There they have a provision that no case shall be admitted to the law courts until they have a certificate from that commission. Whether that could be made successful here, I don't know. Perhaps you have seen this little pamphlet, drawn up by Reginald Heber Smith, of Boston, it describes the course of this measure in the United States and the Legal Aid Societies which are usually connected with the charitable organizations of various cities, but there is no court just like this. For instance, Judge Levin, of Cleveland, has established a court of this kind "on his own hook." That is, he will deal with cases informally before he deals with them formally to see if they cannot be settled without any suit. Then they have the small debtors' court in Chicago without the conciliation end and they have in Kansas a court of similar nature and they have some in Oregon. That is about all there are, since this law was drawn.

MR. BURR: I think great progress has been made since then, hasn't it, in other states?

MR. REED: I don't know. Some have been established from time to time but there has been an increase in the small debtors' court in other states.

MR. BURR: My memory may be at fault. It is some litttle time since I saw the program of the National Conference of Bar Association Delegates to be held tomorrow, but I have it in mind that quite an important part of the program is devoted to this conciliation and small debtors' court. If so, possibly we might have considerable enlightenment forty-eight hours hence.

MR. REED: Isn't that the arbitration question, that commission?

MR. BURR: I may be at fault on that though, of course, I ought to know. I think this is an important feature of the program of the Conference tomorrow and if so, of course, we will have a lot of light on the subject, those of us who attend, and perhaps, with that in mind, Mr. Reed, if you want any further recommendations or suggestions you would be very apt to get them at that conference.

THE CHAIRMAN: Isn't this the situation? That all we can do now is to either continue or discontinue this debate?

MR. REED: I would like to raise a question for discussion, when there are more here, as to whether or not a compulsory clause with a limit of one hundred dollars would be worth while to attempt in this jurisdiction. That is, not allow any one to sue for any money claim for a hundred dollars until it is attempted to adjust the claim by conciliation, in cities or counties where there is a conciliation court. I think that is about the only thing I would suggest.

MR. BURR: May I extend an invitation to you, Mr. Reed, to attend that conference tomorrow? I think I have sufficient authority and I think you will get a great deal of light on the subject. As it stands now the court has jurisdiction up to seventy-five dollars. A judge has a right to enter judgment up to seventy-five dollars, but there is no compulsion. If they object to submitting it to him, he drops it.

THE CHAIRMAN: Is it important for this association to pass upon that bill this year? We have no legislative session until after our next session.

MR. REED: No it is not.

THE CHAIRMAN: It is something to which our attention ought to be drawn but would it not be safer and wiser to dispose of it now formally in your report? My hope is that the committee would be continued and that we can later have further discussion on it.

MR. WASHBURN: I move that the report be received and the committee continued.

MR. BURR: Second the motion.

Motion duly put and carried.

THE CHAIRMAN: Report is received. Now, Mr. Reed, if the opportunity offers we should be glad to hear from you at any time on that other bill. We have but one other committee chairman with us so far

as I am advised at the present time, Mr. Cherry, of the Committee on Jurisprudence and Law Reform. That is an important committee. Do you care to hear the report now at this time or shall we wait until we have a larger attendance? Or shall we proceed with some other business? What is your pleasure?

MR. BURR: It has no affirmative recommendation, why not have the report now?

THE CHAIRMAN: Well, Mr. Cherry, if it is agreeable to you we will take up your report at this time. (See appendix, p. 98.)

MR. CHERRY (Minneapolis): The report is found printed on page 98, and as Mr. Burr has suggested, we have no special suggestions for action by the Association at this time. We do report two measures which were prepared by the committee and which were passed in the recent session of the legislature, both of them having to do with probate matters. The first one was merely an amendment to an existing statute, the statute being one which had to do with the substitution of one judge of probate for another. We were in this situation in this state; when one judge of probate in one county was disqualified by reason of illness or for anything else, the only one who could legally be called upon to take his place was a judge of probate of an adjoining county. We recently had a very unfortunate situation in that regard when Judge Bazille, of Ramsey County, was ill and not able to take care of his court and the judge of probate from Stillwater and the one from Minneapolis were the only two who could really be called in, because of the fact that the judges of other counties were not available, and they were very much overburdened. So this amendment simply provides that the judge of probate of any county may be called in; so there can be, if necessary, the judge of one county for a while, and then of another, and so on, and the business can be transacted without undue burden upon any one judge. That amendment was proposed and passed, at the instance of the Probate Judges' Association. They came to your committee and asked us to put such a law in shape, or such a bill in shape, and pass it if possible. They also took action which I think ought to be known to this Association, and that is that at their annual meeting in January of this year they took the stand that no legislation should be proposed by the Probate Judges' Association without the approval of the State Bar Association. In other words, they wanted anything that they might seek, to have the agreement, approval and co-operation of this Association. A number of things which this Association has been interested in, concerning the probate court,—the reports of other committees, which are contained in this announcement, such as the committee on the unauthorized practice of law, had to do in some measure at least with the affairs of the probate court and it has always been the feeling that a great deal of difficulty which arises in that connection might be avoided if there was a proper standard of practice in the probate courts. The judges of probate in their Association have been very much interested in the subject and they have had a committee which wanted to make some changes. That committee came to your committee which is now reporting and suggested a number of statutes. We went over the statutes with them, and came to this conclusion, that the

only one that we would attempt to have passed was the one which would give the judges of probate the same standing which judges of the district court have in their own jurisdiction, namely, it would provide for an annual meeting of the judges of probate of this state and would provide that that meeting might and should make rules covering the practice of the probate court, and in the annual meetings from time to time amend those rules and make new ones if they were found necessary.

As I understand the situation in the Probate Judges' Association, it is this: Those judges of probate who are lawyers are very much interested in improving the conduct of probate practice. They want to make a real probate court, a court where there is some semblance of judicial procedure, and they have been very active in the Association, and they want our help in the matter. As a first step in that direction, we agreed, with them upon a form which was passed at our request, and which became Chapter 400 of the Laws of 1923. That provides for an annual meeting of the judges of probate, and for their authority to make rules governing the practice in the probate courts, and to have a uniform practice. The probate judges said that they wanted to meet with your committees this summer to form some proposed rules for the first meeting of that body of probate judges to be held this January. So far they have not got their committee together to meet with us, but there is no doubt that they will be ready to meet some time this fall for that purpose. At such a meeting it would also be a matter for discussion as to what legislation would be necessary to supplement and aid the rules which might be adopted, to put the probate practice in the shape in which it should be. Your committee hopes that by the next session of this Association there can be an affirmative recommendation upon several of our statutes, looking towards the codification,—or not a codification, but a revision of the statutes, of what might be called particularly the corporation statutes of the state. We have made a substantial beginning on that subject and we hope next time to make a report which will really be affirmative, which will be in time for the next session of the legislature. I think that is all, Mr. Chairman, and I wish merely to move that the report be received and placed on file.

MR. BRADFORD: I second the motion. May I add to that that the committee be continued.

THE CHAIRMAN: It is a standing committee. I do not think that it is necessary to pass all these motions without comment, and without opposition. Are there any remarks concerning Mr. Cherry's report for this committee? If not, I will put the motion: All in favor of adopting the report signify by the usual sign, aye. Contrary, no. The motion is carried.

As a routine matter it is necessary to appoint a committee for nominations for the Board of Governors, and another committee to audit the books and report of the treasurer. If there is no objection the Chair is ready to appoint those committees at this time. Your silence, I take it, is consent. The committee for nomination of Board of Governors will be as follows:

Mr. Bradford, Chairman
Mr. McDonald
Mr. Washburn
Mr. Fosness
Mr. Junell

The auditing committee are:
Mr. Horace Glenn
Mr. Knapp
Dean Fraser.

What is your further pleasure at this time? We have no other committee chairmen present at this time. I might take a little time, if you will permit me to speak in this position, for the finance committee. Your finance committee has not done anything this year under the present administration, and there is nothing it could do, except when there was a deficit to go out and raise some money. The administration of the affairs of the Association was in the hands of the Board of Governors. This year we have been trying out for the first time, as you know, the arrangement with the Minnesota Law Review. That has had everything to do with the finances of the Association, and the finance committee has had nothing to do. So we have occupied a position with empty honors. We have no report to make except that when the funds were low, at the beginning of the year, your finance committee did raise some money, about twelve hundred dollars largely from the selling of life memberships, to selected members of the Association. There were a good many contributions too, made by gentlemen who have already been generous in response to the needs of the Association. Informally, I would like to suggest that the finance committee should be, if it can be done without any real rearrangement of our constitution—that it shall be a sub-committee of the Board of Governors, and function as a subsidiary of the Board of Governors, and in such a manner as that board shall direct. That is all the finance committee has to offer. These remarks I have been making for myself, because we have not even had a meeting of the committee this year. The other members are Judge Simpson and Mr. Shearer. You will see how obvious it is that there has been nothing for us to do.

MR. WASHBURN: I have been absent for a year or two from these meetings. And probably later we will have a larger assembly here. But may I ask just why is there nothing for that committee to do?

THE CHAIRMAN: Because the functions which can be performed by the finance committee are in the hands of the Board of Governors and peculiarly in this last year. The proceedings, as you know, are published by the Minnesota Law Review, which is the official organ of the Association. That arrangement was made by the Board of Governors and the continuing of it, so far as the association is concerned, is in charge of the Board of Governors. We have not been asked for any recommendation and there was not any that we could make, no work we could do except that, to start with, we found ourselves confronted with a large deficit, and as you, personally, Mr. Washburn, have reason to know, the finance committee then got busy and tried to get in some

money. You see, now I have indicated to you one of the gentlemen to whom we are greatly indebted. I have been connected with the financial affairs of the Association long enough to know who the "easy marks" are, or seriously, long enough to know who are our generous and loyal members. Personally, I would like to entertain a motion, if you approve of the plan, to the effect that the finance committee shall consist of three members of the Board of Governors, and shall function as a committee of the Board of Governors, and under its direction.

MR. WASHBURN: The Governors to appoint them?

THE CHAIRMAN: Under the Constitution it should be appointed by the Bar Association. We would have to amend the Constitution.

MR. BURR: Any recommendation of our Vice President and Chairman of the Committee on Finance, I am willing to endorse, so I would make a motion along the line he suggests.

Motion seconded.

THE CHAIRMAN: It is moved and seconded that for the ensuing year (and I take it, until the Association directs to the contrary) the finance committee of this Association shall consist of three members of the Board of Governors, and that it shall be considered as a committee of the Board of Governors, and function under its direction.

MR. BURR: Possibly, for technical reasons, that might be in the way of a recommendation to the President. I am not sufficiently familiar with that particular provision of the Constitution to know whether it would require an amendment to make that recommendation compulsory, but if we recommend it to the President and to the committee it will work just the same. What have you to say to that?

THE CHAIRMAN: As I recall, the Constitution provides for a finance committee of three.

MR. WASHBURN: Does it say who shall appoint?

THE CHAIRMAN: The President shall appoint. The Constitution so states.

MR. WASHBURN: So if that motion passes in this form, the President will make the appointment?

THE CHAIRMAN: Yes.

(Calls for the question.)

Motion carried.

THE CHAIRMAN: In order to occupy this forenoon session, there is one thing I may bring to your attention. Perhaps you are all familiar with the work now being done by the American Bar Association through its Americanism Committee. You are familiar possibly to a less degree, or possibly to a greater degree, with the so-called Americanism work of the other organizations, and notably that of the American Legion. The Minnesota Department of the American Legion has an Americanization Committee upon which each congressional district of the state is presented. There will be presented to this association a motion to amend the constitution providing for such work to be done by a similar committee of this association. I would like to have you think it over. It

may be that you will feel that a committee going into congressional districts, consisting of a member from each congressional district, will be a piece of machinery somewhat too complicated. In either case, be thinking it over, because the recommendation will be made at a proper time during the sessions of this meeting. Is there anything further to take up at this time? I see Mr. Thompson is present. We can have the report of the special committee on the abolishment of grand juries on the ordinary criminal cases. (See appendix, p. 126.)

MR. PAUL THOMPSON (Minneapolis): Members of the Association, you undoubtedly have read this report and also the report of a year ago. I was out of the state at that time and I see by reading the report of last year that no action was taken on it regarding the subject of grand juries. Last summer the Supreme Court rendered a decision which held that the action of the grand jury was not necessary to bring a man to trial if the punishment, in case of conviction, did not exceed ten years in state prison. I think after that decision the main objection that the majority of the committee had made to the use of grand juries was met. That is that the grand jury did not need to be called on minor cases as the county attorney could file information and dispose of them. Last year however a member of the legislature of this state introduced a bill which was designed, I think, to do away with the grand jury entirely. The bill aroused considerable opposition and discussion in the state. Various clubs took the subject up, and former members of grand juries got together to protest against the bill. The bill however passed in some form, but as I understand this bill and the action that our court has taken on it, I have come to the conclusion that we still have to have grand juries. The bill did not give the county attorney the power to file information except in those cases already allowed by the decision of the Supreme Court. So far as abolishing the grand jury is concerned in this county at least, the Nimocks Bill passed last winter has no effect at all. The committee was pretty evenly divided on the subject of whether the grand jury should be abolished in all cases, a majority of four filing a report recommending that we dispense with the use of the grand jury except for certain cases where the grand jury might be called by the presiding judge, the county attorney, the county commissioners, or a certain number of citizens and a minority of three of the committee wished to stick by the present system.

Now the situation this year is practically the same as last year when the committee made its report, with the exception of the change in procedure which has been accomplished by this decision of the Supreme Court. I think we ought to decide this matter one way or the other and get it off of the books of the Association. If the members are satisfied with the present situation which allows the county attorney to file information in cases where punishment does not exceed ten years, and if that disposes of the former objections to the grand jury, you might simply discharge the committee and get through with it. If you think the grand jury ought to be abolished, except in unusual cases, such as those which involve county officers, or to clean up a county or city, we should act accordingly. There are quite a number of states in the United

States that have dispensed almost entirely with the use of grand juries. That is true of Wisconsin where a grand jury is only called when the judge makes provision for it and in many cases no grand jury has been called for many years. The grand jury is an institution that many people look up to with a great deal of respect. I notice that our grand juries down here have often arrived at conflicting conclusions. One grand jury recommended in its final report that grand juries be dispensed with and a succeeding grand jury, a short time after, recommended the contrary. My experience and observation with grand juries is that they get out a report which is printed on the front pages of the newspapers and sometimes its advice is good and sometimes it is not. But in any event the advice is never followed and, except for a newspaper sensation, the advice at least which the grand juries in this county offer goes very little farther. I can hardly see, myself, what useful function a grand jury plays in our present method of procedure. It is simply another cog in the wheel that delays speedy justice in criminal cases. The grand jury often does harm, indicting a man on insufficient evidence or no evidence at all. So far as the public is concerned, when a man is indicted and it appears in the papers, he is convicted in public opinion. It doesn't make any difference that later on the county attorney finds there is no evidence and nolles the indictment or whether the court dismisses him or whether the jury finds him not guilty. For all practical purposes the case is disposed of when the newspaper prints the fact that the grand jury has indicted him. In Wisconsin the district attorney files information. The party is entitled to a preliminary hearing, he can have one if he asks for it. He is either then discharged or bound over for trial and the intervention of the grand jury is not necessary. So I think the only thing I can do is to file this report just as the committee has submitted it. There were four members who voted for the abolishment of grand juries except in extraordinary cases and three of the committee who advocated that its use be continued.

I move the acceptance and filing of this report, and that the committee be discharged.

THE CHAIRMAN: That opens up a very important field of discussion; first, the problem is one of the highest importance and I do not think we ought to dismiss it lightly. I think we should take action on it one way or the other. Are there any remarks? If there are none, I promise you I shall exercise the power of the draft.

MR. BURR: As I recall the old discussions at some previous meetings there is considerable division of opinion among the members of the Association on this problem. To avoid misunderstanding, my mind inclines very strongly to Mr. Thompson's views, but I think there is considerable opposition to that view; my one feeling is that it would be unfortunate to dispose of a question of so much importance, where there is so much division of opinion, with so small a membership present as there is this morning.

MR. BRADFORD: I understand Mr. Thompson personally feels that the grand jury might be dispensed with, but as I understand his report, the

system that we now have would remain intact, if the report were accepted and the committee discharged,—is that correct?

MR. THOMPSON: That is the motion.

MR. BRADFORD: And I am very much in favor of that motion. I have had experience in St. Paul and in Minneapolis with grand juries and the county attorneys, and I want to say that I do not believe any county attorney should have the full power to say whether or not a man shall be tried. I know of a case here where I had some experience in this line in connection with some failing banks where the county attorney of Hennepin County was very loath, in fact, he refused to give us warrants for certain men who we thought should be indicted. We insisted upon going before the grand jury, and we did go before the grand jury, and indictments were returned. I can see the danger which we might get into if we abolish grand juries in some of the country districts, where the Non-Partisan League has a great deal of influence. I think it would be a very great mistake at this particular time to do away with our grand jury system and I am against it.

MR. WASHBURN: Do you expect to get an indictment by the grand jury if the county attorney is very much opposed to it?

MR. BRADFORD: Yes, sir, and I have done it.

THE CHAIRMAN: In some cases that might be a special reason for indictment.

MR. BRADFORD: In answer to a question I will say that in this particular case they were tried and the case went to the Supreme Court on the ground that the grand jury indictment was improperly returned. They were indicted again and the statute of limitations had run against them. (Laughter.)

THE CHAIRMAN: I want to ask some of our distinguished district judges who are present to advise us with respect to this problem. Judge Fesler, you are the first one I have in mind. Will you favor us now with your frank opinion?

JUDGE FESLER: I came in after the discussion started, and just before Mr. Thompson took his seat, and I am sure that it would be much more satisfactory to everybody concerned, especially including myself, to have one of those judges who have heard the discussion express himself on it.

The fact is, so far as I know, we are quite well satisfied, in St. Louis County, with the way the county attorney's office is working in filing information. In one case where it was thought to oust one of our city commissioners from office, a man charged with violation of law, and the county attorney called a grand jury on his own motion because he thought that they should pass on a question of that kind rather than he. I do not believe there are any particular sentiments up there in favor of the abolishing of grand juries. I am not acquainted, as a matter of fact, with the detail of the statute as it is today in that respect. I do not believe it is a live question up there with our bar.

THE CHAIRMAN: Judge Buffington, will you give us your opinion of it?

JUDGE BUFFINGTON: I do not think, Mr. Chairman, that I can add anything on the subject that would be of material benefit. I confess that during my experience of twenty-nine years at the bar I have only had three criminal cases and that was when I was a young man. However, I am assigned to the criminal calendar, commencing in September, in the Hennepin County district court, and I have been very much interested in the subject and at the present time I cannot make up my mind as to the advisability of the abolishment of the grand jury. However, I have interviewed a number of my associates, some of whom have been on the bench for a great many years, and all of them have come to the conclusion, so far as I can ascertain, that the grand jury system ought not to be abolished. I have discussed this matter with several of them who have had wide experience and at the present time in the Hennepin County district the county attorney files information while the grand jury is functioning. I signed an order the other day, in order to make sure that there would be a strict compliance with the statute, directing the clerk to draw the grand jury for the September term, and in the spring of this year there was a discussion by the judges of the district court of Hennepin County and they thought that the grand jury should continue to function.

Now, as to the fundamental question of inherent advisability, going to the foundation of this, I am not able to state. I am without any practical experience, and I do not believe I would dare to enter this discussion. But we are going ahead, we are having a grand jury, and in addition thereto the county attorney files information. So it seems to me for all practical purposes that it will work out. It is a very important question and, as Mr. Thompson has said, it has aroused a great deal of discussion in this city by various ones who are interested in the community welfare. Some are in favor of it. A good many lawyers are in favor of it and a great many are against it. I think those gentlemen who have been on the bench a long time in my district are inclined to the opinion that the grand jury should be maintained, at least so it will be under the direction of the court and can be called when the court so directs on important matters and matters affecting the welfare of the community and the violation of law by officers of the county, and so forth.

THE CHAIRMAN: Judge Comstock, I want to apologize and to state that when I limited my threat to two judges I did not recognize you. I don't think I had my glasses on at that time. We want to hear your views on this.

JUDGE COMSTOCK: Your first view was decidedly more acceptable to me.

THE CHAIRMAN: But I am sure not to the audience.

JUDGE COMSTOCK: The point of view concerning this question, out in the provinces, is perhaps a little different from that in the metropolitan centers. Out in the rural districts of the state a very profound respect is entertained for the grand jury organization. It has a sort of impersonal entity. It does away with all possibility of an attempt at personal influence. We, out our way, doubt whether the utter abolishment of the grand jury would be wholly within the line of progress, and we

must not forget that in these days of great progress we must reckon with the cost of progress to some extent. We regard the grand jury as such a serviceable element of governmental function, out our way, that we have our grand jury at our command under statutory provision in each county of the district, always, at all times, and we have reason to believe that it operates as a strong restraining influence. Some of us can remember years ago, that when a grand jury was in session certain citizens absented themselves and kept out of the jurisdiction until the grand jury had been discharged. To overcome any possibility of that sort of thing nowadays, we keep a grand jury subject to call always. We are very well satisfied with the present conditions. The use of the information is very acceptable, desirable and practicable, and I think it is the general consensus of opinion of citizens down our way that it would be a mistake to utterly abolish the grand jury. As has been suggested along the lines of the conduct of public servants, it is difficult sometimes to get the prosecuting attorneys—because of that intangible something often referred to as political influence, to take a pronounced stand against public officials, especially if those officials are well intrenched in a political way. Then the prosecuting attorney is naturally considered more susceptible to personal influence than the organized grand jury, and the abolishment of the grand jury might lead to the temptation to try to affect by influence, the prosecuting attorney, in a much larger degree and to a greater extent than at the present time with the existing safeguard of the grand jury. So, from every point of view, from practical observation and from experience, I must say that we are very well pleased with the present situation and would be very much opposed to the utter abolishment of the grand jury.

THE CHAIRMAN: We have with us today a gentleman who is not a judge but who ought to be. I have known him a long time, and I came, a great many years ago, to value very highly his opinion on any professional or non-professional subject. Mr. C. A. Fosness, I am talking about you and I want this assembly to have the benefit of your views on this subject too.

MR. FOSNESS: I have not had any experience which gives me exceptional qualification to talk on this subject. I have not been county attorney very much, I have not had a great deal of experience in criminal cases, I cannot add anything to what has been said. Personally, I should hesitate to vote for the abolition of the grand jury entirely under all circumstances, and it seems to me that with the present decision of the supreme court,—which, by the way, was rendered before Mr. Stone got on there,—is a very happy solution of the question. Personally, as I said before, I should not want to vote to abolish grand juries.

THE CHAIRMAN: Are there any further remarks?

MR. THOMPSON: Before the end of this I would like to call attention again to the report so there may be no misunderstanding about it. The majority report does not recommend the entire doing away with the grand jury. You will see that they say that the grand jury should be called or can be called by the presiding judge, or the prosecuting attorney, or the county commissioners, or a certain number of citizens. It was not the

idea of the majority of the committee to do away with the grand jury entirely. The idea would be simply this, that the right of the county attorney to file information would be extended to all cases, whereas now it is limited to cases where the punishment is not more than ten years. Now if the county attorney had power to file information on all cases, in all ordinary situations, there would be no necessity for the use of a grand jury. If, however, a grand jury was necessary to investigate county officials or to take care of a vice situation or anything of that sort, it could be called in any of the ways here specified. In fact the majority report would give greater powers to the calling of grand juries than does the present law. The present law, passed last winter, as I remember it, makes it the duty of the district court and the district court only. But in addition to that the majority report would give the power also to the county attorney, or to the county commissioners, or to a certain number of citizens. That is about the only difference between the majority and the minority report. Under the majority report the county attorney would have unlimited power to file information in all cases. In the minority report he would be restricted to those cases in which the punishment did not exceed more than ten years in the penitentiary. There was no one on the committee who wanted to do away with the grand jury entirely.

THE CHAIRMAN: Mr. Thompson, will you please read the recommendation of your majority?

MR. THOMPSON read the recommendation, found on page 126 as follows:

"That the use of the grand jury be dispensed with in the ordinary criminal case. That the county attorney file information against persons whom he believes should be prosecuted for crime. That every such person should have a right to preliminary hearing before a magistrate. The magistrate should either dismiss the information or bind the defendant over to trial at the next term of court. If a hearing is necessary in order to discover evidence, as is sometimes claimed, provision should be made whereby the county attorney could summon witnesses before a magistrate for the purpose of getting information to start prosecution.

"As the use of the grand jury is sometimes necessary and desirable in cases involving county officials or unusual conditions arising in a community, we further suggest that the law provide that a grand jury may be summoned by the presiding judge of the district, by the county attorney, by the county commissioners or by a certain number of tax payers.

"We believe that the adoption of the foregoing suggestions will preserve all of the benefits of the grand jury system and do away with its bad and expensive features."

MR. THOMPSON: That other recommendation in there had reference to a point brought up by county attorneys a year ago. We wrote every county attorney in the state and practically everyone answered the questionnaire, and some of them suggested that the use of a grand jury was very desirable in cases where an investigation had to be made, where the county attorney could not get the evidence otherwise. I think the practice in South Dakota is to summon witnesses before a magistrate and accomplish the same results that way. And such a hearing could be had privately, so that the evidence would not be made public.

MR. BRADFORD: May I ask what the constitution of the state says about that?

MR. THOMPSON: I am not certain about that, Mr. Bradford, off-hand.

MR. BRADFORD: Mr. Washburn was inclined to believe that the constitution said that a man could be tried upon indictment or presentment.

THE CHAIRMAN: It is dangerous to start a quiz on the constitution. (Laughter.)

MR. THOMPSON: I think there is no constitutional objection to this change.

MR. WASHBURN: What is the basis on which they say a county attorney can act?

MR. THOMPSON: They simply discovered a law which said that they could do it, one that had been overlooked.

MR. WASHBURN: There was no objection to that?

MR. THOMPSON: No, there was not.

THE CHAIRMAN: Through the kindness of Dean Fraser I learn that we are fortunate enough to have with us Professor Miller, of the University of Minnesota, a lawyer of distinction from the bar of California and for some years a county attorney. Professor Miller, would you give us your idea?

PROFESSOR MILLER: I might preface my statement as to the question, by saying that the method in California seems to be entirely satisfactory to all concerned. I have never heard any agitation for a change of any kind. The method there is to allow the district attorney to commence proceedings in the manner suggested, by filing information in all cases, or to allow the matter to be taken before the grand jury in all cases. In actual practice the custom is to have this done by information alone. During my four year term I never had an indictment found by a grand jury. The process is not exactly the same as indicated by the committee report in that the information is not filed with the district attorney. Any person can make complaint. The complaint is filed either in justice court or police court and the judge of the court is the magistrate who hears the matter in preliminary hearing. At the preliminary hearing the district attorney appears, and if the defendant wishes, he may be represented by counsel. A record is kept of the proceedings in the preliminary hearing and if the justice is convinced that the case be held over for trial in the trial court, the prisoner is committed. The district attorney then files his information and his information corresponds to the crime which is found at the preliminary hearing. It may be an entirely different charge from the one on which the complaint was filed. Most of the criminal cases which are tried in California are tried on the basis of that procedure, and on information. The law provides, however, that at least once a year a grand jury shall be summoned and the annual practice is that there shall be a grand jury called at least once a year. The presiding judge in my county told me that he used to put on the grand jury every person who had complained to him during the year, that things were not being properly carried out in the county. In that way he struck a wonderful balance and got all the sore-heads of the county together to talk over their troubles and absolutely never produce anything. The grand jury, however, does serve a very useful function in the

state in cases of such character that the district attorney hesitates to pass on them, such as you suggest in your report, cases concerning which there is much feeling in the community and where the penalty is high. There may be cases in which a county official is concerned and in that case the county attorney can shift the responsibility to the grand jury. That does not happen very often but it happens sometimes and I think it is a good safeguard to have to protect both the district attorney and the people of the county. You can visualize what the conditions might be to require protection for one or the other. The practical result of this has been to make the grand jury practically a useless appendage, so far as criminal cases have been concerned, but in extreme cases it is valuable. The people of the state are entirely satisfied with this system.

MR. WASHBURN: I would ask Mr. Miller if the office of county attorney in California is an elective office?

MR. MILLER: Yes.

MR. WASHBURN: And I would ask if it is his observation, not to state experience, that the public has not suffered by having the power vested in the attorney who might feel some responsibility to prosecute some people whom he had known?

MR. MILLER: If you mean do they depend entirely on the district attorney of course they are not dependent entirely on his judgment because it has to go through the hands of a magistrate eventually, but I think it would be very desirable to have the grand jury available. Sometimes there are matters on which the district attorney refuses to act and it is presented to the grand jury. Sometimes they confirm and sometimes they repudiate his recommendations. The very fact that the jury is available for that purpose constitutes protection for him and for the people. The direct effect is that justices of the peace refuse to proceed with a complaint until the district attorney passes upon it. On another point, the suggestion regarding the calling of witnesses before the district court, without any law on the subject at all, the general practice in California is for the district attorney to ask people to come to his office and to give testimony. In most cases they will come. He merely issues a simple demand. It looks like an official subpoena but it has no law behind it, and they usually come in order to avoid difficulty. Of course where they won't the district attorney has the alternative to go ahead and get a preliminary hearing before a justice of the peace or let the matter go to the grand jury.

JUDGE BUFFINGTON: In connection with your discussion may I say a word, and that is that what has particularly interested me is the efficacy of the formal report of a grand jury. I cannot find any warrant in law, for a formal report of a grand jury other than the mere report which is of a secretarial or clerical character, that goes to the court or to our clerk of court. But in Hennepin County there has crept in a practice of the effect of which I am in doubt. That is, they make a full and complete report, jumping on everything in sight, and sometimes the foremen of grand juries have acted as judges, to say what they ought to do, and independently of any advice of the judges, they have gone out

and attempted to take up matters in their own hands, and in some instances they have slammed everybody. I recall one instance where a grand jury submitted a formal report to the judge of the district court in which report that particular judge was severely reprimanded, for not giving enough time to a branch of the judicial service. He had to sit there, and fortunately he did not read the report. The point is, without any warrant they come in and go after everybody, the police department, and everything, and perhaps the effect is not good on the public mind. The question is how far the judge of the criminal calendar should permit these things. In talking to Judge Comstock he says they make a report in his district. I have not discussed this point with Judge Fesler, but in Hennepin County the newspapers get out the grand jury report and sometimes I think they exceed their authority. As I recall the statutes, they are limited to certain things, well defined duties, the duty of examining witnesses and the records of the county officials. What does the bar think, if it has thought at all, of the effect of the widely published reports given to grand juries which have crept in and by general acquiescence have been received? I have looked up the law and I think there is no warrant for any formal report of this particular character and that it is simply a custom which has grown up. What is the effect of it? I would like to know. I think judges are favorable toward the functions of the grand jury but I have in mind, of course, their legal duties, the presentation of indictment, but not formal reports. It is a big thing for the newspapers of the community, but is that a good thing?

MR. BRADFORD: I am just going to suggest this, that in Ramsey County the grand jury is made up of representative business men. If you read the list there you will find bankers, wholesalers and all other kinds of responsible men, except lawyers,—they don't want lawyers on.

MR. BURR: They are not responsible.

MR. BRADFORD: The reports of our grand juries are very complimentary. They compliment the jail, they compliment the workhouse, they compliment the poor house, they compliment the poor farm, they compliment the judges, they compliment the police force. The only criticism I can see that Judge Buffington might have is the difference of the condition in the two counties. (Laughter.) There is one more thought that I want to bring before you gentlemen here on this subject of abolishing grand juries. It is very hard to get a business man, a wholesaler or a banker to swear out a warrant for a man who has pilfered, say, things from his warehouse, or embezzled money from his cash drawer, because he says: "If I don't get conviction they will sue me for malicious prosecution." Every time you don't succeed in getting your county attorney to convict your man, you will find a malicious prosecution case on your hands. An indictment by a grand jury is not a saving defense to malicious prosecution, but it is a good defense. It is probable cause. They have been indicted because a probable cause has been shown to the grand jury, and I am afraid that with the abolishment of grand juries you would find it would be an aid to criminals, because the business man will not have a man brought to trial if he has got to go up and swear out a warrant for him, himself; I think this is another reason why we should not abolish the grand jury.

MR. RIEKE: Make a motion.

MR. BRADFORD: I understand the motion has been made, to accept the report.

THE CHAIRMAN: I would make this suggestion particularly to Mr. Thompson: In your report it calls for recommendation and full discussion, as a matter of fact, two reports are there, majority and minority. I would like to suggest that you withdraw your present motion and follow it up by another for the adoption of the majority report. Then, by amendment, or otherwise, we can dispose of the matter finally and pretty thoroughly.

MR. WASHBURN (Duluth): Before you close that discussion, I wish you would give Mr. E. M. Morgan a compulsory opportunity to give his ideas.

THE CHAIRMAN: I am always willing to make it unpleasant for Mr. Morgan.

MR. THOMPSON: I will amend my motion on that.

MR. BURR: Second the motion.

THE CHAIRMAN: Remarks are in order, particularly from Colonel and Professor Morgan.

MR. WASHBURN: I didn't know what his latest title was.

THE CHAIRMAN: I know all of them.

MR. MORGAN: I suppose Mr. Washburn had me called upon for the reason that, as one of our mutual friends here once said, that usually a man is chosen on account of his peculiar unfitness for some position. Possibly that is why I have never had anything to do with either the defense or the prosecution of criminal cases, except once when Judge Dibell appointed me to defend an alleged criminal, and then I thought all the machinery of the state was wrong. I don't know anything about the question except that I will say to my friend Cherry here, that so far as I can find out most of our Associations are always satisfied with the law as it is. I have been sending out some questionnaires recently for our committee, and I find that whereas Connecticut has a statute different from all surrounding states, they are entirely sure that the Connecticut statute is right. They have had it for seventy-two years and think there is no reason why it could not continue for the next seventy-two years. I submitted that same statute to a number of gentlemen from the New York Bar and they are absolutely certain that it is no good and never will work. I submitted the questionnaire of the Massachusetts statute that has been in force for twenty-five years, and the men who have had the greatest experience in New York say it is all right,—but I asked our Connecticut brethren what they think of the Massachusetts statute and they say, "Well it won't do. Our statute is much better." There you have it. I think that is what we always find with the Bar. One of the members of the circuit court of appeals said with reference to our questionnaire to Massachusetts and Connecticut Bar and New York Bar,—he said, "It is perfectly obvious from the results of the New York questionnaire that perjury is rife in Connecticut and Massachusetts and that New York is the only state that is properly

protected." On this particular question I realize that there has been a great deal of agitation for the abolition of the grand jury. They have the grand jury in Connecticut only for capital cases. Everything else is done by presentment and the prosecuting officers there are attempting now to get the grand jury abolished even for capital cases. They have a system there, which I think is not the system in Minnesota, I know it is not. Even the prosecuting attorney is not permitted to appear before the grand jury and present the side of the state there. The grand jury acts without direction, and for that reason they are trying to get the grand jury abolished or its function cut down at any rate. Certainly I do not know why Mr. Washburn wanted me to make any remarks upon this subject, but it does seem to me that if you are going to consider this question at all the only way to go about it is to find out what other jurisdictions have found out about grand juries and make a comparison, between those that have and those that do not have grand juries. Otherwise we have nothing to argue from a priori. I have never yet seen that kind of argument sufficient to convince the Bar Association that any existing system ought to be changed. They are familiar with the system, they have had experience with it, and they know whether it works well or ill, and the other is then turned down.

MR. E. E. MCDONALD (Bemidji): I am of the opinion that the grand jury should not function unless called to do so by the presiding judge of that court. I believe that the county attorney should be given authority to file information in all cases with no restriction whatever and I believe that the accused, against whom the county attorney had filed information, should, if he demands, be entitled to a hearing before a magistrate. In the country districts I am quite sure that we do not have a grand jury, except perhaps once a year, unless called by the district judge. I do not believe in abolishing the grand jury. I knew of a case where the grand jury was used in this way, they were kept in session continuously, or from time to time, and when the accused was suspected of framing the case, the parties who were said to be engaged in framing the defense were called before the grand jury. I can understand that in any cases where the county attorney might want information and could get it by asking the people to come to his office, he could ask the court to convene the grand jury and call the witnesses before the grand jury,—a measure that would be private, the evidence that would be given by the person would not become known, although it would be known that a certain person had been before the grand jury. I question the propriety of permitting the county attorney to call before him any person who did not want to go. I should oppose the idea of allowing the complaint to be filed by any person that might feel that he had a grievance against somebody else. There ought to be some officer, he may be a county attorney, if you please, or a magistrate, or the grand jury, who is to pass upon the correctness of this man's complaint, whether or not he is moved by motives of vengeance or envy or something like that, before a warrant should issue for the arrest of the accused.

THE CHAIRMAN: The question, gentlemen, is on the adoption of the majority report. The recommendation was this:

"That the use of the grand jury be dispensed with in the ordinary criminal case. That the county attorney file information against persons whom he believes should be prosecuted for crime. That every such person should have a right to preliminary hearing before a magistrate. The magistrate should either dismiss the information or bind the defendant over to trial at the next term of court. If a hearing is necessary in order to discover evidence, as is sometimes claimed, provision should be made whereby the county attorney could summon witnesses before a magistrate for the purpose of getting information to start prosecution.

"As the use of the grand jury is sometimes necessary and desirable in cases involving county officials or unusual conditions arising in a community, we further suggest that the law provide that a grand jury may be summoned by the presiding judge of the district, by the county attorney, by the county commissioners or by a certain number of tax payers.

"We believe that the adoption of the foregoing suggestions will preserve all of the benefits of the grand jury system and do away with its bad and expensive features."

That is the portion of the report setting forth the recommendation of the majority of your committee. The question is now on its adoption. All in favor of the motion say aye. Opposed, no.

Motion carried.

This is a special committee. Shall we consider the committee discharged, or, in view of the fact that this is not a legislative year in this state, do you wish to continue it?

MR. MCDONALD: Inasmuch as the vote is in favor of the majority report, it seems to me the special committee should be continued, and I so move.

Motion put, seconded and carried.

(Noon recess)

Curtis Hotel, Minneapolis, August 27th, 3 o'clock, P. M.

Meeting called to order, Judge Royal A. Stone presiding.

MR. STONE: Gentlemen, after years of experience with the Minnesota State Bar Association, I know fairly well its membership, and I know that no one so far has been more faithful, more efficient, more loyal in the service of our Association that Mr. John M. Bradford of St. Paul. I want to ask him to preside at this afternoon meeting. Mr. Bradford. (Applause.)

MR. BRADFORD took the chair.

CHAIRMAN BRADFORD: Gentlemen: Justice Stone has been talked to so much and has been forced to keep mum so long, that I do not blame him for wanting to get down on the floor where he can be with the regular fellows. I shall be glad to help him out. Mr. Graves, do you wish to make your report today. (See Appendix, p. 103.)

MR. GRAVES: This report of the Committee on Legal Education is printed on page 103. In connection with that report I would like to say that the program of the American Bar Association has, as I understand

it, become quite generally accepted throughout the country as fixing a proper standard. There are in these states certain local difficulties, but in general the recommendations of the American Bar Association seem to be meeting with favor. Local associations generally have endorsed its programs. So far as the practical work of this committee is concerned, it was the feeling that nothing could be accomplished at the last session of the legislature, or that the legislature was somewhat disorganized, that its business was not likely to be dispatched in any way expeditiously, and that sentiment on this educational program had not been developed sufficiently in this state to make it advisable to go to the last legislature with anything specific. We thought that with the meeting of the American Bar Association coming along, there would be an opportunity for the members of this Association to learn of the magnitude of the work of the American Bar Association. The meetings of the Conference of Bar Association Delegates and of the Legal Education Section hold an amount of interest for lawyers, and anyone attending those meetings will appreciate the means for actively doing whatever he can in his own local association, and whenever opportunity presents to help with the work of promulgating a proper understanding of what the legal education program of the American Bar Association really means. Now generally throughout the country it is found that the program is gaining momentum, and it is only going to be a year or two before a demand will be made that this state should follow the lead taken in other states, where the question has been really of greater moment than it is here. It is with that thought in mind that the suggestion is made that a committee be kept in being.

THE CHAIRMAN: Do you make that as a motion?

MR. GRAVES: Yes, I think that is perhaps the only specific motion to be made.

THE CHAIRMAN: This is a standing committee, is it not?

MR. WASHBURN: I think Mr. Graves might give us a little idea of the line along which his committee is working as to requirements.

THE CHAIRMAN: Mr. Graves, did not the session before this one pass a law giving the Supreme Court authority to make certain standards for admission to the Bar?

MR. GRAVES: Yes, that was done, but the law as it stands does not permit the adoption of the program of the American Bar Association to its fullest extent. In this state the situation is this: Of course we have the Board of Law Examiners, who are charged now with the duty, as I recall it, of presenting to the Supreme Court rules governing the admission to the Bar. The initiative is given to the Board of Law Examiners, but they can do nothing without the approval of the Supreme Court. Now the Committee on Legal Education has had up with the Board of Examiners, the question as to how the standard of education for admission may be raised, and it has met with the expression of this feeling on the part of the board, to make it specific—that it is not practical at the present time to secure the adoption of the American Bar Association program, that the Supreme Court did not feel that the program was adapted to the needs of this state. Now, the attitude of the committee

with respect to the matter I think is this: it is the attitude that the young man can secure his education in the modern law school, that he does not need to rely upon education in the law, and not only that, but I think that under present conditions he is probably not going to be adequately trained for competition in the practice of the law, if he is permitted to secure his legal education merely in the law, and of course, collaterally, in running through the whole problem, you have the question of the law school itself, what standard needs to be kept for the law school, in order to assure the profession and the public that the education is properly furnished. Now when I speak of going to the legislature for action I do not mean quite that. What I mean is this: that until we understand sufficiently in this state what the needs are, that in my view it will not be well to ask the Supreme Court to take the lead, because the legislature may come along and just undo everything that had been done, and as we sensed the situation, that was it.

While we did not feel that the legislature would sanction this program as the members of the committee (at least and, as I take it, the Bar Association) would like to have had it drawn up.

MR. WASHBURN: What is the program?

MR. GRAVES: Well, the program, the substance of it is this: it calls for three years of study of law in a law school requiring full attendance; four years in a night law class, where the full attendance is not required; two years of college education. That, I think, is the substance of it. If I am wrong I would like to be corrected. My only feeling has been that for the immediate present, no matter how meritorious this program is, we are not quite ready for it. That our needs for reform, if you want to put it that way, in this state are not nearly as great as they are in some of the other states, that might be found in the big cities with a very large foreign element. That is where the problem reaches its acute stage,—New York, Boston, Chicago, Philadelphia and so forth, with the large foreign population. They have the problem presented in a way that we do not have it here. I do not mean to say that this state should lag behind. I think that we are going to find that the program is receiving sanction generally, and I say I think we are going to find a demand arising here so soon as it is demonstrated that the program does not go too far, and that it is not going to deprive the young man who wants to become a lawyer of his opportunity.

MR. WASHBURN: Has the committee any data as to the number of men who were admitted to practice who have not had a law school education?

MR. GRAVES: The committee secured that data, I do not remember the figures at all, except that I know that the number qualifying in that way was almost negligible.

THE CHAIRMAN: What will you do with the committee's report?

MR. BURR: I move that it be received.

MR. STONE: I second the motion.

Motion put, seconded and carried.

THE CHAIRMAN: Mr. McDonald will you give us the report of the Drainage Committee?

MR. MCDONALD: I am sorry Mr. Cliff, Chairman of the Committee on Revision of the Drainage Law, is not with us today. His report is printed in the Appendix, page 125. I want to add to what he said there that a little progress has been made during the last session of the legislature and it looks as though, as a result of the work done that we might have a code of drainage laws, acceptable in all parts of the state. Drainage is a difficult subject to legislate upon, because drainage is one thing in one part of the state, and another thing in another part of the state. Drainage in the northern part of the state is entirely different from other parts. The purpose of drainage in some parts of the state may be the reclaiming or securing of arid lands for agricultural purposes, and in other parts of the state it may involve the construction of highways, principally, or getting the public lands upon tax rolls, so that we will get a revenue from those lands. And so I say it is not an easy matter to secure legislation upon it; but such progress has been made during the last session that we hope for a drainage code that will be acceptable throughout the state. We hope that the bill as drawn will be applicable to different parts of the state needing different systems of drainage. The report says Senator Cliff has been in an accident, which put an end to all work upon the subject. We hope during the next session the work will go on and that the next session of the legislature will provide us with a workable drainage law that can be used in every part of the state, and that it will be drawn so it will apply to all different parts of the state.

THE CHAIRMAN: I think there is a recommendation in your report, is there not? Do you want to put that in the form of a motion?

MR. MCDONALD: I move that the report found here as signed by the chairman of the committee be adopted and that this committee be continued to report at the next meeting of our Association.

MR. RIEKE: I second the motion.

Motion put and carried.

THE CHAIRMAN: We have with us today Mr. Middleton of Beaudette, Minnesota. I happened to be up north looking up the road map, I found that Beaudette was a long ways out. I think Beaudette is probably as far from here as Chicago and we would be very interested to hear from Mr. Middleton about the history of the border town and what goes on up there. I call upon Mr. Middleton.

MR. MIDDLETON: I don't think it is because I have anything special to say, but I am glad of the opportunity to greet my brother members of the Bar, though I am sorry that I have not met more of them here at this time. You have a great big state here and a lot of lawyers here, and some very able lawyers and very able judges, and while I am not acquainted with a great many of them, and would not know their faces if they were before me now, I am ready to believe that there are not very many of them here today. That is unfortunate, and yet, having been something of a derelict myself I must plead guilty. I was admitted to the Bar of this state in 1881. I left the state in 1884 and

did not return until 1904 and I have neglected all these years to become associated with your organization, and I will confess right here and now that I am ashamed of it, and only a few months ago it occurred to me that the time had arrived when I could not and should not put it off any longer, and I am pleased to say that I a now a member of this as well as of the American Bar Association. It has been suggested by your worthy chairman that I come here from the extreme northern part of the state, that is true. I got into an automobile yesterday morning at six o'clock and drove three hundred miles yesterday, and with the exception of about twenty-five miles between Beaudette and Keller we were on gravel or paved roads all the time. So that if we had not delayed for luncheon and an hour or so for dinner, we could have been in Minneapolis last night at ten o'clock. That is something unheard of in the past, and while I do not know very much about the roads excepting the roads south of those cities in the state, I want to state to you that during the last four or five years we have been getting a number of splendid roads in northern Minnesota. We have a road that passes through our town between International Falls and Warroad, a gravel road, as good as some of the splendid gravel roads that we traveled over in coming down here. The county in which I have the honor to preside is the youngest county in the state of Minnesota. It was created by proclamation of our governor on the 28th day of last November and we have one distinction up there, being on the Canadian border, that is unique. Not only in Minnesota, but I think in any other state in the Union. A portion of our state is what is known as the Northwest angle, and our friend Mr. McDonald from Bemidji can tell you about it because he was county attorney when that white elephant was on his hands. It is attached on the west to Canada. It is detached from the rest of our county by water so it cannot be reached except by going forty miles across the Lake of the Woods, or a portion of the Lake of the Woods. There is no way you can reach it by land except by going away around by way of Canada, and there is no road in Canada by which it can be reached. There are only, if I remember correctly, about four or five townships in that angle, and while it belongs to us and we are doing the best we can for it, we realize that at the present time it is a good deal of a white elephant. Gentlemen, I am sorry I was not here this morning. I did not reach town in time to attend the forenoon period. I would have liked to be here and heard your discussion on the matter of the grand jury. I had the honor to be a member of the constitution convention in Montana in 1889 and that very question which you had before you this morning in the report of your committee was before that convention and considerable discussion was had. The result was that they practically abolished the grand jury in Montana. There is a provision, however, that upon the recommendation of the county attorney, who feels that the matter is of such political color, or of such character, that he ought to have back of him the moral support of the grand jury, that he may request the trial or the district judge there to appoint one and the judge usually will act on his recommendation. A great many of the old time lawyers were strongly opposed to it, but it has been in operation now without any amendment or any

attempt at an amendment since 1889, and my information, when I was out there two years ago, was to the effect that only two grand juries had been called in the state. One of them was in the early days when a political fight was on between Marcus Daly and W. A. Clark, who has since been United States senator, where there was a charge of bribery on his part of several members of the legislature. I do not recall now just what the other occasion was, but these are the only instances in which the grand jury has been called in that state, and when I was out there some three or four years ago I hesitated to talk with some of the old time lawyers, but they admitted frankly that they had been mistaken and that they could see no need for the grand jury excepting in the very rarest cases, and I am glad to know that you have adopted the report of your committee. I cannot but believe that after that has been in operation that it will be but a short time when you will practically abolish the grand jury to the extent at least that Montana has done.

We have been a little bit unfortunate in our part of the state in having to get away from Mr. McDonald's part in Beltrami County. They have always treated us white, especially so far as the Bemidji people were concerned, but we have been so far away that it was a good deal easier to get to Minneapolis and do a day's business here and get back home than to go to Bemidji, the county seat. Until very recently, in order to have a day to transact business in Bemidji, it required three days or four days from the time we left Beaudette before we returned home, and then it would be five o'clock in the morning and we would be worn out for the next day's work. We who have been practicing since 1906 feel considerable relief to have only three blocks to go to the court house, in place of three or four days time to do a little business. I don't know that I should take up your time any further.

MR. WASHBURN: How many people live in that angle, Mr. Middleton?

MR. MIDDLETON: Do you know, Mr. McDonald?

MR. MCDONALD: When I last knew I think there were fourteen.

MR. MIDDLETON: Well there are about sixty or seventy now, I think, possibly no more than that. There are some battles, we have troubles, with bootleggers and blindpiggers, and there are a number of them up there, at least there is a good deal of complaint. I regret very much that my son, who was the first county attorney of the new county there, is not here to attend this meeting and the meetings of the American Bar Association. He and his family about five weeks ago started on a car trip across to Seattle and he expected then to be back in time to attend these meetings. But I have had word from him that he could not get back before the first of September; he has been my law partner since 1912 and I feel that what he could have absorbed in these meetings would have been invaluable to him. I regret that he cannot be here and I want to say to you now that I aim in the future to try to attend these meetings annually, if I can. I do not believe that I am too old yet to learn, and I never have attended anything of this kind where I did not feel that I was benefited, and I have been in organization work long enough to know that practically nothing of value is accomplished except by organization and association, and I know that through your organiza-

tion you can accomplish and have already accomplished a great deal for the state of Minnesota and will continue to do so in the future. Gentlemen, I thank you. (Applause.)

THE CHAIRMAN: Mr. Middleton, we thank you for coming down to our Association meeting, and we shall look for you every year after this and bring your son, too. Mr. Shearer, is your report ready?

MR. SHEARER: You members that are here from St. Paul and Duluth and the country—

MR. BURR: Some are from Minneapolis.

REPORT OF THE COMMITTEE ON UNIFORM PROCEDURE IN FEDERAL COURT

MR. SHEARER: I feel guilty myself, to make my first appearance in the day. I don't believe there has ever been a time since I have been a member where I have not heard the president's annual address before, but I was out of town the last two weeks and got home late this morning, and while this is no good reason, no justification, it is probably an excuse. I am sorry not to see a larger number here. I think there has probably been a fall-down in the way of publicity as to time and place. Furthermore we have been more or less engrossed with the American Bar Association and the Commission on Uniform State Laws which has been meeting with us for a week, and everyone connected with these matters has been working pretty hard. I realize this is not a report of my committee, but I thought it was probably wise to preface what I have to say by this explanation.

Unfortunately, gentlemen, we have no written report this year. As chairman of this committee, I think I was derelict in not going over the matter. I was not notified personally that I was chairman on any committee and I did not know until just a short time before the secretary was about to send the reports to the press, I had notice from him and I was then called out of town and it seemed to be impossible to make a written report and get in touch with all members of my committee. So if there is no written report of this Committee in the folder, please remember this explanation. However, we did make a written report last year and I do not think there is very much to add to that report. As you know, we used to have in the Senate of the United States a gentleman from St. Paul, representing the state of Minnesota, Frank B. Kellogg, and he was on the job all the time in the Senate, (applause) and was a member of the Senate Judiciary Committee on this subject, which this committee has before you now. Mr. Kellogg brought the matter up and gave his time early and late for the purpose of backing up the various committee reports of the American Bar Association, on this same subject, which have been made for years, and they have been making slight, but perhaps decided progress. Since Mr. Kellogg left the Senate I can say that I think there have been practically no steps taken along this line. There were several very strenuous objectors, always objecting to the project of having uniform procedure in the federal court with

respect to the law side, although we have had it for years on the equity side. Senator Walsh of Montana has been the chief objector. He has worked early and late to defeat any action and he, I think, has been able to defeat action tending towards the passage of the bill which Senator Kellogg formulated and presented session after session. All I can say is that the American Bar Association (we have been attempting to follow their lead) has been strongly in favor of uniform procedure in the federal courts as tending towards a simplification and unification of the system in vogue there, or which ought to be in vogue, and the committee of which Mr. Shelton of Virginia is chairman has made a report to the American Bar Association, and it has been making steady progress; although they have appeared before the Judiciary Committee time and time again, they seem not to have been able to overcome the obstructionists that have appeared there to fight the bill. So all I can say today is that our committee today I think stands just where they did a year ago, and if you remember anything about the report a year ago you will know that we were following the lead of the committee on the same subject of the American Bar Association. We believe in it and sometime we hope, in the not distant future, we will have a representative there that will do the work that Mr. Kellogg laid down. We hope some progress will be made in this direction. If it cannot be done by the American Bar Association, surely we could do no more than simply back them up, and that is about the extent of the report that can be made by this committee.

MR. RIEKE: Why should there be any opposition to the bill, any reasonable opposition?

MR. SHEARER: Well, the chief opposition seems to be on this point; they say that most of the attorneys who practice in the federal courts now know the practice, and if you make it uniform throughout the entire United States you are putting forth a new system of procedure that the lawyers will all have to learn over again. That seems to be the most nearly sensible and important objection. There are a good many other objections, but any reform, of course, requires study and adaptation. I think that as time goes on that will fade away as a valid objection against the passage of the bill. The bill itself is only half a dozen lines and there is nothing complicated about it. It simply puts the matter in the hands of the court—the rules to be formulated under the direction of the Supreme Court of the United States—and surely everybody would be well satisfied with what they would do. Our Chief Justice Taft has been in favor of this for years but even his influence seems not to have been sufficient to carry it over the red line. I regret, gentlemen, and apologize for not making a written report.

THE CHAIRMAN: Gentlemen, you have heard the report of the committee. What is your pleasure?

MR. STONE: Just one thing I would like to emphasize. It so happens that very recently I read the report of the American Bar Association and I recommend it to all of you because I want you to get mad about it in the same way that I have gotten mad. The reforms suggested by the American Bar Association have all been along the lines of sim-

plifying the federal procedure, making it conform more nearly to the procedure in the state courts. There has never been a question at any time about the passage of the bill now proposed or of any of the other bills, and there have been a great many,—if they could be gotten onto the floor of either the House or the Senate. Some of them have gotten onto the floor of the House and the bills have passed the House, but they have not been able to get them out of the committee in the Senate, largely because of the opposition of individual members. Now until the members of the American Bar can make themselves sufficiently pestiferous to that class of opposition in Washington, nothing will be accomplished. We are abused as a profession on account of the alleged backward state of jurisprudence and court procedure in the United States. The fault is not ours. It is the fault of a coterie of politicians in Washington. I submit that the time has come when we ought to adopt a somewhat rougher (if you please) or more practical method of meeting the situation. I do not know what reputation we have now in the councils of the American Bar Association on this subject,—perhaps Mr. Shearer knows because I think he is one of them,—but I suggest, with the privilege of expressing my own views, that with such individuals as Senator Walsh, there ought to be found a method as rough as may be necessary of making them come into line, because, for their sins the entire American Bar is being scolded in all the literature of the land that takes any note of the situation. The fault is not ours. I have indicated, I think, where it lies. There is the situation. I wish you would read that report, and you will have plenty of opportunity in the sessions of the American Bar Association to make the voice of the Minnesota lawyers heard on the subject.

MR. BURR: I think the American Bar Association has been a unit on that subject. I have never heard of opposition. The secret of the opposition, as Mr. Shearer has said, is the strength of Senator Walsh of Montana, who has been able to a large extent to keep the bill off the floor. As I say, the American Bar Association, I think, has been a unit. If there has been any opposition in the Bar it has never been heard of in our meetings or those of the American Bar Association. I think Justice Stone has analyzed the situation and has told us what we should do. There has been an effort made to get the sentiment of Congress on the subject and a questionnaire has been sent to every senator and congressman to get his answer to the question of whether or not he favors it, and the answers have been almost unanimous in favor of the bill and we hope for its early passage as there is another session.

MR. DUXBURY: I read the report of the American Bar Association and I remember that I marveled at the thought that any one man could ever have the power to hold up a thing of that kind, as the report of the committee indicated everybody else was in favor of it. It does seem strange to me if everybody but one man is in favor of it, it should not be hard to overcome the opposition of that one man. I was impressed with that thought I say, when I read that report. I think there must be something more, I think they are giving the gentleman more credit than he is entitled to. There is something more than one man behind an opposition of that kind to make it effective.

MR. SHEARER: There are two other senators whose names I do not recall, who take a large interest, and seem to have traveled along with and supported the opposition of Senator Walsh. Of course we have lost one of our best friends in Senator Nelson, who was in favor of this measure and the chairman of that committee. I do not know just how it happened, but it does seem to me that if this Association should go on record (and I don't think we ever have except by the adoption of the committee report), in favor of this thing and present an active forceful resolution to the American Bar Association, which meets with us in a day or two, it might hearten them and encourage them a little bit to redouble their efforts. It seems to me we ought to make it count. After you have passed this report, if you do, I will make another motion.

THE CHAIRMAN: You have heard Mr. Shearer's report. What shall be done?

MR. STONE: I move to adopt the report.

MR. DUXBURY: Second the motion.

Motion carried.

MR. SHEARER: I now offer the following resolution and move its adoption:

WHEREAS, ever since the year 1911, responsive to a public demand, The American Bar Association has consistently advocated the enactment by the congress of a law to make uniform the procedure of the federal district court, and,

WHEREAS, for several years there has been pending in Congress a bill known as H. R. No. 133 and S. No. 1214 designed to vest in the Supreme Court of the United States the power to formulate and put into effect a complete system of rules for the regulation of the procedure and practice of the federal district courts, and,

WHEREAS, the lawyers of the state of Minnesota believe that such a system would result in great benefit to the people as well as the Bench and Bar, in dispatching litigation simply and efficiently, and,

WHEREAS, the above bill, or a similar bill, although unanimously recommended by the judiciary committee of the House, has been held in the judiciary committee of the Senate for more than eight years,

THEREFORE, be it resolved, That the Bar Association of the state of Minnesota in annual meeting assembled, hereby gives formal expression to its entire sympathy with and approval of the American Bar Association's program to secure uniformity and simplicity of procedure in the federal courts, and does earnestly request the Congress to enact into law House bill No. 133 at the earliest possible moment.

BE IT THEREFORE RESOLVED, That a special committee composed of one member from each congressional district of this state, be named by the president for the purpose of presenting these resolutions to the congressmen and senators of this state, and to the president of the United States; and otherwise to cooperate with the American Bar Association's committee on Uniform Judicial Procedure in its efforts to secure the enactment into law of the above bill.

Motion seconded, put and carried.

REPORT OF COMMITTEE ON LOCAL AND STATE BAR ASSOCIATIONS

MR. BRUCE SANBORN: Last year Mr. Bailey, as president of the State Bar Association, took a great deal of interest in the formation of a body to be known as a section of the Bar Association on the cooperation of local and state Bar Associations, which would meet at the time of the State Association and be patterned after the body and of almost the same name of the American Bar Association, and there has been an effort made to have delegates come from all associations that do exist, and where an association does not exist, some county,—to have the delegates come from some county, so that there was quite an attendance last year and there was a meeting on one of the days of the Minnesota Bar sessions, and at that meeting Mr. Sasse of Austin was elected president, and he was authorized to select a secretary and did select a secretary, Mr. Holman of St. Paul, who sent out letters to some of the members of this Association, notifying them that a conference was to be held today and tomorrow in Minneapolis,—how extensively he sent out that letter I do not know. There has been no meeting of the committee. The committee has taken no action this year, so there is no report by the committee. I believe that Mr. Dacey, the chairman, has been in touch with the secretary of the conference, but I think that all that has been done is a general letter calling the conference at a time not stated except that it is to take place today or tomorrow.

THE CHAIRMAN: I may add to Mr. Sanborn's report, that there are about twenty local Bar Associations in the state of Minnesota; with all cooperating towards the same end, and then cooperating with the American Bar Association, ought to make themselves very forcibly felt. Have you any recommendation, Mr. Sanborn, that the committee be continued?

MR. SANBORN: Yes, I move that the committee be continued for another year.

Motion, seconded, put and carried.

THE CHAIRMAN: Judge Stone this morning suggested that there be another committee, either appointed as a special committee or made a permanent committee on Americanization. I think that we have some time now and we would like to hear from you, Mr. Stone.

MR. STONE: I had a draft of a resolution which I inadvertently left behind. It is a standard resolution which has been adopted apparently under the auspices of the American Bar Association, which was recommended to the State Bar Association. I would like the privilege of offering it at a later day.

THE CHAIRMAN: I think we have called upon all committees present. Has anyone anything to offer?

MR. E. E. MCDONALD: I offer the following resolution:

WHEREAS, the United States district courts are now engaged in the trial of cases arising out of the enforcement of the United States prohibition law, and it is deemed by many that this additional work

interferes with, if it does not exclude, the consideration and determination by the district court of other important cases and judicial work.

NOW THEREFORE, be it Resolved:

That the matter of whether such a condition exists and is likely to continue, and whether relief therefrom may be or ought to be granted, and if so what can be done to grant relief, be referred to the committee on Jurisprudence and Law Reform to consider and report, with recommendations to be laid before our Association at its next meeting.

I move the adoption of the Resolution.

MR. MIDDLETON: I second the motion.

THE CHAIRMAN: Any remarks?

MR. MCDONALD: I am moved to present this matter to our Association because of the hundreds of cases now engaging the time and attention of our United States district court, that have not the importance or the dignity of a case where an ordinance is violated. In the large centers the calendars of the United States courts bear the titles of hundreds of cases. I had occasion a short time ago to examine this matter and I came to the conclusion that there must be some relief. What the relief may be is a difficult question, but there must be some relief. In conferring with the judges of our United States courts that have come where I can confer with them, not only the state of Minnesota, but in the state of Wisconsin and the east and the west, they demand some relief. I don't know what can be done, but something must be done. This is a subject which ought to be approached fearlessly, in the desire to relieve the situation. I do not know how many cases you have had upon the calendar here in this division, or how many of them you have had in the division of Ramsey County, but I know that the number is great. The condition, I think, in the United States district court at Duluth, should not be tolerated longer. They block procedure in the United States court there by simply demanding trial. Two of the judges of the United States district court of Minnesota sat there for days, weeks, trying cases that ought to be disposed of as you would dispose of your cases in the municipal court. I think the Bar of this state should take action, along the line looking solely to the relief of our courts. I have had occasion to examine the calendar of the United States district court in Los Angeles where they had three judges, and the calendar is pasted upon a sheet of paper larger than your daily papers in column form, United States versus so-and-so, covering one entire sheet larger than your daily paper. They can see no end whatever to the work before them.

There is no reason why that litigation cannot be disposed of by some other court, an inferior court, and leave our United States district courts to dispose of important matters that are there awaiting consideration and determination.

MR. WASHBURN: What are you going to do,—establish a United States municipal court?

JUDGE FESLER: Without desire to affect the disposition which the Association may make of this resolution, I would like to have it appear on the record that Justices McGee and Cant have been in Duluth for

a little less than six weeks; that during that time they have disposed, according to the reports that I have heard, of all the liquor cases, so called, and the calendar from 1919 was up to the minute when they adjourned last Friday evening, by trying the cases that the lawyers wanted to try, because they thought, as I am informed, that the sentences of the judges were too severe, but they have finished the entire calendar in Duluth in six weeks by giving them the opportunity to try the cases that they wanted to try, and of all of those cases which have been disposed of, there have been but two verdicts of not guilty, and there is no fear expressed at this time that the federal court in Duluth will be again congested with liquor cases, because the lawyers insist upon trying them.

THE CHAIRMAN: Any further remarks?

Motion seconded, put and carried.

MR. WASHBURN: I would like to ask Mr. Sanborn as chairman of the committee involving local associations, if it would not be possible to stir up interest enough in the local associations to send delegates, if you cannot get them here in any other way to these meetings, so that we can have the whole state represented. We have had the whole state fairly represented at some of our meetings, Mr. Chairman.

THE CHAIRMAN: Well, Mr. Washburn, I think we can apologize to ourselves this time for not having a larger attendance today. The committee in charge of the meetings considered the fact that perhaps because of the meetings of the American Bar Association and the Minnesota State Bar Association at the same time, the meetings of the larger body might detract from ours. And at the same time we figured that it would be impossible to have an independent meeting of our association for the reason that country and state lawyers would figure that they could only give up one week, and perhaps not a whole week for the purpose, and it was therefore decided by the committee, and the Board of Governors, I guess, and Judge Lancaster, that it would be advisable to have our independent meeting and do as well as we could and go as far as we could with the small attendance which we expected, because most of the country members will come in the last few days of the week for the American Bar Association. I feel sure than another year we will have a much larger attendance from the country and from the cities than we have this year. Anything further to come before the meeting? If not a motion to adjourn is in order.

MR. STONE: One minute before we adjourn. I think we ought to understand, and probably we do anyway, that it would be well to give as much publicity as possible to the fact that tomorrow afternoon Chief Justice Taft and former Attorney General Wickersham will be our guests and that both of them will address us. They want it understood that their addresses will be informal but they will be none the less interesting because of their informality. Everyone is invited. The meeting will be in this room tomorrow afternoon, open to the public at 2:30 o'clock.

SECRETARY CALDWELL: No publicity can be given in the newspapers. Mr. Wickersham and Mr. Butler and also Chief Justice Taft made a special request that no public announcement be made of the fact that

they are going to speak here tomorrow, but it can be broadcast among the members of the Association so that we can get a full attendance here tomorrow afternoon.

MR. WASHBURN: Then in order to get a decent attendance, if we cannot give any publicity, I would like to ask Mr. Shearer—I understand there are twelve hundred lawyers in Minneapolis—and whether he thinks there will be any chance to get out some portion of the eleven hundred and ninety-nine that are not here today.

MR. CALDWELL: The announcements and notice of this meeting were sent out last Thursday to every member of the Association, announcing the day that Judge Taft would be here,—tomorrow afternoon.

MR. SHEARER: I will say, Mr. President, that I will do everything in my power to insure a good attendance here tomorrow.

Meeting adjourned until ten o'clock A. M.

Tuesday, August 28, 1923

Tuesday, August 28th, 1923, 10 A. M.

Meeting called to order by Mr. Stone.

MR. STONE: Mr. Bridgman, we will have your report. (See Appendix p. 99.)

REPORT ON UNIFORM STATE LAWS

MR. BRIDGMAN: Gentlemen of the Bar Association; with regard to the legislative situation and uniform state laws: at a session of the legislature this past winter a number of these acts that were put out in 1922 by the National Conference of Commissioners on Uniform State Laws, were introduced, but they were so recent that there was not the demand for their passage, and while some of them made some headway, more of them did not get very far. This indicates very little with regard to the desirability of these acts, because they were not known at the time, and there is every reason to believe that in the future they will be passed in other states. All of them have been passed in the last year in a number of states, and in the course of time we think we will have them all in Minnesota. For that reason I should like to make a brief statement in regard to these matters. In regard to the older acts, Minnesota has already enforced practically all of them as shown by the title of acts in a pamphlet on uniform commercial acts distributed to members of this association last year. Perhaps I might speak of the declaratory judgment act first, although that is taken second in our report.

You doubtless recollect the address of Judge Schoonmaker before the Association in St. Paul in 1920 when he described the general principle of the declaratory judgment, and the radical change it made in procedure, and the very satisfactory and long standing experience they have had with it in England and other countries, and the fact that it has been passed in several jurisdictions in the United States.

At that time, the Association, was not strongly in favor of the declaratory judgment principle. The purpose simply is that it is not necessary that there shall have been some wrong committed in order for the courts to receive and pass upon an action which is brought merely for determining the rights of parties under contract or franchise or deed of trust, or under other circumstances. This particular act has been found framed with care by the national conference and contains seventeen sections. It opens with a clause authorizing the declaratory judgment generally and then enlarges upon this in four or five sections. Specifically, contracts, wills and statutes, that is, statutes and so on as being subject to interpretation, although no wrong has been committed that would otherwise bring it into court. Then there are several sections connecting up this procedure for declaratory judgments with other civil procedure, a section on appeal, if a jury trial of issues and facts, and supplemental relief based upon the judgment, in case wrong is afterwards committed, which the previous judgment will have already turned into wrong. Also for protection for the state and municipalities by requiring all persons to be made parties where there are franchises, where the validity of an ordinance or a franchise is involved. I might read here the list of states which already have the uniform act, or some act permitting declaratory judgment: New York, Michigan, Wisconsin, Florida, Kansas, Colorado, North Dakota, Tennessee and Wyoming, and since the printing of this report New Jersey and Pennsylvania have also adopted the act. I don't believe I have time to go into a general discussion of the purpose and effect of the declaratory judgment act and I believe that the members here are in a general way familiar with it, because this is something that has already been before the Bar for a number of years.

Another uniform act that has been passed upon by the National Conference is one to govern aeronautics. That is something that is important, of course, made so by modern invention, and it seems desirable that there be uniformity in this regard on account of the fact that so much flying is interstate, and it is well to pass laws on the subject rather than to wait for the slower laying down of general principles by the court. The scope of this act is simply a general declaration of sovereignty and property rights and duties in the air. It does not pretend to license the machine or prescribe regulations for flying. It is thought that that could better be done by federal statute and that was purposely left out of this act expecting that the federal government would legislate on the point and that it would be better for the state at the present. Unfortunately the situation in congress was such that although that bill was introduced twice, it has not yet been passed. I think there are reasonable prospects of a federal licensing and regulating of flying in the near future with regard to the state law, the general principle is that it declares first that the sovereignty of the air belongs to the state, except where constitutionally granted to the United States and that the ownership of the space is in the owner of the land beneath. These are practically common law propositions. However, it does declare that flight in aircraft is lawful unless it is so low that it would interfere with the use of the surface, or would be a menace or danger to persons or property on the surface. It goes on to state that an owner or a lessee of an aircraft

is liable for injury caused by flight or falling objects, whether negligent or not, except in case of contributory negligence, while an aeronaut, who is not an owner or lessee is only liable for negligence.

With regard to the rights between two machines in the air which have collided, the same rule governs as would govern on the ground. Crimes, torts and contracts, occurring while in flight over the state shall be governed by the laws of the state over which the machine is flying. There is a clause governing acts of misdemeanor which are rather general in nature, making flying in a manner dangerous to those beneath and hunting, misdemeanors. When this act was presented the state Air Board favored a provision making the owner of aircrafts liable for negligence only, but there were a great many members of the legislature who felt that if you gave them the right of flight, that was enough, and that there should be absolute liability, because they are inherently a dangerous contrivance. The attitude of the Air Board was that they are not an inherently dangerous contrivance, but that they have now become comparatively safe. The other act that we have mentioned is the Uniform Fiduciaries Act. This relates to persons dealing with someone whom they know to be a trustee or other fiduciary, and specifies rules concerning constructive notice of a breach of trust. There are at present a number of fiduciary rules with regard to the liability of a person dealing with a trustee which makes the dealing with a trustee a pretty hazardous occupation, rather than a business proposition, and this act adopts rules of freeing a person dealing with a trustee from that absolute liability for application of the proceeds and money paid for property, and also in certain other cases where it seems that should be the case.

There was printed a statement by Professor Scott, the draftsman, which goes into some detail as to the particular features covered. It is rather technical and perhaps it is not necessary to read it at this time. The 1922 Conference also passed several amendments to the Uniform Sales Act and the Uniform Warehouse Receipts Act. As you know at the present time there is a difference in the negotiability of warehouse receipts and bills of lading. Bills of lading, if made to bearer and endorsed in blank become negotiable, though presented by thief or finder, but that is not the case of the Warehouse Receipt Act because it was drawn earlier when commercial law had hardly progressed to that point. It seems desirable to bring the two acts into harmony as well as those governing bills and notes. Of course the advantage of the negotiability of these articles which are used commonly is that if they are negotiable it is so much easier to secure a loan upon them. If protection is desired it can be done by special endorsement and not having them read "to bearer." The Conference also passed on a Uniform Illegitimacy Act, relating to children born out of wedlock and relating to the support of such children with statutory proceedings to enforce the obligation.

I might also, as of interest to the Association, speak of the acts that are before the National Conference at the present time, at the meeting this past week which adjourned last night. They have before them under discussion now a uniform real estate mortgage act, a uniform chattel mortgage act, a uniform arbitration act; this last meaning for submission

of controversies voluntarily to arbitration and entering judgment thereon; a uniform sales security act,—really a blue sky law.

I would like at this time to move the adoption of the following resolution:

"RESOLVED, by the Minnesota State Bar Association, that the Legislature should adopt especially, of the Uniform Acts, 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 20, 40 and 47 of the Uniform Warehouse Receipts Act."

Many believe that these acts which are mentioned are desirable acts and they have been passed in a number of states, especially the Declaratory Judgments Act, and they will be passed in more, and Minnesota has always adopted the policy of looking favorably upon this uniform legislation.

I move the adoption of this resolution, Mr. Chairman.

THE CHAIRMAN: Mr. Bridgman, may that be supplemented as including the substance of your report also?

MR. BRIDGMAN: Yes, I will include that also.

MR. BURR: Second the motion.

Motion seconded, put and carried.

THE CHAIRMAN: Mr. Randall, are you ready with your report on Noteworthy Changes in Statutory Law? (See appendix p. 107.)

On motion duly made, seconded and carried the report of the committee was accepted and ordered placed on file.

THE CHAIRMAN: Mr. Mitchell, we will hear your report on the incorporation of the Bar.

MR. MITCHELL: The report of this committee is found on page eleven of the advance sheets. (See appendix p. 121.)

MR. MITCHELL: I want to say that since this report was written this Bar Organization project as submitted by the American Bar Association has been passed in the legislatures of Alabama and Idaho. At the time of the writing of this report it had not been passed in any state.

I move that this report be adopted.

THE CHAIRMAN: Is that a standing committee?

MR. MITCHELL: It is a special committee.

THE CHAIRMAN: I would like to have the motion provide for the continuance of the committee.

MR. MITCHELL: I so move.

THE CHAIRMAN: The motion is for the adoption of the report and the continuance of the committee. Any remarks?

MR. REED: Are there any states where this organization has been done?

MR. MITCHELL: The state of North Dakota has organized the Bar but they have no self-governing powers. It has been very successful out there so far as it has gone and I have a letter from the chief justice in which he says that everyone in North Dakota is very much in favor of it and would not want to go back to the old system.

Motion put and carried.

REPORT OF THE COMMITTEE ON THE UNAUTHORIZED PRACTICE OF LAW

MR. HENRY DEUTSCH (Minneapolis): The full text of the report of my committee is found on page 104 of this report. I can say for its recommendation that one of the members of my committee said that I had written a very good sermon. That should recommend it to your attention. There is another thing to be said for my committee, that whatever may be its defects or lack in other respects, in one way it resembles the story told of a Scotch community, in Scotland, where the requirements of law and religion were very religiously enforced. A woman was charged with having said something good about the devil and so she was put on trial for heresy, and in her defense she said, that she had nothing further to say except that it would be a very good thing for most of us if we had his persistence. And so whatever else may be said of our committee I think it must be said that they are persistent and we are coming before you this year as we have every year for some time past with an urgent request to seriously consider this question of the unauthorized practice of law by corporations and others. This matter has been up in different forms for a number of years. Some effort has been made to introduce and pass bills through the legislature to cut off what is admittedly an evil, which is affecting the profession, but for some reason or another very little progress has been made. Some two years ago it was sought to solve this,—or take the bull by the horns, if you please,—by causing to be appointed a special committee to draft the forms of bills which might overcome objections which were raised to the original bills prepared by my committee. I might repeat at this time that bills prepared by my committee were those which passed in the state of New York, Missouri and I think in Pennsylvania and some other states, functioning with excellent service for the benefit of the Bar and the community. But for some reason the thought was that possibly they were not clear enough for our state or possibly too drastic, and this special committee was appointed. The special committee did some good work the first year, but the net result of its work was simply to clog the wheels of the situation because. having two committees functioning with the same purpose, each one was passing the buck to the other and we arrived nowhere. We still have that special committee which reported this year, but like our committee, unfortunately, was not apprised of its appointment in time to get action and so has to report that it has made no progress. Our committee offers the following resolution, which I propose to amend by one or two suggestions of my own:

The committee recommends first, that the special committee to prepare resolutions on the unauthorized practice of law be continued and that it first be instructed to prepare and have ready for consideration at the next meeting of this Association a bill to prevent the unlawful practice of law by corporations and others, and such other bills as may be necessary to carry out the purposes suggested in this report, the same to follow out the spirit and to follow as closely as may be deemed expedient the lines of the bills heretofore prepared by this committee and approved by the Association.

2. That the matter of the report of the special committee be made a special order for primary consideration at the next meeting of the Association.

3. That the special committee be directed and requested to have its report and its proposed bills prepared and submitted to this committee not later than the first day of February, 1924, and that this committee be authorized to take the necessary steps to have said report speedily communicated to the members of the Association and to use its best efforts to obtain thereon the opinion of the members of the Association and to obtain and to secure their serious consideration thereof at its next meeting, for the consideration of proposed bills and action thereon.

So far as I am personally concerned I will suggest what I think is the wise thing. Either to continue the special committee with the full powers of my committee, or else to discontinue the special committee and have its power transferred to this committee. I do not believe the two committees operating separately or jointly are able to arrive anywhere. I am going to suggest also that in the appointment of the committees, with all due respect to the very excellent men who have served on my committee, as well as on the other one, that the committeemen ought to be appointed from a certain section, where it will be possible and convenient for them to get together one or more or several times for the purpose of the consideration of this matter. In the past we have been very fortunate if we have been able to obtain one meeting of the committee and then never a full meeting. You can realize how unsatisfactory it is to attempt to tackle a subject of this kind when you cannot get the men together and have to depend almost entirely upon correspondence to carry out your point.

Mr. Chairman, with the permission of the Association, I am going to move:

That article 1 be amended, in whatever form is thought best, perhaps someone on the floor would do it better than I can, to carry out the suggestion that we have just the one committee, whether it is this committee of which I have been chairman for years, or the special committee for the preparation of the reports and that otherwise the committee proceed along the lines of the resolution as offered by my committee, with that suggestion as to appointment which I have referred to.

THE CHAIRMAN: I think it would better be referred to the Board of Governors.

MR. DEUTSCH: I move you, Mr. Chairman, the adoption of the report and its recommendations, with a further recommendation, that the Board of Governors be instructed to consider acting upon the matter of either the consolidation of both, or the elimination of one of these committees, and also the matter of reappointment along the lines that I have suggested, from one particular section of the state.

MR. RIEKE: I second the motion.

Motion put and carried.

THE CHAIRMAN: Some other reports have been expected but I see no other chairman here. Are there any committees here that can report? If there is no objection we might consider all the reports which have

been here submitted, printed, as formally accepted. If there is no objection that action will be considered as taken.

MR. L. L. BROWN: I have in my hands, referred to this organization by Mr. C. A. Severance, a suggestion coming from the American Bar Association for a By-Law of this Association. I will read a part of it so you will understand what it is:

"The suggested By-Law is in substance as follows: That a standing committee on American Citizenship is hereby created to be constituted as follows: The state member of the General Council of the American Bar Association as chairman; the president of our State Bar Association as vice-chairman; the vice-president of the State Bar Association, the secretary of the State Bar Association who shall also serve as secretary of the committee on American Citizenship, and the five members in this state of the local council of the American Bar Association,"

making nine, I think.

"The Committee so constituted shall function in an executive capacity for a larger committee representing the various districts that have to be selected by the committee of nine above named and to consist of at least one representative from each congressional district in this state exclusive of the members of such committee. This committee as a whole shall be called together for a general conference at least once in each year, and it shall be the duty of said committee on American Citizenship to —"

I won't read the details, but

"First. To devise methods of getting in touch with schools and other organizations where the gospel of good citizenship may spread;

Two. To establish a speakers' bureau and work along that line;

Three. To endeavor to inspire the institutions to preach the gospel.

Four. To have local county bar associations take up the subject.

Five. Such committee shall also cooperate with a similar committee from the American Bar Association to the end that our State Bar Association shall become an active unit in a national movement on behalf of a better and more loyal adherence to American institutions and ideals." You see the idea. It is to supplement the work of the American Bar Association and this has been adopted by several states, as Mr. Severance says.

I move you, Mr. President, that this suggestion for an additional By-Law be referred to the Board of Governors with power to act. May they do that? May they act on it?

THE CHAIRMAN: The Board of Governors—yes, if authorized by this meeting.

MR. BROWN: with power to act on the subject.

MR. RIEKE: I second the motion.

THE CHAIRMAN: All in favor, aye; opposed no. The motion is carried. Mr. Caldwell I think you are prepared to report for Mr. Bradford, who is not here, on the nomination for Board of Governors.

MR. CALDWELL: The committee to select nominees for the Board of Governors report as follows.

BOARD OF GOVERNORS
1923-4
Elected at Minneapolis, Minn., August 28, 1923

District No.	Name	Residence
1	Charles P. Hall	Red Wing
2	William G. Graves	St. Paul
3	Hy O. Christenson	Rochester
4	Paul J. Thompson	Minneapolis
5	E. H. Gipson	Faribault
6	J. L. Lobben	St. James
7	A. H. Vernon	Little Falls
8	A. L. Young	Winthrop
9	Hy A. Benson	St. Peter
10	S. D. Catherwood	Austin
11	A. Mc. C. Washburn	Duluth
12	O. A. Lende	Canby
13	J. H. Cashel	Worthington
14	A. H. Ekstrom	Warren
15	Thayer C. Bailey	Bemidji
16	Frank W. Murphy	Wheaton
17	Frank E. Putnam	Blue Earth
18	Godfrey C. Goodwin	Cambridge
19	Reuben G. Thoreen	Stillwater

MR. E. E. MCDONALD: I move the adoption of the report.

THE CHAIRMAN: What about the election of the gentlemen named for Board of Governors the ensuing year? How do you dispose of that?

MR. MCDONALD: That is included in the motion.

THE CHAIRMAN: Shall the secretary cast the ballot of the Association, do I hear a second to that motion?

Motion seconded.

THE CHAIRMAN: There is no law against objecting to a report in this Association. That is never a crime at any meeting. We do not want anyone to feel bound by this report. You have heard the motion for the adoption of the report and for the direction to the secretary to cast the ballot for these gentlemen named, in the report for the Board of Governors for the ensuing year. All in favor of the motion say aye. Opposed, no. The motion is unanimously carried. The secretary has cast the ballot and the gentlemen named are declared elected as the governors of the Association for the ensuing year.

Is Mr. Currie present? Mr. Caldwell, will you read his report?

MR. CALDWELL: Don't forget before I read this I wish to announce that you may pay your dues at the desk if you have not already done so. The report of the treasurer follows:

REPORT OF TREASURER
MINNESOTA STATE BAR ASSOCIATION

August 27, 1923

Amount Cash on Hand August 31, 1922			$555.19
10 New Members (1922) @ $3.00	$30.00		
24 New Members (1923) @ $5.00	120.00		
25 New Members (Life) @ $50.00	1,250.00		
3 Life Members (Bal. $25.00) (Stiles W. Burr, J. L. Washburn, W. D. Bailey)	75.00		
Delinquent Dues (thru 1922)	483.00		
Current Dues (1923)	1,805.00	3,763.00	
Contributions and Advances:			
W. D. Bailey	112.55		
W. A. Lancaster	250.00		
J. L. Washburn	100.00		
W. A. Lancaster	100.00		
W. D. Bailey	50.00		
Royal A. Stone	25.00	637.55	
		4,400.00	
Payment on Law Review by Life Members @ $3.00		9.00	4,409.55
Total Receipts August, 1922 to August, 1923			4,964.74

DISBURSEMENTS:

1922		
Sept. 2.	Herbert S. Hadley (exp. Mpls. & return)	215.00
Sept. 5.	Jack Wellman (entertainment)	115.00
Sept. 6.	Herbert T. Park (exp. Sen. Beveridge, banq.)	47.82
Sept. 6.	Jessie Carey Smith (acct. report Ann. Meet)	75.00
Sept. 7.	S. W. Stokes (mailing list)	29.90
Sept. 7.	Augustin Press (400 tickets)	3.85
Sept. 7.	Mpls. Tribune (Sen. Beveridge Notice)	9.00
Sept. 7.	Mpls. Journal (Display Reader)	6.00
Sept. 9.	Alb. J. Beveridge (expense)	100.00
Sept. 9.	Hotel Radisson Co. (acct. H. S. Hadley)	10.10
Sept. 11.	Letter Service Bureau (re Beveridge)	67.80
Oct. 1.	Walter Mallory (Gehan and Mallory)	30.00
Oct. 6.	Evans & Co. (acct. stationery)	125.00
Oct. 18.	Jessie Carey Smith (report proceedings)	165.00
Nov. 1.	Evans & Co. (balance owing)	109.80
Nov. 21.	Wm. A. Lancaster (return cash advanced)	250.00
Nov. 21.	Chester L. Caldwell (Sec'y Allowance)	500.00
Dec. 20.	Minnesota Law Review (Bar subscriptions)	900.00
1923.		
Jan. 13.	Evans & Co. (postcards)	19.25
Feb. 15.	Minnesota Law Review (Feby. payment)	132.50
Feb. 19.	Chester L. Caldwell (postage)	2.00
Mch. 3.	Minnesota Law Review (Mch. payment)	132.50

Mch.	8.	Morris B. Mitchell (Dinner, Legis. Comm.)	30.00	
Apr.	4.	Holm & Olson (spray)	15.00	
Apr.	12.	Minnesota Law Review (Apr. payment)	149.25	
May	17.	Minnesota Law Review (May payment)	144.25	
June	11.	Minnesota Law Review (June payment)	144.25	
June	29.	Evans & Co. (envelopes)	5.75	
June	29.	Chester L. Caldwell (Sec'y Allowance)	350.00	
June	30.	Kennedy O'Brien Ptg. Co. (Fm. Letter Stone)	5.75	
July	14.	Minnesota Law Review (July)	144.25	
Aug.	9.	Minnesota Law Review (6 add. names)	9.00	
		TOTAL DISBURSEMENTS	$4,043.02	
		Cash on Hand, August 27, 1923	921.72	
			$4,964.74	$4,964.74

MR. ROBERTS: I move its adoption.

Motion seconded, put and carried.

THE CHAIRMAN: In this connection the auditing committee appointed yesterday to make the report has not had time to audit the financial records for the past year. With your permission that committee will be directed to make their report to the Board of Governors. That is somewhat contrary to our practice and to our constitution, but so far as this meeting can authorize it, will you so authorize it? It will be taken as the sense of the meeting then, that the report shall be made to the Board of Governors. Any further business other than the election of officers?

JUDGE CHILDRESS: I have a matter I have been thinking of for some time. I should like an opportunity to present it to the State Bar Association. For several years I have been hoping that the United States Supreme Court and the supreme courts of the various states could do something about putting a stop to the writing of dissenting opinions. A large part of the criticisms that have been made of our supreme court during the last few years, has been for declaring laws unconstitutional. I think this is due to some of the dissenting opinions. Many of the agitators base their arguments upon dissenting opinions written by judges of various supreme courts. If a layman or if an editor should criticize the majority opinion of the supreme court in the language of some of the dissenting opinions, he might probably be brought up for contempt of court.

Now I have been, as I say, wishing and wondering for a long time why the supreme court did not put a stop to the publication of the votes of the judges upon any matter before them, and particularly put a stop to the writing and publication of dissenting opinions. Now if the general public did not know that the supreme court had decided a certain matter by a bare majority vote, then there would be no cause for criticism. It seems to me that the minority judges in some way ought to be upheld to obey the majority opinion of the supreme court just like the rest of us have to do. What I am driving at is to get some sort of movement started to get our supreme court and the supreme

court of the United States to either enact a rule or to do something to put a stop to the publication of the votes of the judges. Consequently that would necessarily put a stop to the writing and publication of the dissenting opinions. Now, as we all know, dissenting opinions are sometimes perhaps more logical than the majority opinions, but they are really of no force or effect, and they simply, as we lawyers sometimes say, lumber up the record, and we are obliged to buy them and pay for them. I want to submit the matter to this Bar Association, and see if some movement cannot be started to in some way get our supreme court or the United States Supreme Court to stop the publication of these votes, and to stop the publication of the dissenting opinions of the judges upon any matter before them. In that way it seems to me it would do away with all this agitation and talk about the bare majority opinions of the supreme court. I never heard our senator-elect Johnson until about two or three weeks ago, when my wife and I drove down to Austin, driving ten or fifteen miles to a farmer's picnic to listen to Senator Johnson, and he railed at our supreme court for declaring laws unconstitutional by a bare majority vote. He said he was going to spend his time between now and December and then after he got down to Washington he was going to talk, and he used a little—some swear words right along in there—against our United States supreme court, and our state supreme court, declaring laws unconstitutional by a bare majority. He says: "That is one man government. That is czar government. We have done away with it," and he says, "I am going to use my efforts as long as I am in the senatorship, to put a stop to it." He says, "The people in this state elected me to talk, and I am going to talk too," and "By golly," he says, "you can understand every word I say."

RESOLUTION

BE IT RESOLVED, by the Minnesota State Bar Association that the United States Supreme Court and the Minnesota Supreme Court be requested to enact a rule prohibiting the publication of the votes relative to any matter before them.

Mr. Chairman I move the adoption of this resolution.

MR. ROBERTS: Do you mean the votes, or the written decision?

JUDGE CHILDRESS: The publication of the votes of the judges—I don't mean the majority opinion of the court.

MR. WASHBURN: Anything in the motion about the publication of dissenting opinions?

JUDGE CHILDRESS: That very naturally is included.

THE CHAIRMAN: It is meant to include that, I take it.

JUDGE CHILDRESS: It is meant to include that. I don't know whether this will ever be adopted or not, but I would like to start something to see if we cannot get something done to bring about a cessation of the publication of dissenting opinions.

THE CHAIRMAN: You have heard the resolution as stated by its proponent, Judge Childress. Did it have a second? There seems to be no second. The opportunity is still open.

MR. HENDERSON (Minneapolis): I don't know anything about it, but I believe if Judge Childress is so earnest about it and feels that there is some warrant for the action, I feel I will take the liberty of seconding the motion before the Association.

THE CHAIRMAN: The resolution of Judge Childress is before you, are there any remarks?

JUDGE CHILDRESS: The purpose of my resolution is to express the sentiment of the Bar Association against the adoption of dissenting opinions and the publication of votes of the judges, so as to make it appear that we have a full vote of the court, and when the court decides a case that ends it. A majority vote of the judges ought to be the decision of the court, and it certainly is.

SENATOR BENSON: It may be regrettable that the public criticise the adverse action of any court, especially the supreme court of the state or the national Supreme Court, but I am of the opinion that we cannot hope to quiet public criticism, especially in the country, aside from attorneys and those connected with the court, by putting the lid on that which is done in court. If we do, the suspicion will immediately occur that there is something done that we don't know about. I think it is not unhelpful that the dissenting opinions appear, and in justification of giving any opinion, probably it must be allowed the judges to give their reasons for the opinions. It is my judgment that the public are entitled to know what happens in court as well as elsewhere. When I have heard some of the cases in contempt proceedings against the courts, it has seemed to me that the courts drew the proper lines in those matters, and certainly I, for one, would not be disposed to support the resolution now pending, which would serve, in my opinion, no useful purpose and which might cast the imputation on the State Bar Association that they are concealing the conclusions of the court. You cannot silence public criticism. The talk of the senator-elect on that subject is not going to harm the courts nor the state Bar Association nor any other association. His talk will probably be most eloquent in the country districts and be less effective elsewhere where it ought to be effective. I am not endeavoring to criticise him, but I think his criticism upon the courts will have little weight any place, either in the state or in the country.

MR. WASHBURN: I understood the resolution also was to embrace a request to the courts to adopt a rule?

THE CHAIRMAN: It does. The resolution is so worded.

(Question called for.)

THE CHAIRMAN: The question is on the resolution of Judge Childress. All in favor signify by saying aye. Opposed, no. Motion is lost. The resolution is lost.

THE CHAIRMAN: The next order of business is the election of officers. Or if I have overlooked anything do not hesitate to mention it. We have been somewhat hurried in the meetings and we do not want to overlook anything. If there is any further business, remind me of it. As there seems to be none, the next in order is the election of the officers. We will proceed with the election of president and nominations are in order.

MR. CALDWELL: Evidently they don't want any president.

MR. ROBERTS: I nominate Royal A. Stone for president.

MR. L. L. BROWN: I second the nomination and move that the secretary be instructed to cast the ballot.

THE CHAIRMAN: Mr. Washburn will you take the Chair?

MR. WASHBURN: No, I will not.

THE CHAIRMAN: Then will you permit just this statement? You men have served with me and fought with me and against me for a good many years in this Association. I confess I saw this coming, and when, on June 4th, I became a Justice of the supreme court, I was of the mind that I ought not to accept it. I confess further that this is a position I have been ambitious to hold for some time. I will be frank with you. But I have been prevailed upon to change that first opinion and I want to express two conditions which I will make,—first that in the work of this Association, for the ensuing year, if I am so fortunate as to be elected the President, you will forget in your Association with me, for the time being, that I am a judge, and feel just as much at liberty as ever. You have always felt at liberty to attack me or criticise anything that I proposed or did. That is the first condition. The second condition is that you will give me the same privilege of criticising and disapproving. If we can proceed in that spirit, notwithstanding the fact that I happen to occupy the high position to which the governor appointed me, I shall be very glad and very proud to serve you. (Prolonged applause.)

MR. WASHBURN: It does not disqualify Judge Stone to act as President of this Association, because for the time being he is one of the justices of the supreme court. It was absolutely unnecessary for him to name that first condition. The second condition, we could not help ourselves anyway. (Laughter) And it seems to me that we are in no different position than we would be under any other circumstances, in voting for Royal A. Stone, as we intend to do. We are not voting for Judge Stone. Some of us are not acquainted with him. (Laughter.)

(Question called for.)

SECRETARY CALDWELL: Gentlemen you have heard the motion. It is moved and seconded that Royal A. Stone be named as your next president and that the secretary be instructed to cast the ballot of the Association for his election. All in favor say aye, contrary opposed. Mr. Stone is unanimously elected, and the secretary casts the unanimous ballot of the Association for Royal A. Stone as president for the ensuing year.

PRESIDENT STONE: From the bottom of my heart, gentlemen, I thank you. There is no position so important and so high but would be expensive at the cost of being your president for a year.

Nominations are now in order for vice-president.

MR. WASHBURN: I deem it a privilege to place in nomination for this office Mr. Elmer E. McDonald of Bemidji. Those who have been active in this Association for many years are familiar with the fact that Mr. McDonald has been one of the most active and faithful and loyal members that this Association has had. He has been northern Minnesota

in this Association. He has served on all manner of committees and the greatest honor that has ever been given him has been the onerous duty of serving on the Board of Governors. I believe it to be our duty as well as our privilege to honor this long faithful member of the Association by making him our vice-president. (Applause.)

MR. L. L. BROWN: I rise to second the nomination, and if Mr. Washburn will consent, to add to his motion that the secretary be instructed to cast the ballot. I want to close the nominations. All that Mr. Washburn has said about Mr. McDonald is true, and much more could be said. By his long and faithful and efficient and modest service to this Association he has earned and well earned any honor that it can confer upon him. And when an opportunity comes, as it has come now to recognize that work and that service, it would be not particularly courteous to pass it over, and not only that, but if Mr. McDonald is elected vice-president of this Association, and ultimately president, his work as such an officer will reflect honor upon the Association. And now gentlemen. I want to say something here. I have not got through. At the meeting of the Southern Minnesota Bar Association at which your president was present, and some one hundred or more enthusiastic members, an extended meeting at Winona, I made a motion to this effect, that it was the sense of that meeting that Bert W. Eaton, one of the oldest and most highly respected members of the Third Judicial District Bar, should be considered for Vice-President of this institution. That motion was carried. Now I do not see Mr. Eaton here, but I would not nominate Mr. Eaton in opposition to Mr. McDonald if he wanted me to, and I know he does not want me to. I could not, if I would, and I would not if I could. But I want to say to this Association, to call attention of the Association to the fact that that motion was passed by the Third Judicial District Bar, in southern Minnesota, so that you may have it in mind sometime in the future,—but disregard it now. I am filing a caveat. (Laughter.)

MR. SHEARER: I will claim the privilege also of seconding the nomination of Mr. McDonald for Vice-President on behalf of the Bar of Minneapolis.

(Question called for.)

THE PRESIDENT: If there are no other nominations, nominations will be declared closed and the secretary will be instructed to cast the unanimous ballot of this meeting for Mr. E. E. McDonald, as Vice-President of the Minnesota State Bar Association for the ensuing year.

The motion was carried unanimously.

MR. CALDWELL: The secretary so casts the ballot.

THE PRESIDENT: The ballot is cast and Mr. McDonald is vice-president of the Association for the ensuing year.

JUDGE CHILDRESS: I would like to ask if Mr. McDonald is here. I want to see him. (Applause.)

THE PRESIDENT: Mr. McDonald, take the floor and address us. (Applause.)

MR. MCDONALD: Mr. President and members of the Bar Association,

I deem this a high honor to be chosen as your vice-president. I shall continue to put forth every effort that lies in my power to advance the interests of the Bar Association of Minnesota. I feel that the time is upon us when every member of our state Bar should become an extraordinarily active agent in the interests of Americanism, and true American citizenship. I thank you. (Applause.)

MR. RIEKE: That speech was not half bad.

THE PRESIDENT: Nominations are in order for Secretary.

MR. RIEKE: We don't need any.

MR. ROBERTS: I nominate Mr. Caldwell.

JUDGE CHILDRESS: Second the motion and move that the president cast the ballot.

THE PRESIDENT: All in favor say aye, opposed, no. The motion is carried and I hereby cast the ballot of the Association for Chester L. Caldwell as secretary for the ensuing year.

MR. CALDWELL: I thank you, gentlemen.

THE PRESIDENT: Nominations are in order for the office of treasurer.

MR. WASHBURN: I move the re-election of Mr. Currie.

The motion was seconded, the secretary was instructed to cast the ballot for Mr. Currie for treasurer and Mr. Currie was duly elected Treasurer for the ensuing year.

MR. WASHBURN: There is a committee consisting of the members from all districts on Legal Biography. You know what that means. I have not heard of any report being submitted. I suppose whatever report is submitted should be adopted, either by this Association or by the Board of Governors.

THE PRESIDENT: There is such a report, but it has not been printed. Mr. Fraser is the Chairman of the Committee and is not here, but I happen to know that that report is being attended to. We are grateful to Mr. Washburn for calling it to our attention. May it be considered as adopted, that will be taken as the sense of the meeting, unless there is objection. Is there any other item of business to come before us? The Minnesota State Bar Association has been struggling with the problem of membership. We have the members if we can only get their interest and their attendance, and if we get their attendance at our annual meeting the interest follows automatically, your officers for the ensuing year can ask for no greater service at this time at your hands than the earnest, honest effort of every member, and the organized effort of the association which would follow to bring out next year a representative attendance of the lawyers of Minnesota. If that attendance is representative, it will be a large attendance. It must be, because we have over three thousand lawyers in this state.

On behalf of your Board of Governors for the ensuing year and your officers, I ask you to help us in such an effort.

If there is no further business a motion to adjourn is in order.

(Recess until two o'clock.)

At the Curtis Hotel, Minneapolis, Minnesota, August 28th, 1923, three o'clock p. m.

Pursuant to adjournment for the noon recess the meeting was called to order by Mr. Stone and the following proceedings were had:

THE CHAIRMAN: Ladies and gentlemen: I should have had sufficient appreciation of the popularity anywhere in America of the distinguished guests of this occasion, and have known enough to have taken a larger delegation of husky American lawyers with me to retrieve them from the other American lawyers over at the Radisson. To add to the difficulty, on our way here, the Women's Bar Association of the United States espied the Chief Justice, and, of course, he had his picture taken with them. (Laughter.)

The Attorney-General of the United States is properly considered the leader of the American Bar. Honorable George W. Wickersham has filled that position and has filled it with distinction, and with great usefulness to this Republic he continues a leader of the American Bar. We are most fortunate in having him with us on this occasion, and we are peculiarly fortunate in that he is going to address us on that very live subject: The American Law Institute. Mr. Wickersham. (Applause.)

THE AMERICAN LAW INSTITUTE

HONORABLE GEORGE W. WICKERSHAM

Mr. President, and I suppose it is proper to say nowadays, Ladies and Gentlemen of the Minnesota State Bar Association: Your president wrote to me sometime ago and asked me to speak today to you on the subject of the American Law Institute. It is quite possible that some of you do not know, and others know fully just what it is that the American Law Institute has done and what it is trying to do.

It is hardly necessary perhaps in any meeting of lawyers to point out what we suffer from in the way of the annual increment in the output of literature on our courts. Differing in quality, proceeding from many sovereignties every year, this increasing mass like the stone that old Sisyphus tried to roll up the mountain comes crashing down upon us and hurls us further from the heights that we are striving to attain.

It is no new subject. As long ago as 1825, Mr. Justice Story addressing a meeting of the Middlesex Bar Association in Massachusetts, said that he looked forward with grave apprehension to the constantly increasing amount of judicial precedent. He said, "I groan when I think of the volumes which fifty years hence will crowd the shelves of the members of our profession." I doubt if even his prophetic vision could have measured the libraries that since that time have accumulated in every professional environment throughout this land. Think of the digests of decisions. Think of Cyc., of Corpus Juris, of the American Digest and of all those libraries which are merely the sign-posts indicating the way to the place where the law is supposed to be found.

Now, a number of years ago, in England, there was a high commission appointed by the Crown to consider the subject and determine whether or not out of this great mass of law there could be evolved a statement of what the law is, not what it should be, but what it is, and that Commission was appointed, of very distinguished men, lawyers whose names have since become household words, judges of great eminence at that time, and they consulted and made two reports. The result of their deliberations was that it was almost, if not entirely, impossible, within the span allotted to the work of busy lawyers, to carry out this project of re-stating or making a clear statement of existing laws and so the English Bar turned itself to two other means of improving the condition of the laws. They provided for a great improvement in the system of reporting their decisions, and they provided for the gradual reduction of the English law to statutory form. And if anyone had had occasion to examine any modern English report or textbook, he must have been struck by the numerous references to statutes—Acts of Parliament—which have codified in large measure the English law, by reducing to statutory form the law upon a very great range of topics.

Our Bar has never—speaking of the Bar as a whole, and of the states of the Union as a whole,—has never approved that idea of codification,—that is by reducing our customary or common or so-called unwritten laws to statutory form. There are some states, as you know, in which there are codifications of the substantive law. North Dakota, South Dakota, California, Georgia, have a comprehensive code of municipal law but even in those states there has been no attempt to exclude anything, because the statute had in whole or in part covered it, and had sought to cover it entirely. But in most states the uncertainties of our mode of legislative expression, the difficulty of framing a statute so that it would not be misunderstood, the consequences which have followed so often on the codification of our statute laws, in opening new chapters of interpretation, and giving rise to a manifold group of new uncertainties, have convinced the profession as a whole that the way to effective law reform does not lie through the legislature; and so, a couple of years ago, under the impulse of that useful—that increasingly useful body of the American Association of Law Schools, a movement was initiated looking towards a careful analysis of the causes of the present uncertainty of our so-called unwritten law, and a committee, a self-constituted committee, was appointed, with the generous aid of the Carnegie Corporation, which provided a fund adequate to deal with these preliminary stages. Experts were selected, a careful study was made of the causes for the present uncertainty in the law, and to indicate, if possible, the best line of progress to which the Bar of the country might devote itself in seeking to remove some of those uncertainties, and to provide for codification and simplification of our laws.

When that report was prepared, discussed, and adopted by this committee of which I spoke, a conference was called and held in Washington, in February last, presided over by the acknowledged and undisputed leader of the American Bar, the Honorable Elihu Root; the chief justice of the United States, now here, lending his presence and his assistance,—as he always has lent his presence and assistance, in any work designed

to improve the administration of justice, and the organization of the American Bar. (Applause.)

The report was discussed, adopted. The corporation was organized under the laws of the District of Columbia,—I take it an organization unique in the annals of this country,—for among its incorporators were the chief justice of the United States, the chief justice of the court of appeals of the District of Columbia, and of the supreme court of the District of Columbia, the Honorable Elihu Root, and one or two other lawyers of great eminence, and upon filing papers and becoming a corporation, the entire assembled gathering, of some three hundred lawyers, became members of that corporation, and devoted themselves, through the corporation, to attempt to carry out the work as recommended by the committee.

Now, that work, briefly, was this: Not to assume to reform the law by changing it, but to attempt in the first instance, through the aid of the most competent experts in the country, to make clear statements of the existing law upon various topics, so simple and so clear, where the law was stated in a clear simple way as to be easily comprehended by anyone; and where the law is not clear, but confused, and where no single, clear rule may be deduced from the authorities, to make a statement of the conflict, showing exactly wherein the conflict does exist, and what seems to those who adopt the report to be the preferable rule of law.

Now, the English commission to which I referred a little while ago has pointed out in its report that the work of the clarifying or restating the law would have to be done by scholars, that they would have to devote a great deal of time to it, and that it might require a large amount of money to finance the enterprise. At that particular moment the English treasury seemed to have been in a rather impecunious condition, or these eminent lawyers had no ready access to it, because that was one of the reasons why they abandoned that enterprise and turned their attention in other directions.

Organizers of the American Law Institute recognized (as did the English commission) that men must be found to do this work, who could give the time necessary to it,—it might be their lifetime; but the work would have to be done by scholars. It could not be hurried. Their time must be acquired and they must, of course, be paid for it. And the committee, in preparing and submitting its report to the conference in Washington on the matter, thought that a budget of about one hundred thousand dollars a year would be necessary in order for the work to be undertaken with any expectation of satisfactory results. Shortly after that meeting, a report of all the proceedings was laid before the Carnegie Corporation, that great Foundation which Andrew Carnegie made after he had endowed a series of institutes for scientific research, for law research, and as Mr. Root, in his happy phrase said, "Mr. Carnegie then incorporated himself" and the few millions which were left after these great funds—amounting to I believe only about forty—he paid to a corporation known as the Carnegie Corporation, with very broad powers, to use the income or the principal for the advancement of anything which might tend to benefit humanity.

Now the Carnegie Corporation had been interested for some time in the general subject of the administration of justice. They had had an investigation made into the administration of justice between people of small means and others and they published a report which has been criticised, and discussed throughout the country, on "justice to the poor." They have published a report covering the subject of legal education, fitting men to pursue the practice of the law, with its increasing demands in our increasingly complicated society. So that the American Law Institute laid before the Carnegie Corporation a statement of what they wished to do, what it would imply, the money that was required. In a very short time the Carnegie Corporation communicated to the officers of the American Law Institute the fact that they had adopted a resolution appropriating substantially one hundred thousand dollars a year for the next eleven years to the work of the American Law Institute. (Applause.)

I had occasion to speak briefly on this subject at a meeting of the Bar Association of France in May, and I translated that appropriation into francs at the current exchange, and the audience fainted on the spot. (Laughter.)

Now, the appropriation of that money robbed the American Law Institute of any excuse for not going forward with this work and not procuring the services of the best men available in the United States. And so they first selected certain topics, which, in the opinion of the board of directors of the Council of the Institute seemed to lend themselves peculiarly to the work of re-statement: The law of contract, the law of torts, conflict of laws, and some others. And we selected the greatest exponent in the law schools on those subjects,—Professor Williston, of Harvard, the most eminent authority on the law of contracts in the country; Professor Mechem, of Chicago, the great exponent of the law of agency, and so on, we got one or another, until now we have five or six of the greatest scholars of the country embarked upon the work of mapping out and endeavoring to accomplish a statement of the laws which are furnished to the profession—a statement authoritative in its nature, because backed by the scholarship of the United States,—of what the law is on those subjects up to the time of its adoption.

I want to make very clear at the outset what the Institute is not expected to do: It does not look to the legislature to adopt its work. It is not seeking to codify the law in the sense of providing a statute to be enacted by the legislature. It is seeking to prepare a statement which shall summarize the existing condition of the law on given topics up to a certain day, and especially with the same authority that attached to the writings of Justice Story when they were dropped from his fertile pen, during the early years of the last century—with in view the thought that if, as the work comes from the hands of the scholars, passes the criticisms of the critical minds of the lawyers, comprising the Council of this Institute,—then runs the gamut of examination by the members of that body, and on the whole is accepted as an accurate, clear substantial statement of the existing laws, that may go to the courts, backed with this great volume of professional authority, and the courts may accept it as the prima facie statement of existing law and give us that advantage. And, as Mr. Root said in speaking on the subject in Wash-

ington, the burden will be upon any lawyer who challenges the accuracy of that statement. And the hope will be, and the tendency will be that instead of going back to make an original research through the ten thousand or ten thousand thousands of papers that will have been examined, criticized, summarized and reduced to their proper conclusions by force of the statement the bar as a whole, will state "That work is well done, we will accept it, and we will start now from this point and we won't go back of that."

That will tend to do another thing. It will tend to reveal those things in which the aid of the legislature is necessary in order to review conditions of the law that should no longer persist. But it will give to the profession an authoritative statement of what the law is. You know, for example, what a great precedent was furnished when Mr. Justice Stephen wrote his treatise on the Law of Evidence. He reduced the great volume of Taylor on Evidence to the compass of a small volume, summarized it in one hundred thirty odd rules, with illustrations, and it remains today,—despite the great effort of Professor Wigmore,—it remains the most complete summary of the Law of Evidence as it stands today, that has ever been published, and was cited with a finality that we should like to see extend to the work of this organization.

We had a conference in Cambridge last summer attended by all of the men who have been employed to do the principal work, and by a number of men whom we had selected to confer with. We spent three days in discussion of how this work was to be done, and the form in which it was to be put forth. A general outline of procedure was agreed upon, and the scholars are at work on that line, the theory being that there shall be a statement of law in proposition, followed by a treatise which shall explain what reasons led to the adoption of the treatise, so that when one wants to know what the law is upon a certain subject, in contract, he may turn to this book and look at Rule 27 and find there a summary of the law—not a digest of decisions, conflicting decisions on the law, but a statement of the proposition which is supposed to be established by the existing authorities. And then if he wishes to enlighten himself as to how that has been reached and as to why certain considerations which might prima facie seem to lead to a different rule, have been disregarded, he may turn to the treatise and find a sufficient explanation why this result has been accomplished.

Ladies and gentlemen, it is a great work, it is a work that we are inclined, I think, to regard sometimes with a feeling of doubt, skepticism. But the obligation is incumbent on the American Bar to strike out in every line where they can see some proper avenue of improvement of the condition of our laws. The rule of expediency, adopted from time immemorial in English speaking countries, requires that everyone shall be presumed to know the law. Well, it is a rule of expediency, but it is a rule of absurdity under the present conditions, and when the courts of forty-nine sovereignties are pouring out their decisions year by year, each one of them furnishing a rule to govern similar cases in the future, conflicting in their views, lacking clarity very often in their exposition,—the absurdity of it becomes increasingly great. And the duty is incumbent upon the Bar, which knows these things, to endeavor to remove

from the community this atmosphere, the cloud of doubt, which today makes our law a great mystery, creates great confusion, and which leads to the opinion concerning the law and lawyers which is perhaps very widely entertained (more widely than we lawyers sometimes recognize) by the laity in general.

It is only by recognizing our own obligations to the community in which we live, our duty to the law which we profess, and devoting our learning and our ability to the task of improving that law so as to make clear the requirements which are laid upon the courts as their guidance in the decision of cases that come before them, that we can discharge those sacred obligations which we have assumed in becoming members of this great, this learned, this responsible profession.

(Prolonged applause, all standing.)

THE CHAIRMAN: For the second time in its history, the Minnesota State Bar Association and its guests are indebted to you and very grateful, Mr. Wickersham, for a message of instruction and enthusiasm. We appreciate and are very grateful for the inspiration you have been to us.

There is no title of greater significance, no title, at least, of human origin, of great significance than that of "chief justice of the Supreme Court of the United States." (Applause.) The significance of that title comes in the first instance from the law of its creation. It comes again from the history of the people, and it comes also from the identity, from the splendid character and the high services of the distinguished men who have occupied that position. (Applause.) And, if present indications continue the predictions they are now making no holder of that office will have added more to the significance of the title, than the present incumbent. (Applause.)

The name Taft has a significance all its own, to Americans. So far as my own knowledge goes, the sun will have difficulty in setting this evening, or any other evening, on any part of the earth occupied by civilized people which has not had the benefit of the service of the present chief justice of the United States. (Prolonged applause.)

We are grateful for his services to this nation and we admire him for them. We are grateful for his splendid learning, his poise, and we admire him for them. But above everything else we admire and we love him for his splendid Americanism. And now if the guests of this occasion will pardon me, I want to say just a word to the members of the Minnesota State Bar Association. I am not going to announce the topic respecting which the chief justice is going to address us. It is a topic to which I invite the special attention of the members of the Minnesota State Bar Association. It is a subject with respect to which we need to be taught. It is a subject with respect to which I make bold to say we need to be scolded. And if the chief justice goes so far as to scold a bit, I shall be very happy, because I know we need it. The Chief Justice of the Supreme Court of the United States will now address us. (Applause, all standing.)

ADDRESS

By Honorable William H. Taft

Members of the Bar Association of the state of Minnesota, I felicitate you on having the opportunity to hear so admirable a statement of the need and the purposes of the Law Institute of the United States. I have been somewhat familiar with the movement leading to the organization of that Institute, but I never have heard its object and the need for it stated with more comprehensiveness, with more persuasiveness, than you have heard from the Chairman of the Executive Committee of that organization, Mr. Wickersham. (Applause.)

I approach what I have to say with due humility, for it lacks all of the importance which should attach to his words. After you have struggled with the law of the United States and the constitution, for ten months, hard, you don't feel like delving into the tomes to prepare a formal address, for an association like this. And if you did, the fact that you had been working fairly hard would interfere with the usefulness of what you had to say. Therefore, what I have to say is only the dessert of this occasion, just what is light and frivolous, such a message you need not take home with you as you should what Mr. Wickersham has had to say.

This is not the first time I have had the pleasure of addressing the Bar Association of the state of Minnesota. You met once, in LaCrosse, Wisconsin, in joint association with the Bar of Wisconsin. As I recollect it, it was a great deal hotter there than it is today. The appearance that I made before that Association, after I got through with my address, is one that I am glad to say is not preserved in any movie I know of. (Laughter.) A turkish bath was nothing to it. Not only did the temperature bring about that result, but I was talking on the League of Nations (Laughter) and I demonstrated to my satisfaction, and I hope to the satisfaction of a number of my hearers, the necessity there was for the organization of such a league and the necessity there was for the United States becoming an important part of it. But—there has a great deal of water run under the bridge since that time. (Laughter.) I have been removed from the field in which I have any right to express an opinion on a subject matter like that. Therefore I do not intend to enter that field. I must confine myself to written opinions and to exhortations on questions of judicial and legal reform. On those subjects I may speak out. (Laughter.)

Now, no one recognizes more than I do the necessity for a preparation—not of a code but of a work such as that outlined by Mr. Wickersham, to enable us to escape from the wilderness, in searching out the law, that we now have. And I am sure everyone who hears the statement and who has had my experience in respect to the law in its present condition, will unite in that opinion.

But, my friends, we may have the law correctly stated, we may have it put by men whose learning gives authority to their conclusions, we may have it stated in such a way that it becomes convenient and quick to find what the law is. But you have, in addition to that, the

necessity for a machine by which the principles of the law thus stated shall be applied, and applied with dispatch, to do justice. (Applause.)

Principles of law do not enforce themselves, and unless they can be made to do practical justice as between man and man there is no need of worrying ourselves about them at all. In other words, another practical need is an improvement in legal procedure, so that cases may be disposed of promptly, and that great obstruction to justice—delay in the administration of justice,—may be removed. (Applause.) And it is not an easy thing to do. There is a great attack upon the courts of today on the ground that justice does lag, and therefore does not exist. For it is true that a delay in justice is a defeat of it, essentially a defeat of the right of those who are not able to continue the fight until they get justice, by reason of the lack of the sinews of war. Hence it is that, along with this great improvement of which Mr. Wickersham has spoken, we should have a movement towards the simplifying of legal procedure, for shortening the necessity for spending time and money in fighting cases through the courts.

Now, how are you going to do that? Are you going to do it through the judges? Well the judges have certain responsibilities in that regard. But the judges are hampered by legislation. Their powers are limited. The tendency of legislation, especially among the states, has been to limit the courts in their power to direct justice, in their power to hasten the administration of justice. Judges are working themselves to death in many jurisdictions, with an overwhelming burden of work that no men could do.

Now why is that? One reason is because the legislators do not understand or at least do not seem to understand the tremendous importance of legislation, to accomplish the reform which, on the stump and elsewhere, they express so earnest a desire to bring about. Try! Organize a committee and send that committee up to the Legislature or to Congress to get a bill through, to accomplish some good result in the administration of justice (chuckle) and see what enormous interest you develop in the whole Legislature on that subject. (Laughter.) Well, why is it? It is because that feature of improving the law does not get home to the people so that they do not hold their legislators responsible for legislation on that subject, and for legislation on many subjects with respect to which they have nothing to do. Can you bring about a change in that matter? Well, those who know the truth about this are the members of the profession whose business it is to promote the administration of justice. As individuals they wield a great deal of local influence,—not so much as they used to in times past,—they are not looked up to with the same deference and respect. Their opinions are not so highly regarded,—perhaps because there are more people and more lawyers. But whatever the occasion for it, that is the fact, that lawyers do not exercise as much influence upon public opinion as they used to do.

Now how can they bring about a change in that regard? This is an age of organization, and it is only by organizing the expression of the Bar in something effective that it can be done. Lawyers should feel a greater responsibility with respect to the administration of justice, as

affected by legislation, than they do feel. That is the reason why we should have Bar Associations, city bar associations, county bar associations, state bar associations, and national bar associations. They ought all to be affiliated and a great improvement has been made in that regard, but they do not yet exercise the influence that they should exercise, due, first, to the lawyers, and second, to their lack of organization. Of course, it is the custom to organize everything through an association, from manufacturing to undertaking (chuckle). (Laughter.) I remember meeting a national convention of undertakers on my travels as president out in the Grand Canon of Colorado, and I was interested to hear the speeches made there in which that profession was exalted as one of the grandest under the sun. Now, I think, at least, we lawyers ought to have the same pride in our profession. (Laughter.)

Now, we have had bar associations for a long time, half a century perhaps, or longer, perhaps seventy-five years; they began in a social way. They began with an indefinite idea of improving things by getting an expression from all the lawyers together. But we have gone on from time to time, and I think we have increased the interest in bar associations. But it is not enough, as it is.

Now there are criticisms of bar associations, and I am not here to say how just they are or how unjust. I am only going to state what they are. They say, for instance, that a bar association is now chiefly useful for enabling men to expound their particular theories, and to give them a chance to talk to an audience. Well, perhaps there is something in that. Then they say that bar associations are useful for the purpose of making men of the profession prominent in the bar associations (chuckling) when they are not at all prominent at the bar. (Laughter.) Now I am not prepared to say that there is not something in that, too. (Laughter.) But if it be true, why is it? If it be true that the men who are most active in their practice of law are not always prominent in bar associations, whose fault is it? It is the fault of those very men. It is their fault that they do not understand the responsibility that falls upon them, as men of ability and prominence at the bar, not making the influence of the bar as strong as possible towards improving the conditions of the administration of justice. (Applause.) And therefore every leading member of the bar and every other member of the bar ought to regard it as a part of his duty—just as he lectures a jury that it is a part of their duty, when called upon, to act upon a jury,—they being exempt from jury duty ought to devote their attention to meeting with bar associations and help along the general cause of jurisprudence and the improvement of legal procedure. (Applause.) Now I don't know about the State Bar Association of Minnesota. I only know what your chairman has said. And if it be true, that you have failed in this regard, then I join with him in saying what he said. (Laughter.) If it is not true, the fault is on his head. But certainly I think the presumption is, with him, because I am familiar with the general attitude towards bar associations throughout the United States.

I am glad to say that I think there is coming a change. We now have thirty thousand members of the American Bar Association, and that means a great improvement over what it used to be when the membership

was limited to two or three thousand. If twenty thousand lawyers of the United States, leading lawyers, shall unite together in a real, earnest, effort to accomplish something for the administration of justice, certainly we ought to look forward to success in that regard.

Now, of course, this is the harder part of speeding up the administration of justice. It is a great deal harder to improve the legal procedure than it is to improve the statement of the law—and why? Well, because they have got the money, first, and second because what they do is not dependent upon state legislatures or Congress. They can go ahead and state the law and put it in a form that, by reason of the standing and learning and force of the argument used in its statements, makes itself a force for good in the community. But when you are expected to reform legal procedure, and remove the limitations upon the power of judges to accomplish results, you have got to go to legislatures to get the law changed, and the limitations removed or the opportunities and powers of the judges increased.

Now, I don't know if it is the business of the judiciary to come and make addresses on this subject. Perhaps the propriety of that may be questioned. But I am prepared to argue that question. (Laughter.) We of the judiciary (chuckle) cannot escape knowing something, because it is thrown right under our noses. We cannot get away from it. The bench is a great educator on law (chuckling), and the practice before us—if we at all improve with the lessons that are taught us by the bar, ought to enable us to say what the defects are in procedure and to suggest remedies for their betterment. Certainly the men who ought to point the way to improvement in legal procedure are the men whose profession and whose lives are engaged in the administration of the law, as instrument for its promotion.

Therefore, I say that it is the business and the duty of lawyers together to unite in an organization that shall be effective to bring to bear upon those who make our laws, a sense of the responsibility that they should feel as to how those laws should be drawn, so that we may have not only a statement of the law as it is, but an enforcement as it should be.

(Prolonged applause, all standing.)

THE CHAIRMAN: Ladies and Gentlemen, that ends the program of the Minnesota State Bar Association, and our guests of this occasion, by their addresses, have made it a memorable one for us. This meeting now stands adjourned until tomorrow at 2:30 p. m., when we shall convene in joint session with the American Bar Association at the Auditorium.

Adjourned.

AUDITORIUM, Minneapolis, August 29, 1923.

MR. STONE: Members of the American Bar Association, and of the Bar Association of the state of Minnesota:—I wish I could say "our honored guests," also. Some of them are here, and I happen to know that most of them will be here soon. I say this for your reassurance, because I know you expect them.

You have already been welcomed to this state by the lieutenant governor, who had to make an explanation on account of the illness of the governor; and he made it very clear to you that that illness could not be charged to the North Star state. I find it incumbent upon myself to make a similar explanation concerning the absence today of the Honorable William A. Lancaster, the retiring president of the Minnesota State Bar Association. And I say, for myself and for my brethren of the Minnesota Bar Association, that we would much rather have Judge Lancaster preside on this occasion than myself.

I can say nothing higher for Judge Lancaster than that, while the St. Paul bar are not willing to admit that we envy Minneapolis very many things, we do envy Minneapolis, and particularly do we envy the bar of Minneapolis, the possession of Honorable William A. Lancaster as one of its leading members. (Applause.)

On behalf of the Bar Association of Minnesota, and as its mouthpiece for the time being, I welcome you again, one and all, to the largest city in Minnesota, and also to the greatest city in the state—which lies immediately adjacent—and generally to all of the good things within the boundaries of this great state.

It has just been my pleasure to listen to the representatives of the great institutions of Yale and Harvard telling, with a very pardonable pride, of their contributions to the councils, and particularly to the courts of the United States, and generally to the great service of its citizens, that have made it what it is, and are going to bring to it still greater things. We of the West do not permit institutions of the East to monopolize things of that kind. I want to invite your attention to one of the distinguished representatives of Minnesota who was mentioned this morning by our lieutenant governor.

And, by the way, Minnesota is proud of that lieutenant governor. We are proud of him in every way. We are proud of his size, because it demonstrates what big things we put up in small packages. (Laughter and applause.)

Mention was made this morning, deservedly complimentary, of the late Cushman K. Davis. (Applause.) Senator Davis was a remarkable judge of men. He had not been practicing in St. Paul very long before, from the southern part of this state, he selected two young lawyers, by name Frank B. Kellogg (applause) and Cordenio A. Severance. (Applause.) It is needless for me to tell this gathering anything about them. But I have often wondered how it was that, with that wonderful discernment, that wonderful judgment concerning men, and young men particularly, Senator Davis did not go into an adjoining county and grab off (if you will permit that expression) a young man then beginning his wonderful development, by name Pierce Butler. (Prolonged applause.)

How it was that Pierce Butler was overlooked by Senator Davis, I have never been able to understand.

The justice of the Supreme Court who will address us this afternoon is distinctly a Minnesota product, and we of Minnesota, lawyers and laymen alike, are proud of him. He was born and reared here. He received his education in the educational institutions of Minnesota, and I hope he will permit me to add, to some extent from the bar of Minnesota. (Laughter.) And I may add right here, too, that a great many of us received a great deal of education at his hands, many times to the discomfort and expense of our clients. (Laughter.)

We miss him, and we miss him greatly, but we were proud of his selection, when that portion of the British empire to the north of us selected him as its legal adviser in a matter of great moment. But prouder still were we when he was called by our late lamented chief magistrate to a position upon the greatest court of this land, and we fondly believe the greatest tribunal in the world. (Applause.)

Pardon me if I say just a word personally. A presiding officer, even a substitute and second choice proposition such as I am, is expected, of course, to say something on his own behalf. The audience always expect it, just as they fear he will say too much. At the risk of trespassing in the latter direction, I will add this: The people of the state of Minnesota are interested in a thing that the American Bar Association has now undertaken, as it never has before, the awakening of the professional mind and conscience to a special duty of the profession. I refer to the work of your Americanism Committee. We want permission to join in that work, if we may, the work of rehabilitating in the minds and hearts of the American people the Constitution of the United States and the basic principles of human government which it applies. (Applause.)

We who have had the army experience have come to the conclusion, I believe unanimously, that recently there has been altogether too much talk of the Americanizing of foreigners. We believe the stress should be laid, rather, on the proposition that no man should become an American citizen until he has ceased to be a foreigner (applause) and that when once we have given him the title of American citizen, it is our own fault, in the main, if he is not entitled to it. (Applause.)

The problem, my friends, is to Americanize Americans. (Applause.) That is the task in which we want to join you.

I mean no reflection upon the intelligence and loyalty of our people, but I do believe that there is altogether too general a lack of information concerning the institutions of this country, what they are, and why they are. You may wonder what connection this has with my duty on this occasion. I am coming to it. That lack of information from which we suffer, I believe (possibly due to my profession and the limitations which it may have imposed upon me),—but I believe that one great trouble with our citizenry is the lack of information concerning the Supreme Court of the United States, its magnificent position, its magnificent contribution to the establishment of this country, to its welfare, and to all those things which we fondly believe mean its permanence as an institution of the people of the world.

The secret of the success of that Court lies largely in the personnel of the men who have thus far manned it. And when its history is written, when the character of its personnel is considered, at whatever time the subject may come up, Minnesota will be exceedingly proud, as it is now, of the character, the learning, the high degree of fitness of the Honorable Pierce Butler. (Prolonged applause.) Mr. Justice Butler of the Supreme Court of the United States will now address us on some of the opportunities and duties of our profession. Mr. Justice Butler. (Applause.)

SOME OPPORTUNITIES AND DUTIES OF LAWYERS

By Honorable Pierce Butler

In the first place, I want to greet Minnesota lawyers. They are represented here by the President of the State Bar Association, Royal A Stone, Justice of the Supreme Court of Minnesota, who presides at this session. Association with them in the practice of law in Minnesota for more than thirty years leaves me under great obligations to them. I have been taught and strengthened—often chastened—in contests with them, and the memory of many cases in which we have worked as associates and adversaries will ever be pleasant. As the years pass, I seem to recall and like to talk about the cases which resulted favorably to my clients, oftener than of the others. We best remember the things we want to remember.

The people of Minnesota, and especially the lawyers, are greatly honored by the meeting of the American Bar Association here, and they deem it a privilege to be permitted to entertain its members and its guests.

To them we exhibit with pride, the state of Minnesota. Its location is of interest. The portion of the state which lies east of the Mississippi was a part of the Northwest Territory; the portion to the west of the river was a part of the Louisiana Purchase, and the northwest part of the state, lying just east of the Red River of the North, was acquired from England in 1818. Spain, France and England successively exercised sovereignty over territory now forming a part of this state.

The Northwest Ordinance of 1787 originally applied to only that portion of the state which lies east of the Mississippi, but, by various acts of Congress, it was made applicable to the entire area now constituting the state. The terms of that great instrument are familiar. It reflects the conceptions of government which prevailed about the time of the adoption of the federal constitution. It contains a bill of rights substantially like those found in the constitutions of older states, and wise exhortations to the people. For example we find this:

> "Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

The first settlement of importance, now Saint Paul, the capital of the state, about ten miles from here, is understood to be the geographical center of North America; and we have confidence in

the prophecies frequently made that it is destined to become the center of population, and we also think it is and will remain the center of civilization.

The territory of Minnesota was organized seventy-four years ago. It was fortunate in the character of its citizens who had to do with its early history. Alexander Ramsey, of Pennsylvania, was the first territorial governor. He was a man of mark and destined to be an outstanding figure and leader for more than fifty years. From the first he believed that the state was destined to have a great future. Shortly after his arrival he prepared a great seal for the use of the territory, which illustrates the conditions found and his vision of the things to come. This design included Saint Anthony Falls, the source of power for the industry which has made Minnesota's name as a producer of flour known everywhere; a farmer plowing, his gun and powderhorn leaning against a newly cut stump, forecasting the clearing of the land, production of lumber, and development of agriculture; and an Indian mounted on a horse, lance in hand, surprised at the sight of the white man at the plow, fleeing in the direction of the setting sun, toward which his tribes were being pressed.

In 1849, there was the first meeting of the territorial legislature, consisting of a Council and a House of Representatives. The Council had nine members, no two of whom were natives of the same state, and the House eighteen members, including natives of twelve states. The governor's address to the legislature was notable. Among other things he said:

> "I would advise you . . . that your legislation should be such as will guard equally the rights of labor and the rights of property, without running into ultraisms on either hand; as will recognize no social distinctions except those which merit and knowledge, religion and morals unavoidably create; as will suppress crime, encourage virtue; give free scope to enterprise and industry; as will promptly and without delay administer and supply all the legitimate wants of the people—laws, in a word, in the proclamation of which will be kept steadily in view the truth that this Territory is designed to be a great state, rivalling in population, wealth and energy her sisters of the Union, and that consequently all laws not merely local in their objects should be framed for the future as well as the present."

It seems to me that the suggestions he made to the pioneer legislators were very sensible. They constitute good advice for the lawmakers of today.

The years immediately following the organization of the territory witnessed great movements of people westwardly. The resources and climate of the territory combined to make it a suitable portion of the earth's surface for the support of a large population. Settlers came rapidly; the territorial period was brief. Less than eight years elapsed before Congress passed an act authorizing the establishment of a state government and providing for admission into the Union.

When the constitutional convention assembled in 1857, times were much disturbed. There was a great financial depression. The people were without money and were compelled to resort to substitutes and barter. Political controversies were rife, here as everywhere. National

politics were at fever heat. The slavery question was being agitated and pressing for solution. There were rival constitutional conventions, one composed of Democrats and the other of Republicans. Each prepared a draft constitution satisfactory to itself. All prevailing conditions would seem to be unfavorable for the exercise of calm judgment. Lawyers of sound views led both conventions. Substantially the same fundamental ideals of government were reflected in both instruments. The people of both parties were anxious for early admission, and before final adjournment of the conventions, there was a conference which resulted in an agreement and one draft which was signed by members of both conventions and submitted to the people and adopted by an overwhelming vote.

Historians have been interested to study and compare the draft constitutions made by these rival conventions. The fact is they were based on substantially the same ideals. Neither party has any clear ground to claim that its draft was better than the other. The Republicans claim—and seem to be entitled to—credit for originating the excellent preamble which perhaps may not inappropriately be quoted here for the purpose of illustrating the sentiments which dominated the framers:

> "We, the people of the state of Minnesota, grateful to God for our civil and religious liberty, and desiring to perpetuate its blessings and secure the same to ourselves and our posterity, do ordain and establish this constitution."

The article making distribution of powers of government to three distinct departments originated with the Democrats.

One historian says:

> "Superficially, it [the constitution] bears greater resemblance to the Republican than to the Democratic proposals, but in fact the Democrats gained more than appeared upon the surface."

Another says:

> "Both parties were content with the outcome; the Democrats because of what they had preserved; the Republicans because of good hopes of future advantages."

The leading newspaper of the time pronounced the constitution a "State Rights National Democratic Constitution" free from any "fanatical dogmas of the Black Republican party," and it consigned that dangerous and wretched faction to the "dens of obscurity."

Possibly it is worth mentioning that the Republicans did not long remain in obscurity. The first governor of the state was a Democrat, General Henry Hastings Sibley, but forty years elapsed before another candidate supported by the Democratic party was elected, and forty-four years elapsed before a Democrat was elected governor.

It is a tribute to the lawyers who led those conventions that the constitution agreed upon has served the state to this day, amended in a number of particulars, but not fundamentally changed. From the first, Minnesota lawyers have had creditable part in the upbuilding of the state. They have conducted a number of cases of national interest, and have contributed to the right development of the law. It has been the purpose of our judges to give every man his rights, and they have not been subservient to the influence of the great or the senti-

ments of the many. In fields of public service Minnesota lawyers have frequently been prominent and sometimes foremost. We of today are stimulated by the record of our predecessors. Present opportunities are quite as numerous and the work to be done as important as ever before.

Every period has had its problems. Those of the present will not dishearten the bar, but will stimulate it to right preparation and to its best efforts to help to solve them. Great and small, they are very numerous. Among the things which call for the attention and effort of lawyers are: right education of lawyers, especially having regard to moral qualities; opposition to those who attempt to show that certain laws cannot be enforced; due enforcement of law by rightfully constituted authority; obliteration of attempts outside of the law to prescribe conduct and impose discipline; development of proper respect for law; settlement of international questions by peaceful means; and the elevation of standards and devotion to the constitution.

The trial of cases, the actual administration of justice in the courts, is of highest concern. This work is for lawyers exclusively. But there are many other fields in which they, better than others, can and ought to lead. They serve as teachers, leaders of public thought, lawmakers, executives, diplomats and statesmen. All things which make for culture and power contribute to their proper training. It is, therefore, of first importance that sufficient opportunities for right education shall be open to those preparing to enter the profession.

Ample education has long been recognized by this Association as essential, and it has contributed much to the development of right standards and methods. Affairs are more complex than ever before. Social and industrial conditions are changed and changing. With changes have come new problems involving the public welfare, and lawyers are being called on more and more to help solve them. Their training should keep pace with demands made upon them. It is true that everyone has a right to study law and to become a lawyer, and is entitled to protection in that right. But the right of the people to have a well-fitted and worthy bar upon which to call for service in private and public affairs is a matter of higher concern.

Highly trained law school men have contributed and are contributing much to the elevation of standards and perfection of method, and justly their usefulness and influence are increasing. The satisfactory advance in recent years in the field of technical legal education is well known to everyone who has given the matter attention. Requirements for admission to law schools have been established and are being increased from time to time as conditions warrant. Reasonable strictness in this serves to benefit those who are thereby excluded, those who ought not to become lawyers, and it stimulates those who are of right caliber to make suitable preparation. Of course, the purpose is not to control the number so that competition may be lessened. Regard is had to the interest of the profession as a whole and to the rights of the public. Whatever may have been the situation a generation or so ago, when generally preparation for the bar

was guided—often well guided—study in law offices, it now certainly is true that the best place for that work is the well conducted modern law school, maintaining reasonably high requirements for entrance, and exacting a definite period of study under the guidance of full time professors who make the teaching of law their life work.

But in addition to full compliance with reasonable requirements for admission to the bar, such as have been suggested by this Association, there remains much that is desirable in the training for men for the legal profession. The rapid increase of governmental activities, state and national, over the affairs of life, and the greater popular control over government enlarge the lawyer's field. The guidance of sound men is needed now more than ever before. Thorough academic training well begun in advance of law school work should receive greater emphasis. If such training is not given in advance, it is not likely to be had. Most lawyers engaged in the practice find it necessary to spend nearly all of their time in work to earn a living. It is enough to expect that while so engaged, they will keep up with the ever changing conditions affecting law, business and society.

Education which makes for sound moral qualities, in addition to intellectual power, is essential everywhere. Within the field of a lawyer's work, as well as outside of it, there is need of the things which develop respect for law and regard for public interest, which elevate character and keep conscience clean. The problems of right education have not been solved. They are ages old, and changing as people and conditions change, will always remain. No formula will ever be devised perfectly to solve them.

It sometimes seems to me—and others have so observed—that the bar is not advancing in moral qualities. The feeling still exists to a greater or less extent among the people that lawyers as a class are technical, indirect in conduct, and lacking in honesty. It originated long ago and—as we are accustomed to think—rested upon ignorance and "vulgar prejudice." We should be careful not to use that "flattering unction" too much. When all is said that can be said to negative existing doubt in the minds of many as to the worthiness of lawyers as a class, it must be admitted that still there is need for effective work for the development of professional character, and in order to satisfy the public that right standards govern.

The work of the law schools is not perfect. In the study of law in offices of lawyers, as it formerly prevailed, there were some advantages that it is impossible for law schools to give. There was intimate contact between students and members of the firm in the actual problems arising from day to day. More than knowledge of law is required by the practitioner. The conduct of clients must be guided, the relation of their affairs to the public must be regarded, cases must be presented as they are even though interest and expediency tempt in another direction. It is a great thing for a law student to have opportunity to observe at close range the work of a lawyer of experience and high character in office as well as in the courts. Nothing is more valuable in a practical way to build up character. The perils which

come to students from association with unworthy lawyers or law teachers are too obvious to require mention.

Training in the things which make for efficiency, orderliness of thought, power of analysis, clearness of statement, skill in presentation and debate, does not of itself make a lawyer a great or a good lawyer. In addition, sound character and the standards which develop and keep justice and patriotism constantly in view are essential. The very existence of our government depends upon the intelligence and character of the people. At all times these must be sufficient to sustain. The learning and skill of lawyers may be a power of evil, a weapon that may be used to attack and destroy as well as to build up and sustain.

Existing conditions call upon the lawyers of the present day to provide means by which those who are later to join our ranks may come prepared in all things, guided by ideals worthy of their work, and with character sturdy enough to weather all storms.

It is well known that there is much agitation detrimental to public welfare and good citizenship. Some of it is directed against the present order. It is not confined to the alien and ignorant. In some of our colleges and universities there is a good deal of false teaching in the field of politics and social sciences. Professors, sometimes, spread discontent among the students. The things that are good and essential to patriotism are neglected and existing ills in political and economic conditions are magnified, and the constitution is sometimes condemned as archaic, and by some of them it is believed that religion is a hindrance to social progress. Those who would tear down are much more diligent than those who support our form of government.

Then, too, there is a purpose on the part of many to demonstrate that laws which are unpopular or unacceptable to groups, occupations or particular classes of business cannot be enforced. This is not confined to laws regulating intoxicating liquors, but extends to many others. Devices to violate the law and escape prescribed penalties, to keep within the letter and thwart the purpose, are not less numerous than formerly. Widespread purpose to evade liquor laws, tax laws, anti-trust laws and many others is evident in many places. The dockets of the courts furnish convincing evidence of this. These things tend toward destruction of all law, and strike at the safety of society. It is interesting to observe how prompt the violators of law are themselves to invoke its protection and how quick to complain against failure to uphold the shield which safeguards their rights. Respect for law cannot be maintained where it is frequently disregarded. All the forces of society should be called to aid in the development of the proper respect for law. The failure of lawyers in this respect is a breach of obligation to their profession. In this matter they have special duties, and inaction is fault.

Too often people attempt to take the enforcement of law into their own hands. That sort of thing occurs in different ways and more frequently now than heretofore.

No one defends or attempts to justify mob violence which occasionally breaks forth in lynchings. Few attempt to excuse that sort

of murder. Yet local passion usually makes it impossible to convict lynchers.

The mob spirit is brought into play to overawe and dominate public officers, jurors and judges. Instances are not wanting when trials are mere forms because of the weight of the sentiment of the community in favor of conviction or acquittal. The assaulting of women, race riots, labor troubles and other things which arouse passion often result in violence and bloodshed. When quiet has been restored and orderly processes attempted, the dominant element in the community seeks to convict or acquit those accused, regardless of the facts. The force of excited opinion, threats and intimidation in one form or another are brought into play to control the result of trials. The overthrow of the just power of courts in the trial of cases by these forms of lawlessness is worse—if anything can be worse—than lynchings.

The spirit of lawlessness that threatens now is not confined to cases where horrible crime has been committed or to those growing out of race or other class troubles.

Some features of the situation recall the act of Congress of 1870 which denounced as crime conspiracies to injure or intimidate citizens in the exercise of their rights secured by the laws of the United States, and also denounced as crime the going of persons in disguise on the highways or on the premises of others in order to prevent the free exercise of such rights. The occasion of that statute was the condition of affairs existing in the South during the Reconstruction Period following the Civil War. The evil aimed at was mob resistance to law and the attempt to put views of a class or faction above law. In a short period of time these crimes largely disappeared.

In recent years there has come a wave of conspiracies worse than those that called forth the exercise of the power of Congress. Conspirators assume to fix standards of conduct and limit rights of others, and in secret prescribe the punishment and determine the fate of those whom they choose to condemn. Their domination of public affairs, public officers and courts by threats of intimidation amounts to a taking of the law and its proper enforcement out of the hands of lawfully constituted authority. These things are anarchistic and threaten society. The sentiment of groups or organizations or classes or indeed of the whole community may not be substituted for law. Neither good motives nor pious invocations nor patriotic utterances can change the character of or disinfect such performances. All who are intelligent and just agree in condemnation. Is this widespread evil a passing thing awakened by clamor following the War? Is it born of a lack of respect for law that has too long been allowed to go unheeded? Is it a perversion of worthy activities put forth for the unification of effort in the recent crisis when enemies and their propagandists sought to weaken the nation? No adequate reason or occasion for this widespread assault has been suggested. It must be met in an orderly way by the forces of law. These forces may be greatly strengthened by the weight of intelligent public opinion. The conspirators should be identified, and their crimes should be punished

according to law. Lawyers have special obligations in respect of this.

Dignity of law and respect for authority are impaired by too many enactments and regulations.

The proper and legitimate scope of government should be carefully regarded. It is hard to define and there are widely divergent views with reference to it. No attempt will be made here to support any particular view. That lawmaking may be *overworked* will be admitted by any intelligent observer who does not believe that general welfare will be promoted by transferring all the responsibilities of life from individuals to agencies of the state. It is clear that the proper scope of government is not to be limited to preservation of order and health and providing for suitable opportunities for education and the like. If the opposite extreme, that government should assume charge of all our affairs, has not been adopted, the multitude of activities of state and Nation undertaken in recent years indicate a strong tendency in that direction. It is true that the scope of action should not be limited, as it were, to that of a mere policeman. The proper field is much broader. Laws for the protection of the weak inure to the benefit of all. Many are necessary to safeguard equality of opportunity and to protect individual rights. The highest function of the state is to see to it that, while none shall be wronged, all shall have a just measure of freedom for pursuit of happiness and the highest good. Necessarily government must have contact at many points with the people within its jurisdiction, and, as population and complexity of conditions increase, must more and more concern itself with the affairs of individuals. The fact that in this country the governed are also the rulers ought to give assurance against excesses. In the past self restraint has been sufficient. Doubtless, if given fair oportunity for conference as to principles and candidates, electors are able wisely to chose their representatives. It is easier to pass upon the fitness of men than upon the wisdom of measures. Generally they will choose the intelligent and experienced to make their laws. Occasionally—not often—ignorance and inexperience are put forward as qualifications for high office, but whenever this is done, it appears to be for the purpose of keeping out "lawyers, professors and other highbrows."

The making of laws ought not to be dominated by particular interests or groups. To make first one class and then another the object of governmental solicitude and favor creates the attitude of dependence instead of independence, of getting instead of giving. A passion for new enactments prevails. The enormous number of bills introduced in the legislatures shows the extent to which it is thought that welfare can be promoted by lawmaking. In many places legislative method is imperfect. Party and other leadership is lacking. Committees are hastily organized and sessions are short. Bills are prepared by those without skill for such work. The effect of proposed changes is not understood or considered. The number and not the merits of bills passed is often used as the measure of fitness and popularity of their authors. Lawmakers are influenced by powerful groups and yielding to pressure—and often to manufactured public opinion—

pass laws and yet more laws. Leaders of selfish organizations control large numbers of votes. Their power continues after election day and their determinations, made without regard to any interest save their own, communicated sometimes in the form of orders, unduly affect the conduct of legislators and other public officers. Domination by the sentiment of any particular interest or group—whether of capital or labor or other organizations, including few or many, is evil. It creates a feeling of class against class. It invites legislative experiments to relieve people from their own just responsibilities. It encourages the idea that the state should protect everyone against all the trials and burdens of life, including those purely personal, and should furnish employment, prescribe the amount of work and provide all the needs of life.

There is just ground for complaint against delays and expense of litigation. These lessen respect for courts and the law.

A clause of the constitution of Minnesota is as follows:

> "Every Person . . . ought to obtain justice freely and without purchase; completely and without denial; promptly and without delay, conformably to the laws."

These words are quoted to indicate what litigants everywhere have a right to expect, and what sometimes they do expect.

Undoubtedly it often requires the expenditure of too much money and time to obtain remedies provided by law. Complaint of this is frequent and of long standing. It is possible that in this, as in the case of other sources of irritations and burdens which seem unjust, there is liable to be some exaggeration. The weight of any grievance increases when it is complained of, and the oftener it is described the more serious it seems. It is to be borne in mind that all delays are not due to defects of law or fault of lawyers or courts. In many cases the joining of issue and immediate contact with adversaries take off something of the keenness of the parties to the contest. Nevertheless, there is room for considerable improvement in court procedure, and it should be simplified as much as possible. Already a great deal has been done under the leadership of this Association and more will be accomplished. Probably the conservatism of lawyers has unduly impeded progress in this field. They have observed—or some of them think they have observed—that sometimes laws passed in the name of reform let loose a flood of evils more serious than those sought to be eliminated, and possibly they are overcautious. However, all realize that the situation requires immediate attention and improvement. In some places court calendars are far behind; sometimes it requires years to obtain final judgment in simple cases; sometimes crimes are not punished promptly enough. Offenses against the government during the War furnished glaring examples of this. In some of these cases delays were longer than reasonable terms of imprisonment for the offenses committed. The War ended and sentiment for pardon of such offenses developed before some of the guilty were committed to prison. They ought to have been coming out when they were put in. It requires more patience to be satisfied with such delays than ordinarily is possessed by those who are not "learned in the law."

There are too many instances where justice is not obtained (to use the words of our state constitution) "promptly and without delay." In determining the desirable changes to eliminate delays and to simplify procedure, the views of experienced judges as to what additional means should be provided and what changes can advantageously and safely be made should be ascertained and given great weight.

The fields of effort suggested by what already has been said are only a few and probably not the most important that now call for service of lawyers. Conditions affecting business have direct bearing upon the attitude of the people toward the laws. Reasonable prosperity is essential to contentment. The War was followed by many new and difficult business and industrial problems, and a feeling of unrest is quite widespread. Nearly five years have passed since the Armistice. Renewal of general war has been avoided and a good deal of progress has been made in the direction of rehabilitation. But all Europe is financially weak and much disturbed. The crushing weight of debt delays resumption of commerce, and governments there are under great strain. Permanent peace is not assured. Hatred and rivalries are still intense. It is almost dangerous to be a mere bystander. This country has great interest in conditions abroad, and permanent peace of the world is of utmost importance to us. Many think that when the international situation is put on a sound basis, a large number of local and domestic problems will vanish.

The United States has always favored the peaceful settlement of international disputes. In scores of cases it has been party to arbitrations for the adjustment of differences between it and other nations. It is party to treaties now in force for the arbitration of existing differences, to treaties providing for solution of questions which may arise in the future, and to permanent commissions having to do with matters that, if neglected, might develop into controversies. It brought about the International Conference on the Limitation of Armaments and the discussion of the Pacific and Far East problems. The favorable influence of the result is very great. These things and many others show that the United States is headed in the right direction—working for permanent peace and good will among nations. Our profession has had creditable part in all these things. Much remains to be done to compose the world. American lawyers representing our government, and in private capacity as well, are certain to do their part. Any proposed new step in the direction of finding additional means for the settlement of international disputes by peaceful means will enlist the interest of the American bar quite generally, and our statesmen having directly to do with such matters will highly value the opinion of the bar, and will be strengthened by its painstaking study and support.

The Committee on Citizenship of this Association finds that it is necessary "to re-establish the constitution of the United States and the principles and ideals of our government in the minds and hearts of the people." Many things have contributed to lessen devotion to country. Undoubtedly imperfect education in fundamentals on which moral qualities and sound character depend has been one of the most

potent causes of this evil. Toleration of efforts to discredit certain laws by showing that they cannot be enforced, lack of effective law enforcement, attempts by numerous organizations to usurp power and ignore authority and many like things have engendered a dangerous lack of respect for law. The breaking down of governments in other countries and the destruction of confidence in the established order have impaired patriotic standards everywhere.

The ideals of earlier days in the life of the Republic which saved and advanced the interests of country must be restored. The sanctity of the home, the integrity of the family—the unit of society without which our civilization cannot endure—must be preserved. The rising generation must be taught to cherish and defend "the right of the individual to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men." These things have been weakened by the indifference of those who really love them and threatened by the discontented and the visionary.

The present calls lawyers of America to oppose all unfavorable forces that delay progress or endanger safety. Effective means will be found when earnest purpose is awakened. The resourcefulness of the bar may be relied upon. The qualities of American citizens are essentially sound, and when they are aroused and intelligently led, will move with irresistible force.

In this connection the words of a great American churchman are appropriate.

> "The end of all worthy struggles is to establish morality as the basis of individual and national life. . . . To make righteousness prevail, to make justice reign, to spread beauty, gentleness, wisdom, and peace; to widen opportunity, to increase good will, to move in the light of higher thoughts and larger hopes, to encourage science and art, to foster industry and thrift, education and culture, reverence and obedience, purity and love, honesty, sobriety, and the disinterested devotion to the common good,—this is the patriot's aim, this his ideal. And if even a minority, a remnant, work in this spirit and strive for this purpose, the star of the Republic, which rose to herald the dawn of a new and better era, shall not throw its parting rays on the ruins of an empire stained with blood."

MR. STONE: Mr. Justice Butler, I am sure I speak to you the sentiment of this splendid audience, in saying that we are profoundly grateful to you for the message of inspiration which you have brought us today as American citizens; and for the more limited section of this audience from Minnesota, I will say that we are proud of you, and proud of the fact that we have been able to contribute you to the Supreme Court of this nation, and that you are there as a Minnesotan, with Mr. Justice Sanford and the other distinguished Associate Justices, all of you[1] with our great and beloved Chief Justice Taft. (Prolonged applause.)

---

[1]Chief Justice Taft and Justice Sanborn were on the platform.

MR. STONE: The Secretary of the American Bar has some announcements to make.

(Announcements.)

MR. STONE: There being no further business for the annual session of the Minnesota State Bar Association, it is declared adjourned, without a day. The American Bar Association adjourns until this evening at eight o'clock—very sharp.

(Adjourned.)

MEMORIALS PRESENTED BY THE COMMITTEE ON LEGAL BIOGRAPHY

CONRAD H. CHRISTOPHERSON

We, the members of the bar of the Thirteenth Judicial District, deem it appropriate and fitting that we should place upon record an expression of our sense of the great loss to the Thirteenth Judicial District, to the state of Minnesota, and to his fellow associates at the bar of the state, which has been caused by the untimely death of Conrad H. Christopherson, which occurred on the 21st day of September, 1922.

Mr. Christopherson was born at Albert Lea on the 27th day of December, 1875, and was therefore nearly forty-seven years of age. He attended the public schools of Albert Lea until he entered the state University from which institution he was graduated in 1898. After serving two years as superintendent of the schools of Long Prairie, he took up the study of law and in 1903 was admitted to the bar.

He at once commenced the practice of his profession at Luverne, and shortly thereafter was elected county attorney, which office he held continuously fourteen years. In 1920 he was appointed assistant attorney general of the state, which position he held until his death.

The name Conrad originally meant "able counsel," and consistent with the Christian name given him, Conrad Christopherson, soon after his admission to the bar, rapidly became recognized as an able counsellor.

He entered into the practice of the law with a clean body, a well trained mind, noble ideals, and indefatigable energy. Mr. Christopherson was temperate in all things except in work. He believed in the gospel of work as the one and only key to lasting success. Whatever he undertook to do he did with pains-taking care and the application of hard work. He was a master of details. He seldom forgot an essential point in a case. He was always ready and prepared.

His personal habits of life were above reproach and as clean as a virgin. He was an exemplar of the teachings of his religion. In 1901 Mr. Christopherson was married to Effie Jacobsen, of Luverne. Mrs. Christopherson and three children survive him. He was a devoted husband and father. To them he gave an overflowing measure of faithful and loving devotion.

He was a careful and painstaking student of the law. College training does not always mean much, but Mr. Christopherson had made the most of what a college had to give. He had laid a good foundation for beginning the study of the law. After all the soul and spirit of the law is common sense applied to justice. To be a good lawyer one should be

able to see clearly the straight line of demarkation between right and wrong. Conrad Christopherson had the moral sense and the discerning eye to always see that line. With these faculties as his aid and guide, he was on the pathway to professional success.

Just as the doors swung wide for Conrad H. Christopherson to enter the larger fields of professional achievement, his earthly career was prematurely ended by the Grim Reaper. Who shall say that he has not found greater happiness and usefulness in "that undiscovered country from which no mortal ever returned?" And so "death lies upon him like an untimely frost," and all his former brethren of the bar, and, indeed, all who knew him, mourn his loss to the community and state.

Inasmuch as all that is left to us of Conrad H. Christopherson is the memory of his life and deeds, in behalf of his associates who still linger, we respectfully ask that this court permit this brief expression of our regard for his memory be spread upon the records of this court.

NEWELL H. CLAPP

NEWELL HARVEY CLAPP was born in Waitsfield, Vermont, on January 27, 1850. In 1856 he came West with his parents, who settled at Pepin, Wisconsin, and later removed to St. Croix County in that state.

As a young man Mr. Clapp was fortunate enough to study law in the office of Augustus Wilson at Hudson, Wisconsin, and was admitted to the Wisconsin Bar in 1871. In 1882 he moved to Stillwater, Minnesota, where he resided and practiced his profession until the year 1893, when he moved to St. Paul, where he resided until his decease.

In the year 1882 he formed a law partnership with Alvin E. Macartney, under the firm name of Clapp & Macartney, and together Mr. Clapp and Mr. Macartney practised law for thirty years, until Mr. Macartney's death in the year 1912. At that time Mr. Clapp refused to change the name of the firm, and continued to practice law under the same firm name until his death.

The father of a large family, there having been born to Mrs. Clapp and himself seven children, his social activities and greatest pleasures centered in his family, and when adversity came, as it did, in the loss of four of his children, Mr. Clapp's real greatness manifested itself in his great sorrow born in silence while lightening the grief of his family by his gentle, loving tenderness which was an inspiration to all who were near. There is no place where true character is so well displayed as in the family circle, and there Mr. Clapp was always under all circumstances a perfect husband and father, loved and honored by all.

As an attorney, Mr. Clapp ranked as one of the leaders of his pro-

fession, and his integrity and ability were widely recognized. There was no keener, more brilliant or fairer legal mind than Mr. Clapp's, and he always insisted on fair play for all sides and never hesitated to tell his own clients what was fair and just for all concerned. His capacity to do work was tremendous, his zeal to serve his clients faithfully and quickly was an inspiration, and his memory and store of legal knowledge was amazing to those who knew him best and were fortunate enough to be able to watch him work out the many problems which were presented for his consideration. For many years Mr. Clapp was intimately connected with the legal and economic development of the great Northwest and his influence and ability has left a lasting effect on this state, for few attorneys have had so many important legal and economic matters entrusted to their care.

He always took a deep interest in public affairs, and devoted much valuable time in an effort to do what he could to help his community. For some years he was president of the board of education of the city of Stillwater. For several years he was a member of the State Board of Law Examiners and was an instructor in the St. Paul College of Law, and as a member of the Charter Commission of St. Paul served his city well.

On July 4th, 1872, Mr. Clapp married Sarah Elizabeth Jones, who survives him. Of their seven children, Augustus W., Edwin J., and Arthur A. are the only ones who survive their father.

His death occurred very suddenly on March 30th, 1922, at San Francisco, after his most enjoyable winter spent with Mrs. Clapp in California, and his decease has taken from his family an ideal husband and father, and from his friends and this Bar one whose place cannot be filled.

HERMAN K. GOLDMAN

HERMAN K. GOLDMAN was born on January 11, 1892, in the city of St. Paul, Minnesota, and maintained his residence in that city continuously during his life. He died at the age of thirty-one years, on February 26, 1923, after an extended illness. Born of parentage, which though comfortably situated, possessed no great wealth, Mr. Goldman, who was a son of Mr. and Mrs. Louis Goldman, worked his way through college, graduating from the St. Paul College of Law on June 19, 1913, after an academic training received in the Franklin grade school, Central High school and Hamline University of the city of St. Paul. He was not much beyond the age of twenty-one years when he was admitted to the practice of law in the Minnesota courts and in the federal courts. He was a member of the Ramsey County Bar Association and of the State Bar Association. During his practice he had been associated with Thomas Daggett,

and with Morton Barrows and A. A. Stewart, leading St. Paul attorneys. His untimely death removed from practice a young man of promising ability, who enjoyed a merited popularity with his brother lawyers of the Ramsey County Bar.

CHARLES C. HAUPT

CHARLES C. HAUPT was born in Wilkesbarre, Pa., in January, 1854. When ten years old, his parents moved to southern Michigan where he received his education chiefly in the University of Michigan at Ann Arbor. In 1882, he came to Minnesota, located at Willmar and later moved to Fergus Falls. There he was active in the practice of law until 1902 when he moved to St. Paul, Minn., upon being appointed by President Roosevelt as United States district attorney for Minnesota. In May, 1917, he was appointed judge of the district court of Ramsey County and thereafter and in November, 1918, he was elected to that position. He died December 1, 1922.

Judge Haupt was a man of high ideals and most appreciated by those who knew him intimately. He was a close student, well grounded in the law and had a brilliant and analytical mind. His vision was broad. He was sympathetic and charitable. He had an excellent and comprehensive command of terse English. His record as a district judge stands as a tribute to his memory. Because of his character and activities, Minnesota is better for his having lived.

BUEL A. MAN

BUEL A. MAN, a member of the Winona bar, died at his home in that city on March 8th, 1923. He was born June 15th, 1840 in Franklin County, N. Y., in the house where his father had been born before him. As a lad he attended Franklin Academy at Malone, N. Y. He saw service during the Civil War with Co. H, 106th N. Y. Inf. and took part in some of the most important battles. He came to Minnesota in June, 1869, and lived first at Lake City, then for some time at Lanesboro. He was admitted to the bar in 1883 and five years later moved to Winona where he practiced until his death. He was for a time in partnership with his son-in-law, William B. Anderson, under the firm name of Anderson & Man. He was married on July 8th, 1861, to Abbie J. Wescott. She and two daughters survive him. Mr. Man did not often engage in trial work, but he had a large office practice and was a lawyer of high ideals and purpose.

ERASTUS FLETCHER MEARKLE

ERASTUS FLETCHER MEARKLE, son of George and Anna (Shaffer) Mearkle; born at Clearville, Bedford County, Pennsylvania, on September 3rd, 1849. Educated in the country schools, State Normal School at Millersville, Pennsylvania, graduating from there in 1869. Entered the University of Michigan at Ann Arbor, Michigan, in 1872, taking both the academic and law courses and graduating from both departments the same year. In 1877 he married Miss Anna L. Smith, locating at Peoria, Illinois. Came to Minneapolis in 1879, and entered the law office of Woods & Babcock. From 1882 was identified with the Security Bank of Minneapolis, serving as director and vice president. For thirty years acted as treasurer of Hamline University. Died at Minneapolis on the 2nd day of February, 1922, leaving a wife and one child, Edith Mearkle Cleary.

JOHN MOONAN

On the 23rd day of November, 1922, after less than an hour's illness, at the close of a day's work, John Moonan, a member of the Waseca County Bar Association, died. His sudden death, in the flower of middle life and at the height of his career as a lawyer, came as a great shock to his many friends as well as his family, and as a distinct loss to the people of the county and the state. All felt and knew that a really great man had passed away.

John Moonan was born on a farm in Iosco Township, Waseca County, on February 9th, 1866. He was a son of Patrick and Mary Ann (Delaney) Moonan, who settled in Waseca County in 1863. He received his early education in the public schools including the Waseca High School, and studied law at Waseca under the preceptorship of Judge Louis Bronwell. Upon attaining his majority he was admitted to the bar and at once began the practice of his profession at Waseca where he remained for over thirty-five years and until his death.

Mr. Moonan held many offices of trust during his business career. He was county attorney of Waseca County from January 1, 1899 to January 1, 1903, mayor of the city of Waseca in 1897 and in 1907 he was elected to the state Senate to which body he was re-elected without opposition in 1911, serving eight years in all. In the legislature he was known as one of the most active members. He served on the judiciary, railway and legislative committees and assisted in drafting and passing many important measures. He also served as city attorney of the city of Waseca, was a member of the school board, and president of the Waseca County Agricultural Society. He was a member of the American Bar Association, Minnesota State Bar Association, Southern Minnesota Bar Association, being President of that organization in 1922, The Waseca County Bar Association, Knights of Columbus, Ancient Order of Hibernians, Ancient Order of United Workmen, Modern Woodmen of America, Benevolent

and Protective Order of Elks, Knights of Maccabees and was a communicant of the Roman Catholic Church.

He was conscientious, careful and diligent, untiring in the interest of his clients—a close student and a well read man with a broad and accurate knowledge of the law. In everything pertaining to the development and the growth of his county he was active and progressive. Born in Minnesota, he was loyal to the state and served its citizens with fidelity—an honor to his profession and an exemplary citizen.

He was an able and industrious lawyer, fearless and loyal to the cause of a client. He never acknowledged defeat until the resources of his honorable effort were exhausted. He was unusually successful and won many important cases. He had and retained the absolute confidence of his clients and was a leader both at the bar and as a citizen. He was endowed with rare common sense and presented his cases with entire frankness and in a clean, plain and convincing manner and had the confidence of the courts and juries.

Senator Moonan was charitable to a fault and the needy never left his door unaided. Many were the acts of charity performed that none knew about, save himself and the one he aided. He never boasted of his generosity, but those who were benefited by his silent kindness can be numbered by the hundreds.

He was ever ready to assist the young lawyer and never known to take advantage of one. It can be truly said that more young lawyers were the recipients of his kindness and the beneficiaries of his advice and assistance, than of any other lawyer in the state of Minnesota. Such was the character of the man who went to his eternal rest on November 23rd, last, and many there are who will miss his ever ready aid and his kindly encouragement.

CHRISTOPHER D. O'BRIEN

Alert and vigorous to the very end, Christopher D. O'Brien departed this life at his home, in St. Paul, on August 27th, 1922. The mere chronology of his professional life is so expressive as to make almost futile any attempt to add to its significance.

He was born in County Galway, Ireland, December 4th, 1848, and in 1856 he came, with his parents, Dillon O'Brien and Elizabeth Kelly O'Brien, to Madeline Island, La Pointe, Wisconsin, where, for some time thereafter, his father was a Government school teacher.

In 1863 Mr. O'Brien, when but a boy of 15 years, made his way, most of it on foot, to St. Anthony, where for a time he worked in a general store. In 1865, as the driver of a mule team, he was with the Bracket Expedition against the Indians in North Dakota.

In 1866 his professional career began with his first study of law in the office of Cushman K. Davis, in St. Paul, his work on the law books being lightened and made the easier, perhaps, by such chores as keeping

the office stove supplied with wood, the lamps cleaned and trimmed, and the floors swept. In those days pleadings and other legal documents were all written in long-hand, and "Chris," of course, did his share of that work.

On January 15th, 1870, in the district court of Ramsey County, he was admitted to the Bar. The order for his admission was made by Judge Wescott Wilkin, and his certificate of admission signed by Albert Armstrong, Clerk.

From 1870 to 1873 he was assistant United States district attorney, and from 1874 to 1878, county attorney of Ramsey County. From 1883 to 1885 he served St. Paul as its mayor.

There ended his career as an office-holder. Never again did he seek political office, but always, to the end, he manifested in all public affairs a high and unselfish interest, his demand being constantly that public service should be efficient and beyond reproach.

In 1888, when the late William S. Pattee became Dean of the College of Law at the University of Minnesota and selected, as a corps of lecturers, some of the most active and eminent men then at the Bar, Mr. O'Brien was made lecturer on Criminal Law and Procedure, in which capacity he served until 1917.

From his admission to the Bar in 1870, to 1880, Mr. O'Brien was a partner of the late Senator Davis, first in the firm of Davis & O'Brien, and later in the firm of Davis, O'Brien and Wilson. He then became the head of his own firm, from 1880 to 1883, O'Brien & Wilson, and from 1883 to 1900, C. D. & Thomas D. O'Brien, the junior member of that firm being a younger brother,—one who was later to become an associate justice of the supreme court of Minnesota.

From 1900 to the time of his death, Mr. O'Brien had no partner, but during those years he cared for a very large practice, one demanding a high degree of professional efficiency. During this time he tried and won some of the most important cases in which he had ever been engaged. It was during that period that he achieved the distinction, now accorded him by common consent, of having tried more cases than any other member of the Minnesota Bar.

On October 2nd, 1872, Miss Susan E. Slater became his bride, (the late Hon. Hascall R. Brill being his best man). Mrs. O'Brien and their children, R. D. O'Brien, C. D. O'Brien, Jr., Arthur C. O'Brien, Charles S. O'Brien, Gerald R. O'Brien and Mrs. C. B. Teisberg, survive him. His sons, R. D. and C. D. Jr., are practicing lawyers in St. Paul, the former having been county attorney of Ramsey County for eight terms.

Mr. O'Brien had a richly furnished mind, a result achieved by his life-long habit of reading. He was intimately familiar with the best in classical and modern literature.

The love of America which has always characterized his family was especially strong in him. He was an American patriot, his patriotism being enriched by his native Irish enthusiasm. He was an aggressive

apostle of Irish freedom, and one of the most intense desires of his life was gratified when the Irish Free State seemed to become an accomplished fact.

Always intensely loyal as a friend, Mr. O'Brien was doubly so when, to his friendship, there was added the relation of attorney and client, and his clients were always his friends. Always devoted to the highest ideals of personal and professional conduct, no lawyer ever had a more honorable adversary than Mr. O'Brien, and his very outstanding fairness made him one to be feared, especially so in the presence of a jury.

He had an uncanny faculty of eliciting and presenting evidence. As a cross-examiner, he probably has been without a superior, and with few, if any, equals, during his more than half century of practice in the courts of Minnesota, to which, however, his activities were not confined. He tried many and very important cases in other jurisdictions and in the federal courts. When once he had accepted a retainer in a law suit, the contest became his own. He had a genius for bringing to bear every available weapon, and in the very finest professional sense he was always "a first class fightin' man."

To a very large circle of friends and clients throughout the Northwest, he was, in the field of his profession, a famous hero, a veritable giant, his fame as a trial lawyer being of the most genuine kind, in that it sprang from the admiration of those who had witnessed and benefited by his prowess and who passed on to others, in need of like services, their praises of his wonderful work. His career was the more remarkable in that, up to the very end, his mind was as brilliantly active and his splendid abilities as well controlled and directed, as ever.

WILLIAM COLLINS ODELL

WILLIAM C. ODELL was born in Gorham, New York, October 20th, 1850, the son of William P. and Eliza C. Odell. He died at Abbott Hospital, Minneapolis, October 11th, 1923.

Mr. Odell was educated in the public schools of Muskegon, Michigan, and an academy at Kalamazoo. He studied law in the office of an uncle at Ballaston Spa, N. Y., and was admitted to practice in the state of Michigan in 1871 and for a short time practiced law in his home town of Muskegon and then went to Detroit where he entered the office of the late Judge Charles I. Walker. In 1876 he located at Jordan, Minnesota, but remained there but a short time when he located at Chaska where he has ever since practiced his profession.

Mr. Odell was married to Lucy DuToit in 1878 and of this union six children were born. Mrs. Odell died in April, 1890. The surviving children of this union are William F. Odell, the present county attorney of Carver County, Mrs. B. B. Klammer and Mrs. Howard Ottinger of Chaska and George A. Odell of Taft, California.

Mr. Odell was married to Constance DuToit in 1892 and she died in 1912. One child was born of this union, Mrs. L. E. Flink of Chaska.

He was county attorney of Carver County, city attorney of Chaska and a member of the board of education for many years. He became a member of the Masonic Lodge in early life and was Master of the Lodge at Chaska for twenty-six years.

His abilities as a lawyer manifested themselves in early life and soon after locating at Chaska he began to take an active and prominent part in the legal circles of his county and judicial district and in time became known as one of the leading lawyers of the Minnesota Valley. He was a member of both the State and American Bar Associations and was prominent at their gatherings. He was personally known to many of the leading attorneys of the state by whom he was regarded as a master mind in his profession. A scholar, a gentleman in every sense, exact in his personal appearance as he was in his work as a practitioner, he would not have deemed his life-work in any sense complete unless he gave it his full devotion. That was the spirit of the man—coupled with a genial friendliness to all—the spirit that made him universally honored and respected. It may be said that he literally died "in the harness" loving his work and active in splendid service to the last. He was always determined that no action of his professionally should ever speck or spot the judiciary.

He was the type of a man that not only reflects credit on the profession but whose brilliant ability and personal charm merited admiration.

RALPH J. PARKER

JUDGE RALPH J. PARKER, late of Spring Valley, Minnesota, was born in the town of Frankfort, Mower County, Minnesota, on December 17, 1867, and died at the Colonial Hospital at Rochester on December 27, 1922. He was the son of W. H. and Hannah Parker, the former a native of New York and the latter of England. His father died in 1888 and his mother now resides in Santa Ana, California.

Mr. Parker attended the country school near the farm where he was born and later attended high school at Spring Valley. He studied law at the University of Minnesota, graduating in the class of 1890. After completing his education he returned to Spring Valley in 1892 and began the practice of law and continued to practice in Spring Valley until the date of his death.

In 1903 he was elected county attorney for Fillmore County and served in that capacity for four successive terms. In 1914 he was elected to the office of representative in the Minnesota state legislature and was re-elected three times, having served in the sessions of 1915, 1917, 1919, and 1921. He served as speaker of the House in the session of 1917.

Mr. Parker met with marked success in his chosen profession. He

was naturally of a judicial turn of mind and always cherished an ambition to occupy the office of district judge in his district. He was elected to that office at the general election in the fall of 1922 and qualified only a few days prior to his death. He leaves a wife and one daughter surviving.

JOSEPH WARD REYNOLDS

JOSEPH WARD REYNOLDS was born on June 20, 1859, in Ontario, Canada. When he was about five years of age he moved with his parents to Battle Creek, Michigan, where he spent his boyhood days. He came to Minnesota in 1877 and for two years thereafter taught school and studied law in Hennepin County, where he was admitted to the bar.

In 1879 he began the practice of law in Herman, Grant County, and during the next fourteen years practiced his profession in most of the counties in central western Minnesota with conspicuous success. Those were "the early days," and he "rode the circuit" in an old-fashioned buckboard drawn by an Indian pony. During these years most of his cases were tried in courts presided over by the late Chief Justice, Hon. Calvin L. Brown. His most important litigation in those days involved a controversy pending in the federal land department in Washington involving the rights of a large number of settlers who had located claims in the then so-called railroad indemnity lands in Chippewa, Big Stone, Swift and Traverse counties. Mr. Reynolds represented the state on behalf of the settlers, under special appointment by Governor McGill, and gained considerable distinction as a lawyer by his success in establishing the claims of the settlers. He also was counsel in some spectacular and heated county seat contests in Grant and Traverse counties which gave him considerable prestige.

In 1893 he moved to Duluth and became the junior member of the firm of Cotton, Dibell & Reynolds, later Dibell & Reynolds, one of the leading law firms of Duluth, and, after Judge Dibell's selection for the Bench, practiced alone. His professional work in Duluth was large, varied and successful.

Mr. Reynolds was a lawyer of ability, well-grounded in the fundamentals of the law, and conducted litigation entrusted to his care with force and skill and with his share of successes. During his earlier years particularly he read widely and diligently and was acquainted quite intimately with the best in English literature. He was a man of strong character, of very genial disposition until his health began failing, made fast friends, was successful on the business side, and had strong convictions along independent lines on political subjects. He was always active in politics. In his Grant County days he was elected county attorney on the Republican ticket, established and started the Herman Enterprise, a Republican paper, and was a delegate to the National Republican Convention of 1888. Shortly after going to Duluth, he allied him-

self with the Democratic party and took quite an active part on the "progressive" side of political issues.

On January 11, 1908, Mr. Reynolds married Miss Edith Bostwick of Duluth, who survives him. He died November 9, 1918, at Duluth.

THOMAS SPILLANE

THOMAS SPILLANE was born of Irish parentage on April 8th, 1862, at Merthyrtydvil, Wales, and died at his home in Rochester, Minnesota, on October 16th, 1922. He was the eldest son of John Spillane and Ellen Canty. His parents moved from Wales to London, later to Elmira, New York, thence to Rochester, Minnesota, arriving there when Thomas was but five years old. He attended school in Rochester and later went to St. John's University at Collegeville, Minnesota. He taught school for a time after completing his college work, then read law in the office of R. H. Gove. He was admitted to the Bar in the year 1888 at Rochester, Minnesota and immediately entered the practice of his profession in that city where he continued in active practice until about five years before his death when he moved to St. Paul to become attorney for the Zenith Companies, Incorporated. He gave his undivided attention to the legal work of that corporation until two years before his death when he returned to Rochester to associate with his son, James T. Spillane, in general practice, but still devoting a part of his time to the legal work of the Zenith companies. He had been city clerk and also city attorney of the city of Rochester. He never sought or held any other public office.

He was married in 1889 to Miss Anna Lawler. She and their three children survive him. He was an able lawyer and possessed a remarkable memory. He was first and foremost a thorough American, quick to challenge any word or act indicating lack of respect for the courts and to resent and condemn any lack of loyalty to the government.

EDWIN STANTON

EDWIN STANTON was born at Omro, Wisconsin, March 10, 1863. After graduating from high school he attended Lawrence University at Appleton. He later took up the study of law at Valparaiso University of Indiana, from which institution he received his degree and was admitted to the Minnesota bar in 1891. His first five years as a practicing lawyer were spent at Crookston where he was in partnership with Halvor Steenerson. Later he moved to Argyle where he practiced his profession and served as county attorney of Marshall County. In 1903 he located at Thief River Falls, where he has since resided. He was appointed the first county attorney at the organization of Pennington County and served in that office five years, organizing the office and setting a high standard of official performance for his successors.

Edwin Stanton was an outstanding figure in his profession. A brilliant mind, marked oratorical ability, an independent and fearless spirit, and withal, a kind and gentle nature, were his prominent characteristics. He was, in addition, pre-eminently a public spirited man. He filled many offices of public trust, and was always active in every movement that had as its object the betterment of the community.

As a lawyer, he was conscientious, loyal to every trust and a strict observer of the ethics of the profession. He was distinctly of that type of a lawyer who places the honor and dignity of his profession above its emoluments.

He will be remembered for his virtues and his worth; the afterglow of his life and his service will linger as long as the memory of those who knew him lasts.

F. ALEXANDER STEWART

F. ALEXANDER STEWART was born at the Village of Dexter, Minnesota, on May 11th, 1879, and died at the city of Minneapolis, Minnesota, on March 27th, 1922, of complications following an attack of influenza. He was the only son of Alexander Stewart, pioneer grain and elevator merchant.

He attended the public schools of Minnesota and graduated from the University of Minnesota in 1904 receiving a degree of B.A. During his attendance at the University of Minnesota, he was active in the military department and at the time of his graduation held the official position of major in the cadet military department.

After his graduation from the University of Minnesota, he attended the St. Paul College of Law and graduated in 1908 with a degree of L.L.B. and was thereafter admitted to practice in the courts of Minnesota in June, 1908. He practiced his profession with offices at Minneapolis, Minnesota, until the time of his death. He was admitted to practice in the Supreme Court of the United States in June, 1914.

In the year 1901 he was assigned to consular service at Shanghai, China, and during that year he assisted in establishing the first daily newspaper in China, the "Shanghai Times."

In the year 1902 he was appointed vice consul at Nagasaki, Japan, which position he held for one year. Thereafter in 1903 he was assigned to the secret service department of the United States connected with the Philippine Constabulary which position he held for the period of one year.

Upon his return to the United States, he resumed his practice of law at the city of Minneapolis.

From February 5th, 1916, to the time of his death he was consul for Nicaragua with headquarters at Minneapolis.

For more than twenty years during his lifetime he was active in military organizations of the state of Minnesota and served in various official

positions in the National Guard, Minnesota Light Artillery and the Home Guard and at the time of his death held the commission as Lieutenant Colonel in the Ordnance Department of the Officers Reserve Corps of the United States Army.

He was a Charter Life member of the Minneapolis Athletic Club; Past Master of Arcana Lodge No. 187, A. F. & A. M. of the Masonic Order; a Noble of Zuhrah Temple of Minneapolis; a member of the Hennepin County Bar Association, Minnesota State Bar Association and the American Bar Association.

He was a man of highest character; of unfailing good nature and courtesy; and maintained at all times the highest and best attributes of the profession; and respect of the courts and his fellow members of the Bar.

He is survived by his widow, Lura Littlefield Stewart, and his sons, Donald, age fifteen years and Richard, age eight years.

JOHN L. TOWNLEY

JOHN L. TOWNLEY was born in Tompkins County, New York, Nov. 24, 1854. His family moved west, and he studied law in Faribault, Minn., where he was admitted to the bar in 1882. In 1890 he removed to St. Paul, and very soon was a conspicuous figure in the professional life and politics of that city.

In 1901 he moved with his family to Fergus Falls, where he resided the rest of his life. He served three terms as mayor of the city.

Mr. Townley was a man of unusual physique, six feet four inches tall, and splendidly proportioned. In his earlier years he had a wide reputation as a wrestler and baseball player. Like many other powerfully built men, he was not at all eager to show his prowess, and it was only in extreme cases that he used his great strength to end the conflict in the quickest way.

He was a soft hearted and lovable man. He was fond of all children and loved his home. He took delight in garden work, and was devoted to hunting and fishing. He not only liked all boys and girls, but he was willing to go to any lengths to help them, to stimulate them to both work and play. He was a simple and big hearted man, full of the milk of human kindness, with ample courage, moral and physical, for every emergency.

Mr. Townley died January 24, 1922. He leaves a widow and two children, John L. Townley, Jr., an attorney in active practice at Fergus Falls, and a daughter, Florence, now Mrs. Marc A. Law of Chicago.

CHARLES CUDWORTH WILLSON

CHARLES CUDWORTH WILLSON of the Olmstead County bar died at his home in Rochester, Minnesota, on November 1st, 1922, then past

ninety-three years of age. He came to Minnesota while it was yet a territory and was one of its early pioneer lawyers. He was noted for the great care exercised in the preparation of each case he undertook to prosecute or defend and for the ability displayed at the trial thereof. He was deliberate, careful and methodical. As he lived, so he prepared for death. About two years before his death, being then past ninety and in poor health, he wrote and sent to his friend, Burt W. Eaton of the Rochester bar, the following draft of a memorial to be presented to the court upon his death:

"Charles Cudworth Willson, a member of this bar, was born October 27th, 1829, in a log house on a farm at Mansfield, in Cattarangus County, New York. His parents were both born at Newfane, Vermont, in 1802, and 1804 respectively and were married on New Year's Day, 1828. His grand-parents were all farmers and sea-faring people, born at Rahoboth, Massachusetts. Two of his ancestors bore flint-lock muskets under General Stark at the battle of Bennington, in August, 1777. He was named after his ancestor, General Charles Cudworth, who commanded the Colonial forces in the Indian War against King Phillip. His father's mother was a Cudworth. He studied law at Geneseo, N. Y., and was admitted to the bar of the supreme court of New York on September 3d, 1851. He opened his law office in Rochester, Minnesota, in June, 1858, and was in continual practice here without a partnership for sixty-two years. He was appointed reporter of the supreme court of Minnesota and issued twelve volumes, Nos. 48 to 59, inclusive. Many young men studied law in his office and afterward acquired prominent positions at the bar.

In February, 1862, he married Miss Annie Rosebrugh, built a large house on College Hill in this city and lived there with her fifty years, until her death. They raised a family of nine children. At one time he owned and carried on for twelve years an extensive farm two miles northeast of the city. He was known throughout the state and was esteemed and respected by everyone. He avoided politics and never was an applicant for an office."

CONSTITUTION
OF THE MINNESOTA STATE BAR ASSOCIATION

Adopted January 9th, 1901

ARTICLE I. NAME

This Association shall be called Minnesota State Bar Association.

ARTICLE II. OBJECT

This Association is formed to cultivate the science of jurisprudence, to promote reform in the law, to facilitate the administration of justice, to elevate the standard of integrity, honor and courtesy in the legal profession, to encourage a thorough and liberal legal education, to cherish a spirit of brotherhood among the members thereof, and to perpetuate their memory.

ARTICLE III. MEMBERS

[As amended April 2d, 1907, July 14th, 1909, August 19th, 1913, August 8th, 1917, and Sept. 1, 1922.]

Any member of the legal profession in good standing, residing and practicing in the state of Minnesota, may become a member of this Association upon the approval of the Membership Committee, or a majority thereof, by signing the roll of members or by directing the Secretary to sign his name thereto and by paying the annual dues for the current year.

The judges of the United States Court within this state, and of the Supreme Court and District Court of Minnesota shall, during their respective terms of office, be honorary members of this Association.

Other honorary members may be elected by the Association.

Life membership in this Association may be purchased by any member in good standing upon the recommendation of the membership committee and election by the Board of Governors, and upon the payment of the sum of fifty dollars.

There shall be appointed annually by the President a Membership Committee to consist of one member from each judicial district, and it shall be the duty of such committee to pass upon all applications for membership, and either approve or disapprove such applications, and do everything in their power to induce every reputable member of the bar of the state to become a member of the Association, and submit their report to the Association at its next annual meeting.

ARTICLE IV. OFFICERS

[As amended April 5, 1904, August 21, 1912, and August 19, 1913.]

The officers of this Association shall be a President, a Vice-President, a Secretary, an Assistant Secretary, a Treasurer, and a Board of Governors consisting of one member from each of the judicial districts of the state, in addition to those who are members thereof ex-officio, as hereinafter provided. The President and Vice-President shall be ex-officio members of the Board of Governors during their respective terms of

office and for two years after the expiration thereof. The Secretary, Assistant Secretary and Treasurer shall be ex-officio members of the Board of Governors during their respective terms of office, but no longer. Neither the President nor the Vice-President shall be eligible to re-election within two years after the expiration of his term of office.

ARTICLE V. PRESIDENT

[As amended July 14th, 1909.]

The President, or in his absence, the Vice-President, or in the absence of both of them, one of the members chosen by those present as President pro tem., shall preside at all meetings of this Association.

The President shall, if present, preside at all meetings of the Board of Governors, and it shall be his duty to deliver an address to the Association at its annual meeting, and, immediately after its annual meeting, he shall call a meeting of the Board of Governors, and appoint, for the ensuing year, the standing committees as set forth in Article VI herein.

ARTICLE VI. BOARD OF GOVERNORS

[As amended April 4, 1905, Aug. 14, 1908, Aug. 5, 1910, July 20, 1911, Aug. 6, 1915, Aug. 5, 1920, and Aug. 28, 1923.]

The management of this Association shall be vested in the said Board of Governors constituted as hereinbefore set forth, which Board shall be vested with the title to its property as trustees thereof, until the incorporation of this Association; the said Board shall have the power to provide and amend By-Laws for this Association, not inconsistent with the Constitution, by a two-thirds vote of those present at a meeting of said Board. Such By-Laws, however, will be subject to change by the Association at any regular meeting.

Four members of said Board shall constitute a quorum thereof for the transaction of all business.

The said Board shall, immediately after each annual meeting of the Association, meet for the appointment by the President, of the following Standing Committees for the ensuing year:

First. An Ethics Committee, consisting of five members, to whom shall be referred all complaints of professional misconduct of members of the bar of this state, and all complaints affecting the interests of the legal profession, the practice of law and the administration of justice. The proceedings of this Committee shall be in confidence and shall be kept in honorable secrecy, except in so far as written or printed reports of the same shall be necessarily and officially made to the said Board.

And said Ethics Committee, if, after investigation and recommendation for prosecution in any case of complaint of professional misconduct, they deem it expedient, may, in the name of this Association, present such case for prosecution to the State Board of Examiners, with such recommendation as they may deem proper.

Second. Committee on Jurisprudence and Law Reform, consisting of five members, to whom shall be referred all proposed changes in law or practice; and it shall be the duty of this Committee to report thereon at each annual meeting of this Association, such changes or modifications of existing laws or practice, or such other matters affecting the interests of

the profession as, in their judgment, ought to be proposed by the Association.

Third. Committee on Legal Biography, consisting of one member from each judicial district, whose duty it shall be to provide for preservation among the archives of this Association, suitable written or printed memorials of the lives and character of distinguished deceased members of the bar of this state.

Fourth. A Legislative Committee, consisting of one member from each Congressional district, whose duty it shall be, individually and collectively, to use all proper means to secure the enactment and approval of all measures recommended for passage by the Association.

Fifth. A Library Committee, consisting of three members, whose duty it shall be to assist the justices of the Supreme Court in maintaining and advancing the interest of the law library of this state.

Sixth. A Committee on Legal Education, consisting of three members, whose duty it shall be to examine into and report to this Association at its annual meeting the system of legal education and admission to the bar in this state, with such recommendations as to any changes therein as, in their judgment, shall be considered advisable. Such Committee shall also from time to time confer with the State Board of Law Examiners relative to the qualification and admission of candidates.

It shall be the duty of the Board of Governors of this Association to retain an amply competent counsel to conduct such proceedings for disbarment or discipline of members of the legal profession in this state as shall, in the opinion of a majority of said Board, be considered to be for the best interests of the public and of the bar of this state.

Seventh. A Committee on Unauthorized Practice of the Law.

Eighth. A Committee on Noteworthy Changes in Statutory Law, consisting of three members, which shall report to the Association at its annual meetings noteworthy changes in the statutes of Minnesota.

Ninth. A Committee on Uniform State Laws, whose duty shall be to report annually on uniform state laws.

Tenth. A Committee on American Citizenship. (Note.) A Membership Committee. (See Article III.)

ARTICLE VII. SECRETARY AND ASSISTANT SECRETARY

[As amended August 21, 1912.]

The Secretary shall keep a record of all the meetings of this Association and of the Board of Governors, and, with the concurrence of the President, conduct its correspondence, and discharge such other duties of a like nature as shall be required by this Association.

It shall be the duty of the Secretary to mail to each member of the Association written or printed notice of the annual meeting at least sixty days previous thereto.

The Assistant Secretary shall aid the Secretary in all things.

ARTICLE VIII. TREASURER

[As amended August 5, 1910.]

The Treasurer shall collect and disburse the moneys of this Association and discharge such other duties of a like nature as shall be required

of him by the Board of Governors. He shall give such security for the faithful performance of his official duties as the said Board shall require.

At the opening session of each annual meeting the President shall appoint from the members present an Auditing Committee of three members, who shall forthwith examine the accounts of the Treasurer and his report, all of which shall be ready for their inspection, and said committee shall make such report as they deem proper before the close of the session.

ARTICLE IX. MEETINGS

This Association shall meet annually at such time and place as the Board of Governors may select; special meetings of the Association may be held upon such notice as the Board of Governors may determine, at a time and place to be fixed in such notice. Those present at such meetings shall constitute a quorum.

There shall be two regular meetings of the Board of Governors held on the first Tuesday in April and October in each year at the State Capitol, or such other place as the President shall determine, and there may be such other special and adjourned meetings of the said Board as the President, or in his absence the Vice-President, shall determine.

ARTICLE X. FEES AND DUES

[As amended August 20th, 1913, Sept. 2, 1922.]

The annual dues of members shall be $5.00 and shall be payable to the Treasurer in advance, at or before the annual meeting. Honorary members shall be exempt from the payment of dues.

ARTICLE XI. EXPULSION

[As amended August 14, 1918.]

Any member may be suspended or expelled by the Board of Governors for misconduct in his relations to the Association, the profession, the state or the nation, or for conduct unbecoming a lawyer or gentleman, or for the non-payment of dues for one year. Expulsion or suspension for misconduct shall require the vote of not less than two-thirds of the members present, but in any case not less than ten (10) votes, upon specific charges, notice and trial.

The expulsion for non-payment of dues may be by order of the President, Secretary and Treasurer under the general rule prescribed by the Board of Governors. Expulsion or suspension may also be accomplished by the Association itself by a two-thirds vote of the members present at any annual meeting.

All interest in the property of the Association of persons ceasing to be members by expulsion, resignation or otherwise, shall thereupon vest absolutely in the Association.

ARTICLE XII. ELECTION

All officers of this Association shall be elected by a ballot at the annual meetings for the year next ensuing, and they shall hold their offices until the election and acceptance of their successors.

All vacancies in office shall be filled by appointment of the Board of Governors.

ARTICLE XIII

This Constitution shall go into effect immediately; it can be amended only by a two-thirds vote of the members present at an annual meeting of this Association.

APPENDIX

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 the committee's report last year three of the matters proposed for the consideration of the Association had reference to procedure in probate court. Your committee reports that two statutes were passed by the Legislature at the 1923 session dealing with probate practice—chapters 400 and 401, Laws of 1923. Chapter 401 is an amendment to section 7207, G. S. 1913, the effect of which is to permit the substitution of *any* probate judge for one who is disqualified or unable to act. The former provision limited such substitution to the judge of *an adjoining* county. Experience had shown this limitation to be unfortunate, especially when a substitute was required for the probate judge of one of the larger counties. Hence this amendment.

Chapter 400, Laws 1923, provides for an annual meeting of the judges of probate for the making of rules to govern probate practice. This statute is modelled after section 167, G. S. 1913, which provides for meetings of the judges of the district court. For some years the judges of probate have had a state-wide association which has held annual meetings. The meetings have been well attended and have manifested considerable interest in questions of probate procedure. A committee of the association cooperated with your committee in the drawing of the two measures here referred to and in their presentation to the Legislature. Your committee hopes to arrange conferences with a committee of the Probate Judges Association before the first meeting of the judges under the new statute to prepare proposed rules of practice for consideration by the meeting. Your committee feels that cooperation in this fashion between the Bar Association and the judges of probate can be made of great value in working out a suitable procedure. It is further proposed to consider in such conferences what legislation, if any, may be needed to care for situations which are beyond the reach of rules. The Probate Judges Association, at its last meeting, adopted a resolution providing for the submission of all legislative proposals to your committee. It is hoped that effective cooperation in the interests of improved procedure may be continued. The immediate need is a careful study of probate practice so that the rules to be formulated may be well considered. This, we hope, will be followed by continuous study of the procedure with a view to its amendment by rule, or by statute, as may be found necessary.

THE MINNESOTA LAW REVIEW, among other matters of interest to the Association, has published an interesting study of stockholders' liability in Minnesota, by Professor Henry W. Ballantine of the University Law School, which appeared in the January number, 7 MINNESOTA LAW REVIEW, 79-112. This article and other work along similar lines by Professor Ballantine led your committee to recommend that the committee for the coming year take up the whole subject of the revision of the corporation law of the state. Your committee hopes that, both in this matter and in regard to probate practice, it will be possible to report

recommendations for the action of the Association in 1924. If such recommendations then meet with the approval of the Association, they will be ready for legislative action in the session of 1925.

Respectfully Submitted,
WILBUR H. CHERRY, Chairman,
WARREN E. GREENE,
BRUCE SANBORN,
S. H. SOMSEN,
Committee.

REPORT OF COMMITTEE ON UNIFORM STATE LAWS

TO THE MINNESOTA STATE BAR ASSOCIATION:

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

During the session of the state legislature this past winter a number of the Uniform Acts were introduced as bills. These were the Uniform State Law for Aeronautics, Uniform Declaratory Judgments Act, and Uniform Fiduciaries Act, all approved and promulgated by the National Conference on Uniform State Laws at its 1922 Conference, and the Uniform Conditional Sales Act approved a few years earlier. The Law for Aeronautics, introduced by Senators Child and Brooks, attracted considerable attention; but none of the acts were passed at this session. Minnesota already has enacted nearly all of the Uniform Commercial Acts which have been out of the Conference for some years, as shown by last year's report of this committee; and the more recent acts approved by the Conference last year not being so well known as yet, there was not the demand for their passage. These recent uniform acts contain valuable legislation; and there is good reason to believe that most of them will be passed at a subsequent session, as the earlier acts have been passed.

UNIFORM ACTS APPROVED BY 1922 NATIONAL CONFERENCE

A short statement as to each of the acts approved last year by the National Conference may be of interest.

The Uniform State Law for Aeronautics contains 14 sections. It declares that sovereignty of the space over lands and waters of the state vests in the state, except where constitutionally granted to the United States, while ownership of such space is vested in the owners of the surface beneath, subject to the right of flight. It then declares that flight in aircraft is lawful unless so low as to interfere with the use of the surface, or so conducted as to be imminently dangerous to persons or property on the surface. It states that the owner or lessee of every aircraft is absolutely liable for injuries caused by its flight or falling objects, whether negligent or not, except in case of contributory negligence, while an aeronaut, who is not an owner or lessee, is liable only for negligence. In case of collision between aircraft, the rules as to torts on land govern. Crimes, torts and contracts occurring while in flight over the state shall be governed by its laws. Flying in a manner dangerous to those beneath, and hunting from aircraft, are made misdemeanors. The matters of licensing pilots and aircraft, inspection, and authorizing of regulations for flying, were purposely omitted from the act, since it was expected that the federal government would legislate on these points, and it would be better for the states not to enter the same field.

The State Air Board favored a change in the Uniform Law to make the owner of the aircraft liable only for negligence, on the ground that flying is no longer a highly dangerous act but is comparatively safe and should be classed with the automobile and other modes of travel. But some of the members of the Legislature thought that the act should be

retained as it is, since at present the common law very likely imposes absolutely liability for damage, on the grounds of trespass and a dangerous contrivance, and since the safety of aircraft has not yet been sufficiently demonstrated.

Minnesota at present has only one law on the subject, chapter 433, Laws 1921, regulating the height of flying and distance of landing fields from schools in cities of the first class. The uniform law, covering the fundamental matters of lawfulness of flight, liability for damage, etc., will add desirable certainty to the law in a new field where both statutes and decisions are lacking. Since so much flying is interstate in character, uniformity in different states in the law of aeronautics is especially desirable. It is to be hoped that the passage of the Uniform Act will not be long delayed.

The Uniform Declaratory Judgments Act is one of special interest to lawyers; since by authorizing a judgment declaratory of rights or status, although no further relief is sought, it produces a great remedial change in civil procedure. The act contains 17 sections. It first authorizes the declaratory judgment in general terms, and then specifically for construing contracts, wills, statutes, etc., and for declaring the rights of representatives, fiduciaries, legatees, etc., in a trust or estate, but the enumeration is not exclusive. The power to render a declaratory judgment is made discretionary if the controversy would not be terminated thereby. The act provides for review on appeal, for supplemental relief based on the judgment, for jury trial of issues of fact, for costs, for persons having any interest to be affected to be made parties, and for joining the municipality where the validity of an ordinance or franchise is involved. The act is to be liberally construed as a remedial measure intended to settle and afford relief from uncertainty and insecurity with respect to rights, status and other legal relations.

The long and satisfactory experience with declaratory judgments in England and other countries, and the advantages of a person being able to secure a judicial determination of rights before he acts, is not discussed here, because it was the subject of an address by Judge Schoonmaker before this Association at its meeting in St. Paul in 1920, on which occasion a motion was carried that the principle of declaratory judgment be enacted into law. (1920 Proceedings 35.) States where the declaratory judgment is authorized by legislation passed before the uniform act was promulgated, or by the adoption of that act are: New York, Michigan, Wisconsin, Florida, Kansas, Colorado, North Dakota, Tennessee, Wyoming (full report as to 1923 Sessions not received).

The Uniform Fiduciaries Act relates to persons dealing with one whom they know to be a trustee or other fiduciary, and as to when they have constructive notice of a breach of trust by such fiduciary so as to be responsible therefor. Its general purpose and scope are set out in the following statement, by Prof. Scott of Harvard Law School, the draftsman:

"The general purpose of the Act is to establish uniform and definite rules in place of the diverse and indefinite rules now prevailing as to 'constructive notice' of breaches of fiduciary obligations. In some cases there should be no liability in the absence of actual knowledge or bad faith; in others there should be action at peril. In none of the situations here treated is the standard of due care or negligence made the test.

"In particular four classes of persons are considered:

"1. Persons paying money or transferring other property to fiduciaries. (Section 2.)

"2. Corporations, etc., whose securities are registered in the names of fiduciaries. (Section 3.)

"3. Persons receiving negotiable instruments
  (a) Negotiable instruments indorsed by a fiduciary (Section 4)
  (b) Checks and other bills drawn by a fiduciary
    (1) Payable to a third person (Section 5.)
    (2) Payable to the fiduciary (Section 6.)

"4. Depositories of fiduciary funds
(a) Deposit in the name of the fiduciary as such (Section 7.)
(b) Deposit in the name of the principal (Section 8.)
(c) Deposit in the fiduciary's personal account (Section 9.)

"In addition, Section 10 deals with deposits in the name of two or more trustees. This section has no applicability to other classes of fiduciaries than trustees.

"The general purpose of the Act is to facilitate the performance by fiduciaries of their obligations, rather than to favor any particular class of persons dealing with fiduciaries. In order to prevent occasional breaches of trust, the courts have sometimes adopted rules which can easily be evaded by a dishonest fiduciary, but which seriously hamper honest fiduciaries in the performance of their obligations. The fact that the English courts have substantially adopted the principles here laid down, and that these principles have worked well in practice, would tend to dissipate any fear that their adoption in this country would result in inadequate protection to beneficiaries."

The 1922 Conference approved amendments to sections 32 and 38 of the Uniform Sales Act and sections 40, 47 and 20 of the Uniform Warehouse Receipts Act for the purpose of bringing these acts into harmony with the Bills of Lading Act, and establishing for warehouse receipts the same rule of full negotiability that exists for bills of lading and also for promissory notes and bills of exchange. The latter, if endorsed in blank, can be negotiated by a finder or a thief, which is not the case with warehouse receipts as the law stands now. The advantages of negotiability in giving currency to warehouse receipts and facilitating borrowing on them is well known.

The 1922 Conference also approved a Uniform Illegitimacy Act relating to children born out of wedlock, the obligation to support them, and statutory proceedings to enforce that obligation.

We would refer to last year's report of the committee and the table accompanying it of states which have passed certain Uniform Commercial Acts as showing the large number of important states which have passed these acts, and the large degree of beneficial uniformity thereby secured. We would also refer to the resolution adopted at last year's annual meeting recommending that the uniform acts be referred to by their short names and section numbers of the acts, so as to render the references easily understood in other states and so as to keep in mind the character of these statutes as Uniform Acts.

RESOLUTION

We recommend the following resolution:

Resolved, by the Minnesota State Bar Association, that the Legislature should adopt especially of the Uniform Acts, 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.
THAYER C. BAILEY, Bemidji.
Committee.

REPORT OF COMMITTEE ON LEGAL BIOGRAPHY

As chairman of the Committee on Legal Biography of the State Bar Association, I have the honor to report the following memorials on mem-

bers whose deaths have been announced the past year. I have corresponded with all of the members of the Committee, and note the loss of the following members: G. H. Christopherson, Newel H. Clapp, Herman K. Goldman, Charles C. Haupt, E. F. Mearkle, Buel A. Man, John Moonan, Christopher D. O'Brien, W. C. Odell, Ralph J. Parker, Joseph Ward Reynolds, Thomas Spillane, Edwin Stanton, F. Alexander Stewart, John L. Townley and Charles Cudworth Willson, all honored members of our profession.

Respectfully submitted,

THOMAS FRASER, *Chairman.*

REPORT OF THE COMMITTEE ON STATE LIBRARY

June 27, 1923.

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 2700 square feet of space. It contains 92,484 bound volumes and approximately 3000 pamphlets including United States and state documents. Current accessions for this year numbered approximately 1844 volumes received from the following sources:

By Purchase	994
Exchange from other states	504
Exchanges from Foreign Countries	5
From the United States Government	132
Miscellaneous Donations	53
Minnesota Laws, Records, Briefs, etc.	156
Total	1844

The library staff consists of

Librarian; salary	$3,000
Assistant Librarian; salary	$2,500
Reference Librarian; salary	$1,500
Clerk; salary	$1,200

The 1923 Legislature approved an increase of $300 per annum additional salary for the reference librarian and $300 per annum, additional salary for the clerk.

FUND FOR PURCHASE OF BOOKS AND BINDING

Cash on hand January 2, 1922	$3,185.92	
Annual Appropriation, July 1, 1922	8,000.00	$11,185.92
Paid out for books and binding	$8,025.08	
Balance, January 2nd, 1923	3,160.57	
Cancelled by State Auditor	.27	$11,185.92

FUND FOR CONTINGENT EXPENSES

Cash on hand January 2, 1922	$ 973.20	
Annual Appropriation, July 1st, 1922	1,500.00	$2,473.20
Amount expended	$1,387.35	
Balance January 2nd, 1923	1,085.85	$2,473.20

The Legislature of 1923 increased the standing appropriation for books and binding fund from $8,000 to $10,000 with an additional sum of $2,500 for rebinding, available for the fiscal year ending June 30, 1924 only.

Up to this time only essential binding and re-binding has been possible as its cost has been prohibitive, but the additional appropriation for this purpose will enable the library to get a considerable amount of present non-available matter bound and in shape for the shelves. This fall additional steel stacks will be purchased adding about 100 shelves, thus enabling the librarians to classify and make available much material previously inaccessible. The appropriation from the Legislature this year enables the Librarian to begin again the recataloging of the library using Library of Congress cards. It is a big task and must of necessity proceed slowly as the routine duties of the library come first, but we are assured that the work will be pressed forward with due dispatch.

Respectfully submitted,
OSCAR HALLAM,
CLIFFORD L. HILTON,
JAMES E. MARKHAM,
JAMES PAIGE, Chairman.

REPORT OF COMMITTEE ON LEGAL EDUCATION

Saint Paul, Minnesota, June 30, 1923.

TO THE PRESIDENT AND MEMBERS OF THE MINNESOTA BAR ASSOCIATION:

The American Bar Association has endorsed certain standards with respect to admission to the Bar. This Association at its 1922 Meeting by a vote all but unanimous approved the recommendations of the American Bar Asosciation, and we believe that this Association stands squarely with the nation-wide effort to improve the standards of legal education.

The coming meeting of the Bar Association will disclose that the program for improvement of the standards of legal education has made progress and is gaining momentum. To make the standards effective in this state will not be the work of a committee acting alone, but will require understanding of the problem on the part of the profession at large and some understanding of the public need that a proper solution should be reached, and the lawyers of the State will have to lend their whole-hearted support to the program.

Members of the Association who can attend the sessions of the American Bar Association, at which reports of the progress so far made throughout the country will be presented, will undoubtedly find their sympathy enlisted and their interest aroused. The Committee on Legal Education earnestly recommends attendance at the sessions of the American Bar Association. That Association, through its committees and through its Section on Legal Education, has devoted an immense amount of time, energy and study to the problem.

In this state, if the committee can judge correctly, the feeling among lawyers has been that sentiment in favor of the plan for improvement of the standards must become crystalized and insistent before the Legislature and the supreme court can be expected to act. There is likely sooner or later to be a compelling force in what is done in other states. Pending creation of general interest in this state and the giving of necessary impetus toward adoption of the program, the subject should be kept alive and a committee maintained in being whose responsibility it shall be to do what it can to maintain and promote interest in the subject among the members to the Bar, and generally, and to act so soon as the time for action appears to be right.

Respectfully submitted,
WILLIAM G. GRAVES, Chairman.
A. L. YOUNG,
HAROLD G. CANT.

REPORT OF THE LEGISLATIVE COMMITTEE

June 6, 1923.

TO THE SECRETARY OF THE MINNESOTA STATE BAR ASSOCIATION.

Sir:

The Legislative Committee of the Minnesota State Bar Association during the past session of the Legislature received no measures from the President and Board of Governors to present to the Legislature for passage. Certain measures indorsed by the Bar Association were presented to the Legislature but they were measures sponsored and watched by certain special committees of the Bar Association appointed for that purpose.

PIERCE BUTLER, JR., Chairman.

REPORT OF COMMITTEE ON UNAUTHORIZED PRACTICE OF THE LAW

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

Your Committee on the Unauthorized Practice of the Law, has little to report for the meeting of the association. Since the report of the committee two years ago, its activities have been largely limited awaiting action by the special committee appointed to draft bills to carry out the purposes of this committee. That special committee having taken no action, as we are informed, during the last session of the legislature, the situation seems to be in statu quo.

Your committee is still of the impression that the bills originally prepared by this committee and approved by the association, fill the need and can not be greatly improved upon for the purposes for which this committee was originally organized. Despite the subsequent criticism that the bills were too broad and too drastic, your committee is still of the opinion that if any headway is to be made toward correcting the evils against which the work of this committee is and the association was directed, the proposed bills should be vigorously prosecuted for passage in the Legislature of this state.

These bills being almost identical with those passed in the states of New York, Missouri, and other states where their operations have been conducive to the production of the results desired, it would seem as though it would be wiser on our part to take advantage of the experience of those states, rather than to pioneer along untried lines and against the resistance which is always made in the introduction of new and untried ideas.

That the evils of unauthorized practice of the law still exist can not be denied; that they should be remedied is also obvious; that the remedies should be instituted and prosecuted by the members of the Bar themselves is also too apparent to permit of argument.

In its fundamental issues the proposition resolves itself purely into the question as to whether the practice of the law shall be considered a profession or a business. That lawyers should be found who insist upon the latter is, to say the least, anomalous.

We are living in an age when the tendency is to sacrifice everything else for the worship of Mammon. That the "end justifies the means" seems to have been adopted by many in the business world as principle. We seem to be drifting towards the old standard wherein commerce was king, and religion, ethics, morality, and the practice of the Golden Rule were purely subsidiary. Unless those who represent those world activities which make for the building of character and for man as something more than a mere money making machine take a stand for those standards and ideals which are entrusted to them, there will be little hope for the main-

tenance and progress of civilization along right lines. To those of the professional class has heretofore been entrusted the promulgation and maintenance of those standards and ideals, because along professional lines have run those movements for the regeneration, improvement, and up-lifting of the race. To those in the professions also have been given a position of somewhat higher standing and respect because of these things entrusted to them. It is a sad commentary on the professions that while they have been continually yielding their ideals and standards and sacrificing them for commercial and selfish ends, those not in the professions have begun to realize the value of the heritage which professional men have been willing to exchange for the mess of pottage. And so we find that in the functions outside the professions, particularly in business, men have gradually but rapidly been drifting to a recognition of the necessity for adopting and maintaining those ideals and standards which for so many years have been pledged by the professional class.

Among the big business organizations and associations there has been a gradual but rapid tendency in the past years to work towards those higher standards of morality, ethics, and right relations between men and their conduct, that for centuries has been the prerogative of the professional class to preach. In view of this fact, the problem before the professional class is not of such magnitude as it appears. The chasm between professionalism and commercialism is not so wide as it seems, and if the professional class were willing and ready to have the courage of their convictions and to stand for the insistence of the validity of their principles as a basis for all human conduct, instead of constantly giving ground and yielding to the temptations of expediency, it would not be long before professional standards and ideals would be on a still higher basis and commercial standards a close follower.

If, however, the professional classes consent to converting the "temple into a market-place," and lack the courage of their convictions to drive the money changers out, one of two things must occur: Either civilization will become thoroughly and wholly commercialized and thus its very foundations weakened and destroyed giving us a condition analogous to that of the decline and fall of the Roman Empire; or another new spirit, which seems to have been infused into many of the business organizations, will take the lead and re-establish civilization on its proper basis, and the professions will lose their prestige and become the menial followers of those for whom formerly they stood as mentors and leaders.

Human law and its ministration was the nearest approach that we had to the effort to bring the divine law and its manifestation into human experience. The law was the expression of the right relation between man and man, even as the Scripture is the exemplification of the right relation between man and his Maker. Law is the frame-work of civilization. Because of its very nature its ideals and standards were high as necessary to carry out its purpose. Take away those standards and ideals and you deprive it of its vital spark and efficacy. Without a proper sense of law and its rightful administration of justice, civilization must collapse.

All states have recognized this idea and therefore surrounded the ministration of the law with certain rules and regulations for its practice, being the necessary expedients for maintaining its integrity. As is common history, the fact of the existence of law immediately brings to life the effort to circumvent, resist, or destroy it. The declaration of a law or a principle is but the signal for the effort to circumvent or invalidate its effect. That is the expression of the animal element of the human nature which rebels against limitations upon its own freedom of action without regard to the rights of others.

In the practice of law there have become recognized set standards and ideals which are deemed essential to the maintenance of its proper administration. Among those are the rules for its practice and the necessary limitation upon those who shall be permitted to practice. The Bar and the world have been jealous of the lawyers' prerogative to practice

law, not because it furnishes the lawyer an opportunity to earn a living, but because it created a group of men who were charged with a personal and professional duty as servants of the law to see that it was properly and rightly administered to subserve the ends of justice between man and man. Also it created a class of men who were charged with a confidential relation between themselves and their clients, placing them upon a pedestal of honor, honesty, and morality which should entitle them to the respect and confidence of the community. They are sworn officers of the courts and of the state, and have a function to perform which is altruistic rather than personal and selfish. That others might be as well qualified academically and intellectually and also from a business standpoint to perform their functions perhaps need not be contradicted. Never-the-less in the wisdom of those who laid the foundations of our law, mere academic, intellectual, or business qualifications were not deemed sufficient prerequisites for the right to practice law, and therefore certain other standards and requirements were incorporated in our laws which became and are conditions precedent to the right to practice.

While admitting that there are men admitted to practice law who do not measure up to the highest standards and ideals of the profession, and that the profession in certain respects needs a house cleaning and that many men licensed to practice should be deprived of that right, yet to admit the right of those not licensed as required by the state to practice law, would not furnish a remedy for that condition but would rather exaggerate and aggravate it.

Trust companies, banks, and other organizations that have taken upon themselves the right directly or indirectly or through the agency of hired professional men to practice law, would not condone or permit, so far as they were able to prevent it, anyone from engaging in their lines of business without qualifying as provided by the laws of the state. Therefore they are in no position to complain or take exception to the attitude of the legal profession in insisting that they shall confine their activities within the strict lines of the powers given them under the law and refrain from circumventing the law with reference to legal practice. The fact that they can make money from this practice or increase the dividends of their stockholders, is no argument in favor of practices which are undermining the legal profession, destroying its standards and ideals, and presenting temptations to its members against which they have a right to be protected by the sovereign arm of the state.

While it is true that since the beginning of the activities of this committee and the publicity that has been given to the situation many of the organizations that were openly and avowedly infringing upon the prerogatives of the legal profession have in a degree ceased those activities, yet it can not be disputed that many of them are still indirectly and under cover doing the things that are without their corporate franchise and in violation of the legal practice act of the state.

The proposed statute which was submitted to and accepted by our association covers the whole question with sufficient clearness and precision to be workable and efficacious, as has been demonstrated in New York, Missouri, and other states. The instances or circumstances under which questions might arise for interpretation would be too few and insignificant to justify or excuse a failure to state the primary principle, leave its interpretation in individual instances to the courts. The fact remains that the mere passage of the statute in other states has resulted in the correction voluntarily and with but few prosecutions of the evils which the statute was designed to correct. It seems to your committee that it is the duty of this State Bar to awaken from its indifference and lethargy on this subject and make a definite and coordinated effort to have passed in the legislature a bill or statute that will declare the principle and provide the remedy for the present condition of affairs in which corporations and others with impunity violate the spirit of the acts regulating the practice of the law, and consider it a matter of jest and humor that the lawyers should object to their unlawful practices.

Your committee therefore recommends that the committee to prepare legislation on the unauthorized practice of the law be continued and that it be

1. Instructed to prepare and have ready for consideration at the next meeting of this association a bill to prevent the unlawful practice of the law by corporations and others and such other bills as may be necessary to carry out the purposes suggested in this report, the same to carry out the spirit and to follow as closely as may be deemed expedient the lines of the bills heretofore prepared by this committee and approved by the association.

2. That the matter of the report of the special committee be made a special order for primary consideration at the next meeting of the association.

3. That the said special committee be requested and directed to have its report and its proposed bills prepared and submitted to this committee not later than the first day of February, 1924, and that this committee be authorized to take the necessary steps to have said report speedily communicated to the members of the association and to use its best efforts to obtain thereon the opinion of the members of the association and to obtain and to secure their serious consideration thereof at its next meeting, for the consideration of proposed bills and action thereon.

Respectfully submitted,
FRANK D. SASSE,
ALEXANDER SEIFERT,
C. A. FOSNESS,
LEEDS H. CUTLER,
HENRY DEUTSCH, Chairman.

REPORT OF COMMITTEE ON NOTE-WORTHY CHANGES IN STATUTE LAW

The committee on note-worthy legislation by the recent legislature and changes in statutory law herewith submits its report.

It was not possible for the committee to secure copies of the statutes passed by the legislature before the meeting of the Bar Association in time to permit the committee to make adequate studies of the statutes and to prepare a report that could be printed in time for the meeting. As a matter of fact, the volume of the Sessions Laws was not received by the committee until late in the summer. We have done the best we could under somewhat trying circumstances and we bespeak the indulgence of the Association for any failure to measure up to expectations.

The legislation enacted by the 43rd session of the legislature is comprised in 451 chapters and covers a wide range of subjects. Naturally the legislature, being the representatives of the body of the people, endeavored to meet what they conceived to be the demands or needs of the people. One cannot make a study of the whole of the body of laws passed by the last legislature without being impressed with the fact that while there is some evidence that undue prominence was given to the demands of some classes of the people, the outlook of the legislature on the whole was a broad one. Because of the distressed condition of the agricultural interests of the state a number of statutes dealing with one phase or another of the industrial activities of the farmer and attempting to afford some measures of relief were passed. Thus the law providing for co-operative marketing association which will be found summarized later in this report is an illustration of this. The public policy of Minnesota prohibits monopolistic combinations. But the safety of the state is of course the supreme

law, and it is conceivable that this safety might justify the statute of the state in excepting from the monopolistic interdict a basic industry such as agriculture, upon which to a large extent other industries depend. The giving of bounties to a particular industry is usually objectionable but thus far it has not been considered extra-constitutional, and to permit farmers to combine for the purpose of fixing a price for their products that will give them some compensation for their labor and investment may be considered as equivalent to giving them a bounty and in a form more compatible with the dignity and self-respect of the farmer than if it were conferred under the name of bounty.

Chapter 305 providing for permanent registration of voters effects a considerable reform in the direction of simplifying the task of the voter to qualify himself to vote. There can scarcely be any doubt that the doing away of the oppressing and embarrassing system of continual registration will give a decided impetus to voting by those who ought to vote, and the security against fraudulent voting seems adequate.

It would be difficult for any legislature to hold a session in these times without having the subject of the enforcement of the prohibition amendment forced upon its attention. By chapter 416, amending the prohibition laws, in effect Minnesota places itself in a pre-eminent position in having about as drastic a prohibition law as any state in the union. Under the new law it is illegal to possess a formula, recipe or directions designed for use, or used for or in connection with the manufacture of intoxicating liquor; to possess any apparatus, machine or device, jugs or other containers used in the manufacturing or storing of liquor; provides that the destruction of any apparatus, implement or machine, any recipe, formula, or directions or any container is prima facie evidence that these were for use in connection with the manufacture or possession of liquor, and that any building wherein liquor is sold is subject to abatement proceedings and closing for any kind of use for one year.

Of the joint resolutions passed at the 43rd Session of the legislature, attention is called to joint resolution No. 1,—asking for revision of existing federal standards for grading grain so far as they apply to spring wheat on the ground that they unduly favor the buyer as against the producer, and joint resolution No. 5, asking Congress to enact legislation to stabilize prices of the major farm products so that the cost of production will at least be assured, as well as an adequate supply of American grown farm commodities,—as indicating how strongly seated is the feeling in Minnesota that existing laws and policies have the effect of discriminating against agriculture and that relief can only be brought to the farming interests by measures of a radical kind.

Joint resolution No. 3 illustrates the ever-recurring conflict between the apparent interests of the nation as a whole and a particular state. By this resolution the legislature expresses its belief that the Federal Packers' and Stockyards' Act, by taking away from the state all regulatory powers relating to public stockyards and live stock commission merchants and traders operating at such yards, has caused irreparable losses to producers of live stock shipping stock to the public markets in Minnesota, and asks Congress that such act be amended so as to restore to the state the power of regulation and supervision of public stockyards possessed by the state prior to the enactment of the federal legislation.

There are the usual number of curative statutes. Besides those legalizing the issue of municipal bonds and curing defects in execution sales, foreclosure proceedings, etc., there is a group of statutes which enable corporations, which have allowed their charters to expire by limitation but have nevertheless continued, or assumed to continue, to do business as a corporate entity through the machinery, and in the

name, of the organization thus legally dissolved, to renew their charters with the same effect as if the renewal had been properly effected prior to the expiration of the life of the corporation.

Chapter 246 is a piece of special legislation providing for the admission to practice of law of some individual who can meet the very narrow requirements of the act as to attendance at the College of Law of the University of Minnesota, service in the army, honorable discharge, age, residence and good moral character. In 1921, by chapter 161, the lawyers succeeded in procuring from the legislature an act which placed in the supreme court the power to make rules prescribing the qualifications of all applicants for admission to the bar. This was a great step forward in improving the caliber of the bar by placing the requirements for admission where they belong, viz: in the supreme court rather than in the legislature. The present act, regardless of the merits of the individual concerned, is in our opinion very unwise legislation for the following reasons:

1. It is special legislation in the narrowest sense.
2. It establishes a precedent for the legislature undermining the power of the supreme court to determine the qualifications of admission of attorneys.
3. It admits a man who evidently is unwilling to take or is unable to pass those examinations which the supreme court has determined are necessary before a man can establish his ability to serve the public as an attorney.

We suggest the adoption of a resolution by this Bar Association expressing its disapproval of this act and of any other action by the legislature looking to the admission of attorneys other than in accordance with rules laid down by the supreme court.

We herewith submit a summary of the more important and noteworthy statutes, classified under familiar headings; and the only apologies that the committee can make for the length of this report is the fact that they did not have time to make it short.

Respectfully submitted,

J. E. DORSEY,
L. D. BARNARD,
H. E. RANDALL, Chairman.

AGRICULTURE

Chapter 45 provides for the reimbursement of agricultural societies for improvements made by them for county fair purposes on county lands.

Chapter 48 amends section 6994, G. S. of 1913, giving to one selling or loaning money for the purchase of seeds and grain on the crop grown therefrom so as to include seed potatoes.

Chapter 117 prohibits the sale of commercial feeding stuffs or of screenings if they contain weed seeds whose viability or power of germination has not been destroyed.

Chapter 132 provides for a lien for services in hauling clover, shelling corn, shredding corn or baling hay, upon the clover hauled, the corn shelled or shredded or the hay baled, which shall be preferred to all other liens or incumbrances except liens given for seed from which the grain was grown.

Chapter 254 regulates the business of wholesale dealing in farm products, as the term "products" is defined in the act, no person being authorized to engage in such business except under a license from the commissioner of agriculture, who is vested with the power to make rules and regulations in carrying out the provisions of the act and who is charged with the enforcement of the act and of the rules and regulations made and published by him thereunder.

By chapter 261 the commissioner of agriculture is charged with the duty of taking the farm census at least every two years for the

purpose of obtaining information as to agricultural products and agricultural industries of the state. The commissioner is also authorized to publish marketing or other information which he may deem necessary or useful to farmers.

Chapter 423 provides for county co-operative extension work in agriculture and home economics, and to that end authorizes the creation in each county of a county farm bureau association whose executive committee is annually to prepare the program of work in co-operation with the agricultural extension division of the University of Minnesota and the United States Department of Agriculture, such program to be put in operation by persons known as county agents. Previous provisions of chapter 427, Laws 1919, and chapter 300, Laws 1921, prescribing conditions on which state aid to such work can be secured, have been repealed.

Animals

Chapter 269 provides for the testing of cattle for tuberculosis and authorizes county boards to appropriate money for such purposes.

Chapter 319 amends section 4697 of the General Statutes of 1913, as amended by chapter 485, Laws 1921, so as to provide that owners of tubercular or glandered animals, or animals afflicted with foot and mouth disease, destroyed by the state, shall not be entitled to indemnity in certain cases.

Chapter 112 regulates exhaustively and stringently the manufacture, sale and use of biological products such as hog cholera serum, hog cholera virus, etc., and specifically repeals chapter 100, Laws 1921, and section 6 of chapter 87, Laws 1915, relating to the same subject.

Aviation

The practical character of aviation and the usefulness of the aviator in peaceful pursuits and in the conservation of property is illustrated by chapter 34, which provides that counties where forest fires are liable to occur are authorized to issue bonds for the purpose of acquiring lands, buildings and equipment for use as aviation fields for aeroplanes engaged in fire patrol work.

Banks and Banking

State Banks in General. Chapter 274 provides that any state bank on investing a certain percentage of its capital in designated classes of securities and depositing such securities with the superintendent of banks shall have certain powers and privileges, among which are the powers to act as trustee or agent, receiver, guardian, executor or administrator, and assignee for the benefit of creditors, the power to receive for safe keeping stocks, bonds or other personal property in any case where it is desired or required that such property should be deposited in a safe depositary or paid into a court of record. Under the direction of a court, a trustee may deposit trust funds in such a bank with the effect of relieving it from giving security except as to the remainder of a trust estate.

Chapter 170 prohibits the maintenance by state banks of branch banks.

Savings Banks. Chapter 421 amends chapter 181 of Laws 1919, so as to authorize savings banks to invest in equipment obligations or equipment trust certificates under certain circumstances.

This provision constitutes a new subdivision. The provisions of the amended statute have been substantially repeated with the exception of the one relating to investments in the debenture stock of railroad companies which has been entirely omitted without any reference thereto.

Chapter 312 authorizes mutual savings banks to provide safety deposit boxes, and rent them to depositors.

Blue Sky Law

Chapter 4 amends sections 3 and 4 of chapter 429, Laws 1917, as amended by subsequent statutes, so as to clarify the meaning of the word "securities."

Chapter 271 amends section 2, chapter 429, Laws 1917, as amended by section 3, chapter 105, Laws 1919, so as to except from the act co-operative associations organized under the laws of the state, where operating creameries, cheese factories or rural telephone lines, or for the purpose of conducting any agricultural or dairy business.

Cartways

Chapter 439 amends subdivision 1, section 45, chapter 323, of Laws 1921, so as to increase the maximum width of cartways which town boards may establish from two rods to three rods.

Cold Storage

Chapter 233 provides that on sale in wholesale quantities of food stuffs which have been in cold storage for thirty days or more the seller shall render an invoice or bill to the buyer which shall describe the articles sold and which shall use the words "cold storage" in connection with such description, this description to be printed or stamped on a separate line. The rules and regulations of the commissioner of agriculture made in enforcing the cold storage act, when duly filed and published, are given the force of law.

Co-operative Associations

Chapter 326, among other things, enlarges the purpose for which associations on the co-operative plan may be organized or incorporated, requires them to file written articles of incorporation, gives them certain additional powers, defines net income, and provides that a part of such net income shall be set aside to create a reserve for permanent surplus, after which the balance of the net income, considered as undivided surplus, is available for distribution on the basis of patronage. Non-member patrons may be permitted to share in the distribution of the undivided surplus.

Chapter 264 provides for co-operative marketing associations for the purpose of bringing about, as far as possible, direct interchange between producer and consumer, and the sale of farm products by such associations in an orderly manner at prices and times determined by the groups, and to eliminate blind and speculative selling of crops, and for the further purpose of financing the buying by members of supplies, machinery or equipment. For the purpose of enabling such associations to achieve their purposes, it is expressly declared that such an association shall not be deemed to be a combination in restraint of trade or an illegal monopoly, or an attempt to lessen competition or fix prices arbitrarily.

The act recognizes the possibility that the supreme court may consider the act as within the purview of anti-monopoly statutes by providing that if any section of the act shall be declared unconstitutional for any reason, the remainder of the act shall not be affected thereby.

Counties

Chapter 293 requires deputy county treasurers and employees in the office of the county treasurer to give bond.

Chapter 80 amends section 1092 G. S. 1913, as amended by chapter 376, Laws 1921, so as to provide that in counties of more than 200,000 people (instead of 225,000, as under the former statute), contracts for the purchase of goods or supplies of any kind, the estimated cost of which exceeds $500 (instead of $100, as under the former law), shall not be made except after advertising for bids.

COURTS

District Courts. Chapter 289 provides for a probation officer in counties having a certain population and constituting a single judicial district and prescribes the duties and compensation of such officers.

Chapter 387 provides for an additional judge in the fourth judicial district, who is to have and exercise all the powers of said district court conferred upon judges of said court and to have charge of the juvenile court in his district.

Chapter 412 provides that the district court is to be open at all times except legal holidays and Sundays for the transaction of business present, that a judge of such court may appoint special terms in any county of his district to hear matters of law, and that a judge of a district court may by order convene court in vacation period for the transaction of either civil or criminal actions, the procedure when the court is so convened being prescribed by the act.

The times of holding general terms of the district court are fixed as to the third judicial district by chapter 14; as to the eighth judicial district by chapter 249; as to the twelfth judicial district by chapter 290; as to the fifteenth judicial district by chapter 222, and as to the counties of Chisago and Pine in the nineteenth judicial district by chapter 56. With respect to the eighth judicial district, no change with respect to the time of holding general terms is made except that in McLeod County the court sits on the second Monday in November instead of on the third Monday, and in the twelfth judicial district the only change made concerns the holding of court in Meeker County.

Chapter 222 adds a new county, that is Lake of the Woods, to the fifteenth judicial district, and provides for three judges instead of two for this district.

Conciliation Court. Chapter 262 enlarges the jurisdiction of the conciliation and small debtors' court of Minneapolis, so as to include claims involving $75, and provides for a trial without jury if the parties consent thereto.

Probate Courts. Chapter 400 provides for the annual assembling of the judges of probate of the state to adopt general rules of practice for such courts and to revise and amend the same.

Municipal Courts. Chapter 238 defines and enlarges the jurisdiction of the municipal court of Duluth, regulates the procedure in such court, provides for the appointment, election and compensation of the judges, clerks and employees of such court, and prescribes their powers and duties.

Chapter 370 prescribes the fees to be charged in civil or criminal prosecutions in the municipal court of Minneapolis.

CRIMES

Chapter 7 makes the furnishing of false statements concerning any person or corporation to a publisher with the intent to have such statements published a misdeameanor.

DAIRYING AND DAIRY PRODUCTS

Chapter 10 prohibits the use of butter fat in products intended for use as butter substitutes, except that skimmed milk or buttermilk may be used in the manufacture of oleomargarine or other similar products.

Chapter 116 prohibits the use in matter advertising the sale of substitutes for butter of the words "butter," "creamery" or "dairy," or the name or representation of any brand of dairy cattle.

Chapter 120 forbids discrimination between different localities with respect to the price paid for milk, cream or butter fat.

By chapter 126 the sale of filled milk is prohibited, and by "filled milk" is meant milk in any of its forms to which has been added any fat or oil other than milk fat.

Chapter 172 permits butter manufacturers under certain conditions to use a stamp, brand or label indicating that the butter has the official sanction of the Minnesota Dairy and Food Commissioner.

Chapter 175 forbids the sale of butter made from neutralized cream or milk unless marked with words indicating this fact.

Deeds

By chapter 208 a deed not affirmatively showing whether the grantor was married at the time of its execution, if on record for fifteen years, is made prima facie evidence that the grantor was single at the time of the execution of the deed, unless an action to recover any estate claimed on the land covered by the deed is commenced prior to January 1st, 1924.

Depositions

Chapter 256 amends section 7211, G. S. of 1913, with respect to the power of probate courts to issue commissions to take depositions by describing the witnesses whose depositions may be taken and prescribing the conditions of taking.

Drugs

Chapter 25 amends sections 6 and 8, chapter 575, Laws 1913, by providing that a retail dealer may sell arsenate of lead, sodium arsenite, London purple, and arsenious oxide, if the packages containing such articles are distinctly labeled as such with the additional word "poison."

The growing menace of the drug habit is recognized by chapter 235, which provides that an habitual user of narcotics such as opium or cocoa leaves may be compelled to take treatment for the cure of the habit either at a private institution, if he is able to pay for such treatment, or otherwise at some public institution at the expense of the county.

Elections

Chapter 108 amends section 1, chapter 68 of Laws 1917, as amended by chapter 120, Laws of 1917, so as to make the Absent Voters Law applicable to primary elections.

By chapter 125, chapter 322 of Laws 1921, relating to political conventions and postponing primary elections until after such conventions have been held is repealed and nominating conventions are not only authorized in case of candidates whose nominations are not required to be made by a primary election. Under this chapter the state supreme committee of each political party is now chosen by the nominees for state and congressional offices of such party, provision also being made that such nominees shall elect a congressional committee for each congressional district.

By virtue of chapter 127 county officers are now nominated at the primary instead of by affidavit or petition as under the former statute.

Chapter 305 provides that in cities of over 50,000 inhabitants governed under a home rule charter adopted pursuant to section 36, article 4 of the constitution, there shall be a permanent commissioner of registration who is to be the city clerk, and that after January 1st, 1924, no qualified voter can vote at any election without registration. This act effects some much needed reformation in the direction of simplifying the task of the voter to qualify himself to vote. Under this act the commissioner of registration up to fifteen days before any election may receive the personal application of any qualified voter and upon his properly answering the questions put to him he will be registered and will not be required to register again for any election except that if he fails to vote at least once in two calendar years in which elections are held, he must re-register. The act further provides that if a voter after having been duly registered removes to another election precinct, he need only notify the commissioner of registration of such removal

and he can then vote at his new location without a new registration. There can scarcely be any doubt that the doing away of the oppressive and embarrassing system of continual registration will give a decided impetus to voting by those who ought to vote, and the security against fraudulent voting seems adequate.

Chapter 317 provides that in cities of the fourth class there shall be no primary election, but that any person desiring to be a candidate for any office must file an affidavit fifteen days before election containing certain statements.

By chapter 384 a married woman filing as a candidate for public office is authorized to use the prefix "Mrs." and the full name of her husband or his initials in stating her own name in her affidavit of candidacy. By this act the legislature has shown its disposition to play fair with women in politics. She is given by the act the advantage of whatever standing or prestige her husband may have in the state or community, although he may be of an opposite political persuasion or not in sympathy with her candidacy for office which may seem to him detrimental to domestic cabinets.

Chapter 404 authorizes cities of the first class to contract for the use of a mechanical ballot assembling device. In connection with the use of this device very elaborate directions are given as to the preparation and form of the ballots, the canvassing of the ballots and the manner of using the device.

Execution

Chapter 420 provides, in case of levy and execution in cities of the first class on bulky articles not susceptible of immediate removal, for filing with the city clerk or register of deeds of a county a certified copy of the execution and of the officer's return of levy on such property.

Exemptions

Under chapter 350, one hundred bushels of rye may now be claimed as exempt from execution under the provision for exemption of necessary feed for the actual personal use of the debtor. Such provision also enables the debtor to claim as exempt one hundred bushels of corn, instead of ten bushels as under the old statute.

Under chapter 204, pensions paid by a fire department relief association are exempt from legal process.

Chapter 154 adds one hundred chickens to the list of exemptions which a debtor may claim. The poultry business would appear to be flourishing as this is the only instance of legislation by the 43rd session of the legislature affecting the interests of the poultry farmer.

Food

Chapter 24 amends chapter 438 of Laws 1921, so as to prohibit the serving of oleomargarine or any other butter substitute to inmates of state institutions as substitutes for table butter.

Forestry

A realization of the consequences of our diminishing timber supply is shown by chapter 450, which proposes an amendment to the state constitution authorizing the enactment of laws encouraging and promoting forestation and re-forestation of lands in this state for the privately and publicly owned and permitting the enactment of irrepealable legislation for a definite and limited taxation for such land during a term of years.

Game

Chapter 426, relating to the preservation, protection and propagation of wild animals, including birds and fish, amends chapter 400, Laws 1919, as amended by chapters 35, 44, 347 and 450, of Laws 1921, in a number of particulars.

GARNISHMENT

Chapter 363 provides that moneys due by the state on account of any employment, work or contract with the state highway commissioner shall be subject to garnishment except as exempted by law.

GRAND JURY

Under chapter 14 grand juries in the third judicial district are not to be drawn or summoned for any general term except upon direction of the presiding judge thereof.

By chapter 257 there is substituted for the former peremptory direction that a grand jury shall be drawn for every term of the district court in each county unless the judge otherwise directs a general provision that a grand jury shall be drawn and summoned for any general term of a district court whenever the judge thereof shall so direct by order filed with the clerk of court fifteen days before the term begins, and that if no such order is made the judge has the discretion to summon a grand jury at any time during the term.

HEALTH

Chapter 227 gives the state board of health powers with respect to sanitary conditions at lumber or other industrial camps, and at tourists camps and summer hotels.

HIGHWAYS

By chapter 57 any town is authorized to appropriate moneys from the town road and bridge fund to be expended through the county board for the construction and maintenance of roads within the town, whose construction or maintenance are chargeable upon the town by law.

Chapters 157 and 169 contain similar provisions as to counties having a certain area and assessed valuation except that no limit as to the roads and bridges within the town for which such moneys may be expended is imposed.

Under chapter 439 the town board may appropriate money from the road and bridge fund to aid in the construction or improvement in the town of any county road or any road which has been designated as a state aid road. Under chapter 439 a county may appropriate money to aid a town in the construction and maintenance of town roads and may expend appropriation directly upon such roads as are designated by the town board.

By chapter 346 the state undertakes to reimburse out of the trunk highway fund all counties for moneys expended after February 1st, 1919, in permanently improving trunk highways.

Chapter 439, amending chapter 323 of Laws 1921, provides among other things that necessity of taking additional land for the purpose of widening a highway shall be determined by the town board in case of town roads and by the county board in case of county roads; that the commissioner of highways shall be authorized to contract with railroad companies for the construction of bridges and approaches necessary for the separation of grades at points of intersection between railroads and trunk highways; and that railroad companies upon demand by the proper authorities shall carry any ditch constructed to drain a highway under and across its right of way.

HOSPITALS

Chapter 19, amending section 723 of G. S. of 1913, provides that preferences between applications for admission to a county tuberculosis sanitarium shall be accorded patients who are in the most advanced stages of the disease, except that residents of a county shall always have preference over non-residents.

By chapter 265 the rights, powers, duties and privileges conferred by chapter 411, Laws 1921, upon the judge of probate, in connection

with the treatment of patients at the Minnesota General Hospital, are transferred to the County Board of Supervisors.

Chapter 385 establishes a pyschopathic department of the Minnesota General Hospital.

Insurance

By chapter 130 the former limitation upon the payment of dividends by fire insurance companies excluding ten per cent upon their capital in any year if such payment would reduce the aggregate amount of all surplus below an amount equal to twice the capital has been modified so as to make thirty per cent of the unearned premiums the standard by which to measure the lowest limit to which the surplus fund may be reduced.

By chapter 410 the standard fire insurance policy if it insures against loss of rent and rental value, leasehold value and use and occupancy, must contain a clause limiting the period of indemnity for such loss to such period of time as will be required in the exercise of due diligence to repair or replace the destroyed or damaged property.

Interest

Chapter 70 amends section 5805, G. S. 1913, so as to make the maximum rate of interest which may be legally contracted for eight per cent.

Intoxicating Liquors

The traffic in moonshine is taken notice of by chapter 393, which provides that the unlawful selling of liquor whose drinking by the buyer causes his death shall make the seller guilty of murder in the third degree.

Chapter 416 amends chapter 455, Laws 1919, so as to provide among other things, that the terms "intoxicating liquor" and "liquor" shall include and mean any liquor or liquid of any kind potable as a beverage which is in fact intoxicating, the fact of such intoxicating quality being made proof that the liquid in question contains one-half of one per cent or more of alcohol by volume. The word "nuisance" as used in this connection is made sufficiently broad to include any place where there is anything of any kind whatever apparently intended for use in connection with the manufacture and sale of liquor in violation of the laws of the state or the United States. The act further provides that the attempted destruction, removal or concealment, at premises which are being searched, and other provisions of the act, of any vessel apparently containing liquor or any liquor or of any appliance or things apparently designed for use in violation of the laws of the state or United States as to intoxicating liquors, shall be prima facie evidence of the intoxicating quality of such liquor or that such appliance or thing was kept or possessed in violation of the act. A further provision of the act is that persons selling liquor to minors in violation of the act shall be guilty of a felony.

Landlord and Tenant

Chapter 76 amends section 6807, General Statutes 1913, as amended by chapter 428, Laws 1917, so as to provide that in case of a lease for a term of more than twenty years the notice that the lease will be cancelled, required to be served as a condition precedent to an action to enforce a right of entry for failure to pay rent, must be served not only upon the tenant but also upon all creditors having a lien of record, legal or equitable, upon the leased premises, or any part thereof. This chapter also provides that such a creditor, as well as the tenant, may after re-entry by the lessor because of default of the tenant, be restored to possession by paying the rent in arrears and performing the other covenants on the part of the lessee.

Oil Inspection

Chapter 367, relating to the inspection of oils, makes a more scientific classification of the subject of which it treats and contains much more rigid requirements with respect to the quality of articles sold and the manner of handling them than previous statutes relating to the same subject. Kerosene and kerosene distillate are treated separately and separate regulations are made as to each, the seller of kerosene being required to fulfill a number of conditions not imposed by G. S. 1913, section 3622. Motor kerosene has made the subject of regulations peculiar to itself, and the path which the seller must follow is so precisely minutely indicated that there can be no excuse for deviation therefrom.

Master and Servant

Chapter 272 provides that the failure to state in any advertisement or proposal for employment that there is a strike or lockout at the place of proposed employment shall be a misdemeanor and gives a civil action to a person influenced to change his employment by false statements or false advertising.

Under chapter 298 in certain employments no person shall be employed more than six days in any one week, provision being made, however, that in any emergency an employee who so consents may be required or permitted to exceed such limit.

Chapter 422 limits the hours of employment of female employees and requires that one hour be allowed for meals, unless the Industrial Commission shall permit a shorter time therefor.

Monopolies

Chapter 251 provides that one may purchase the business of a competitor and consolidate the two enterprises under the self control of the purchaser if the Attorney General decides that such consolidation will not unreasonably restrain trade or be detrimental to the public interest.

Mortgages

Chapter 355 authorizes a junior mortgagee to pay an installment of interest or principal in default upon a prior mortgage and assert the amount so paid as a payment of the debt secured by his junior mortgage.

Motor Vehicles

Chapter 2, amending chapter 461, Laws of 1921, provides that on the sale of a used motor vehicle heretofore registered under the act of 1921, the certificate of registration with proper assignment thereof shall be filed in the office of the Registrar and the title shall not pass until the filing of the assigned certificate, a new registration of the vehicle and the payment of a tax thereon, the registrar being authorized to waive the penalties provided for delay in transfer or registration. The tax imposed by the act of 1921 is made a lien paramount to all other liens prior or subsequent in point of time, the state also being given a personal action against the owner of the vehicle for the tax and penalties.

Chapter 418, relating to the taxation of motor vehicles, amends the act of 1921 in a number of respects. Chapter 418 increases the rate of tax very considerably in some instances, although the rate is decreased in certain cases, as in the case of motorcycles. This act provides a more thorough and accurate plan for valuing motor vehicles for the purpose of taxation, and while the old act allowed nothing for depreciation during the first three years of the life of the vehicle, the new act provides and allows for such depreciation beginning with the second year of vehicle life.

By chapter 440, in place of a rear light an illuminated display plate showing the license number of the vehicle may be substituted.

MUNICIPAL CORPORATIONS

By chapter 9, cities of the second class are authorized to contract and maintain on streets buildings for use as sewer pumping stations, the city not to be liable for injuries arising by such construction or maintenance unless they are due to lack of ordinary care.

Chapter 21 authorizes cities having over 50,000 inhabitants to construct and maintain a public auditorium and levy the necessary taxes to meet the expense.

Chapter 26 amends sections 1820, 1823, G. S. 1913, so as to empower the board to provide musical and free entertainments for the general public. A similar provision is contained in chapter 337, which authorizes cities of the third class to levy taxes for free musical entertainments.

Chapter 29 authorizes cities of the fourth class to erect a system of poles, wires and cables for the furnishing of light and electricity to the inhabitants and to connect such system with an electric light and power plant operated outside of the limits of the city, whether operated as a municipal plant or otherwise.

Chapter 32 authorizes cities of the second class to sprinkle the streets and pay the cost thereof out of the general fund without assessing the property benefited.

Chapter 87 provides that in cities of the second class the mayor shall have exclusive power to direct the law enforcing the activities of the police department, and that the police department shall be subordinate to the mayor.

Chapter 89 authorizes cities of the fourth class to levy special assessments upon abutting property for the cost of construction of a water system.

Chapter 133 provides that after the creation of a restricted residence district, as provided for by chapter 128, Laws of 1915, the restrictions may be removed by the city council upon petition of fifty per cent of the owners of the land in the restricted district in the same manner provided for the creation of the district.

Chapter 164 gives power to village councils to appoint a park board and provides that when a parkway is established along the street frontage of private property the village may assess the benefits resulting from such parkway on such property.

Chapter 174 gives power to cities of the fourth class to issue bonds for the purpose of paying the cost of street paving.

By chapter 180 cities created under the provision of chapter 165, Laws 1903, and amendatory acts, are authorized to issue and sell bonds to improve and enlarge their public water system, notwithstanding any limitation in the city charter or any law of the state upon the bonded debt of the city.

Chapter 181, relating to the purchase, construction, enlargement or improvement of municipal water or light plant or the issuance of bonds for such purpose, is to a similar effect with respect to the inapplicability of limitation upon the bonded indebtedness to such issue of bonds.

Chapter 193 amends section 1, chapter 194, Laws of 1903, so as to empower a city at the time of designating a building restriction easement and defining the line by which the easement is bounded to provide that buildings or structures within the boundaries of the easement at such time may remain and for a stated period of time.

Chapter 212 gives authority to cities having over 50,000 inhabitants to issue bonds to construct and equip public markets without regard to any charter or statutory limitation upon the bonded debt.

Under chapter 223 cities having over 50,000 inhabitants may issue bonds for a contagious hospital.

Chapter 277 authorizes any municipality in the state to establish and maintain public tourists camping grounds with certain limitations as to cost.

Chapter 285 authorizes cities having 50,000 inhabitants or more to draw water from any river notwithstanding charter provisions to the contrary.

Chapter 299 forbids the sale of municipal bonds at less than face value with accrued interest, except where specific authority makes such a sale as given by law.

By chapter 306 cities of the first class are authorized to make compensation for injuries to real property sustained through the acts of their agents or officers in the performance of governmental duty.

Chapter 364 authorizes cities having over 50,000 inhabitants to regulate by ordinance the height of buildings, the arrangement of buildings on lots, and the density of population in a particular district.

Chapter 378 authorizes villages to regulate the business of keeping restaurants and public eating houses.

Physicians and Surgeons

By chapter 343 osteopathic surgeons are authorized, in connection with the practice of obstetrics, minor surgery, and toxicology, to use and administer anaesthetics, narcotics, antidotes and antiseptics.

Private Roads

See Cartways.

Quieting Title

Chapter 434 amending section 8061, G. S. 1913, as amended by chapter 344, Laws 1919, provides that in actions brought under section 8060 of G. S. 1913, if the heirs of a deceased person are proper persons defendant, on affidavit that their names and residences with reasonable diligence cannot be ascertained, services of summons may be made on such unknown heirs by publication in the same manner as against non-residents. Such a provision was formerly contained in section 88024 of G. S. 1913, relating to any action relative to real property, and this section is now repealed.

Railroad and Warehouse Commissions

Chapter 50 authorizes such commission to co-operate with the Interstate Commerce Commission for the purpose of harmonizing state and federal regulations of common carriers.

Railroads

Chapter 134 provides that in case of dangerous crossings the railroad and warehouse commission may require overhead or undergrade crossings and divide the cost of such new construction between the railroad company and the municipality or the state.

Rural Credits Bureau

The demand of the farmer for greater banking facilities and more liberal terms of credit finds expression in chapter 225, which provides for loans to farmers by the state on the security of their farms. The administration of the act is confided to a new bureau called the Rural Credits Bureau, of which the attorney general appoints one member and the governor the other two. A period of credit up to forty years is permitted.

Chapter 253 gives additional authority to the Rural Credits Bureau in the case of World War veterans.

Schools

Chapter 73 amends section 2981, General Statutes 1913, as amended by chapter 428, Laws, 1921, so as to provide that the notice sent by the county superintendent of Schools to parents or guardians requiring children to attend school and upon which notice a criminal prosecution may be based,—may be sent by registered mail.

Chapter 78 amends section 2979, General Statutes 1913, as amended by chapter 320, Laws 1919, by providing that a child may be excused from attendance at school upon application by his parent or guardian

for a period not exceeding in the aggregate three hours a week for the purpose of attending a school for religious instruction, conducted and maintained by some church or Sunday School Association.

Chapter 88 provides that in cities of the second class candidates for director of school board may be nominated by petition or certificate of voters, whether there is a vacancy in the nomination of such office or not.

Chapter 291 provides for the hearing of regular courses of instruction upon the Declaration of Independence and the constitution of the United States.

By chapter 321 the minimum length of a school year is increased from five to seven months.

Chapter 323 provides for a course or courses in the public schools in physical and health education, the commissioner of education being required to supervise the administration of the act and to prescribe the necessary courses which are made compulsory if the pupil is physically able to take them.

Taxation

By chapter 324 the penalty for delinquency in the payment of taxes is changed so that a penalty of five per cent is added on June first and thereafter one per cent additional for each month up to and including November 1st. If one-half of the tax is paid prior to June first and the last half has not been paid prior to November first, a ten per cent penalty is charged on such remaining half.

Venue

Chapter 128 provides that an action on a public contractor's bond may be brought in the county where the cause of action arose, and when so brought the venue cannot be changed without the written consent of the plaintiff or by order of court.

Warehousemen

Chapter 270 regulates the business of operating warehouses for foreign products and places such business under the supervision of the commissioner of agriculture who has the power to issue or withhold licenses and to make regulations not inconsistent with law to carry out the provisions of the act and to govern charges for storage. The regulations of the commissioner when duly filed and published are to have the force of law, and he is authorized to enforce the provisions of the act together with the regulations made thereunder.

Chapter 114 relates to the storing, disposition and purchase of grain received at public local warehouses, regulates the operation, powers and duties of such warehouses and repeals a number of prior inconsistent statutory provisions.

Weeds

Chapter 318 provides that it shall be the duty of the occupant of land, or, if the land is not occupied, of the owner to destroy all noxious weeds upon it and upon the adjacent one-half of the highway and at such times as may be ordered by the commissioner of agriculture or by the local weed inspector. Under the act threshing machines must be cleaned before being moved from one job to another. The commissioner of agriculture is entrusted with the administration and execution of the act, and local weed inspectors are given considerable powers with respect to cutting weeds in growing crops.

Workmen's Compensation Act

Chapter 91 amends section 66, chapter 82 of Laws 1921, by providing that the term "farm labor" shall not include employees of commercial threshermen or of commercial balers.

By chapter 242 the employees of a highway department are brought within the terms of the act, the industrial commission being vested with the same powers and duties as to claims for compensation on account of accidents to such employees as in the case of any other employer of labor, and the procedure used in determining any such liability being the same as in other cases of asserted liability under the Workmen's Compensation Act, except as provided in this chapter.

By chapter 263 the actuary of the state insurance department is made a member of the compensation insurance board, the power of the governor to appoint one member of such board being withdrawn.

Chapter 279 amends section 31, chapter 82 of Laws 1921, so as to provide that the provision of subdivision 1 of such section, giving an election to proceed either against the employer or a third person subject to the terms of part 2 of the act, shall apply only where the employer and the third person were engaged in the due course of business in the furtherance of a common enterprise or the accomplishment of the same or related purposes in the operation on the premises where the injury was received at the time thereof. This act also amends subdivision 2 of such section with respective rights of employers and employees where an injury occurred under circumstances rendering a third person not subject to part 2 of the act liable for damages.

Chapter 282 amends section 28 and 29, of chapter 82, Laws 1921, requiring the employer to insure the payment of compensation with some insurance carrier, so as to provide that an employer with the approval of the Industrial Commission may exclude medical and hospital benefits and that an employer conducting distinct operations or establishments at different locations may insure each separate establishment or operation. This act contains no provisions as to penalty for failure to comply with the act.

Chapter 300 amends chapter 83 of Laws 1921 in a number of respects. Among other amendments, section 14 is amended so as to provide for compensation for serious disfigurement not resulting from any injury specifically compensated, materially affecting employability of the injured person; section 15 of that chapter is amended as to the right of a widow on re-marriage and as to the disposition of compensation in case of such re-marriage where there are dependent children; section 16 is amended so as to provide that where an injury in itself would only cause permanent partial disability but does in fact, in connection with a previous disability, cause permanent total disability, the employer shall pay for permanent partial disability and after that the state, out of a special fund, shall pay the remainder of compensation that would be due for total permanent disability; section 22 is amended as to the limitation of time for taking proceedings to determine or recover compensation; section 23 is amended with respect to the examination of verification of injuries; sections 46, 51, and 58, are amended as to the procedure; section 65 is amended as to the computation of wages, and section 66 is amended so as to provide for injuries arising out of and in due course of employment which include interest while being transported to and from employment, pursuant to a custom of the employer to furnish transportation.

REPORT OF COMMITTEE ON INCORPORATION OF THE BAR

To the Board of Governors and Members of the Minnesota State Bar Association:

Your special committee appointed to present the bill organizing the bar of Minnesota to the 1923 Legislature submits herewith its report. Your committee craves the indulgence of the Association for the length of its

report, and pleads as justification the amount of time it has put upon this work during the past year, and the importance it believes this subject to bear to the future of the legal profession in Minnesota.

The bar organization bill, as approved by this Association at its 1922 meeting, was introduced in the Senate by Senator Frank Putnam, of Blue Earth, and in the House by Representative John B. Pattison, of St. Cloud, these gentlemen being the chairmen of the judiciary committees of their respective legislative branches. The bill was presented to both judiciary committees, fully discussed, and suggested amendments incorporated therein. The bill was then made a special order in the House, and after extensive debate, was passed by a vote of 93 to 17. Upon the announcement in the newspapers of the passage of this bill by the House, certain lawyers in the state who thought they saw in its provisions a possible menace to a certain class of litigation in Minnesota, sent out a hurry call for a meeting in Minneapolis of those opposed to the bill. A strong organized lobby against the bill was perfected at this meeting, and descended upon the Legislature like a veritable typhoon. Petitions containing arguments against the bill were energetically circulated among lawyers throughout the state, and as many lawyers were not familiar with the bill and its purposes, it was not difficult to get them to go on record as opposed to a change of this nature. Insignificant features of the bill were distorted and misrepresented, and all sorts of fanciful and horrible results were pictured.

Against such an organized and powerful opposition, your committee was helpless. Many of those working against the bill were selfishly interested in its defeat, and consequently willing to give unsparingly of their time. A number of loyal members of this Association rendered very effective help in the fight for the bill, but the opposition was too strong and well organized to be successfully overcome without an equally powerful proponents' organization,—and such an organization unfortunately did not exist. The matter was debated at length before the Senate judiciary committee at a spirited public hearing, at which Senator Putnam and Judge Royal A. Stone met and answered all attacks on the bill. In the course of this debate, some of the opposing speakers stated that they had become convinced of the desirability of some sort of a state-wide bar organization, and would be glad if the matter were laid over for two years in order to get together with the proponents of the present bill and endeavor to work out a bill which would satisfy the objections of many of the present opponents. An informal canvass of the judiciary committee showed that a majority of that committee was favorable to the bill, but its fate in the Senate proper was doubtful. With these facts in mind, and to avoid stirring up further opposition to the bill, which might be perpetuated as opposition to any kind of a bar organization bill which might be introduced in the future, it was decided not to push the bill further at the 1923 session, and it was accordingly allowed to die in committee.

Shortly afterwards, the Hennepin County Bar Association appointed a committee to work on this matter, the committee personnel consisting of both proponents and opponents of the bill. This committee has held regular meetings, and has endeavored to agree on a bar organization bill. While no details have as yet been worked out, the following general outline has been tentatively agreed upon:

The State to be sub-divided into a number of state bar districts, each of these districts to have one or more representatives upon the Board of Governors of the state bar. Each district to be organized as a local bar association which would be a sub-division of the state bar, but with its own officers and its own committee on discipline. Every member of the state bar to automatically become a member of the local bar association of his district. The local association to receive half of the license fees paid by the members in that district.

The Board of Governors to have the power to make rules of professional conduct for attorneys, subject to approval by the Supreme

Court after notice and public hearing. They also to be vested with the general supervision and management of the affairs of the state bar, but to have nothing to do with the actual handling of disciplinary matters.

The discipline committees of the respective districts to handle all matters of discipline in the first instance, having the duty and power to investigate all complaints, reprimand privately, or to file complaints with the supreme court seeking suspension or disbarment. Upon such a complaint being filed, the supreme court to refer it to a district judge of the district where the accused resides for the purpose of taking testimony, with power to make findings. At the same time, the supreme court to appoint a prosecutor, provision being made that the county attorney, or some one from the attorney general's office, if appointed, shall prosecute. (It is hoped that it will be possible to have the majority of these cases prosecuted by an assistant from the attorney general's office specially detailed for this work.)

The Hennepin County Bar Association Committee spent some time in attempting to work out a satisfactory districting arrangement. The West Publishing Company furnished a list of the towns and cities of the state, with the number of lawyers in each, as compiled from their mailing lists. With this list as a basis, first, the number of lawyers in each county, and second, the number in each judicial district, was computed. It was thought that a basis of one member of the Board of Governors for each one hundred lawyers would be equitable, and to accomplish this, certain adjacent judicial districts were combined to make the membership in each bar district as near to a multiple of one hundred as was possible. The congested districts were given somewhat less than their allotment on this basis in order to avoid an undue predominance on the Board of Governors of representatives from the larger cities. The districting arrangement as proposed by the Hennepin County committee is as follows:

Grouping of Judicial Districts	Lawyers in Bar District	Representatives on Board of Governors
1 and 5	103	1
3 and 10	119	1
12 and 16	136	1
8 and 18	86	1
9 and 13	102	1
6 and 17	97	1
19 and 7	203	2
14 and 15	202	2
11	277	2
2	573	4
4	1294	7
Total	3192	23

An examination of the judicial district map in the Legislative Manual will show that the suggested grouping is logical with reference to territorial boundaries and railroad and highway connections. If thought desirable, a provision could be inserted, allowing any one or more districts formed to combine for the purpose of local bar organization.

Some of the members of the Hennepin County committee felt that the power to make rules of professional conduct should not be given to the organized bar. It seems to be generally assumed by those opposed to vesting this power in the bar that if the bar were given power to govern itself and make rules of professional conduct, it would prohibit the solicitation of personal injury and criminal business by lawyers and their "runners." Generally speaking, lawyers in favor of allowing "ambulance chasing" will be found opposed to granting self-governing powers to the bar. Your committee on state bar organization is strongly

in favor of leaving this feature in the bill, realizing, however, that its elimination would mean also the elimination of most of the opposition to the bill.

If the bill is to be passed by the 1925 Legislature with the self-governing feature incorporated in it, your committee believes that the following things will have to be done:

First—A large committee (at least two from each judicial district) should be appointed, the members of this committee to be lawyers sincerely interested in this project, and willing to give their time to accomplish the passage of this bill.

Second—A substantial sum of money should be raised from the lawyers of the state for the expenses of the committee in educating the lawyers and the legislators of the state as to what this bill really is and why it should be passed.

Third—The members of the committee in each judicial district should during the coming year arrange meetings of the bar in their districts for the discussion of the general subject of state bar organization.

Fourth—A convention of delegates from each judicial district should be held some time in 1924 (preferably at or just prior to the time of the State Bar Association meeting) to discuss the whole subject and to frame a bill for the 1925 Legislature.

In conclusion, your committee wants to record its conviction that half-way measures on a matter of this importance, and with the opposition which it has and will encounter, are worse than useless. Unless this Association is willing to go into this fight wholeheartedly, with the determination on the part of all its members to see it through at the cost of their own time and money—unless such a determination is plainly manifested, your committee recommends that the fight for this bill be definitely abandoned. It is hoped that a sufficiently large number of members will attend the session at which this report is discussed to insure a full expression of the real sentiment of the Association on this subject, and that a vote by any member to adopt the recommendations of this report will mean a willingness on his part to put his shoulder to the wheel and give this project the support which it deserves from every reputable lawyer in Minnesota.

Respectfully submitted,
SAM G. ANDERSON,
JOHN B. SANBORN,
VICTOR STEARNS
MORRIS B. MITCHELL, Chairman.

REPORT OF COMMITTEE ON CONCILIATION AND SMALL DEBTORS' COURTS

This Committee was appointed to draw a bill for the establishment of such courts. This was done first by establishing such court in the city of Minneapolis by chapter 263 of the Laws of 1917. Then by chapter 317 of the Laws of 1921, provision was made for the establishment of such court in any city having a municipal court by resolution of the government body of such city. Such Court was also established in the city of St. Paul by chapter 525 of the Laws of 1921. By efforts of others than the committee such court was established in the city of Stillwater by separate act. The jurisdiction of the Minneapolis Court was by chapter 262 of the Laws of 1923, increased to $75.00 in its function as a small debtors court with its jurisdiction as a conciliation court still remaining at $1,000.00, the general jurisdiction limit of the court.

In several of the smaller cities of this state such courts have been founded under chapter 317 of the Laws of 1921 and from all reports that have been received seem in all cases to have proved a success. Oscar

C. Ronken, Esq. of this committee reports as to the one so established in the city of Rochester that since the first Monday in April, 1922, when this court commenced, it has had approximately 500 cases and only one or two appeals and that in his opinion these courts are all functioning well and that the growth of them should be encouraged and it is his further opinion that the jurisdiction should be increased to $100.00 in the small debtors end of this court.

If, in the opinion of this association, this committee can be of any further use along the line in which it has been working, it would be glad to be continued, but if it has no such further usefulness, it should be discharged.

For the Committee,
FRED W. REED, Chairman.

THE REPORT OF THE COMMITTEE ON THE REVISION OF THE DRAINAGE LAWS

MINNESOTA STATE BAR ASSOCIATION:

It was early determined by the committee that the assumption of so important work as the revision of the drainage laws was hardly practical in view of the total lack of any funds to cover the expenses, but that the proposition should be taken up at as early date as possible, following the opening of the legislative session of 1923. This was accordingly done. The writer secured a conference between the committees of the House and Senate as a consequence it was agreed that the major portion of the laws should be revised and submitted to the committees for action during the session at as early a date as possible.

Shortly following this action by the committee, the writer did a part of the work of revising of the laws and arranged with others for completion of the work as agreed. Shortly following the writer was injured in an auto accident and was unable to attend during the balance of the session: in consequence the work was dropped and nothing further was accomplished on behalf of the committee. I would therefore recommend that the committee be reappointed for another year, with the understanding that during the coming winter a complete revision of the portion of the drainage laws that have caused irritation be completed and submitted to the board of Governors, a sufficient period before the next session of the Bar Association, so this work could be properly considered and acted upon at the next session, and if approved could then be taken before the legislative committees in January, 1925, and I think with the assistance of the Bar Association, its passage could be secured.

I very much regret being compelled to make this report, but the circumstances outlined prevented carrying into effect the program of the commitee.

Respectfully submitted,
F. L. CLIFF, Chairman on behalf of the Committee.

REPORT OF SPECIAL COMMITTEE TO PREPARE LEGISLATION ON THE UNAUTHORIZED PRACTICE OF LAW

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

Your committee acting as a Special Committee to Prepare Legislation on the Unauthorized Practice of Law, reports as follows:

The members comprising this committee were: John H. Ray, Chairman, Minneapolis; F. E. Putnam, Blue Earth; George W. Granger, Rochester; Charles S. Marden, Moorhead; Charles T. Howard, Pipestone; M. J. Dougherty, St. Paul; F. S. Sasse, Austin; Henry Deutsch, Minneapolis; and Alex Seifert, Springfield. Mr. John H. Ray, the chairman, who had most of the work in charge and took an active part in presenting the bills at the last Legislature, has now permanently located in New York City, and his successor, Alexander Seifert, was not apprised of his appointment until on or about June 9, 1923. Immediately steps were taken to communicate with all the members of the committee relative to the proposed report for the coming meeting of the state Bar in August. After the responses had come in, the sentiment seemed to prevail that due to the lack of time and in view of the fact that there will be another session of the State Bar Association before the next Legislature meets, that our committee should be continued. The committee still feels that the bills heretofore presented, and which failed of passage, should be re-considered with a view of seeing whether they cannot be penned in such form that they may meet with the approval of the Legislature. In the meantime, the work of the committee can be re-considered, interest stirred up amongst its members and the bar at large throughout the state, and such legislation proposed as we may think will pass in the Legislature.

Respectfully submitted,

ALEXANDER SEIFERT, Chairman.
F. E. PUTNAM,
CHAS. T. HOWARD,
CHARLES S. MARDEN,
M. H. DOHERTY,
GEO. W. GRANGER,
F. S. SASSE,
HENRY DEUTSCH.

REPORT OF SPECIAL COMMITTEE ON ABOLISHMENT OF GRAND JURIES IN ORDINARY CRIMINAL CASES

Your Special Committee appointed to consider this subject filed a detailed report prior to the meeting a year ago. This Report is printed in full in the Supplement of Volume 7 of the MINNESOTA LAW REVIEW. No action was taken on this report.

Without reprinting the report at this time the Committee wish that every member would read the report submitted a year ago. So that the recommendations of the Committee may be again brought to the attention of the members we print herewith simply the recommendations of the Committee. The majority report which was signed by Thomas Hessian, George W. Peterson, Horace W. Roberts and Paul J. Thompson, contained the following recommendations:

"That the use of the grand jury be dispensed with in the ordinary criminal case. That the county attorney file information against persons whom he believes should be prosecuted for crime. That every such person should have a right to preliminary hearing before a magistrate. The magistrate should either dismiss the information or bind the defendant over to trial at the next term of court. If a hearing is necessary in order to discover evidence, as is sometimes claimed, provision should be made whereby the county attorney could summon witnesses before a magistrate for the purpose of getting information to start prosecution.

"As the use of the grand jury is sometimes necessary and desirable in cases involving county officials or unusual conditions arising in a community, we further suggest that the law provide that a grand jury

may be summoned by the presiding judge of the district, by the county attorney, by the county commissioners or by a certain number of tax payers.

"We believe that the adoption of the foregoing suggestions will preserve all of the benefits of the grand jury system and do away with its bad and expensive features."

A Minority Report, written by Warren E. Greene, concludes with the following recommendations:

"First: That any law establishing this system should contain provisions safeguarding the county attorney and the state against the expense incident to prosecutions on purely technical cases, where the experience dictates that they would be futile in their results.

"Second: That such law should provide for the summoning of witnesses by the county attorney for purposes of investigation.

"I note that in the majority report it is suggested that such witnesses be summoned before a magistrate. I am utterly opposed to any such system because it would involve a public record of such evidence. There is no reason why the defendant in a criminal case should be advised of all the state's evidence. The provision which should be embodied is one which would require the attendance of the witnesses before the county attorney, that he might get their testimony for use in the case without its becoming a public record."

Messrs. Frank Hopkins and Will A. Blanchard added the following to the report:

"Mr. Hopkins, a member of the committee, favors the use of the grand jury on the ground that it is a democratic institution of value to the community and in the country districts exercises a considerable influence in preventing crime.

"Mr. Blanchard, a member of the committee, is inclined to favor the grand jury system and in a general way supports the report of Mr. Greene."

Since the last meeting of the Bar Association there have been two new developments with reference to the subject of Grand Juries. The supreme court in *State v. Keeney*, (1922) 189 N. W. 1022, held that in any offense where the punishment was not more than ten years in states prison the county attorney could bring the case by information without the use of a grand jury. The Legislature last winter passed a bill, which is chapter 257 of the Laws of 1923. An inspection of this amendment makes it evident that the grand jury is dispensed with only in such cases where the punishment is less than ten years. As there are always cases pending involving punishment of a greater period than that, a grand jury must still be called in the larger cities.

Three members of the committee have added to their report of last year the following:

Mr. Blanchard writes:

"I find the present statute very satisfactory in the conduct of criminal cases in this county. In cases where the penalty is more than ten years, I find it the safer practice to have a grand jury investigation."

Mr. Roberts writes:

"It does seem to me that chapter 257 should be simplified. All they needed is to make sec. 9099 read as follows:

" 'A grand jury may be drawn and summoned whenever the court shall by order, filed with clerk, so direct.'

"I think that we should recommend the amendment of sec. 9159, so as to cut out the reference to sec. 9162 and make its provisions general. Also certain sections should be amended, such as sec. 9134, so as to conform."

Mr. Hopkins writes:

"The county attorney who must determine what actions are to be brought, is adverse to taking action unless forced to do so by public opinion. The grand jury expressed this opinion heretofore. Now it is not expressed.

"A county attorney makes enemies of the defendant and his relatives and friends. No offsetting sentiment can be focused and no representatives of the Court are conversant with the facts to go back to the locality of residence and back up the attorney and the prosecution.

"More criminal cases mean more work and the issue can easily be sidetracked by delay and nothing come of it. The criminal, now frequently a bootlegger or moonshiner, keeps on with his demoralizing business.

"An indictment means a trial and many cases have resulted in convictions where the county attorney advised against indicting but the grand jury having no axe to grind forced the issue."

The committee recommend a thorough discussion of the whole matter.

PAUL J. THOMPSON, Chairman.

SUBJECT INDEX

MINNESOTA LAW REVIEW

JOURNAL OF
THE STATE BAR ASSOCIATION

Volume IX

SUPPLEMENT

Proceedings of the Minnesota State Bar Association 1924

MINNEAPOLIS, MINN.
LAW SCHOOL
UNIVERSITY OF MINNESOTA
1924

OFFICERS OF PREVIOUS YEARS

PRESIDENTS

HIRAM F. STEVENS, St. Paul....1901
MARSHALL B. WEBBER, Winona....1902
FREDERICK V. BROWN, Minneapolis....1903
EDWARD C. STRINGER, St. Paul....1904
A. C. WILKINSON, Crookston....1905
ROME G. BROWN, Minneapolis....1906
J. L. WASHBURN, Duluth....1907
PIERCE BUTLER, St. Paul....1908
LAFAYETTE FRENCH, Austin....1909
JAMES D. SHEARER, Minneapolis....1910
CORDENIO A. SEVERANCE, St. Paul....1911
JOHN G. WILLIAMS, Duluth....1912
HUGH V. MERCER, Minneapolis....1913
HARRISON L. SCHMITT, Minneapolis....1914
STILES W. BURR, St. Paul....1915
FRANK CRASSWELLER, Duluth....1916
GEORGE W. BUFFINGTON, Minneapolis....1917
L. L. BROWN, Winona....1918
ALBERT R. ALLEN, Fairmont....1919
AMBROSE TIGHE, St. Paul....1920
WILLIAM D. BAILEY, Duluth....1921
WILLIAM A. LANCASTER, Minneapolis....1922
ROYAL A. STONE, St. Paul....1923

VICE-PRESIDENTS

MARSHALL B. WEBBER, Winona....1901
FREDERICK V. BROWN, Minneapolis....1902
EDWARD T. YOUNG, Appleton....1903
A. C. WILKINSON, Crookston....1904
ROME G. BROWN, Minneapolis....1905
J. L. WASHBURN, Duluth....1906
PIERCE BUTLER, St. Paul....1907
LAFAYETTE FRENCH, Austin....1908
JAMES D. SHEARER, Minneapolis....1909
CORDENIO A. SEVERANCE, St. Paul....1910
JOHN G. WILLIAMS, Duluth....1911
HUGH V. MERCER, Minneapolis....1912
HARRISON L. SCHMITT, Mankato....1913
STILES W. BURR, St. Paul....1914
FRANK CRASSWELLER, Duluth....1915
GEORGE W. BUFFINGTON, Minneapolis....1916
L. L. BROWN, Winona....1917
ALBERT R. ALLEN, Fairmont....1918
AMBROSE TIGHE, St. Paul....1919
WILLIAM D. BAILEY, Duluth....1920
WILLIAM A. LANCASTER, Minneapolis....1921
ROYAL A. STONE, St. Paul....1922
ELMER E. MCDONALD, Bemidji, died during term of office....1923

TREASURERS

FREDERICK V. BROWN, Minneapolis....1901
F. W. GAIL, Stillwater....1902
JAMES D. SHEARER, Minneapolis....1903-5
W. H. YARDLEY, St. Paul....1906-8
ROYAL A. STONE, St. Paul....1909-15
JOHN M. BRADFORD, St. Paul....1916-20
ROY H. CURRIE, St. Paul....1921-24

SECRETARIES

STILES W. BURR, St. Paul....1901
WILLIAM R. BEGG, St. Paul....1902
CHARLES W. FARNHAM, St. Paul....1903-12
CHESTER L. CALDWELL, St. Paul....1913

MINNESOTA STATE BAR ASSOCIATION

Officers 1924-25

Burt W. Eaton, Rochester.....*President*
Howard T. Abbott, Duluth.....*Vice-President*
William G. Graves, St. Paul.....*Treasurer*
Chester L. Caldwell, St. Paul.....*Secretary*
Charles F. Edel, St. Paul.....*Librarian*

Board of Governors, 1924-25

Judicial District

1st—Charles P. Hall.....Red Wing
2nd—Patrick J. Ryan.....St. Paul
3rd—Henry O. Christianson.....Rochester
4th—Paul J. Thompson.....Minneapolis
5th—E. H. Gipson.....Faribault
6th—J. L. Lobben.....St. James
7th—George W. Frankberg.....Fergus Falls
8th—A. L. Young.....Winthrop
9th—Henry N. Benson.....St. Peter
10th—J. F. D. Meighen.....Albert Lea
11th—Robert Jaques.....Duluth
12th—A. W. Ewing.....Madison
13th—J. H. Cashel.....Worthington
14th—Theo. Quale.....Thief River Falls
15th—Thayer C. Bailey.....Bemidji
16th—L. E. Jones.....Breckenridge
17th—Frank E. Putnam.....Blue Earth
18th—Godfrey G. Goodwin.....Cambridge
19th—Reuben G. Thoreen.....Stillwater

STANDING COMMITTEES FOR 1924-5

Ethics

Oscar Hallam, *Chairman*.....St. Paul
Henry S. Mead.....Minneapolis
Reuben G. Thoreen.....Stillwater
David L. Grannis.....South St. Paul
John Junell.....Minneapolis

Jurisprudence and Law Reform

Wilbur H. Cherry, *Chairman*.....Minneapolis
Bruce Sanborn.....St. Paul
R. Justin Miller.....University of Minnesota
C. J. Dosland.....Moorhead
I. M. Olsen.....New Ulm

Uniform State Laws

Donald E. Bridgman, *Chairman*.....Minneapolis
Henry N. Benson.....St. Peter
Alfred H. Thwing.....Grand Rapids

Legal Biography

Thomas Fraser, *Chairman*.....Rochester, Third District

Judicial District

1st—Albert Johnson.....Red Wing
2nd—Grier M. Orr.....St. Paul
3rd—Charles E. Callaghan.....Rochester
4th—W. W. Bardwell.....Minneapolis
5th—Fred W. Senn.....Waseca
6th—W. L. Comstock.....Mankato
7th—W. L. Parsons.....Fergus Falls

8th—C. M. Tift.....Glencoe
9th—A. S. Gislason.....Minneota
10th—Norman E. Peterson.....Albert Lea
11th—Bert Fesler.....Duluth
12th—G. E. Qvale.....Willmar
13th—L. S. Nelson.....Worthington
14th—Andrew Grindeland.....Warren
15th—W. S. McClenahan.....Brainerd
16th—S. A. Flaherty.....Morris
17th—E. C. Dean.....Fairmont
18th—Arthur E. Giddings.....Anoka
19th—J. N. Searles.....Stillwater

Library

James Paige, *Chairman*.....University of Minnesota
James H. Quinn.....St. Paul
James E. Markham.....St. Paul
Edward Lees.....Winona

Legal Education

James Dorsey, *Chairman*.....Minneapolis
S. D. Catherwood.....Austin
Francis B. Tiffany.....St. Paul

Legislative Committee

John M. Bradford, *Chairman*.....Fourth District, St. Paul

Congressional District

1st—John F. D. Meighen.....Albert Lea
2nd—Julius A. Coller.....Shakopee
3rd—Willard L. Converse.....South St. Paul
5th—A. V. Rieke.....Minneapolis
6th—L. L. Kells.....Sauk Centre
7th—George F. Gage.....Olivia
8th—Hugh J. McClearn.....Duluth
9th—N. F. Fields.....Fergus Falls
10th—William H. Lamson.....Hinckley

Membership Committee

Royal A. Stone, *Chairman*.....Second Judicial District, St. Paul

Judicial District

1st—D. C. Sheldon.....Pine Island
3rd—Morris J. Owen.....Winona
4th—Daniel F. Foley.....Minneapolis
5th—Joseph N. Moonan.....Waseca
6th—J. W. Seager.....St. James
7th—Roger L. Dell.....Fergus Falls
8th—O. S. Vesta.....Arlington
9th—Henry H. Somsen.....New Ulm
10th—L. L. Duxbury.....Caledonia
11th—William Watts.....Duluth
12th—T. S. Slen.....Madison
13th—C. T. Howard.....Pipestone
14th—James E. Montague.....Crookston
15th—C. L. Pegelow.....Bemidji
16th—E. H. Elwin.....Breckenridge
17th—Albert E. Allen.....Fairmont
18th—Godfrey G. Goodwin.....Cambridge
19th—J. D. Markham.....Rush City

COMMITTEE ON UNAUTHORIZED PRACTICE OF LAW

HENRY DEUTSCH, *Chairman*.....Minneapolis
FRANK G. SASSE.....Austin
ALEXANDER SEIFERT.....Springfield
HERBERT M. BIERCE.....Winona
GEORGE W. GRANGER.....Rochester
JOHN M. BRADFORD.....St. Paul
C. A. FOSNESS.....Montevideo

NOTEWORTHY CHANGES IN STATUTORY LAW

R. JUSTIN MILLER, *Chairman*.....University of Minnesota
A. E. ARNTSON.....Red Wing
CARL H. SCHUSTER.....Biwabik

AMERICAN CITIZENSHIP

ARTHUR E. NELSON, *Chairman*.....St. Paul
H. T. PARKS.....Minneapolis
JAMES A. CARLEY.....Plainview
JOHN M. GANNON.....Hibbing
HAROLD S. NELSON.....Owatonna

Also CORDENIO A. SEVERANCE, *Ex-officio*, as member of American Bar Association's Committee on American Citizenship.

SPECIAL COMMITTEES

UNIFORM PROCEDURE IN FEDERAL COURTS

JAMES D. SHEARER, *Chairman*.....Fifth District, Minneapolis

Congressional District

1st—JOHN HOPP.....Preston
2nd—JULIUS HAYCROFT.....Fairmont
3rd—A. B. CHILDRESS.....Faribault
4th—CARL W. CUMMINGS.....St. Paul
6th—JAMES J. QUIGLEY.....St. Cloud
7th—J. M. FREEMAN.....Olivia
8th—H. G. GEARHART.....Duluth
9th—L. E. JONES.....Breckenridge
10th—WILL A. BLANCHARD.....Anoka

ORGANIZATION OF THE STATE BAR

MORRIS B. MITCHELL, *Chairman*.....Fourth District, Minneapolis

Judicial Districts

1st—CHARLES P. HALL.....Red Wing
2nd—WILLIAM G. GRAVES.....St. Paul
CHARLES S. KIDDER.....St. Paul
JOHN B. SANBORN.....St. Paul
3rd—JOHN W. MURDOCK.....Wabasha
4th—GEORGE B. LEONARD.....Minneapolis
HENRY S. MEAD.....Minneapolis
PAUL J. THOMPSON.....Minneapolis
5th—JOSEPH MOONAN.....Waseca
6th—HORACE W. ROBERTS.....Mankato
7th—M. J. DALY.....Perham
8th—A. L. YOUNG.....Winthrop
9th—HENRY N. BENSON.....St. Peter
10th—CARL BAUDLER.....Austin
11th—WARNER E. WHIPPLE.....Duluth
12th—OLAI A. LENDE.....Canby
13th—O. R. ENGLISH.....Tracy
14th—JULIUS J. OLSON.....Warren

15th—Hallan L. Huffman.....Bemidji
16th—Frank W. Murphy.....Wheaton
17th—Albert R. Allen.....Fairmont
18th—Godfrey G. Goodwin.....Cambridge
19th—Edwin D. Buffington.....Stillwater

Committee on Small Debtors' Court

Fred W. Reed, *Chairman*.....Minneapolis
Oscar Ronken.....Rochester
John L. Rounds.....St. Paul
C. O. Dailey.....Mankato
C. R. Magney.....Duluth
Levi M. Hall.....Minneapolis

Codifying Drainage Laws

F. L. Cliff, *Chairman*.....Ortonville
O. A. Lende.....Canby
C. R. Middleton.....Baudette
Julius J. Olson.....Warren
John F. D. Meighen.....Albert Lea

Co-operation of Local and State Bar Associations

George J. Allen, *Chairman*.....Rochester
Henry H. Flor.....New Ulm
George W. Buffington.....Minneapolis
Albert Baldwin.....Duluth

OFFICERS
of the
AMERICAN BAR ASSOCIATION
1924-1925

President

Charles Evans Hughes.....Washington, D. C.

Secretary

W. C. Coleman.....Baltimore, Md.

Treasurer

Frederick E. Wadhams.....Albany, N. Y.

Vice-President for Minnesota

Frank B. Morley.....Minneapolis

Member of General Council for Minnesota

Bruce W. Sanborn.....St. Paul

Local Council for Minnesota

Ivan Bowen.....St. Paul
Asa G. Briggs.....St. Paul
Charles E. Adams.....Duluth
James D. Shearer.....Minneapolis

PROCEEDINGS

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 you 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 considrable 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

MINNESOTA
LAW REVIEW

JOURNAL OF
THE STATE BAR ASSOCIATION

Volume X

SUPPLEMENT

Proceedings of the
Minnesota State Bar Association
1925

MINNEAPOLIS, MINN.
LAW SCHOOL
UNIVERSITY OF MINNESOTA
1925

OFFICERS OF PREVIOUS YEARS

PRESIDENTS

Hiram F. Stevens, St. Paul 1901
Marshall B. Webber, Winona 1902
Frederick V. Brown, Minneapolis 1903
Edward C. Stringer, St. Paul 1904
A. C. Wilkinson, Crookston 1905
Rome G. Brown, Minneapolis 1906
J. L. Washburn, Duluth 1907
Pierce Butler, St. Paul 1908
Lafayette French, Austin 1909
James D. Shearer, Minneapolis 1910
Cordenio A. Severance, St. Paul 1911
John G. Williams, Duluth 1912
Hugh V. Mercer, Minneapolis 1913
Harrison L. Schmitt, Minneapolis 1914
Stiles W. Burr, St. Paul 1915
Frank Crasswellер, Duluth 1916
George W. Buffington, Minneapolis 1917
L. L. Brown, Winona 1918
Albert R. Allen, Fairmont 1919
Ambrose Tighe, St. Paul 1920
William D. Bailey, Duluth 1921
William A. Lancaster, Minneapolis 1922
Royal A. Stone, St. Paul 1923
Burt W. Eaton, Rochester 1924

VICE-PRESIDENTS

Marshall B. Webber, Winona 1901
Frederick V. Brown, Minneapolis 1902
Edward T. Young, Appleton 1903
A. C. Wilkinson, Crookston 1904
Rome G. Brown, Minneapolis 1905
J. L. Washburn, Duluth 1906
Pierce Butler, St. Paul 1907
Lafayette French, Austin 1908
James D. Shearer, Minneapolis 1909
Cordenio A. Severance, St. Paul 1910
John G. Williams, Duluth 1911
Hugh V. Mercer, Minneapolis 1912
Harrison L. Schmitt, Mankato 1913
Stiles W. Burr, St. Paul 1914
Frank Crasswellер, Duluth 1915
George W. Buffington, Minneapolis 1916
L. L. Brown, Winona 1917
Albert R. Allen, Fairmont 1918
Ambrose Tighe, St. Paul 1919
William D. Bailey, Duluth 1920
William A. Lancaster, Minneapolis 1921
Royal A. Stone, St. Paul 1922
Elmer E. McDonald, Bemidji, died during term of office 1923
Howard T. Abbott, Duluth 1924

TREASURERS

Frederick V. Brown, Minneapolis 1901
F. W. Gail, Stillwater 1902
James D. Shearer, Minneapolis 1903-5
W. H. Yardley, St. Paul 1906-8
Royal A. Stone, St. Paul 1909-15
John M. Bradford, St. Paul 1916-20
Roy H. Currie, St. Paul 1921-24
William G. Graves, St. Paul 1924

SECRETARIES

Stiles W. Burr, St. Paul 1901
William R. Begg, St. Paul 1902
Charles W. Farnham, St. Paul 1903-12
Chester L. Caldwell, St. Paul 1913

MINNESOTA STATE BAR ASSOCIATION

OFFICERS 1925-26

HOWARD T. ABBOTT, Duluth ..... President
FRANK E. PUTNAM, Blue Earth ..... Vice-President
WILLIAM G. GRAVES, St. Paul ..... Treasurer
CHESTER L. CALDWELL, St. Paul ..... Secretary
PAUL DANSINGBERG, St. Paul ..... Librarian

BOARD OF GOVERNORS 1925-26

Judicial District

1st—CHARLES P. HALL ..... Red Wing
2nd—THOMAS C. DAGGETT, 916 Exchange Bldg. ..... St. Paul
3rd—HERBERT BIERCE ..... Winona
4th—PAUL J. THOMPSON, 600 Security Bldg. ..... Minneapolis
5th—E. H. GIPSON ..... Faribault
6th—J. L. LOBBEN ..... St. James
7th—GEORGE W. FRANKBERG ..... Fergus Falls
8th—A. L. YOUNG ..... Winthrop
9th—JAMES H. HALL ..... Marshall
10th—JOHN W. HOPP ..... Preston
11th—FRANK CRASSWELLER, 309 Exchange Bldg. ..... Duluth
12th—A. W. EWING ..... Madison
13th—CHARLES DEALY ..... Pipestone
14th—JULIUS J. OLSON ..... Warren
15th—THAYER C. BAILEY ..... Bemidji
16th—L. F. JONES ..... Breckenridge
17th—R. H. MCCUNE ..... Fairmont
18th—GODFREY G. GOODWIN ..... Cambridge
19th—REUBEN G. THOREEN ..... Stillwater

STANDING COMMITTEES FOR 1925-26

ETHICS

OSCAR HALLAM, *Chairman* ..... St. Paul
HENRY S. MEAD ..... Minneapolis
REUBEN G. THOREEN ..... Stillwater
DAVID L. GRANNIS ..... So. St. Paul
JOHN JUNELL ..... Minneapolis

JURISPRUDENCE AND LAW REFORM

WILBUR H. CHERRY, *Chairman* ..... Minneapolis
BRUCE SANBORN ..... St. Paul
JUSTIN MILLER ..... U. of M., Minneapolis
C. J. DOSLAND ..... Moorhead
JAMES G. NYE ..... Duluth

UNIFORM STATE LAWS

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

LEGAL BIOGRAPHY

THOMAS FRASER, *Chairman* ..... Third District, Rochester

Judicial District

1st—ALBERT JOHNSON ..... Red Wing
2nd—GRIER M. ORR ..... St. Paul
3rd—CHARLES E. CALLAGHAN ..... Rochester
4th—W. W. BARDWELL ..... Minneapolis
5th—FRED W. SENN ..... Waseca
6th—W. L. COMSTOCK ..... Mankato

7th—W. L. Parsons ..... Fergus Falls
8th—C. M. Tift ..... Glencoe
9th—A. B. Gislason ..... Minneota
10th—Norman E. Peterson ..... Albert Lea
11th—Bert Fesler ..... Duluth
12th—G. E. Qvale ..... Willmar
13th—L. S. Nelson ..... Worthington
14th—Andrew Grindeland ..... Warren
15th—W. S. McClenehan ..... Brainerd
16th—S. A. Flaherty ..... Morris
17th—Julius Haycraft ..... Fairmont
18th—Arthur E. Giddings ..... Anoka
19th—Alfred P. Stolberg ..... Center City

Library

James Paige, *Chairman* ..... Minneapolis
James H. Quinn ..... St. Paul
James E. Markham ..... St. Paul
Edward Lees ..... Winona

Legal Education

James E. Dorsey, *Chairman* ..... Minneapolis
S. D. Catherwood ..... Austin
Francis B. Tiffany ..... St. Paul

Legislature Committee

John M. Bradford, *Chairman* ..... Fourth District, St. Paul

Congressional District

1st—John F. D. Meighan ..... Albert Lea
2nd—A. K. Stauning ..... Tyler
3rd—Julius A. Coller ..... Shakopee
5th—Charles T. Murphy ..... Minneapolis
6th—L. L. Kells ..... Sauk Center
7th—George F. Gage ..... Olivia
8th—Hugh J. McClearn ..... Duluth
9th—Hugh E. Leach ..... Alexandria
10th—William H. Lamson ..... Hinckley

Membership Committee

Olai A. Lende, *Chairman* ..... Twelfth Judicial District, Canby

Judicial District

1st—D. C. Sheldon ..... Pine Island
2nd—Thomas J. Kennedy, Jr. ..... St. Paul
3rd—Morris J. Owen ..... Winona
4th—Frank J. Morley ..... Minneapolis
5th—H. M. Gallagher ..... Waseca
6th—Horace W. Roberts ..... Mankato
7th—Roger L. Dell ..... Fergus Falls
8th—C. H. MacKenzie ..... Gaylord
9th—Henry N. Somsen ..... New Ulm
10th—L. L. Duxbury ..... Caledonia
11th—Mason M. Forbes ..... Duluth
13th—George P. Gurley ..... Pipestone
14th—William E. Rowe ..... Crookston
15th—C. L. Pegelow ..... Bemidji
16th—Henry G. Wyvell ..... Breckenridge
17th—Albert R. Allen ..... Fairmont
18th—H. L. Soderquist ..... Cambridge
19th—J. D. Markham ..... Rush City

COMMITTEE ON UNAUTHORIZED PRACTICE OF LAW

HENRY DEUTSCH, *Chairman* ..... Minneapolis
FRANK G. SASSE ..... Austin
ALEXANDER SEIFERT ..... Springfield
HERBERT M. BIERCE ..... Winona
GEORGE W. GRANGER ..... Rochester
JOHN M. BRADFORD ..... St. Paul
C. A. FOSNESS ..... Montevideo

NOTEWORTHY CHANGES IN STATUTORY LAW

JUSTIN MILLER, *Chairman* ..... Minneapolis
A. E. ARNSTSON ..... Red Wing
CARL H. SCHUSTER ..... Biwabik

AMERICAN CITIZENSHIP

ARTHUR E. NELSON, *Chairman* ..... St. Paul
H. T. PARK ..... Minneapolis
JAMES A. CARLEY ..... Plainview
JOHN M. GANNON ..... Hibbing
HAROLD S. NELSON ..... Owatonna

SPECIAL COMMITTEES FOR 1925-26

UNIFORM PROCEDURE IN FEDERAL COURTS

JAMES D. SHEARER, *Chairman* ..... Fifth District, Minneapolis
Congressional District
1st—JOHN W. HOPP ..... Preston
2nd—JULIUS HAYCRAFT ..... Fairmont
3rd—A. B. CHILDRESS ..... Faribault
4th—CARL W. CUMMINS ..... St. Paul
6th—JAMES J. QUIGLEY ..... St. Cloud
7th—J. M. FREEMAN ..... Olivia
8th—H. G. GEARHART ..... Duluth
9th—L. E. JONES ..... Breckenridge
10th—WILL A. BLANCHARD ..... Anoka

ORGANIZATION OF THE STATE BAR

MORRIS B. MITCHELL, *Chairman* ..... Fourth District, Minneapolis
Judicial District
1st—CHARLES P. HALL ..... Red Wing
2nd—WILLIAM G. GRAVES ..... St. Paul
CHARLES S. KIDDER ..... St. Paul
JOHN B. SANBORN ..... St. Paul
3rd—JOHN W. MURDOCK ..... Wabasha
4th—GEORGE B. LEONARD ..... Minneapolis
LEE B. BYARD ..... Minneapolis
PAUL J. THOMPSON ..... Minneapolis
5th—JOSEPH MOONAN ..... Waseca
JAMES P. MCMAHON ..... Faribault
6th—HORACE W. ROBERTS ..... Mankato
7th—M. J. DALY ..... Perham
8th—A. L. YOUNG ..... Winthrop
9th—HENRY N. BENSON ..... St. Peter
10th—FRANK G. SASSE ..... Austin
11th—WARNER E. WHIPPLE ..... Duluth
VICTOR STEARNS ..... Duluth
12th—L. D. BARNARD ..... Renville
13th—M. TEDD EVANS ..... Pipestone

14th—JULIUS J. OLSON ..... Warren
15th—HALLAN L. HUFFMAN ..... Bemidji
16th—FRANK W. MURPHY ..... Wheaton
17th—R. H. MCCUNE ..... Fairmont
18th—GODFREY G. GOODWIN ..... Cambridge
19th—EDWIN D. BUFFINGTON ..... Stillwater

COMMITTEE ON SMALL DEBTORS' COURT

FRED W. REED, *Chairman* ..... Minneapolis
OSCAR RONKIN ..... Rochester
JOHN L. ROUNDS ..... St. Paul
C. O. DAILEY ..... Mankato
C. R. MAGNEY ..... Duluth
LEVI M. HALL ..... Minneapolis

CO-OPERATION OF LOCAL AND STATE BAR ASSOCIATIONS

GEORGE J. ALLEN, *Chairman* ..... Rochester
HENRY H. FLOR ..... New Ulm
GEORGE W. BUFFINGTON ..... Minneapolis
ALBERT BALDWIN ..... Duluth

COMMITTEE ON ABOLISHMENT OF COMMON LAW MARRIAGES

JAMES PAIGE, *Chairman* ..... Minneapolis
PIERCE BUTLER, JR. ..... St. Paul
S. R. CHILD ..... Minneapolis
A. L. AGATIN ..... Duluth
GRANT S. MCCARTNEY ..... St. Paul

OFFICERS OF THE AMERICAN BAR ASSOCIATION 1925-1926

PRESIDENT

CHESTER I. LONG ..... Wichita, Kansas

SECRETARY

WILLIAM P. MACCRACKEN, JR. ..... Chicago, Illinois

TREASURER

FREDERICK E. WADHAMS ..... Albany, N. Y.

MEMBER OF GENERAL COUNCIL FOR MINNESOTA

BRUCE W. SANBORN ..... St. Paul

LOCAL COUNCIL FOR MINNESOTA

FREDERICK H. STINCHFIELD, *Vice-President and Chairman* ..... Minneapolis
MORRIS B. MITCHELL ..... Minneapolis
HOWARD T. ABBOTT ..... Duluth
JOHN F. D. MEIGHEN ..... Albert Lea
JOHN E. STRYKER ..... St. Paul

PROCEEDINGS

AT THE ANNUAL MEETING OF THE MINNESOTA STATE BAR ASSOCIATION FOR THE YEAR 1925, HELD AT ROCHESTER, MINNESOTA,

JULY 21st, 22nd and 23rd, 1925.

July 21, 1925, 2:00 o'clock P. M.

Meeting called to order by President Eaton.

PRESIDENT EATON: When the Olmstead County Bar Association extended to the Minnesota State Bar Association an invitation for the 1925 meeting at Rochester, the Bar Association thought that we had hotel room to burn. The Kahler Hotel had been built, the Arthur and others, and we thought we would have ample room for any size convention, or any size Association meeting. But unexpectedly within the last three months, the Mayo Clinic registration has increased to an enormous extent, and for the last month I think there have been from 400 to 500 per day new cases, and the result is that our hotels are full. But we have provided places for all. Our chairman of the housing committee, Mr. Christensen, informs me this morning that he has provided accommodations for all the lawyers in the State of Minnesota. So we can furnish you with accommodations, if you will call upon us. It certainly is a pleasure to see so many here and I hope we will have a large attendance. We have provided a good program for you, I think, and I think that you will enjoy it. Judge Christensen—he says don't say "Judge"—and I will say Henry Christensen—has been very much interested in the Minnesota State Bar Association for years. He is one of the members of our bar association and I desire to introduce him to you at this time, to give the Address of Welcome.

ADDRESS OF WELCOME BY HONORABLE HENRY O. CHRISTENSEN

Mr. President and Members of the Association:

How wonderful is this present year when we link it with the events of the past.

George Head is generally reputed to be the founder of Rochester. He came into this section in 1854, and proceeded to build a log house at the south end of Broadway near where the fire station now stands. Other settlers followed after and it was decided to organize a town. Mr. Head named it Rochester, for the reason that the rapids in the river reminded him of the waterfalls of Rochester, N. Y., where he once lived.

Explorers doubtless visited this locality long before that time. As early as 1683 Nicholas Perrot and other traders, including Le Sueur, came to this region with goods to trade for furs. These early fur traders came up the Great Lakes, and usually traveled West to the Mississippi river in the winter when the ground was frozen. They were surprised to see the red leaves remaining on certain varieties of our oaks throughout the winter and because of this called this region the Red Leaf Country. These early French voyageurs soon learned a good part of the Dakota or Sioux Indian words. "Waba" was leaf and "eha" was red; hence red leaf in Indian became Wabasha, and a large section of the territory adjoining the Mississippi, including the place where we now are, was known by that name. Dakota Indian Chiefs in succession over a long period of years were also known by the name Wabasha.

The Dakotas called the Zumbro river, which flows through here into the Mississippi, the "Wazi Oju," but the French explorers in ascending the river from the Mississippi had so much trouble in going up stream with their canoes by reason of the numerous rapids and obstructions, that they named it "Riviers des Embarras" (difficulty). After they left the country, Englishmen came in due time and asked the Indians the name of the river, and they gave the white man's name for it as nearly as they could speak it. An Englishman understood it to be Zumbro and so wrote it in his journal. The name so created has adhered, and is not found elsewhere in any part of the world.

For these historical allusions I am indebted to two Rochester lawyers, J. A. Leonard and C. C. Willson, both of whom wrote extensively on the history of this locality and whose writings are preserved in the records of the Minnesota State Historical Society.

Rochester, after a few years from the time of the first settlement, began to grow quite rapidly and among settlers of other avocations, lawyers appeared.

An unusually large number of the members of the local bar have attained eminent places in the profession. Wm. Mitchell, a Judge of the Supreme Court of this State, was at one time presiding judge of this District. C. C. Willson practiced here for more than half a century and was at one time Supreme Court Reporter of this State. Other lawyers of this bar who lived here are O. P. Stearns, District Judge of Duluth, Chas. S. Whiting, Judge of the Supreme Court of South Dakota, Richard A. Jones, Chief Justice of Washington, John B. Allen, first United States Senator from the State of Washington, Chas. M. Start, Chief Justice of this State, Porter J. McCumber, United States Senator from North Dakota, Wm. P. Clough, counsel for the Northern Pacific Railway Company and other Hill interests, and Frank B. Kellogg, now Secretary of State, who was at one time the law partner here of the President of our Association. We can almost claim Cordenio A. Severance, as he was from Mantorville, a short distance west from here. This locality can therefore boast of having produced two former presidents of the American Bar Association, as Kellogg and Severance each served in that capacity. At the President's reception for the District Judges last evening, I discovered that two of the number

there present were born in this county. I did not have an opportunity to interview them all, and there may be others.

There were many other members of the local bar of unusual talent whose names are worthy of mention but must be omitted for lack of time. It is rather remarkable that so small a place as Rochester then was should have produced such a large number of distinguished lawyers.

The tornado which visited Southern Minnesota in 1883, caused the loss of a number of lives here and the serious injury of a number of other people. The injured were cared for in such places as could be devised for the purpose, and the Sisters of St. Francis assisted in caring for them. The need of a hospital here was discussed by them and Dr. Wm. Worrell Mayo, and as a result St. Mary's Hospital was founded in 1889 with a capacity of forty-five beds. From this has grown the hospitals and institutions for the care of the sick that we have in Rochester today. Here men of the highest talent are devoting their lives to the relief of human suffering and to the scientific investigation of the cause and prevention of disease.

To this place we extend the members of the Bar of this State a hearty welcome. All of our institutions are open to your inspection. The golf course and country club are at your disposal. We want you to enjoy your brief stay here, and again we bid you welcome. (Applause)

PRESIDENT EATON: The response will be made by Mr. Howard Abbott of Duluth.

RESPONSE BY MR. ABBOTT

Just how one is to respond to this sort of thing, I do not know, unless he happens to live in Rochester. At the meeting of our Board of Governors last winter, our worthy President came there with a lot of handsome photographs that he had taken of buildings that he said were hotels in Rochester. (Laughter) And he told us how wonderful it was and how wonderful the hotel accommodations would be and we were so taken with them that the Board voted to hold the meeting in Rochester. But if he had at that time recited that list of notable lawyers that Mr Christensen has just given, I don't think we would have voted to accept it at all, on the ground of incompetency. I don't know just why I was asked to respond to this address of welcome. I presume it is because I happen to be Vice President. You may some of you recall the story of the boy when the teacher said to him that he should feel that he would rather be right than be president, and the boy replied, "I don't know whether I would rather be right than be president, but I would rather be right than be vice president." (Laughter) As to the hospitality which is extended to us, I will say that we accept the golf club entertainment with very much pleasure. We accept the two garden parties, and we accept everything you have on this program, and if you can think of anything more to offer us while we are here, we will accept that, too. (Laughter) But I will offer a warning as to the respective proclivities of this crowd as I see them, and as I saw them today on the train coming down. I was talking to Judge Stone, and one of our worthy ex-officers of this institution was there sitting next to a very charming young lady, and he asked us to lunch, and I accepted the invitation. We went in to lunch,

but we had no more than gotten seated when this ex-officer suggested that we match for it—and when we got through the "reception" was on the other side. (Laughter) This may be my only chance to talk to you at this meeting, but if there is anything more about the City of Rochester that you want to know and that I don't know, in the course of these proceedings, I will tell you what I know, although I should have a written speech like Mr. Christensen. If I had, I might be able to tell you about all the notables of this town, if there are any who are not dead. (Applause)

PRESIDENT EATON: Mr. Abbott, will you take the Chair, please. I cannot afford to miss a chance of having you preside.

MR. ABBOTT (in the Chair): This is a great pleasure. It may be the last chance I will have. Do you wish me to continue with the program, Mr. Eaton?

MR. EATON (on the Floor): Yes.

THE CHAIRMAN: The next order of business is the Presentation of the John Marshall gavel, by the Hon. George W. Granger, in behalf of the Olmstead County Bar Association. (Applause)

PRESENTATION OF JOHN MARSHALL GAVEL, BY HON. GEORGE W. GRANGER IN BEHALF OF OLMSTEAD COUNTY BAR ASSOCIATION

MR. GRANGER: Mr. Chairman, Ladies and Gentlemen: At a special meeting of this association in St. Paul, in November last, Mr. Eaton, your President, felt seriously the need of a gavel, especially when he was attempting to put in operation the steam roller. He determind to supply one, and he wanted one of historical interest, not only from a general standpoint but from a legal standpoint as well. After considerable correspondence, he found that a gavel could be obtained, made of wood from the house in which Chief Justice John Marshall lived for many years. After he obtained this gavel, he had no base or striking block, but he found that timber from the house which was the home of Charles S. Willson of this city for many years, was available, and from this he had a striking block made. Much might be said of each of these two men, who are connected with this gavel and block, but time will permit only one or two items of interest in connection with them. John Marshall was born September 24th, 1755. He was married in January, 1783, and after paying the parson he had left very little money, but if I am any judge of the difference between the value of money then and at the present time, I think he had as much or more than many of the rest of us had when we played the inconspicuous part in that ceremony. Immediately after he married he moved to Richmond, Virginia, and there bought a block or square. On this block was the two-story, dormer windowed, frame cottage in which the young couple set up housekeeping, and there they lived six years, during which time they built an imposing structure, an imposing, substantial, brick dwelling on the corner. This continued to be the homestead of John Marshall for forty-six years, and until his death at the age of eighty years on July 1, 1835. In 1909 the City of Richmond acquired the site for a new high school and was about to erect a building, when efforts were made to preserve it from destruction and in

1911 the building was acquired by the Association for the Preservation of Virginia Antiquities, by whom it was repaired and in making such repairs a small amount of wood was removed, and from this wood a number of gavels were made. This gavel was obtained from this association by the Olmstead County Bar Association for the purpose of presenting it to the State Bar. The base, as I have said, is made of wood from the home of C. S. Willson, which was built by him in the early times, on top of the hill southwest of this building and in which he lived for more than fifty years. It was destroyed by fire shortly before his death and was wrecked. Mr. Willson was born October 27, 1829, in Mansfield, New York, was admitted to the bar of the Supreme Court of New York, September 3, 1851, commenced practicing law in Rochester, Minnesota, in June 1858, and continued here for more than sixty-two years. For some years he was reporter for the Supreme Court of Minnesota, and for many years he was the dean of the bar of this Judicial District. The gavel is made of soft wood which was the only kind of wood used in the John Marshall house, but the striking block is made of the best grade of black walnut. And now, Mr. Chairman, as attorney in fact for the donor, Mr. Eaton, the President of this association, and as special counsel for the Olmstead County Bar Association, I take great pleasure in presenting this gavel and block to you, the Minnesota State Bar Association, and hope that they will serve the purpose of keeping in mind the memory of those great men with whom they are connected. (Prolonged Applause).

THE CHAIRMAN: Gentlemen, you have heard the presentation of this gavel to this association by the Olmstead County Bar. I think some motion or resolution would be appropriate, in accepting it, and I await your pleasure in that respect.

MR. CARLEY (Plainview): Mr. Chairman, I move you that the State Bar Association accept the gavel and extend to the donor our hearty appreciation and pleasure.

Motion seconded and carried.

THE CHAIRMAN: We are very pleased indeed, sir, to accept this, and I am sure we will have ample use for it before this meeting is over. The next in order is the President's Address, and I will very gladly surrender the Chair to him.

(President Eaton resumes the Chair)

PRESIDENT EATON: Before I begin my address, I will read to you the inscription upon the silver plate of this gavel. "John Marshall gavel, made of wood from the home of John Marshall, the building in which he lived from 1789 to his death in 1835. Presented to the Minnesota State Bar Association by Olmstead County Bar Association, July 21, 1925."

MR. EATON: I have written my address, something I seldom do. And will read it.

PRESIDENT'S ADDRESS

This city in which this meeting is held is one well known throughout the world by reason of its Mayo Clinic and the aggregation of its medical, surgical and scientific men connected with it, together with its great hospitals and laboratories that have made it famous. This did not occur of its own accord but by reason of the vision of its Founders.

In this city we hear a good deal about "vision" and to illustrate I will refer to a young man who came to Rochester many years ago with a vision that defective mental and physical conditions in certain individuals was caused by a deficiency of a certain secretion within the thyroid gland itself, and if a similar substance in animals could be isolated, extracted and prepared for human use it might remedy the condition.

He disclosed his views to the Mayo Clinic, and this institution, ever ready to aid anyone having a vision, established a department for his use, furnished him assistants and material for his work and here he labored year after year and finally after seven years of the most intensive research work he isolated, developed and perfected "Thyroxin," a substance obtained from the thyroid gland, largely from hogs. As showing the value of this discovery a child was brought to the Clinic ten years of age, stunted in growth and mentality. She was only thirty-seven inches tall with mental development of a child several years younger. She was treated with Thyroxin and at the end of one year's treatment she had grown six inches in height and had developed mentally in like proportion. The result of this man's efforts was recognized throughout the medical world, and last winter Columbia University gave to Dr. E. C. Kendall of Rochester the much prized Chandler gold medal, in recognition of his achievements in science.

This is only one of the great number of human aids which have been and are being developed here and all over the world, by men who have "vision." The question naturally arises, do lawyers have vision? This question has been asked me many times. My answer is "Yes."

We of the legal profession have vision, so far as it applies to our profession, similar to those of other professions. We do not find our objective by means of the microscope but we find it in the investigation of human conduct by the standards of the past, noting the imperfections and embarrassments resulting from accepted standards, with the result that by careful investigation and research we improve these standards in accordance with the value of our vision.

The law has been the rule of conduct for all nations and he who provides a new way for the government of a nation, or for the regulation of the conduct, and of the conduct and business of the individual members of that nation, must certainly be entitled to recognition as a man of vision, as in other professions.

During the past ages, as far back as records go, we find lawyers leading the way in molding into permanent form the laws governing

nations and while in early times, and even up to comparatively recent times, these laws were given the name of the ruler who reigned at the time of the promulgation of the laws, yet it is a fact that lawyers of the nations were responsible and entitled to the credit of placing the laws in practical and permanent form.

Consider for a moment the oldest written system of laws known as the code of Hammurabi, or as it is sometimes written "Hammurapi," which was found in 1901 buried in the sands of Persia, by the French expedition, but which was promulgated during the reign of that monarch over two thousand years before the Christian era, for the government of Babylonia. This code was in cuneiform writing, cut upon a hard stone eight feet long by two feet wide, now in the Louvre in Paris.

It is only within recent years that scientists have been able to decipher this form of writing and when that which was written upon that flint-like stone was interpreted there was found a code of laws of 282 sections, which showed a civilization far more advanced than the world had believed possible at that time. With the exception of extreme punishments inflicted for violations of the law one would think this code would have answered for a much later period.

There is no question in my mind that this code was the work of lawyers from the language used and from the acknowledgment of the existence of courts, and from the further fact that Hammurabi was too busy fighting his neighbors to give much attention to the details of his government, except in a general way.

The code of Justinian promulgated in the early part of the sixth century, was the result of a committee of lawyers under the leadership of the greatest jurist of that time, Tribonian. I think lawyers generally little appreciate the value of this great work and the influence it has had during the centuries which followed.

In France at the time of the Revolution there were almost as many different systems of laws in force as there were political subdivisions, and the necessity for a general national system of laws was recognized and promised, but it was not until 1800 that the task was attempted Then Napoleon appointed a commission composed of the most eminent jurists in France, to draft a system of laws for the government of the nation.

This commission reported five different codes, but the first one, or that relating to the civil or private law, was given the name of "Code Napoleon." This met with serious objections and opposition in the legislative body, as is the experience in regard to all new and untried laws, and it was not accepted until 1804 by the legislature and then only after Napoleon had exercised to the fullest extent the influence of his great personality.

The code is still in force in France, Belgium, Holland and several of the Swiss cantonments. In Italy the newer codes are based upon it and the same is true of Quebec, Louisiana and most of the Central

and South American States, and some of the States in the United States.

The formation of the constitution of the United States is so well known among lawyers that it probably is not necessary to refer to but in a general way, as showing the influence which lawyers had in the formation of that great Constitution.

There were fifty-five delegates to that convention and of that number thirty-one were lawyers and lawyers of highest standing in the different colonies represented at the convention, and these lawyers each took an important and leading part in the discussion relating to the form of government which should be settled by that constitutional convention. After the convention adopted the constitution the lawyers had a very important part in molding public opinion that the constitution might be adopted by the different colonies. The contributions of Hamilton and Madison, by their articles in the "Federalist," greatly aided in the adoption of the Constitution.

After the constitution was adopted Chief Justice Marshall had the vision to interpret it in such a way that it made us a nation.

I have cited a few of the great milestones of the past which show that lawyers who have preceded us have been true to the traditions of the profession, and have had true vision of what was best for the nations in which they formed a part.

Now, what are we doing to continue the traditions? Have we visions that we can impress upon the laws where we live, or affecting the nation at large? Singly we can do little except to practice our profession in accordance with ethical standards so we may win the respect and confidence of the communities in which we live. But the spirit of the age is organization.

Minnesota is known as the bread and butter state of the Union. Year after year its butter scored the highest of any in the United States and it received the highest commendation from experts and from state and national organizations. Yet at the same time only one-third of its production was considered of sufficient quality to receive top prices, and that which was good usually sold under some foreign individual brand and not known as Minnesota butter. Sixty-six per cent of it was far below standard. The farmers organized and by certain rules promulgated by the organization relating to the method of producing and caring for the product, and by individual work with the members, the whole product of the state was raised to a standardized quality and sold under one brand, and now the product is in demand all over the accessible world, and all as the result of organization.

The American Bar Association, as you well know, is an organization national in its character, composed of lawyers of great ability and of the highest standing in the nation and is doing great and advanced work in many channels relating to the profession, and among its various activities it has recommended the organization of bar associations in the various states.

In many states, following the recommendation of the American Bar Association, efforts have been made for bar organizations, but in only three states has the movement progressed to the stage of statutory organization, these are North Dakota, Alabama and New Mexico. In California, last winter, the bill passed the senate unanimously and passed the house by a vote of sixty-five to eleven, but was vetoed by the Governor.

In the State of Washington an interesting experiment is being tried. It consists in the formation of local bar associations throughout the state and then amalgamating these local associations with the State Bar Association, and nearly every lawyer in the state is enrolled. This plan, although new, will bear watching as it is different than the plans adopted in the other states now organized.

In Minnesota the bar organization has been recommended by this Association several times, and the bills introduced in the legislature for that purpose have failed of passage during two sessions, owing to the intense opposition by many lawyers for personal reasons, and by many others who honestly felt that it was un-American to compel them to belong to an organization against their will.

Our influence, if united, would be effective on any measure that we as a body should propose for adoption, while under present conditions we are met with the argument that our Association represents only a small proportion of the lawyers of Minnesota.

The beneficial results that have followed in those states where the bar has been organized have been so gratifying that I believe this work in Minnesota should be continued, and if it cannot succeed in the form recommended then that some other method be adopted that will meet the approval of the lawyers so that we may become a united body and force instead of a body representing less than one quarter, or one-third, of the lawyers of the state.

Cannot we have the vision of an united bar of all the lawyers in the state? A condition which I believe is the ultimate destiny of the Minnesota Bar Association.

There are two other matters I wish to bring to the attention of this Association.

1. Our law relating to marriage provides, among other things, that no marriage shall be contracted between persons, either one of whom is "epileptic, imbecile, feeble minded or insane," and the only safeguards that are provided to protect society against the marriage of such prohibited persons are as follows:

The person authorized by law to perform the marriage ceremony *may* examine the parties on oath as to the legality of such intended marriage, and that no such person shall solemnize a marriage unless he is satisfied that there is no legal impediment thereto. The other safeguard is that the clerk of the court shall examine, upon oath, the party applying for license. These safeguards, in my judgment, are insufficient to protect society against the marriage of such prohibited persons. In my judgment there ought to be added to this prohibi-

tion, persons having syphilis in such stage that it is transmissible, and that in addition to the protective feature of the statute there should be required a certificate of a competent physician that neither of the persons applying for license is in the prohibited class.

2. I think our law relating to divorce should be amended to provide that the court should at first enter an interlocutory decree, which shall determine the question of divorce, alimony and property rights, and the custody of the children, and upon this question the interlocutory decree should be final and from which an appeal should be permitted, and at the end of six months the final decree should be entered.

The object of this suggested amendment is absolutely to prevent marriages within the six months period. I know we have a statute prohibiting a re-marriage within six months from the entry of a decree of divorce, but often one or the other party has another alliance already formed at the time of the divorce, and a quick trip is made by automobile, or otherwise, to another state where another marriage is solemnized.

Sometimes the trouble is not taken to go to a state that does not have a period after divorce within which the parties are prohibited from marrying. I am inclined to think it would be good practice to require that a person applying for a marriage license who has been divorced should exhibit to the clerk of the court, prior to the issuance of a license, a certified copy of the decree of divorce entered in the case.

I desire in closing to express my high appreciation and thanks to the members of the different committees who have served during the past year so faithfully and loyally. They accepted the responsibilities willingly and many of them at considerable sacrifice to themselves, and especially the committees on Bar Organization and Drainage. These committees spent a prodigious amount of time in carrying forward the great work which they had undertaken in behalf of this organization.

I desire also to express my appreciation and thanks to the members of our local Bar Association, and their wives (Barettes, as Judge Callaghan classed them) for their very efficient help in making this meeting a success and especially to Drs. William J. Mayo and Charles H. Mayo, and their wives, for the social entertainment which they so generously offered to furnish, and which we gratefully accepted, and I trust this Association will make a fitting acknowledgment to the Drs. Mayo and wives. And last but not least, this Association is to be congratulated in having so efficient a Secretary as Chester L. Caldwell. He is always on the job and he keeps the other officers in the straight and narrow path which they should follow. He has saved me from many a "bonehead" and extricated me from other unfortunate situations. It has been a real pleasure for me to have been associated with so able an assistant as Mr. Caldwell during the past year.

(Applause.)

PRESIDENT EATON: I will now appoint a committee to nominate the Board of Governors for the ensuing year: chairman, Mr. Frank E. Putnam of Blue Earth; John M. Bradford of St. Paul; Howard T. Abbott, Duluth; James D. Shearer, Minneapolis; James H. Hall, Marshall.

And the following committee to audit the treasurer's account: Chas. S. Kidder, chairman, St. Paul; Olai Lende, Canby, and Morris B. Mitchell of Minneapolis. We will now proceed in the regular order. The first is the report of the Library Committee, which is on page 124.

SENATOR H. N. BENSON: Mr. President, this report is published on page 10 of the Announcements, and as it contains no particular matters that need attention, it may be submitted in the printed form, and I will make that as a motion.

Motion seconded by Mr. Lende, put and carried.

For report of Library Committee see Appendix, Page 124.

PRESIDENT EATON: The next is the report of the Legal Biography Committee, which is found on page—. Is the chairman of that committee present? He is not present. A motion to approve this report is in order. It is just a formal report.

On motion of Mr. Chas. S. Kidder, seconded by Senator Benson, the report was adopted and placed on file.

For report on Legal Biography, see Appendix, page 124.

PRESIDENT EATON: Next is the report of the Legislative Committee. Mr. Bradford is not present and this is an important committee and we will pass that until Mr. Bradford appears. The next is the report of the Committee on Legal Education, which appears on page 125. Is the chairman present?

MR. JAMES E. DORSEY (Minneapolis): On the assumption that no one has read this or any other committee report, which assumption is, I take it, correct, and on the further fact that it is a very short report, and pertains to controversial matters, with your permission I will read it.

PRESIDENT EATON: All right, please read it.

(Mr. Dorsey reads report. For report see Appendix, page 125.)

(Interpolated by Mr. Dorsey, at end of paragraph 1 of report.)

(Before "2. Legislation Governing Admission to the Bar"); May I interrupt the reading of the report to state that since this report was formed the Board of Law Examiners and your committee has met with the Supreme Court and presented the proposed rules and discussed them, and the Supreme Court has recently adopted them with very minor changes, and your committee feels very much gratified at the receptive attitude and the hearty co-operation they met with in the Supreme Court, and the action the Supreme Court have taken thereon.)

(Continues reading 2. Legislation Governing Admission to the Bar, etc.)

In the event, Mr. President, that this report should be adopted, I would move the adoption of the following:

RESOLUTION

"BE IT RESOLVED, That it is the sense of the Minnesota State Bar Association that every applicant for admission to the Bar, other than those qualified by reason of admission and practice in other states, be required to take the examination prescribed by the Board of Law Examiners, and that the Minnesota State Bar Association respectfully recommend to the Minnesota Legislature that no further legislation be passed, waiving this requirement."

PRESIDENT EATON: What will you do with the report of this committee?

MR. DORSEY: I move its adoption.

A MEMBER: I second the motion that the report of the committee be adopted.

PRESIDENT EATON: It is moved and seconded that the report of the committee be adopted. Those is favor say "Aye." Those opposed, "No." (No opposing vote.) Does that include your resolution, Mr. Dorsey?

MR. DORSEY: No. The resolution is separate, and I now move the adoption of the resolution.

Motion seconded.

PRESIDENT EATON: It is moved and seconded that the resolution be adopted. Are you ready for the question? Those in favor say "Aye." Those opposed, "No." (No opposing vote.) The motion is carried. Is Mr. Meighen present?

MR. MEIGHEN: Guilty.

PRESIDENT EATON: Can you give us the report of the Legislative Committee as published?

MR. JOHN F. D. MEIGHEN (Albert Lea): Mr. Chairman, due to the fact that I stayed away from the Legislature during the entire session, I think I am very well qualified to give this report which is found on page 127. (Laughter.) As I say, the report appears upon page 127, and unless someone desires the reading, I shall move for the adoption of the report as printed. Well, it has been suggested that perhaps it should be read, and I will read.

(For report, see Appendix, page 127.)

Mr. Chairman, there are no recommendations made by the committee, so I presume it may be placed on file in the usual way.

PRESIDENT EATON: Mr. Bradford, I understand, is in the room. Have you anything to say, Mr. Bradford, upon your report?

MR. JOHN M. BRADFORD (St. Paul): Just this, Mr. Chairman, that it appears to me there must be considerable education of the country members of the House, and the Senate, both, if we are going to get the increase in salaries for the judges. I do not know just what the association will do with the committee report on the incorporation of the Bar. That report will come later. But I am inclined to think that in the Minnesota Legislature that is a dead issue, from the experience that I had with it. And I therefore think that the association should put most of its efforts

at the next term upon the increase of salaries for the judges, and I would recommend that we try to get as good a committee for that bill as you had on the Incorporation of the Bar. That committee did wonderful work, but I do not think that bill will ever be passed, at least not for the next ten years. The hearings before the committees were very interesting. The judiciary committees, of course, are mostly made up of lawyers. I was surprised to see how many lawyers there were on those committees, that did not favor an increase of salaries for the District judges. We had many meetings on that particular bill, and I remember Judge Buffington was at one meeting and Judge Converse and Mr. Kidder. And Mr. Kidder had figures which they could not get away from, absolute figures on what salaries the District judges are getting now. As I remember the figures, the district judges in the counties outside of St. Paul and Minneapolis and Duluth are now receiving about equivalent to twenty-nine hundred dollars salary per year. It seems to me if we are going to keep the splendid men on the bench that we have there now that we have got to increase salaries, and I heartily recommend that this association, when the time comes, appoint a very strong committee and let that committee work for the next two years trying to devise some method whereby we can get the country members to appreciate the fact that the judges must have more salaries.

PRESIDENT EATON: Have you any motion to make in that regard?

MR. BRADFORD: Not at this time.

PRESIDENT EATON: What do you want to do with the report as printed?

MR. BRADFORD: I move that the report be filed.

The motion was seconded, put and carried, with no dissenting vote.

SECRETARY CALDWELL: I want to say a word, the same old story that I tell you every year, and that is in regard to attending the banquet and getting your tickets. I think many of you do not appreciate how difficult it is to make a guaranty to the hotel. All of you always want to put off purchasing tickets until the last moment. If you purchase a ticket and cannot use it, we will take it back. Don't be afraid you will lose your three dollars, and please obtain your ticket now, so that when the time comes to give the hotel a guaranty we will be able to say how many are going to attend. Don't put it off until an hour before the banquet. And if you have not paid your dues, Miss Fuerst is at the rear of the hall and will accept your money, and she will also sell you the banquet tickets.

PRESIDENT EATON: Now, will the Committee on Bar Organization meet after the close of this session in this little committee room here? This will close this session for the afternoon, and we will continue our meetings at the Golf Club, leaving here at four o'clock. This afternoon, at the close of this meeting, the members of the Southeastern Minnesota Bar Association will assemble and conduct their business for a period of ten to twenty minutes. I presume the automobiles are waiting now to take you out to the Golf Club and we will consider the meeting adjourned.

(Meeting adjourned until 9:30 A. M., July 22nd, 1925.)

Wednesday, July 22, 1925, 9:30 o'clock A. M.

Meeting called to order by President Eaton.

PRESIDENT EATON: We will now proceed with the regular program as printed. We will have the report of the Ethics Committee, Page 120. Will the chairman of that committee come forward and present the report? Is Judge Hallam here? Or is anyone else upon that committee present that can make the report? There does not seem to be a soul here to make a report for that committee. Judge Hallam is expected here this afternoon. Then we will have the report of the Committee on Uniform State Laws, which is printed on Page 120. Is the chairman of that committee here?

MR. DONALD E. BRIDGMAN (Minneapolis): Mr. Chairman and Gentlemen of the Bar Association: I suppose that most of the members have not probably taken the time to read these reports in detail, so possibly the best way of presenting the present situation in regard to uniform state laws is for me simply to read the report in which the committee has tried to set forth briefly the present situation in Minnesota.

(For report see appendix, page 122.)

MR. BIERCE (Winona): May I state that Georgia has now passed the negotiable instrument law, within the past year.

MR. BRIDGMAN: In regard to the uniform bills of lading, I will say that there is also a federal bills of lading act which follows in most particulars the state law and which governs all interstate shipments.

And we might look to the very beneficial act in connection with implied title, in making real property valid for sale or for mortgages, as an instance of how the declaratory judgment can be beneficially used in other fields.

PRESIDENT EATON: Are there any remarks upon this report?

MR. S. R. CHILD: I move the adoption of the report and would like to express my appreciation of the excellent report. I think the members of the bar do not get interested in some of these laws that are for lawyers alone.

The declaratory judgment act, of course, is a lawyers' act, one of procedure, and if lawyers do not get interested in it and put it through, no one will. That act has been before the legislature for two sessions. It gets nowhere because you cannot get someone to make it a special business. Very little opposition would defeat it. Inertia of the Legislature, of course, in such matters is very common, unless you can get such a fellow as Senator Putnam, or some of those men who have been there and know how to get through such laws, they don't get anywhere because there is not enough interest in them. Now, this Declaratory Judgment Act is a matter of very great importance to lawyers, it seems to me. For instance, you may bring an action to interpret a will, or you may bring an action to quiet title. What more actions can you bring to determine a matter on a contract which has been already breached, or the right already determined? I know within a few years it took two trials in the District Court and two hearings in the Supremt Court to determine whether you could bring an action to substitute an ante-nuptial contract. Now, the law is

progressing as a matter of growth, but it progresses at the expense of energy and waste of effort and public expense. Why should not an act like the Declaratory Judgment Act, which has already had the attention of the best scholars in the country, which has already been passed in many states, was drafted by experts after a number of years of consideration and is up for consideration as a federal act in Congress,—why should not a progressive state like ours take it on and not wait for years and lose the advantages that we might have through it? I desire to urge upon our brethren of the bar to become interested in the Declaratory Judgment Act and help it through in the next Legislature. As a uniform state law proposition, now that I am on my feet, I might call your attention to the uniform Real Estate Mortgage Act which is in process of going through the Conference of Commissioners of Uniform State Laws, and which will probably be passed this year. It has this interest for Minnesota people and for Minnesota lawyers: the act will be a Minnesota Act. It will be framed along the line of Minnesota foreclosure. You may be interested in knowing that Minnesota has the foreclosure of mortgages perfected beyond any other state in the Union. You may not all know that there are only five states that foreclose by the method by which we foreclose; that eleven states do not foreclose at all, but sell out, forfeit land practically, under a deed of trust, with no period of redemption and practically no notice,—ten days' notice; that twenty-eight states cannot foreclose a mortgage except through suit in court; and that our state has perfected the foreclosure under the power of sale beyond any other state; and it will be due to the progress made in our state if a uniform mortgage act be framed that will be accepted and adopted by the other states. When we started in on this proposition,—the Commissioners of the Uniform State Laws,—you could get no support for foreclosure at all. It has hung on by its teeth, so to speak, at nearly every Conference until the last one, because men who had been in the habit of foreclosing by action would not concede that you could even get jurisdiction to foreclose the way we foreclose; but the same report, the same act, has been up before the commissioners for four succesive years, and this last year, through the proposition by those people who still wanted a uniform method of foreclosing by action, they put up the proposition and the conference has voted it down and said, "If we cannot use this method, and we have conceded it is practical now,—then why should we attempt to have a uniform foreclosure by action?" The Conference voted it down and voted that the committee should not submit any other form of foreclosure. And so the act has already been referred to as the Minnesota Act. You know the Minnesota Act has been created by tacking on statutes here and there, and we think we have reached a satisfactory form. You have in mind, for instance, that the fly in the ointment of a Minnesota foreclosure is making the service on the party in possession,—a matter of jurisdiction,—which has a tendency to render foreclosures uncertain. We propose to get rid of that difficulty. We propose to do another thing, to provide a short statute of limitations of three years which will make these numerous special acts by members of the Legislature, fixing up their foreclosures,—to do

away with them. (Laughter.) There is no reason why a foreclosure act of our kind cannot settle the thing for all time, if the party goes into possession and remains in possession undisputed for three years; and that is what we propose to do. (Applause.)

PRESIDENT EATON: Mr. Child, do you make any motion?

MR. CHILD: I move to adopt the report.

Motion seconded by several members.

PRESIDENT EATON: Are there any other remarks on this subject? It has been moved and seconded that we adopt this report. Those in favor say, "Aye." Opposed, "No." The "Ayes" have it; it is carried. The next matter to be brought before this organization is the question of the desirability of enforcing the teaching of the Greek language. We have Mr. Tiffany here, I believe, who desires to make a report on the subject. Will you please come forward, Mr. Tiffany?

MR. FRANCIS B. TIFFANY (St. Paul): Mr. President, Mr. Dorsey, chairman of the Committee on Legal Education reported yesterday. Since then, this matter has been presented to our committee and the committee thought it proper that it should be brought before this meeting, and the authority that governs our deliberations is absent, but Mr. Caldwell said the President might recognize me for one moment for the purpose, if I would be very brief, which I will. I will therefore read the resolution which will present the matter.

RESOLUTION

"WHEREAS the study of Greek in High School is one of the most valuable forms of preliminary training for the study and practice of law, and it should be possible for youths who contemplate entering the legal profession to prepare themselves therefor by the study of Greek, and

WHEREAS it is important both for those preparing for the law and for the high standing of the Bar of Minnesota that Greek will be taught in the High Schools of this State and be available to those who will be lawyers of the future, and

WHEREAS at the present time Greek is not taught regularly in any of the High Schools of the State of Minnesota,

THEREFORE, BE IT RESOLVED by the Minnesota State Bar Association, That the teaching of Greek should be undertaken so far as possible in the High Schools of the State of Minnesota and that as a minimum it should be taught in at least one High School in each of the cities of Minneapolis, St. Paul and Duluth.

AND BE IT FURTHER RESOLVED that this association recommends the study of Greek to those who are preparing for the practice of law as one of the best subjects to take in High School.

AND BE IT FURTHER RESOLVED that the Secretary of this Association send a copy of this resolution to the State Commissioner of Education and to the Superintendent of Schools in each City of the State having over 10,000 inhabitants."

I know the question of subjects to be taught in the public schools is somewhat controversial, but the committee recognizes that this does not in any way infringe upon evolution. (Laughter) I do not myself feel that

it is impossible for a lawyer to become a good lawyer without a preliminary study of Greek. I do, however, feel very strongly that it is a great pity and rather a disgrace that in the great State of Minnesota, it is not possible for a young man to have an opportunity to study that language, which is perhaps the most wonderful language that the ingenuity of man ever devised, the language in which perhaps the greatest literature is written, and the language in which so many of the members of the bar in times past were trained. Therefore, our committee feel that it is proper for us to introduce this resolution, and I therefore move its adoption.

(On request, Mr. Caldwell reread the resolution.)

PRESIDENT EATON: Any other member desire to discuss the question?

MR. BRIDGMAN: Members of the Bar Association, I would like to see this resolution passed. I believe that both present and past experience indicates that Greek is an excellent preparation for the study of law. We find it is taught in the present times to a considerable degree in the eastern and southern parts of this country. We find that true in England, where the classical training at Oxford is regarded as the best possible training. In fact, we find that they are turning to the study of Greek and Latin. We, in Minnesota, have now reached a point where we have wealth and the chance for variation in the courses that we offer to the high school pupils. We are really able to and should give those ambitious boys who want to prepare themselves to be as well fitted as they can for the practice of law, the chance to study Greek. I do not think there would be much objection to it and it would be well for the Bar Association to recommend it to the boys as being excellent preparation for the practice of law, and also recommend that the high schools, so far as consistent with economy and other considerations, introduce this as an elective study. They have already introduced so many electives at different times, that I think there is hardly any question that a considerable number of high schools could very properly offer a course in Greek. The study of languages, and especially of this, the most perfect language that was ever devised by man, is just the training that the future lawyer needs. The lawyer, whether he is a conveyancer in his office drawing contracts and deeds, or whether he is writing briefs, or whether he is reading the statutes, or whether he is engaged in arguing before the Courts, or questioning the witnesses, one of his most valuable assets is a careful discrimination in the use of words and an adequate understanding of the English language as a vehicle for expressing his ideas. Greek in the high schools would give an understanding of language, probably better than any other subject. It is also a difficult subject, and gives the boy who is willing to work and is ambitious to get ahead, the opportunity to take something that will call for his highest powers of application and hard work.

I thank you. (Applause.)

PRESIDENT EATON: Any more remarks on the question?

MR. HORACE W. ROBERTS (Mankato): I suppose I was a member of the last Minneapolis class that took Greek in high school. That was twenty-seven years ago. I had three Greek teachers in the Central High School in Minneapolis, and I had to put in about four years at it. One of my

teachers was of some value, who knew his work, and I got something out of it from him. The other two did not know their subject and we got nothing. I think if we favor the introduction of Greek in our Minnesota schools today we would find that all the teachers were of the class to which I last referred. You cannot find any competent Greek teachers in Minnesota today that could be induced to teach in the public high schools in the first place, and in the second place, the study of dead languages as it used to be run in our public schools has been an absolute waste of time. I still retain the memory of a few vestiges of Greek, some of the letters in the alphabet, which I recognize when I see them over around the University, but that is the most of what I got out of a four years course of work. I don't believe the State of Minnesota would be justified in the expense that this motion would involve, and I don't believe that it is physically possible to get competent teachers to carry it out even if it were desirable.

PRESIDENT EATON: Anyone else desire to add anything?

MR. BRIDGMAN: I might say that I was talking to an assistant superintendent of schools in Minneapolis and he tells me he thinks it would be difficult to find teachers who would be able to teach some courses in Greek, still a good many who had Greek in their early days would be very glad, and personally, I second the motion.

MR. ROBERTS: May I just comment on that?

PRESIDENT EATON: Yes.

MR. ROBERTS: I don't doubt they could hire teachers to teach Greek, but I do doubt whether they would be worth hiring. (Laughter).

PRESIDENT EATON: Any more remarks, or are you ready for the question?

(Question called for.)

PRESIDENT EATON: Those in favor of the passage of this resolution manifest by saying, "Aye." Those opposed, "No." The "Noes" seem to have it. Do you wish a division? Those who are in favor of the passage of this resolution, stand.

A MEMBER: I venture to say, Mr. President, that there are not more than ten men in the rear of this room who know what the question is about.

PRESIDENT EATON: There are plenty of seats forward; if they will come forward, they will be able to hear. Those in favor of the passage of this resolution, please stand? Those opposed, stand? There are twenty voted for it, and the motion is lost without counting those against it.

(Motion not carried.)

PRESIDENT EATON: Next is the report of the Committee on Drainage. Mr. Lende.

MR. OLAI A. LENDE (Canby): Members of the Bar Association, Senator Cliff, who is chairman of the Drainage Committee, was unable to be here today to present this report. The report will be brief. The labors of the committee have been adopted, on the whole, by the Legislature. The

committee endeavored to codify the drainage laws,—not to change them, but to codify them, and to simplify the language as best we could, and the Legislature adopted the labors of the committee on the whole, and passed Chapter 415, which is now the new Drainage Law of this state. I wish to call the attention of the bar to one provision at least that the committee did not favor and did not adopt, but that the Legislature did adopt, and amend the law as it existed prior to the passage of Chapter 415. That is the provision for the institution of a drainage proceeding by petition, changing the percentage from twenty-five per cent to the majority of resident land owners, or fifty-one percent of the area of the district described in the petition. Some of us who were present before the legislative committee opposed this amendment, but the one consolation that the Drainage Committee has is that the Legislature was in such a frame of mind that they would have mutilated that section of the statute anyway. In my opinion, the drainage laws have retrogressed instead of progressed. We have gone back to patchwork drainage, and no large drainage project will be undertaken because of the impossibility of ascertaining whether you have fifty-one percent of the land owners or fifty-one percent of the area. Therefore, it will take a term of years under this patchwork drainage, which will undoubtedly proceed from now on until we have reached another stage of experience which will cause this statute to be again amended. Mr. Willard, the Commissioner of Drainage, is preparing the present codified statute and will publish it in pamphlet form including the suggestions of the Supreme Court and the opinions of the Attorney General, and it will be ready for distribution in about a month or six weeks, and will be available for the members of the bar. Now, Mr. President, the labors of the Drainage Committee of this State Bar Association have been finished, and I move the filing of this report and that the Drainage Committee be discharged.

(For report see Appendix, page 138.)

Motion seconded, put and carried.

PRESIDENT EATON: I desire personally to express, in addition to what I said in my annual address, the appreciation of this bar for the work of this Drainage Committee. I had considerable knowledge of the work that you undertook in preparing this law, not only the committee itself, as it stands now, but the previous committees that have worked upon it to a very large extent, and I think they are entitled to the thanks of this organization for the work they have done without pay, freely and for the benefit of the drainage laws of the State of Minnesota.

The next is the report of the Committee on Co-operation of Local and State Bar Associations, and Mr. Allen, I believe, is the chairman of that committee. Will you come forward, Mr. Allen, and make your report?

MR. GEORGE J. ALLEN (Rochester): The report is printed on the last page 138. For fear you may not have read it, I will read it to you.

(For report see Appendix, page 138.)

Supplementing this report of the committee, there are a few words I wish to say. We believe if there cannot be co-operative work between the various associations, the State Bar Association would prefer that there

should be no local association. But we assume that the best thing to do is to organize local associations and that if they can be organized there is no question but there will be co-operation. We are all vitally interested in our State Bar Association. There are many things that we can start here better than we can in a local association, and there are many things that you can start better in a local association because applicable to a particular locality. The counties, many of them, have county organizations. We have in this county, and they have in many counties throughout the state, a county organization. There are many judicial districts which have such organizations. For instance, Mr. Markham tells me that in the nineteenth district they have a well organized organization in the judicial district. Mr. Flor, of New Ulm, tells me that they have a good organization in the ninth district, and that they have negotiated many things there which they could not have started here. For instance, when Judge Larson was overloaded, they succeeded in getting in another judge to help. That was rather a peculiar thing. But so it goes. It is well to have these local organizations, and as I have said before, having them there is no doubt, no question, but that you as members of these local organizations will co-operate with this one. We have in this southeastern part of the state a local organization composed not only of one judicial district, but of three, known as the Southeastern Minnesota Bar Association. It does not take in all of the three districts, but the most of it. We meet together once a year. They met here yesterday, merely formally and re-elected officers, and we find it a very pleasant thing in that we, in this locality, can get together for one day and discuss little matters peculiar to this locality, which we can work out better than we could in the state organization. I think these local organizations should be blended with this association in a way; that this association, while an independent one, should in a sense be a federation of these local associations, that there should be a way whereby you can recognize delegates from those local associations to this, the larger one. Again, I am told by the secretary, that it would be a great help to him if where you do have local associations you would let him know each year,—do it this year and follow it up,—let him know who the officers of these associations are, and in that way the State Association can the better co-operate with you and you with it. I thank you. (Applause.)

PRESIDENT EATON: What will you do with the report?

MR. JUSTICE STONE: The report presents, in my judgment, the most important matter which is to come before this association. I move you, Mr. President, that its consideration be postponed and be taken up with that of the Committee on Bar Association Organization. I happen to know something of that report and I believe the two reports should be considered together.

Motion seconded, put and carried.

PRESIDENT EATON: I am pleased to see with us this morning, Mr. L. E. Jones of Breckenridge, who has just recovered, or perhaps not entirely recovered, from a very serious operation which he has had here at one of our hospitals. I am indeed pleased to see him with us, that he is able to attend this meeting. He has assured me ever since he came to Rochester,

that it was one of his great desires to attend this meeting here. Mr. Jones, I congratulate you on your recovery, sir, this far. (Applause.)

MR. JONES: I thank you. I thank you, brethren.

PRESIDENT EATON: The next report is that of the Committee on Jurisprudence and Law Reform. Is the chairman of that committee here?

MR. BRUCE W. SANBORN (St. Paul): The chairman is not here, but he requests that I give the report.

Mr. President, Ladies and Gentlemen: At the adjourned meeting of this association in November several suggestion were made for legislative enactments, and six of the proposed changes to the probate code were adopted and six changes in the criminal procedure, and it was proposed that an amendment be prepared by the committee dealing with double liability of stockholders. Those bills and that amendment were all drawn, a large share of the work being done by Mr. Cherry, who unfortunately, is absent today in the east, and by Professor Miller, who is a student this summer at Yale. The bills were all presented and urged before the Legislature. None of them were enacted into law except two. The Legislature had its own constitutional amendment, the purpose of which is to leave with the Legislature the dealing with the question of double liability of shareholders in corporations and incorporated associations. That will come up for a vote at the General Election in 1926. The two bills which did pass were, one, a bill permitting the transferring of guardianship proceedings from one county in the state to another; and, the other, a bill making a license to sell valid until revoked by the court; with the exception that if the sale is a private sale, and the period runs over a year, that a reappraisal must be had thirty days or more before the sale. All other proposals of the committee, while urged before the Legislature, were not enacted into law. The committee has had the pleasure and duty this past year of associating its efforts with the efforts of the probate judges' association, and it has some matters before it in that connection, which it thinks it may be useful, to have left with the committee. It also has before it the problem of drafting a law changing the authorized investments of the fiduciary, and it is hoped that those matters will be left with the committee.

I MOVE, Mr. President, the adoption of the report of the committee.

Motion seconded by Mr. Lende.

(For report of Committee on Jurisprudence and Law Reform see, Appendix, page 121.

PRESIDENT EATON: It is moved and seconded that the report of the committee be adopted. Those in favor say, "Aye." Those opposed, "No." The motion is carried unanimously. Next, we will have the report of the Committee on the Unauthorized Practice of Law. Mr. Deutsch is present.

MR. DEUTSCH: (For report see appendix, page 129.) Mr. Chairman, the report of this committee will be found on page 129. It is short and I will read it. (Reads the report).

I MOVE the adoption of the report and the continuance of the committee.

Motion seconded, put and carried.

PRESIDENT EATON: Is Mr. Child ready?

MR. S. R. CHILD: (Minneapolis): I desire to introduce a resolution and move its postponement to the period of New Business, but I think that the organization ought to have the matter before it for consideration and not bring it up without that opportunity. I will read the resolution as follows:

RESOLUTION

"WHEREAS there is a movement on to abolish common law marriage in this state, where it has existed from the beginning, and has been adopted and construed by the great judges of our court in keeping with the advanced and enlightened spirit of the times, and whereas this movement as shown by the marriage bill introduced in the last and preceding legislatures and zealously promoted, adopts and crystalizes into law the religious, superstitious and unenlightened sentiment of the Church of 1655, and of the English Lord Hardwick Act of nearly two centuries ago, excluding the application of the enlightened spirit of modern construction and equitable principles, and in abolishing common law marriage all evidence except of the ceremony and of the record of the ceremony is also abolished, which is contrary to all principles of English law.

Now, therefore, be it resolved by the Minnesota State Bar Association:

That the marriage laws of this state were enacted in the progressive spirit of the time of their adoption; that by wise judicial construction, they have become well settled and are well understood by the people as well as the legal profession; that they are largely the grounds of property rights, and should as they do, protect the weak, the improvident, and the innocent; that any change should be by amendment of present statutes rather than by an ill considered attempt at a wholly new law, which supersedes and abolishes also the unwritten law of marriage; that any such change should continue to recognize equitable principles of law and of evidence as applied to the marriage contract, the essence of which Justice Mitchell says, "is the consent of the parties, as in the case of any other contract and the authorities are practically unanimous to this effect."

That an amendment of our statute effectively requiring a record of all marriages ceremonial and informal for vital statistics purposes, and effectively preventing the marriage of incompetents would be in the line of evolution rather than revolution of our marriage laws. That a federal marriage and divorce constitutional amendment is not desirable.

Resolved that a committee of three be appointed to report at the next annual meeting as to what legislative changes of marriage laws, if any, are desirable in this state."

I will move this resolution be passed until the meeting for the consideration of new business.

PRESIDENT EATON: It will be so considered. Judge Stone, do you desire to present something briefly?

JUDGE STONE: I have a committee report scheduled for this time.

PRESIDENT EATON: All right.

JUDGE STONE: It is the report of the Committee on Membership.

(For report see Appendix, page 128.)

What you are interested in is knowing that eighty-four new members have been procured, and in addition, thirty of the members so far delinquent that they come in as new members, properly, have been reinstated. (Applause.) This makes a new count of one hundred and fourteen. (Applause.) I MOVE the adoption of the report.

Motion seconded, put and carried.

MR. LENDE: In connection with the report of the Membership Committee, I would like to state that I looked over the list casually this morning as to the membership that are behind in the payment of dues. I found several who were behind in their dues to the extent of thirty-nine dollars. That means that those members are lost to this association, and it seems that many more are lost who are not as much behind as that.

I MOVE, Mr. President, that the members of the Board of Governors, in their respective districts, be authorized to settle these accounts by compromise in such amount as in their judgment is proper and that those members be restored to the association.

SECRETARY CALDWELL: We have been doing that.

JUDGE STONE: There is such a resolution, having that in mind.

MR. LENDE: Very well, I will withdraw my motion.

JUDGE STONE: Under that vote the Board of Governors have been working this year. While there is a moment to spare, I would like to make special mention, which I think should be made, of the work of three members of the Committee on Membership. Mr. Markham, for his district, was particularly active and successful. The same applies to Mr. Duxbury, in the tenth district. I think all members of the committee will join me—the facts will not permit them not to join me—in giving the banner of credit to Mr. Foley of Hennepin County, who has turned in over eighty odd new members. (Applause.)

PRESIDENT EATON: Will those in the rear of the room who desire to be seated, please come forward. There are seats here and we do not wish to have any interruption during the address of Dr. Mayo. Dr. Mayo, will you please come forward. (Prolonged applause, all standing.) It is not necessary for anybody in the City of Rochester to introduce Dr. W. J. Mayo. It is not necessary wherever he is known, to have an introduction, and especially here in Rochester, where we love him as we all do. When I asked Dr. Mayo to speak to you today, he was a little bit hesitant about it, and said, "Dr. Charlie is the orator of the family." Well, we all recognize that, but I said, "Dr. Mayo, we lawyers in Minnesota would like to hear you talk." He said, "All right, I will comply, if you think I can interest them." Now we have him here and I desire, Dr. Mayo, to present to you the lawyers of Minnesota and to ask you to talk to them in such a way and upon any subject that you want to talk about. You have the floor. (Applause.)

ADDRESS BY DR. W. J. MAYO

Mr. President, Members of the Minnesota State Bar Association, Ladies and Gentlemen: It is well ocasionally for members of the so-called learned professions to meet for the exchange of ideas. There was a time when there were only three learned professions, theology, law, and medicine; today many occupations formerly considered trades and crafts are ranked with them. When the first class (1924) was graduated from the business college of Harvard University, I was interested to hear President Lowell say, "Business is the oldest of the arts and the youngest of the professions."

It is a pleasure for the citizens of Rochester to meet informally, outside the courthouse, with members of the legal profession. I value the opportunity in replying to President Eaton, to acknowledge his compliment to the members of the medical profession and to express appreciation of our lawyers, fine men and good citizens, whom we avoid as much as possible,—in a professional relation.

Patrick Henry said that the outlook into the future is based on experiences in the past. I want to tell you something about the outlook of medicine.

Happiness is a state of mind not necessarily a state of body. Many persons are happy under the most discouraging circumstances. Less fortunately certain sick persons because of their contented dispositions suffer uncomplainingly until their physical ills become incurable. There is another great and constantly increasing group of unhappy sufferers whose trouble is incident to stress of the emotions unconnected with physical ailments. These patients are wretched, they believe their trouble is due to a malady, and they want relief. They demand treatment, not diagnosis. These sufferers, for they do suffer, can be reached only through the emotions, and these cases have been the field of the "pathies" and cults, which have been effective in relieving states of mind which do not depend on states of body. If relief is given, it must be by changing the mental attitude.

I would not imply that the cultists who give treatment are quacks, as they have so often been called. They believe in their treatment, and because they are honest they are able to influence the neurasthenic patient, who relaxes, becomes better and gratefully gives testimonials to the cults, which come and go in rapid succession.

Retrospect into the 10,000 years of Egypt's history discloses no less than eight relapses of Egyptian culture into barbarism. While relics of interest in the general arts and sciences have been found, comparatively little of value from the standpoint of scientific medicine has been unearthed. The meager evidence at hand points to play on the emotions through appeals to the gods supposed to produce cures, and procedures for the exorcising of devils, methods not altogether removed from those of certain cults today.

The cultist is not interested in diagnosis; he has a treatment. When he goes to the legislature, usually with a great number of lawyers, and comparatively few, if any, doctors, his plea is: "What reason have I to study diagnosis, anatomy, and physiology? I have a treatment which cures people, without regard to their trouble."

In the regular medical profession, eight years after completion of the high school course are required to educate a doctor, which includes the time spent in the academic university work, the medical school, and the hospital. This long preparation is not required to learn treatment, which once known is easily applied, but to learn diagnosis, on which proper treatment depends.

Hippocrates, in the fourth century before the Christian era, was the first to give evidence of medical science, and he may be called the founder of clinical medicine. His near contemporary, Aristotle, physician to Alexander the Great, developed the deductive method of reasoning, on which science has rested securely. Aristotle was interested in all living things, in the method of growth, life processes, and in the manner in which life terminated. His methods endured 200 years unchallenged.

In the seventeenth century, the late Shakespearean period, the inductive method of reasoning was developed by Bacon and applied to medicine by William Harvey in the perfection of diagnosis through experimentation on animals. In the nineteenth century the inductive method of reasoning was extended by the logic of Mill.

Animal experimentation, which has made possible the greatest advances in medicine, is incorrectly called vivisection, which means literally, dissection of a living animal. The most valuable animal experimentation is not concerned with vivisection. Who has not noticed that those lumpy-jawed, crippled cadaverous dogs, once so common, are no longer on the streets, and that the incidence of other diseases of domestic animals is less? By inductive methods of reasoning, scientists have learned the origin of these diseases and their cure. As the result of scientific animal experimentation under the most humane conditions, domestic animals have been almost rid of contagious diseases from which they formerly suffered, and none has received greater benefit than the dog, whose use has been exploited by the antivivisectionists.

Sydenham was the clinician of Harvey's time, and was the founder of sound theories of the causation and classification of fevers, only one expression of his clinical acumen, which led to many advances in medical science.

Another notable man of the seventeenth century was John Mayow, the physician-chemist, whose investigations first led to the discovery of oxygen.

Of those who carried on researches in the eighteenth century, John and William Hunter, who correlated the work of the previous two hundred years, were outstanding. John Hunter had that divine discontent which leads to progress. He was the first to study pathology as a whole and to relate general pathology to clinical medicine. William Hunter was a physiologist who correlated the normal functions of life by the inductive method. As a result of the work of the Hunters, England, already the center of the medical sciences, became even more firmly entrenched in this position.

I have always felt that Missouri has never been given the credit for courage which she deserves for her slogan, "You will have to show me." The eye witness comes nearest the truth. Hearing admits gossip, taste may be perverted, as in the pre-Volstead days, smell is often a false witness. In

medical science the influence of the eye has been dominant, with the sense of touch second. (I was pleased to hear the gentlemen say a while ago that certain members of the bar were to be touched for sums ranging around $39.) In the development of the special cranial senses in man, those of taste, smell, and hearing do not influence cerebral activity as in the animals, but around the sense of sight were built most of the higher cerebral functions.

The great progress of science in the last generation has come largely through mechanical aids to vision, which have permitted the concentration on scientific problems of the full power of human intelligence. In the time of Harvey, microscopes were mere magnifying glasses, and those of the Hunterian school were not much better. The French, largely because of their development of better types of microscopes in the nineteenth century, became prominent in scientific research. Pasteur drew from the foundations of pure science, inspiration which led to the discovery of new knowledge, on which was to develop the germ theory of disease. To the characteristic patience and thoroughness of the German school we owe the extraordinary development of the relation of Pasteur's discoveries to the microbic origin of disease, Virchow's studies in cellular pathology, and Schmiedeberg's development of pharmacology, contributions of the greatest importance to the science of medicine.

These researches have given knowledge of communicable diseases, which can now be checked in the mass. Smallpox can be wiped from the earth. The continuation of these diseases in any country is a disgrace, due to the ignorance and prejudice of some and the indifference and selfishness of others. Typhoid fever should no longer exist. When I was young in medicine, special wards in the hospitals were prepared regularly to receive the fall influx of patients with typhoid fever, just as farmers prepare space for certain autumnal crops. Owing to public health measures, times are changing.

We pride ourselves on our advancing civilization and intellectual superiority. If we are to continue to advance, improvement of the public health service must be made the first function of the state. It is probable that neither prohibition propaganda nor an appeal to the conscience of man has caused the rapid advance of the temperance movement, but that pure water has made this possible. It is assumed that the drinking of spirituous and fermented liquors is due to an evil inborn longing, to be stamped out only by the exercise of individual self-control. Is this true? In France and Italy the drinking of billions of gallons of wine saved the people from extinction; they could not have lived had they drunk their polluted water. Here lies the explanation of the attitude toward prohibition of the aliens who come to the United States: they do not understand the value of pure drinking water. The Teutonic countries turned to beer to secure a sterile drink; England, gradually accepting prohibition as she secures pure drinking water, had ale and wine, and temperance countries, such as Turkey, had tea and coffee. I happened to be in Vienna years ago when the city introduced a pure water supply from the mountains, and I was interested to learn later that her per capita consumption of spirituous and fermented liquor was

spontaneously reduced 40 per cent. The introduction of a pure water supply in the various states in our own country has been followed by a temperance movement, and finally by prohibition. We are likely to look down on a man who drinks (that is, those of us who do not drink) as a natural sinner, whose drinking is "cussedness" breaking out, when the drink habit originated as a form of individual protection resorted to by nature to save man from filth diseases which cause death, or that which is worse than death, intellectual deterioration,—a defensive reaction against polluted water.

Pure water, clean milk, better food, and general sanitation have, since the Civil War, added fifteen years to the average length of man's life. The "water diseases" have gone. A dairy is to be looked upon as a manufactory of food, and it is kept clean. Mothers no longer need watch anxiously their infants in the summer for signs of cholera infantum. At the time of the Civil War, the average lifetime of man was about forty-three years; today it is fifty-eight years. The fatalities during the Civil War, as in the Spanish-American War, were caused chiefly by typhoid fever, communicable diseases, and tainted food. During the recent great war there was practically no typhoid. Disability was the result of injury or of shock to the nervous system, only too real and not to be treated lightly.

Medical science is now chiefly concerned with adding another ten or fifteen years to the span of life, and the program will depend on improving the vital forces of the individual. The prudent person will have a general physical examination periodically just as he has had regular examinations of his teeth. (Nearly every one wants his teeth in condition to do a good job.) The extension of life between forty-three and fifty-eight years has brought an enormous number of persons into middle and later life, the age period when there are naturally more deaths from disorders of the heart, kidneys, liver, and from cancer. Fortunately, through the microscope again, new channels open for furthering our knowledge of these diseases of middle and later life which are leading to methods of cure or prevention. Where sight goes, knowledge and wisdom appear.

The whole fabric of the advances in biologic science in the last generation was woven with microscopy, but the microscopic limit of 1-10 micron or 1-250,000 inch has been reached. The eye, aided by the microscope, was able to reveal not only the objects themselves, but usually also their size, shape, color, and other distinctive characteristics. All the particulate substances studied were obedient to well understood laws, for instance, gravity. Today we face the twilight ultra-microscopic field in relation to scientific progress as our forebears faced the realm of science when Pasteur promulgated his theories.

When Brown, the English botanist, working in Bristol, began the observations which culminated in his written communication of 1827, he focused attention on a subject of enormous importance. The questions he raised a century ago require all the resources of modern science for an answer. Brown noted, as man undoubtedly had noted from time immemorial, that when a pencil of bright light was thrown into a dark room, there were to be seen in the air certain rapidly moving particles of which there was no other physical evidence. On experimentation he noted with the microscope

the continual movement among minute particles suspended in a liquid. Be cause of his investigations, the peculiar vibratory motions of these particles were called Brownian movements. The most important contribution to a proper understanding of these phenomena was that of Thomas Graham, Master of the Mint in London, who in 1861, published his painstaking observations which led to the first detailed description of colloid bodies. Graham's work was largely based on dialyses of colloid-sized substances through parchment paper. These observations led to the investigation of the colloid field, which included those ultramicroscopic particles lying between 1-10 micron and 1-1000 micron, or 1-250,000 inch and 1-25,000,000 inch. The disclosures of the colloid field have supplied the knowledge lacking with regard to substances which lie between those things which can be seen with the eye aided by the microscope, and the molecule and the atom, physical knowledge of which depends on other scientific evidence.

Light is an electromagnetic phenomenon. When a beam of light is subjected to dispersion, it is divided into its different rays, which are recognized by the retina in the order of their wave-lengths as the colors of the normal spectrum. The longest and slowest ray is red, the second orange, the others in order of length and speed, yellow, green, blue, and violet. On the relative length of these rays has been based the colorimetric system, which has been of extraordinary value in aiding the eye to recognize the minute. The production of colors en masse has facilitated the application of the dyes to the scientific study of the ultramicroscopic field. Evans has shown that the elimination of dyes from the blood stream, when the dyes are introduced intravenously, is purely a filtration phenomenon.

Colloid chemistry has yielded extraordinary results in agriculture and the industries; from it there is now being built a new physiology of man, a better understanding of vital phenomena and their relation to the metabolic processes, internal secretions, and immunizing substances.

Oxygen contributes on the average 47 per cent of the atmosphere, water, and the known earth. Considering that the base of the brain can live only from seven to ten minutes without oxygen, it is surprising that there is in the body no mechanism for storing a reserve of oxygen or producing it under stress. All life is the result of combustion. Oxidation, or the union of various elements with oxygen gives rise to the heat and energy necessary for life processes. All foods contain carbon, hydrogen, and oxygen. The carbohydrates include the sugars, the common coal of the body, which commonly furnishes heat and energy. (Lucky just now, that this common coal is not anthracite.) The excess fuel is stored as fat, which again is composed of carbon, hydrogen, and oxygen, in different combinations. (When it is stored in the vicinity of our belts, we all know the difficulty of getting rid of it.)

A study of the fats explains the ability of the camel to exist with little water or food for long periods, and how life is maintained in hibernating animals. While the sugars undergo rapid metamorphosis, the hydrogen in the fats is not so rapidly dissociated from carbon, and the result of its oxidation is the slow production of heat, energy, and notably, water, all of which are so necessary to life. The amino-acids resulting from protein me-

tabolism are readily convertible into sugar. All proteins contain nitrogen and most of them a little sulphur, elements which give form and stability to the tissues and facilitate the deposition of other elements, such as calcium. When the proteins are broken down, the nitrogen waste is eliminated largely through the kidneys.

Normally, complex carbohydrates are not available as such, but are decomposed into simple sugars before they are oxidized. Glucose is the specific form into which carbohydrates are converted before they can be utilized by the body. It is now possible to prepare in the laboratory a glucose solution, which injected into the veins will supply energy and maintain life temporarily. This is but one application of the pure science of physicochemistry to clinical medicine. Today restoration of the sick can be accomplished as precisely in the living body, as similar chemical exchanges can be brought about in the test tube.

The estimation of retained excretory substances is now accurately made from studies of the blood, whereas formerly they were inaccurately estimated from the excretions, as for instance, the urine. The whole problem of excretory or filtration organs, such as the kidney, has been greatly simplified.

Physicochemistry of the human body concerns life itself. A proper understanding of these vital processes is necessary to every man who practices medicine, no matter what his specialty, and as for the surgeon, the newer knowledge is changing his outlook. By calling to his aid the scientists, the internist, and the various specialists, he is able to bring relief to a large number of patients who formerly were looked on as beyond help, or, who unprepared for operation, were subjected to a high risk. Rehabilitation is to be a master word in medicine. We shall be able to bring about what is promised us in the Bible, in which we all believe in one way or another in spite of the shades of Bryan and the laws of Tennessee, that the life of man shall be three score years and ten.

PRESIDENT EATON: I am very sorry that Dr. Mayo did not stay on the platform long enough for me to express to him the thanks of the Minnesota Bar Association and my personal thanks for the very splendid address which I know we all enjoyed so thoroughly.

SENATOR BENSON: I move you, Mr. Chairman, to express on behalf of the association to Dr. Mayo, our sincere thanks for his address.

PRESIDENT EATON: Dr. Mayo, I desire to express to you personally the thanks of this association for this splendid address which you have given to us, and we have all enjoyed it so much. I can assure you that we all appreciate it. (Applause) We have a few minutes to spare, are there any members of the Committee on Ethics here? Perhaps we will take that up at a later meeting.

MR. LENDE: I move we take a recess until two o'clock.

On motion duly seconded, put and carried, the meeting recessed until two P. M.

AFTERNOON SESSION

Wednesday, July 22nd, 1925, 2:00 o'clock P. M.

Meeting called to order by President Eaton.

PRESIDENT EATON: It is desired to make a change as to the time for presentation of the report of the Committee on Noteworthy Changes in Statutory Law. That was to be heard at this time, but we will postpone that until tomorrow and in place of it we will have the report of the Committee on the Organization of the State Bar because Judge Stone is obliged to leave this afternoon and he is informed about the proceedings that occurred in regard to the report of this committee. If there is no objection, we will make that change.

MR. JAMES D. SHEARER (Minneapolis): Gentlemen, there is a little matter that has been on my mind which I would like to bring before the association at this time. As you all know, the District judges had their meeting immediately preceding the meeting of this association. If my memory serves me right, the judges began to convene as a body at the St. Cloud meeting some years ago. Since that time, their attendance has largely increased and the interest shown has advanced, so that at the last meeting, out of forty-seven district judges, there were present thirty or more, and they took up some important subjects. Their proceedings, I think, are valuable to the association. Now, you all know that when you start in a case the judge thinks a great deal but says very little. (Laughter.) And when he does say something, it is usually too late to do some of us any good. I think it would be of great importance to the membership of this associatin if we could get those judges together as they have been meeting, and have them talk and have their proceedings made a matter of record, because I think it goes without saying that what they do at these meetings is of vast interest to the membership of the bar. It articulates the work that we do. After that preliminary statement, I am going to MOVE a

RESOLUTION

"That hereafter there be printed in the annual proceedings of this association such portion of the annual proceedings of the judges of Minnesota as the officers of this association, and the President and Secretary of the judges' section, shall deem helpful to the bar of the state."

Heretofore they have met and taken important action and sometimes made new rules and the only way we get it is long after. I think it is very necessary and important that their proceedings as well as the proceedings of this association be printed in our annual proceedings. I MOVE the adoption of the resolution.

SECRETARY CALDWELL: I second the motion.

A MEMBER: That applies to the proceedings of this meeting, does it?

MR. SHEARER: Yes.

PRESIDENT EATON: You have heard the motion, are there any remarks? (Question called for.)

JUDGE CALLAGHAN: In reference to this matter now under consideration,—I just came in,—I would say this: there are others here as well quali-

fied to speak on it as I am, but it was thought at our meeting that certain papers were delivered and addresses were made and certain actions taken which should be published with the proceedings of this meeting, and not knowing what the financial situation might be we passed a resolution there and each one of the judges donated a dollar, with the idea that if necessary we would contribute more to help pay the expenses of the publication.

PRESIDENT EATON: That was good procedure. (Laughter.)

JUDGE CALLAGHAN: I want to say that this would indicate that the judges have no objection to the bar of the state generally knowing just what we are doing.

PRESIDENT EATON: Good, good.

MR. CHILD: We accept the amendment. (Laughter.)

PRESIDENT EATON: Are there any other remarks? Those in favor, say "Aye." Those opposed, "No." The motion is carried unanimously and the resolution is adopted.

For Report of Proceedings of Meeting of District Judges see page 139.

Is Mr. Mitchell in the room, the chairman of the Committee on the Reorganization of the State Bar,—is he here and can he give the report of the committee? Well, we are out of luck. He is not here.

MR. L. P. JOHNSON (Ivanhoe): We have heard a good deal about the now famous Scopes trial in Tennessee. It is a matter that I, as a lawyer, feel should not go unnoticed by us in such a meeting as this and for that reason I have prepared a resolution, which I will offer, as follows:

RESOLUTION

"WHEREAS, the Scopes trial in the Commonwealth of Tennessee, to determine the guilt or innocence of one charged with a violation of a statute of that state, has attracted the attention of the nation and a large part of the civilized world, and

WHEREAS, in the trial thereof the proceedings have been replete with mental acrobatics, moving picture features, radio experimentations and vaudeville performances, heretofore unheard-of in criminal trials, and

WHEREAS, by such procedure the honor of our courts has been prostituted, its dignity scandalized, the cause of justice irreparably injured and the legal profession infamously slandered.

BE IT THEREFORE RESOLVED BY the Minnesota State Bar Association, in convention assembled at Rochester, Minnesota, this 22nd day of July, 1925, that we do hereby, without equivocation or mental reservation, express our disapproval of and condemn the conduct of court and counsel in the conduct of this trial, as unbecoming of and immeasurably injurious to an ancient and honorable profession."

Mr. President, I MOVE the adoption of the resolution.

(Laughter and applause.)

MR. CHAS. S. KIDDER (St. Paul): I second the motion.

MR. FREEMAN (Olivia): I appreciate the matter of levity found in the gentleman's resolution, but I cannot help but feel that the participants in that trial believed that a great religious question is involved. I think the

trial was presided over by an intellectual and a high minded jurist, and I think those who participated in the trial were honest in their convictions,—on both sides, I mean. I do not believe it is becoming that the Bar Association of Minnesota should go on record in any such way as has been suggested. Those men who participated on one side of the trial believe that a great fundamental and religious principle was involved—personally, I think there was. Therefore, Mr. Chairman, I MOVE you that the resolutions be laid on the table.

Motion seconded.

MR. FREEMAN: Or that the resolution be withdrawn.

MR. JOHNSON: If Mr. Freeman had listened to the reading of the resolution he would have noticed that not one word in the resolution was directed towards the principles involved in the trial or the issues there involved. The resolution is directed to the manner in which the trial was conducted, the moving picture features, the photographers and motion picture men in the court room, and the staging of the vaudeville act on the lawn of the court house. There is not one word in this resolution about the principles or issues involved in that case. But I offer this resolution seriously, because it is an infamous and unheard of way of conducting a criminal trial. The issues involved in the case do not concern me one way or the other. Nor does it concern anyone else. No matter what the decision of that case is, nothing will be decided, but I do believe as a member of the profession to which I belong that the courts in Tennessee, nor in this state, nor any other court, should make a farce and vaudeville out of the trial of either a criminal or a civil action. And I do not believe the bar ought to let those things go unnoticed. I think it is proper, as Mr. Freeman says, that we should not attempt to pass upon the issues in the case, but it seems to me that we have a right to say something about the manner in which it was conducted.

PRESIDENT EATON: What is your motion, Mr. Freeman, to lay it on the table?

MR. FREEMAN: Yes. I should have added the fact that entered my mind, as in that of most lawyers I take it, upon the subject, the fear is that the layman, that the public will misunderstand the position of the bar, misinterpret the resolution. I am free to say that the men who analyze that resolution cannot find anything very offensive in it, but we will be misunderstood. My motion is, Mr. Chairman, that the resolution be laid on the table. I think that is, perhaps, the more proper disposition of it.

Motion seconded. (By several members.)

PRESIDENT EATON: It is moved and seconded that the resolution be laid on the table. Are you ready for the question?

(Question called for.)

Motion put and carried with one dissenting vote.

PRESIDENT EATON: If there are any other resolutions, they should come in in the regular order of business. We must proceed with our program. Inasmuch as Mr. Mitchell is not here, we will now take up the report of the Committee on Noteworthy Changes in Statutory Law.

MR. A. E. ARNTSON (Red Wing): I do not take any credit for this report, which was written by Mr. Justin Miller of the Law Faculty, and Mr. Schuster and I are very glad to have him do this and to give it our support. In fact, I did not know I was on the committee until Mr. Miller sent me a copy of this, and asked me to make the report today. I will read it as follows:

(For report see appendix, page 129.)

As I have said, neither Mr. Schuster nor I drew this report, but we are entirely indebted, as I have said, to Mr. Miller, and I have no hesitancy in moving that the report be accepted and placed on file.

Motion seconded, put and carried.

PRESIDENT EATON: The next report is the report of the Committee on Uniform Procedure in Federal Courts. Is the chairman of that committee present? Mr. Shearer, will you come forward and make the report for that committee?

MR. SHEARER: The report of this committee has been presented and generally circulated and I presume some of you have read it. (Laughter.) It is on page seventeen, eighteen and part of nineteen, of the printed report.

(For report see appendix, page 133.)

Since it is printed, I will not take the time or the space in this meeting to do any more than simply refer in a general way to the report of this committee. There were a number of bills with a good deal of interest appeared before Congress. Some of them were old friends. One of them, especially, had been on the calendar of the Congress of the United States for over twelve years, and one of them for more than ten years. The first one I refer to was Senate File 2061, which is a bill to empower the Supreme Court of the United States to make and publish the rules in common law cases, the same as now exist in equity cases. I do not know why it is that a bill which at almost every period of the ten years had been approved over and over again by members of the House, and as far as can be ascertained by a vast majority of the members of the Senate, can be held up in this way, but it has been and I presume the State Bar of Minnesota can do no more than it has been doing in the last few years, petitioning and sending letters to Congress and to our Congressmen and Senators, asking that the bill be brought out on the floor and given a chance. I think there are only two or three in the Judiciary Committee of the Senate who have strenuously and constantly opposed that bill. I do not know that anything further can be done than has been stated in the report. The first one mentioned in the printed report is Senate File 2060, which as you know is the one to enlarge the jurisdiction of the Circuit Court of Appeals, and all I can say is that the bill became a law in the last Congress, the Sixty-eighth Congress. House File 5194 was a bill to amend the judicial code by adding a section which gives the power to the United States Courts to give declaratory judgments. Your committee has not made a report on that bill because it has not been carefully considered. Undoubtedly, it is all right. A good many of the states have it, as you know, and the chances are that it will be passed, as it seems to have been satisfactory.

Senate File 2693 is the bill abolishing the writ of error in civil and criminal cases and substituting the right of appeal. This bill passed both houses but died in committee.

The appointment of official stenographers in Federal Courts does not concern us, as we have these already.

House File 5476, Senate 2691, provides that there shall be no loss of civil rights or citizenship for conviction of crime unless the sentence for imprisonment is for a year or more, or unless the verdict of the jury or the sentence of court expressly specifies. The bill undoubtedly will pass. I believe it is to be taken up with the American Bar Association and undoubtedly it will pass at the next session.

I want particularly to call your attention to Senate File 624. Last year, your committee, practically the same as now, was unable to agree whether or not that bill should be recommended for passage. The bill is printed in full here,—two bills which I think you should read if you have not already. This bill seeks to prohibit a Federal judge from in any way, referring to a witness or the evidence in the trial of a case. Both these bills were introduced, one by Senator Caraway of Arkansas, and his bill was more drastic than that quoted here. That bill provided that if a Federal judge should in any way refer to the evidence or the witness or to any part of the trial of the case represented by the evidence, that it should be reversible error. You will note here that we stated in the printed report that a great many states, including Minnesota, have that law which this bill seeks to wipe out. I think, as attorneys and as members of the Bar of Minnesota, we ought to stand up for our own practice and procedure, which has never, so far as I know, been abused in this state. You will find, I think, at least three cases in the Minnesota reports, where our own District Court judges have referred to the evidence, but leaving the final determination to the jury and have so stated in civil cases. There are cases noted in 97 Minnesota and in our District in civil cases it is well-known law. Your committee, this year, (although we did not meet last year, and did not make any report) —are unanimous in believing that the bill should not pass. So I will go down to the recommendations which are, first, that the Minnesota State Bar Association gives its approval to Senate File 2061, 2693 and 2691 and requests their enactment into law by Congress, and that we disapprove of Senate File 624, limiting the power of Federal judges, believing that our Federal judges can be trusted to exercise in the future, that wise discretion in charging juries which has characterized their past history, and especially request that Federal judges be not stripped of the power to aid the jury in the administration of justice by the passage of such a law. The report is respectfully submitted, and I MOVE, Mr. President and Gentlemen, the adoption of the committee's report.

Motion seconded by several.

PRESIDENT EATON: It has been moved and seconded that the committee's report be adopted.

MR. S. R. CHILD: I move as to section one of the recommendations, the amendment, first, that the report be accepted and placed on file, and that section one of the recommendations be approved. I make that as an amendment to the motion.

MR. SHEARER: You mean you would be better satisfied if we would take them up separately?

MR. CHILD: Yes, I would like them taken up separately.

MR. SHEARER: Then, I will withdraw my motion, and I MOVE that the first recommendation of the committee be adopted.

Motion seconded.

PRESIDENT EATON: It has been moved and seconded that the first recommendation be adopted. Are you ready for the question? Now, Mr Child.

MR. CHILD: I have no objection to the first recommendation.

PRESIDENT EATON: Is there any discussion? Then, those in favor of the motion manifest by saying, "Aye." Those opposed, "No." It is unanimously carried. Now, Mr. Shearer.

MR. SHEARER: I now MOVE the adoption of the second recommendation of the committee.

Motion seconded.

PRESIDENT EATON: Is there any discussion?

MR. CHILD: I understood Mr. Shearer to say that the Federal rule does not differ from the Minnesota rule in charging juries. That has been my understanding.

MR SHEARER: That is a mistake, that was mentioned in the printed report.

MR. CHILD: Has that been the general understanding? My understanding has been that the Federal rule differed substantially from the Minnesota rule, and that it especially allows much latitude in the charge to the jury. I remember of one time a Federal judge saying, "You watch me charge that jury." He had been reversed in a case once in what he claimed was bad faith on the part of an attorney in not keeping his agreement. He said, "You watch me charge that jury. I am not limited in charging a jury in the Federal Court as we are in the State Court here." There is very much wider latitude. Mr. Fryberger, have you had experience in Federal juries?

MR. FRYBERGER: I remember of the case where the Court expressed an opinion and told the jury what he thought about the facts.

MR. CHILD: Moreover, I listened to the charge, and I never before listened to a charge, that approximated the expression and the feeling and sentiment that was shown as to his belief in the case. If this proposed change be not to change it from the rule that we have in this state, I don't know as I object to it, but it seems to me that if this Bar Association places itself upon record in a matter of this kind, it ought to be very sure of its ground.

MR. SHEARER: Mr. President, only another word about that. I think that the general feeling is—without looking up the authorities, that there is a different rule in the Federal Court. I have always believed that there was; but I was quite surprised when I found in 27 Minnesota, in the case of Ames vs. Gardner, and in the 63 Minnesota, I can give you

those citations, if anyone wants them, but I have not them here at hand,—and the case which I have cited here in 97 Minnesota, 227, where the District judge in charging the jury referred to the evidence in such a way that it was thought prejudicial by the other side; and especially in the last case, Mr. Chief Justice Brown, speaking for the Court, said substantially that was the rule in this state in civil cases. There is a statute prohibiting it in criminal cases. So, to my surprise, I found, in all these three cases, at least, with the limited search that I have given, that they held that very thing. It does not make the wording the same as in the Federal Court, but the effect of it is just the same. I was somewhat surprised in these cases. It did not seem to me anything to appeal upon, the reference by the Court was more or less casual, and still it was appealed upon one of these grounds in each of these three cases, and the Supreme Court decided very squarely that the rule in civil cases here was as I have stated, so long as the judge left the final determination as to the evidence with the jury, that it was not reversible error.

MR. GEORGE ALLEN: Mr. Shearer is absolutely right upon the decision. I was surprised some ten years ago to run onto the same thing. What Brother Child is proposing is to change the law of this state, and I hope it will never be changed. Our judges have always had good discretion in keeping their hands off of the evidence, but where a judge feels it to be his duty to express his opinion upon the evidence, it tends for the administration of justice, and I hope we will never reduce our judges to that condition where they won't have power to do that. That has always been the law in Minnesota so far as I know. The practice has been, as Brother Child said,—and I have heard many lawyers say in the Federal Court they would do this, but not in the State Court. But ten years or more ago I was reading those decisions and upon the reasons given,—you pursue the reasons given by the learned judges in the different states. and it is my opinion that you will agree with Judge Brown and I agree with the other speakers, that the administration of justice properly requires that a judge shall be something more than a mere moderator at a trial.

JUDGE CATHERWOOD: I do not want to break into the discussion. It doesn't take any argument to convince anyone that if a trial judge comments on the evidence it means that he is expressing an opinion or else he would not comment on it. If the judges had that latitude they have had the good horse sense to disregard it and not exercise it. When it has been followed, it has usually been followed in my experience with unfortunate results in a given case. We would better let that alone. I am satisfied with this report and with the first recommendation, but I cannot allow such a recommendation as number two to go by without saying that it is dangerous ground.

MR. CHILD: To clear this up: I don't profess to know very much about this question. I simply wanted to learn, but I do think we ought to understand just what the proposition is. In this bill, it is proposed that we disapprove, it states that the Court cannot express his opinion as to the credibility of a witness. Does anyone contend that the District judges of this state may express their opinion as to the credibility of a witness?

"And upon the weight of the testimony involved in such issue?" Is it contended, Mr. Shearer, that the District judges of this state have the right to express their opinion on the weight of the evidence? That is the proposition that the Federal Court proposes to prevent. In the adoption of this second proposition, we say that we are—

MR. FRASER: I remember that Chief Justice Start was a stickler on leaving questions to the jury and I know how he felt when on the bench. Some twenty years ago I was irritated with the comments of the District judge in a certain case and I appealed to the Supreme Court on account of the comments of the judge on the evidence. While that appeal was pending, Judge Jaggard wrote a long opinion on that question, the rights of District judges to comment on the evidence, and take part in commenting on witnesses. It is a very learned dissertation and when I saw it first I thought of dismissing my appeal. Notwithstanding that, I went ahead and argued the case somewhat amusedly because I had that decision itself in mind. I think we are on dangerous ground and I think most District judges appreciate that they are on dangerous ground when they invade the province of the juries which is fundamentally given to them to pass upon the credibility of witnesses and upon the evidence. I think the practice requires that where they do comment, they shall state to the jury that the jury are still the sole judges of the facts and credibility of the witness. I think that the respect which our District judges have had throughout the state generally, to that principle of keeping away from the facts and the evidence,—it is sometimes transgressed and when it is I believe there is irritation because the attorneys feel the judge is out of his place. I am opposed to this. Our judges don't interfere and I don't believe we should give them any intimation that they should interfere with the work of a jury.

MR. KIDDER: There seems to be a great deal of misconception as to what is before the body. This is not a proposal to change anything, nor a proposal to change the rule of charging juries in this state or to change the rule of charging juries in the Federal Court. It is the condemnation of a proposed law which would change the rule in the United States Court. As I understand, the practice in the Federal Court since the foundation of the country has been always that judges have the power,—they have not always exercised it, but they have the power to comment upon the evidence and the credibility of a witness. Now, it is proposed by an act of Congress to prohibit any Federal judge making any comment on the evidence or the credibility of a witness or in any way undertaking to advise the jury. I am satisfied with the practice in Minnesota and I think most of our judges here have been very cautious about attempting to give an opinion to the jury upon the weight of the testimony or the credibility of a witness. I think they have that power under these decisions. It is not proposed to take that power away from Minnesota, or to amend any present power by this proposition, but it is proposed to condemn the law advocated in Congress which will prohibit Federal judges doing what they have for the last hundred and thirty years. I don't think we should approve a bill prohibiting the Federal judges from following the practice of a hundred and thirty years. It is well understood and has not been abused, in my estimation. (Applause.)

MR. SCHUSTER: If I may say a word on this question, the English Common Law rule at the time of the adoption of our Constitution, was that the judges might comment on the credibility of witnesses and might express an opinion as to the weight of evidence, and that has continued to be the practice in England and Canada ever since. It has never been changed in England or in Canada. That was the Common Law rule at the time our Constitution was adopted. The trial by jury was pointed out long ago not to be strictly a trial by jury alone, but a trial by judge and jury with the decision on the question of facts by the jury alone. The judge could make his comments and then the jury could find contrary to the opinion of the judge, of course. So our Federal Courts are still following the older Common Law rule, and as I understand it, in Minnesota there is nothing to prevent the judges making the same comment in civil cases, but their power to make comment in criminal cases has been taken away, as it has been in a number of other states. Now, the proposition before Congress is to do the same thing in the Federal Courts and take from the Federal Court judges the power which they have always had to comment on the credibility of the witness and the weight of the evidence, and that proposition has been condemned, as I recall, by some of the most emininent lawyers in the United States, and in my opinion it would be a great mistake to reduce further the power of our judges and the rights which they have in the courts. Rather, the tendency should be to increase their power. It has been pointed out from time to time that the tendency in our states in the last century has been to make the judge just an umpire, to take away from them a great deal of their control over the conduct of cases in the court, and to that has been attributed some of the difficulties in the administration of the law by men like Chief Justice Taft and Elihu Root and others. So I am in favor of the recommendation of the committee, which is that the bill before Congress to take away the power that the Federal judges have should be disapproved by this association.

MR. F. W. REED (Minneapolis): Just a word. All the members of the American Bar Association who attended any of the trials in the English Courts last summer, if there were any, noted that it was the practice of these Courts to comment upon the evidence and the credibility of the witness. So far as I understand it, the sole object in the English Courts is the application of justice in criminal cases. If that is not so, I do not understand the situation, and they do that in a large measure, they do take the reins in their own hands and comment on the credibility of witnesses and the weight of evidence. I think this would be a mistake.

(Question called for.)

PRESIDENT EATON: The question is as to whether the second recommendation of the committee shall be approved.

MR. CHILD: There is no more involved than the question of whether we approve of this number two or not at the present time. As long as I have practiced law in the state, the universal rule is for the judge to say to the jury, "You are the sole judges of the credibility of the witnesses and of the facts."

A MEMBER: That is true ordinarily.

MR. CHILD: Now, we propose that that shall not be the rule?

("No, No, No.")

MR. CHILD: Well, let us see. You say that is not the rule in the Federal Court.

A MEMBER: Yes.

MR. CHILD: And we don't want to change that rule in the Federal Court—all right. When we come back here at the next convention they would say, "We propose to expressly empower or authorize the controlling judge to express an opinion on the credibility of the witnesses and upon the facts." What have you got to say? You say, "The last convention expressed its opinion that they ought to have that right."

(Voices, "No.")

MR. CHILD: You say the Federal Court ought to have that right?

A MEMBER: It has it.

MR. CHILD: Then, that the Federal Court has the right and we don't want to take that away—and therefore, the State Courts ought to have that right and we want to give it to them?

(Voices, "They have it.")

(Question called for.)

PRESIDENT EATON: Those in favor of this question will manifest it by saying, "Aye." Those opposed, "No." The motion is carried.

The next report is the report on the Small Debtors' Court by Mr. Reed. Please be brief.

MR. F. W. REED (Minneapolis): I won't say anything if you want to cut me off.

PRESIDENT EATON: I don't want to cut you off.

MR. REED: The law on the statute books is sort of double entry,—it is both Small Debtors' Court and Conciliation Court. That is to say, the Court that comes under this law has the power to settle any case within its jurisdiction and then it goes on to say that any case that does not involve more than seventy-five dollars, as it now stands, the Court shall take it and decide it. The Conciliation Court (above the seventy-five dollars) has not worked very well. There have been a good many cases conciliated in the Minneapolis Court. I might say, as you all know, that this Court was first incorporated in Minneapolis, and afterwards in Stillwater and St. Paul, and in this city, and in some others. In the City of Minneapolis alone, almost marvelous to relate, there have been in the neighborhood of fifty thousand cases in the Small Debtors' Court in that city alone in the time it has been in force. This matter of conciliation has been in practice for two hundred years in Norway and Sweden and Poland, and there they have a law that compels each case to be submitted to the Conciliation Court and an attempt made to conciliate before suit is brought in the regular way, and the result has been, according to statistics, that only about five percent of the cases have come to trial in the regular way. I propose to offer this resolution, not by the authority of my committee, but I do think that the time is coming now when the element of conciliation will cut very much larger figure in our courts, and the result of it will be that litigation will be cut down and in time much of it taken away. I will read this resolution, and that is,

RESOLUTION

"RESOLVED, That the Conciliation Court law should be amended so that all controversies triable there, should be there presented before suit is brought in the ordinary way."

Now, I present that for your thought. The time will come when we can adopt something of that sort. As it is now, the plaintiff goes down to the Clerk of the Court and makes his affidavit, the Clerk then summons in the defendant either by written or telephone summons, or by letter, and the action is brought on in five or six or ten days and disposed of right away. If the amount involved exceeds seventy-five dollars, after the clients have come before the Court and stated their case, and he cannot get them together, then all he can do is to try the case,—notwithstanding the fact that they don't have to bring the case there and that all cases might have been tried in the ordinary way. As I say, in the time that this law has been in force in Minneapolis, there have been fifty thousand cases brought in the Conciliation Court end of it. Now, if we had a law that compelled all cases within the terms of the law to be first presented to the judge before suit was brought in the ordinary way, I believe that in three out of four cases, after the judge had told them what he thought ought to be done and had heard both sides, they would take his recommendation. If they did, under the terms of the law, he would then enter judgment and it becomes a regular judgment. This proposition means that all cases, before suit is brought in the regular way, shall come before the Conciliation Judge. If they do not consent to it, it goes on, but they won't be allowed to sue in the regular way unless they have attempted conciliation. I move the adoption of the resolution.

MR. ABBOTT: Does that apply to all cases?

MR. REED: Under the Conciliation Court law, and only applies to those, the municipal branch has the conciliation branch,—that is one of the phases of the Conciliation Court law, it has no effect except in Municipal Court, and no effect where there is a Municipal Court unless they have brought themselves within the terms of this Conciliation law, which Minneapolis, St. Paul, Stillwater and Rochester have done.

MR. BLEECKER: You have not indicated whether that would be limited in amount.

MR. REED: It is not limited at all. It is not limited now. The law gives the right of conciliation anywhere within the jurisdiction.

MR. BLEECKER: No recovery?

MR. REED: Yes, if they consent to it,—so far as seventy-five dollars, in this Small Debtors' Court, and when it is submitted, the Court makes the decision. But above seventy-five dollars he does not make judgment unless they consent. All this is, is to require litigants to come before the judge, state their case and attempt to conciliate before they bring action in the regular way.

MR. FOLEY (Minneapolis): Assuming a case of Smith vs. Brown for two hundred dollars. Would your resolution require that Smith should take it into the Court of Conciliation before he sued Brown in the Municipal Court?

MR. REED: He can bring Smith in by his citation. They come before the judge and state their case and if they agree the Court enters up judgment, and he cannot bring his action in the regular way until he attempts a conciliation.

MR. FOLEY: So that before Smith can sue Brown for five hundred dollars, he must first make application in Conciliation Court to have conciliation there before he can go into the Municipal Court?

MR. REED: That is the idea. That is the purpose of this resolution.

MR. ABBOTT: May I ask, did you suggest a while ago, of your own volition, that that conciliation was radical?

MR. REED: I guess I did.

MR. ABBOTT: Well, we all agree with you. (Laughter.)

MR. REED: You said so when the Conciliation law was first proposed, and it is true that for two hundred years that has been adopted in the Scandinavian countries, and the result has been good.

MR. FOLEY: What would you do in a case of this kind: Assuming that Smith has a claim against Brown for five hundred dollars and Smith makes application to the Conciliation Court to have the matter brought there and Brown refuses to come in?

MR. REED: It would be decided the same as any other.

MR. FOLEY: Even if the Court has not jurisdiction of the five hundred dollar claim?

MR. REED: No. The law provides that the Court is not a Conciliation Court except in the jurisdiction of the Court.

MR. FOLEY: But you would compel him in this case to come in, before Smith could sue.

MR. REED: Yes, within the same jurisdiction. It does not change the jurisdiction. I did not suppose that this would be adopted. (Laughter.) But I think it should be adopted.

MR. RONKEN: Do I understand that resolution applies only in those cases that are triable in the Conciliation Court?

MR. REED: Only to those.

MR. RONKEN: So that the cases which Mr. Foley proposes would not come under your resolution?

MR. REED: No. All cases within the jurisdiction of the Court. They can bring in any party. When the parties appear and don't agree and it exceeds seventy-five dollars, the Court drops it. But there have been a good many cases above seventy-five dollars settled in the Conciliation Court in Minneapolis.

MR. PUTNAM: I would like to ask what the jurisdiction of the Conciliation Court now is?

MR. REED: The jurisdiction of the Conciliation Court is the jurisdiction of the Court, so far as settling cases by conciliation, but when the parties come before him and they won't agree, and the amount exceeds seventy-five dollars, then he cannot enforce a judgment as against their objection.

MR. PUTNAM: Does not the jurisdiction of the Conciliation Court extend to a thousand dollars?

MR. REED: It extends to the jurisdiction of the Court—in the Minneapolis Court it is a thousand dollars and in St. Paul, I think, five hundred, but whatever the jurisdiction of the Municipal Court is, is the jurisdiction of the Conciliation Court, but when it acts simply as a Small Debtors' Court, they cannot enter judgment against the will of the parties if it exceeds seventy-five dollars, but if they agree upon it, he may enter judgment.

MR. RONKEN: Does your Conciliation Court of Minneapolis, under the simplified procedure, have jurisdiction in controversies up to a thousand dollars?

MR. REED: It has. That is, any controversy up to a thousand dollars.

MR. STONE: I rise to a point of order. The best looking, if not the most important part of this audience in the rear of the room cannot appreciate it because they cannot understand what is going on. (Laughter.)

PRESIDENT EATON: Now, Mr. Reed.

MR. REED: I am through.

A MEMBER: I would like to ask Mr. Reed if the resolution refers to cases in which attachment is necessary?

MR. REED: The law provides it does not apply in cases where no original remedy is asked for.

A MEMBER: What about cases—we have a Justice of the Peace. It is not necessary to bring action in the Municipal Court up to one hundred dollars—supposing it involved eighty-five dollars. Cannot you bring it in the Municipal Court—

MR. REED: We have no Justice of the Peace Court in Minneapolis. I would hope that it would not apply.

A MEMBER: So would I.

PRESIDENT EATON: It is moved and seconded that the resolution be laid on the table.

MR. ROBERTS: I rise to a point of order. Have you heard any motion?

PRESIDENT EATON: It has not been seconded and there is nothing before the house. Now, if those present will be quiet a few minutes we have a matter of a great deal of importance to the records of the state. You will recall that where a document is filed in the office of the Register of Deeds it has to be recorded by writing it in by hand or by the typewriter. A new method is being employed in Washington and also in some cities or states, by which a photograph of the instrument itself is made by the officers in charge of the office and these photographs are filed in books and become a record, so that we have a photographic copy of the instrument. Mr. J. J. Fitzgerald, Register of Deeds of Ramsey County, has studied the subject to a considerable extent. He is here for the purpose of explaining it to this meeting, and he believes that it may be of considerable interest to us. Mr. Fitzgerald, you have the floor.

TALK AND DISCUSSION ON PHOTOSTATIC METHOD OF RECORDING DOCUMENTS

By J. J. Fitzgerald
Register of Deeds of Ramsey County

Mr. Fitzgerald: Mr. Chairman and Members of the Bar, I notice that I am down for a talk and it also says, "Discussion." Now, I really want the discussion of the body here. If you folks will dis-cuss this question as much as you have cussed some of the records, I feel I will get a real opinion of the lawyers, not only of Ramsey County, but of the State of Minnesota. (Laughter.)

I have tried, in the last eight years that I have been Register of Deeds, to put into effect some modern method. We have at the present time the old system, or the old method of copying by hand and also by typewriter, but it is somewhat sluggish, in working order, as no doubt you all know in sending instruments up to the Register of Deeds Office. The least time you ever get them back is a week to a month, and the reason you get them back in a month, in most cases in St. Paul and Minneapolis and Duluth is because the statute provides that they must be returned within thirty days or the Register of Deeds be penalized. As I said, it takes at least six or seven days to put an instrument through, if the Register of Deeds' office is up-to-date. At present time, while we have not any real rush of business, we have not the clerk hire and it takes about three weeks to get an instrument back. I have in mind what is known as the photostatic system. I have made investigations in the last six months or so and I find that it has been tried in different parts of the United States. I have in mind one case in Cook County, Illinois, where they used to be from six to nine months with their instruments, and after a great political turmoil down there, when the clerks found out some of their friends were going out, some fifty or seventy-five employes were released, and they had an action brought compelling the Register of Deeds to write in long hand or typewriting. According to Section 10930, in recording instruments it is required that they be filed for record by the officer in a suitable book for that purpose unless otherwise expressly directed. I have been questioned as to the legality of photographing instruments. In one case an opinion by Justice Thompson held that the photograph was a good record. He went along and described the old way of charcoal drawings on walls, which gave way to other forms, handwriting on parchment and down along the line to long hand and to typewriting, and then to the taking of pictures and making an exact image. Now, I am practically sold on the idea myself. There was a great deal of argument over the question of the legality of it, but at the time the recording act in 1874 was passed, typewriters were not thought of and there was no discussion when typewriters were put in for recording legal instruments, and Judge Thompson has held that the same applies to photographs. A photographic process, in my mind, after the experience I have had in recording instruments, is far ahead of typewriting instruments. We rely upon typewriter inks, which are not always the best and we have had considerable trouble in getting typewriter ribbons, especially during the war, that would not become faint, and in a few cases

we have had to rewrite the records in six years. Also, there is the case, as in my own office, where we have some twenty-five or more books dating back before the City of St. Paul was incorporated, where the ink has been faded and almost obliterated, and it means the transcribing of those records again. If this system is put in vogue, I could photograph those records and make new books of them. They promise me that they will be brought out in the photographs as clearly as the original was. It is true that some things cannot be photographed, like red ink or very light pencil. In Cook County, Illinois, they still have pen and typewriter copies, and it is for that special reason—as to the permanency, there is some discussion of that. The Chicago Bar Association had it up and by investigation of the photographic system of the Government in our offices, they found out in the Department of Justice, some of the old prints back in '61 were just as clear as the day they were photographed, and the records all along the line show that the photographic system is just as clear and a good deal more expeditious than hand copies. The reason I brought it down here is that ninety percent of the examination and investigation of public records is made by attorneys and lawyers and I wanted to see you folks and see what you thought about it before I go any further. I thank you. (Applause.)

PRESIDENT EATON: Mr. Fitzgerald, will you explain to the lawyers here the method, and the time taken to photograph records, the methods of preserving them after they are photographed, as you explained it to me in St. Paul?

MR. FITZGERALD: The methods of preserving the records are, I believe, a good deal better than under the ordinary one. There is one change that would have to be made. When we photograph them, we take them in this form, loose leaf system and have them bound in a steel bound book instead of a regular binding a good deal more substantial binding than the original, open-faced books, and it cannot be taken apart unless absolutely torn and ripped. They call it a steel jacket clencher, and instead of taking six or eight days to record an instrument, this system will take fifteen hundred photographs a day; that means about eight hundred ordinary instruments can be recorded in one day. That would mean that we might, at the very longest in a town or county the size of Ramsey, return the instrument within forty-eight hours. Along that line, I would say that especially with bond companies and people desiring loans or mortgages, a return like that would be a great help to the public, but, as I have said, the attorneys are the ones who do most of the examining. The copies are an exact photographic copy, including the signature of the witnesses, which may be produced in court to prove signatures as to witnesses and also the signers. That cannot be done now because we merely write it as a copy so the transcriber puts it down. In this way, I believe, if this method were introduced, we could give an exact copy within two or three hours' service. It would be a great help to a great many lawyers going into court, who argue that they might need a certified copy from the Register of Deeds Office, and it might be taken immediately. In any other way, it takes twenty-four hours at least to get a certified copy, unless it is something very special.

MR. CHILD: Does it increase or decrease the bulk of records in the Register of Deeds Office?

MR. FITZGERALD: You mean the size of the book?

MR. CHILD: No, the total bulk that goes into the office. The accumulation of records is a serious matter.

MR. FITZGERALD: No, it does not; in fact, it reduces. It is just a question of putting it into the ordinary book. The book will not be any larger, it might decrease the pages in one book probably twenty to twenty-five pages. There are six hundred and forty in a book now.

MR. REED: Supposing an instrument were written by a lawyer, would you have to have it typewritten? (Laughter.)

MR. FITZGERALD: It might be harder for the ordinary man to read it, but it would save the Register of Deeds a lot of work.

MR. REED: How about the expense?

MR. FITZGERALD: I have inserted in my estimate of budget the same amount as I put in last year, and I promised the County Commissioners that I would reduce my force so that I would stand the expense out of my regular fund and save the county at least five thousand dollars a year. A pretty good argument for a politician.

PRESIDENT EATON: May I ask, can this be done in your own office?

MR. FITZGERALD: It can.

PRESIDENT EATON: By what means?

MR. FITZGERALD: By installing this machine in a place that takes up a room of about eight feet by ten. That is, for the machine. That will take in the dark room, the photographing machine and the whole thing. I also have in Ramsey County, at this time, which is not usual in most counties a bindery in my office. When a record book is torn, it is fixed up and put together, and in the last few years we have put together there, some four hundred and sixty books, especially after the covers become worn and dust eaten, the man takes them off and puts new ones on, so the lawyers can keep their hands clean.

PRESIDENT EATON: Would it require an expert photographer?

MR. FITZGERALD: No, they promise me they can take my clerks and teach them in ninety days.

MR. ROBERTS: How expensive is the machine?

MR. FITZGERALD: Between thirty-five hundred dollars and four thousand dollars.

MR. SHEARER: Is this method in force in Ramsey County?

MR. FITZGERALD: It is not in force. I am coming down here just to put it up to you folks and see whether you would like it or not. It has not been in force. I am just starting to work on it. It is just a question of whether the lawyers would rather have an exact copy, or the old way. It is used in the Bronx in New York, and down through Oklahoma, and in Rockford, Illinois.

MR. BLEECKER: Is the language of the Illinois Statute under which this process was inaugurated much different from ours?

MR. FITZGERALD: No, very little; in fact, the statute of Illinois is more explicit than the statute of Minnesota, but it does not say anything about transcribing or copying at all in our statute and it does say "recorded," and to define recording, it is merely "an authentic record."

MR. ROBERTS: Would it be hard to read that stuff all day long?

MR. FITZGERALD: No, it would not.

MR. CHASE: Would the impress of the notary public or seal of a corporation appear clearly on the photographic copy?

MR. FITZGERALD: Yes, by putting over a certain chemical, it brings that out, and I have been informed that it brings it out better under the photographic copy than it does to the naked eye of the copyist.

A MEMBER: Is the paper used in the photographic copies any more brittle than the usual paper?

MR. FITZGERALD: According to the research in Washington, the paper after being put through this chemical process of photographing is a great deal more substantial than the writing paper which we now use.

MR. CHILD: The question is raised, whether there is any patent on anything except the machine which would require the use of any special paper or material?

MR. FITZGERALD: No. There is a firm in Austin makes it and the L. L. Brown Paper Company makes it.

MR. ROBERTS: May I rise to a point of information? Since when did Mr. Brown go into that business? (Laughter.)

MR. PAUL G. THOMPSON (Minneapolis): I move that the association go on record in favor of using this process in the office of the Register of Deeds of Ramsey County, and that we recommend the same process to other Registers of Deeds.

I have talked with our own Register of Deeds about it, and I think it is very desirable. Everything in the instrument, including everything that has to do with the signing, is preserved, and it has the same benefit for use in court that the original would be. We all know that the Land Department in Washington makes its certified copies in this manner and I think it would be very desirable. I hope to have it introduced in this state.

MR. YARDLEY: In seconding the motion of the gentleman, I would call attention to the fact that this method would absolutely prevent forgery. As it is now, it seems to me the one weak point in our registration system is that the original instrument, which contains the signature of the parties to it, and the witnesses, after it has been recorded, may be destroyed, as it is destroyed in almost every case, and there is no possible method of determining whether or not it was a forgery. By this method forgery is eliminated, it could not be accomplished. You have the original instrument before you. If it is practical to put it into effect, as Mr. Fitzgerald says, and if the paper and photographs are durable, I cannot see any possible objection, but every reason for enthusiastically adopting it. We have here combined all

the advantages of the recording system, and the filing of the original instrument in the recorder's office. I second the motion.

(Question called for.)

SECRETARY CALDWELL: There is one more thing to which attention has not been called. That is the elimination of the possibility of a mistake in copying the description. A mistake in transcribing the description may render a deed void so far as the record is concerned. I have in mind one case in Minnesota where they copied a part of the name of an addition and the Supreme Court held that no property was described, because there was no such addition in Minneapolis. There was no proof except the record of the deed and the case was thrown out because it was held the deed was void as having described no land.

MR. YARDLEY: In that connection, I can state one example directly in point. In 1904, a client of mine sold a tract of land in St. Paul, and when the title was examined it was objected to on the ground that the description was insufficient. The deed had been made in 1855 and then recorded, and strange as it may seem, my client, then deceased, had preserved the original instrument. I had access to his papers and I found the original instrument. He had kept it for fifty years and the original instrument was perfect. I recorded it in 1904,—an instrument executed in 1855,—and the title was all right. If I had not been able to file that instrument,—one case in ten thousand,—the title would have been void and this would have prevented that, I think.

PRESIDENT EATON: Any further discussion? All in favor of this question as proposed by Mr. Thompson of Minneapolis—will you state it again, Mr. Thompson, so that we understand it?

MR. PAUL THOMPSON: That we favor this photostatic method, favor its use by the Register of Deeds of Ramsey County, and recommend its use to all the other Registers of Deeds in the state.

PRESIDENT EATON: All in favor, manifest by saying "Aye." Opposed, "No." The "Ayes" have it, it is carried. We thank you, Mr. Fitzgerald. I see that Judge Vinje has arrived. We are to hear him tomorrow, but I want all the members of the Bar to know that he has arrived. Judge, will you please come to the platform? (Applause, all standing.)

JUDGE VINJE (Wisconsin): We will consider this a "movie" scene, and therefore silent.

PRESIDENT EATON: One thing more.

SECRETARY CALDWELL: The committee to nominate the Board of Governors will meet here immediately after adjournment. Senator Putnam wishes me to state that the members of this committee beside himself are Mr. John M. Bradford, Mr. Howard T. Abbott, Mr. James D. Shearer and Mr. James H. Hall.

PRESIDENT EATON: In Mr. Hall's absence, I will appoint Mr. L. P. Johnson of Ivanhoe as a member on the Nominating Committee, in place of Mr. Hall. We will now stand adjourned. Let us all go to hear Judge Meighen tonight at eight o'clock, and the business session will be adjourned until 9:30 A. M. Thursday, July 23rd.

Wednesday, July 22nd, 1925

ADDRESS BY HONORABLE JOHN F. D. MEIGHEN

Before addressing myself to certain phases of Chinese affairs, I wish to bring greetings to this Association from a long time member, for many years at Minneapolis, but now Judge of the United States Court for China—Honorable Milton D. Purdy. In his court sessions at Tientsin, Canton, Hankow and Shanghai, four nerve centers of the Chinese Republic, he is upholding the highest traditions of the American bench, a task keenly observed by Chinese interested in bettering their own judicial system.

I may add that he enjoys his work. The United States Court for China has jurisdiction only of matters in which Americans are defendants, either civil or criminal. To keep it company, we maintain a jail there, the best in China, I am told, nicely scrubbed out, no insects or animals admitted—except upon order of the court. (Laughter.) On the opposite side of the compound, with Kentucky blue grass between, lives the American Consul-General. He too would remind you of Minnesota, for he was consul at Bergen in Norway so long that he has all the ear marks of a Minnesota governor. (Applause) When Judge Purdy grows tired of briefs and of the American Bar of Shanghai—they can talk just as long and just as loudly as in Minnesota—he can step from his chambers to the balcony and watch that wonderful passing show of ocean-going boats and river craft upon the Whangpoo River and of junks, and sampans on Soochow Creek.

In this court the Minnesota lawyer would feel much at home in presenting a client's cause. He would see about him the familiar officials, the clerk of court, the United States marshal, the court reporter. He would be speaking in English, citing the Federal Reporter, reading from the United States Statutes, following familiar rules of evidence. The United States Court for China does not apply the law of China, but such law as the Congress of the United States extends to China. The litigated matters may be novel—they may involve "chops," "compradores" and "godowns," but the practice, procedure, and general atmosphere is much the same as any Federal Court here at home, and its acts are reviewable in the Circuit Court of Appeals, Ninth Circuit. Do not confuse it with the International Mixed Court at Shanghai, a court applying Chinese law, of which I shall speak presently. A number of foreign nations, including the United States, have extra-territorial powers in China and maintain courts applying the homeland law, not Chinese law, and having juris-

diction of civil and criminal matters in which their nationals are defendants.

But why should a dozen foreign nations, ours among them, have courts in China? The foreigner, particularly the business man, is complacent in the thought that his courts in China, under the extra-territorial treaties throw about his nationals the protection of well developed principles of commercial law and the beneficient help of rules such as the presumption of innocence—a presumption unknown to Chinese jurisprudence—and the right of the accused to be confronted with the witnesses against him. He points to his splendid buildings along the bund, to his factories, to the business built in reliance upon these treaties. He is apt to consider China only as an area, a market, to be exploited by him. But the Chinaman sees in extra-territoriality an insult to his country and watches rascals under the protection of some foreign flag who avoid debts or commit crimes and remain practically immune because no court of that flag exists within a thousand miles.

He watches some scamp take boat from Canton to the Portuguese concession of Macao, spend a small sum to become a citizen of Portugal, and then remain immune to Chinese laws. Immune, why? Because Portugal has extra-territorial rights and its citizens, even though native Chinese and no matter where they may be in China, are subject only to Portuguese laws and courts. Furthermore, it is common repute that the judgment of the Portugese court is usually in favor of the Portuguese citizen. I heard no complaint of unfairness in administering justice between yellows and whites in the courts of the United States and Great Britain, but grave abuses were currently charged against the courts in China of several other countries.

Imagine the annoyance of having to journey to some faraway seaport to find a court having jurisdiction of some obstreperous national of an extra-territorial power. Small wonder that the rising spirit of Chinese nationalism protests these treaties.

The foreign business man sees in these treaties valid covenants that should be kept, the native believes that the foreigner came uninvited, forcing his way by military strength and that many of these treaties are one-party because China's consent was coerced. He points out that since the great war neither Germany or Austria have had extra-territorial rights in China, that the Soviet government voluntarily renounced these rights and that the Chinese trade of those three nations is increasing.

Last month in Peking, I watched a long column of students, some women, but mostly young men, carrying banners—fluttering sheets of paper covered with Chinese characters, hoisted upon canes—marching toward the foreign legations. They were not celebrating a football game. They were demonstrating against foreign courts upon Chinese soil, and demonstrating too, against old treaties limiting the tariff to five percentum ad valorem upon imports and against foreign nationals ruling with Sikh policemen over portions of China's soil.

You ask, why all the fuss just now? The storm has long been gathering. The old treaties reaching back to 1842 which limited the import tariff to five percentum upon certain scheduled valuations, amount in practice, due to change in market values without revision of the schedules, to China in fact receiving about three per cent. You see they cannot have our Republican party in China, because no campaigner could make a high tariff argument there—the present five per cent, which is an efficient three per cent, is the limit. And they cannot have our Democratic party very well, because under such circumstances, no campaign speaker could talk much about a tariff for revenue. (Laughter.) To add irritation, the Chinese students hear their government criticized for failure to meet its money debts—criticized by the very peoples that hamper its collection of tariff revenues.

Another source of irritation is the foreign concessions—the areas governed by foreign powers. The Britisher of the International Settlement at Shanghai thinks with pride of the efficient handling of city business by the municipal council. He points out that this council, selected by the foreign tax payers, expends 15,000,000 taels annually without a suspicion of graft, that it manages the largest electric light and power unit of any city in the world, that in addition to its splendid police, it maintains a well drilled military organization of five thousand men. The Chinaman sees Chinese students killed by the fire of these policemen imported from India; watches their fellows arrested and tried in the Mixed Court whose judges and officers are selected wholly by foreigners; knows that the Chinese in the International Settlement—exceeding in number the population of states such as Oregon, Maine or South Dakota—have no representation, no voice, in its municipal government, and is painfully conscious that in one of its attractive parks "dogs and Chinese" may not enter. Irritating, too, is the tendency of some foreigners to persist in "looking down" upon the Chinese—to be discourteous to the greatest nation potentially in the world, a nation where religion has developed without intolerance, a people whose civilization and culture was formed before that of Greece and has lived without a break to this day. I do not argue their superiority, but I suggest that no people is entitled to crowd them off the world's highway. There flashes to my mind a policeman, an imported Sikh, angrily beating a coolie, ricsha driver at the street corner, for the prudent act of dodging a recklessly driven taxi.

I was gratified in the very midst of anti-foreign tumult to observe a strong current of kindly feeling toward the United States. A feeling resulting perhaps from our policy that does not seek territory or spheres of influence; and, perhaps, because of turning back for use in education the Boxer Indemnities. Nor has China forgotten that at the Washington Conference, we contributed our efforts to set up machinery for re-adjusting the hated treaties. True, over three years have passed with nothing done, but France signed the treaties this month and our state department promises action.

And now is the psychological time to act. America won grateful friendship by promptly remitting from the Boxer Indemnity for the advancement of education, without waiting for public opinion or other cause to force such action. The foreign powers that promptly move to assist China will hold her good will. Bolshevism has found a field ready for its ideas, made ready by the unfair attitude of western nations. I do not mean that extra-territorality or foreign concessions can be erased in a day or treaties changed over night. There are many rights to consider and the adjustment must move slowly, but the Chinese are patient. True, the republic is badly divided, but it must be remembered that our thirteen colonies did not closely unite for quite a time after the Declaration of Independence. Who in this audience can name the chief executive of the United States prior to George Washington? Out of a loose confederation grew the powerful republic in which we live. May the still young republic of China, born in 1911, find herself with like success.

Do not understand me that these hampering treaties were without reason when made. I am not here to criticize the past, but I do suggest that in considering the present resistance of strikes and boycotts, the active demonstrations of marching students with anti-foreign banners and slogans, we so easily overlook the Chinese viewpoint and think only of China as a market for western products, and as a field for western business. I have returned this month with increased respect for the Chinese, keener sympathy for their troubles in carrying on a republic after ages of absolute monarchy, and deeply impressed with their sincerity and urgent need in asking relief from past unfortunate treaties.

I have been frequently asked, "Were you not afraid? Was there not great civil commotion and disorder?" In May, we journeyed by house boat along the old canals in the lower Yangtse Valley—canals built centuries ago to relieve against floods and to carry traffic. We passed through the heart of a great farming territory. The mulberry trees, the rice fields, the ancient graves scattered through fields and along the canal banks, the industrious workers were typical. Our boat was not always on any regular course of traffic, for detours were necessary. Perhaps some camel-backed stone bridge built hundreds of years ago over a canal had fallen, and we were forced to take some other canal around the point of disturbance. Our water route formed the main street, the Broadway, the Fifth Avenue of cities as large as Rochester. We skirted the ancient wall of Soochow, the Boston of China, and entered Hangchow, each of them with far more people than inhabit any city in Minnesota. Never did we meet the least incivility, never a stone thrown, never a suggestion of annoyance at our inspection of their marriage processions and funeral processions.

In passing, may I remark. that the high reverence for ancestors, the reverence that maintains the old graves interfering with the tilling of fields, stands in the way of using western farming machinery. They mean much to the Chinamen, but the only use by the Westerner of

these high graves that I ever heard of, was a golf club using them as bunkers. (Laughter)

I have referred to the mixed court. It has a peculiar interest for lawyers.

From a modest beginning in 1864 it has become the most powerful court of first instance in the world. The International Mixed Court at Shanghai determines the controversies of a million people within and near the International Settlement and it determines them finally. It says the last word. There is no appeal from its decisions. No other tribunal, no person, no department of government can grant a new trial or set aside its acts. As to this million of people, its jurisdiction is practically unlimited. The official report of the Mixed Court shows that for the one month of March, 1925, it sentenced fifteen persons to death for crimes of violence. During the year 1924, ninety-two received the death sentence and were sent to the arsenal. Some of its money judgments are for millions of taels.

Bear in mind that in 1924 Shanghai stood second among the ports of the world in entrances and clearances; its International Settlement has a population exceeding that of entire states such as Maine, South Dakota or Oregon and is, in many aspects, a free city; it has large manufacturing and commercial interests; and litigation is heavy.

A morning visit to the Mixed Court finds trials progressing in several court rooms in each of which a native magistrate and a foreign assessor—a yellow native and a white foreigner—are sitting as judges. If the visit chanced to be during June or July of 1925, the visitor was impressed by an ominous steel structure, an armored car, at the nearby street corner and by the plentiful fixed bayonets and savage revolvers carried by men in uniform in and about the building. It is not a court where some superannuated bailiff is relied upon to preserve order. Litigation is disposed of speedily. Many a court in the United States consumes more time in selecting a jury than the Mixed Court would take for the entire trial. There the judicial machinery is not slowed by constitutional restrictions providing for jury trials and commanding that no person in a criminal case shall be called as a witness against himself.

No oath is administered to a witness, no Bible is kissed, but if, after warning, the witness persists in telling what the magistrate and sitting assessor consider an untruth, they may try him at once, send him to jail if found guilty (which criminal proceeding may be finished within half an hour) and then continue the trial of the case in which he was testifying.

As there are no appeals, exceptions are of no use and a lawyer does not try his case with the purpose of obtaining a reversal in a higher court. At times there are long objections and emphatic protests from the members of the bar during trials, but gossip asserts that most of the protests arise from the desire of Chinese clients for a vigorous lawyer, one who speaks up loudly for his cause and denounces the opposition—in short, they desire a lawyer who can make

a noise—a rather natural wish for a race that loves exploding firecrackers and the firing of guns in the air.

The lawyers practicing before the Mixed Court, about 200, are of many nationalities, including Chinese, British, Japanese, American, French, Austrian, Portuguese, German, Italian, Spanish, and Russian, and as a natural result the procedure and practice is a growth containing contributions from different systems of law. Hearsay and opinion testimony is admitted quite freely. At the trial of a number of students and others upon a charge of rioting, part of the claimed mob into which the municipal police fired May 30th this year, I heard the public prosecutor obtain from his own witness, a mere passer-by, answers to questions like this: "Is it reasonable to suppose that the crowd increased after you left?" and "What would have happened if the police had not fired?"

In some ways that public prosecutor was quite like his American brother. He dramatically informed the court in his opening statement that none of the rioters were shot in the back. A moment later when his first medical witness testified that the bullet hole indicated a bullet had entered from the back, the prosecutor unabashed continued, "Might he not just then have turned around urging his fellow rioters to follow on?" The prosecutor glared at the defendants, a rather bookish looking student group, and sneered "ignorant schoolboys! conceited! materials for Bolsheviks!" as though that established their guilt.

The court administers Chinese law and the local laws of the International Settlement. A son is sued upon a promissory note, which he never signed, never guaranteed, never heard of, but when the original note is produced in court showing the original signature of the deceased father made years before the son was born, judgment is promptly entered against the son for Chinese law does not recognize the outlawing of claims and follows the maxim, "A son pays his dead father's debts."

Our many statutes of limitations, statutes upon which so many real estate titles rest, are almost unknown in China.

The Mixed Court may hold that surviving relatives have acted properly in adopting a descendant and heir for a childless decedent without the dead man having anything to do with the transaction. This, too, is Chinese law, but you do not find it by searching in libraries of buckram and calf bound books, books of statutes and court opinions. Until the formation of the republic of China in 1911, there were great gaps in the civil law filled by the customs of trade, of family life and of the powerful guilds, customs frequently proved by oral evidence.

The fact that the Mixed Court has held the law to be one way today does not restrain it from holding the other way tomorrow. Precedents guide somewhat, but are not binding. The judges simply apply their common sense to the problem at hand. To quote the words of a distinguished British assessor:

"In my and the magistrate's opinion, the court cannot be bound by any earlier decision taken as a precedent. Such practice might frequently hamper the exercise of justice. The court can only take into consideration the merits of each particular case and be guided by law and equity."

In practice the Mixed Court trial is in two languages. Suppose the Chinese magistrate and an American assessor are the sitting judges, suppose further that the lawyers are English and the clients Chinese. The lawyer puts his question in English. The interpreter by his side changes it into the Shanghai dialect of Chinese and when the witness answers in one tongue, interprets his words into the other. The advocate will address the two judges upon the bench in English for a few sentences, then the interpreter will translate, followed by more words in English. Fancy a heated state's attorney having to linger upon a hyphen while a yellowish interpreter turned his graphic Minnesota into Shanghai Chinese. At one end of the reporter's table a native in skirts and a skull-cap brushes mysterious characters upon thin sheets of paper while at the other end an English reporter uses pen and ink.

When the time comes for a ruling there is a conference in low tones upon the bench. Then the Chinese magistrate commences to use his brush and the American assessor to use his fountain pen. This is followed by oral announcement of the ruling in Chinese and English. If briefs were presented, they would be in both languages. In the early history of the court, the assessors simply "observed" and "assisted," but now both the native magistrate and the foreign assessor act as judges and their decision must be unanimous. Seldom do they fail to reach an agreement.

There is no requirement that the judges be men "learned in the law." The two present American assessors are younger men from the consular service, clear headed, with excellent general training and considerable knowledge of Chinese, but not members of the bar. Possibly training in the technicalities of American courts might embarrass rather than help. Few American trained jurists would have the courage to find, as did one assessor;

> "This case involves many difficult points and the parties must settle the matter among themselves and not cause any further litigation."

Nor would they consider it professional to award judgment against one defendant with the requirement that the second defendant enter negotiations to settle out of court, as did the Mixed Court in a recent lawsuit.

I have said that this remarkable court applies Chinese law, but is not a court of the Chinese republic. The present republic has no control over the court or its personnel. It was different before 1911, but during the revolution of that year certain of the native magistrates whose appointment was controlled by China fled with all the funds deposited in court by litigants. Since then the consular body at Shanghai (representatives of the treaty powers) have selected the Chinese

magistrates, five in number; the six foreign assessors, vice-consuls of Britain, America, Italy and Japan; and ten special assessors who sit in cases involving other nationals. If an American sues a native, the American Consul General "claims an interest" and an American assessor sits with the native magistrate as judges at the trial. If native sues native, then the assessor of the day sits with the native magistrate. Sometimes an unscrupulous lawyer so frames a situation through the use of dummy clients as to induce the consulate of some nation to "claim an interest" which is sham and frivolous in order to get the friendly assessor of that nation upon the bench for that particular trial.

There is no constitution effective in the International Settlement forbidding imprisonment for debt. Another Charles Dickens might write chapters of another Little Dorrit in that municipality and quote judgments where it is "Ordered, that the defendant give security for his presence in court at all stages of that proceeding or go to jail." The area of the Settlement is so limited that a judgment debtor or a defendant may easily cross the boundary line and following the man or his property may become difficult. Hence the liberality exercised by the court in placing litigants in jail, if they do not give adequate security.

At times shrewd debtors have avoided the unpleasantness of imprisonment for debt by secretly arranging for a proxy to remain in jail, an arrangement which brings bitterness to both debtor and proxy when discovered by the court.

Even in advance of the commencement of an action the court may require a person to give security or go to jail. One Ezra commenced a private prosecution against an alleged pirate. The latter denied guilt, announced that he intended to sue Ezra for malicious prosecution and asked that he be placed under 50,000 taels shop security. This the court did regardless of the fact that the malicious prosecution suit had not been started. Ezra, unable to furnish the security, went to jail. A few days later the unlucky Ezra still in custody of a jailer was again in court seeking permission to change attorneys. In the United States a client usually has that comfort, but the Mixed Court said "No" to Ezra, although it allowed him to procure associate counsel.

The court impressed me as effectively functioning under difficult conditions. There are many complaints, but a large share of persons touched by the operations of any court are losers and losers readily find fault. It is not impossible for one pair of judges to hold a given form of promissory note negotiable and for another pair to hold an identical note non-negotiable. Both decisions, although directly opposed to each other, may stand. There is no appellate tribunal to give uniformity. The fact that the foreign assessors are drawn from the consular force naturally throws suspicion of bias upon decisions in controversies between natives and the assessor's nationals.

The rising spirit of nationalism in China cries out that the court is upon China's soil, that much of its litigation wholly concerns Chinese, that Chinese rate-payers help support it, and yet neither the republic nor any of its citizens have anything to say as to how its judges shall be selected.

On the other hand it is wholly free from Chinese political pressure, a fault of most Chinese courts. The apprehended criminal nearly always knows his fate before a fortnight has passed. Its trials are public while in Chinese courts spectators are usually forbidden. And its regular assessors and native magistrates, who hear the vast percentage of cases, are free from taint of bribery, one of the curses of Chinese official life. In China's elaborate civilization the executive and judicial functions were not separated. Chinese civilization did not develop law schools or a class of trained lawyers. Usually such lawyers as existed were not allowed to plead in person for their clients for their social standing was so low that a Chinese court considered it undignified to hear such outcasts, "a class of idle vagabonds." The nation dealt almost wholly with criminal matters, leaving civil controversies to be handled by families or guilds.

In my judgment the Mixed Court will sooner or later be returned wholly to Chinese control. Many young Chinese lawyers have been trained in Europe and America. The weakness of the present republic has made its excellent codes mere paper laws and has delayed a judicial reform. When can the return be safely made? The well-being of the municipality, the existence of law and order, the protection of person and property depends in substantial measure upon its Mixed Court. When can the return be safely made? I am impressed with the language of Dr. Jacob Gould Schurman, used by him in discussing the relinquishment of extra-territoriality:

"The first step of all, the step upon which every other depends, is the establishment by the Chinese people of a government capable of maintaining peace and order and suppressing perpetual civil strife, able and willing to perform its international obligations, with an authority recognized and obeyed by Chinese citizens generally."

Another step is the development of a separate judicial department, uncontrolled by the executive department and not under the influence of civil or military governors, with judges adequately compensated, capable and free.

I am tempted to speak of the amusing things in Chinese travel, of the dressmaking shop sign "Ladies have fits upstairs." (Laughter) Of another famous sign, "Fur coats to order made either of your skin or my skin." (Laughter) And of the other tailor in Soochow, whose sign reads, "Ladies tailor making any." In the recent disturbances when everybody was talking, some of the Chinese merchants put up the sign at their places of business, "Don't stand along and made a loud." I suppose they meant, "Don't loiter around here and talk," but my time is too short and probably those signs are much better than any you or I could write in Chinese.

I believe it is today and has been for many administrations, the continued purpose of our State Department to give this neighbor of ours every help to unite, to grow, and become again a great, peaceable and mighty nation. The traffic that once centered in the Mediterranean and then moved to the Atlantic is now moving to the Pacific. In the year 1924, the tonnage through the Panama Canal reached 2,000,000 tons more than that which passed through Suez. In 1924 in entrances and clearances, Shanghai stood ahead of London and Liverpool, ahead of Hamburg and Antwerp. It was exceeded in the whole world only by New York. The Pacific is the coming great highway and a peaceable, contented, prosperous China is the best kind of a neighbor that we can possibly have. May we all join hands with our State Department in sustaining a policy that will hasten the bringing of peace and comfort to the old Empire, the present Republic of China. (Prolonged Applause)

Thursday, July 23, 1925, 9:30 O'clock A. M.

Meeting called to order by President Eaton.

PRESIDENT EATON: We will have the report of the Committee on Ethics.

MR. OSCAR HALLAM: The report of the Ethics Committee is published with the other reports and I think it need not be read in full. Perhaps all of you have read it, and those of you who have not may do so.

The Ethics Committee have had a number of cases submitted to it during the past year. Most of them were not of a very serious nature and perhaps those of a serious character did not properly come before this committee but should be directed to the Supreme Court. One case submitted to us we declined to act on because it seemed to be beyond our treatment, and the same gentleman who was charged was already before the Supreme Court in another matter. The most of the charges (and they generally come from laymen) related to matters of retention of funds. One case which looked on its face rather serious, the complaint was that there was an excessive charge for collecting a bonus for a former soldier. It was submitted to us by the Office of the American Legion, but after the matter was explained it took on a different aspect, and the officers of the Legion were perfectly satisfied with the explanation. As I have stated, most of the charges related to the retention of funds collected, sometimes for an unwarranted period of time. In all cases that have come before us, there was an alibi of some sort, and in some cases, at least, some excuse. In two or three cases where the funds were collected by an agent of the attorney and retained by him, the attorney was obliged, while he was under no obligation to pay to his client,—he was obliged to pay for money which he had not received himself. Our committee have noticed this, that from the standpoint of the layman who makes a complaint against a lawyer, legal ethics have only a financial aspect, and as soon as the financial aspect of the case is satisfied from his standpoint, legal ethics is satisfied also.

(Laughter.) One case which we were asked to take up, and which we did take up, the money was restored, and the Secretary of the State Bar Association received a letter from the complainant thanking him and asking him to have the Ethics Committee cross the case off their books. No further discipline was necessary from his standpoint as long as he had received his money. And, in one or two cases we have received letters, very importunate ones, asking us to take immediate action and see that the complainant received his money or his note back, or words to that effect. We have had a number of complaints alleged against parties who were not attorneys, but who have used a form of notice to debtors calculated to give the impression that the notice was a process of the courts. In other words, the letter would start out, "State of Minnesota, County of Hennepin," or "County of Ramsey," "so and so against so and so," and then a notice to the effect that you are notified that if you do not pay this money promptly it will be taken up before the above named court, and so forth. Our committee has not felt that the regulation of the layman was particularly our function unless some lawyer is also concerned in the organization. In one or two cases, it has appeared that while the agency was an agency of laymen, some lawyer was connected with it, and in such cases a lawyer might well be disciplined for that character of practice, but the practice should not be permitted. I don't believe that we have any statute that would permit it, but it seems to us that legislation might well be enacted which would put a stop to this form of deception.

The concluding portion of our report, I would like to impress on you and I think the committee also feels the same way. While it may not be strictly within the province of this committee, we are moved to urge strongly the revision of the laws in this state in the trial of charges against attorneys. The present system requires charges to be made in the first instance in the Supreme Court, and requires that Court to try the case as a trial court. For reasons that are perfectly obvious, the Court cannot take testimony of witnesses in open court, and it is obliged to hear a determination of a case in the first instance on a reference. If you read this report as it is printed here, you will see a great many typographical errors, which I did not notice until after the printing. But the present situation, as I have stated, the Supreme Court is obliged to hear those cases in the first instance on a record without the determination of any Court who has seen the witnesses and heard their testimony in open court. I think it is generally agreed that this is a very unsatisfactory method and an unsatisfactory procedure. This matter has been discussed a good many times and various changes have been suggested. It seems to our committee that it would be a far better plan, and probably the best plan, to try such cases just as other lawsuits are tried, before a District judge, who would in the first instance hear and determine the case, permitting an appeal as in other cases. I know of no reason why a District judge may not try a case against a lawyer involving questions of legal ethics, involving his standing in the profession, referring to the practice of law, just as well as any other case. I think that method of disposing of the case will be perhaps the best that can be devised. That was the sentiment of our committee and that is the

recommendation of the committee. That would require some legislation, but our committee would respectfully submit that feature of the case to the association and to its Legislative Committee for action before the next session of the Legislature.

(For report see appendix, page 120.)

(Applause.)

PRESIDENT EATON: What will you do with the report?

MR. MORRIS B. MITCHELL: I MOVE the adoption of the report.

MR. LENDE: I second the motion.

PRESIDENT EATON: Are you ready for the question?

(Voices "Question, Question".)

PRESIDENT EATON: Those in favor say "Aye". Opposed, "No". The motion is carried. What will you do in regard to the recommendations that the committee has made?

SECRETARY CALDWELL: They will be referred to the Jurisprudence and Law Reform Committee to outline a bill for the Legislature.

PRESIDENT EATON: Will someone make a motion to that effect?

MR. HORACE W. ROBERTS: I MOVE that the two recommendations for the Legislative Committee in this report be referred to the Jurisprudence and Law Reform Committee with the instructions to draft proper bills and present them to the Legislature through our Legislative Committee at the next session of the Legislature.

Motion seconded, put and carried.

PRESIDENT EATON: The next report on the program is the report of the Committee on the Organization of the State Bar.

MR. MITCHELL: Perhaps our committee ought to apologize in advance for the length of its report. I would say in justification that the matter involved in this report has taken a great deal of time and energy of a great many members of this association during the past year, and that our committee in framing the report has held three meetings in the past two weeks to be sure that it is in the proper form. The reason that we were not ready yesterday was that the report was still in the hands of a stenographer being put into shape to be read, and I will read it as follows:

(For report see appendix, page 136.)

Mr. President, I MOVE you the adoption of this report, and if this is adopted I will later propose a resolution giving force to the third recommendation.

Motion seconded.

JUDGE CATHERWOOD: I would like to inquire from Mr. Mitchell as to the source from which the sub-committee men in the different judicial districts have been selected—on the official report, it says one from each judicial district. In this printed report on page five. Who furnished those names and from what source were they selected? Can you tell me, Mr. Chairman Mitchell?

MR. MITCHELL: The Board of Governors had a meeting in St. Paul last November, or the latter part of October, and appointed all the com-

mittees of the association. The committee members as printed in this report were those selected by the Board of Governors at that time. Subsequently, two or three men appointed on the committees declined to serve and we failed to notify the secretary of the substitutes, men who were substituted in their place, so in two or three cases the names printed are not those of the men on the actual committee; otherwise, they are substantially correct.

JUDGE CATHERWOOD: The astonishing discovery was made when some of the different county associations met that the official member from our judicial district was opposed to the measure unalterably. In one instance, which was called forcibly to my attention, some committee man was hostile and vigorously opposed, and if he had found it possible he would have opposed such a measure before it was born. Evidently, there should be a closer canvass of the local situation, before as important members are selected as chairman representing the different judicial districts of the state. I only want to offer this as a suggestion, because it will at once appear extremely important.

MR. MITCHELL: I agree with you.

PRESIDENT EATON: Mr. Catherwood, I will explain that shortly. I know to whom you refer.

JUDGE CATHERWOOD: Of course, the President will not indulge in any personalities. If you do not know about the case, I will whisper it in the ear of the President.

PRESIDENT EATON: You don't need to do that. I know all about it. The person that you refer to wrote me that he could not consistently accept the position on that committee. Therefore, I took the burden of appointing another member on the committee, but through an error those names are printed here in the list of the committee and the other man is not named here. So the matter is fully adjusted. Any other remarks?

MR. RONKEN (Rochester): If I understand this recommendation correctly, it is that this committee be continued and work out a constitution, the central idea of the thing being that there shall be co-operation between local associations and the State Bar Association. Now, we have a special committee on that topic. Assuming that that committee has functioned, which I am sure it has, that committee must have in its possession by this time a great deal of information based upon its membership, men who have a good deal of experience in these local associations, where they have been fairly successful. Now, it seems to me if there is to be a re-drafting of our constitution, upon which we shall co-operate, the committee upon organization ought to have the co-operation of the committee on local and State Bar co-operation, and it seems to me that the two committees ought to have this.

MR. A. L. YOUNG (Winthrop): I understand that the report of that committee is to be on for hearing in conjunction with the report of this committee.

PRESIDENT EATON: Are you ready for the question? Those in favor of the adoption of this report, and the recommendations, manifest it by saying "Aye". Those opposed, "No". The motion is carried.

MR. MITCHELL: I move you, Mr. Chairman, that this committee be continued and instructed, with the co-operation of the Committee on Local and State Bar Associations, to re-draft the constitution of this association along the lines indicated in our report, and to present the matter for consideration at a special meeting of the association to be held at some time during the current year at a time and place to be selected by the Board of Governors.

The motion is seconded.

SECRETARY CALDWELL: Do you mean have an extra meeting of the whole association?

MR. MITCHELL: Yes.

PRESIDENT EATON: Those in favor say "Aye". Those opposed, "No". The motion is carried.

MR. GEORGE J. ALLEN: Inasmuch as the report of the Committee on Co-operation of the Bar Association was deferred to this time, I would formally MOVE you at this time that this report be adopted.

MR. CHRISTENSEN: I second the motion.

PRESIDENT EATON: The motion is made that the report of the Committee on Co-operation of Local and State Bar Associations be adopted. This was read yesterday. Are you ready for the question? Those in favor say "Aye". Opposed, "No". The motion is carried.

We are favored, as an association, in having upon this platform today the Chief Justice of the State of Wisconsin, that is the Chief Justice of the Supreme Court of the State of Wisconsin, and the Chief Justice of the Supreme Court of the State of Minnesota. I have invited the Chief Justice of the Supreme Court of the State of Wisconsin to address you at this time. I learned after I arrived here this morning that he and our friend and attorney, L. L. Brown, were classmates, which gives it an added pleasure to this association. Now, at this time I desire to introduce to you Honorable Aad J. Vinje, Chief Justice of the Supreme Court of the State of Wisconsin. (Applause, all standing.)

Mr. President and Members of the State Bar of Minnesota: I feel somewhat at home among you. I have practiced in the State of Minnesota for over thirty years. I have been a summer resident of Minnesota for a period aggregating on the whole some five years. Some two weeks ago when I received an invitation from your worthy President to address this meeting, I was at my summer home at Deerwood, Minnesota. Now, I think you will agree with me that it is unthinkable to interrupt a summer vacation by writing an address even though it is to be delivered to lawyers, so the only alternative I had was to decline to come or to read a paper prepared heretofore. I accepted the invitation, and I am going to read a paper that was read before the Madison Literary Club some few years ago. I make this statement in order that you may understand why the treatment of the subject is rather elementary.

ADDRESS:

PRESENT DAY PROBLEMS IN JURISPRUDENCE

By Hon. Aad J. Vinje
Chief Justice, Supreme Court of Wisconsin

Every age and every field of human activity has problems special to itself. The present age and the field of jurisprudence furnish no exception to the rule. It is the purpose of this paper to discuss briefly some of the problems that the present day presents to laborers in the field mentioned whether as makers of law or as expounders thereof, and to point out the causes that give rise to them. It would no doubt be performing a better service and be more interesting to my hearers if a solution of them were given or even attempted to be given. But that is a task beyond my power and beyond the power of any one, because their ultimate solution depends upon the direction and scope of social evolution, which no one can now safely forecast.

For centuries back the urge of the Anglo-Saxon race has been for personal liberty, for individual rights as opposed to the rights of the sovereign. Thus Magna Charta after guaranteeing the freedom of the church declares "We have also granted to all the freemen of the kingdom . . . all the underwritten liberties to be had and holden by them and their heirs forever . . . " followed by over sixty specific grants of rights and concluding:

"Wherefore we will and firmly enjoin, that the Church of England be free, and that all the men in our Kingdom have and hold all the aforesaid liberties, rights and concessions, truly and peaceably, freely and quietly, fully and wholly to themselves and their heirs, of us and our heirs, in all things and places, forever as is aforesaid."

The Declaration of Independence asserts "that all men are created equal; that they are endowed by their creator with certain unalienable rights; that among these are life, liberty and the pursuit of happiness." These expressions are typical of the spirit of the past and pursuant to such spirit both the written and unwritten laws teem with declarations of personal rights that cannot be invaded by the state. These assertions probably reached their maximum strength only a few decades ago. Up to that time state functions were few and simple and related almost wholly to purely governmental affairs touching equally every resident of the state, and confined almost exclusively to the three chief departments, the legislative, the executive and the judicial. There was in addition of course the educational, charitable and penal work of the state, but those moved in well marked channels. Under such a well defined system of government disputes

between state and individual rights were few and far between. In those days a man could practically conduct his business as he chose provided he did not violate the criminal laws. He could hire whom he wished, or could, man, woman or child, for such work, wages and hours of labor as were agreed upon. He could build his own house or a tenement house as he saw fit. It was deemed to be no concern of the state how long a man worked, nor for what wages, nor how his house was built.

Gradually, however, as the social organism became more complex and interwoven and the co-relation between the different members thereof was more clearly perceived, it began to dawn upon man that perhaps it was of some consequence to the state how its individual citizens fared in their struggle for existence. As a result there have sprung into being child labor laws, building regulations, pure food laws, and anti-trading stamp acts. It is not very difficult to understand how reasonable laws restricting and safeguarding child labor have been held constitutional, nor how the securing of pure food is essential to the welfare of the state, as well as the obtaining of sanitary dwellings so far as light, ventilation, plumbing, etc., are concerned. But it may perhaps puzzle some of you to understand why trading stamps should be declared taboo. The argument runs thus: economy and thrift are beneficial to the state: extravagance and waste are harmful. The trading stamp is a lure—especially to the feminine mind—because it dazzles the eye with a prize, and therefore leads to extravagant buying in order that the prize may be speedily secured. This, most courts including our own Supreme Court as well as the Federal Supreme Court, say is the legislative reason underlying their enactment, and they also say that it has a sufficient basis in fact to prevent judicial interference. These and kindred laws are justified under the state's exercise of the police power—the right to legislate for the health, safety, comfort and convenience of the public. This power has been greatly extended within the last few decades. Originally it was limited to the health and safety of the public. Gradually it was extended to include comfort and convenience and it is safe to say that before long it will reach out to protect its esthetic sense where that speaks clearly in favor of a generally recognized standard. Thus ordinances prohibiting unsightly sign boards in cities have been held valid, though it must be admitted, an element of safety to the public has yet been lugged in to sustain their validity. In time the guise will be discarded and the true reason held sufficient. Courts have been unable to set any fixed bounds to the exercise of the police power for two reasons at least. The first is that new inventions and scientific discoveries may extend its boundaries and give new grounds for its exercise, and the second and more difficult one is that no one can with any certainty foretell what the public may demand in this field. It is true in law as in other respects that what a great majority of the public health and safety is recognized by all courts. But serious or indirectly.

The principle that the police power may be exercised in behalf of the public health and safety is recognized by all courts. But serious questions have arisen as to whether or not a certain act promotes the public health or safety. Thus the question of whether all school children can be required to be vaccinated has been a subject of frequent but by no means consistent judicial decision. The split, of course, comes as to whether vaccination promotes or safeguards public health. Generally and especially lately such regulations have been held valid.

Our court recently held that it would take judicial notice of the fact that pasteurizing milk sold in Milwaukee promoted public health. Now, it is quite probable that further scientific research may give a black eye to that judicial notice.

A typical case of the exercise of the police power on the border line is that of *People v. Lochner,* (177 N. Y. 145) decided by the New York Court of Appeals in 1905. Sec. 110 of the labor laws of that state provided in substance that no employee shall be required or permitted to work in a bakery more than sixty hours a week or ten hours a day. The case was heard by seven judges. Four were of the opinion that the law was constitutional, because it was an established medical fact that occupations in heated ill ventilated rooms full of flour dust were inimical to health and hence the state had a right to limit the hours of labor therein, that bakeries were in a class by themselves and the act could therefore properly be limited to them. Three judges were of the opinion that there was nothing in the occupation of a baker that called for special legislation; that working in a bakery was more healthful than many other occupations in which hours of labor were not limited. Said Bartlett, J. Dissenting.

"The country miller of fifty years ago who passed a long happy life amid the hum of machinery and the grinding process of the upper and nether stones, little dreamed of a coming day when the legislature, in the full panoply of paternalism, would rescue his successor from the appalling dangers of the life he led until old age summoned him to retire."

The case was appealed to the Supreme Court of the United States (198 U. S. 45) and was heard by nine judges. Five of these, Chief Justice Fuller, Justices Brewer, Brown, Peckham and McKenna were of the opinion that the section of the labor law in question was not a legitimate exercise of the police power of the state, but was an unreasonable, unnecessary interference with the right and liberty of the individual to contract in relation to labor and was therefore in conflict with, and void under, the Federal constitution. Four of them, Justices Harlan, White, Day and Holmes were of the opinion that the New York act was a valid exercise of the police power. Thus you see that the New York court stood four to three in favor of the validity of the act while the Federal court stood five to four in favor of its invalidity. The two courts stood eight to eight. This division was not upon any principle of law for all the judges mentioned subscribed to the legal principle that the police power could prohibit anything

materially prejudicial to the health of the people or to any well defined class thereof. The split came upon the fact or view as to whether or not the claimed injurious effect was real or substantial enough to invoke the exercise of the power. The courts were called upon to indorse or reject an economic theory or practice rather than to announce a principle of law and hence the divergence of opinion. Each judge applied to the question his own experience or opinion formed upon general economic lines as to what constituted injury to the public.

Courts had theretofore sustained Sunday laws restricting the liberty of the individual. Usury laws infringing the freedom of contract had long been held valid as well as laws prohibiting lotteries, gambling, the sale of stock on margins or for future delivery as well as an eight hour law for miners. These as well as many others that could be mentioned interfere with the freedom of the individual to act as he chooses.

Constitutions must of necessity be limited to the statement of fundamental or general principles. But general principles do not decide concrete cases. There may be an agreement as to the principle and yet a wide divergence as to whether a given state of facts comes under the principle.

In direct proportion as constitutions deal with details or limit themselves to a definite line of action embracing also the mode of action, they are apt to stand in the way of progress and will need frequent amendment. The same result would follow if a constitution ties itself up to any given economic theory no matter how admirable that theory seems at present. A new invention—a new discovery—new social needs or desires may relegate the economic theory to the scrap heap in a very short time.

So far as the exercise of the police power is concerned the question is not how far can you go, but rather how far is it desirable to go? Public sentiment and public needs will always carry the power as far as they require, for society has an inherent right to protect itself against conditions that threaten its safety or health. Such right antedates all constitutions and all written laws. It is a right that springs out of the very foundations upon which the social organism rests—a right that needs no other justification for its existence or exercise than that it is reasonably necessary in order to promote the general welfare of the state.

Chief Justice Fuller aptly said (*Turner v. Williams*, 194 U. S. 294): "So long as human governments endure they cannot be denied the power of self preservation."

The exercise of the police power has always furnished problems for the judiciary, but of late years owing to increased government supervision and restrictions their number is rapidly increasing. Over thirty occupations in our state require licenses or permits for engaging in them. You must have a license to hunt, to box, to barber, to plumb, to post bills, to black boots, to peddle, to marry and to run

baby farms, not to speak of practicing medicine, law and other like occupations. These and kindred restrictions often give rise to vexed questions between the rights of the individual and of the state. Several decades ago we had only a few well defined boards in our state, and no commissions. Today we have over sixty separate boards and commissions actively engaged in keeping our citizens within the law and within their rules and regulations—and in making new ones. In the federal government the situation is still better—or worse. The New York Evening Post is authority for the statement that:

"In one way or another eleven different bureaus have something to do with foreign commerce, and seven with domestic commerce, fifteen do education of one sort or another, ten engage in public health work, sixteen in chemical research, seven are concerned with disabled soldiers, fourteen with public lands, twenty-four do surveying and mapping, twenty-two do engineering research, sixteen are engaged in road construction, twenty-five construct or supervise buildings and grounds, nine are concerned with aeronautics, seven with Alaskan affairs, nine with navigation and merchant seamen, fifteen with rivers and harbors, and nineteen with hydraulic construction."

In order to give some idea of the increased volume of legislation in late years in our state it may be stated that up to 1878 our statutes consisted of only 5,048 sections, those of 1898 of about 7,000 sections and those of 1911 of about 13,000 sections—expressed in pages of about equal amount of printed matter we have the statutes of 1849 containing about 611 pages; those of 1858 905 pages; those of 1878 1115 pages; those of 1898 about 1,500 pages; those of 1919 2,424 pages. The great bulk of the addition has been in the field of administrative law.

When we consider the increased complexity of our state government, the increased complexity of the federal government and the many points at which they touch or even overlap it becomes evident that serious new problems arise in adjusting the true sphere of each and the respective rights of the state and the individual within the spheres.

It is an established principle of law that though a subject is within the jurisdiction of the federal congress states may legislate with reference to it provided congress has not taken full possession of the field. If it has, then the federal law is supreme, but if it has not, then state laws not in conflict with partial federal laws are valid.

The field of interstate commerce has been taken full possession of by congress and states can pass no valid laws to materially interfere with the federal law and decisions under it. The question of rates has been a perplexing one. Minnesota had a two cent passenger rate. The federal interstate rate was 2½ cents. A ticket from St. Paul to Moorhead cost two cents per mile, a ticket from St. Paul to Fargo, just across the river from Moorhead, cost 2½ cents per mile. Of course the general practice was to buy a ticket to Moorhead at two cents per mile and then one from there to Fargo at 2½ cents per mile. The Federal Supreme Court held (*Simpson v. Shepard*, 220 U. S. 352) that it was not lawful to fix intrastate rates so low as to seriously affect the lawful revenue to be derived from interstate

traffic. Since then a number of cases have been decided holding intrastate rates void upon certain facts as to revenue derived from both intrastate and interstate traffic. (Cornell Law Quarterly, May, 1921, 412.)

It was declared by the Supreme Court of the United States in 1876 (*Munn v. Illinois*, 94 U. S. 113) that the completely internal commerce of a state may be considered as reserved for the state itself. The difficulty seems to be that under our existing industrial and commercial system there is no such thing as a completely internal commerce of a state. What the final outcome will be is not certain, though indications are that the federal authority will be declared to be so dominant that rate fixing by states will be limited to such a narrow field that it might as well not exist at all.

The federal Employers' Liability Act is also a piece of legislation that overlaps and tends to swamp state legislation. It provides in substance that all actions for personal injuries or death brought by employees engaged in interstate commerce injured while in such employment must be tried under the provisions of that act. In all such cases it supersedes the local state acts on the same subject. As indicating briefly to what extent it has been held that persons are engaged in interstate commerce the following examples will suffice. An employee of a railroad company carrying spikes for the repair of a railroad bridge over which interstate as well as intrastate trains pass is engaged in interstate commerce. So educational correspondence agencies are likewise engaged in interstate commerce while sending their matter through the mails. The carrier of a mail pouch hurt in a freight elevator of a depot is also engaged in interstate commerce. So is one who repairs a car engaged in interstate commerce. It will thus be seen that the federal field is a large one—and it may be stated that the border line is not well defined. Since state courts administer the federal act it is incumbent upon them to determine whether the state or the federal act applies. If the latter applies it takes the employee's remedy out of the state's judicial law and also out of the state's Workmen's Compensation Act if it has one. So too the federal admiralty law supersedes all state laws, and it has been held that a carpenter who repairs at a Milwaukee dock a vessel plying under a United States license on the Great Lakes must seek his remedy through admiralty law and cannot recover under our Workmen's Compensation Act.

The federal government has also enacted laws on the restriction of lotteries; the pure food and drug act; child labor laws, etc. The two latter fields have been occupied by our own pure food laws and child labor laws. Whether the federal acts will eventually cover the whole field remains to be seen. These extensions of federal and state activities have given rise to a number of difficult questions both as to the construction the acts themselves shall have in individual instances as well as to which act governs a given case.

Economic conditions have accentuated labor controversies and strikes to an extent not before experienced. These have given rise to new and difficult questions because they depend for their solution more upon correct economic view points than upon pure legal principles. Just how far peaceable duress may be equitably carried on on either side is often a question of difficulty and doubt. It is all the more delicate because it arouses such intense class feeling, and no matter how settled, leaves behind scars that heal slowly if at all.

New inventions, such as the telephone and automobile, and especially the latter have given rise to new problems, though by no means as difficult as those arising from later economic legislation. Automobile accidents fall readily enough under well recognized principles of law. They have brought a number of academic questions into practical importance. For instance, the rule of this state first announced in *Houfe v. Fulton*, 29 Wis. 296, decided in 1871 and reaffirmed in *Prideaux v. Mineral Point*, 43 Wis. 513 (1878), by holding that a gratuitous passenger in a private conveyance has no cause of action against his own driver for injuries received through his negligence in driving was of little importance before the day of the automoblle because such accidents were few and far between. Now they are quite common and since the rule was out of harmony with that announced by most courts it has been changed to correspond with the majority rule holding that the negligence of one's own driver in such a case is not necessarily a bar to an action against him or a negligent driver of the other automobile. It also has been held that an invited guest in a private automobile must take the machine as he finds it, and cannot recover against the owner for injuries caused by latent defects in the machine or by defects not obviously dangerous.

The Workmen's Compensation Act, which provides in substance that an injured employee under it can recover compensation for his injuries even though they were caused in part or even in whole by his own negligence, and even though there was no negligence on the part of the employer has given rise to many new and interesting questions. At law he can recover only when he proves the employer negligent and he is himself free from negligence. There were many reasons for the change, chief of which were the facts that injuries are bound to happen without the fault of any one; that it is impossible for either employer or employee to be always careful and that the old method of recovering or failing to recover at the end of a lawsuit was expensive to the parties and to the county paying its part of the cost of the litigation. It was always a sort of gamble as to who would win, and verdicts when rendered for plaintiff were often excessive as the law measures compensation for such injuries.

Under the Compensation Act, passed in 1911, the reimbursement for injuries sustained is certain and speedy though the scale of compensation is much less than the average verdict for similar injuries. The statute classifies the different injuries and a compensation for each is fixed depending also in part upon the age and earning capacity

of the injured person. In this way the industry is in the long run made to pay the cost of personal injuries as well as other costs incident to its prosecution. Of course ultimately this cost, always insured against, falls upon the consumer where it properly belongs. It can truly be said that the cost in personal injuries through a series of years in a large factory is as much a part of the cost of production as is the cost of repairs of machinery therein. As a condition for receiving compensation under the act the employee must be performing service growing out of and incidental to his employment. Now this seems simple and plain enough, and yet we have had over thirty cases in the Supreme Court in which it has become necessary to define when an employee is performing service growing out of and incidental to his employment. Thus it has been held that in the case of an employee killed by lightning while working on a dam there could be no recovery under the act because the lightning risk was not peculiar or incidental to the employment; neither is injury received as a result of horse-play or a joke committed by co-employees; nor an injury resulting from an act done by the employee for his own personal advantage and while off duty, for the act out of which the injury grows must have some connection with the employer's work which the employee was required or permitted to perform.

On the other hand an employee going to and from his work in the morning or evening, or eating lunch at noon in a customary place is within the scope of his employment. And so is an employee sleeping in a bunk in a lumber camp whose mouth becomes infected from a straw dropping into it from the bunk above; and likewise an employee in a lumber camp suffering frost bite to his feet caused by the nature and duration of the work he had to do on a certain cold winter day. Self inflicted injuries or wilful misconduct do not create liability. While the administration of the act has given rise to new questions they have, generally speaking, not been of a very complex character, and the settlement of injuries under it has materially lessened personal injury litigation and all the evils incident to it.

Even the laudable effort to secure purity in elections may go too far and give rise to questions of the utmost importance to the public. Such was the case of the Corrupt Practices Act passed in 1911. It provided that a citizen of this state who was not a candidate for office or a member of a personal or party committee, could spend no money in any county of the state outside of his residence for the purpose of investigating the governmental, political and financial affairs of the state and communicating the results of his investigation to the electors of the state generally with a view of influencing the voting at a general election. Since only a very small percentage of the citizens are candidates for office, or members of a personal or party committee it becomes obvious that the law limited political activity outside the county of residence to only a few. The great majority of the electors of the state were limited in their political activities to their own counties The act was declared invalid because

contravening the constitutional guarantee of free speech and a free press. The reasons for it are so aptly stated by Winslow, C. J., writing the opinion of the court that I beg leave to quote somewhat at length:

"The question is presented whether Sec. 12.05 restrains or abridges the liberty of the citizen to freely speak and publish his sentiments on all subjects.

"We think there is no doubt that it does so. Under its terms a man or body of men who are honestly convinced of the necessity of a change of policy in the state government commit a crime if they spend any money in another county than their own in bringing their views to the notice of the voters of such other county. There is really but one exception to this, and that is that a public speaker may pay his traveling expenses in going to and from his own meetings, but even he may not hire a hall in which to make his speech.

"If this be not an abridgment of freedom of speech it would be difficult to imagine what would be. Under such a law no pioneer in any reform which depends for its success on a change in the law could leave his own county and communicate his sentiments at his own expense to his fellow citizens of other counties without committing a crime. Under such laws no great propaganda for better laws and better political conditions which has not been formally taken up by a political party can ever be carried on, and the reformer whose eye kindles with the dawning light of a better day must be content to confine his personal activities to the inhabitants of his own small bailiwick. Almost every forward step in political and governmental affairs comes as the result of long agitation and discussion in the press, on the rostrum, and in the open forum of personal contact. This agitation and discussion often goes on for years before the idea is formally indorsed by any party. Yet it will generally be the case that during this period there will be individual candidates in one party or the other, or both, who will favor the new thought. Now this law means that in such a situation no man or group of men can do a stroke of political work involving expense in any other county than their own, however legitimate and praiseworthy be the means which are used. No political committee will take up the work for the very good reason that the party organization has not indorsed the doctrine.

"There are times also when devoted citizens firmly believe that no organized political party stands for the right or deserves support and that an independent candidacy is necessary. Can it be that under such circumstances these citizens can be wholly deprived of the right to go to any part of the state at their own expense, collect information on the subject, and endeavor by word of mouth or by the distribution of printed matter to put the issue as they see it before such fellow voters who are not residents of their own county?"

This was the view of the majority of the court. Two Justices dissented. Whether the true purpose of the law referred to was to purify elections, or to render it easier for a party in power to perpetuate itself will forever remain a mystery.

In procedural law fewer difficulties are encountered than formerly. The reason for this is two fold. The practice has become more settled and it is gradually becoming more simple. Thirty years ago about 40 per cent of the questions treated were pleading and practice questions. Now less than ten per cent belong to that class. I think the profession senses more clearly than it formerly did that the chief function of law is to do justice and that it is not a game governed by technical rules a violation of which, no matter how small, works a

reversal. At least twenty per cent more cases are affirmed now than formerly and the added affirmances are due chiefly to the fact that error does not necessarily mean reversal as it previously did. Now a case is not reversed for error unless it appears from the whole record that but for such error it is probable that a different result would have been reached. Formerly every error was presumed to be prejudicial, now it must from the whole record clearly appear to be so in order to work a reversal.

The old adage that "an ounce of prevention is worth a pound of cure" finds but scant exemplification in our administration of law. Not because prevention is not possible in many cases but because the law refuses to be set in motion till a right has been violated or a crime committed. In either case the law requires, so to speak, a corpus delicti, a damage done or a crime accomplished, and it busies itself solely with the question of reparation or punishment and not with that of prevention. In so far as this relates to crimes or to violations of moral duty for which the law gives redress no just criticism can attach to its administration for in each case the wrongdoer knows he is violating both the moral and the civil law, and he voluntarily subjects himself to the prescribed penalty, or hopes to escape it as the case may be. But there is a large class of cases in which persons are desirous of fulfilling their legal obligations but are in doubt as to what they are. Persons so circumstanced have hitherto usually in vain sought assistance from the courts. They have been told: "Wait till some right has been violated, till some damage has been done. Our function is to tell you what way you should have gone, not what way you should go." Every religion is more practical than this for it points the way for future action. It does not content itself with merely correcting past errors. This quality of the church was keenly sensed by the Scotch lad who called a "guidepost" a "minister" because, "a minister like a guidepost," he said, "points out the richt way but does not gang it himself." Now without indorsing the lad's slur upon the ministerial office we must admit that the law does not usually point out the right way to a traveler in quest thereof.

About all it has hitherto done is to admeasure the penalty for having gone astray. The reason for this lies in the ancient, and it must be admitted even modern, conception that the sole function of the courts is to redress wrongs. That this is a fundamental conception in our jurisprudence is recognized by lawyers and judges alike. Pomeroy in his Code Remedies (Sec. 347) thus tersely states the principle:

"Every remedial right rises out of an antecedent primary and corresponding duty and a delict or breach of such primary right and duty by the person on whom the duty rests. Every judicial action must therefore involve the following elements: A primary right possessed by the plaintiff, and a corresponding duty devolving upon the defendant; a delict or wrong done by the defendant which consisted in a breach of such primary right and duty; a remedial right in favor of the plaintiff, and a remedial duty resting on the defendant spring-

ing from this delict, and finally the remedy or relief itself. Every action, however complicated or however simple must contain these simple elements."

This language is used with reference to both legal and equitable actions. It is true we have a few apparent and at least one real exception to the rule stated. The real exception is an action to construe a will or trust for the guidance of executors or trustees thereunder. Actions to quiet title, sometimes given as an example, allege the assertion of a false or apparent title by defendant and so contain a delict on his part and if the annulment of his title is adjudged consequential relief is granted. In order to remedy this defect in the law the Supreme Court submitted a proposed act to the legislature of 1919 which was adopted reading as follows:

"Equitable actions to obtain declaratory relief may be brought and maintained in the circuit court, and in matters of which the Supreme Court has original jurisdicton in the Supreme Court, and it shall be no objection to the maintenance of such an action that no consequential relief is sought or can be granted if it appears that a substantial doubt or controversy exists as to the rights or duties of the parties, and that either public or private interests will be materially promoted by a declaration of the right of duty in advance of any actual or threatened invasion of right or default in duty. The judgment rendered in such action shall bind all the parties thereto and be conclusive and final as to the rights and duties involved."

It will be noted that actions brought thereunder are denominated equitable actions. They are so denominated because they are addressed to the discretion of the court and relief will be granted only when public or private interest will be materially promoted by a declaration. But since both legal and equitable relief can be granted in this form of action it is immaterial whether it be denominated a legal or an equitable one, except for the procedure to be followed in the trial of the action. Relief being discretionary equity procedure is better adapted to its trial than is the procedure in a legal action. No doubt the advisory verdict of a jury as to the existence or non-existence of an operative fact may be had. That is the practice in England. Declaratory actions cannot be maintained as a matter of right. On the other hand if the case comes within the recognized field of the statute relief cannot be arbitrarily withheld. It is only when judicial discretion will justify a denial of relief that plaintiff will be relegated to his ordinary remedies, if he have any. It must, of course, appear that plaintiff has some interest in the subject matter and that there is a substantial doubt or controversy respecting his rights therein. When that appears then the crucial inquiry becomes: Will public or private interest be materially promoted by a declaration? If in the opinion of the court it will, then a declaratory judgment will follow, otherwise not.

Questions as to the constitutionality of the law will no doubt arise. Michigan has by a divided court declared a similar law unconstitutional, while in a few other states such laws have been held valid. In England, Scotland and in many of the continental countries of

Europe declaratory relief has long been administered, and with beneficial results. In the English court of Chancery for the last few years at least 30 per cent of the cases have been for declaratory relief. While this shows a considerable volume of litigation it cannot be measured by volume alone. Its chief value lies in the prevention of damage, in having rights ascertained before damage accrues. This field if opened up will produce new problems to the courts. At first recourse for precedents and reasons will be to the English courts in which there is a considerable body of such law.

We live in an age of intense industrial and social development and consolidation. The primary causes that have operated to call into being our present methods of consolidated industrial enterprise are the use of steam, electricity and labor saving machinery. For, in a sense, every device or appliance by which man multiplies his productive efforts is an industrial consolidation. The sickle, the cradle, the reaper and the self binder, represent but successive steps in the process of industrial consolidation. Through each man multiplied the result of his productive effort; through each he was enabled to produce more at less cost. The birch-bark canoe and the ocean greyhound, the stage coach and the express train, the corner grocery and the modern department store, are but widely separated links in the chain of industrial evolution and consolidation—in fact the whole process of industrial evolution is that of consolidation. The strength of a thousand horses is in a single engine; the force of a thousand paddles in the ocean greyhound; the effectiveness of a hundred corner groceries in the modern department store. The threshing machine supplants a hundred flails; the electric current a thousand candles. Everywhere in the industrial world we see the massing of material force, the centralization of effective energy. Industrial rivulets have united into streams, and these again into mighty rivers. That these forces and tendencies are inherent in the very nature and mode of our industrial and social life is self-evident. That their inhibition, if it were possible, would not only prevent future progress, but destroy that of the past also, is equally self-evident. The problem, therefore, is not how to destroy them, but, how to confine them within useful channels.

To accomplish this purpose law must be both progressive and expansive and must adapt itself to the new relations and rights that constantly arise in the growth of society, for law is the rule of reason applied to existing conditions. Obviously when conditions change there must be a corresponding change in the law also else it would cease to be a rule of reason and would become a mere arbitrary static rule. Indicating, as it does, the just relations that obtain under given conditions law can be static only so long as the conditions to which it applies remain static. It does not prevent new conditions from arising for if it did, and could, progress would be arrested. On the contrary it aims to adjust relations to conditions as they exist when rights or obligations are claimed under them, and in proportion as it

does that equitably it performs its true function. Whenever it arrests or clogs true progress it ceases to function truly. To do justice, then, under existing conditions, is its paramount office—all else even the most venerable precedents must yield to that office.

As suggested in the opening the upward swing of the pendulum of individual rights seems to have been arrested several decades ago, and we are now more concerned with an adjustment between group rights and individual rights than with the assertion of the latter. The growth of group consciousness is apparent everywhere. We are gradually becoming more and more socialistic. We are constantly adding paternalistic features to our government. These tendencies all impinge upon individual rights and it is difficult to predict when the process will cease or what direction or intensity it may assume.

In view of these changing conditions it is of the utmost importance that the base of a proper legal education must be broadened to include the economic as well as the legal aspect of the new problems that constantly confront the lawyer and the judge. Usually the economic side presents the greater difficulties. These can be the more successfully met and solved when every law course has included within it, or requires as a prerequisite, a fair amount of rational instruction in economics and social science. But the problem of adjusting the rights between individuals and the public is not a problem that can be solved once for all. It is not a problem for legislators, lawyers and judges alone. It is a problem of the age and race. Its solution, like the solution of all great social problems, will consist in growth not discovery. It will consist in a continual approximation and adjustment, an addition here, an elimination there. The conditions of the problem are constantly shifting; the answer, therefore, cannot be a fixed quantity. But however difficult the problem may seem I, for one, have an abiding faith that that Anglo Saxon love of justice and genius for law and order that in the past has been equal to the construction and maintenance of a system of laws in the main just and suitable to the social conditions of the time, will be able to work out an equitable adjustment of rights under any industrial or social system that the future has in store for us.

(Prolonged applause, all standing.)

PRESIDENT EATON: Judge Vinje, I desire to express to you the thanks of the Minnesota State Bar Association for the splendid address you have just delivered.

MR. BIERCE (Winona): In order that we may formally express the sentiment of the association, I move a formal vote of thanks to Judge Vinje for his very interesting and instructive address.

Motion seconded by Mr. Lende.

Motion put and carried, with applause.

PRESIDENT EATON: Is Mayor Nelson of St. Paul in the room? If so, we will have the report of the Committee on American Citizenship.

REPORT OF COMMITTEE ON AMERICAN CITIZENSHIP

MR. ARTHUR E. NELSON (St. Paul):

Mr. President and Ladies and Gentlemen of the Minnesota State Bar Association: It is an extremely difficult thing, under the circumstances, to follow an address such as that by the Chief Justice of a neighboring state. It is doubly difficult to present the dry report—may I say—of a committee of this association,—particularly so when there are so many of the older lawyers present. But I have been surprised in attending meetings of the Bar Association to find how many of the older lawyers are still young. You have probably heard the story of the young man who lived in a small community and left to attend school in a larger city; when he went back he was all dressed up in the very latest clothes and his father saw him coming down the road and went to meet him, and here was Bill with the most extreme clothes, everything extreme, and the father looked him over and said, "Bill, you certainly look like a fool." Just then a friend of Bill's father from across the way, who liked him mighty well, came across and recognized Bill and said, "Bill, I am awfully glad to see you back. You know it feels more like home with you here. Just twenty-five years ago your Dad and I went away to school together, and you look just exactly like he did then." "Yes", Bill says, "So Dad was just telling me". (Laughter.)

Well, the report of the Committee on American Citizenship, a formal report, has been submitted and has been published. I wonder if I may enlarge upon it just a little with information from facts gathered, not as a lawyer, but in an executive capacity in the capital city of your state during the past three years. As I read the report, I will, if I may, present just a little evidence covering some of the things which are stated in the report. (Reads.)

(For report see appendix, page 131.)

Before going through with the formal report, let me say that many times during the last several years I have found people in the State of Minnesota who have scoffed at the idea of communism existing within this state. Many of them believe that communism is something that may exist in Russia but will not and cannot be here in Minnesota. However, these facts present themselves: A little more than a year ago, there was held in the City of St. Paul a national convention for the purpose of organizing a third political party, a third national political party, which convention according to the late Senator LaFollette, who repudiated it, was dominated and controlled by the communists of America or by the communists of Russia through the communist organizations of America. In the largest city of this state during the past few years, there have been men elected to power in the municipal government who are avowed communists. In that same city, the American Federation of Labor, within the past year, has been required to reorganize the local trades and labor assembly in order to divest the communist organization from the control of organized labor. In my own city of St. Paul, in the Fourth Congressional District, within the year, there was nominated by one of the political parties, for Congress of the United States, an avowed communist. There have been held within

the City of St. Paul, and in other cities in the State of Minnesota, communist Sunday Schools, at which times the principles of communism, as opposed to Americanism, and the principles of communism as opposed to the Christian religion, have been taught. I do not have here,—I am sorry that I have not,—some of the questions that are propounded at that Sunday School that has been held in my city, and that has been held in other cities, but they are questions relating to industrial conditions and to religion, and condemning especially the teachings of the Catholic Church, but referring to all religions of all kinds. I have here a paper called "The Young Comrade." It is the official organ of the junior communistic party of the United States. It is a document that is being distributed today in the public schools in the State of Minnesota. I want to refer to some of the things that are said in this publication. Less than a year ago, in Volume I, Number 10, of "The Young Comrade," there appears on the front page a picture. On one side, it says,

"These are the children of the workers. They are workers themselves. They have no smiles on their faces. All their time is taken up with thinking about where they are going to get their food. These are the children of the workers. None of them have a smile."

Then, on the other side, "This a child of a rich man. He will never have to go to work. He will get the best that there is in the world. His life will be filled with joy and happiness, and all the pleasures that his money can buy. He will get his money from the work of other children."

Then, there is an article which I ask you to bear with me while I read, because it outlines a condition existing in Russia, suggesting that that condition should exist in the United States, if you please, and in the State of Minnesota, where organizations distributing "The Young Comrade" are existing at the present time. It is entitled,

"We are always ready. On May day, the International Holiday of Labor, there was a parade in Moscow. Hundreds of thousands of workers marched in that parade. Out of the factories poured the workers in their greasy overalls, waving red flags and carrying banners that called on the workers, all over the world to free themselves. Into the parade came the Red Soldiers, in the neat uniforms, carrying banners pledging themselves to give their lives if necessary in order to free the workers of the world from the capitalists who rob the working class of the things they make. Into the line of march came the members of the Communist Party of Russia, the organization that has so ably led the workers of Russia in their struggle to free themselves from capitalism.

"Then along came the youth, the hope of the future, the builders of the new society, the most enthusiastic, the most determined, the most sacrificing element in the communist movement in Russia. The young boys and the young girls marched by, their hearts beating with joy at the thought of the great struggle they were taking part in. They, too, carried banners. They sang, songs of revolution, songs filled with the ardor of the revolutionary youth of Russia. They carried flags, red flags, and they carried banners too.

"Join us in the struggle to free the workers all over the world, help us build the new society," some of the banners said. "Long live the world revolution."

"The workers cheered as they saw these banners. They marched in pouring rain, along with the rest of the workers. More songs, more cheers, and the Young Communist League passed out of sight.

Then came a sight that could never be forgotten, the children, the Young Pioneers of Russia marched by. Like the comrades in the working class soldiers in red army uniforms, they, too, carried red flags. They too, carried banners. "When we grow up we shall create a new world." We shall finish the work the older comrades began." Thus they let the workers know how they felt. Thus they pledged themselves to the cause of communism.

They kept marching, for miles and miles, they marched, they sang, they cheered, they shouted and waved their red flags, the emblem of working class freedom. They kept carrying their signs.

Soon they came to the reviewing stand. There, watching the workers march by, were the delegates of the communist parties from all over the world, who were preparing for the fifth congress of the Communist International.

One of the leaders of the Young Pioneers which are just like our junior groups here, shouted, "Young Pioneers, do you remember the words of Comrade Lenin?"

"We remember," came the cry from thousands of children.

"Young Pioneers, are you ready?"

"We are always ready," our young Russian comrades said.

And they are always ready. They are always ready to do what they can to carry on the workers' struggle.

We juniors can learn a great deal from our young comrades across the sea.

"We are always ready," is the slogan of the young pioneers in Russia. Don't you think it would be a good thing for us to adopt the same slogan?

If we do this, when we are asked, "Comrades, are you ready to fight for the working class," we can say, "We are always ready." When we are asked, "are you ready to go out and sell literature, are you ready to help in arranging meetings, are you ready to build a fighting junior section in America," we can answer with pride, "We are always ready." That must be the slogan of the juniors section.

"We are ready, comrades, we are always ready."

I believe I neglected to mention that among the evidences of communism and the need of some action on the part of the right thinking people of the community, is the fact that in my own city of St. Paul, within the past year, on the floor of the trades and labor assembly, representatives of a public school teachers organization argued against the expulsion of two avowed communists within that city. Passing on the page seven of this article, in "The Young Comrade," I find a report from the State of Wisconsin. It reads,

"Although organized only one month ago almost every member of the junior group is a subscriber to The Young Comrade. We think that this is a fine example to set to all of the junior groups. They have 28 members. On June 15th, they had a hike and they are going to keep on the job getting new members. Duluth, Minn., is only a street car ride from Superior. We think that some of the Superior comrades should go over to Duluth and organize a junior group there. What do you think about it, comrades?"

Then, in the same article, a picture of a minister talking to a little boy, headed "A Talk by the Reverend Mug" (If you are a little communist, you will not go to Heaven):

1.

If you're a little communist,
  Said the Rev. Mug with a sigh,
You will not go to Heaven,
  Up in the bright blue sky.
You will not play with the angels,
  Nor tune your harp of gold,
But dwell, m'boy, where the temperature
  Is the opposite of cold.

2.
But was our little chum dismayed
By this tale of future woe?
The answer, I assure you,
Is a most emphatic No!
Oh, I'll get my Heaven on earth,
But what I'd like to know,
3.
Is, when there ain't no hell, sir,
Where will you fellows go?
Yes, when there ain't no hell, sir,
No slums, no filthy holes,
You'll have to do some useful work,
For there won't be any doles.

This is the sort of thing that is being spread in the public schools of the State of Minnesota today, not only, as I say, in the larger cities, but elsewhere. I have a copy of "The Worker," immediately following the publication of this one last year, an article written by a young boy thirteen years old, on The Red Flag, "We will let the Red Flag fly, away above our shoulders high":

THE RED FLAG

We will let the Red Flag fly
'Way above our shoulders high.
And let it stand up brave and proud
For that's the flag of the working crowd.

Oh, flag so red, as red as blood,
Throughout the earth in thy name shall flood.
So let us keep it gay and bright
For that's the flag that gives us right.

Then hold it high up, brave and bold,
And let it stretch each curve and fold.
And in our hearts we'll always say
This here world shall be ours some day.

And, then, I go on to "Our own movie show, by Paul Lewis":

OUR OWN MOVIE SHOW

I am sure that every grown up worker or young comrade would like to see the show that I saw last Sunday. I think that it is better than any moving picture show we can see today. I learned that Russia is better than America in many ways. For instance, in Russia they don't have police watching the people at every corner as they do here. They trust the people. We comrades can't march around the street and sing songs. If we try to do so the police come up and grab us by the necks and throw us in prison. In Russia the Red Flag hangs all over and the juniors march through the streets singing the Internationale and holding the Red Flag.

We Juniors in the junior groups of America want to have the same privileges as today in Russia. We can only get these conditions by organizing more junior groups, fighting with more spirit, and if we keep at it long enough we will establish a workers' and farmers' government here, too.

(Boy six years old run over by automobile May 5, 1924):

WE MOURN THE LOSS

Bobbie Blade, six years old, a member of the Lincoln Park district of the United Workers' Sunday Schools, was run over by an automobile truck on May 5, 1924, and killed. He was a young fighter in the battle for the workers and his comrades will continue in the fight until victory is won.

I go on to a report from Minneapolis: "The Juniors are preparing."

The Juniors are preparing to give a play at the International Youth Day celebration of the Young Workers' League. The comrades are getting along rather well. The group which disbanded for the summer is starting to meet again and there is no doubt that they will greatly aid the already existing group in carrying on its work.

From Nashwauk, Minnesota. "We spoke too quickly about Nashwauk. We understood there was no junior organization here."

We spoke too quickly about the Nashwauk children in the August issue of the Young Comrade, when we said there was no junior group there, because right after that was published we received a letter from Comrade Forma telling us that a junior group was organized there with thirteen members to start. That's a pretty good beginning we think, don't you? The comrades are busy now preparing to give a working class play and are going to give the money they make to be used in carrying on the work of the movement. That's the stuff, comrades.

Another, in large type, "The Young Comrade is the paper of the young rebels in this country," and so forth.

Here is another one:

INTERNATIONAL YOUTH DAY

All the junior groups of Boston, Malden, Roxbury and Revere came to the celebration of International Youth Day in the International Hall, the beautiful hall which belongs to the workers of Roxbury. Comrade Salzman gave us a talk. He spoke of the workers and of how they were treated by the capitalists and also about the war. At the end he said, "Now, comrades, let us put up our right hand and show that we shall always be true to the workers and be ready to help them."

When he called on us to begin singing the Red Flag, all the members of the Malden group began waving red banners and sang:

The people's flag is deepest red,
It shrouded oft our martyred dead.
And ere their limbs grew stiff and cold,
Their heart's blood dyed its every fold.

That, my friends, is the kind of literature distributed among the children of Minnesota. What are we doing to distribute literature to them telling them the truth about America, and the opportunities which America presents to the boy or girl no matter to what station in life they may be born? We must recognize the fact that our government is the best yet devised by human mind, that the worker today in America is better paid, better fed, better clothed and better educated than the worker in any other part of the world. (Applause.) And the conditions will continue to be better in America, and far better than in any other country in the world. I want to call attention to just one more that I omitted. At the present time, there is a pledge that is taught in some of the public schools. One of these documents comes out with the following:

"Do you know the pledge you are taught in the Catholic School, the one that goes 'I pledge my allegiance to the American flag and to the country on which it stands' and so on. That is way of making patriotic slaves out of you. Instead of pledging to the American flag, you should pledge allegiance to the workers' Red Flag and to the cause for which it stands, one motto throughout life, freedom to the working class."

Mr. President, I MOVE the adoption of the report. (Applause.)

Motion seconded.

PRESIDENT EATON: It is moved and seconded that this report be adopted. Are you ready for the question?

MR. CHILD: I am quite in sympathy with the resolutions as proposed. I am not in sympathy with the stress put upon the teaching of rather insignificant facts as it exists. I think we are apt to lose sight of what the real objection is by stressing so much the doings. I watched the reading very closely and I saw nothing more objectionable in regard to anti-Christianity or anything else than we have been hearing that has been going on down in the Scopes trial. My point is, that this matter that has been stressed so strongly by Mayor Nelson, is an attempt to fight, or is a sort of an attempt to fight windmills, sort of a windmill battle. How can you right it? We lose sight of the things that were considered proper and necessary.—Now, the lawyers,—what are they doing on this higher question of socialism in this country, this question of nationalism that is going on? That is simply a part of an extension of this other thing that Mayor Nelson has been talking about, and so much bigger in that it is actually before us. What position have the lawyers taken in these matters that have been raised in the last year? In the last campaign—I am speaking of the idea of nationalization in this country. Nationalization is revolution in this country, it is revolution as to government. In the last campaign, one of the large political parties advocated three nationalization moves in this country, and you heard little against it. The purpose was to nationalize the judicial department of our government by electing the judiciary of the federal government by one mass of the people. Of course, that would be a revolution in government. Another one was that we elect the executive department of this government by one mass of the people; another evolution in the executive depatment. Another proposition was that we nationalize the family, put the control of the children under the age of eighteen years into the national government. We did not hear much against it or about it from the lawyers. Don't you see that that is just a part of the thing that is coming up from below, and we didn't just know where this nationalization of labor and control of children came from, because our Congressmen and our Senators listening back home voted for it without any dissussion. We did not learn then, we have since learned and know, that the proposition for an amendment to the Constitution was put forward, fathered, supported and put through Congress by Mr. Gompers. Mr. ————————in January let the cat out of the bag. They say that the credit for the child labor movement was due to Mr. Gompers. Then, during the campaipn, we found out why. Why President Green of the labor union also gives Gompers the credit. He said, "If you will enforce this, every child and youth that you take out of a job, you will give a man a job."

MR. BIERCE (Winona): I think we have a very big problem to meet here in America, and especially even in the State of Minnesota. But we, as lawyers, may spoil our opportunity if we undertake to meet the entire problem simply as an organization. Through the report of the committee we find a very serious menace presented to us in a small way, so to speak,—through the seed of communism that has been sown. If we can stop that, then we will destroy the worst foul seed that we have, of anti-

Americanism in our state. Then, we will unearth the seed of socialism and we will get even further into the discovery of the propaganda that exists along the line that Mr. Child has spoken of.

May I make a suggestion to the Board, as to how they may make the resolution in a way that it will be attractive, I believe, because we, as lawyers, or as an asociation have undertaken to meet these questions, by making more popular an intimate knowledge of our Constitution. We believe that we can bring that home to the men and women of our communities and the boys and girls of our schools and thereby meet this propaganda,—as I believe we will, through our luncheon or service clubs, such as the Rotary and the Elks and the Kiwanis and the others. There is a very good opportunity in helping to disseminate a very intimate knowledge of our Constitution, provided we go at it properly. We had a joint meeting a year ago last September of the Kiwanis and the Rotary Clubs in Winona, and we invited Mr. Justice Lees, of the Supreme Court, to give an address. We, of the Rotary Club, undertook this particular task, of bringing the leaders of our trades and labor council and of our trade unions to that meeting. We gave the name of one officer to each member of the Rotary Club with instructions to get that man to the meeting as his guest. We were quite successful in that. We had to avoid any patronizing attitude and we had to go one step further and go after the man. We were told it could not be done, but we had some fifteen or sixteen of the presidents and secretaries of those various organizations come to that meeting. We brought them there to hear Mr. Justice Lees expound the Constitution. I think that will prove to be quite a successful method if you carry it out individually in bringing this knowledge to men in that way.

MR. ABBOTT: I understand Judge Hallam has a report to make that is pertinent although somewhat collateral to the present motion now pending. As the time is now getting short, I move the question.

JUDGE HALLAM: I think the vote might be taken.

PRESIDENT EATON: Any further remarks?

MR. REED: Four weeks ago, in Minneapolis, I attended a meeting of a certain organization where the hall was packed and the orator expressed himself in a long oration on the work and life of Lenine, and urged his audience to the destruction of the capitalistic government in our own state and to work for a time to come when our government should be overthrown, the capitalistic and present government be destroyed, and that we should follow Lenine's history and life work in this country as it has been done in Russia.

PRESIDENT EATON: Any further remarks? You have heard the motion. Those in favor of the question, manifest by saying "Aye." Those opposed, "No."

(The motion was carried with no dissenting vote.)

PRESIDENT EATON: Mr. Hallam, you have the floor.

JUDGE HALLAM: This is supplementary, perhaps, to the very able report of the committee of this association. For sometime, the American

Bar Association has had an active committee on American Citizenship. I think the first chairman was Mr. Robert E. L. Saner of Dallas, who was thereafter president of the American Bar Association. The present chairman is Mr. Josiah Marvel, a lawyer of Wilmington, Delaware. Mr. Marvel quite recently appointed sub-committees from the United States Judicial Districts, I believe, the State of Minnesota, at least, has one district, and the committee appointed for this district was Senator James D. Denegre, Mr. John Junell, Mr. Harold G. Cant, Mr. Howard T. Abbott, Mr. Chas. O. Baldwin and myself. This committee had a meeting recently, and it seemed proper that we should present to this association, in connection with the report of this committee which we knew would be presented, some of the observations of the committee of the American Bar. The general outline of their work, as stated in a pamphlet issued by the committee, is as follows:

"1. That the State Committees take steps to see that each local Bar Association appoints an American Citizenship Committee to carry out, locally, the policies and plans defined by the State Committees.

"2. That especial attention be paid to the teaching of the spirit and the letter of our Constitution in public and private schools, leading up to making it a required course in all colleges. To this end, we suggest Oratorical and Essay Contests in all local schools, leading up to State Contests, for which the State Committees should furnish substantial prizes.

"3. That all ministers be requested to preach at least two sermons, covering this subject, each year.

"4. That all Civic Societies and Service Clubs be furnished with speakers for the purpose of arousing interest and leading their members to a proper study of our theory of government and of the obligations and duties of each citizen thereunder.

"5. That local radio stations be requested to put on an extended series of addresses during the coming winter covering the subject of "American Citizenship," so that this subject may be brought to the attention of the entire American radio audience.

6. That all State Committees make a regular stated report to the American Citizenship Committee of the American Bar Association to be appointed by the new President in September, in order that a certain co-ordination of plans and activities may be secured.

"7. That the Americanization Committees confer with their District Judges and formulate plans to co-operate with Civic Societies that may be formed for the purpose of preparing aliens, both naturalized and unnaturalized, to properly exercise the duties of American Citizens, reporting their plans from time to time, as suggested to the American Citizenship Committee."

The sub-committee of the General Committee of the American Bar Association approve said plan in general in its application to Minnesota. The committee is pleased to note that the State Bar Association now has such an efficient committee on the subject of American Citizenship, and that so able a report has been presented to this association today.

"That this committee believes that in order to avoid conflict, it is desirable that the activities necessary to carry on this valuable work in Minnesota, can best be done under the direction of the committee of the State Bar Association, and that the sub-committee of the American Bar Association will gladly co-operate with the committee of the State Bar Association in any matters pertaining to said work.

"This committee, therefore, respectfully urges the Minnesota State Bar Association to continue its committee on American Citizenship to carry

out in Minnesota the policies and plans of the committee on American Citizenship of the American Bar Association, and to enlarge thereon as the committee of the State Bar Association shall deem fit and proper, and this committee further commends to the Minnesota State Bar Association and to its committee, the subjects suggested by the Chairman of the committee on American Citizenship of the American Bar Association above mentioned."

And in that connection, I would further say that the committee of the American Bar Association has some funds for this purpose. It is distributing a vast amount of literature, most of it well prepared, and I think it would be well to distribute any literature that the committee of the Minnesota State Bar Association might see fit to prepare, any literature that they might have applicable to the State of Minnesota, or for distribution in the country generally.

(Reading.) "This committee further takes occasion to report that the District Judges throughout the State of Minnesota have already quite uniformly taken steps to carry on this work and to do the things within their power to prepare aliens to properly exercise the duties of American citizenship and the continuation and extension of said work is commended."

This report was submitted by myself as chairman and signed by Mr. Cant as secretary.

PRESIDENT EATON: Do you wish any action taken on this?

MR. HALLAM: I think we might refer it to the proper committee of the State Bar Association, and I so MOVE.

Motion seconded.

PRESIDENT EATON: It is moved and seconded that this matter be referred to the committee on American Citizenship of our State Bar Association. Are you ready for the question?

(Question called for.)

Motion put and carried unanimously.

PRESIDENT EATON: The next order of business is the Report of the Treasurer of this Association. The Auditing Committee, in the Auditing Committee will make a report.

MR. CHAS. S. KIDDER: I have been requested to read the report of the Treasurer of this Association. The Auditing Committee, in the absence of our treasurer, has not been able to make the audit of the books and papers.

Commencing the year, we find there was on hand the sum of $1025. We received during the year from dues of members, $3858.10, and there is a balance on hand at the present time of $1410.37.

PRESIDENT EATON: That is a good showing. What will you do with this report?

MR. A. L. YOUNG (Winthrop): I move the report be adopted.

The motion was seconded, put and carried.

PRESIDENT EATON: Is there any new business?

MR. S. R. CHILD: I call up the resolution that I offered yesterday and move the adoption of the resolution on the movement to abolish common law marriage.

MR. STEVENS: Some of the members were not here yesterday and I wish that the resolution might be read.

(The resolution on the movement to abolish common law marriage was read by Secretary Caldwell.)

MR. HORACE W. ROBERTS: There is a motion before the house. I move as a substitute for that motion that this resolution and this matter be referred to the Committee on Jurisprudence and Law Reform of this association for consideration.

Motion seconded by Mr. Paul Thompson and others.

PRESIDENT EATON: It has been moved and seconded that this resolution and this matter be referred to the committee on Jurisprudence and Law Reform. Are there any remarks?

MR. CHILD: That matter should not be disposed of in that way, and if it is a desire to get this out of the way in order that we may get away, I will take up enough time while I have the floor so that you won't save time in that way. You should not shirk the responsibility of the Bar Association of this state in informing itself through some special committee of the condition and of the movement that is going on to change the marriage laws of this state with which the lawyers are not familiar. How many of you know what took place in the Legislature last winter? What has taken place in the Legislature for the last—years—ever since—

PRESIDENT EATON: Order, gentlemen, order.

MR. CHILD: Ever since 1913? I wager there are not a half a dozen here who know. The marriage laws of this state are attempted to be repealed and a substitution therefor that would put us back in the marriage laws two hundred years. What I ask is that a special committee be appointed to consider that special question. That is all I ask, and that they consider that question alone. Why has not the Jurisprudence and Law Reform Committee considered this? It has been before them,—if they are the proper committee?

MR. ROBERTS: May I interrupt?

MR. CHILD: No, you may not.

PRESIDENT EATON: Mr. Child has the floor.

MR. CHILD: Do you know there is claimed to be a reform movement to abolish common law marriage in this whole country? No you don't know there is, but there is quite a secret movement going on among certain classes to abolish common law marriages throughout the country. I am asking that this state recognize that fact and deal with it as it should be dealt with intelligently, and that this Bar Association not leave it to social workers who know nothing about the problem as it goes into law. That bill last winter was drawn by a social worker lawyer, and

anybody that knows anything about bills that without a practicing lawyer, a man who tries cases, a bill upon marriage laws cannot be drawn.

MR. ROBERTS: I will withdraw my motion.

MR. BRUCE W. SANBORN: (St. Paul): I have heard some objection to the preamble of this resolution. I doubt if there is much objection to the resolution itself, which, is, that a special committee look into the subject.

I move as a substitute for all pending motions that the resolution itself, excluding the preamble, be adopted.

MR. ROBERTS: I second the motion.

MR. DUXBURY: If I may express my sentiments: the preamble and the whereases contain many conclusions that may be sound, but I do not feel justified in giving my vote to them as a conclusion of this association. I think the resolution as drawn in that way is unfortunate. We might debate here for a week about whether some of these conclusions in there were warranted and whether we agreed with them. The subject matter of whether there should be a change in the marriage laws of the State of Minnesota is a very appropriate thing for a committee of this association to work on, but we ought to bring that subject before the committee or before this association without binding ourselves or adopting any conclusions about which there might be serious doubts or about which we might not all agree. I agree heartily with the suggestion that the resolution as presented should be changed, that we should strike out the whereases entirely and I think even the resolution itself ought to be rewritten, because, as I remember it, the resolution itself contained arguments and conclusions with reference to the question which is referred to that we ought not to adopt at this time. It will be very proper to refer the question of the changes in the marriage law in the State of Minnesota to a special committee for the purpose of having a report drawn, but do not make any pre-judgments in relation to what ought to be done or where this movement comes from or anything of that kind, because that is rather bad taste, in my judgment.

MR. CHILD: Of course, the object of the resolution was to introduce the propositions (there are twelve of them) that I think no one would attempt to controvert, and supposing there would be time for a discussion of those,—and the arguments upon them. I would suggest, why wouldn't it serve the same purpose to put in whereas it is claimed that this is so and so,—the same being my claim,—and then let the resolution go through in that way. That would not commit the Bar Association to anything down to the last. The last hardly means very much without some recital in connection with it, some information.

(Question called for.)

PRESIDENT EATON: Mr. Sanborn, what was your motion, just state it please.

MR. SANBORN: My motion is that the resolution itself, being the last paragraph of the paper read, be adopted without the preamble, that it be adopted without the balance of the resolution.

Motion seconded by Mr. Paul Thompson.

PRESIDENT EATON: The motion is that the last paragraph be adopted.

PROFESSOR JAMES PAIGE: Can't we have exactly the language to which we are committing ourselves? First, I absolutely disagree with Mr. Child in regard to his position. I know how he feels about the whole question and I sincerely hope this association won't commit itself to such a reactionary resolution as is contained in the whole of that document, or in the expression about the working of the common law. He is attacking all the progressive movements in regard to marriages. He is attacking the uniform law, (himself being a chairman of the committee on uniform laws), and he is attacking that law. After a study of this whole matter myself for thirty-five years, I am not satisfied that I know all about it, and I don't think this association knows all about it. I am in favor of a committee being appointed to intelligently consider the matter. Social workers and all these women now legal voters, favoring a uniform law are not mere politicians in the worst sense of the word. They have some intelligence, they have some enlightenment and they know whereof they speak. Some of them after study have been converted to this uniform marriage act. It certainly behooves us to study the matter intelligently and know exactly how far this resolution goes. If it goes any further than the appointing of a committee to intelligently consider it, I hope it will be defeated.

SENATOR PUTNAM: I move as a substitute for all pending motions, that a committee be appointed by the chairman to consider the question of the abolition of common law marriage and report the same to the association.

Motion seconded.

(Question called for.)

PRESIDENT EATON: The question is as to the passage of Mr. Putnam's substitute motion, substituted for all pending motions. That is the question before the house.

MR. CHILD: You won't hurry this, gentlemen, by this method. We are going to act intelligently on this, I hope. I ask Senator Putnam if it would not be better to have that cover the marriage laws of the state because there are changes in the law that ought to be made, vital statistics that ought to be provided for. This very matter of common law marriage can be taken care of by making a study, and if this committee considers the whole question, it would serve a much better purpose. The resolution as suggested by Mr. Sanborn, by taking the last three lines of this resolution, would do that. Will you withdraw, Senator Putnam, your motion, and let it be to consider the marriage laws generally?

PRESIDENT EATON: Mr. Putnam, what do you say to that?

SENATOR PUTNAM: I think the form of the resolution I offer will cover the whole question of the report here and enable the committee to take up all phases of the question and report it to this association. I think the chairman of this convention will appoint an intelligent com-

mittee and one which will take into account all these vital things which relate to the question.

PRESIDENT EATON: Does that satisfy you, Mr. Child?

MR. CHILD: Well, that is his construction, that the committee would consider it that way,—but I was asked to read the resolution. (See ante, page 28.)

I think that is broader than Mr. Putnam put it. I think Mr. Putnam leaves it that a committee would be appointed to consider it, limiting simply to common law marriage. I think it should be broader than that.

(Question called for.)

SENATOR PUTNAM: If it is put in the form I suggested, I will withdraw.

MR. CHILD: I consent to strike out all the rest, and to the adoption of the last clause.

(Question called for.)

PRESIDENT EATON: Those in favor of it, manifest by saying "Aye." Those opposed, "No." The motion is carried and it will be referred to a committee.

PRESIDENT EATON: We will now have the report of the Nominating Committee.

REPORT OF NOMINATING COMMITTEE

"Your Committee on nominations for members of the Board of Governors report the following nominations for members of the Board of Governors of Minnesota State Bar Association for the coming year. (For list see page 3.)

PRESIDENT EATON: What will you do with the report of the Nominating Committee?

On motion duly made, seconded and carried, the report of the committee was adopted and the members nominated by the committee were declared to be the Board of Governors for the ensuing year.

PRESIDENT EATON: The next in order is Nominations for President.

MR. L. L. BROWN: I nominate for president of this association, Mr. Howard T. Abbott. We have not the time to listen to any introduction of him and he does not need it. I also move in connection with the nomination that the rule be suspended and that the secretary be instructed to cast a ballot for him and when he is elected that he take the Chair immediately.

Motion seconded.

The motion was put and carried and the secretary was instructed to and did cast the ballot of the association for the election of Mr. Abbott.

PRESIDENT EATON: Mr. Abbott, will you come forward.

(Applause.)

MR. ABBOTT: No. I think we should follow the custom followed by this association for years, and that is, that the present president continue his job until the end of the banquet this evening. With Mr. Brown's consent, I will be glad to follow the custom.

MR. BROWN: Is that the custom?

MR. ABBOTT: It is. All I have to say at this time is to thank the association very heartily for the tender of this office, which I know is tendered to the judicial district in which I live, and we will do our best to the end that when the meeting next year is over, you can say, "Well done." (Applause.)

PRESIDENT EATON: I desire to extend my personal congratulations to Mr. Abbott for your election. I know we will have a good year during the next year. We will now have Nominations for Vice President.

JUDGE HAYCRAFT: I will be brief. I want to place in nomination for the Vice-President of this Association, with the understanding that the custom will be followed that if he be on his good behavior as Mr. Abbott has in the past year he will be elected as President of the Association in 1926. I want to nominate a man who has been a lawyer of Minnesota for forty years, who has the unprecedented record of serving in the Legislature longer than any other man in the history of the state or territory, twenty-four years in the State Senate, and all of that time a member of the lawyer's committee of that body. Fourteen years a chairman of the judiciary committee of the State Senate of the State of Minnesota. We who know him best love him best, and in behalf of the 17th Judicial District, and southern Minnesota, and I hope the whole State of Minnesota, I want to place in nomination the greatest Roman of us all, Frank E. Putnam of Faribault. (Applause, all standing.) And I move you, Mr. Chairman, that the nominations be closed and that the secretary be instructed to cast the unanimous ballot of this association for Frank E. Putnam as Vice-President.

Motion seconded by many voices.

The motion was put and carried and the secretary was instructed to cast the ballot and did cast the ballot of the association for the election of Mr. Putnam as Vice-President of the association for the ensuing year.

PRESIDENT EATON: Mr. Putnam, you are duly elected. We would like to hear a word from you, or even two words.

MR. PUTNAM: Mr. President and Members of the State Bar Association, I never made a speech in my life, but I do want to thank this convention and this association of Minnesota lawyers for the honor they have conferred upon me in nominating me and electing me Vice-President of this association. So far as it lies in my power, I will try to carry out the principles of the Minnesota State Bar Association to the letter throughout the year. (Applause.)

MR. CALDWELL: And he told me he was afraid he could not be elected. (Laughter.)

PRESIDENT EATON: Nominations are in order for Treasurer of the Association.

MR. PAUL THOMPSON: I nominate Mr. William G. Graves of St. Paul, the present very efficient treasurer, and I move that the rules be suspended and that the secretary be instructed to cast the vote of the association for Mr. Graves.

Motion seconded by Mr. Christensen of Rochester.

The motion was put and unanimously carried and the secretary was instructed to cast the ballot and did cast the ballot of the association for Mr. Graves as Treasurer of the association for the ensuing year.

PRESIDENT EATON: The next question is upon the election of a Secretary.

(Voices "This is serious.")

MR. MARKHAM: As painful a duty as I have had to perform in connection with this whole convention is the presentation of the name for the next office. However, you all know that he has given such satisfaction that we are going to still insist upon his trying to do the work he has been trying to do for the association, and although it puts two offices in St. Paul, I want to request on behalf of the association that the President cast the unanimous ballot of this convention,—the only ballot he has had a chance to cast yet,—for Chester L. Caldwell of St. Paul as Secretary for the ensuing year. (Applause.)

Motion seconded, put and carried, and the President cast the ballot for Mr. Caldwell as Secretary for the ensuing year.

PRESIDENT EATON: Mr. Caldwell, you are elected, and I cast the ballot for you as Secretary for the coming year, what have you to say about it?

MR. CALDWELL: Nothing. Thank you.

JUDGE HALLAM: Mr. President.

PRESIDENT EATON: Judge Hallam, I will recognize you.

JUDGE HALLAM: I have a resolution.

MR. CALDWELL: That includes everything, does it?

JUDGE HALLAM: Yes. (Laughter.) I have a very pleasurable duty to perform. The only hesitation I have in trying to perform it is that I am afraid that my words will express inadequately the sentiments that we feel. I wish to make two motions, if I may. The members of the Minnesota State Bar Association and their ladies have been splendidly entertained by the Bar of Rochester, by the people of Rochester, and have been splendidly cared for by the hotels of Rochester. For this cordial hospitality and entertainment, we express our sincere thanks, and in view of the fact that some of our splendid entertainment has come from some who are not members of the Bar, I would like to offer to present this:

The members of the Minnesota State Bar Association and their ladies have been greatly honored by the generous hospitality extended to them by Doctor and Mrs. William J. Mayo and Dr. and Mrs. Charles H. Mayo during our visit in Rochester. These, the greatest men in their profession, of whom Minnesota is justly proud, have opened their homes to us, have placed their valuable time at our disposal, and have in many other ways ministered to our pleasure and enjoyment.

I take this occasion to express the appreciation which we deeply feel of the entertainment extended by Dr. and Mrs. William J. Mayo and Dr. and Mrs. Charles H. Mayo and to express our genuine pleasure at this opportunity to benefit by a better acquaintance with them.

I MOVE you the adoption of this resolution.

Motion seconded and unanimously carried.

PRESIDENT EATON: One moment before we adjourn.

SECRETARY CALDWELL: A cordial invitation is extended to the ladies to attend the banquet this evening. However, if you have not secured your tickets, do so at once.

President Eaton thereupon declared the meeting adjourned sine die.

THE BANQUET

Hotel Kahler, Rochester

July 23rd, 1925

MENU

Salted Almonds

Cream of Tomato

Crisped Celery Assorted Olives

Grilled Tenderloin Steak, Mushroom Sauce

New Browned Potatoes Fresh String Beans

Salad de Saisons Parker House Rolls

Bombe Glace Assorted Wafers

Coffee

PROGRAM

Hon. Charles E. Callaghan

Toastmaster

The New President

Hon. Allen J. Furlow

Chief Justice Aad J. Vinje

Governor Theodore Christianson

Dr. Charles H. Mayo

MEMORIALS PRESENTED BY THE COMMITTEE ON LEGAL BIOGRAPHY

ACE PORTER ABELL

ACE PORTER ABELL, born September 1, 1860, on a farm near Orwell, Ohio. He was the son of Captain James Abell, and Cedrilla Forward Abell. He came to Minneapolis in 1878 after completing his education at Hiram College, Ohio. He was also a graduate of Central High School, Minneapolis. He studied law with David Secomb, and was admitted in 1883. From 1891 to 1897 he was a member of the firm of McHale & Abell. He served as Clerk of the Probate Court of Hennepin county from 1896 to 1907. For a time he was engaged in the mining business, but resumed the practice of his profession in Minneapolis until the time of his death. He was married twice; in 1885 to Elizabeth French, who died the following year; and in 1895 to Nida G. Copelin. He was a member of the Knights of Pythias, the Benevolent Protective Order of Elks, the Shrine, and a thirty-second degree Mason. He is survived by his wife, three daughters, and two sons.

MARTIN H. ALBIN

MARTIN H. ALBIN departed this life at St. Paul, on July 25th, 1925, having practiced law in Minnesota for forty years, and leaving behind him a long record of private and public usefulness.

He was born in Frederick County, in the State of Virginia, in 1857.

He took his college course at Randolph-Macon College in that State and his law course at the University of Virginia.

After practicing his profession there for about a year, he came to St. Paul in 1885 and was immediately admitted to practice here.

For many years, he was one of the Vestrymen of Christ Church of St. Paul and he also served as its Treasurer.

He was always active in charitable work. Under all circumstances and on all occasions, he was mindful of his civic duties and contributed liberally in time and money to the many public undertakings, which have marked the growth of his adopted city and state, and the education, welfare, improvement and amusement of our citizens.

During the Great War, he was a strong supporter of the President of the Nation and energetically exerted himself in various phases of the war work.

His local acquaintence and influence were wide spread. His wit, his wisdom and his amiability made him companionable in all circles of life. His conduct was at all times exemplary.

For many years, he was counsel for the Monida Stage Company, which operated the great stage lines to and through the Yellowstone National Park, and for many mining and land companies. Through these enterprises, much of his time was devoted to important litigation, for which he was particularly fitted.

The recollection of his affability, of his hospitality and of his generosity will continue to fill the minds, not only of the passing generation, but of the many younger men who consulted with and were guided by him.

WILLOUGHBY M. BABCOCK

WILLOUGHBY M. BABCOCK was 60 years old at the time of his death in Minneapolis on June 13, 1925. He had been a practising attorney for 36 years in the state and federal courts. At the time of his death he was a member of the firm of Gilger & Babcock. He leaves surviving him his wife and one son.

JOHN T. BAXTER

JOHN T. BAXTER, died March 6, 1925, at the age of 62 years. As a boy he walked five miles each way daily from Berlin, Wisconsin, to attend high school at West Salem, Wisconsin. He entered Ripon College and earned his expenses as a messenger for the American Railway Express Company, taking a night run on a schedule that got him back for morning classes. At the same time he found time to win the state oratorical contest, and was president of the Wisconsin Collegiate Association. With three years of his college course completed he dropped out a year, then entered Williams College in Massachusetts. He became a member of Delta Upsilon fraternity, and was elected editor of the Williams Literary Monthly. Here again he won honors in oratory and a prize for an essay on political economy. He started the practice of law in Minneapolis in 1890. For twelve years before his death he was President of the Northwestern National Life Insurance Company. He is survived by his wife, two daughters and a son.

MICHAEL CHARLES BRADY

MICHAEL CHARLES BRADY, born in Little Falls, New York, on December 18, 1853. Died January 1, 1925. He was the son of Thomas S. and Mary Brady. His preliminary education was at Hartwick Seminary and West Winfield Academy, New York. His legal studies were conducted

in the office of James Lynes, Cooperstown, New York. In 1878 he was admitted to the New York bar. After practicing there for a few years he came to Minneapolis about 1887. At the time of his death he had been in the continuous practice of law for 47 years. He was a member of the Knights of Pythias, Benevolent Protective Order of Elks and Knights of Columbus. He was married to Elizabeth Wells, who died in 1914, and in 1916 he was married to Laura M. Standish, who survives him.

C. J. CAHALEY

C. J. CAHALEY, born in Brooklyn, New York, January 22, 1856. The son of George W. and Ella M. Cahaley, natives of New Jersey and Canada, respectively. On completion of grade schools in Brooklyn, he entered Cornell University and studied medicine for one year. He then entered Columbia Law College, from which he was graduated in 1877. He was admitted to the bar in New York State at the age of twenty-one and practiced there for several years. He was married on September 29, 1881, to Ella M. Macfarlane, of Albany, New York. He moved to Minnesota in 1884, settling at Barnesville. Moved to Minneapolis in 1890, where he practiced up until the time of his death.

JAY W. CRANE

JAY W. CRANE, born at Perry, New York, October 2, 1866. He was graduated from Lombard University, Galesburg, Illinois, in 1887, and came to Minneapolis four years later. Died February 2, 1925. He is survived by his mother, a sister and a brother.

FRANK HENRY CUTTING

FRANK HENRY CUTTING was born at Kalamazoo, Michigan, on September 12, 1862. At an early age he removed with his parents to the state of Vermont, where he grew to manhood. He was educated at the Vermont Academy at Saxton's River, Vermont, and at the Law Department of the University of Michigan. He graduated from the latter institution in 1885, and in the early spring of that year was admitted to the bar. Before attending the Law School he had studied law with his uncle, the Honorable Henry F. Severens, who later became United States Circuit Judge. In February, 1886, he located at Duluth and engaged in the practice of his profession.

In March, 1905, he was elected a Judge of the Municipal Court of the City of Duluth, a position he continued to hold to the time of his death, which occurred at Duluth, on the 23rd day of February, 1925.

On June 3, 1896, he was married to Amalia Larcher, by whom he is survived.

Judge Cutting was a man of the highest character, with settled convictions, an unusually clear, calm and sound judgment, and an accurate knowledge of the law. In his official station he rendered a most valuable service. In his daily life he emulated the essential virtues by their constant practice. He was in every way a model citizen and was greatly and widely beloved.

H. M. FARNAM

H. M. FARNAM, died at the age of 72 years on March 20, 1925. He had been a practicing attorney in Minneapolis since 1882. Surviving him are his wife, a daughter and three sons.

JOHN F. GEORGE

JOHN F. GEORGE, a member of the St. Paul Bar, died June 30, 1925. He was among that forceful and energetic group of young lawyers who came to the Capital City of Minnesota in the early 80's, whose influence has made itself felt for a generation and has maintained a high degree of learning and efficiency.

Mr. George was born near Noblesville, Indiana, November 7, 1857. He attended the grade and high schools at that place. He then entered DePauw University at Greencastle, Indiana, a Methodist Institution from which he graduated in June, 1882. He was a member of the Sigma Chi Greek Fraternity and was interested in it throughout his life.

Mr. George came to St. Paul in 1884 and practiced law continuously for nearly forty years. He was a man of strong opinions, ardent and energetic with a forceful staccato habit of speech, and put all his vigor into whatever he undertook. He became interested in politics, was a strong Republican, was twice president of the Lincoln Republican Club of St. Paul and never failed to take an active part in political conventions; but at no time did he seek office for himself. He had many friends attracted by his positive qualities.

He was one of those men who leave a stamp on the community in which they live and whose passing is greatly regretted. Mr. George left no children. He was married in 1887. His widow survives him.

JOHN BACHOP GILFILLAN

JOHN BACHOP GILFILLAN, born on a farm at Barnet, Caledonia county, Vermont, February 11, 1835; the son of John and Jean Bachop Gilfillan. His ancestor, Robert Gilfillan, came to America and settled in Vermont in 1794. He attended the district school of Barnet and fitted for Dartmouth College in the private Academy of Caledonia county. In 1855 he made a visit to his relatives at St. Anthony Falls, and at the age of nineteen taught school at the Falls, abandoning his purpose of entering college, having already taught several terms in Vermont. While teaching he gave his attention to the study of law, and later became a student in the law office of Nourse & Winthrop, after that in the office of Lawrence & Lochren, and was admitted to the bar in 1860. Soon after that he was made city Attorney of the town. In 1863 he was elected County Attorney of Hennepin county, and was subsequently at different times elected to the same office, which he held for eight years. He was State Senator from 1876 to 1885, and a member of Congress from 1885 to 1887. He was a partner of James W. Lawrence, later a member of the firm of Lochren, McNair & Gilfillan for fourteen years, and later for another fourteen years a member of the firm of Gilfillan, Belden & Willard. In 1870 he married Rebecca Corse Oliphant of Fayette county, Pennsylvania. Died August 19, 1924; three sons and one daughter surviving him.

THOMAS P. GRACE

THOMAS P. GRACE, was born on a farm at Inver Grove, Dakota County, Minnesota, on the 25th day of April, 1865; attended the local schools and at the age of twenty years he attended St. Francis Seminary, at Milwaukee, Wisconsin, where he remained for a period of five years completing a classical course. Thereafter he attended the University Law School at Ann Arbor, Michigan, graduating in 1895, then returning to St. Paul, Minnesota. He held a clerical position with the Great Northern Railway Company for a year during which time he took the post graduate course at the University of Minnesota. He was admitted to the practice of law in Minnesota in 1900 and immediately thereafter began active practice of law in this city, occupying offices in the old New York Life Building; later on he moved to the Pioneer Building, in said City, occupying offices with Messrs. McLaughlin and Boyeson.

On the 15th day of June, 1904, he married Elizabeth Hays, and he is survived by his widow and one daughter.

He was ill for a period of about five years before his death, which occurred on the 12th day of October, 1924.

He was a member of the Knights of Columbus, and at the time of his death resided at 2173 Carroll Avenue.

As a citizen he was ever loyal and true to his country. He believed in its institutions and its laws, and ever tried to enforce, both by precept and example, recognition of the supremacy of the constitution and obedience to the law.

He loved his family and his home, and was an indulgent, kind and considerate husband and father.

He was a good neighbor and exemplified in his own conduct the precept "Do unto others as ye would that others should do unto you."

His entire career at the bar was marked by uniform respect for and fairness to the Court, honorable and courteous treatment of his brethren of the bar, great kindness and consideration for the younger members of the profession,—loyalty to the interests of his clients, and the strictest integrity.

His work is done—his record is written—it is the record of an honest, conscientious, able and successful lawyer, the record of a good man and true in every walk and relation of life, a record without a blemish.

Such a man was Thomas P. Grace, as he was known to those who labored with him, and as such a man as desire that he be known to those who shall come after us.

ROBERT M. HAINES

ROBERT M. HAINES. His early life was spent in Iowa. In July, 1923, he moved to Minneapolis, and was admitted to practice as a member of the Minnesota Bar. A short time later he was drowned while bathing in Lake Minnetonka.

HENRY H. HAMMER

HENRY H. HAMMER, a member of the Fillmore County Bar, died August 11, 1924 while in Wisconsin.

Mr. Hammer was born in Selbu, Norway, July 22nd, 1861. He came to America in 1881, took a college course, and entered the University of Minnesota where he graduated from the Department of Law June 5, 1895. He settled in Mabel, Minnesota the following year where he practiced law until his death.

He was married in 1901, and had two children. Mr. Hammer was a man of simple tastes. He despised sham and ostentation—mild in manner, and courteous to all. He was possessed of a keen legal mind; he gave freely of his legal knowledge in municipal and school matters in his home town. As mayor of his village he always stood for those things that stand for civic righteousness. As President of the Board of Education he always advocated the necessity of education for the masses.

His life was of interest as an example, in that, he came to a strange country at the age of twenty, with a strange language, and in fifteen years he had learned the language, taken a college course, and graduated in law from one of the leading colleges in the United States. He made a good citizen, stayed by the community in which he first settled, and died respected and honored by the fellow citizens and the bench and bar of his county.

FRANCIS B. HART

FRANCIS B. HART, died in Minneapolis on June 18, 1925, aged 86 years. He was born at Charlestown, New Hampshire, and went to Hamilton College, New York. He left college to join the 144th New York Volunteers, and attained the rank of captain. After the Civil War he graduated with the class of 1866 from Hamilton College, and entered the law office of Judge Samuel Clinton, Council Bluffs, Iowa. He moved to Minneapolis in 1882, where he first was associated with the law firm of Levi, Cray & Shaw, and later was for many years in partnership with M. P. Brewer. Surviving are his wife and one daughter.

CHARLES L. LAMB

CHARLES LOREN LAMB, was a native of Pennsylvania. He received his education in that State, was admitted to the bar in Wilkesbarre, and practiced there a short time. He then went to Port Townsend, Washington, but did not remain there long. He then moved to Minneapolis, and was admitted to practice law in Minnesota on the 21st day of October, 1884. For about twenty years prior to his death he had not been active in the practice of his profession, other interests taking his attention. Mr. Lamb never married. He died at Rochester, Minnesota, on June 12, 1924. He left no near relatives except a brother's widow, Mrs. D. W. Lamb, of Elmira, New York.

JAMES W. LUSK

JAMES W. LUSK. Born September 6, 1841, at Cherry Valley, New York, James W. Lusk died December 19, 1924, in St. Paul, which had been his residence since 1885. Mr. Lusk was a son of Rev. William Lusk, a Presbyterian minister, who removed from New York to Reedsburg, Wisconsin, in the 50's, where he was pastor of the local Presbyterian church.

James W. enlisted in Company B, 12th Regiment, Wisconsin Infantry, and served in the Civil War. Returning to Reedsburg after the war he

was admitted to the Bar in 1866. He had no schooling except that of the public schools and during the period of his law studies he was obliged to earn money by labor in the harvest fields and otherwise. After his admission to the Bar he served as cashier in "The Reedsburg Bank." In 1872 he was elected county judge of Sauk county, serving four years. Shortly after his admission to the Bar he married Miss Belva J. Kline of Ohio.

From early in his practice of the law to the time of his removal from Reedsburg Mr. Lusk gave particular attention to railway and insurance cases. He built up in Wisconsin a state-wide business of a general character; and perhaps the major and more important part of his litigation, at least that on which his Wisconsin reputation rested, consisted of cases against railway companies and cases both for and against insurance companies. He tried also some notable criminal cases. He brought and carried through successfully in Wisconsin many cases against railways, several of which were pioneer cases. He played an important part in building up the present rules of law applied to public carriers in Wisconsin.

He removed to St. Paul in 1885, coming here with a number of retainers from large insurance companies and was employed in their important litigation through a large territory. Shortly after coming here he became associated with Charles W. Bunn in the firm of Lusk & Bunn, which afterwards by the admission of Emerson Hadley became Lusk, Bunn & Hadley.

In an astonishingly short time he grew into a large practice in St. Paul. He tried a great variety of cases, largely before juries, throughout the state and in adjoining states. He soon acquired a state-wide reputation and his success was undoubted and distinguished.

He abandoned the practice of law and became president of the reorganized German-American Bank in the autumn of 1893, and from the day of his change he ceased the practice of the law and became exclusively a banker.

To those who did not know Mr. Lusk at the Bar his quick acquisition of a large and lucrative practice in St. Paul so soon after his removal there is perhaps incomprehensible. But that he was well entitled to his success and that it was no accident was well recognized by his associates at the Bar.

Without much early education, making no pretense to unusual learning and not aspiring to be an orator, Mr. Lusk's distinguished success was the result of untiring industry, of that rare quality which is called common sense, and of an almost uncanny knowledge, or perhaps instinct, of what would appeal to the average mind. Few men knew so well how to examine witnesses, what facts to bring out and how to do it, and how to put those facts in the most convincing way.

In the history of the law names have come down to us of great verdict-getters. James W. Lusk was entitled to rank high in that list. Those who tried cases either with or against him would all testify, could they be recalled, to his powerful and convincing treatment of cases, particularly those turning on the facts.

Mr. Lusk retired from active work some years before his death and enjoyed these years of leisure and good health in a community in which he had many friendships and in which he was held in universal respect and affection.

May 22, 1925.

JOHN F. MC GEE

JOHN F. MCGEE, born January 1, 1861, at Amboy, Illinois. His parents were Henry and Margaret Heenan McGee. He attended the public schools in his native town and finished high school, but even before ending his high school course he began to read law in the office of C. H. Wooster, an Amboy attorney. After leaving high school he entered the law office of Moore & Warner, at Clinton, Illinois, where he studied until he was admitted to the bar November 10, 1882. He practiced in Devils Lake, North Dakota, from 1883 to 1887. In 1887 he moved to Minneapolis where he formed a partnership with Arthur H. Noyes and engaged in private practice for ten years. On October 20, 1897, he was appointed judge of the district court, Hennepin county. He resigned in 1902 to enter private practice. During the World War he was a member of the Safety Commission. On March 10, 1923, he was appointed federal judge. He died February 15, 1925; surviving him his wife, four daughters and two sons.

CHARLES S. MARDEN

CHARLES S. MARDEN was born in Bristol, Vt., Oct. 2, 1864. He moved west when 18 years old and settled at Winona. He stayed there but two years, however, and moved to Fergus Falls, where he studied law. When he was admitted to the bar two years later he moved to Barnesville and practiced there for 21 years. At the time of his death he still maintained his office in Barnesville in partnership with Henry Stiening.

While at Barnesville he served as Clay county attorney for eight years. In 1910 he was elected to the Minnesota state senate, serving for four years. He was not a candidate for reëlection. He moved with his family to Moorhead in 1911, and has resided there since.

Mr. Marden was active in politics ever since his admission to the bar. For many years he was chairman of the Republican committee of the ninth district of Minnesota.

Mr. Marden was a member of the Masons, Odd Fellows, Knights of Pythias and Elks Lodges and of the Shrine.

Surviving Mr. Marden are his wife and two daughters, Mrs. Fred M. Brophy of Moorhead, and Mrs. L. V. Repke, of St. Paul, Minnesota.

EVERETT JUDSON MOHL

EVERETT JUDSON MOHL, born at Adrian, Minnesota, November 24, 1889, oldest child of Fred Mohl and Anna (Paulson) Mohl. Graduated from the University of Minnesota Law School with degree LL. B., 1910, LL. M., 1911. Admitted to the Bar 1911, practiced law in St. Paul until his sudden death from pneumonia November 24, 1924. Married June 24, 1914, to Iva Edds Grapes, his widow and one son, Judson, born November 30, 1917 surviving him. He was a member of Delta Theta Phi Fraternity, Lions and Weequah Country Clubs of St. Paul and various musical and literary organizations.

Mr. Mohl was stricken down in the midst of a promising career. He was peculiarly endowed and of a lovable nature. He was actively engaged in his practice up to within a very few days of his unfortunate demise.

PAGE MORRIS

PAGE MORRIS, retired United States District Judge for the District of Minnesota, died at Rochester, Minnesota, on December 16th, 1924, in his seventy-second year. He left surviving his widow and four daughters: Mrs. Wells Gilbert of Portland, Oregon, Mrs. Robbins B. Anderson of Honolulu, Mrs. David Williams and Mrs. Elmer Whyte of Duluth, Minnesota.

Page Morris was born at Lynchburg, Virginia, on June 30, 1853, son of William Sylvanus and Laura Page Morris. He attended a private school and William and Mary College and graduated from the Virginia Military Institute in 1872. Upon graduation from the Virginia Military Institute he taught Mathematics in that institution first as Assistant and later as Professor for some time. He then taught Mathematics in the Texas Military Institute and upon the organization of the Agricultural and Mechanical College at Texas in 1876 he became Professor of Applied Mathematics in that institution, which position he held until in December, 1879.

On February 21, 1877 he married Miss Elizabeth Statham, of Lynchburg, Virginia.

In 1880 he returned to Lynchburg, Virginia, was admitted to the Bar and began the practice of law. He was an unsuccessful candidate for election to the 49th Congress and in 1886 moved to Duluth, Minnesota.

In February, 1889 he was elected Municipal Judge of Duluth; in March, 1894 was elected City Attorney of Duluth and in August, 1895 was appointed District Judge of the Eleventh Judicial District of Minnesota. In 1896 he resigned the position of Judge of the state court and in a vigorous contest with Charles A. Towne was elected to Congress from the Eighth Con-

gressional District of Minnesota. He was re-elected to Congress from this district in 1898 and again in 1900. He declined a renomination in 1902 and was appointed United States District Judge for the District of Minnesota by President Roosevelt on July 1, 1903. He served as United States District Judge until June 30, 1923, when, under the provisions of the federal law, he retired upon full pay, subject to assignment for such duties as he might desire to perform. After retiring, he spent most of his time in California where, on account of her health, Mrs. Morris had lived for a number of years.

Judge Morris was a man of strong convictions. He was of a very sociable disposition and his greatest pleasure in life was in the association with his friends. To him life had a serious purpose and his dominating aim was to be of service to others.

His life was the embodiment of the qualities of a cultured Christian gentleman; his every act was directed by a fine sense of chivalry and gentleness.

The law to him was a rule to be obeyed. As a Judge he enforced obedience to the law as he found it and left all questions as to its wisdom to the law-making body. For the unfortunate victim of circumstances, he was full of sympathy; for the deliberate violator of the law, he was stern and unyielding. To him, the enforcement of the law, whether in civil or criminal cases, was a sacred duty.

A trial in his court was, so far as he could direct it, a search for justice, and the attorney who tried to secure a victory by unfair methods found the court firmly opposed. Technicalities of the law were swept aside and the merits of the controversy kept constantly in the front. If attorneys at times found the Judge apparently becoming a partisan for the other side, it was only when unfair advantage was being taken and when the Judge thought that his intervention was necessary to secure justice.

He was at all times intensely American. Sessions of his court were schools of citizenship and at their close attorneys, jurors and litigants had a better appreciation of the privileges and a keener sense of the obligations of American citizenship. He was a staunch adherent of the Church and a firm believer in the foundations of our government resting upon the principles of the Christian religion.

His life was an inspiration to the young lawyer and a credit to the learned profession which he adorned and to the judiciary which he honored; his death was a loss to the entire legal profession and to the community and state which he so well served.

DANIEL MURPHY

DANIEL MURPHY, who practiced law in Minnesota for about forty years, was born in New Orleans, Louisiana, on March 4th, 1854. His father

died when Daniel was four years of age and his mother three years later. He was then cared for by relatives and friends, who placed him in an Episcopal school in New Orleans, where he remained until he was sixteen years of age. He thus lived in New Orleans during the entire Civil War and during early reconstruction days. He was even then a keen observer, and frequently recounted many interesting recollections of those history making times.

Mr. Murphy came to Minnesota in 1872, going direct to North Branch, where he worked on a farm for two years, using the money thus earned to complete his education in the St. Cloud Normal School, from which he graduated in 1876. Thereafter he taught school for about four years in Chisago County.

Deciding to become a lawyer he came to St. Paul in 1880, and studied law, first with Davis, O'Brien & Wilson, then with Geo. L. & Chas. E. Otis, and finally with Isaac V. D. Heard. He was admitted to the bar in the District Court of Ramsey County in 1885, and thereafter, with the exception of about seven years—between 1913 and 1920 when he practiced in Rush City—he practiced law continuously in St. Paul until his death on September 28, 1924.

His chief work as a lawyer was probating the estate of Norman W. Kittson (at that time the largest estate ever offered for Probate in Ramsey County) which he inherited from Mr. Heard. Mr. Murphy for several years devoted his entire time to the solution of the many intricate legal complications growing out of this estate. This he did with industry, fidelity and ability, and with uniform success.

He was married at St. Paul, Minnesota, in 1898, to Berta M. Lucas, who survives him.

Mr. Murphy was possessed of a large fund of interesting information, was genial and companionable, and will be greatly missed by all who knew him—especially by the older members of the bar of this County.

JACOB N. NICHOLSEN

Jacob N. Nicholsen died at Austin, Minnesota, the place of his life-long residence, in October 1924, at the age of fifty-two years.

Mr. Nicholsen was a lawyer of unusual ability, was a useful, public-spirited citizen, and a much loved husband and father. His outstanding characteristics were energy, industry, and honesty. He was a "self-made" man. From a small and humble beginning, he brought himself, by hard and constant application, to an enviable position at the Bar, and a high place in his community and the state.

He was public spirited, charitable, and intensely patriotic. He never turned a deaf ear to the unfortunate, and was a generous benefactor to the worthy poor and did his full share and more, toward the public service.

As an all around, active, practising lawyer, he had few equals in this state. He had a wonderful capacity for handling the details of a large law business. In office work he was quick, accurate and thorough. As an advocate, he was ready, alert, and formidable. He worked hard—too hard and too constantly. In consequence of that his health became permanently impaired, while in the prime of life and in the fullness of his powers.

No man ever lived, whose passing has left behind him a deeper sorrow and regret in his community, than "Jake" Nicholsen.

MICHAEL CHARLES O'DONNELL

MICHAEL CHARLES O'DONNELL, born August 12, 1878, at Saratoga Springs, New York. In the spring of 1881 his parents moved to Murray county, Minnesota, where he attended the rural schools. He graduated from the Slayton, Minnesota, high school, and then attended the Mankato Teachers' Training School. After graduation from the Normal School he taught school for several years in Murray county. In 1889 he entered a business college in the city of Minneapolis, taking up shorthand and bookkeeping, after which he attended the College of Law at the University of Minnesota, graduating therefrom in the summer of 1903. He began the practice of law at Glenwood, Minnesota, where he was for two years, then being appointed Assistant United States District Attorney at Vinetta, Indian Territory. He filled this position for two years and then returned to Minneapolis where he practiced law until the time of his death. He died September 23, 1924, after a short illness.

A. J. O'GRADY

A. J. O'GRADY was born in Ireland July 15th, 1846, and came to Minnesota a small boy. When the Civil War came he enlisted as a volunteer with true patriotism and served during the war and was in many battles. After the war Mr. O'Grady taught school several years and while teaching read law and was admitted by the Waseca District Court and continued to practice law in that county until failing health in 1920 caused him to retire. Mr. O'Grady was a proficient lawyer, courteous, honorable, an excellent orator, a student of history and was patriotic and loved by his family and all who knew him. He died in Janesville, his home, in November, 1924, honored and respected by all.

P. H. O'KEEFE

P. H. O'KEEFE of South St. Paul, was born in the town of Welch, Goodhue county, March 15, 1870; received a common school education in the public schools of that county. Taught school four years in the public schools of Dakota county; admitted to the bar from the Law Department of the University of Minnesota, class of 1894. He practiced law in South St. Paul twenty-four years. Twelve years corporation attorney of that city and ten years county attorney of Dakota county, and was a member of the state legislature.

OWEN HENRY O'NEILL

OWEN HENRY O'NEILL was born at Belle Plaine, in Scott County, Minnesota, on the 28th day of June, 1863, and died at his home in the City of St. Paul, April 22nd, 1925.

He spent his early boyhood in Scott County, taught in the rural schools in that County near Belle Plaine, and later was principal of the Shakopee High School, and for a short time taught in the Academy at Sauk Center.

He came to St. Paul in 1886 and began the study of law in the office of the late Christopher D. O'Brien. He was admitted to practice in March, 1887, and shortly thereafter was appointed city attorney for the City of West St. Paul, Dakota County, serving in that capacity for about seven years.

In 1901 he became first assistant County Attorney under the late Thomas P. Kane, serving in that office until 1907, when he and Mr. Kane retired from public office and became associated in private practice. He next entered public life when he was elected corporation counsel for the city of St. Paul in 1911, served throughout the period when the new so-called commission form of government was adopted, and continued in office until 1920.

Since his return to private practice he has had offices in the Commerce Building, St. Paul, and later was associated with Mr. Ambrose Tighe, with offices in the Guardian Life Building, in which latter practice he specialized largely in municipal law, and particularly in law relative to munnicipal bonds. During the time he served as corporation counsel of St. Paul, he was at one time president of the League of Minnesota Municipalities, and during his term as Corporation Counsel and until his death he was a member of the Charter Commission of the City of St. Paul. He was universally regarded as one of the best authorities on municipal corporation law and statutory construction.

During his service as City Attorney he had many difficult legal matters to handle, particularly the long rate controversy with the St. Paul Gas Light Company in 1913, and the litigation with the Barbour Asphalt

Paving Company. He also directed much of the litigation with the local railroad companies concerning the maintenance of bridges in St. Paul, and thru his interpretation and advocacy of the city's position much of the present law in this state has been made favorable to the public.

Although a Democrat in politics he was not partisan in his administration of public office. He possessed a very pleasing personality and was universally regarded as an ideal public official.

Mr. O'Neill was first married to Miss Margaret Emma Buckley who died in 1911. He later married Miss Mary Doherty of Mankato. Nine children survive him.

Mr. O'Neill was a member of the Ramsey County Bar Association, Minnesota State Bar and American Bar Association. He was also a member of the Knights of Columbus, Catholic Order of Foresters, Ancient Order of Hibernians, Modern Woodmen of America, the Maccabees and the St. Paul Athletic Club.

JAMES H. PEREGRINE

JAMES H. PEREGRINE was born at Corning, Iowa, on October 11, 1875 and died at Virginia, St. Louis County, Minnesota, on May 1, 1925, of heart failure. He received his academic education in Iowa schools and was a graduate of the law school in the University of Iowa. He practiced law at Des Moines, Iowa, Omaha, Nebraska, Pine River, Minnesota, and for the last thirteen years, at Virginia, Minnesota. He was an enthusiastic sportsman and was active as a member of the Izaak Walton League. He was also a staunch church member, being at the time of his death a trustee of the Presbyterian Church of Virginia. He was buried at Corning, Iowa, leaving only one survivor, a sister, Mrs. F. H. Currens of Macomb, Illinois.

WILLIAM JOHN RAHJA

WILLIAM JOHN RAHJA was born at Soudan on the Vermillion Range, St. Louis County, Minnesota, February 25, 1894, and attended and was graduated from the Chisholm, Minnesota, high school. He was also a graduate of the law course of the University of Minnesota in the year 1922 and since then has been a practicing attorney at Virginia, Minnesota. He was a member of the Virginia Lodge No. 1003 B. P. O. E. and of the Minnesota Chapter of Delta Theta Phi Fraternity. He was an ex-service man and a member of the American Legion. His untimely demise was caused when his automobile was struck by a Great Northern fast express train at Hinckley, Minnesota. He leaves a wife, parents, brothers and sisters, all living in St. Louis County, Minnesota.

WILLIAM EDDY RICHARDSON

WILLIAM EDDY RICHARDSON was born in Poultney, Vermont, on August 23, 1861, and removed with his parents to Austin, Minnesota, in 1869. He was graduated from the Austin High School, attended Carleton College for two years, and was admitted to the bar in 1882. He removed to Duluth in 1885 and maintained his residence there until his death on November 20, 1923. For over thirty-five years he was a member of the firm of Richardson & Day, although for the greater portion of his Duluth career he was engaged in large real estate and financial enterprises to the exclusion of the active practice of the law.

He belonged to pre-Revolutionary stock and was a member of many exclusive patriotic societies. He was a thirty-third degree Mason, and had been honored with many of the highest official distinctions in Masonry, including Grand Commander Knights Templar, Minnesota, 1898, and Grand Sovereign Red Cross of Constantine in 1916-1917.

On December 27, 1882, he was married to Kay H. von Suessmilch, of Delavan, Wisconsin, and is survived by his widow, two daughters and a son.

Mr. Richardson will be remembered best as a friendly man, and as a public-spirited citizen. He had exceptional ability to make and keep friends; he liked people and in a proper spirit wanted them to like him; the attachment was reciprocal, and loyalty and devotion marked the relationship both ways. A membership on the Board of Education, serving as President, was his only public office, but probably no man in Duluth, during his active business career, served on more committees or devoted more uncompensated time to the welfare of his adopted city. His devotion to his family, his loyalty to his friends, his genial disposition and his public spirit were outstanding virtues of his long and useful life.

HARLAN P. ROBERTS

HARLAN P. ROBERTS, died February 3, 1925, at the age of 70 years. Born in Wayne, Ashtabula county, Ohio, the son of Rev. George and Ann J. Marvin Roberts. He received his early education in the schools there, and at the age of 9 moved with his parents to Iowa, where he later attended Mount Pleasant and Howe academies, and Oberlin College, from which he graduated in 1875 with an A. B. degree. He then attended Yale theological school, and after his graduation in 1878 served as a home missionary in the vicinity of Silverton, Colorado. 1880 he left the ministry and entered business, meanwhile studying law. He was admitted to the bar in Silverton in 1883. He served as clerk of Silverton and county treasurer of San Juan county. In December, 1884, he moved to Minneapolis and took up the practice of law, which he followed until shortly before his death. In October, 1888, he was married to Margaret Lee Conklin. Surviving him are his wife, a son and daughter. Mr. Roberts was widely known as an expert in title and corporation law.

PATRICK J. SCANLAN

PATRICK J. SCANLON was born in Ireland November 21, 1869. He came to America three years later, and in 1873 moved to Minnesota on to a farm with his parents, where he spent his youth.

He attended Darlings Business College, and completed his preparatory education at the Academy of Our Lady of Lourdes at Rochester. He was deputy auditor five years, and read law in Charles C. Wilson's law office, and finished at the State University in 1898. He was city attorney of Rochester for twelve years. He was a good student, quiet, gentlemanly and dignified.

CORDENIO ARNOLD SEVERANCE

CORDENIO ARNOLD SEVERANCE was born at Mantorville, in Dodge County, Minnesota on June 30, 1862, and died May 18, 1925. He was educated in the common and high schools of Mantorville and later at Carleton College. He first studied law at Kasson with Honorable Robert Taylor, one of the leading attorneys of Minnesota. In 1883 he was admitted to the Bar of the state and two years later entered the law office of Honorable Cushman K. Davis in St. Paul. In 1887 he formed a partnership for the practice of law with Senator Davis, who had been Governor of Minnesota and who, from 1887 to 1900, was one of the United States Senators from Minnesota, and Honorable Frank B. Kellogg, who since 1916 has successively been United States Senator from Minnesota, Ambassador to Great Britain, and United States Secretary of State, which latter office he now holds. This partnership continued until the death of Senator Davis, and because of the force and ability of its three members became one of the well known law firms in the country. Subsequently Mr. Robert E. Olds, who during the war was the representative of the American Red Cross in France, and who has recently been appointed Assistant Secretary of State, was also a partner with Mr. Kellogg and Mr. Severance for many years.

Mr. Severance was President of the Bar Association of Ramsey County, of the Minnesota Bar Association, and in 1921-22 of the American Bar Association, the latter being one of the most highly esteemed positions among the lawyers of this country.

He had a wide, diversified and distinguished practice. Among other litigations in which he was engaged he represented the Government as Assistant to the Attorney General in the United States action against the Union Pacific Railroad Company and the Southern Pacific Railroad Company arguing the case in trial court and in the Supreme Court, which resulted in the dissolution of the merger. He was counsel for the defendant in the Government suit to dissolve the United States Steel Corporation and argued the case before the United States Supreme Court, which

rendered a decision in favor of the corporation. He was also of the counsel and participated actively in the defense in the Government suit against the United Shoe Machinery Company. His last argument in court was made as attorney for the International Harvester Company in the Circuit Court of Appeals, Eighth Circuit, last October in St. Paul, in which case the court dismissed the Government's petition. Besides these cases Mr. Severance participated in many other pieces of litigation which kept him constantly in the courts of Minnesota and the Nation.

Concerning Mr. Severance's ability and characteristics as a lawyer, the American Bar Association Journal for September 1921 said:

"Mr. Severance is endowed with a clear, analytical, powerful intellect, always alert, quick to perceive and to act, with a sound and conservative judgment, and with the saving gift of practical common sense in the application of the law to the facts in his opinions on legal questions and in the determination of the business policies of his clients. His mind is stored with a profound and accurate knowledge of the general principles of the law and he has an abiding conviction of the necessity of the further knowledge of the statutes, decisions and technical rules that may condition a specific case or question before advising or acting, a conviction which he does not fail to heed.

"In court and council he is dignified, calm and courteous. In the trial of his cases he is bold and vigorous in attack, shrewd and ingenious in defense. His arguments are free from verbosity, clear, concise and logical. His statements of the evidence and of the condition of the statutes and decisions usually receive the assent of opposing counsel and the credence of the courts, leaving undetermined only their effect upon the question at issue." Little more can be said within the space here allowed concerning Mr. Severance's career as a lawyer. Though his interests were not by any means limited to his profession, yet from early manhood to his death his first occupation was that of practicing law. He devoted himself so earnestly to his profession that he brought distinction to himself and to his state. His ability and distinction were formally recognized by Carleton College in 1919 when it conferred upon Mr. Severance the honorary degree of Doctor of Laws. For many years he served faithfully as a trustee of the college.

In 1889 he was married to Mary Frances Harriman, daughter of General Samuel Harriman, who survived him only four months, having passed away September 11, 1925. Mrs. Severance also attended Carleton College and was always its friend.

Mr. Severance's interests, aside from his profession, were many and varied. Besides the positions which already have been mentioned he was a member of the Council of Foreign Relations, of the Council of the American Law Institute, a Trustee of the Carnegie Foundation for International Peace, and during the war he was Chairman of the Commission of the American Red Cross to Serbia.

At the time of his death last May there appeared an article in the St. Paul Pioneer Press written by one who apparently knew Mr. Severance well. The following excerpts from the article will give to the reader somewhat of an idea of the many sided life of Mr. Severance:

"For years the Severance country place, Cedarhurst, near Cottage Grove, Minn., has been the scene of entertainment on a manorial scale. Due to extensive travel, as well as to the international scope of Mr. Severance's professional interests, his acquaintanceship included notables from all parts of the world, so that Cedarhurst has for years been included in the itinerary of nearly all celebrated visitors, American and European, to the Northwest.

"Mr. Severance's remarkably developed gift for forming and maintaining not only friendships, but social relationships of every degree, was the logical result of a boundless enthusiasm and interests so diversified as to prove a source of never-ending wonder and delight to every one who knew him. Coupled with these assets were a keen sense of humor and a phenomenal memory, not only for events but for the faces and names of individuals whom he had encountered, even though casually. And although he was in a very real sense a citizen of the world, Mr. Severance always regarded himself as a member of the community at Cottage Grove. He knew all its older residents and kept track of the two generations which had arisen there during his residence.

"He spoke with the authority of special practical knowledge on agricultural matters and stock-raising. The Cedarhurst estate includes a farm of more than 500 acres, and Mr. Severance was in touch with the management of all its affairs, and able at any time to give intelligent advice concerning them. The beautiful gardens surrounding his home were a source of great pride and delight to him, and he seemed to regard every tree on the premises with a real affection.

"A love of animals manifested itself particularly in the thoroughbred collie dogs for which the Cedarhurst kennels have long been famous.

"A man of striking good looks and cordial manner, Mr. Severance was everywhere regarded as a highly desirable figure in any social group. His was a remarkable conversational gift, made up of quick wit, genuine interest in people, and an inxehaustible fund of general information. He was in great demand everywhere as an after-dinner speaker and toastmaster and enjoyed a national reputation as a raconteur, especially of humorous stories.

"Although so much of his keen mental activity was directed in channels having to do with strictly business and professional affairs, the aesthetic interests found a large place in his life. Very early in life he manifested a decided taste for music and this was cultivated largely through a study of the 'cello, as well as through enthusiastic patronage of music in all its creditable forms. A steady subscriber to and warm supporter of the St. Paul and Minneapolis Symphony orchestras, he also attended all such concerts in other cities as opportunity permitted, and Walter Damrosch, veteran conductor of the New York Symphony society,

was numbered among his close personal friends, as was Emil Oberhoffer, former conductor of the Minneapolis Symphony orchestra.

"This interest in music took shape, a few years ago, in the installation at Cedarhurst of a pipe organ in which Mr. Severance took especial delight and which figured in some of the many informal concerts of which the big music room was the scene.

"His personal library, one of the most complete in the West, was another source of pride and delight. Himself a thorough student of history, Mr. Severance has acquired many rare and valuable books on the subject, some of them editions long out of print. However, the scope of his literary taste was broad and on his shelves were to be found works in an unlimited variety.

"But it will probably be for his warmly endearing personal qualities that Mr. Severance will be best remembered. His affection, not only for those who came into intimate contact with him but for the friends he made through the years, was characterized by a loyalty which made it impossible for him to say unkind personal things himself, and made him intolerant of unkind criticisms as uttered by others. His personal affections included the children and grandchildren of his friends, and in their affairs he took a very real interest."

JOHN SKADBERG

JOHN SKADBERG was born November 28, 1889, at Egersund, Norway. At the age of fifteen he emigrated to the United States, coming directly to Duluth. During the first year he learned the English language and passed the entrance examinations to the Duluth High School. Within a period of three years he finished the four years' course, with the highest scholastic honors. During all this period he earned his own living. He then devoted a year to earning in part the necessary money for a collegiate course at the University of Minnesota, and, under a special resolution of the Board of Regents, based upon the quality of his work at the University the first year, he carried both academic and legal studies with such success that he graduated from the Law School in 1914 with the highest honors of his class. He literally worked his way through the University. He immediately entered upon the practice of law at Duluth and showed every promise of becoming a successful practitioner, when it was discovered that he was suffering with an advanced case of tuberculosis which was beyond hope of successful treatment. Intermittently he was a patient at a sanatorium, a traveling salesman, a hermit seeking health in the pine woods of Northern Minnesota, and a practicing lawyer. He died in Duluth, December 6, 1924.

Notwithstanding his handicaps, he was a successful lawyer. His knowledge of the fundamentals and the decisions of the courts was

amazing for breadth and accuracy. The highest ideals of the law and the noblest ethics of the profession had no finer exemplar than this young man. He was an omnivorous reader in every branch of learning. He had mastered five languages. He was in every sense a man, overcoming obstacles and meeting adversities with undaunted heart, and died as he had lived, brave, confident but humble—and with a smile on his lips.

He is survived by his widow, two daughters and a son.

WILLIAM H. SMALLWOOD

WILLIAM H. SMALLWOOD was born at Elizabethtown, Hardin County, Kentucky, on February 12, 1841. He graduated from St. Joseph Academy, St. Joseph, Missouri, in 1854. Thence he removed to Elwood, Kansas, where he taught school and engaged in the newspaper business until June, 1861, when he enlisted in Company A, First Kansas Volunteer Infantry. He served throughout the war and was mustered out as Captain. He was cited for gallantry at the battle of Poison Springs. After the war he settled at Wathena, Kansas, and from 1867 to 1874 served successively as state representative, state senator and secretary of state of Kansas. In 1876 he was appointed Register of the Land Office of Washington Territory and served for four years. He was then admitted to the bar and practiced in Spokane Falls until March, 1887, when he removed to Duluth. In 1916 he was elected Judge of the Municipal Court of Duluth and continued in that office until his death on October 26, 1919. During his career in Duluth, Captain Smallwood devoted most of his time to practice before the Land Office.

In addition to his own valiant service as a soldier throughout the Civil War, Captain Smallwood's ancestors served in the Revolutionary War, one son served in the Spanish American War and the other in the World War. On both sides of his family, he qualified as a member of the Order of the Cincinnati and a Son of the American Revolution. He was a member of the Loyal Legion, the Grand Army of the Republic and the Knight Templars.

Captain Smallwood was a lovable man and his personal virtues, fine character, patriotic devotion to his country and great popularity among those with whom he had lived for thirty years were well measured by the endorsement he received by his overwhelming election to the Municipal judgeship during the last years of his life.

He is survived by three daughters, Miss Margaret Smallwood, Mrs. G. Herbert Jones and Mrs. Frank E. Brooks, and by a grand-son William Smallwood Brooks, all of Duluth.

CHARLES WESLEY STITES

CHARLES WESLEY STITES was born in Christian county, near Pana, Illinois, on November 4, 1954 and died at his home in Lake Benton, Minnesota, on June 28, 1925.

He came to Minnesota in 1880 and located at Lake Benton, where he thereafter resided up to the time of his death. In 1891 he married Miss Betty Louise Garbick of Waseca county, Minnesota, who, together with a son and daughter, survives him.

Mr. Stites was admitted to the bar in the early 80's and thereafter practiced law at Lake Benton. He was elected county attorney in 1922 and was re-elected in 1924. While holding this office he was very aggressive in the enforcement of the prohibition act. Mr. Stites had always been an active temperance worker.

In 1898 he was elected to the state legislature and there served his district for two terms.

Mr. Stites was a devout Christian, always took a leading part in church work and was keenly interested in education and in maintaining the high standard of the public schools. He served his county for eight years as county superintendent of schools.

As a citizen he always interested himself in state and national affairs, took an active part in politics and was a prominent figure in all local affairs. He was a man of sterling qualities, honest, public spirited and square in all his dealings with mankind.

In the passing of Mr. Stites, Lincoln county has lost one of its best and most respected citizens.

OLE THORESON

OLE THORESON, of Lakefield, Jackson County, a practicing attorney for twenty years, passed away this June (1925). He was Judge of Probate of Jackson County for fourteen years, retiring the first of the past January. He was a good lawyer, a good Judge of Probate and a good citizen. He was 50 years of age and leaves surviving him a widow and several children.

F. H. WADSWORTH

F. H. WADSWORTH born at Farmington, Connecticut, March 2, 1859. He was educated at Williston seminary and Easthampton, Massachusetts, and at Yale, where he was graduated from the law school in 1883. He came to Minneapolis in September of that year. For 32 years he was associated in practice with his brother, Harry H. Wadsworth, who died in 1915; and recently with his son, Winthrop M. Wadsworth. He died March 17, 1925; survived by his wife, a daughter, a son and two brothers.

APPENDIX

REPORT OF ETHICS COMMITTEE

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

The Committee on Ethics of the State Bar Association beg leave to make the following report: A number of cases have been submitted to us, all of which have required investigation, some of which have demanded some action. We submit this account of them without mention of names.

The first case submitted was a complaint against an attorney for charging an exorbitant fee for collection of a bonus from the State of Minnesota for a former soldier. The charge was one-third of the amount collected. The complaint came through officers of the American Legion. An investigation proved that the bonus claim had been denied because of non-residence of the applicant, a re-hearing granted and again denied before the matter came into the hands of the attorney; that there was an explicit agreement as to the fee before the attorney took up the case; that the case was a difficult one and had the claim been other than a bonus claim, there would have been no thought of a complaint. After gathering the facts, we submitted them to the officers of the American Legion, through whom the complaint came, and they were satisfied with the explanation, and under the circumstances there seems to be no ground for action.

The next complaint was against a county attorney, who had secured the return of money obtained by extortion and he charged a fee therefor. The complaint had been made to the county attorney and a warrant asked for, but the parties had fled and were subsequently arrested in another county of the state and charged with a similar crime. The county attorney learned of their whereabouts, collected the money and charged a liberal fee, but the case was one requiring prompt and expeditious action. Had the attorney not been a county attorney, it would not have been considered exorbitant. It was no more exorbitant because he was county attorney, if he had any right to take the civil action at all. The county attorney in question is a man of very creditable standing in the profession and in view of all the facts, it did not seem to us that the case was one requiring action on our part.

The next complaint was a charge against an attorney for his holding funds collected. Upon our taking the matter up with him, the amount was paid, but, of course, this did not square the offense. However, it appeared that this money, together with other amounts, was collected by a clerk of the attorney who had absconded with the moneys collected and the attorney frankly admitted that it came very hard for him to raise the money to make good this default. Under the circumstances we thought the case might pass with an admonition.

The next case was also a case of money collected for a client and not remitted. The excuse was less than in the case last above mentioned, and we felt that it required a more forceful warning.

The next case was an alleged threat of prosecution made by an attorney as a means of collecting money. If the charges were true, it was a clear case of crime for which prosecution might be had and under the circumstances we thought best to leave the matter to the county attorney of the county.

We have had several complaints lodged against parties who were not attorneys and who have used the form of notice to debtors calculating to give the impression that this is a process issuing out of court. We find

that processes of this kind among laymen are quite common. We have not discovered in the cases reported to us that any attorney has been involved. We recommended, however, that legislation be enacted which will put a stop to this form of deception.

It may not be strictly within the province of this committee but we are moved to urge strongly the revision of the laws of this State for the trial of charges against attorneys. The present system requires charges to be made in the first instance in the Supreme Court, which requires that court to try the case as a trial case. For obvious reasons the Court cannot take the testimony of witnesses in open court, and it is obliged to hear and determine the case in the first instance on a code record. This is a most unsatisfactory manner. We believe a far better plan would be to try such cases as other lawsuits are tried, before a district court, who would hear and determine the case.

Very truly yours,

OSCAR HALLAM,
H. S. MEAD,
JOHN JUNELL,
D. L. GRANNIS,
REUBEN THOREEN.

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 reports as follows:

This Committee reported to the Association at its adjourned meeting last November a proposed amendment to Section 3 of Article 10 of the State Constitution dealing with the double liability of stockholders, a number of proposed changes in the probate code and several proposed changes in criminal procedure. The Association approved the proposed constitutional amendment, six suggested changes in the probate code and six in criminal procedure. In accordance with the action of the Association, your committee drafted a proposed constitutional amendment and bills covering the changes in probate and criminal procedure thus endorsed by the Association. All these matters were presented to the Legislature at its recent session.

The Legislature, by Chapter 429, proposed a constitutional amendment, the purpose of which is to place the liability of stockholders of corporations and co-operative associations in the control of the Legislature. The proposed amendment will, of course, be submitted to a popular vote at the general election of 1926. Chapters 315 and 316 are statutes dealing with two of the six recommendations approved by the Association. The former provides for transfer of guardianship proceedings from one county to another. The latter makes a license to sell lands valid until revoked by the court, subject, however, to a requirement that in case of private sale after one year the date of the license a reappraisal of the land must be made within thirty days before the sale.

All other bills prepared by your committee failed of enactment.

At the invitation of the probate judges your committee joined with them at their annual meeting in January, 1925. We had once more the opportunity to associate our efforts with those of the judges. We have recently held a joint meeting with a committee of the probate judges and a further meeting is planned for September next.

There are still before the committee suggestions for revision of the statutes dealing with authorized investments of fiducaries, and other mat-

ters of which some mention was made in our report to the adjourned session in November last. We hope these matters may be continued with the committee for further consideration.

Respectfully submitted,
C. G. DOSLAND,
JUSTIN MILLER,
I. M. OLSON,
B. W. SANBORN,
W. 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 fifteenth annual report of the Committee.

UNIFORM COMMERCIAL ACTS IN MINNESOTA

The present status in Minnesota with regard to the Uniform Commercial Acts approved and put out by the National Conference of Commissioners on Uniform State Laws for adoption by the States, is as follows:

Nine Uniform Commercial Acts were put out prior to 1922; and of these Minnesota has adopted seven. These seven acts, together with the date of approval by the National Conference, the date of adoption in Minnesota and the total number of states and other jurisdictions adopting them are as follows:

Negotiable Instruments Act, approved 1896, adopted in Minnesota in 1913, passed in all states.

Warehouse Receipts Act, approved 1906, adopted in Minnesota in 1913 passed in all states except Georgia, Kentucky, New Hampshire and South Carolina.

Bills of Lading Act, approved 1909, adopted in Minnesota in 1917, passed in 26 states.

Sales Act, approved 1906, adopted in Minnesota in 1917, passed in 27 states.

Partnership Act, approved in 1914, adopted in Minnesota in 1921, passed in 16 states.

Limited Partnership Act, approved 1916, adopted in Minnesota in 1919, passed in 13 states.

Fraudulent Conveyance Act, approved 1918, adopted in Minnesota in 1921, passed in 12 states.

The number of states which have passed the various acts given above does not include the action of 1925 legislatures, of which we have as yet no report.

These Uniform Commercial Acts have a much greater importance in the United States than is indicated by the total number of states passing them, since it is the larger commercial states which have more generally adopted them, and it is in the South and far West where the states have been slower to get the benefit of this uniform legislation.

The two Uniform Commercial Acts which were put out prior to 1922 and which have not been adopted in Minnesota are the Stock Transfer Act, and Conditional Sales Act. The Stock Transfer Act which makes shares of stock negotiable, and is a parallel act to the Warehouse Receipts Act and Bills of Lading Act, was approved in 1909 and has been adopted in 18 states. It has been introduced at a number of sessions of the Minnesota Legislature, but has met opposition. The Conditional Sales Act, while approved in 1918, has been adopted in only 8 states, and has not had such a generally favorable reception as the other commercial acts. We have in Minnesota a Conditional Sales Law which has been in force

here for many years, and with which the lawyers and the public generally are familiar. There is not now the urgent demand for passage of this Uniform Act.

In 1922 the National Conference put out the Fiduciaries Act, and Amendments to the Sales and Warehouse Receipts Acts, the nature of which we summarized in our 1923 Report. The Fiduciaries Act has been passed in 6 states, the Amendments to the Sales Act in 2 states and to the Warehouse Receipts Act in 4 states.

In 1924 the Conference put out the Uniform Arbitration Act; but due to the desire of certain members of the American Bar Association who have been active in pushing this class of legislation, its approval by that Association was postponed. The Act applies to controversies existing at the time of the submission to arbitration, which is the law in nearly all states. The persons opposing the Act wish it to apply also to controversies afterwards arising, which is the law in New York, and New Jersey. Meanwhile the United States Congress has passed an Arbitration Act adopting the New York plan.

The above covers the Uniform Commercial Acts which have been put out; and it will be seen that Minnesota has adopted most of them. The National Conference has under consideration a Uniform Mortgage Act, which is a Minnesota product, as we pointed out in last year's report, and which will probably be approved this year, a Chattel Mortgage Act, a Corporation Act and other Commercial Acts.

Uniform Declaratory Judgments Act

None of the Uniform Acts were passed in Minnesota at the session this past winter; but the Uniform Declaratory Judgment Act received legislative attention; and its passage in the near future is probable. This Act is of special interest to lawyers because it relates to Court Procedure, and provides that an action may be commenced to secure a judgment declaring rights, status and other legal relations, although other relief is not asked for. It is an extension to contracts and other classes of rights of the procedure now permitted in case of real property in the action to quiet title and thereby declare the rights in such property. The Uniform Act on this subject was approved by the Conference in 1922, and prior to 1925 had been adopted in six states in addition to five other states which had passed a similar law at an earlier date and three states which had previously adopted the principle in large part, or a total of 14 states.

The Uniform Act was introduced by Senator Child in the Senate and by Representative Lightner in the House, and was reported by the Judiciary Committee of the House with recommendations to pass near the close of the session, but was not reached for a vote. Endorsements of the Act by Dean Fraser of the University of Minnesota Law School, Hon. Royal A. Stone, former president of this Association, Hon. Horace D. Dickinson, presiding judge in Hennepin County, Judge Schoonmaker of Ramsey County, and others were presented to the Legislature committees.

The legislature seemed favorably impressed by the many advantages of the Act; but on account of its being a new proposition in some of its aspects and making some change in present practice, there was hesitancy in acting at the present session. We believe that another session will see its adoption.

This association is familiar with the Declaratory Judgment Act, having been addressed on the subject at the 1920 Meeting in St. Paul by Judge Schoonmaker; and in our report in 1923 we outlined its provisions. Resolutions have been passed by this Association in former years favoring the adoption of the Act by the legislature. An article on the matter is found in 5 Minnesota Law Review 31, 172. See also 33 Corpus Juris 1097; 12 A. L. R. 52. Note; 19 A. L. R. 1124. Note. We would however mention one or two points in connection with it.

The Declaratory Judgment in addition to being permitted in 14 states, has for many years been in successful use in England, Germany, and other countries of Europe, and in Canada and Australia, and a large

part of the British Empire; and it is continually being more widely adopted. In Minnesota for instance we find the act in adjoining jurisdictions, in Wisconsin, Ontario, Manitoba and North Dakota. It is also found in such states as New York, New Jersey and Pennsylvania.

The Declaratory Judgment is preventative justice. It enables a person to determine his rights before he acts. With the passage of this Act the lawyers of this state will be able to render a much more valuable service to their clients. Instead of merely giving their opinion as to what the clients' rights are under a contract or in other matters, they can go into court and secure a judicial determination if the matter be in doubt. The client may then act accordingly in safety. Much delay, and large economic waste and losses may be thereby avoided, with correspondingly great benefits to the public at large.

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

REPORT OF COMMITTEE ON LEGAL BIOGRAPHY

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

Your committee respectfully reports that there have been reported to date the deaths of the following members of the Bar during the past year;

Ace Portel Abell, Willoughby M. Babcock, John T. Baxter, Michael Charles Brady, C. J. Cahaley, Jay W. Crane, Frank H. Cutting, H. M. Farnam, J. F. George, John Bachop Gilfillan, Thomas P. Grace, Robert M. Haines, Henry H. Hammer, Francis B. Hart, F. M. Hinch, Charles Loren Lamb, James W. Lusk, John F. McGee, Charles S. Marden, Everett J. Mohl, Page Morris, Daniel Murphy, Jacob N. Nicholsen, Michael Charles O'Donnell, A. J. O'Grady, P. H. O'Keefe, Owen H. O'Niell, James H. Peregrine, William John Rahja, William E. Richardson, Harlan P. Roberts, Patrick J. Scanlon, Cordenio A. Severance, John Skadberg, William H. Smallwood, C. W. Stites, Ole Thoreson, F. H. Wadsworth.

Respectfully submitted,
July 1, 1925. THOMAS FRASER, Charman.

REPORT OF THE COMMITTEE ON STATE LIBRARY
June 23, 1925

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 occupies the entire East wing of the third floor in the State Capitol Building. The Library contains 96,529 bound volumes and approximately 7,000 pamphlets including United States and State documents. Current accessions for this year numbered approximately 2,379 volumes received from the following sources:

By purchase	1,404
Exchange from other States	431
Exchanges from Foreign Countries	11
From the United States Government	381
Miscelaneous Donations	52
Minnesota Laws, Records, Briefs, etc	100
	2,379

The Library Staff consists of:

Librarian	Reference Librarian
Assistant Librarian	Clerk

FUND FOR PURCHASE OF BOOKS AND BINDING

Cash on hand January 2, 1924	$ 5,637.28	
Annual Appropriation July 1, 1924	10,000.00	
Refund Warant No. 554008	7.50	
		$15,644.78
Paid out for books and binding	$11,226.60	
Balance Jan. 2, 1925	4,417.50	
Cancelled by State Auditor	.68	
		$15,644.78

FUND FOR CONTINGENT EXPENSES

Cash on hand January 2, 1924	$ 780.12	
Annual Appropriation July 1st, 1924	2,000.00	
		$ 2,780.12
Amount expended	2,140.71	
Balance, January 2, 1925	639.41	
		$ 2,780.12

The library is continuing the work of binding and re-binding and cataloging as rapidly as funds will permit. This fall it will add more steel stacks to accommodate growth in the periodical and legal miscellaneous sections. On June 1st, 1925, Mr. Paul Dansingberg, of Minneapolis, became Librarian, succeeding Mr. Charles F. Ebel.

Respectfully submitted,
JAMES H. QUINN,
JAMES E. MARKHAM,
EDWARD LEES,
JAMES PAIGE, Chairman.

REPORT OF COMMITTEE ON LEGAL EDUCATION AND ADMISSION TO THE BAR

TO THE MINNESOTA STATE BAR ASSOCIATION:

Your committee has been engaged in two matters, one dealing with rules for admission to the bar and the other dealing with legislation governing admission to the bar.

1. RULES FOR ADMISSION TO THE BAR. Pursuant to the mandate given by the Association last year, your committee met with the Board of Law Examiners. The fruit of this joint session is a revised draft of rules for admission to the bar, recommended for adoption to the Supreme Court by the Board of Law Examiners and by your committee, the salient features of the changes therein being:

(a) That evidence that an applicant has a high school education or its equivalent be furnished by a diploma from a high school or other satisfactory preparatory school, or by a certificate from the University of Minnesota or other qualified college that the applicant has passed satisfactory entrance examinations.

(b) That such high school education or its equivalent be acquired prior to entrance in a law school except as to those that shall have matriculated in a law school prior to September 1, 1925.

(c) That the course of study in a night law school or an office shall consist of four years instead of three years.

The object of these proposed changes is to secure a higher standard of general education and legal education for future applicants to the bar. Your committee is firmly of the opinion that applicants whose general education is less than that of a high school graduate should not be admitted to the study of law. The present rule is altogether too vague as to the general educational qualification of an applicant who is not a high school graduate. Your committee also feels that the distinction between the requirements of a day law school and the requirements of night law schools and the students studying in offices should be recognized, and that a

four-year period of study in an office or night law school is none too little time to give to the study of law by applicants for admission to the bar.

In the event that the Supreme Court shall not have passed upon these proposed new rules prior to the 1925 session of the Association, your committee recommends the adoption by the Association of a resolution recommending to the Supreme Court the adoption of these proposed rules.

2. LEGISLATION GOVERNING ADMISSION TO THE BAR. The 1925 session of the Minnesota Legislature passed two acts affecting admission to the bar. Both of these acts removed as to the classes of applicants covered thereby one of the requirements of the rules of the Supreme Court for admission to the bar, viz, the passing by all applicants of the bar examinations given by the Board of Law Examiners. Chapter 39 of the Laws of Minnesota for 1925 removed this requirement for disabled veterans of the World War who shall have received vocational rehabilitation and training in law. Chapter 117 removed this requirement for veterans of the World War who were members or employes of the 1925 Legislature. The other requirements as to education, character, age and residence were left unimpaired. The previous session passed a somewhat similar act in Chapter 246, Laws of 1923.

The requirement of a bar examination for all applicants for admission to the bar was achieved largely through the action of the Association only after a long struggle. Your committee feels very strongly that the requirement of bar examinations for all applicants is wise. Your committee has been much disturbed by the tendency shown by the three acts cited above. It was and is the unanimous opinion of your committee that legislation removing this requirement is unfair to the public in that it permits insufficiently prepared men to hold themselves out as qualified to practice law, that it is unfair to the bar in that it lowers the professional standards of admission and that it is a disservice to the avowed beneficiaries thereof.

At the suggestion of your committee your president appointed your committee as a nucleus of a larger committee to act in this matter. The other members of this committee were, Howard T. Abbott, Duluth; George W. Buffington, Minneapolis; Lee B. Byard, Minneapolis; Donald S. Holmes, Duluth; Ambrose Tighe, St. Paul; Marshall B. Webber, Winona; and A. L. Young, Winthrop. This committee, as a committee of the Association and as individual members of the bar, did, with the permission of the Supreme Court, file a brief in the Supreme Court opposing the admission of seven applicants who applied under Chapter 39, Laws of 1925. This brief attacked the act in question as unconstitutional. Our action in filing this brief met with violent objections from some members of the Legislature. No brief was filed on behalf of the applicants nor was a hearing had upon the question. The Supreme Court, however, later made its order admitting the applicants under this act by waiver as to them of the rule of the Supreme Court that each applicant pass the bar examinations. Your committee interprets this order to mean that the Supreme Court did not pass upon the constitutionality of the act involved but decided that since the power to make rules for admission to the bar includes the right to waive such rules, this was a proper case for such waiver in view of the Legislature's action. Your committee does not understand that the Supreme Court has ever waived this rule except in compliance with the Legislature's request as embodied in this case.

Your committee recommends the adoption of a resolution expressing the view that every applicant for admission to the bar, except those qualified under the rules by reason of length of practice in other jurisdictions, should without exception be required to pass the bar examinations.

Respectfully submitted,

S. D. CATHERWOOD,
FRANCIS B. TIFFANY,
JAMES E. DORSEY, Chairman.

REPORT OF THE LEGISLATIVE COMMITTEE

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

The several bills recommended for passage at the annual meeting of the Association at Bemidji, and at the adjourned meeting held in St. Paul, were duly prepared by the Chairmen of the various committees.

Mr. W. H. Cherry, Chairman of the Jurisprudence and Law Reform Committee, rendered very valuable services in carrying out the wishes of the Association, by preparing Bills for passage, providing for six changes in Criminal Procedure, six changes in Probate procedure, and a Constitutional amendment to abolish stockholder's liability.

Senator Cliff's committee, after a very great deal of work, prepared a new Drainage Law, and Mr. Paul J. Thompson prepared a law providing that the County Attorney could file information in any case where an indictment would lie, in order to reduce the number of cases in which a Grand Jury is necessary, and Mr. Morris B. Mitchell, Chairman of the Committee on Bar Association, conducted an excellent campaign for the Bill on such an organization. Various Committees representing the Association, and the Bar of the State appeared before the committees of the House, urging the passage of these various bills.

Of the Acts introduced, two Statutes were enacted, having to do with Probate proceedings: Chapter 315 provides for a transfer of Guardianship proceedings from one County to another. Chapter 316 provides that a license to sell lands shall remain in effect until revoked by the Court, but that private sales after one year from the date of the license, may only be had, after a reappraisal of the land is made within 30 days before the sale.

The suggestion of Mr. Cherry's committee for an amendment to Section 3 of the Article X of the Constitution relative to the liability of stockholders of corporations was not adopted but the proposal for an amendment did pass, which differs in form from Mr. Cherry's suggestion, and may accomplish the same purpose. In order to get a proper vote on such amendment, it will be necessary for the lawyers of the State to get behind this proposed amendment, and give it all the help they can.

Senator George H. Sullivan had certain Bills passed relative to the enforcement of the double liability. These bills were not recommended by the Association nor sponsored by it.

The Bill providing for the filing of information by the County Attornew was recommended favorably for passage, but too late in the session to come to a vote.

The Bill to increase the salaries of the District Judges failed to be reported out of the Committee of the Senate, and out of the Committee of the House. Several hearings were had upon the same before both Committees, and there really seemed to be no good reason why such a Bill should not be reported out and passed. However, there was a feeling by both Committees that if the Bill was reported out and passed, Governor Christianson would veto the same, and for that reason, we believe the Committee refused to recommend the same for passage. This is a very meritorious Bill, and it would seem to be the duty of the lawyers throughout the State to try to educate their Senators and Representatives as to the necessity of such a Bill.

The Association's Bill on Bar organization was recommended for passage by the House Judiciary Committee by a small majority. The bill then went upon general orders in the House, but was so far down on the calendar that there was no chance of it being reached. Mr. Pearson of Ramsey County, Chairman of the House Judiciary Committee, endeavored to have the Bill made a special order for April 7, 1925. The motion was lost in the House by a vote of 32 to 53. In the Senate, this Bill was not reported out of the Committee.

Senator Cliff's Committee succeeded in having the Drainage Bill passed substantially as drawn by it, and as recommended by the Bar Association.

Respectfully submitted,
LEGISLATIVE COMMITTEE,
By JNO. M. BRADFORD, Chairman.

REPORT OF MEMBERSHIP COMMITTEE

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

As long as there was pending before the Legislature, with some hope of success, the bill for a reorganization of the Minnesota Bar, it was not thought advisable to begin this year's campaign for an increased membership. That work was started as soon as the Legislature adjourned and has been going on with varying degrees of success ever since. The tangible result so far is the accession of something over 40 new members, counting in that small number of former members of the association who have been so long delinquent that they come in now as new members. Special effort has been made in Southern Minnesota and it is believed that the work will achieve a fine success before the Rochester meeting.

We are all indebted to Mr. Frank J. Morley, President of the Hennepin County Bar Association, and Mr. John A. Burns, President of the Ramsey County Bar Association, for the appointment of committees to make a building to building canvass in their respective cities. The work of those committees will be done within the next few days and the extent of its success will not be known until then. Whatever the results, the effort put forth is appreciated for heretofore the lawyers of the Twin Cities have not shown the interest which has been expected and hoped for from them by their brethren in the other districts.

Our committee has held no meeting because our problem is one the solution of which could not be helped very much by getting together. The plan has been to seek the co-operation of the members of the Board of Governors and the member of the Membership Committee in each judicial district. The task is necessarily one for local rather than state effort.

At the date of this report there are approximately 750 members in good standing. That is a goodly number but compared with the total of Minnesota lawyers, it is altogether too small. The relative smallness of our membership together with the too prevalent lack of interest in the State Bar Association, in the writer's judgment, explains why we Minnesota lawyers, as a class, are utterly helpless in matters of legitimate professional self-defense.

The lateness with which our work had to be commenced, coupled with the very proper insistence of the Secretary for an early report, has prevented the Chairman from procuring its approval by the rest of the committee. The entire work has been done by them and for its results, they deserve of all of the credit. Although they have not signed this report, their names are appended.

Respectfully submitted,
ROYAL A. STONE, Chairman (Second District)

June 30, 1925.

Committee Members:
C. D. SHELDON, First District
MORRIS J. OWEN, Third District
DANIEL F. FOLEY, Fourth District
JOSEPH N. MOONAN, Fifth District
GEORGE W. SEAGER, Sixth District
ROGER L. DELL, Seventh District
O. S. VESTA, Eighth District

HENRY H. SOMSEN, Ninth District
L. L. DUXBURY, Tenth District
WILLIAM WATTS, Eleventh District
T. S. SLEN, Twelfth District
C. T. HOWARD, Thirteenth District
JAMES E. MONTAGUE, Fourteenth District
C. L. PEGELOW, Fifteenth District
E. H. ELWIN, Sixteenth District
ALBERT R. ALLEN, Seventeenth District
GODFREY G. GOODWIN, Eighteenth District
J. D. MARKHAM, Nineteenth District

REPORT OF COMMITTEE ON UNAUTHORIZED PRACTICE OF LAW

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

Reporting on behalf of the Committee on Unauthorized Practice of Law, beg to state that nothing has occurred which has necessitated any activity on the part of the Committee. The moral effect of the work heretofore done by the Committee, as well as its existence, seems to be efficacious in carrying out the purposes for which the Committee was appointed. Your Committee therefore recommends its continuance.

HENRY DEUTSCH, Chairman.

June 16th, 1925.

COMMITTEE ON NOTEWORTHY CHANGES IN STATUTORY LAW

Your Committee begs leave to report as follows:

A report upon the subject of noteworthy changes in statutory law must necessarily be only a reflection of what in the minds of those who prepare such a report is noteworthy. Considered from the point of view of political interest and of possible future effect in the state, the last session of the Legislature of Minnesota will be known in history largely because of such major measures as the State Government Reorganization Act, Chapter 426; The Gasoline Tax Act, Chapter 297; and the Act for the Regulation of Motor Busses, Chapter 185. From the point of view of the widespread popular excitement which it created, no doubt the action of the Legislature, expressed in Joint Resolution No. 13, rejecting the proposed child labor amendment, is one of its outstanding performances. Judged from the point of view of space consumed in the Law Supplement, by far the most noteworthy statutory change is that relating to the Drainage Laws, Chapter 415, an able work prepared by a distinguished member of this Association.

Two proposed constitutional amendments which, while not statutory changes, are nevertheless legislative acts of considerable interest to lawyers and are to be found in Chapter 429, designed to authorize the Legislature to prescribe and limit the liability of stockholders in corporations, and Chapter 428, designed to increase to six the number of associate justices of the Supreme Court.

COURT ORGANIZATION

Your Committee is informed that the bill which sought to raise the salaries of the judges of the Supreme Court and District Courts did not muster enough support to secure passage, but it is interesting to note that the section of the statute, which provides for the salaries of the members of the Supreme Court, does appear in the Supplement in amended form as a result of a successful effort to secure an increase in the salary of a minor official of that court. This presumably important provision will be found in Chapter 268.

Chapter 281 provides for the removal of District Court judges because of incapacity. The act provides for the filing of a petition, a hearing before three district judges appointed for the purpose by the governor, and in the event of the retirement of any judge on this ground, the act provides for the appointment of a successor and that the judge so retired shall receive the compensation to which he would have been entitled if he had served out his term.

Chapter 326 is an indication of one of the sporadic efforts which is being made to secure a better adjustment of work in the trial courts and to relieve the congestion which exists in some of them. It is important largely because of this fact. The act consists of one section, which reads as follows:

> "Section 1. In any action commenced in the District Court of the Fourth Judicial District, no costs or disbursements shall be allowed the plaintiff where there is a municipal court in the district where such action is brought, having jurisdiction of the subject matter and in which jurisdiction of the defendant or defendants could be acquired, and in case the amount of recovery by the plaintiff in such an action is less than two hundred dollars, the plaintiff shall pay the defendant's costs and disbursements."

Another act which is presumably designed to secure a more speedy and efficient administration of justice and to relieve the courts of some of the false motions of practice is Chapter 242. The first paragraph of Section 1 of that chapter explains its purpose and reads as follows:

> "Whenever service of summons is made upon a defendant within a county of which he is an actual resident at the time of such service, and the place of trial of such action is thereafter changed to such county in the manner provided by Section 7722, General Statutes of 1913, or whenever service of summons is made upon a defendant in a county of which he is not a resident, and the place of such trial is in like manner changed to a county of which the defendant has been an actual resident for more than one year immediately preceding such service, which fact shall be set forth in defendant's affidavit for change of venue, the plaintiff shall forwith, in either case, pay to each defendant demanding such change of venue the sum of ten dollars as additional costs."

Criminal Law and Procedure

Several interesting changes have been made in the field of Criminal Law and Procedure, including Chapter 136, which permits the sheriff, upon a plea of guilty being entered by a man accused of crime, to take the prisoner upon his request before the district judge, either during term time or in vacation, wherever such court may be in the judicial district wherein such crime shall have been committed. In such case if the prisoner be brought before the court in a county other than that in which the offense was committed, it is provided that it shall not be necessary for the county attorney or the clerk of the district court of the county wherein such offense was committed to attend before the court.

Chapter 137 changes the procedure upon the arraignment of a man accused of crime by permitting the defendant to waive the reading of the indictment. It is expected that both of the changes indicated above will result in expediting the work of the criminal courts and will be of benefit both to the state and to the man accused of crime.

One of the most interesting changes is to be found in Chapter 221, which makes it a felony for any person to unlawfully sell intoxicating liquor which, when drunk, causes permanent physical or mental injury to the person drinking the same. It is to be noted that the act does not require that the liquor shall be drunk by the purchaser. The act is apparently one of that character which makes the doing of the thing prohibited therein a crime without regard to intent upon the part of the defendant to injure any particular person. It would seem to extend to the field of

criminal law that type of liability which the civil law has imposed upon one who manufactures or sells an article inherently or imminently dangerous to human life, and, what is more, it makes a person found liable thereunder guilty not merely of a misdemeanor, as is true in most cases of such prohibitions, but of a felony.

Transfer of Guardianship Proceedings

Chapter 315 provides a method of procedure for transferring proceedings relating to the guardianship of a ward from one county to another, thus taking care of a gap previously existing in the field of probate procedure.

Disposition of Property of Absent Person

Another act which serves a similar porpose as that last described is covered by Chapter 262, which provides for the management and disposition of property belonging to persons who abscond or disappear. The act provides that no proceedinps may initiated thereunder until after the expiration of three months from the date of disappearance, provides for the appointment of a receiver who shall have custody of and who shall manage such property, and provides that if, after the expiration of ten years, the absent person does not return, distribution of such property shall then be made to the persons to whom it would have been distributed if the absent person had died on the day ten years after his disappearance previously found by the court. One interesting feature of the act is that its administration is placed in the hands of the District Court and not in the hands of the Probate Court.

Admission of Attorneys to Practice

Three acts which are of at least passing interest to lawyers are those set out immediately hereafter, relating to the admission of persons to pratice law. Chapter 39 provides that disabled veterans of the World War, honorably discharged, who receive diplomas or certificates of completion of the course prescribed by a duly accredited law school, may be admitted to practice without examination. Chapter 117 provides that any veteran of the World War, honorably discharged, who has completed a course in a law school accredited by the State of Minnesota, recommended for character, ability, learning and good moral standing by three or more district court judges, and a member or an employee of the Legislature in session at the time a state bar examination is given, shall be admitted without examination within four months after the passage of the act. Chapter 67 provides that persons who have served as clerks of district courts for a period of twenty years shall be eligible for examination for the bar without being compelled to satisfy the requirement of study in a law school or in the office of a practicing attorney.

Conclusion

And finally, to indicate that changes are actually taking place nothing could be more appropriate for our purpose than to call attention to Chapter 406, which provides for the regulation of the use of aircraft, the inspection thereof by the Adjutant General of the State, the licensing of operators, and provides penalties for violation thereof.

Respectfully submitted,

Arthur E. Arnston,
Justin Miller, Chairman.
Carl H. Schuster,

REPORT OF COMMITTEES ON AMERICAN CITIZENSHIP

Minnesota State Bar Association:

I have the honor of submitting herewith the report of the Committee on American Citizenship for the past year.

There is no member of this Association but will agree that the basic law of the United States is sound; that it is the best yet devised by human

mind. This, I am sure, is the sincere belief of the great majority of the American people.

There exists, however, throughout this country a small but active minority devoting its time and its resources to propaganda seeking to destroy our government. I refer to the Communist organization. Until recently the activity of this organization has been viewed with very little concern. However, when it is found that in the State of Minnesota more than fifty Communist "Sunday Schools" are established chiefly in the larger cities of the state, but also in a number of smaller communities, which schools are teaching principles inimical to our government, the time has arrived for counter action.

Communism and Americanism cannot exist together. The teachings of the Christian Sunday Schools and the Communist Sunday Schools are diametrically opposed.

It is the belief of this committee that the lawyer holds a greater responsibility in combating Communism and its teachings than any other citizen of the community. It is the duty of the lawyer at all times to bring before the people of his community the Constitution of the United States, its meaning, its history and the necessity for perpetuating the principles therein enunciated. The lawyers through their education, vocation and environment are peculiarly fitted for this task. I am sure the members of the Minnesota State Bar Association are cognizant of the existence of this field and the work necessary to be done.

There are in every community many people with little or on understanding or knowledge of our Constitution. Until recently there has been little effort put forward to impress upon the people of the different communities the real importance of the American Constitution. On the other hand those who would destroy free government have been busily engaged in circulating propaganda throughout the country. The Bar Associations in this state and in the other states are challenged by such conditions to extend their energy and their means to correct them.

Within the past two months the Chairman of this Committee sent out letters to all members of the Minnesota State Bar Association asking their assistance by taking advantage of every opportunity to speak on the subject before public gatherings and especially to make preparations in their own communities for observance of Constitution Day. The answer to this letter was a revelation. Every reply showed a keen interest in the movement and a number advised that they are constantly active in their own communities in this kind of work.

A few quotations from the communications received from our members are interesting.

"For more than a year I have been doing what I could to interest people in a study and understanding of the Constitution. . . I also induce everyone I can to read Beveridge's Life of John Marshall," writes one lawyer.

Another says: "I am very much interested in this work. We have observed Constitution Day quite well in this county for the past two or three years."

A very valuable suggestion was sent in by a prominent lawyer: "You ask for suggestions. I have one namely, the dissemination of literature dealing with the Constitution, and Constitutional history, prepared in simple and plain language, and made accessible to everyone in the country at a very small cost. The anti-constitutional, radical and poisonous stuff that is made accessible in some way or other, at practically no cost, to those who do not understand the Constitution is circulated very freely, and in language which these people seem to understand; whereas that grand old Constitution, upon which the laws of the country are based, is not made accessible, or popular enough."

It is evident from these few expressions of the many received that the cause of American Citizenship in Minnesota is being carried on by the lawyers of this state in an efficient and effective manner.

The committee wishes, however, to make the following recommendations:

1. That the State Bar Association continue through this committee on Americanization the important work of bringing the people to recognize and to support the basic principles of our government.

2. That a careful study be made of the extent to which Communism has become fixed in the State of Minnesota with a view toward counteracting it in every possible way.

3. That if finances permit, literature be printed and distributed by the State Bar Association explaining the Federal Constitution and its relation to present day society. That this literature be prepared in such form that it will be interesting and understandable to the average person and be made as accessible as the literature being spread by those who are opposed to our government.

4. That particular attention be paid to the teachings to school children of the fundamentals of our government. In that connection it is recommended that members of this Association offer to their local school authorities their services in conducting classes on the Constitution a reasonable number of times in order that those best fitted may inculcate in the citizens of tomorrow the principles upon which the greatest free nation in the world has been constructed.

Respectfully submitted,
ARTHUR E. NELSON,
Chairman.

SPECIAL COMMITTEES

REPORT OF COMMITTEE ON UNIFORM PROCEDURE IN FEDERAL COURTS

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

Your Committee on Uniform Procedure in the Federal Courts has the honor to report as follows:

The following bills have been before the Congress:

1. S. 2060. An act to amend the Judicial Code, and to further define the jurisdiction of Circuit Courts of Appeals and of the Supreme Court, and for other purposes.

As stated in our last report, this bill operates to relieve the congestion of the Supreme Court by restricting its obligatory jurisdiction, and by enlarging the jurisdiction of the Circuit Courts of Appeals. Your Chairman has been informed by Congressman Walter Newton that this bill has become a law as Public 415, Sixty-eighth Congress. Mr. Newton has also kindly looked up and given information concerning action, or lack of action by Congress on other bills.

2. S. 2061. A bill to empower the Supreme Court of the United States to make and publish rules in Common Law actions. This is our old friend of twelve years' standing. It has been before Congress for that length of time—most of that time, in a pigeonhole of the Senate Committee on Judiciary. On several occasions in the past, it has been reported out by the House Judiciary and once passed that body, only to be kept in the State Judiciary, notwithstanding a large majority of the Senate Judiciary favored it, because Senator Walsh of Montana and one or two others, opposed it. If this is because of "Senatorial Courtesy," it is quite time that Vice-President Dawes should include this custom in his war upon the Rules of the Senate. Any reasonable bill should have its *chance* before the Senate, and this bill has never had a chance although an overwhelming majority of Congress is believed to favor it.

After great exertion by Secretary Hughes and others of the American Bar Association, it was reported out by the Senate Judiciary, then recommitted. The House Judiciary Committee of the last Congress was

reported also to be opposed to the bill. At this time, the bill seems as far from becoming a law as it ever was. Upon this bill we can but report progress. A number of your Committee members have written personal letters to their Congressman and the Senators, but until some way is found to get the Judiciary Committee of the Senate to report out the bill for passage, either with or against the consent of the two or three opposing Senators, nothing can be accomplished. Considering the constant pressure that has been brought to bear for over twelve years, by some of the most eminent jurists, lawyers and public bodies, it is a marvel that the public will can be so long thwarted on an important matter.

3. H. R. 5194. A bill to amend the judicial code by adding a section permitting the U. S. Courts to give "declaratory judgments" upon petition by interested parties. This bill seems to have been satisfactory to the House as it was upon its calendar for passage at adjournment.

4. S. 2693.—H. R. 5566. Abolishing the writ of error in civil and criminal cases, and substituting therefor the right of appeal. This bill pased both houses in the late winter, but died in Conference Committee.

5. H. R. 5265—S. 2692. This is a bill providing for the appointment of offiicial stenographers in each District. As most of the states, including Minnesota, have these already, the bill does not vitally concern us, but Mr. Newton's last report showed that it was held up by reason of opposition of Senator King of Utah.

6. H. R. 5476—S. 2691. Provides that there shall be no loss of civil rights or citizenship for conviction of crime, unless the defendant's sentence is imprisonment for more than a year, or unless the verdict of the jury or the sentence of the court expressly so specifies.

This bill passed the Senate but the Judiciary Committee of the House was dissatisfied with certain features of the bill and have taken it up with the American Bar Association.

Your Committee has assumed jurisdiction as to the foregoing bills, but have made little effort in favor of any of them, save the first two, S. 2060, the jurisdiction bill which has now become a law, and S. 2061, the bill to provide rules for Common Law cases.

7. S. 624—H. R. 3260. In our report last year (Minn. Law Review for November, 1924, P. 123) we referred to this bill, the text of which follows:

A Bill to Amend the Practice and Procedure in Federal Courts, and for Other Purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter in any cause pending in any United States court, triable by jury, in which the jury has been impaneled to try the issue of facts, the judge presiding in said court shall not express his opinion as to the credibility of witnesses or the weight of testimony involved in said issue: Provided, That nothing herein contained shall prevent the court directing a verdict when the same may be required or permitted as a matter of law.

Sec. 2. That the judge of the court on the issue of law involved in said cause shall be required to deliver his charge to the jury after the introduction of testimony and before the argument of counsel on either side, and where requested by either party said charge shall be reduced to writing: Provided, however, That in United States courts sitting in states in which the law permits the trial judge to deliver his charge after argument of counsel, such procedure and practice shall be followed by the trial judges in United States courts sitting in such states."

At the date of its report last year, your Committee was not in agreement as to the desirability of such a law, and the matter was laid over for the new Committee to study and make report. This bill, in slightly different form, has several times been before Congress. The present bill by Representative McKeown of Arkansas, is not so drastic as the companion bill introduced by Senator Caraway of Arkansas, but in the unanimous opinion of the Committees of the American Bar Association, on

Uniform Procedure in the Federal Courts and of the Committee on Jurisprudence and Law Reform, as well as many eminent lawyers such as Mr. Justice Sutherland and Henry W. Taft, the bill is vicious and should be opposed by the Bar.

It appears that the Senate bill was reported and passed without a roll call, and reported favorably by the House Judiciary without any public hearing and without notice to the Department of Justice. At this juncture, April, 1924, the American Bar Association got busy and the bills were held up. Mr. Thomas W. Shelton, Chairman of the American Bar Association Committee on Uniform Procedure in Federal Courts, filed an able brief with the Senate Judiciary Committee showing quite clearly that the duty of the Federal Judges to aid the jury in considering the facts, *leaving the final decision of the facts to the jury,* is a part of the Common Law trial by jury, guaranteed by the Constitution. Hence that Congress has no power to pass a law abridging that duty. The Committee on Jurisprudence and Law Reform of the American Bar Association also filed a brief in which it was pointed out that the power of the Federal Judges to comment on witnesses and evidence in an advisory way, leaving the final determination of the facts to the judgment of the jury has always been deemed a prerogative of Federal Judges. Games vs. Stiles, 14 Peters 327. This practice has prevailed in the following states: Arizona, Connecticut, Delaware, Idaho, Michigan, Minnesota, New Hampshire, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Wisconsin and Wyoming, and District of Columbia. The rule prevails in Minnesota at least in civil cases. Bonness vs. Felsing, 97 Minn. 227, and other states. In Cook vs. State, 11 Ga. 53, Nisbit, J., a great judge, said:

"It is to be feared in these days of reform, that the judges will be so strictly laced as to lose all power of vigorous and healthful action. I have but little fear of judicial power in Georgia so aggrandizing itself as to endanger any of the powers of other departments of the government, or to endanger the life and liberty of citizens, or to deprive the jury of their appropriate functions. The danger rather to be dreaded is making the judges men of straw, and thus stripping the courts of popular reverence, and annihilating the popular estimate of the power and sanctity of the law. . . ."

Your Committee believes that the Federal Judges of Minnesota ought not to be deprived of this power which they have always exercised with discretion and in the interest of the administration of justice.

RECOMMENDATIONS

1. That the Minnesota State Bar Association gives its approval to Senate Bill 2061, 2693 and 2691 and requests their enactment into law by Congress.

2. That this Association disapproves of Senate Bill 624—H. R. 3260 and believing that our Federal Judges can be trusted to exercise in the future, that wise discretion in charging juries, which has characterized their past history, respectfully request that Federal Judges be not stripped of the power to aid the jury in the administration of justice, by the passage of such a law.

Respectfully submitted,

JAMES D. SHEARER, Chairman,
A. B. CHILDRESS,
CARL W. CUMMINS,
J. M. FREEMAN,
H. G. GEARHART,
JAMES J. QUIGLEY,
JULIUS E. HAYCROFT.

Dated June 29, 1925.

COMMITTEE ON BAR ORGANIZATION

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

At a special meeting of the State Bar Association held in St. Paul on November 26th, 1924, the Bar Organization bill was put in final form and approved by the Association for the sixth time. This Committee was instructed to present the bill to the 1925 Session of the Minnesota Legislature, and if possible, to secure its passage. At a meeting of members of this Committee with the Legislative Committee of the Association, it was agreed that the Bar Organization Committee should devote its efforts to getting the lawyers of the state actively behind the bill, and that the Legislative Committee should handle the bill in the Legislature.

Accordingly, your Committee attempted to bring before the entire bar of the state the nature of this bill and the necessity for its passage by the Legislature. Four pamphlets were issued and distributed at intervals to the lawyers and newspapers of the state. The first pamphlet included a draft of the proposed bill, together with certain explanatory data as to its purpose and history. The second pamphlet contained letters from twenty-four prominent North Dakota lawyers, explaining the excellent way in which a similar law had worked in North Dakota and the high regard in which the state-wide bar organization was held by the entire bar of that state. The third pamphlet was a re-print of an article from the Minnesota Law Review, explaining in some detail the purposes of the bill, and stating the arguments for it. The fourth pamphlet attempted to answer the principal objections which had been made to the bill, and contained an urgent call to the lawyers of the state who favored the bill to make their wants known to the Legislature. A special letter was also sent out to the members of the Hennepin County Bar in connection with the mail referendum on the bill in that country. In addition to these pamphlets, the newspapers of the state were kept supplied with press notices relating to the bill and the campaign for its passage.

A member of the Committee from each Judicial District was made responsible for the campaign in his district, and an attempt was made to hold meetings of the lawyers in each district for the discussion of the bill. Meetings were held in approximately half the judicial districts of the state. The bill was overwhelmingly approved in most of the districts where it was discussed at such meetings. In only one district was it disapproved, and there by a divided vote. Where desired by the local committeeman, speakers were furnished by your Committee to present the bill at these local meetings. President A. W. Cupler, of the North Dakota Bar Association, was brought down to address a meeting of the Hennepin County Bar Association on the working of the North Dakota bar organization law. A substantial fund was raised from the lawyers of the state to cover the expenses of the campaign.

As the campaign for the adoption of the bill progressed, a strong counter-campaign was launched by its opponents. Much of the opposition was due to a misunderstanding of the bill and its objects, and disappeared upon the objectors being further informed on the subject. Some of the opposition was from lawyers who were honestly opposed to the bill because they felt that it interferred with their individual liberty and would be used as an instrument of oppression.

The opposition made itself felt in the Legislature. Those in favor of the bill did not make themselves felt in the same degree, and the result was that the bill failed of passage. A detailed account of its legislative history appears in the report of the Legislative Committee and will not be repeated here.

Your Committee makes the following recommendations to the Association:

1. That for the present this Association abandon its effort to secure the passage by the Legislature of a law organizing the bar of Minnesota.

There is no doubt in the minds of your Committee that a great majority of the lawyers of this state favor this bill and are convinced that, if passed, it would be distinctly beneficial to the bar and people of Minnesota. But our experience during two legislative sessions has convinced us that as a whole the lawyers of Minnesota are not sufficiently interested in the bill to put up the fight for it which is necessary to secure its passage.

To be generally in favor of the bill and to vote for it at meetings of this Association, is an entirely different matter from really taking off one's coat and getting into the fight to make the Legislature realize that the Minnesota lawyers want this bill passed. Your Committee found many lawyers who were willing to do the former, but not so many who were willing to do the latter.

The campaign for the passage of this bill showed clearly that what the bar of Minnesota needs is just what is provided in this bill—namely, a strong, closely-knit organization with some punch behind it. The last legislative session demonstrated very strongly that any business or profession which is properly organized can secure from the Legislature such measures as it is properly entitled to, and that any business or profession which is not properly organized has a difficult time getting anything.

It would seem to your Committee, therefore, that the task which confronts those lawyers who want to see a strong and effective bar in Minnesota is either to create an organization by statute to which every lawyer shall belong, or, if this is impossible, to find some way not yet tried of strengthening the voluntary state association which now exists. Legislation along the lines of the first alternative having proven impossible, due to the lack of effective organization which it was intended to remedy, your committee has considered the second alternative, in the hope of finding a remedy for the existing conditions. We believe that we have found the solution, and incorporate it in our second recommendation, which is:

II. That the Minnesota State Bar Association be re-organized along the following lines:

A. Local bar associations should be invited to affiliate with the State Association. In the event of such affiliation, every member of the local association would automatically become a member of the State Association, and the local association would pay to the State Association a certain amount per annum for each of its members. In districts where there are at present no local associations, these should be organized. No lawyer residing in a judicial district or district where the local association had affiliated could join the State Bar Association except through being a member of the affiliated local association. In judicial districts where no local bar association existed, or where the local bar association had not affiliated, lawyers could join the State Association as individual members as they do at present.

This recommendation is based on a substantially similar plan which was adopted by the State Bar Association of the State of Washington, in 1920. At the time of the adoption of this plan of organization, the Washington State Bar Association had 175 members, and was badly in debt. On June 1st, 1925, that Association had 1413, comprising about 90% of the bar of the State, and was in excellent financial condition. Practically every county of Washington, which has enough lawyers to form a local bar association has formed one, and every local bar association in the State is affiliated with the State Association. Local bar associations have been greatly strengthened by the affiliation.

B. The Board of Governors of the Association should be composed, nominated and elected as provided in the Bar Organization Bill as last approved by the Association, one member being chosen by and from each judicial district, except the districts comprising Minneapolis, St. Paul, and Duluth, which should have four, three and two members respectively. Members of the Board should be nominated by petition and elected by mail ballot in which every member should have an opportunity to vote. The member or members of the Board of Governors from each judicial district

should be made responsible for securing the affiliation with the State Association of the local bar association of his district, and if there is no local bar association in his district, it should be his duty to organize one and to secure its affiliation. In order to make this recommendation effective, your Committee further recommends.

III. That this Committee be outlined and instructed to re-draft the Constitution of this Association along the lines indicated, and to present the matter for consideration at a special meeting of the Association to be held some time during the current year, at a time and place to be selected by the Board of Governors.

Respectfully submitted,
COMMITTEE ON BAR ORGANIZATION,
By MORRIS B. MITCHELL, Chairman.

COMMITTEE ON SMALL DEBTOR'S COURTS

June 19th, 1925

Chester L. Caldwell, Esq.,
St. Paul, Minn.
Dear Mr. Caldwell:

In response to your card I beg leave to say the Committee on Small Debtors' Courts has no report to submit at the 1925 meeting of the bar.

Yours truly,
FRED W. REED.

REPORT OF COMMITTEE ON DRAINAGE

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

It is with a degree of satisfaction that we are able to report to you as Committee on Codification of the Drainage Laws that such was completed, so far as the Codification of the County and Judicial Drainage Laws are concerned, and reported to the Legislature at the 1925 Session. The Bill was introduced as Senate file 126, and passed and became a part of the Session Laws of 1925 as Chapter 415.

Some amendments were made to the Bill before its passage that did not meet with the approval of the Committee; but on the whole we feel the Members of the Bar who have occasion to examine it will find the Code a very material improvement on the Statute existing at the time of its passage.

The Committee, in completing this work has aimed to so perform the service as to retain so far as possible the present procedure or practice, and at the same time, to so far retain the general plan, as to preserve and secure the benefit of Judicial construction of many sections of the prior law.

It is hoped that when the Bars of the State have become familiar with the provisions of Chapter 415 that it may be realized that material benefits will result from the Committee's work.

Respectfully submitted,
F. L. CLIFF, Chairman, JULIUS J. OLSON,
O. A. LENDE, JOHN F. D. MEIGHEN, Committee.

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

This Committee assumed in the early part of the year that the Bill would be passed by the Legislature organizing the State Bar, which provided for the systematic organization of local associations, working in conjunction with and as a part of the larger organization.

We therefore deemed it inadvisable to undertake any constructive work pending the passage of that bill. The time has been so short since we learned that the organization bill did not pass, that we have not undertaken any definite artion.

However, we highly recommend that, when possible, County Associations, and larger ones embracing a Judicial District or more, should be organized and maintained throughout the state. Each should have a constitution with provisions therein for friendly co-operation with the State Bar Association.

We believe that the lawyers of a locality can receive much value, socially and educationally, from the local meetings, and that through their organized efforts in such locality they can do much to aid in carrying out the work and plans of the higher organization: in fact, they can and will thereby initiate work and plans for the State Association.

Again, many become active in a local association who have been less active in the State Bar meetings. Thus team work in the Association of a locality gives confidence for greater service in that of the State.

We cannot too firmly stress the value of Local Bar Associations, of which the State Association should in a sense be a Federation.

GEORGE J. ALLEN, Chairman, GEORGE W. BUFFINGTON,
HENRY H. FLOR, ALBERT BALDWIN,
Committee.

PROCEEDINGS

AT THE ANNUAL MEETING OF DISTRICT JUDGES OF MINNESOTA, FOR THE YEAR 1925, HELD AT ROCHESTER, MINNESOTA, JULY 20th AND 21st, 1925

Meeting of the district judges of the State of Minnesota held at the city of Rochester on the 20th and 21st days of July, 1925, pursuant to the provisions of Chap. 33, Laws of 1919; twenty-nine judges being present. Meeting called to order by Judge William Watts, who suggested that in view of the fact he had acted as president during the year 1924, that Judge G. E. Qvale, the oldest judge present in point of service be elected president. Whereupon Judge Qvale was duly elected as president and Judge W. W. Bardwell as secretary and treasurer.

Following the suggestion made at the 1924 meeting, a program had been prepared by the committee in charge.

The first matter to be taken up was an address by the Hon. Edward Lees, one of the commissioners of the supreme court, his speech being, "The District Court as Observed By the Supreme Court of the State." Judge Lees emphasized the point that fewer new trials would be granted if more attention was paid to the pleadings and necessary amendments at the time of the trial; if liberality in the admission of competent evidence was practiced; if the court would assume more control over counsel when inadvertently they travel far from the record; if the instructions to the jury were concise; and if responsibility for verdicts with the power to set them aside be fearlessly exercised in proper cases; also suggesting the advisability of the trial court, when finally, disposing of a matter, stating briefly in a memorandum made a part of the order the grounds upon which the order was based.

In the absence of Judge John B. Sanborn, chairman of the Legislative Committee, Judge Bardwell, also a member of the committee, presented the report for the committee. The report recommended that it would be a great benefit to the bench, the bar, the legislature and the public if the legal profession as a body could arrange in some way to give more coherent expression of their views on matters affecting the administration of justice in the practice of law; that as now organized the bar of the state is substantially without standing or influence, which fact is most unfortunate for both judges and lawyers; that if recommendations to the legislature had behind them the opinion of a majority of the lawyers of the state, together with their active support, there would be no difficulty in securing legislative suggestions that might be presented either by the bench or the bar.

Mr. L. L. Brown, of Winona, gave an interesting and intellectual talk on "State Courts and State Rights."

Judge E. F. Waite, acting as chairman of the Committee on Rules in place of Judge Bechhoefer, presented its report and recommendations, which were considered and the following rules adopted:

That court rule No. 2 be omitted with the notation, "Revoked July 21, 1925."

That the two new rules adopted August 28, 1923, be added to the revised compilation and to be known as Rules 45 and 46.

That the offer in the communication from the West Publishing Company to print the rules and distribute the same generally among the bar be accepted.

That court rule No. 7 be amended to read as follows: "The attorney or other officer of court who draws any pleading, affidavit, case, bill of exceptions or report, decree or judgment, exceeding two folios in length, shall distinctly number and mark each folio of one hundred words in the margin thereof or shall number the pages and the lines upon each page, and all copies, either for the parties or court, shall be numbered and marked so as to conform to the originals. All typewritten matter shall be carefully and legibly typed on plain, unglazed white paper of good texture, made with well inked ribbon and carbon and shall be double spaced. Any pleading, affidavit, bill of exceptions or case not thus prepared may be returned by the party on whom the same is served or by the Court."

That Rule 33 be amended by adding the following: "No civil case on the General Term calendar shall be continued by consent of counsel only or otherwise than by order of the court for cause shown; provided, that this prohibition shall not apply to districts in which the calendar is handled through an assignment clerk."

That Rule 37 be amended so as to read as follows: "Upon the filing of a verdict, or of a decision if the trial be by the Court or referee, the Court may order a stay of all proceedings for not to exceed forty days, which stay may be extended only upon notice and showing made that a transcript of the testimony was ordered from the court reporter within a reasonable time after the filing of the verdict or decision."

A new rule to be known as Rule 47, reading as follows: "The presiding judge shall examine jurors in civil cases; his examination to be followed by such further inquiry by counsel as the judge may deem proper."

A new rule to be known as Rule 48, reading as follows: "In actions for personal injury or death by wrongful act, brought by persons acting in a representative capacity, contracts for attorneys fees shall not be regarded as determinative of fees to be allowed by the Court."

A new rule to be known as Rule 49, reading as follows: "In criminal trials involving sex offenses or in which the evidence is likely to be of a scandalous nature the court may, with the consent of the defendant, exclude the general public from the court room."

Judge Bert Fesler presented a talk, his topic being, "The Judge and His Community," and closed his remarks by presenting the following recommendations, which were duly adopted:

(1) That a committee on procedural law and practice be appointed;

(2) That it shall make a report containing a discussion of any changes in procedural law or practice that any district judge shall present to the chairman of the committee before March 1, 1926;

(3) That it shall make recommendations based on its report;

(4) That the report and recommendation of the committee be mailed to each district judge before July 1, 1926;

(5) That such report and recommendation be the first order of business at the annual meeting of the judges in 1926;

(6) That such recommendation of said committee as shall receive the endorsement of three-fourths of the district judges shall be affirmatively supported by all the judges before the 1927 legislature.

Judge I. M. Olson gave an interesting and instructive address on "Trial Efficiency," in which he emphasized that in his opinion litigation was delayed by too many continuances at the request of counsel, and altogether too much time taken in the examination and empaneling of jurors.

A committee of five on rules was appointed for the following year, as follows: Judge James C. Michael, chairman, Judges William C. Leary, L. S. Nelson, S. H. Flaherty, and C. W. Stanton.

A committee on program was appointed for the 1926 meeting, as follows: Judge Bert Fesler, chairman; Judges W. W. Bardwell, Richard D. O'Brien, I. M. Olson, Charles E. Callaghan, William Watts, and W. L. Parsons.

W. W. BARDWELL,
Secretary.

MEMBERS
MINNESOTA STATE BAR ASSOCIATION
August 18, 1925

(Arranged by Cities and Towns)

ADA
Hetland, John M.

AKELEY
Webster, R. O.

AITKIN
Hallam, Louis
Mahaney, L. T.
Scott, D. A.

ALBERT LEA
Blackmer, Herman
Fullerton, W. R.
Johnson, Andrew William
Knudson, Bennett C.
Meighen, John F. D.
Morgan, Henry A.
Ostrander, L. H.
Peterson, Elmer R.
Peterson, Hon. Norman E.
Peterson, J. O.
Sturtz, William P.
Vollum, Alfred T.

ALEXANDRIA
Larson, Constant
Leach, Hugh E.

AMBOY
Thompson, Charles

ANNANDALE
Schiertz, G. G.

ANOKA
Blanchard, Will A.
Caswell, I. A.
Clutter, Guy E.
Cutter, Leeds H.
Freeman, Hon. Edward
Giddings, Hon. A. E.
Nelson, P. J.

APPLETON
Countryman, A. D.
Hollenbeck, G. M.
Wright, F. C.

ARLINGTON
Vesta, O. S.

ATWATER
Swanson, C. A.

AUSTIN
Alderson, R. C.
Bandler, Carl
Catherwood, S. D.
Dunnette, R. A.
Hoffman, E. N.
Hughes, B. E.
Nelson, Martin A.
Nicholson, J. N.
Richardson, A. C.
Sasse, Frank G.
Weber, Henry, Jr.
Wright, Arthur W.

BARNESVILLE
Hanson, N. B.

BEAUDETTE
Middleton, Charles R.
Middleton, E. C.

BELLE PLAINE
Irwin, F. C.

BEMIDJI
Andrews, A. A.
Ascham, C. M.
Bailey, Thayer C.
Brown, John L.
Huffman, Hallan L.
Koefod, Hon. S. M.
Pegelow, C. L.
Russell, P. J.
Scrutchin, Charles W.
Spooner, Marshall A.
Stanton, Hon. C. M.
Torrance, Graham M.

BENSON
Davis, John J.
Hudson, S. H.

BIRD ISLAND
Baker, James B.
Murray, Frank

BIWABIK
Browne, W. W.
Schuster, Carl H.

BLUE EARTH
Carlson, Chris
Frundt, H. J.
Morse, D. L.
Putnam, Frank E.
Putnam, R. H.

BRAINERD
Gardner, George H.
McClenehan, Hon. W. S.
Polk, A. D.

BRECKENRIDGE
Elwin, E. H.
Jones, D. J.
Jones, L. E.
Wyvell, Henry G.

BROWNS VALLEY
Leary, D. J.

CALEDONIA
Deters, W. A.
Dorival, Charles A.
Duxbury, L. L.
Flynn, William E.

CAMBRIDGE
Goodwin, Godfrey G.

CANBY
Johnson, J. N.
Lende, Olai A.
Severson, A. C.

CARLTON
Oldenburg, Henry, L. M.*

CASS LAKE
Smith, Fred W.

CENTRE CITY
Stolberg, Hon. Alfred P.
Weunerberg, S. Bernhard

CHASKA
Muekel, Francis
O'dell, W. F.

CHATFIELD
Underleak, Joseph

CHISHOLM
Berkman, Carl E.
Syme, Alger R.

*L. M.—Life Member.

COLERAINE
Peterson, A. M.

CROOKSTON
Grady, F. A.
Hendricks, J. A.
Kerkwood, W. J.
Miller, Arthur A.
Miller, Lucius S.
Montague, James E.
Murphy, William P.
O'Brien, Martin
Rowe, W. E.
Steenerson, H.
Sylvestre, J. H.
Vaule, Ole J.
Watts, Hon. William

DAWSON
Halvorson, H. O.

DELANO
Lindsley, F. H.

DETROIT
Jenson, Henry N.
Johnston, C. M.
Schroeder, P. F.
Shove, Herbert D.
Sletvold, O. A.

DODGE CENTRE
Swendiman, John, Jr.

DULUTH
Abbott, Howard T.
Adams, Charles C.
Adams, Frank D., L. M.
Agatin, A. L.
Alford, E. F.
Andreson, Oliver S.
Arnold, N. B.
Bailey, W. D., L. M.
Baird, John
Baldwin, Albert
Baldwin, Charles O.
Ball, Leo A.
Banning, A. T., Jr.
Blu, E. F.
Cant, Hon. Wm. A.
Carmichael, H. A.
Cedergren, John G.
Chaffee, Rollo N.
Clarfield, Albert B.
Casson, Joseph B., L. M.
Courtney, J. J.
Courtney, H. A.
Crassweller, Arthur H.
Crassweller, Frank, L. M.
Crosby, Wilson O., L. M.
Cutting, Frank H.

Dacey, Walter F.
Dancer, Hon. Herbert A.
d'Autremont, Hubert H.
De Groat, F. H.
Donovan, Dennis
Doyle, Thomas J.
Feldman, A.
Fesler, Bert
Finlayson, G. A. E.
Fogarty, E. L.
Forbes, Mason M.
Fryberger, H. B.
Fulton, H. C.
Gardner, James E.
Gearheart, H. G.
Gifford, G. B.
Gilbert, George M.
Gillette, A. C.
Gilpin, S. W.
Goldberg, Benjamin M.
Goldberg, Max E.
Grannis, Hon. H. J.
Greene, Warren E.
Haroldson, Hans B.
Harris, Luther C.
Harrison, William
Harrison, William P.
Heino, John R.
High, Leslie S.
Hoag, J. H.
Holmes, Donald S.
Hoshour, Harvey
Hunt, J. W.
Hunt, Rollo F.
Hunter, Arthur W.
Ingalls, Edmund
Jaques, Alfred
Jaques, Robert
Jenswold, John
Joyce, Thomas J.
Kimball, E. L.
Lacy, Rollo G.
Lanners, Harry W.
Larson, O. J.
Lathers, Austin
Lewis, I. K.
McClearn, Hugh J.
McCullough, Reuben C.
McCoy, Charles V.
McHugh, Leonard
McKeon, Thomas J.
McKnight, A. G.
McManus, A. E.
MacPherran, Edgar W.
Magney, Hon. C. R.
Middaugh, Henry G.
Mitchell, Oscar
Nelson, Andrew
Neukom, John W.
Nye, James G.
Osborne, James W.
Parker, G. E.
Pealer, William O.
Phelps, H. H.
Schmidt, P. C.
Smyth, Arthur R.
Spear, George H.
Stearns, Victor
Stilson, Clyde W.
Towne, Edward P., L. M.
Wanless, James
Washburn, A. McC.
Washburn, J. L., L. M.
Watts, M. Sheldon
Watts, W. A.
Whipple, W. E.
White, C. V.
Whiteley, J. H.
Williams, John G., L. M.
Wilson, Coryate S.
Zeismer, Raymond
Zoerb, A. J.

EAST GRAND FORKS

Massee, F. C.
Rasmussen, William James

ELBOW LAKE

Casey, Thomas
Scofield, E. J.

ELK RIVER

Hastings, Robert A.
Wheaton, Charles S.

ELY

Thomas, A. J.

EVELETH

Giblin, James J.

EXCELSIOR

Carmichiel, Daniel F.

FAIRFAX

Hopkins, Frank

FARIBAULT

Batchelder, Charles
Childress, A. P.
Coughlin, John E.
Gipson, Eugene H.
LeCrone, J. W.
McMahon, Edward W.
McMahon, James P.
Quinn, Thomas H.
Shields, Martin M.
Smith, Lucius A.

FAIRMONT

Allen, Albert R., L. M.
Ballon, Ben E.
Ballon, E. L.
Cooper, Paul C.

Dean, Hon. E. C.
Gaarenstrom, C. F.
Haycraft, J. E.
McCune, Robert H.
Quinn, Hon. James H.
Seifert, Leo J.

FARMINGTON
Rietz, Alfred

FERGUS FALLS
Dell, Roger L.
Eriksson, Leonard
Field, N. F.
Frankberg, George W.
Parsons, Hon. Wm. L.
Thompson, Anton

FERTILE
Austinson, J. B.

FOLEY
Swenson, E. W.

FOREST LAKE
Johnson, Rollin G.

FOSSTON
Brager, O. A.
Tomhave, R. H.

FOUNTAIN
Healy, Peter J.

FRAZEE
Daly, J. J.

GAYLORD
Knabel, H. A.
McKenzie, C. H.
Rogstad, Einer A.

GLENCOE
O'Hara, Joseph P.
Tifft, Hon. Cyril M.

GLENWOOD
Ronning, Henry T.
Webster, E. M.
Zima, Frank J.

GOODHUE
Gorman, Frank T.

GRACEVILLE
Stevens, M. S.

GRAND MARAIS
Murphy, S. C.

GRAND RAPIDS
Anderson, Howard W.
McCarthy, C. C.
Rossman, Willard A.
Stone, Ralph A.
Thwing, Alford L.

GRANITE FALLS
Bengston, H. P.
Lee, William
Loe, Bert O.
Stratton, Paul D.

HALLOCK
Blethen, R. V.
Konzen, P. H.

HALSTAD
Ueland, A. O.

HANCOCK
Cushing, R. G.

HASTINGS
Schaller, Albert

HAWLEY
Hammett, W. George

HECTOR
Allen, O. A.

HERMAN
Anderson, F. C.

HIBBING
Hughes, Hon. Martin
Stein, Lloyd W.
Stone, Philip M.

HINCKLEY
Ebert, John W.
Lamson, William H.

HUTCHINSON
Anderson, Sam G.
Bonniwell, H. H.
McNelly, William O.

INTERNATIONAL FALLS
Brown, John H.
Hurlburt, David
Jevne, Franz
Kane, W. V.
McPartlin, F. J.
Norton, John

IVANHOE
Johnson, Louis P.
Schulz, R. F.

JACKSON
Faber, F. D.
Rudow, Karl L.

JANESVILLE
Rogers, L. D.

JORDAN
Sullivan, George F.

KASSON
Edison, H. J.
McCaughey, John J.

KENNEDY
Sundberg, J. E.

LAKE BENTON
Stites, C. W.

LAKE CITY
Lindmeier, William G.
Phillips, James E.

LAKEFIELD
Kalash, F. B.

LAKEVILLE
Osterlind, F. H.

LAMBERTON
Enerson, Albert H.
Praxl, A. J.

LANESBORO
Anderson, Sydney
Chapman, A. G.

LE ROY
Harden, G. W. W.

LESUEUR
Cadwell, Francis
Hessian, Thomas

LINDSTROM
Andrews, Raymond C.

LITCHFIELD
Dart, Raymond H.
Hunt, Alva R.
March, C. H., L. M.
March, N. D.
Peterson, E. P.

LITTLE FALLS
Bergheim, Nels N.
Cammeron, D. M.
Rosenmeier, C.
Shaw, E. F.
Vasaly, Stephen C.

LONG PRAIRIE
Wood, William W.

LUVERNE
Canfield, E. H.

MADELIA
Bumby, John V.
Eide, Carl J.

MADISON
Ewing, Arthur W.
Slen, Theo. S.
Soderberg, Nathaniel
Sorknes, H. L.

MANKATO
Comstock, Hon. W. L.
Cray, Loren
Dailey, C. O.
Grogan, B. D.
Hughes, Evan
Hughes, Thomas
Hughes, William F.
Larson, Louis J.
Laurisch, C. J.
Morse, F. B.
Pfau, A. R., Jr.
Phillips, Charles E.
Regan, John E.
Roberts, Horace W.
Schmitt, J. W.
Stradtman, William

MANTORVILLE
Norton, Allan P.

MAPLETON
McGregor, Benjamin F.

MARSHALL
Berry, H. M.
Hall, James H.

MELROSE
Stephens, W. J.

MENAHGA
Quinn, Joseph H.

MILACA
Myron, Olin C.
Vaaler, Rolleff

MINNEAPOLIS
Abbott, Howard S.
Allen, E. P.
Anderson, A. R.
Anderson, Albert M.
Anderson, Arthur H.
Anderson, W. B.
Arctander, Ludvig

Babcock, L. C.
Bade, Edward A.
Baldwin, Hon. Mathias
Barber, Hugh H.
Barker, Leavitt R.
Barrett, R. D.
Bean, Francis A., Jr.
Benson, B. G.
Benson, John C.
Berg, John N.
Bernhagen, John F.
Bessesen, Henry J.
Best, E. N.
Bleecker, George M.
Boeke, Carleton F.
Bonner, John F.
Booth, Hon. Arthur F.
Bort, Clyde F.
Boutelle, M. H., L. M.
Bowler, Madison C.
Brecke, Oscar A.
Breding, A. M.
Bremner, W. H.
Bridgeman, Donald E.
Brill, Josiah E.
Brown, Edwin C.
Brown, Hosmer A.
Brown, Rome G., L. M.
Bruce, Andrew A.
Bruce, Olof L.
Bucknam, C. A.
Buffington, Geo. W., L. M.
Burchard, John E.
Burgess, George S.
Burnquist, J. A. A.
Byard, Lee Brooks
Byers, John F.
Cain, Gordon
Campbell, K. A.
Cant, Harold G.
Carleton, Henry G.
Carlson, H. C.
Carroll, Paul S.
Carroll, Walter N.
Carson, Harry S.
Chase, Nathan H.
Chase, W. S.
Cherry, Wilbur H.
Child, S. R.
Childs, C. H.
Chmelik, J. A.
Christofferson, Louis C.
Church, Lew C.
Chute, Fred B.
Chute, Louis C.
Clark, Irving J.
Coan, John R.
Cobb, Albert C., L. M.
Colman, Joseph H.
Comaford, Ralph H.
Cook, Theodore H.
Coursolle, N. M.
Covell, Karl H.
Cox, Harold W.
Cray, Willard R.
Cronin, Neil M.
Crosby, John
Cross, Norton M.
Culhane, Eugene J.
Dahl, John F.
Dalby, Charles A.
Darelius, A. B.
Davies, Otto N.
David, A. H.
Davis, Tom
Deinard, Amos
Deinard, Benedict
DeLeFond, Charles
Deutsch, Henry
Devaney, John
Dickinson, Hon. Horace D.
Dille, John I.
Dodge, Fred B.
Dodge, L. L.
Dorsey, James E.
Drake, Benjamin
Drake, C. E.
Dretchko, Alvin L.
Drew, Charles M.
Driscoll, Robert
Eaton, L. K.
Eberhart, Axel A.
Edwards, D. C.
Egelston, Alvord C.
Eisler, Charles J.
Elliott, Charles B.
Ellis, M. L.
Ellsworth, F. F.
Ellsworth, Fred L.
Erdall, John L.
Erstgaard, O. J.
Ervin, W. S.
Faegre, J. Barthall
Farley, John H.
Ferguson, C. M.
Ferrill, Walter A.
Fifield, James C.
Flannery, H. C.
Fletcher, Abbott L.
Fletcher, Clark R.
Fletcher, Henry J.
Foley, Daniel F.
Fosseen, Manly L.
Fowler, Charles R.
Fraser, Everet
Friedman, S.
Frisch, Irving M.
Fryberger, H. E.
Furber, Fred N.
Furst, William
Gale, Edward C., L. M.
Garies, Armin J.

Garrett, Albert W.
Garrigues, Edwin C.
Gaylord, Edson S.
Geisell, Erwin R.
George, David W.
Gibson, W. W.
Gilfillan, J. B.
Gillam, Stanley S.
Ginsberg, S. Harry
Gleason, J. J.
Goldman, Ben
Graves, Wyatt H.
Gregory, Jean C.
Grimes, George S.
Guesmer, Arnold L.
Guilford, Hon. P. W.
Gunn, A. M.
Halls, Jay C.
Hanley, M. F.
Hanson, H. Stanley
Healey, Frank
Hempstead, Clark
Henderson, William B.
Hennessey, Walter H.
Hertig, Wendell
Hessian, Maurice A.
Higgins, A. M.
Hoidale, Einar
Hoidale, H. L.
Hoke, George
Horrigan, William J.
Houck, Stanley B.
Hubachek, Frank R.
Hubachek, Louis A.
Hush, Howard R.
Irwin, H. D.
Jackson, A. B.
Jarvis, Paul G. H.
Jayne, Trafford
Jennings, Charles E.
Johnson, Adolph E. L.
Johnson, Albert J.
Johnson, Clay W.
Jordan, M. A.
Joss, L. H.
Joyce, M. M.
Junell, John, L. M.
Kanter, Alexander
Karatz, A. H.
Kay, Spencer B.
Kelly, Charles F.
Kelly, Edward P.
Kenyon, Ray H.
Keyes, C. F.
Kingman, Joseph, L. M.
Kingsley, George A.
Kitts, Rex H.
Kjellander, Harold R.
Kneeland, Thomas
Kolesky, Joseph P.
Kolliner, Robert S.
Kranz, Ferdinand
Kurtz, Frank H.
La Belle, D. E.
Larrabee, F. D.
Lauderdale, Henry W.
Leary, Hon. Wm. C.
Lee, Edward J.
Leonard, George B.
Levy, Sam
L'Herault, N. A.
Lind, John
Longbrake, L. L.
Loring, Edward J.
Loughin, Charles A.
Lucas, Edward
Lund, Harry A.
Lundeen, David J.
Lundeen, Walter S.
McDonald, W. H.
McGrath, W. H.
MacGregor, William E.
Maag, H. E.
Mackall, H. C.
Mahoney, Emmet P.
Malmberg, Ernest
Martin, James M.
Marwin, Paul J.
Mead, Henry S.
Meighen, Phillip J.
Meixner, Carl C.
Meleck, H. N.
Mendow, Hymen Z.
Mercer, Hugh V., L. M.
Meshbesher, Simon
Meyers, Simon
Michel, Ernest A.
Miller, Miss Jensine M.
Miller, R. Justin
Miner, Julius E.
Mitchell, Henry S.
Mitchell, Morris B.
Molyneaux, Hon. Jos. W.
Montgomery, Hon. E. A.
Moore, Maurice M.
Morley, Frank J.
Morris, Homer
Morris, William R.
Morrison, Frank L.
Morrison, Robert G.
Moses, Felix E.
Nash, Edward M.
Nelson, Edward
Nelson, Iver C.
Nichols, C. L.
Nichols, John F.
Nordin, John A.
Nordbye, Hon. Gunnar H.
Norton, Henry W.
Norton, W. I.
Nunan, J. D.
Nye, Hon. Frank M.

Okley, E. S.
O'Brien, James E., L. M.
O'Connell, J. C.
Ohman, John O.
Olson, Arthur E.
Olson, Floyd B.
Ossanna, Fred
Oulman, Orin M.

Paige, James
Palmer, B. W.
Palmer, J. E.
Pardee, N. E.
Park, H. T.
Parker, Guy C.
Patterson, Elmer C.
Paul, A. C.
Paul, Richard
Peabody, O. M.
Peycke, Tracy J.
Powell, Ransom J.
Prendergast, Edmund A.
Propper, G. T.
Putnam, Fred W.

Reed, Fred W.
Remele, A. C.
Richards, Bergman, L. M.
Richards, J. H.
Rieke, A. V.
Rieke, Miss Bonita F.
Rietz, Alfred E.
Ringham, Arthur E.
Risk, Loren
Roberts, W. P.
Robertson, James
Rochford, William
Rockwood, C. J.
Rogers, Harold N.
Rosenbloom, E. L.
Ryan, Frank P.

Safford, Orren E.
Schall, A. X., Jr.
Schoening, Herbert F.
Schrader, Ernest
Segal, Benjamin
Selover, A. W.
Severson, Lawrence
Shaw, Frank W., L. M.
Shaw, William D.
Shay, Harry V.
Shearer, David J.
Shearer, James D., L. M.
Sherman, V. C.
Simpson, D. F.
Simpson, Harold G.
Slater, Edwin S.
Smiley, W. Yale
Smilow, D. J.
Smith, C. V.
Smith, George R.
Smith, Rollin L.
Smith, S. S.
Snyder, Fred B., L. M.
Stevens, F. H.
Stevens, Harold A.
Stevens, H. H.
Stevenson, William J.
Stinchfield, Frederick H.
Stomel, Joseph
Street, Arthur L. H.
Strong, George W.
Swan, James G.
Swenson, Harry S.
Swert, John C.

Taney, Clifford A., Jr.
Tautges, William A.
Taylor, Kenneth
Teitsworth, Edward T.
Tenner, Alphonse A.
Thomas, Woodlief
Thomson, Theodore W.
Thompson, Paul J.
Todd, Walter W.
Trogner, Walter J.
Truax, J. J.
Tryon, Charles J.

Ueland, A.

VanDerlip, John R., L. M.
Van Volkenburg, Jesse
Von Fossen, L. J.
Von Kuster, Paul E.

Wadsworth, Frank H.
Waite, Hon. E. F.
Warber, Frederick P.
Ware, J. R.
Warner, C. E.
Watson, Ernest E.
Webb, Robert W.
Weil, Jonas
Whelan, Ralph
Wheelwright, John O. P., L. M.
White, C. V.
White, Frank T.
Whiteley, F. A.
Whitney, A. B.
Whiton, Walter S.
Wilder, B. W.
Will, G. A.
Williams, Charles J.
Williams, Warren O.
Williamson, J. F.
Wolfe, Walter P.
Woodard, H. F.
Woodhull, Schuyler C.
Works, Robert M.
Wright, Colin W.
Wright, F. B.
Wright, F. Gordon

Yale, Washington
Youngdahl, Peter J.

MINNEOTA
Gislason, Arni B.
Gislason, Bjorn B.

MONTICELLO
Whipple, Harry S.

MONTEVIDEO
Bensel, C. D.
Fosnes, C. A.
Gjerset, Olaf
Haave, John C.
Keif, A. E.

MONTGOMERY
Hangel, Francis J.
McCarthy, C. D.

MOORHEAD
Dosland, C. G.
Garrity, James A.
Johnson, N. J.
Marden, Charles S.
Nye, Hon. Carroll A.
Oleson, M. V.
Peterson, F. H.
Russell, William
Rustad, Garfield H.
Sharp, Edgar E.

MORA
Peterson, Almer J.

MORGAN
Werring, W. R.

MORRIS
Beise, George W.
Flaherty, Hon. S. A.
Mangan, T. J.
Ormond, James B.

MORTON
Dalzell, John A.

NEW PRAGUE
Jelinek, Arthur J. P.
Komerek, E. W.

NEW ULM
Dempsey, William H.
Eckstein, W. T.
Flor, H. H.
Mecklenburg, Harry A.
Mueller, Alfred W.
Olsen, Hon. I. M.
Somsen, Henry N.
Streissguth, Otto

NEW YORK MILLS
Schunk, Jesse A.

NORWOOD
Morrison, P. W.

OLIVIA
Freeman, J. M.
Gage, George F.
Lauerman, L. J.
Lindquist, Edward
Nordstrom, D. F.
Trochill, J. B.

ORTONVILLE
Bolsta, Charles H.
Chrisham, Charles E.
Cliff, F. L.
Purcell, J. J.

OSAKIS
Rosenmeier, Frank J.

OWATONNA
Alexander, F. A.
Dunham, F. A.
Gausewitz, Alfred L.
Leach, Harlan E.
Nelson, Harold S.
Nelson, Soren R.
Sawyer, Francis W.
Sawyer, Willis F.
Sperry, A. L.

PARK RAPIDS
Wooley, M. J.
Wright, Hon. B. F.

PAYNESVILLE
Tolman, Frank

PERHAM
Daly, M. J.

PINE CITY
Hurly, Michael B.
Long, Eugene H.
Roberts, S. G. L.
Sobotka, Ottocar
Wilcox, Robert

PINE ISLAND
Sheldon, D. C.

PINE RIVER
Miller, Frederick J.

PIPESTONE
Dealy, Charles
Evans, M. Tedd
Gurley, George P.
Howard, C. T.

PLAINVIEW
Carley, James A.
Rockwell, R. L.

PRESTON
Gray, A. D.
Hopp, John W.
Larson, Henry A.
Thompson, R. E.

PRINCETON
Skahen, S. P.

RED LAKE FALLS
Boughton, Charles E.
Farley, Fred L.

RED WING
Arntson, Arthur
Erickson, William M.
Hall, Charles P.
Johnson, Hon. Albert
Ofstedahl, Theodore N.

REDWOOD FALLS
Barnes, George A.
Clague, Frank
Dolliff, A. C.
Landon, A. R. A.

RENVILLE
Baker, Harold
Barnard, L. D.
Daly, R. T.
Matson, Charles N.
Stewart, Robert K.

ROCHESTER
Allen, George J.
Bower, A. Lee
Callaghan, Hon. Charles E.
Christensen, H. O.
Clemens, Albert H.
Eaton, Burt Elliott
Eaton, Burt W.
Eckholdt, I. L.
Fraser, Thomas
Gates, Vernon
Granger, George W.
Halloran, M. D.
Manahan, Richard
Richardson, W. B.
Ronken, Oscar C.
Schacht, Theodore A.
Willson, Burr T.

ROSEAU
Hegland, M. J.
Stebbins, G. M.

RUSH CITY
Markham, J. D.
Sherman, Harry L.

SANDSTONE
Johnson, Albert

SAUK CENTRE
Kells, L. L.

SAUK RAPIDS
Senn, J. A.

SHAKOPEE
Coller, Julius A.
Moriarity, James J.
Southworth, E.

SLAYTON
Harrington, M. J.
Nelson, Hon. L. S.
Terry, R. W.
Whitney, B. H.

SLEEPY EYE
Hauser, Albert

SPRINGFIELD
Loomis, A. G.
Seifert, Alexander

SPRING GROVE
Dahle, O. K.

SPRING VALLEY
Hamlin, Lyle
Pattridge, Samuel C.

STAPLES
Cashman, George F.
Gardner, Richard N.

STEWARTVILLE
Brin, John L.

STILLWATER
Buffington, E. D.
Comfort, F. V.
Comfort, Hollis M.
Lee, Orris E.
Lindbloom, P. Milton
Manwaring, L. L.
Neumeier, Karl G.
Sullivan, George H.
Thelan, Edward
Thoreen, Reuben G.

ST. CHARLES
Keifner, G. W.
Spencer, C. A.

ST. CLOUD

Brower, R. B.
Donohue, W. F.
Himsl, J. B.
Pattison, J. B.
Quigley, James J.
Richter, Charles H.
Roeser, Hon. John A.
Stewart, W. H.
Sullivan, Henry F.
Sullivan, John D.

ST. JAMES

Lobben, J. L.
Running, Albert
Seager, George W.
Seager, J. W.
Tighe, Emmett F.

ST. PAUL

Anderson, Samuel A.
Anderson, Victor E.
Andre, Charles J.
Armstrong, James D.
Barnacle, W. E.
Barta, Ferdinand
Barton, Humphrey
Barr, R. Edison
Barrows, Morton
Bechhoeffer, Hon. Charles
Beddall, Claude R.
Best, Irving
Bjorklund, Albin E.
Boerner, Hon. J. W.
Bowen, Ivan
Boyeson, A. E.
Bradford, John M.
Bremer, Paul G.
Briggs, A. G.
Briggs, Charles W.
Bright, Frederick I.
Brill, Kenneth G.
Bunn, Charles W., L. M.
Burns, Fitzhugh
Burns, John A.
Burr, Stiles W., L. M.
Butler, Hon. Pierce, L. M.
Butler, Pierce, Jr.
Caldwell, Chester L., L. M.
Calmenson, Abe B.
Calmenson, Jessie B.
Carman, Ernest C.
Carter, Warren S.
Catlin, F. M.
Chamberlin Sherman R.
Chase, Guy
Christianson, Hon. Theodore
Christofferson, A. B.
Christofferson, Arthur
Churchill, Harry P.
Cincera, Edward J.
Clapp, Augustus W.
Clark, Homer P.
Coleman, Daniel J.
Connelly, John L.
Converse, Willard
Converse, Richard
Corbett, John J.
Countryman, E. A.
Countryman, M. L., Jr.
Courtney, J. J.
Cowern, Joseph F.
Crooks, John S.
Crosby, S. P.
Cummins, Carl W.
Currie, Roy H.
Cutler, William W.
Daggett, Thomas C.
Denegre, James
Dibell, Hon. Homer D., L. M.
Doherty, M. J.
Donnelly, Charles, L. M.
Donnelly, Stan Dillon
Donohue, John R.
Douglas, W. B.
Drill, Frank
Drill, Lewis
Dunn, W. W.
Duxbury, F. A.
Duxbury, Leland S.
Dwyer, D. E.
Ebert, Charles
Edgerton, George B.
Faricy, Roland J.
Farnham, Charles W., L. M.
Finley, Joseph W.
Firestone, Milton P.
Fitzgerald, John J.
Fitzpatrick, Thomas C.
Foote, Frederick W.
Fosbroke, Gerald E.
Fosness, Walter
Frankel, Hiram D.
Frankel, Louis R.
French, Lafayette, Jr.
Frost, Daniel R.
Gailbraith, John P.
Gardner, Clifford W.
Gehan, F. J.
Gehan, Mark H.
Giberson, W. J.
Glenn, Horace H.
Goddard, W. T.
Grannis, David L.
Graves, William G.
Griffing, Thomas S.
Gullickson, Ludvig
Burnee, William H.
Hage, Peder M.
Hageman, Harry A.
Hallam, Oscar
Hamilton, Dexter F.

Hanft, Hon. Hugo
Harris, Harold
Harvey, Hubert M.
Headley, Cleon
Heim, Moritz, L. M.
Hertz, A. J.
Hess, Sylvan E.
Hilton, Clifford L.
Hodgson, F. C.
Holt, Hon. Andrew, L. M.
Horn, A. E.
Horwitz, Henry E.
Hoxmeier, Michael T.
Hurley, Martin J.
Ingersoll, F. G.
Iverson, S. G.
Ives, Gideon S.
Janes, Alex L.
Jesmer, J. Lyle
Johnson, H. S.
Junkin, Allen V.
Keefe, D. J.
Keefe, John J.
Keller, H. P.
Kelley, James E.
Kellogg, F. B., L. M.
Kennedy, John P.
Kennedy, Leo
Kennedy, R. L.
Kennedy, T. J.
Kerr, Harold C.
Kidder, Charles S.
Kimball, Guy W.
Kirby, John J.
Knapp, Edward A.
Kueffner, Otto
Kueffner, W. R.
Kyle, John P.
Lambert, George C.
Lane, Cornelius
Larson, Hayner N.
Laughran, H. A.
Lawler, D. W.
Lees, Hon. Edward, L. M.
Lethert, Charles A.
Levin, John J.
Lewis, G. W.
Lewis, Hon. O. B.
Lien, E. J.
Lightner, Milton C.
Lightner, W. H.
Lindley, E. C.
Locke, Harry S.
Loevinger, Gustavus
Lothrop, Arthur P.
Luethge, Geo. M.
Lyons, D. F.
McCarthy, F. D.
McConneloug, John W.
McDermott, Thomas
McDermott, Thomas J.
McDougall, E. H.
McGill, Allan M.
McGrath, T. J.
McMeekin, T. W.
McMurran, W. T.
McNamara, T. P.
Macartney, G. S.
Mallory, Walter
Manahan, James
Markham, George W.
Markham, James E.
Marks, Henry
Masik, Joseph H.
Massee, F. C.
Menz, C. J.
Michael, Hon. J. C.
Miller, Earl H.
Mills, Ernest
Missall, M. M.
Mitchell, W. D.
Mordaunt, Roy J.
Morgan, George W.
Morphy, E. H.
Morris, Owen
Mueller, Albert J.
Mulally, J. H.
Munn, M. D.
Murphy, James F.
Nelson, Arthur E.
Newcome, Warren
Nordlin, George
O'Brien, C. D., Jr.
O'Brien, Dillon J.
O'Brien, Hon. R. D.
O'Brien, Thomas D.
O'Brien, William P.
O'Malley, Linus
O'Malley, R. G.
Oppenheimer, William H.
Ordway, S. G.
Orr, Charles N.
Orr, Hon. Grier M.
Osborne, Frank O.
Otis, J. C.
Payte, Edward H.
Pearson, A. S.
Pearson, John A.
Peterson, George W.
Peterson, Harry H.
Peterson, Henry C.
Pew, Maurice V.
Phillips, Charles E.
Pinkerton, S. W.
Pratt, Albert F.
Quinn, T. F.
Quinn, W. J.
Randall, C. B.
Randall, H. E.
Richardson, Harris
Richardson, Harold J.
Richardson, Walter

Rosenthal, Francis J.
Rounds, John L.
Rumble, Wilfred E.
Ryan, Patrick J.
Ryan, Walter T.
Sanborn, Bruce W.
Sanborn, E. P.
Sanborn, Hon. John B.
Sanborn, Hon. Walter H.
Sargeant, Harvey O.
Scandrett, B. W.
Schaller, Albert
Schaub, Arthur
Schoonmaker, James
Schroeder, Baldwin
Schwartz, Louis B.
Scott, John F.
Scott, L. W.
Scott, Ulric
Seward, William H.
Sexton, John J.
Shay, Burton
Spanier, David H.
Spence, Thomas J.
Stark, Herman F.
Stearns, Harry S.
Sterling, Charles W.
Stewart, Arthur A.
Stoffer, Maurice W.
Stone, Hon. Royal A., L. M.
Storey, A. F.
Straight, L. A.
Strickland, Paul J.
Stringer, Edward
Stryker, J. E.

ST. PETER

Benson, Henry N.
Davis, C. R.
Olsen, George T.
Stone, Marshall E.

THIEF RIVER FALLS

Browne, William J.
Chommie, H. O.
Quale, Theodore

TRACY

English, A. R.
Korns, E. B.

TWIN VALLEY

Ostensoe, O. J.

TWO HARBORS

Jelle, J. G.

TYLER

Staunning, A. K.

VIRGINIA

Boyle, E. L.

WABASHA

Foley, John R.
Murdock, J. W.

WADENA

Mark, John H.
Parker, Hugh G.
White, Clyde R.
Wilson, Byron R.

WALKER

DeLury, Daniel
Rogers, Edward L.
Scribner, James S.

WARREN

Braggans, W. O.
Eckstrom, A. N.
Grindeland, Hon. Andrew S.
Hage, Rasmus
Olson, Julius J.

WARROAD

Fosmark, Alexander

WASECA

Bullard, J. R.
Gallagher, Frank T.
Gallagher, Henry M.
Madden, G. P.
Moonan, Joseph N.
Moonan, Paul
Moonan, R. G.
Senn, Hon. Fred W.
Spillane, Charles

WATERVILLE

Scheid, Arthur F.

WELLS

Brewster, M. W.

WEST CONCORD

Simpson, C. D.

WHEATON

Houston, Charles E.
McDonald, K. J.
Murphy, F. W., L. M.

WILLMAR

Gilbert, T. O.
Johnson, Charles
Oberg, Charles A.
Qvale, Hon. G. E.
Stanford, R. W.
Young, Henry G.

WINNEBAGO

Lindgren, H. C.

WINDOM
Borst, Wilson
Finstad, O. J.
Lund, Eli R.
Redding, P. S.

WINONA
Bierce, Herbert M.
Blair, Burr D.
Brown, Leslie L., L. M.
Bruce, Herbert M.
Finkelnburg, Karl
Fitzpatrick, James J.
George, J. M.
Lamberton, Henry M.
Lamberton, Henry, Jr.
Libera, Edward D.
Little, George P.
Looby, Robert E.
Owen, Morris J.
Sawyer, A. W.
Smith, J. Russell
Somsen, S. H.
Webber, Marshall B., L. M.

WINTHROP
Young, A. L.

WORTHINGTON
Cashel, J. A.
Flynn, John F.
Mott, James G.
Thornton, Manley P.

ZUMBROTA
Rockne, A. J.
Sigmond, Lloyd E.
Sletvold, O. A.

MEMBERS RESIDING IN OTHER STATES

CALIFORNIA

LOS ANGELES
Kennicott, J. A.
McManus, A. E.

SAN FRANCISCO
Rose, Maurice

VENICE
Fifield, James C.

WHITTIER
Lum, Leon E.

CONNECTICUT

NEW HAVEN
Morgan, E. M.

ILLINOIS

ROCK ISLAND
Smith, B. D.

MASSACHUSETTS

BOSTON
Loring, Col. Charles

NEBRASKA

OMAHA
McBean, A. J.
Randall, Frank E.

NEW YORK

NEW YORK
Begg, W. R., L. M.
Ray, John H., Jr.
Wiprud, A. C.

NORTH DAKOTA

GRAND FORKS
McClernon, P. A.

WASHINGTON, D. C.
Appell, Monte F.
Gault, L. J.
Michelet, Simon
Purdy, Milton D.

ROLL OF MEMBERS
MINNESOTA STATE BAR ASSOCIATION

(Alphabetically Arranged)

A

Abbott, Howard S., Minneapolis
Abbott, Howard T., Duluth
Adams, Charles E., Duluth
Adams, Frank D., Duluth
Agatin, A. L., Duluth
Alderson, R. C., Austin
Alexander, F. A., Owatonna
Alford, E. F., Duluth
Allen, Albert R., Fairmont
Allen, E. P., Minneapolis
Allen, George J., Rochester
Allen, O. A., Hector
Anderson, A. R., Minneapolis
Anderson, Albert M., Minneapolis
Anderson, Arthur H, Minneapolis
Anderson, F. C., Herman
Anderson, Howard W., Grand Rapids
Anderson, Samuel A., St. Paul
Anderson, Sam G., Hutchinson
Anderson, Sydney, Lanesboro
Anderson, Victor E., St. Paul
Anderson, W. B., Minneapolis
Andre, Charles J., St. Paul
Andresen, Oliver S., Duluth
Andrews, A. A., Bemidji
Andrews, Raymond C., Lindstrom
Appell, Monte F., Washington, D. C.
Arctander, Ludvig, Minneapolis
Armstrong, James D., St. Paul
Arnold, N. B., Duluth
Arntson, Arthur, Red Wing
Ascham, C. M., Bemidji
Austinson, J. B., Fertile

B

Babcock, L. C., Minneapolis
Bade, Edward A., Minneapolis
Bailey, Thayer C., Bemidji
Bailey, W. D., Duluth
Baird, John, Duluth
Baker, Harold, Renville
Baker, James B., Bird Island
Baldwin, Albert, Duluth
Baldwin, Charles O., Duluth
Baldwin, Hon. Mathias, Minneapolis
Ball, Leo A., Duluth
Ballon, Ben E., Fairmont
Ballon, E. T., Fairmont
Bandler, Carl, Austin
Banning, A. T., Jr., Duluth
Barber, Hugh H., Minneapolis
Barker, Leavitt R., Minneapolis
Barnacle, W. E., St. Paul
Barnard, L. D., Renville
Barnes, George A., Redwood Falls
Barr, R. Edison, St. Paul
Barrett, R. D., Minneapolis
Barrows, Morton, St. Paul
Barta, Ferdinand, St. Paul
Barton, Humphrey, Minneapolis
Batchelder, Charles, Faribault
Bean, Francis A., Jr., Minneapolis
Bechhoeffer, Hon. Charles, St. Paul
Beddall, Claude R., St. Paul
Begg, W. R., New York
Beise, George W., Morris
Bengston, H. P., Granite Falls
Bensel, C. D., Montevideo
Benson, B. G., Minneapolis
Benson, Henry N., St. Peter
Benson, John C., Minneapolis
Berg, John N., Minneapolis
Bergheim, Nels N., Little Falls
Berkman, Carl E., Chisholm
Bernhagen, John F., Minneapolis
Berry, H. M., Mapleton
Bessesen, Henry J., Minneapolis
Best, E. N., Minneapolis
Best, Irving, Minneapolis
Bierce, Herbert M., Winona
Bjorklund, Albin E., St. Paul
Blackmer, Herman, Albert Lea
Blair, Burr D., Winona
Blanchard, Will A., Anoka
Bleecker, George M., Minneapolis
Blethen, R. V., Hallock
Blu, E. F., Duluth
Boeke, Carleton F., Minneapolis
Boerner, Hon. John W., St. Paul
Bolsta, Charles H., Ortonville
Bonner, John F., Minneapolis
Bonniwell, H. H., Hutchinson
Bort, Clyde F., Minneapolis
Booth, Hon. Wilbur F., Minneapolis
Borst, Wilson, Windom

Boughton, Charles E., Red Lake Falls
Boutelle, M. H., Minneapolis
Bowen, Ivan, St. Paul
Bowers, A. Lee, Rochester
Bowler, Madison C., Minneapolis
Boyle, E. L., Virginia
Boyeson, A. E., St. Paul
Bradford, John M., St. Paul
Brager, O. A., Fosston
Braggans, W. O., Warren
Brecke, Oscar A., Minneapolis
Breding, A. M., Minneapolis
Bremer, Paul G., St. Paul
Bremner, W. H., Minneapolis
Brewster, M. W., Wells
Bridgeman, Donald E., Minneapolis
Briggs, Asa G., St. Paul
Briggs, Charles W., St. Paul
Bright, Frederick I., St. Paul
Brill, Josiah E., Minneapolis
Brill, Kenneth G., St. Paul
Brin, John L., Stewartville
Brower, R. B., St. Cloud
Brown, Edwin C., Minneapolis
Brown, Hosmer A., Minneapolis
Brown, John H., International Falls
Brown, John L., Bemidji
Brown, Leslie L., Winona
Brown, Rome G., Minneapolis
Brown, William J., Thief River Falls
Brown, W. W., Biwabik
Bruce, Andrew A., Minneapolis
Bruce, Herbert M., Winona
Bruce, Olaf L., Minneapolis
Bucknam, C. A., Minneapolis
Buffington, E. D., Stillwater
Buffington, George W., Minneapolis
Bullard, J. R., Waseca
Bumby, John V., Madelia
Bunn, Charles W., St. Paul
Burchard, John E., Minneapolis
Burgess, George S., Minneapolis
Burns, Fitzhugh, St. Paul
Burns, John A., St. Paul
Burnquist, J. A. A., Minneapolis
Burr, Stiles W., St. Paul
Butler, Hon. Pierce, St Paul
Butler, Pierce, Jr., St. Paul
Byard, Lee Brooks, Minneapolis
Byers, John F., Minneapolis

C

Cadwell, Francis, LeSueur
Cain, Gordon, Minneapolis
Caldwell, Chester L., St. Paul
Callaghan, Hon. Charles E., Rochester
Calmenson, Abe M., St. Paul
Calmenson, Jessie B., St. Paul
Cammeron, D. M, Little Falls
Campbell, K. A., Minneapolis
Canfield, E. H., Luverne
Cant, Harold G., Minneapolis
Cant, Hon. William A., Duluth
Carleton, Henry G., Minneapolis
Carley, James A., Plainview
Carlson, Chris, Blue Earth
Carlson, H. C., Minneapolis
Carman, Ernest C, St. Paul
Carmichael, H. A., Duluth
Carmichiel, Daniel F., Excelsior
Carroll, Paul S., Minneapolis
Carroll, Walter N., Minneapolis
Carson, Harry S., Minneapolis
Carter, Warren S., St. Paul
Casey, Thomas, Elbow Lake
Cashel, J. A., Worthington
Cashman, George F., Staples
Caswell, I. A., Anoka
Catherwood, S. D., Austin
Catlin, F. M., St. Paul
Cedergren, John G., Duluth
Chaffee, Rollo N., Duluth
Chamberlin, Sherman R., St. Paul
Chapman, A. G., Lanesboro
Chase, Guy, St. Paul
Chase, Nathan H., Minneapolis
Chase, W. S., Minneapolis
Cherry, Wilbur H., Minneapolis
Child, S. R., Minneapolis
Childs, C. H., Minneapolis
Childress, A. P., Faribault
Chmelik, J. A., Minneapolis
Chommie, H. O., Thief River Falls
Chrisham, Charles E., Ortonville
Christianson, Hon. Theodore, St. Paul
Christensen, H. O., Rochester
Christofferson, A. B., St. Paul
Christofferson, Arthur, St. Paul
Christofferson, Louis C., Minneapolis
Church, Lew C., Minneapolis
Churchill, H. P., St. Paul
Chute, Fred B., Minneapolis
Chute, Louis P., Minneapolis
Cincera, Edward J., St. Paul
Clapp, Augustus W., St. Paul
Claque, Frank, Redwood Falls
Clarfield, Albert B., Duluth
Clark, Homer P., St. Paul
Clark, Irving J., Minneapolis
Clemens, Albert H., Rochester
Cliff, F. L., Ortonville
Clutter, Guy E., Anoka
Coan, John R., Minneapolis
Cobb, Albert C., Minneapolis
Coleman, Daniel J., St. Paul

Colman, Joseph H., Minneapolis
Coller, Julius A., Shakopee
Comaford, Ralph H., Minneapolis
Comfort, F. V., Stillwater
Comfort, Hollis M., Stillwater
Connolly, John L., St. Paul
Comstock, Hon. W. L., Mankato
Converse, Richard R., St. Paul
Converse, Willard, South St. Paul
Conzett, C. N., St. Paul
Cook, Theodore H., Minneapolis
Cooper, Paul C., Fairmont
Corbett, John J., St. Paul
Cotton, Joseph B., Duluth
Coughlin, John E., Faribault
Countryman, A. D., Appleton
Countryman, E. A., St. Paul
Countryman, M. L., Jr., St. Paul
Coursolle, N. M., Minneapolis
Courtney, J. J., Duluth
Courtney, J. J., St. Paul
Courtney, H. A., Duluth
Covell, Karl H., Minneapolis
Cowern, Joseph F., St. Paul
Cox, Harold W., Minneapolis
Crandall, R. A., no address
Crassweller, Arthur H., Duluth
Crassweller, Frank, Duluth
Crawford, W. M. N., St. Paul
Cray, Lorin, Mankato
Cray, Willard R., Minneapolis
Crooks, John S., St. Paul
Cronin, Neil M., Minneapolis
Crosby, John, Minneapolis
Crosby, S. P., St. Paul
Crosby, Wilson O., Duluth
Cross, Norton M., Minneapolis
Culhane, Eugene J., Minneapolis
Cummins, Carl W., St. Paul
Currie, Roy H., St. Paul
Cushing, R. G., Hancock
Cutler, William W., St. Paul
Cutter, Leeds H., Anoka
Cutting, Frank H., Duluth

D

Dacey, Walter F., Duluth
Daggett, Thomas C., St. Paul
Dahl, John F., Minneapolis
Dahle, O. K., Spring Grove
Dailey, C. O., Mankato
Dalby, Charles A., Minneapolis
Daly, J. J., Frazee
Daly, M. J., Perham
Daly, R. T., Renville
Dalzell, John A., Morton
Dancer, Herbert A., Duluth
Darelius, A. B., Minneapolis
Dart, Raymond H., Litchfield
d'Autremont, Hubert H., Duluth
Davies, Otto N., Minneapolis
David, A. H., Minneapolis
Davis, C. R., St. Peter
Davis, John I., Benson
Davis, Tom, Minneapolis
Dealy, Charles, Pipestone
Dean, Hon. E. C., Fairmont
DeGroat, F. H., Duluth
Deinard, Amos, Minneapolis
Deinard, Benedict, Minneapolis
DeLeFond, Charles, Minneapolis
Dell, Roger L., Fergus Falls
DeLury, Daniel, Walker
Dempsey, William H., New Ulm
Denegre, James, St. Paul
Deters, W. A., Caledonia
Deutsch, Henry, Minneapolis
Devaney, John P., Minneapolis
Dille, John I., Minneapolis
Dibell, Hon. Homer B., St. Paul
Dickenson, Hon. Horace D., Minneapolis
Dodge, Fred B., Minneapolis
Dodge, L. L., Minneapolis
Doherty, M. J., St. Paul
Dolliff, A. C., Redwood Falls
Donnelly, Charles, St. Paul
Donnelly, Stan Dillon, St. Paul
Donohue, John R., St. Paul
Donohue, W. F., St. Cloud
Donovan, Dennis, Duluth
Dorival, Charles A., Caledonia
Dorsey, James E., Minneapolis
Dosland, C. G., Moorhead
Douglas, W. B., St. Paul
Doyle, Thomas J., Duluth
Drake, Benjamin, Minneapolis
Drake, C. E., Minneapolis
Dretchko, Alvin L., Minneapolis
Drew, Charles M., Minneapolis
Drill, Frank, St. Paul
Drill, Lewis J., St. Paul
Driscoll, Robert, Minneapolis
Dunham, F. A., Owatonna
Dunn, W. W., St. Paul
Dunnette, R. A., Austin
Duxbury, F. A., St. Paul
Duxbury, L. L., Caledonia
Duxbury, Leland S., St. Paul
Dwyer, D. E., St. Paul

E

Eaton, Burt Elliott, Rochester
Eaton, Burt W., Rochester
Eaton, L. K., Minneapolis
Eberhart, Axel A., Minneapolis
Ebert, Charles F., St. Paul
Ebert, John W., Hinckley
Eckholdt, I. L., Rochester
Eckstein, W. T., New Ulm
Eckstrom, A. N., Warren
Edgerton, George B., St. Paul

Edison, H. J., Kasson
Edwards, D. C., Minneapolis
Egelston, Alvord C., Minneapolis
Eide, Carl J., Madelia
Eisler, Charles J., Minneapolis
Elliott, Charles B., Minneapolis
Ellis, M. L., Minneapolis
Ellsworth, F. F., Minneapolis
Ellsworth, Fred L., Minneapolis
Elwin, E. H., Breckenridge
Enerson, Albert H., Lamberton
English, A. R., Tracy
Erdall, John L., Minneapolis
Erickson William M., Red Wing
Eridsson, Leonard, Fergus Falls
Erstgaard, O. J., Minneapolis
Ervin, W. S., Minneapolis
Evans, M. Tedd, Pipestone
Ewing, Arthur W., Madison

F

Faber, F. B., Jackson
Faegre, J. Barthell, Minneapolis
Faricy, Roland J., St. Paul
Farley, Fred L., Red Lake Falls
Farley, John H., Minneapolis
Farnham, Charles W., St. Paul
Feldman, A., Duluth
Ferguson, C. M., Minneapolis
Ferrill, Walter A., Minneapolis
Fesler, Hon. Bert, Duluth
Field, N. F., Fergus Falls
Fifield, James C., Venice, Cal.
Finkelnburg, Karl, Winona
Finlayson, G. A. E., Duluth
Finley, Joseph W., St. Paul
Finstad, O. J., Windom
Firestone, Milton P., St. Paul
Fitzgerald, John J., St. Paul
Fitzpatrick, James J., Winona
Fitzpatrick, Thomas C., St. Paul
Flaherty, Hon. S. A., Morris
Flannery, H. C., Minneapolis
Fletcher, Abbott L., Minneapolis
Fletcher, Clark R., Minneapolis
Fletcher, Henry J., Minneapolis
Flor, H. H, New Ulm
Flynn, John F., Worthington
Flynn, William E., Caledonia
Fogarty, E. L., Duluth
Foley, Daniel F., Minneapolis
Foley, John R., Wabasha
Foote, Frederick W., St. Paul
Forbes, Mason M., Duluth
Fosbroke, Gerald E., St. Paul
Fosmark, Alexander, Warroad
Fosnes, C A., Montevideo
Fosness, Walter, St. Paul
Fosseen, Manly L., Minneapolis
Fowler, Charles R., Minneapolis
Frankberg, George W., Fergus Falls
Frankel, Hiram D., St. Paul
Frankel, Louis R., St. Paul
Fraser, Everett, Minneapolis
Fraser, Thomas, Rochester
Freeman, J. M., Olivia
Freeman, Hon. Edward, Anoka
French, Lafayette, Jr., St. Paul
Friedman, S., Minneapolis
Frisch, Irving M., Minneapolis
Frost, Daniel R., St. Paul
Frundt, H. J., Blue Earth
Fryberger, H. B., Duluth
Fryberger, H. E., Minneapolis
Fullerton, W. R., Albert Lea
Fulton, H. C., Duluth
Furber, Fred N., Minneapolis
Furst, William, Minneapolis

G

Gaarenstrom, C. F., Fairmont
Gage, George F., Olivia
Gailbraith, John P., St. Paul
Gale, Edward C., Minneapolis
Gallagher, Frank T., Waseca
Gallagher, Henry M., Waseca
Gardner, Clifford W., St. Paul
Gardner, George H., Brainerd
Gardner, James E., Duluth
Gardner, Richard N., Staples
Garies, Armin J., Minneapolis
Garrett, Albert W, Minneapolis
Garrigues, Edwin C., Minneapolis
Garrity, James A., Moorhead
Gates, Vernon, Rochester
Gault, L. J., Washington, D. C.
Gausewitz, Alfred L., Owatonna
Gaylord, Edson S., Minneapolis
Gearhart, H. G., Duluth
Gehan, F. J., St Paul
Gehan, Mark H., St. Paul
Geissell, Erwin R., Minneapolis
George, David W., Minneapolis
George, J. M., Winona
Giberson, W. J., St. Paul
Giblin, James J., Eveleth
Giddings, Hon. A. E., Anoka
Gifford, G. B., Duluth
Gilbert, George M., Duluth
Gibson, W. W., Minneapolis
Gilbert, T. O., Willmar
Gilfillan, J. B., Minneapolis
Gillam, Stanley S., Minneapolis
Gillette, A. C., Duluth
Gilpin, S W., Duluth
Gipson, Eugene H., Faribault
Ginsberg, S. Harry, Minneapolis
Gislason, Hon. Arni B., Minneota
Gislason, Bjorn B., Minneota
Gjerset, Olaf, Montevideo
Gleason, J. J., Minneapolis
Glenn, Horace H., St. Paul
Goddard, W. T., St. Paul

Goldberg, Benj. M., Duluth
Goldberg, Max E., Duluth
Goldman, Ben, Minneapolis
Goodwin, Godfrey, Cambridge
Gorman, Frank T., Goodhue
Gray, A. D., Preston
Grady, F. A., Crookston
Granger, George W., Rochester
Grannis, David L., So. St. Paul
Grannis, Hon. H. J., Duluth
Graves, William G., St. Paul
Graves, Wyatt H., Minneapolis
Greene, Warren E., Duluth
Gregory, Jean C., Minneapolis
Griffing, Thomas S., St. Paul
Grimes, George S., Minneapolis
Grindeland, Hon. Andrew S., Warren
Grogan, B. D., Mankato
Guesmer, Arnold L., Minneapolis
Guilford, Hon. P. W., Minneapolis
Gullickson, Ludwig, St. Paul
Gunn, A. M., Minneapolis
Gurley, George P., Pipestone
Gurnee, William H., St. Paul

H

Haave, John C., Montevideo
Hage, Peder M., St. Paul
Hage, Rasmus, Warren
Hageman, Harry A., St. Paul
Hall, Charles P., Red Wing
Hall, James H., Marshall
Hallam, Oscar, St. Paul
Halloran, M. D., Rochester
Halls, Jay C., Minneapolis
Hallum, Louis, Aitkin
Halvorson, H. O., Dawson
Hamilton, Dexter F., St. Paul
Hamlin, Lyle, Spring Valley
Hammett, W. George, Hawley
Hanft, Hon. Hugo O., St. Paul
Hangel, Francis J., Montgomery
Hanley, M. F., Minneapolis
Hanson, H. Stanley, Minneapolis
Hanson, N. B., Barnesville
Harden, G. W. W., LeRoy
Haroldson, Hans B., Duluth
Harrington, M. J., Slayton
Harris, Harold, St. Paul
Harris, Luther C., Duluth
Harrison, William, Duluth
Harrison, William P., Duluth
Harvey, Hubert M., St. Paul
Hastings, Robert A, Elk River
Hauser, Albert, Sleepy Eye
Haycraft, J. E., Fairmont
Headley, Cleon, St. Paul
Healey, Frank, Minneapolis
Healy, Peter J., Fountain
Hegland, M. J., Roseau
Heim, Moritz, St. Paul
Heino, John R., Duluth
Hempstead, Clark, Minneapolis
Henderson, William B., Minneapolis
Hendricks, J. A., Crookston
Hennessey, Walter H., Minneapolis
Hertig, Wendell, Minneapolis
Hertz, A. J., St. Paul
Hess, Sylvan E., St. Paul
Hessian, Maurice A., Minneapolis
Hessian, Thomas, LeSueur
Hetland, John M., Ada
High, Leslie S., Duluth
Higgins, A. M., Minneapolis
Hilton, Clifford L., St. Paul
Himsl, J. B., St. Cloud
Hoag, J. H., Duluth
Hodgson, F. C., St. Paul
Hoffman, E. N., Austin
Hoidale, Einor, Minneapolis
Hoidale, H. L., Minneapolis
Hoke, George, Minneapolis
Hollenbeck, G. M., Appleton
Holmes, Donald S., Duluth
Holt, Hon. Andrew, St. Paul
Hopkins, Frank, Fairfax
Hopp, John W., Preston
Horrigan, William J., Minneapolis
Horn, A. E., St. Paul
Horwitz, Henry E., St. Paul
Hoshour, Harvey, Duluth
Houck, Stanley B., Minneapolis
Houston, Charles E., Wheaton
Howard, C. T., Pipestone
Hoxmeier, Michael T., St. Paul
Hubachek, Frank B. Minneapolis
Hubachek, Louis A., Minneapolis
Hudson, S. H., Benson
Huffman, Hallan L., Bemidji
Hughes, B. E., Austin
Hughes, Evan, Mankato
Hughes, Hon. Martin, Hibbing
Hughes, Thomas, Mankato
Hughes, W. F., Mankato
Hunt, Alva R., Litchfield
Hunt, J. W., Duluth
Hunt, Rollo F., Duluth
Hunter, Arthur W., Duluth
Hurlburt, David, International Falls
Hurley, Martin J., St. Paul
Hurley, Michael B., Pine City
Hush, Howard R., Minneapolis

I

Ingalls, Edmund, Duluth
Ingersoll, F. G., St. Paul
Irwin, F. C., Belle Plaine
Irwin, H. D., Minneapolis
Iverson, Samuel G, St. Paul
Ives, Gideon S., St. Paul

J

Jackson, A. B., Minneapolis
Janes, A. L., St. Paul
Jaques, Alfred, Duluth
Jaques, Robert, Duluth
Jarvis, Paul G. H., Minneapolis
Jayne, Trafford, Minneapolis
Jelinek, Arthur J. P., New Prague
Jelle, J. G., Two Harbors
Jennings, Charles E., Minneapolis
Jenson, Henry N., Detroit
Jenswold, John, Duluth
Jesmer, J. Lisle, St. Paul
Jevne, Franz, International Falls
Johnson, Adolph E. L., Minneapolis
Johnson, Albert, Sandstone
Johnson, Hon. Albert, Red Wing
Johnson, Albert J., Minneapolis
Johnson, Andrew William, Albert Lea
Johnson, Charles, Willmar
Johnson, Clay W., Minneapolis
Johnson, H. S., St. Paul
Johnson, J. N., Canby
Johnson, Louis P., Ivanhoe
Johnson, N. I., Moorhead
Johnson, Rollin G., Forest Lake
Johnston, C. M., Detroit
Jones, D. J., Breckenridge
Jones, L. E., Breckenridge
Jordan, M. A., Minneapolis
Joss, L. H., Minneapolis
Joyce, M. M., Minneapolis
Joyce, Thomas J., Duluth
Junkin, Allen V., St. Paul
Junnell, John, Minneapolis

K

Kalash, F. B., Lakefield
Kane, W. V., International Falls
Kanter, Alexander, Minneapolis
Karatz, A. H., Minneapolis
Kay, Spencer B., Minneapolis
Keefe, D. J., St. Paul
Keefe, John J., St. Paul
Keller, H. P., St. Paul
Kellogg, Hon. F. B., St. Paul
Kells, L. L., Sauk Centre
Kelly, Charles F., Minneapolis
Kelly, Edward P., Minneapolis
Kelley, James E., St. Paul
Kennedy, John P., St. Paul
Kennedy, Leo, St. Paul
Kennedy, Richard L., St. Paul
Kennedy, T. J., St. Paul
Kennicott, J. A., Los Angeles, Cal.
Kenny, Hon. E. J., Duluth
Kenyon, Ray H., Minneapolis
Kerkwood, W. J., Crookston
Kerr, Harold C., St. Paul
Keyes, C. F., Minneapolis
Kidder, Charles S., St. Paul
Kief, A. E., Montevideo
Kimball, E. L., Duluth
Kimball, Guy W., St. Paul
Kingman, Joseph, Minneapolis
Kingsley, George A., Minneapolis
Kirby, John J., St. Paul
Kitts, Rex H., Minneapolis
Kjellander, Harold R., Minneapolis
Knabel, H. A., Gaylord
Knapp, Edward A., St. Paul
Kneeland, Thomas, Minneapolis
Knudson, Bennett C., Albert Lea
Koefod, Hon. S. M., Bemidji
Kolesky, Joseph P., Minneapolis
Kolliner, Robert S., Minneapolis
Komerek, E. W., New Prague
Konzen, P. H., Hallock
Korns, E. B., Tracy
Kranz, Ferdinand A., Minneapolis
Kueffner, Otto, St. Paul
Kueffner, W. R., St. Paul
Kurtz, Frank H., Minneapolis
Kyle, John P., St. Paul

L

LaBelle, D. E., Minneapolis
Lacy, Rollo G., Duluth
Lambert, George C., St. Paul
Lamberton, Henry M., Winona
Lamberton, Henry, Jr., Winona
Lamson, William H., Hinckley
Landon, A. R. A., Redwood Falls
Lane, Cornelius, St. Paul
Lanners, Harry W., West Duluth
Larrabee, F. D., Minneapolis
Larson, Constant, Alexandria
Larson, Hayner N., St. Paul
Larson, Henry A., Preston
Larson, Louis J., Mankato
Larson, O. J., Duluth
Lathers, Austin, Duluth
Lauderdale, Henry W., Minneapolis
Lauerman, L. J., Olivia
Laughran, H. A., St. Paul
Laurisch, C. J., Mankato
Lawler, D. W., St. Paul
Leach, Harlan E., Owatonna
Leach, Hugh E., Alexandria
Leary, D. J., Browns Valley
Leary, Hon. William C., Minneapolis
LeCrone, J. W., Faribault
Lee, Edward J., Minneapolis
Lee, Orris E., Stillwater
Lee, William, Granite Falls
Lees, Hon. Edward, St. Paul
Lende, O. A., Canby

Leonard, George B., Minneapolis
Lethert, Charles A., St. Paul
Levin, John I., St. Paul
Levy, Sam J., Minneapolis
Lewis, I. K., Duluth
Lewis, Hon. O. B., St. Paul
Lewis, G. W., St. Paul
L'Herault, N. A., Minneapolis
Libera, Edward D., Winona
Lien, E. J., St. Paul
Lightner, Milton C., St. Paul
Lightner, W. H., St. Paul
Lind, John, Minneapolis
Lindbloom, P. Milton, Stillwater
Lindgren, H. C., Winnebago
Lindquist, Hon. Edward, Olivia
Lindmeier, William G., Lake City
Lindley, E. C., St. Paul
Lindsley, F. H., Delano
Little, George P., Winona
Lobben, J. L., St. James
Loe, Bert O., Granite Falls
Locke, Harry S., St. Paul
Loevinger, Gustavus, St. Paul
Long, Eugene H., Pine City
Longbrake, L. L., Minneapolis
Looby, Robert E., Winona
Loomis, A. G., Springfield
Loring, Col. Charles, Boston, Mass.
Loring, Edward J., Minneapolis
Lothrop, Arthur P., St. Paul
Loughin, Charles A., Minneapolis
Lucas, Edward, Minneapolis
Luethge, Geo. M., St. Paul
Lum, Leon E., Whittier, Cal.
Lund, Eli R., Windom
Lund, Harry A., Minneapolis
Lundeen, David, Minneapolis
Lundeen, Walter S., Minneapolis
Lyons, D. F., St. Paul

M

McBean, A. J., Omaha, Neb.
McCarthy, C. C., Grand Rapids
McCarthy, C. D., Montgomery
McCarthy, F. D., St. Paul
McCaughey, John J., Kasson
McClearn, Hugh J., Duluth
McClenehan, Hon. W. S. Brainerd
McClernon, P. A., Grand Forks, N. D.
McConneloug, John W., St. Paul
McCullough, Reuben C., Duluth
McCoy, Charles V., Duluth
McCune, Robert H., Fairmont
McDermott, Thomas, St. Paul
McDermott, Thomas J., St. Paul
McDonald, K. J., Wheaton
McDonald, W. H., Minneapolis
McDougall, E H., St. Paul
McGill, Allan M., St. Paul
McGovern, John, no address
McGrath, T. J., St. Paul
McGrath, W. H., Minneapolis
McGregor, Benjamin F., Mapleton
McHugh, Leonard, Duluth
McKeon, Thomas J., Duluth
McKnight, A. G., Duluth
McManus, A. E., Los Angeles, Cal.
McMahon, Edward W., Faribault
McMahon, James P., Faribault
McMeekin, T. W., St. Paul
McMurran, W. T., St. Paul
McNally, Hon. Carleton F., St. Paul
McNamara, T. P., St. Paul
McNelly, William O., Hutchinson
McPartlin, F. J., International Falls
MacGregor, William E., Minneapolis
MacKenzie, C. H., Gaylord
MacPherran, Edgar W., Duluth
Maag, H. E., Minneapolis
Macartney, G. S., St. Paul
Mackall, H. C., Minneapolis
Madden, G. P., Waseca
Magney, Hon. C. R., Duluth
Mahaney, L. T., Aitkin
Mahoney, Emmet P., Minneapolis
Mallory, Walter, St. Paul
Malmberg, Ernest, Minneapolis
Manahan, James, St. Paul
Manahan, Richard, Rochester
Mangan, T. J., Morris
Manwaring, L. L., Stillwater
March, C. H., Litchfield
March, N. D., Litchfield
Marden, Charles S., Moorhead
Mark, John H., Wadena
Markham, George W., St. Paul
Markham, J. D., Rush City
Markham, James E., St. Paul
Marks, Henry, St. Paul
Martin, James M., Minneapolis
Marwin, Paul J., Minneapolis
Masik, Joseph H., St. Paul
Massee, F. C., East Grand Forks
Matson, Charles N., Renville
Mead, Henry S., Minneapolis
Mecklenburg, Harry A., New Ulm
Meighen, John F. D., Albert Lea
Meighen, Phillip J., Minneapolis
Meixner, Carl C., Minneapolis
Meleck, H. N., Minneapolis
Mendow, Hymen Z., Minneapolis
Menz, C. J., St. Paul
Mercer, Hugh V., Minneapolis
Meshbesher, Simon, Minneapolis
Meyers, Simon, Minneapolis
Michael, Hon. J. C., St. Paul

Michel, Ernest A., Minneapolis
Michelet, Simon, Washington, D. C.
Middaugh, Henry G., Duluth
Middleton, Charles R., Baudette
Middleton, E. C., Baudette
Miller, Arthur A., Crookston
Miller, Earl H., St. Paul
Miller, Frederick J., Pine River
Miller, Jensine M., Minneapolis
Miller, Lucius S., Crookston
Miller, R. Justin, Minneapolis
Mills, Ernest, St. Paul
Miner, Julius E., Minneapolis
Missall, M. M., St. Paul
Mitchell, Henry S., Minneapolis
Mitchell, Morris B., Minneapolis
Mitchell, Oscar, Duluth
Mitchell, W. D., St. Paul
Molyneaux, Hon. Joseph W., Mpls.
Montague, James E., Crookston
Montgomery, Hon. E. A., Mpls.
Moonan, Joseph N., Waseca
Moonan, Paul, Waseca
Moonan, R. G., Waseca
Moore, Maurice M., Minneapolis
Mordaunt, Roy J., St. Paul
Morgan, E. M., New Haven, Conn.
Morgan, George W., St. Paul
Morgan, Henry A., Albert Lea
Moriarity, James J., Shakopee
Morley, Frank J., Minneapolis
Morphy, E. H., St. Paul
Morris, Homer, Minneapolis
Morris, Owen, St Paul
Morris, William R., Minneapolis
Morrison, Frank L., Minneapolis
Morrison, P. W., Norwood
Morrison, Robert G., Minneapolis
Morse, D. L., Blue Earth
Morse, F. E., Mankato
Moses, Felix E., Minneapolis
Mott, James G., Worthington
Muekel, Francis, Chaska
Mueller, Albert J., St Paul
Mueller, Alfred W., New Ulm
Mulally, J. H., St. Paul
Munn, J. D., Minneapolis
Munn, M. D., St. Paul
Murdock, J. W., Wabasha
Murphy, F. W., Wheaton
Murphy, James F., St. Paul
Murphy, S. C., Grand Marais
Murphy, William P., Crookston
Murray, Frank, Bird Island
Myron, Olin C., Milaca

N

Nash, Edward M., Minneapolis
Nelson, Andrew, Duluth
Nelson, Arthur E., St. Paul
Nelson, Edward, Minneapolis
Nelson, Harold S., Owatonna
Nelson, Iver C, Minneapolis
Nelson, Hon. Lewis B., St. Paul
Nelson, Hon. L. S., Slayton
Nelson, Martin A., Austin
Nelson, P. J., Anoka
Nelson, Soren R., Owatonna
Neukom, John W., Duluth
Neumeier, Karl G., Stillwater
Newcome, Warren, St. Paul
Newton, Walter H., Minneapolis
Nichols, C. L., Minneapolis
Nichols, John F., Minneapolis
Nicholson, J. N., Austin
Nordbye, Hon. Gunnar H., Minneapolis
Nordin, John A., Minneapolis
Nordlin, George, St. Paul
Nordstrom, D. F., Olivia
Norton, Allan P., Mantorville
Norton, John, International Falls
Norton, Henry W., Minneapolis
Norton, W. I., Minneapolis
Nunan, J. D., Minneapolis
Nye, Hon. Carroll A., Moorhead
Nye, Hon. Frank M., Minneapolis
Nye, James G., Duluth

O

Oakley, E. S., Minneapolis
Oberg, Charles A., Willmar
O'Brien, C. D., Jr., St. Paul
O'Brien, Dillon J., St. Paul
O'Brien, James E, Minneapolis
O'Brien, Martin, Crookston
O'Brien, Hon. R. D., St. Paul
O'Brien, Thomas D., St. Paul
O'Brien, William P., St. Paul
O'Connell, J. C., Minneapolis
Odell, W. F., Chaska
Ofstedahl, Theodore N., Red Wing
Ohman, John O., Minneapolis
O'Hara, Joseph P., Glencoe
Oldenburg, Henry, Carlton
Oleson, M. V., Moorhead
Olsen, Hon. I. M., New Ulm
Olson, Arthur E., Minneapolis
Olson, Floyd B., Minneapolis
Olson, George T., St. Peter
Olson, Julius J., Warren
O'Malley, Linus, St. Paul
O'Malley, R. G., St. Paul
Oppenheimer, William H., St. Paul
Ordway, S. G., St. Paul
Ormond, James B., Morris
Orr, Charles N., St. Paul
Orr, Hon. Grier M., St. Paul
Osborne, Frank O., St. Paul
Osborne, James W., Duluth
Ossanna, Fred, Minneapolis

Ostensoe, O. J., Twin Valley
Osterlind, F. H., Lakeville
Ostrander, L. H., Albert Lea
Otis, J. C., Saint Paul
Oulman, Orrin M., Minneapolis
Owen, Morris J., Winona

P

Paige, James, Minneapolis
Palmer, B. W., Minneapolis
Palmer, J. E., Minneapolis
Pardee, N. E., Minneapolis
Park, H. T., Minneapolis
Parker, Guy C., Minneapolis
Parker, G. E., Duluth
Parker, Hugh G., Wadena
Parsons, Hon. William L., Fergus Falls
Patterson, Elmer C., Minneapolis
Pattison, J. B., St. Cloud
Pattridge, Samuel C., Spring Valley
Paul, A. C., Minneapolis
Paul, Richard, Minneapolis
Payte, Edward H., St. Paul
Peabody, O. M., Minneapolis
Pealer, William O., Duluth
Pearson, A. S., St. Paul
Pearson, John A., St. Paul
Pegelow, C. L., Bemidji
Peterson, Almer J., Mora
Peterson, A. M., Coleraine
Peterson, E. P., Litchfield
Peterson, F. H., Moorhead
Peterson, Elmer R., Albert Lea
Peterson, George W., St. Paul
Peterson, Harry H., St. Paul
Peterson, Henry C., St. Paul
Peterson, Hon. Norman E., Albert Lea
Peterson, J. O., Albert Lea
Pew, Maurice V., St. Paul
Peycke, Tracy J., Minneapolis
Pfau, A. R., Jr., Mankato
Phelps, H. H., Duluth
Phillips, Charles E., St. Paul
Phillips, Charles E., Mankato
Phillips, James E., Lake City
Pinkerton, S. W., St. Paul
Polk, A. D., Brainerd
Powell, Ransom J., Minneapolis
Pratt, Albert F., St. Paul
Praxl, A. J., Lamberton
Prendergast, Edmund A., Minneapolis
Propper, G. T., Minneapolis
Purcell, J. J., Ortonville
Purdy, Milton D., Washington, D. C.
Putnam, Frank E., Blue Earth
Putnam, Fred W., Minneapolis
Putnam, R. H., Blue Earth

Q

Quale, Theodore, Thief River Falls
Quigley, James J., St. Cloud
Quinn, Hon. James H., Fairmont
Quinn, Joseph A., Menahga
Quinn, T. F., St. Paul
Quinn, Thomas H., Faribault
Quinn, W. J., St. Paul
Qvale, Hon. G. E., Willmar

R

Randall, C. B., St. Paul
Randall, Frank E., Omaha, Neb.
Randall, H. E., St. Paul
Rasmussen, William James, East Grand Forks
Ray, John H., Jr., New York
Redding, P. S., Windom
Reed, Fred W., Minneapolis
Regan, John E., Mankato
Remele, A. C., Minneapolis
Richards, Bergman, Minneapolis
Richards, J. H., Minneapolis
Richardson, A. C., Austin
Richardson, Harris, St. Paul
Richardson, Harold J., St. Paul
Richardson, Walter, St. Paul
Richardson, W. B., Rochester
Richter, Charles H., St. Cloud
Rieke, A. V., Minneapolis
Rieke, Miss Bonita F., Minneapolis
Rietz, Alfred E., Farmington
Ringham, Arthur I., Minneapolis
Risk, Loren, Minneapolis
Roberts, Horace W., Mankato
Roberts, S. G. L., Pine City
Roberts, W. P., Minneapolis
Robertson, James, Minneapolis
Rochford, William, Minneapolis
Rockne, A. J., Zumbrota
Rockwell, R. L., Plainview
Rockwood, C. J., Minneapolis
Roeser, Hon. John A., St. Cloud
Rogers, Edward L., Walker
Rogers, Harold N., Minneapolis
Rogers, L. D., Janesville
Rogstad, Einar A., Gaylord
Ronken, Oscar C., Rochester
Ronning, Henry T., Glenwood
Rose, Maurice, San Francisco, Cal.
Rosenbloom, E. L., Minneapolis
Rosenmeier, C., Little Falls
Rosenmeier, Frank J., Osakis
Rosenthal, Francis J., St. Paul
Rossman, Willard A., Grand Rapids
Rounds, Hon. John L., St. Paul
Rowe, W. E., Crookston
Rudow, Karl L., Jackson
Running, Albert, St. James
Rumble, Wilfred E., St. Paul

Russell, P. J., Bemidji
Russell, William, Moorhead
Rustad, Garfield H., Moorhead
Ryan, Frank P., Minneapolis
Ryan, Patrick J., St. Paul
Ryan, Walter T., St. Paul

S

Safford, Orrin E., Minneapolis
Salmon, Hon. T. H., Minneapolis
Sanborn, Bruce W., St. Paul
Sanborn, E. P., St. Paul
Sanborn, Hon. John B., St. Paul
Sanborn, Hon. Walter H., St. Paul
Sargeant, Harvey O., St. Paul
Sasse, Frank G., Austin
Sawyer, A. W., Winona
Sawyer, Francis W., Owatonna
Sawyer, Willis F., Owatonna
Scandrett, B. W., St. Paul
Schacht, Theodore A., Rochester
Schall, A. X., Jr., Minneapolis
Schaller, Albert, St. Paul
Schaub, Arthur, St. Paul
Scheid, Arthur F., Waterville
Schierts, G. G., Annandale
Schmidt, P. C., Duluth
Schmitt, J. W., Mankato
Schoening, Herbert F., Mpls.
Schoonmaker, James, St. Paul
Schrader, Ernest, Minneapolis
Schroeder, Baldwin, St. Paul
Schroeder, P. F., Detroit
Schultz, Hon. William A., South St. Paul
Schulz, R. F., Ivanhoe
Schunk, Jesse A., New York Mills
Schuster, C. H., Biwabik
Schwartz, Louis B., St. Paul
Scofield, E. J., Elbow Lake
Scott, D. A., Aitkin
Scott, John F., St. Paul
Scott, L. W., St. Paul
Scott, Ulric C., St. Paul
Scribner, James S., Walker
Scrutchin, Charles W., Bemidji
Seager, George W., St. James
Seager, J. W., St. James
Searls, Hon. J. N., Stillwater
Segal, Benjamin, Minneapolis
Seifert, Alexander, Springfield
Seifert, Leo J., Fairmont
Selover, A. W., Minneapolis
Senn, Hon. Fred W., Waseca
Senn, J. A., Sauk Rapids
Severson, A. C., Canby
Severson, Laurence, Minneapolis
Seward, William H., St. Paul
Sexton, John J., St. Paul
Sharp, Edgar E., Moorhead
Shaw, E. F., Little Falls
Shaw, Frank W., Minneapolis
Shaw, William D., Minneapolis
Shay, Burtin A., St. Paul
Shearer, David J., Minneapolis
Shay, Harry V., Minneapolis
Shearer, James D., Minneapolis
Sheldon, D. C., Pine Island
Sherman, Harry L., Rush City
Sherman, V. C., Minneapolis
Shields, Martin M., Faribault
Shove, Herbert D., Detroit
Sigmond, Lloyd E., Zumbrota
Simpson, C. D., West Concord
Simpson, D. F., Minneapolis
Simpson, Harold G., Minneapolis
Skahen, S. P., Princeton
Slater, Edwin S., Minneapolis
Slen, Theodore S., Madison
Sletvold, O. A., Detroit
Smilow, D. J., Minneapolis
Smiley, W. Yale, Minneapolis
Smith, B. D., Rock Island, Ill.
Smith, C. V., Minneapolis
Smith, Fred W., Cass Lake
Smith, George R., Minneapolis
Smith, J. Russell, Winona
Smith, Lucius A., Faribault
Smith, Rollin L., Minneapolis
Smith, S. S., Minneapolis
Smyth, Arthur R., Duluth
Snyder, Fred B., Minneapolis
Sobotka, Ottocar, Pine City
Soderberg, Nathaniel, Madison
Soderquist, H. L.,
Somsen, Henry N., New Ulm
Somsen, S. W., Winona
Sorknes, H. L., Madison
Southworth, E., Shakopee
Spanier, David H., St. Paul
Spear, George, Duluth
Spence, Thomas J., St. Paul
Spencer, C. A., St. Charles
Sperry, A. L., Owatonna
Spillane, Charles, Waseca
Spooner, Marshall A., Bemidji
Stanford, R. W., Willmar
Stanton, Hon. C. M., Bemidji
Stark, Herman F., St. Paul
Stauning, A. K., Tyler
Stearns, Harry S., St. Paul
Stearns, Victor, Duluth
Stebbins, G. M., Roseau
Steenerson, H., Crookston
Stein, Lloyd W., Hibbing
Stephens, W. J., Melrose
Sterling, Charles W., St. Paul
Stevens, F. H., Minneapolis
Stevens, Harold A., Minneapolis
Stevens, H. H., Minneapolis
Stevens, M. S., Graceville
Stevenson, William J., Minneapolis

Stewart, Arthur A., St. Paul
Stewart, Robert K., Renville
Stewart, W. H., St. Cloud
Stilson, Clyde W., Duluth
Stinchfield, Frederick H., Mpls.
Stites, C. W., Lake Benton
Stoffer, Maurice W., St. Paul
Stolberg, Hon. Alfred P., Center City
Stomel, Joseph, Minneapolis
Stone, Marshall E., St. Peter
Stone, Philip M., Hibbing
Stone, Ralph A., Grand Rapids
Stone, Hon. Royal A., St. Paul
Storey, A. F., St. Paul
Stradtmann, William, Mankato
Straight, L. A., St. Paul
Stratton, Paul D., Granite Falls
Street, Arthur L. H., Minneapolis
Streissguth, Otto, New Ulm
Strickland, Paul J., St. Paul
Stringer, Edward, St. Paul
Strong, George W., Minneapolis
Stryker, J. E., St. Paul
St. John, C. R., St. Paul
Sturtz, William P., Albert Lea
Stutz, Frederick G., St. Paul
Sullivan, George F., Jordan
Sullivan, George H., Stillwater
Sullivan, Henry H., St. Cloud
Sullivan, John D., St. Cloud
Sullivan, Thomas V., St. Paul
Sundberg, J. E., Kennedy
Swan, James G., Minneapolis
Swanson, C. A., Atwater
Swendiman, John, Jr., Dodge Center
Swenson, E. W., Foley
Swenson, Harry S., Minneapolis
Swert, John C., Minneapolis
Syme, Alger R., Chisholm
Sylvestre, J. H., Crookston

T

Taney, Clifford A., Jr., Minneapolis
Tautges, William A., Minneapolis
Taylor, Kenneth, Minneapolis
Taylor, Hon. Myron D., St. Paul
Teitsworth, Edward T., Minneapolis
Temple, John, Federal Bldg.
Tenner, Alphonse A., Minneapolis
Terry, R. W., Slayton
Thelan, Edward, Stillwater
Thomas, A. J., Ely
Thomas, Woodlief, Minneapolis
Thomson, Joseph, St. Paul
Thomson, Theodore W., Minneapolis
Thompson, Anton, Fergus Falls
Thompson, Charles, Amboy
Thompson, E. S., St. Paul
Thompson, Paul J., Minneapolis
Thompson, R. E., Preston
Thoreen, Reuben G., Stillwater
Thornton, Manly P., Worthington
Thwing, Alford L., Grand Rapids
Tiffany, Francis B., St. Paul
Tifft, Hon. Cyril M., Glencoe
Tighe, Ambrose, St. Paul
Tighe, Emmett F., St. James
Todd, Kay, St. Paul
Todd, Walter W., Minneapolis
Tolman, Frank, Paynesville
Tomhave, R. H., Fosston
Torrance, Graham M., Bemidji
Towne, Edward P., St. Paul
Trask, James E., St. Paul
Trochill, J. B., Olivia
Trogner, Walter J., Minneapolis
Truax, J. J., Minneapolis
Tryon, Charles J., Minneapolis

U

Ueland, A., Minneapolis
Ueland, A. O., Halstad
Underleak, Joseph, Chatfield

V

Vaaler, Rolleff, Milaca
Van Derlip, John R., Minneapolis
Van Fossen, L. J., Minneapolis
Van Volkenburg, Jesse, Mpls.
Vasaly, Stephen C., Little Falls
Vaule, Ole J., Crookston
Vesta, O. S., Arlington
Vollum, Alfred T., Albert Lea
Von Kuster, Paul E., Minneapolis

W

Wadsworth, Frank H., Minneapolis
Waite, Hon. E. F., Minneapolis
Wanless, James, Duluth
Warber, Frederick P., Minneapolis
Ware, J. R., Minneapolis
Warner, C. E., Minneapolis
Washburn, A. McC., Duluth
Washburn, J. L., Duluth
Waters, E. A., St. Paul
Watson, Ernest E., Minneapolis
Watts, M. Sheldon, Duluth
Watts, W. A., Duluth
Watts, Hon. William, Crookston
Webb, Robert W., Minneapolis
Webber, Marshall B., Winona
Weber, Henry, Jr., Austin
Webster, E. M., Glenwood
Webster, R. O., Akeley
Weeks, C. Louis, St. Paul
Weil, Jonas, Minneapolis
Weikert, Claire I., St. Paul

Weiss, Harry, St. Paul
Wergedahl, Edward P., St. Paul
Wenzell, H. B., St. Paul
Werring, W. R., Morgan
Westfall, William P., St. Paul
Weunerberg, S. Bernhard, Center City
Weyl, Charles H., St. Paul
Wheaton, Charles S., Elk River
Wheller, Howard, St. Paul
Wheelwright, John O. P., Minneapolis
Whelan, Ralph, Minneapolis
Whipple, Harry S., Monticello
Whipple, W. E., Duluth
White, Clyde R., Wadena
White, C. V., Minneapolis
White, Frank T., Minneapolis
Whitely, J. H., Duluth
Whiteley, F. A., Minneapolis
Whitney, A. B., Minneapolis
Whitney, B. H., Slayton
Whiton, Walter S., Minneapolis
Wilcox, Robert, Pine City
Wilder, B. W., Minneapolis
Will, G. A., Minneapolis
Williams, Charles J., Duluth
Williams, Warren O., Minneapolis
Williams, W. H., St. Paul
Williamson, J. F., Minneapolis
Willson, Bunn T., Rochester
Wilson, Byron R., Wadena
Wilson, Chester S, St. Paul
Wilson, Coryate S., Duluth
Wilson, Hon. S. B., St. Paul
Wilwerscheid, Norbert, St. Paul
Winter, Charles H., St. Paul
Wiprud, A. C., New York
Wolfe, Walter P., Minneapolis
Wood, William W., Long Prairie
Woodard, H. F., Minneapolis
Woodhull, Schuyler C., Minneapolis
Woolley, M. J., Park Rapids
Works, Robert M., Minneapolis
Wright, Arthur W., Austin
Wright, Hon. B. F., Park Rapids
Wright, Colin W., Minneapolis
Wright, Hon. F. B., Minneapolis
Wright, F. C., Appleton
Wright, F. Gordon, Minneapolis
Wyvell, Henry G., Breckenridge

Y

Yale, Washington, Minneapolis
Yardley, W. H., St. Paul
Young, A. L., Winthrop
Young, Edward B., St. Paul
Young, Henry G., Willmar
Youngdahl, Peter J., Minneapolis
Youngquist, G. A., St. Paul

Z

Zehnder, John C., St. Paul
Zeismer, Raymond, Duluth
Zima, Frank J., Glenwood
Zoerb, A. J., Duluth
Zollman, F. W., St. Paul

LIFE MEMBERS

Adams, Frank D., Duluth, August 21, 1913.
Allen, Albert R., Fairmont, November 10, 1922.
Bailey, W. D., Duluth, November 10, 1911.
Begg, W. R. New York, April 10, 1916.
Boutelle, M. H., Minneapolis, February 26, 1913.
Brown, Leslie L., Winona, November 18, 1922.
Brown, Rome G., Minneapolis, December 1, 1911.
Buffington, George W., Minneapolis, February 16, 1917.
Bunn, Charles W., St. Paul, December 26, 1922.
Burr, Stiles W., St. Paul, November 9, 1911.
Butler, Pierce, St. Paul, November 11, 1911.
Caldwell, Chester L., St. Paul, November 21, 1922.
Cobb, Albert C., Minneapolis, November 16, 1922.
Cotton, Joseph B., Duluth, August 1, 1911.
Crassweller, Frank, Duluth, August 21, 1913.
Crosby, Wilson O., Duluth, August 21, 1913.
Dibell, Homer D., St. Paul, July 10, 1913.
Donnelly, Charles, St. Paul, November 13, 1922.
Farnham, Charles W., November 9, 1911.
Gale, Edward C., Minneapolis, November 13, 1922.
Heim, Moritz, St. Paul, March 1, 1916.
Holt, Andrew, St. Paul, November 18, 1922.
Junell, John, Minneapolis, November 13, 1922.
Kellogg, F. B., St. Paul, November 10, 1911.
Kingman, Joseph, Minneapolis, November 13, 1922.
Lees, Edward, St. Paul, November 27, 1922.
March C. H., Litchfield, February 4, 1916.
Mercer, Hugh V., Minneapolis, November 16, 1922.
Murphy, F. W., Wheaton, August 9, 1916.
O'Brien, James E., Minneapolis, November 16, 1922.
Oldenburg, Henry, Carlton, November 10, 1922.
Richards, Bergman, Minneapolis, November 13, 1922.
Shaw, Frank W., Minneapolis, November 14, 1922.
Shearer, James D, Minneapolis, December 28, 1911.
Snyder, Fred B., Minneapolis, November 16, 1922.
Stone, Royal A., St. Paul, July 17, 1911.
Taylor, Myron D., St. Cloud, November 27, 1922.
Tighe, Ambrose, St. Paul, November 10, 1922.
Towne, Edward P., Duluth, August 21, 1913.
VanDerlip, John R., Minneapolis, November 14, 1922.
Washburn, J. L., Duluth, November 11, 1911.
Webber, Marshall B., Winona, November 13, 1922.
Wheelwright, John O. P., Minneapolis, November 15, 1922.
Williams, John G, Duluth, August 8, 1911.

SUBJECT INDEX

MINNESOTA LAW REVIEW

JOURNAL OF THE STATE BAR ASSOCIATION

Volume XI

SUPPLEMENT

Proceedings of the Minnesota State Bar Association 1926

MINNEAPOLIS, MINN.
LAW SCHOOL
UNIVERSITY OF MINNESOTA
1926

OFFICERS OF PREVIOUS YEARS

PRESIDENTS

HIRAM F. STEVENS, St. Paul 1901
MARSHALL B. WEBBER, Winona 1902
FREDERICK V. BROWN, Minneapolis 1903
EDWARD C. STRINGER, St. Paul 1904
A. C. WILKINSON, Crookston 1905
ROME G. BROWN, Minneapolis 1906
J. L. WASHBURN, Duluth 1907
PIERCE BUTLER, St. Paul 1908
LAFAYETTE FRENCH, Austin 1909
JAMES D. SHEARER, Minneapolis 1910
CORDENIO A. SEVERANCE, St. Paul 1911
JOHN G. WILLIAMS, Duluth 1912
HUGH V. MERCER, Minneapolis 1913
HARRISON L. SCHMITT, Minneapolis 1914
STILES W. BURR, St. Paul 1915
FRANK CRASSWELLER, Duluth 1916
GEORGE W. BUFFINGTON, Minneapolis 1917
L. L. BROWN, Winona 1918
ALBERT R. ALLEN, Fairmont 1919
AMBROSE TIGHE, St. Paul 1920
WILLIAM D. BAILEY, Duluth 1921
WILLIAM A. LANCASTER, Minneapolis 1922
ROYAL A. STONE, St. Paul 1923
BURT W. EATON, Rochester 1923
HOWARD T. ABBOTT, Duluth 1925

VICE-PRESIDENTS

MARSHALL B. WEBBER, Winona 1901
FREDERICK V. BROWN, Minneapolis 1902
EDWARD T. YOUNG, Appleton 1903
A. C. WILKINSON, Crookston 1904
ROME G. BROWN, Minneapolis 1905
J. L. WASHBURN, Duluth 1906
PIERCE BUTLER, St. Paul 1907
LAFAYETTE FRENCH, Austin 1908
JAMES D. SHEARER, Minneapolis 1909
CORDENIO A. SEVERANCE, St. Paul 1910
JOHN G. WILLIAMS, Duluth 1911
HUGH V. MERCER, Minneapolis 1912
HARRISON L. SCHMITT, Mankato 1913
STILES W. BURR, St. Paul 1914
FRANK CRASSWELLER, Duluth 1915
GEORGE W. BUFFINGTON, Minneapolis 1916
L. L. BROWN, Winona 1917
ALBERT R. ALLEN, Fairmont 1918
AMBROSE TIGHE, St. Paul 1919
WILLIAM D. BAILEY, Duluth 1920
WILLIAM A. LANCASTER, Minneapolis 1921
ROYAL A. STONE, St. Paul 1922
ELMER E. MCDONALD, Bemidji, died during term of office 1923
HOWARD T. ABBOTT, Duluth 1924
FRANK E. PUTNAM, Blue Earth 1925

TREASURERS

FREDERICK V. BROWN, Minneapolis 1901
F. W. GAIL, Stillwater 1902
JAMES D. SHEARER, Minneapolis 1903-5
W. H. YARDLEY, St. Paul 1906-8
ROYAL A. STONE, St. Paul 1909-15
JOHN M. BRADFORD, St. Paul 1916-20
ROY H. CURRIE, St. Paul 1921-24
WILLIAM G. GRAVES, St. Paul 1924

SECRETARIES

STILES W. BURR, St. Paul 1901
WILLIAM R. BEGG, St. Paul 1902
CHARLES W. FARNHAM, St. Paul 1903-12
CHESTER L. CALDWELL, St. Paul 1913

MINNESOTA STATE BAR ASSOCIATION

OFFICERS 1926-1927

FRANK E. PUTNAM, Blue Earth ..... President
F. H. STINCHFIELD, Minneapolis ..... Vice-President
WILLIAM G. GRAVES, St. Paul ..... Treasurer
CHESTER L. CALDWELL, St. Paul ..... Secretary
PAUL DANSINGBERG, St. Paul ..... Librarian

BOARD OF GOVERNORS 1926-1927

Judicial District
1st—CHARLES P. HALL ..... Red Wing
2nd—THOMAS C. DASSETT ..... St. Paul
3rd—HERBERT M. BIERCE ..... Winona
4th—PAUL J. THOMPSON ..... Minneapolis
5th—E. H. GIPSON ..... Faribault
6th—J. L. LOBBEN ..... St. James
7th—GEORGE W. FRANKBERG ..... Fergus Falls
8th—C. H. MACKENZIE ..... Gaylord
9th—JAMES H. HALL ..... Marshall
10th—JOHN W. HOPP ..... Preston
11th—FRANK CRASSWELLER ..... Duluth
12th—A. W. EWING ..... Madison
13th—CHARLES DEALY ..... Pipestone
14th—JULIUS J. OLSON ..... Warren
15th—THAYER C. BAILEY ..... Bemidji
16th—L. E. JONES ..... Breckenridge
17th—R. H. MCCUNE ..... Fairmont
18th—WILL A. BLANCHARD ..... Anoka
19th—REUBEN G. THOREEN ..... Stillwater

STANDING COMMITTEES FOR 1926-1927

ETHICS

OSCAR HALLAM, *Chairman* ..... St. Paul
E. L. MCMILLAN ..... Princeton
REUBEN G. THOREEN ..... Stillwater
WILLARD L. CONVERSE ..... South St. Paul
PAUL S. CARROLL ..... Minneapolis

JURISPRUDENCE AND LAW REFORM

WILBUR H. CHERRY, *Chairman* ..... Minneapolis
WILFRED E. RUMBLE ..... St. Paul
JUSTIN MILLER ..... Minneapolis
NATHANIEL SODERBERG ..... Madison
ROLLO F. HUNT ..... Duluth

UNIFORM STATE LAWS

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

LEGAL BIOGRAPHY

A. B. CHILDRESS, *Chairman,* 5th judicial district ..... Faribault
Judicial District
1st—ALBERT JOHNSON ..... Red Wing
2nd—GRIER M. ORR ..... St. Paul
3rd—VERNON GATES ..... Rochester
4th—W. W. BARDWELL ..... Minneapolis
5th—FRED W. SENN ..... Waseca

6th—W. L. Comstock ..... Mankato
7th—W. L. Parsons ..... Fergus Falls
8th—C. M. Tifft ..... Glencoe
9th—Albert H. Enerson ..... Minneota
10th—Norman E. Peterson ..... Albert Lea
11th—Bert Fesler ..... Duluth
12th—G. E. Qvale ..... Willmar
13th—L. S. Nelson ..... Worthington
14th—Andrew Grindeland ..... Warren
15th—B. F. Wright ..... Brainerd
16th—S. A. Flaherty ..... Morris
17th—Julius E. Haycraft ..... Fairmont
18th—Arthur E. Giddings ..... Anoka
19th—Alfred P. Stolberg ..... Center City

Library

James Paige, *Chairman* ..... Minneapolis
James H. Quinn ..... St. Paul
James E. Markham ..... St. Paul
Edward Lees ..... St. Paul

Legal Education

S. D. Catherwood, *Chairman* ..... Austin
Francis B. Tiffany ..... St. Paul
Edwin C. Brown

Legislative

Bruce W. Sanborn, *Chairman*, 4th district ..... St. Paul

Congressional District

1st—John F. D. Meighan ..... Albert Lea
2nd—Henry N. Somsen ..... New Ulm
3rd—Julius A. Coller ..... Shakopee
5th—Charles T. Murphy ..... Minneapolis
6th—L. L. Kells ..... Sauk Center
7th—Olaf Gjerset ..... Montevideo
8th—Hugh J. McClearn ..... Duluth
9th—Constant Larsen ..... Alexandria
10th—William H. Lamson ..... Hinckley

Membership Committee

O. A. Lende, *Chairman*, 12th Judicial District ..... Canby

Judicial District

1st—D. C. Sheldon ..... Pine Island
2nd—Thomas J. Kennedy, Jr. ..... St. Paul
3rd—Morris J. Owen ..... Winona
4th—Frank J. Morley ..... Minneapolis
5th—H. M. Gallagher ..... Waseca
6th—Horace W. Roberts ..... Mankato
7th—Roger L. Dell ..... Fergus Falls
8th—W. F. Odell ..... Chaska
9th—Otto Streissguth ..... New Ulm
10th—Archibald D. Gray ..... Preston
11th—(To be named)
13th—George P. Gurley ..... Pipestone
14th—William E. Rowe ..... Crookston
15th—C. L. Pegelow ..... Bemidji
16th—George W. Beise ..... Morris
17th—Karl L. Rudow ..... Jackson
18th—H. L. Soderquist ..... Cambridge
19th—J. D. Markham ..... Rush City

COMMITTEE ON UNAUTHORIZED PRACTICE OF LAW

HENRY DEUTSCH, *Chairman* ..... Minneapolis
BEN E. BALLOU ..... Fairmont
ALEXANDER SEIFERT ..... Springfield
HERBERT M. BIERCE ..... Winona
GEORGE W. GRANGER ..... Rochester
JOHN M. BRADFORD ..... St. Paul
C. A. FOSNESS ..... Montevideo

NOTEWORTHY CHANGES IN STATUTORY LAW

JUSTIN MILLER, *Chairman* ..... Minneapolis
A. E. ARNSTSON ..... Red Wing
CARL H. SCHUSTER ..... Biwabik

AMERICAN CITIZENSHIP

ARTHUR E. NELSON, *Chairman* ..... St. Paul
ERNEST E. WATSON ..... Minneapolis
FRANK G. SASSE ..... Austin
ROYAL A. STONE ..... St. Paul
ELI R. LUND ..... Windom

SPECIAL COMMITTEES FOR 1926-1927

UNIFORM PROCEDURE IN FEDERAL COURTS

JAMES D. SHEARER, *Chairman* ..... Fifth District, Minneapolis

Congressional District

1st—JOHN W. HOPP ..... Preston
2nd—JULIUS E. HAYCRAFT ..... Fairmont
3rd—JOHN R. FOLEY ..... Wabasha
4th—CARL W. CUMMINS ..... St. Paul
6th—JAMES J. QUIGLEY ..... St. Cloud
7th—J. M. FREEMAN ..... Olivia
8th—H. G. GEARHART ..... Duluth
9th—F. A. GRADY ..... Crookston
10th—LEEDS H. CUTTER ..... Anoka

ORGANIZATION OF THE STATE BAR

MORRIS B. MITCHELL, *Chairman* ..... Fourth District, Minneapolis

Judicial District

1st—CHARLES P. HALL ..... Red Wing
2nd—WILLIAM G. GRAVES ..... St. Paul
CHARLES S. KIDDER ..... St. Paul
JOHN B. SANBORN ..... St. Paul
3rd—JOHN W. MURDOCK ..... Wabasha
4th—GEORGE B. LEONARD ..... Minneapolis
LEE B. BYARD ..... Minneapolis
PAUL J. THOMPSON ..... Minneapolis
5th—JOSEPH N. MOONAN ..... Waseca
JAMES P. MCMAHON ..... Faribault
6th—HORACE W. ROBERTS ..... Mankato
7th—M. J. DALY ..... Perham
8th—A. L. YOUNG ..... Winthrop
9th—HENRY N. BENSON ..... St. Peter
10th—FRANK G. SASSE ..... Austin
11th—WARNER E. WHIPPLE ..... Duluth
VICTOR STEARNS ..... Duluth
12th—L. D. BARNARD ..... Renville
13th—M. TEDD EVANS ..... Pipestone
14th—JULIUS J. OLSON ..... Warren

15th—Hallan L. Huffman ..... Bemidji
16th—Frank W. Murphy ..... Wheaton
17th—R. H. McCune ..... Fairmont
18th—Godfrey G. Goodwin ..... Cambridge
19th—Edwin D. Buffington ..... Stillwater

Committee on Small Debtors' Court

Fred W. Reed, *Chairman* ..... Minneapolis
Oscar C. Ronken ..... Rochester
John L. Rounds ..... St. Paul
C. O. Dailey ..... Mankato
C. R. Magney ..... Duluth
Levi M. Hall ..... Minneapolis

Co-Operation of Local and State Bar Associations

George J. Allen, *Chairman* ..... Rochester
Henry H. Flor ..... New Ulm
George W. Buffington ..... Minneapolis
Albert Baldwin ..... Duluth

Committee on Abolishment of Common Law Marriages

E. F. Waite, *Chairman* ..... Minneapolis
Pierce Butler, Jr. ..... St. Paul
S. R. Child ..... Minneapolis
A. L. Agatin ..... Duluth
Grant S. MacCartney ..... St. Paul
James Paige ..... Minneapolis

Chattel Loans

Daniel F. Foley, *Chairman* ..... Minneapolis
James D. Denegre ..... St. Paul
Harvey Hoshour ..... Duluth
Joseph R. Kingman ..... Minneapolis
Charles N. Orr ..... St. Paul

OFFICERS OF THE AMERICAN BAR ASSOCIATION 1926-1927

President

Charles S. Whitman, 120 Broadway ..... New York City

Secretary

William P. MacCracken, 209 So. LaSalle St. ..... Chicago, Ill.

Assistant Secretary

Richard Bentley, 209 So. LaSalle St. ..... Chicago, Ill.

Acting Treasurer

Edward Kaestner, 78 Chapel St. ..... Albany, N. Y.

Member of General Council for Minnesota

Frederick H. Stinchfield ..... Minneapolis, Minn.

Local Council for Minnesota

Clifford L. Hilton ..... St. Paul
Burt W. Eaton ..... Rochester
Herbert T. Park ..... Minneapolis
Samuel D. Catherwood ..... Austin
Charles W. Sterling ..... St. Paul

CONSTITUTION
OF
MINNESOTA STATE BAR ASSOCIATION

ADOPTED JULY 8TH, 1926

ARTICLE I—*Name*

The name of this association shall be MINNESOTA STATE BAR ASSOCIATION.

ARTICLE II—*Object*

This Association is formed to bring into one compact organization the entire bar of the State of Minnesota, to cultivate the science of jurisprudence, to promote reform in the law, to facilitate the administration of justice, to elevate the standard of integrity, honor and courtesy in the legal profession, to encourage a thorough and liberal legal education, to cherish a spirit of brotherhood among the members thereof, and to perpetuate their memory.

ARTICLE III—*Members*

The membership of this Association shall be composed of the following:

(a) Regular members, consisting of the members of the Bar of Minnesota who are members of any affiliated local bar association.

(b) Individual members, consisting of such members of the bar of the State of Minnesota as are now members hereof, and such as may hereafter be accepted to individual membership herein by the Board of Governors. After a local bar association has affiliated herewith, and while it is so affiliated, no resident of the territory covered by such local association shall thereafter be admitted to individual membership herein. If a local association ceases to be affiliated herewith its members shall be transferred to individual membership herein. Upon the formation and affiliation of a local bar association covering the territory in which any person now having membership herein, or hereafter procuring individual membership herein, shall reside, such member, upon being or becoming a member of such affiliated local association, shall at once be transferred to regular membership herein.

(c) Honorary members, consisting of the Judges of the United States Courts within this State and of the Supreme Court and District Courts of Minnesota, during their respective terms of office, and such other honorary members as may be elected by the Association.

(d) Life members, consisting of such members as have heretofore purchased life memberships in this Association.

ARTICLE IV—*Board of Governors*

Section 1. The management of this Association shall be vested in its Board of Governors. Such Board shall consist of twenty-five (25) members to be selected in the manner hereinafter provided, and of the President, Vice President, Secretary, Treasurer and the two last preceding Presidents as ex-officio members thereof. Members of the Board of Governors shall hold office from the conclusion of the annual meeting following their election until the conclusion of the annual meeting of the following year.

Section 2. One member of the Board of Governors shall be elected by and from the members of the Association in each judicial district in Minnesota, except the Fourth Judicial District, which shall elect four, the second Judicial District, which shall elect three and the eleventh Judicial District, which shall elect two.

Section 3. Except as provided in Section 5 hereof, nominations to the Board of Governors shall be by the written petition of any three (3) or more members of the Association residing in the same judicial district as the nominee. Such nominating petitions shall be filed with the Secretary of the Association within a period to be fixed by the By-Laws. Notice of the time for all nominations shall be given by mail to each member. Nominations shall be made from the membership of the Association. Where no nominations are received from any judicial district within the time fixed by the By-Laws, the President shall forthwith appoint a nominating committee from such judicial district to make such nominations.

Section 4. Except as provided in Section 5 hereof, election to the Board of Governors shall be by ballot of the members of this Association in each judicial district. The person or persons receiving the highest number of votes shall be elected. The Secretary of the Association shall conduct the elections, mailing ballots containing the nominations for the judicial district to each member in good standing in such district on or before the first day of May in each year. The election shall be held on the third Monday in May in each year and ballots shall be deposited in person or by mail with the Secretary of this Association on or before such date. Vacancies in the Board or in any of the offices of this Association shall be filled by the Board for the remainder of the term. The Board shall prescribe rules and regulations for the annual election not in conflict with the provisions of this Constitution.

Section 5. An affiliated local bar association, the territorial limits of which are co-terminous with those of a judicial district, may choose the member or members of the Board of Governors for such district in accordance with its own Constitution and By-Laws, upon adopting a resolution to that effect and notifying the Secretary of this Association of such action, in which case Sections 3 and 4 of this article shall cease to be applicable. Such election shall be held on or before the third Monday of May in each year and the Secretary of this Association shall be forthwith notified of the results.

Section 6. The Board of Governors shall have power to make rules and by-laws, not in conflict with any of the terms of this constitution, concerning the election and tenure of officers, and committees and their powers and duties, and, generally, for the control and regulation of the business of the Board and of the Association. Such by-laws may be amended by a majority vote of the Association at any meeting, in the manner provided in Section 2 of Article VIII hereof.

Section 7. The Board of Governors shall have the same privilege of voting at meetings of the Association as the representatives of the affiliated local associations provided for in Article VII hereof.

Section 8. The regular meeting of the Board of Governors shall be held immediately following the annual meeting of the Association, and there may be such other special meetings of the said Board as the President, or in his absence, the Vice President, shall determine, or upon the written request of any five members thereof.

ARTICLE V—*Officers*

The officers of this association shall be a President, a Vice President, a Secretary and a Treasurer, who shall be elected by the Board of Governors at the regular meeting thereof held as provided in Section 8 of Article IV hereof. The President and Vice President shall not be eligible for re-election within two (2) years after the expiration of their terms of

office. The duties of officers shall be the usual duties of similar officers in organizations of this character, and may be more specifically defined in the by-laws.

ARTICLE VI—*Affiliation of Local Bar Associations*

An "affiliated local bar association," within the meaning of this Constitution, is a local bar association, comprising a judicial district of the State of Minnesota which shall have voted by a majority vote of all its members to affiliate with this Association, and shall have undertaken to pay to this Association for each of its members the annual dues of this Association. Other local bar associations based on other territorial limits may be permitted to affiliate under the same terms by a vote of the Board of Governors, but such affiliation shall be subject to termination by the Board of Governors. Where any person is a member of two such local associations which have become affiliated under the above rule, he may elect through which of such local associations he shall pay his dues to the State Association and shall be accredited to that local association for all purposes of this Association.

ARTICLE VII—*Representatives of Affiliated Local Bar Associations*

Prior to the annual meeting of this Association in each year, each affiliated local bar association shall choose persons to represent it at all meetings of this Association for the ensuing year. Such representatives may be appointed or elected by such local bar associations in such manner as their constitutions or by-laws shall provide. Each affiliated local association shall be entitled to one such representative for each twenty-five (25) members thereof and one for each major fraction in excess of an even multiple of twenty-five (25) members thereof for whom dues shall have been paid to this Association or who are honorary or life members of this Association. An association which has paid dues for less than twenty-five (25) members shall be entitled to one (1) representative.

ARTICLE VIII—*Meetings*

Section 1. This Association shall meet annually at such time and place as the Board of Governors may select. Special meetings of the Association may be held upon such notice as the Board of Governors may determine, at a time and place to be stated in such notice.

Section 2. At all meetings of this Association, all members (regular, individual, honorary and life) shall be entitled to the privileges of the floor, to introduce motions and resolutions, and to participate in all other business of the Association. All such members shall be entitled to vote upon all matters coming before the Association, provided, however, that after five (5) local bar associations of this state shall have voted to affiliate with this association under the terms of this constitution, then after the first vote is taken on any matter, any ten (10) representatives of affiliated local associations, may demand a vote on such matter by representatives of the local associations, in which event, only the representatives of such local associations and members of the Board of Governors shall be eligible to vote on such matter, and such vote shall decide the matter; and provided further, that the Board of Governors may, in its discretion, order a referendum on any question, such referendum to be either by mail or by vote of the local associations in such manner as the by-laws may provide.

ARTICLE IX—*Dues*

Section 1. Honorary and life members shall be exempt from the payment of dues. With these exceptions, the annual dues shall be as follows:

(a) From each affiliated local bar association, Five Dollars ($5.00) for each of its members, except those who are honorary and life members of this Association.

(b) From each individual member, Five Dollars ($5.00). Such dues shall entitle each regular and individual member to receive the issues of the official journal of the Association for one year.

Section 2. Dues to this Association shall be payable in advance on the first day of January in each year. Each affiliated local association shall forward to the Secretary of this Association a list of members of such local association, together with the annual dues for each such member.

ARTICLE X—*Expulsion*

Any individual member may be suspended or expelled by the Board of Governors for misconduct in his relations to the Association, the profession, the state or the nation, or for conduct unbecoming a lawyer or gentleman, or for the non-payment of dues for one year. Expulsion or suspension of such members for misconduct shall require the vote of not less than two-thirds of the members present, but in any case not less than ten (10) votes, upon specific charges, notice and trial.

The expulsion of individual members for non-payment of dues may be by order of the President, Secretary and Treasurer under the general rules prescribed by the Board of Governors. Expulsion or suspension of individual members may also be accomplished by the Association itself by a two-thirds vote of the members present at any annual meeting.

ARTICLE XI—*Amendment*

This constitution may be amended by a two-thirds vote of the representatives of affiliated local bar associations and the Board of Governors present at any meeting of this Association. Before any amendment to this constitution shall be voted on at any meeting, notice thereof shall be given by the Secretary of this Association to the president or secretary of each affiliated local association not less than thirty (30) days prior to the date of such meeting.

PROCEEDINGS

AT THE ANNUAL MEETING OF THE MINNESOTA STATE BAR ASSOCIATION FOR THE YEAR 1926, HELD AT DULUTH, MINNESOTA JULY 7th, 8th and 9th, 1926

Duluth, Minnesota, July 7, 1926.

Meeting called to order, Mr. Howard T. Abbott in the chair.

THE CHAIRMAN: I think it would be a very good idea if those in the back of the room would move forward, and I would like to ask for every member present when he rises to make a motion or make any remarks, if he will kindly give his name and address before saying anything. I may know who you are, and the secretary may know, but possibly the reporter may not, and in any event, it is most advisable that everybody present during this convention know who it is that is speaking. I would very much appreciate it, if you will follow that rule throughout all the meetings.

The first on the program this morning is the address of welcome by Mr. J. L. Washburn of Duluth, whom we all know and whom we all love.

(Prolonged applause, all standing).

ADDRESS OF WELCOME BY J. L. WASHBURN

MR. WASHBURN: That compensates for some of the things that have been said to me this morning, (laughter), by some of you, too, who are down there now clapping your hands (Laughter). I know what you told me to say and I have half a notion to say it, but the president, whom I always obey, shakes his head.

For the fifth time in history, The Minnesota State Bar Association has assembled here in its annual meeting. Your resident members here, the members of the 11th Judicial District Bar Association and our citizens generally welcome you to Duluth, and we hope that your stay here will be most pleasant. We are both honored and pleased by your coming, and it is our hope that when you go away, you will go away not regretting that you came, but only that you have to go. You will be duly advised, if you have not already been, of the various things that have been prepared for your entertainment and pleasure while you are here. The president of this association at this time is an able and much loved member of the Duluth Bar. We all owe allegiance to him and every member of the Bar has endeavored to lend a helping hand to him in his preparation for your entertainment; yet, the principal part of the burden rests upon him.

I have been for many years attending these meetings of the association, and they have been of incalculable value to me. We have many

serious things to consider at this meeting. The association is struggling forward slowly towards the goal which we all, I think, hope it will reach, where it may have some power to carry out its wishes, and where it can do better and greater service to its members and to the people at large. We want to maintain the highest standards possible for the profession both in the defense of and in the prosecution of cases, and we want to have the people assured that it means something to be a lawyer in Minnesota, and to be a member of this association, and carry its card of memberhip. It should not be the chief aim of a lawyer, as I have always maintained, to see how much money he can make, or how much he can take in, but it is the chief right of the lawyer and the chief joy of the lawyer to see how much service he is able to render to his clients, to the public, and to the state. Of course, we all agree with that passage of scripture, that there is something in the laborer being worthy of his hire, but with all that, the practice of the law is not a commercial proposition.

I have heard a good many people at one time and another welcome visitors to the community, and then generally tender them the key of the city. I have never seen such an instrument, except I think I was some place, once, I don't remember where, where they fetched in a great big key that never in the world had a key hole that it could get into. Now, there are no keys to the city of Duluth, and I don't know of anybody, if there were, even the president of the association, or the mayor of this city, who has any authority to give them to anybody. I don't think they are in use anyhow. There were no keys to the cellar under the City Hall where they stored the confiscated liquor, but somehow it all got out through a two inch key hole allegedly. This demonstrates, I think, thoroughly, the uselessness of keys.

Once more, I say, we are glad you are here. We want you to stay as long as you will, and when you go home we hope that all the way home, and after you get home, you will be saying to yourselves, consciously or unconsciously, that you have had a good time at Duluth.

Now to two or three rapscallions, whom I am looking at, (laughter), I will say just between you and me, what you wanted me to say. (Prolonged laughter and applause).

THE CHAIRMAN: A short time ago we received word from Mr. Putnam, Vice-president, that he was on his way to Duluth by automobile, but he found a situation arose which would prevent him getting here in time for the opening this morning, so I am going to ask Judge Callaghan of Rochester, to reply to Mr. Washburn's address of welcome (applause).

RESPONSE BY JUDGE CALLAGHAN

JUDGE CALLAGHAN: Members of the Bar Association, and especially our Duluth friends: Of course, it is a pleasure for anyone to respond to such a kindly welcome as has been extended to us by our friend, Washburn. I particularly want to respond in the most heartfelt manner to that last portion, which I think I thoroughly understood (laughter). Coming from the city that last year entertained the Bar Association, I know something about what it means to welcome the Bar Association of the State of Minnesota, and entertain them. Our great joy last year was in the expressions of kindly gratitude that we received from those who attended the meeting in our town. We did our best and we know that

the bar of Duluth will do better. They always have; and if they maintain the speed with which they have started out, this is going to be a glorious meeting, and those who are fortunate enough to be here will have a splendid time.

We get out of these meetings in proportion as we put into them, and we get very little out unless we put something in. We had hoped that the judges' meeting might have been ended, or at least sufficiently so, that all the judges might be present at the opening of the bar association this morning. However, you know that with the exception of the United States Senate, perhaps, the judges are the most deliberative body of men in the world (laughter). It takes some time to prepare their work, so they are not all here. I want to say just this: I speak not only for the judges who are in attendance at this meeting, but for the lawyers and,— we judges are in very close touch with the lawyers as a rule. They don't like us to get very far away (laughter).

We appreciate your welcome and thank you very much for your hospitality. We are going to have a good time here, and if we do not, it is not going to be our fault, and of course, we know it will not be yours. I thank you. (Applause).

THE CHAIRMAN: It is a little out of order, perhaps, but I desire to say that at this time tomorrow morning, at eleven o'clock, Honorable James Hamilton Lewis will address the association and its friends in this room. We will adjourn the business meeting tomorrow to enable him to do so. An important matter, so far as the association is concerned, will come up for consideration tomorrow, and that is the adoption of the new constitution for this association. Mr. Morris Mitchell, chairman of that committee, suggested to me a few moments ago that it might be well for anyone who has read the proposed new constitution, and who has any suggestions to make, that they be made to him at such time as he will designate, and I will now be very glad to recognize Mr. Morris Mitchell, for just a moment, if he has something along that line to say.

MR. MORRIS MITCHELL: The Committee of Bar Reorganization will be in the front part of the upper deck of the boat this afternoon, and will be glad to have any suggestions as to changes or any kind of amendments to the proposed constitution made to them at that time, in order that they may present some sort of comprehensive resumé of the proposed amendments at the time the report is presented tomorrow morning. I don't know how the boat is arranged, but I don't think there will be any difficulty about finding us. We hope any suggested amendment will be made at that time.

THE CHAIRMAN: The constitution of this association has in it a provision which requires the president of the association each year to deliver an address. It is because of that fact that it is embodied in the constitution that I am here this morning, and that is the only reason or excuse for my appearing in this capacity. I have chosen for discussion this morning the subject of "Multiplicity of Laws," and particularly as applied to the limitation of personal conduct of the individual, and as I cannot even remember a ruling of the court, I have not tried to commit this to memory, but with your sanction I will read it to you.

MULTIPLICITY OF LAWS

By Howard T. Abbott

There is coming to the thoughtful people of the country today a serious realization of the number of new laws passed by the national congress, the legislative bodies of the various states, and the ordinances of the municipalities therein. There is also being brought home to our citizenship the fact that a large percentage of these laws and regulations directly interfere, to a greater or less degree, with the personal conduct and personal liberty of the individual, and it is with this thought in mind that I attempt this morning for a very short space of time to bring the matter more vividly to the attention of the lawyers of the state, to the end that when the occasion arises their influence as individuals and the influence of the association might be helpful along remedial lines. An old evangelist has well said that: "Very few souls are saved after the first twenty minutes," so I will confine and limit myself to that length of time. The tendency today in Congress and in state legislatures is constantly toward new laws. A large percentage of these are laws which interfere with individual liberty in one way or the other. Many of these new laws are such as interfere with or prohibit the desired personal conduct of the individual, not as bearing upon or interfering with his neighbor, but solely as regulative of his personal conduct as affects himself alone. In this last respect I cannot avoid the conclusion that such law and regulations, and the enforcement thereof, are a possible future danger and menace to our institutions. Laws are advisable and necessary in the regulation of the personal conduct of the individual when such conduct encroaches upon or interferes with the person or property of another, but I am more and more impressed with the thought that any law is inadvisable which attempts to regulate the personal habits or conduct of the individual so long as that conduct is purely personal to the individual and interferes with his neighbor, or others, but slightly, or not at all. The men who best understand this are the lawyers. What are we doing to make that influence felt? Seldom anything. We mentally rail at it but our voice is seldom lifted in places or with people where good might result. We generally wait until some quick emergency is upon as and then act precipitately, often clumsily, depending more upon the hidden processes of pressure and perhaps party contribution, than upon the obvious and effective methods of direct appeal and frank discussion. The bar associations of the various states are most excellent, but when they come to interfere with proposed legislation or the probable passage of an act interfering with the personal conduct and liberty of any citizen, they approach the problem ordinarily in a manner which repels the legislator and does not convince. Resolutions from the bar associations mean no more to a senator or a congressman, and generally not so much, as would a letter from

a single member of such association upon whose judgment from past experience the legislator has found that he could rely. There is nothing which will so tend to beget a mutual confidence between members of the legislature and the bar associations of the states as the knowledge that each constituent and member of such association is keeping closely in touch with local thought and is not reluctant in conveying such thought to such representative. A man of standing in the legal profession commands respect among his neighbors and among his representatives which he ought not to fail in utilizing. Comparatively few men care to lead. The average citizen is willing to be led and willing to accept opinions from those whom he regards as qualified to form conclusions of their own, and so it seems to me that if each and every lawyer forming his own conclusions as to what proposed laws interfered with the personal liberty of the individual in his own conduct, would take the pains, either as an individual or through his association, to advise his representative from his district of the danger of dissatisfaction over the passage and enforcement of such an act, we would have fewer and fewer of such objectionable laws.

A learned lawyer and student has well said:

"Men cannot be made better by a legal command. How often have we been told from the pulpit and by moralists that individual reform must begin in the individual life, but how often is the lesson forgotten in the multitude of legislative enactments passed upon the notion that they will in some manner execute themselves and change conduct without changing thought; and where a reluctant compliance is compelled by a rigorous enforcement of an unacceptable enactment, we are apt to take the energy of prosecution as an evidence of the triumph of law and of real progress, whereas it will be quite as likely to breed more than counterbalancing mischief and drive us back again to the acknowledgment that no real advance is possible except through the slow, gradual, unconscious but willing change of thought and consequent change of conduct."

We cannot create a new spirit and sentiment so far as the personal conduct of the individual is concerned by the enactment of any law and a compulsory enforcement thereof. Experience has demonstrated clearly that unless the great majority of the people inherently believe that a law of personal conduct is of benefit to the individual, it can never be successfully enforced and compulsory enforcement thereof creates such a spirit of unrest and dissatisfaction that it finally reaches a state of wilful violation. In this discussion, I have and make no particular reference to the Eighteenth Amendment except perhaps as illustration of the statements made. That would be much better left as a question for separate consideration at other places rather than to be here considered or reviewed. Let us have no misunderstanding as to that. The right to reformation is the right to seek a higher and better rule and not to wander in mere lawlessness.

During the year 1925, there were 13,018 new state laws enacted by the various state legislatures, which held sessions. These thirty-nine state legislatures considered 40,986 Bills and passed approximately a third of them. North Carolina broke all records for new legislation. It passed over 1,000 new laws during that one year. Tennessee came second with 812 new laws, and Connecticut third with 700. Minnesota stood at about the center of the list with 439 new laws, which would seem to be about all

the average citizen could digest. The best record was made by Delaware, which passed but 53 new laws out of 526 Bills submitted to the legislature. Bear in mind also that these figures do not take into account the federal laws passed by Congress nor any of the thousands or hundreds of thousands of City and Village ordinances enacted during the year. The national Congress which adjourned last Saturday added 759 new laws to the federal statutes. In view of such a record it is not at all surprising that the demand for a simplification of government is growing each year. It would seem that legislative sessions, or at least one session, devoted to the repeal of useless laws, might be more valuable than a session or sessions devoted to the enactment of new laws. Lynch Davidson, candidate for governor of Texas, as part of his political propaganda, having recognized this disease of which we speak, wrote a brief prescription as follows:

"When I am your governor, I shall exact of the legislature the repeal of at least two laws every time it enacts a new one.

Each time a baby law is born, two hoary-headed old sinners go to the guillotine. Slowly the covers of the volume of Revised Statutes of Texas grow nearer together.

At last there are but two laws left. The legislature passes one more and wipes those two out."

In part, I am a believer in Mr. Davidson's theory. We legislate altogether too much, and a session devoted to the repeal of laws without the enactment of a new one, would be a step in the right direction, but, of course, as a matter of practicability, such is but an idle thought. If we proceed as we have in the past, with the enactment of so many new laws each session and the multiplication of Village and City ordinances, who can tell or prophesy the size of our statutes in another ten or twenty years, and what percentage of these new laws will be found that interfere with your personal and business conduct and mine, limiting, restricting and prohibiting? Who is there among us today that has not violated some law or ordinance since he arose this morning? Most surely you have if you have driven an automobile a distance of three blocks. In riding those three blocks you probably violated at least three statutes or ordinances with which we are all conversant. You did not slow down at the intersections. You did not blow your horn at the intersection when the view was interfered with. Your speed undoubtedly exceeded the ordinance, and you probably did not signal as you left the curb, and if you examine your car at this hour you may find a yellow tag attached to it as a notification that you have done something else wrong. However, do not misconstrue what I say. Such laws are regulatory, and while it is governmental of your conduct it is enacted not so much as a restriction upon you as for protection to others, and the distinction that I wish to bring home today is the danger of the prohibitive statute or ordinance which regulates or attempts to regulate your personal conduct or habit, when such conduct would not interfere in any way with your neighbor in his conduct, or in his property or personal rights. The enactment of such statutes and such ordinances should be opposed wherever possible, to the end that each individual citizen can realize to the full extent that degree of life, liberty and happiness contemplated and guaranteed by the constitution. You cannot instill personal ethics, habits or thought by coercive legislation and mere

majority rule. As one has well said: "They are not generated in mass form." They are the sole growth of birth, individual desire, ambition, education and example. The individual's habit, conduct and thought cannot be measured by a yard stick prescribed and prepared by his neighbor or a majority of them, and when such is attempted it is repugnant to the individual and a compulsion law enacted for that purpose is distasteful in the extreme. Such a law is debasing the moral currency. No government can successfully assume the functions of the home, the school or the church.

So long as we have a representative form of government under a written constitution, every lawyer and business man ought to acquaint himself closely with governmental methods and the new laws proposed. He is not to be excused for ignorance of the fundamental law or indifference to its preservation. Neither is he to be excused for failing to oppose dangerous tendencies in legislation, and to oppose demoralizing endeavors to amend the federal constitution or the constitution of the states in such a way as to invest Congress and state legislatures with arbitrary control over the rights of the individual citizen, for after all the principal purpose of a written constitution is to protect the individual citizen against tyrannical legislation, temporarily demanded by what may be transient majorities swept along and influenced by transitory emotions. It should be the duty of every intelligent lawyer to be constantly on the alert to cripple a proposed Bill which infringes upon such personal liberty, when he may, and to kill it when he can. The power of a government in the enforcement of its laws is limited to that portion of the force of the community which it is able, practically, to command. The question of whether it is physically possible for a law to be enforced is different from the question of whether the law is likely to be executed. Thus it would be physically impossible to execute a law for changing the course of the seasons or the height of the tides. On the other hand there are many laws which might be carried into effect with universal consent of the community, but which the government itself, from the unwillingness of a large portion of the community to submit to them, would find it difficult to enforce. Such are, for example: Over-severe penal laws; vexatious and unfair revenue laws; laws regulating prices and wages; laws contradictory to Supply and Demand, and laws restricting the personal liberty of the individual when the exercise of such liberty does not inflict injury upon his neighbor. The statutes of the various states have innumerable laws upon their books at which no attempt at enforcement is made, and could not logically or practically be made. They are not favored by the citizenship, and when, upon rare occasions, they are resurrected they become practically a nullity in their enforcement. The elimination of dead letters from our statute books would greatly reduce their size. You cannot make a man moral or religious by enacting a Puritan statute governing his conduct or his personal make-up. You cannot instill patriotism, spirit, thrift, pride, self-respect or dignity by the enactment of any law, and where any such attempt is ever made it has been met with repulsion, disregard and oftimes wilful violation. No such law enacted by any government, national, state or municipal, will ordinarily be obeyed unless the persons subject to it believe that such government was prepared,

in case any person should disobey it, to inflict upon the pain in which its sanction consists, and unless they saw its sanction actually inflicted upon the persons who disobeyed it. When obeying from that point of view it is solely through fear and not because they are imbued with the belief that such a law is fair, righteous or just. Consequently, an act of legislation which is contrary to this precept, and which unjustly infringes upon the personal rights and liberties of the individual, would be nugatory unless the government adopted the means requisite for carrying such law into effect, and, of course, in the adoption of machinery to enforce the individual into compliance therewith. Consequently, such an act of legislation by sovereign government implies the necessity of future acts of enforcement. Unless such government were prepared to carry its general laws into effect such laws would lose their imperative character and would become mere recommendations or rules of positive morality, having for their sanction as much of public opinion as such government could enlist on its side. It is most important that the grounds of the expediency of the enforcement of a just law and the inexpediency of the enforcement of an arbitrary and unfair law should be clearly understood, since no distribution of the sovereign power, no arrangement of constitutional balances or checks can secure a willing adherence to such rules or laws. In these days, as in all other times and places, where the mental atmosphere is constantly changing and men are inhaling the stimulus of new ideas, folly often mistakes itself for wisdom, ignorance gives itself airs of knowledge and selfishness calls itself righteousness or religion. The enactment of a law instigated by the self-imposed keeper of the conscience and conduct of others will seldom become effectual or enforceable, no matter what penalty may be imposed for its violation. The difficult task of knowing another's viewpoint is not for those whose consciousness is chiefly made up of their own wishes. Public opinion will be subservient to just laws at all times and will sanction their enforcement to the utmost, but we can never hope to have a law successfully in force which abrogates a personal habit, conduct or liberty of the individual when confined strictly to such, and the emptiness of all things from laws to pastimes is never so striking to us as when we fail in them.

We reverence the law, but not where it is a pretext for wrong which it should be the very object of the law to hinder. Where any law is upon our statute books, which tends grossly to regulate the conduct of the individual in its relation to himself, it is repugnant to that degree of freedom which the citizenship of the United States has long cherished. Any law which is not worthy of respect is sure not to be respected or obeyed, because it lacks the true quality of law. A law which regulates the personal conduct of the individual as bearing upon the rest of the citizenship is sanctioned and is capable of enforcement. The traffic laws of the present day, for illustration, both statutory and created by municipal ordinance, may and do create hardships upon the individual. They restrict and limit his personal acts and conduct, but they are sanctioned and obeyed by such individual because of the fact that he realizes fully that such laws and such ordinances were not passed and are not being enforced solely and alone for the government of his conduct and for his protection, but for the protection of all others, like and otherwise situated. He can

easily differentiate between the reason for such a law and such an ordinance and one enacted which is mandatory upon him in a matter upon which he alone and individually is concerned.

Many of the laws enacted today tend toward the creation of rapidly increasing bureaus in Washington and elsewhere, with investigating committees upon every subject matter imaginable, and all with constantly accumulating expense. They tend toward the centralization of power in the federal government at the expense of the jurisdiction of the state and local communities. What is greatly needed in the United States today is home rule, no paternalism in government, continual lower taxation, fewer laws, and no laws at all that interfere unreasonably with the free exercise of the liberty of the individual, and extreme caution by the courts that "due process of law" as used in the Fifth Amendment of the Constitution is not to be modified or abrogated by the power to tax.

No class of citizenship is better qualified to act along remedial lines in this respect than are the lawyers of the country. Wherever possible, and upon all occasions, and wherever an opportunity offers, let us discourage the enactment of such laws as I have referred to, or minimize them to the last degree. When such laws are enacted it is the duty of all citizens to obey them as far as may be, but by far the most logical way to meet the situation is to oppose their enactment by all the influence at our command, whether it be done as individuals or as an association. When your broth's ready made for you, you must swallow the thickening. Individually and collectively we should insist that legislatures begin to simplify, to clarify and to codify the heterogeneous mass of state statutes, so that our revised statutes in the various states could be written in one-fifth as many words. It would save valuable time, needless expense and fruitless litigation, and make for a clearer understanding of the laws.

I cannot close without reciting to you a homely but pertinent couplet which I recently came across, written, I believe, by Strickland Gillilan:

"THERE OUGHT TO BE A LAW"

A Fellow out in Steamboat Rock fell down and barked his shin,
He nursed it and he cursed it with a grim and grisly grin,
Then wrote and told his congressman about the stump that
tripped him,
And voiced the indignation that incontinently gripped him.
The congressman got busy with a ream of legal-cap,
(Though few of us had known that Steamboat Rock was on the map),
He framed a law forbidding leaving stumps six inches high—
It passed; and now 'tis one of those we all are governed by.

Full many a little citizen grows "all het up" and vocal
O'er something superpiffling and superlatively local,
And drives his representative (who yearns for reelection)
To make a nation's law about some localized affection.
We break a law an hour, on an average, I guess,
For multitudes of laws produce a law-ignoring mess,
Our country's bulky statute-books contain a million laws,
That, if enforced, would place us in constabulary claws.

'Tis safe to say that each of us, without one lone exception,
Breaks every day a dozen laws of which he's no conception.
There's scarcely any human deed that's natural or pleasant
But that one day that self-same act has peeved some paltry peasant,
Who promptly got his congressman to pass a law about it,
That you and I in innocence or ignorance might flout it.
For broth is not the only thing spoiled by too many cooks—
'Twould do our country worlds of good to "thin" our statute books!

Applause.

THE CHAIRMAN: I will now appoint the following committees: To nominate Board of Governors for the ensuing year, Mr. Frank E. Putnam, Chairman, Blue Earth. Mr. John M. Bradford, St. Paul. Mr. Frank Crassweller, Duluth. Mr. James D. Shearer, Minneapolis. Mr. James H. Hall, Marshall.

To audit the treasurer's account, Mr. Charles S. Kidder, Chairman, St. Paul. Mr. Victor Stearns, Duluth. Mr. Henry Deutsch, Minneapolis.

We will next have the report of the Library Committee. Is the chairman of the committee present?

MR. JAMES PAIGE: The report of the committee is found on page 13 of the printed announcements. (See Appendix p. 94.) I see no particular reason for reading it. Therefore, I move the adoption of the report as printed.

Motion seconded and carried.

THE CHAIRMAN: The next in order is the report of the Ethics Committee. Judge Hallam is the chairman but he will not be able to be here until tomorrow morning. Is there any member of the committee who is able to report?

(Mr. R. G. Thoreen of Stillwater read the report as found on page 6. See Appendix p. 87.)

MR. THOREEN: I would like to say also, Mr. President, that during the committee meetings, it has come out that certain collection agencies are conducting their business in such a way that it seems that the attorneys who represent them are violating the ethics of our profession, referred to more particularly in the report of the Committee on the Unauthorized Practice of Law. There are several collection agencies in this city, maintaining an office with laymen in them who sign complaints and summons every day of the year, signed by some attorney whose name is not even there and who cannot be found there, and nobody knows who he is, and you just hang around there long enough, and you will find he is located somewhere else. He doesn't see the papers, he doesn't read them and does not know anything about them. They are gotten out in the form of summons and complaint, signed with his name, every day, without his personal knowledge of the transaction at all, and I think that is one practice that should receive more attention here at this meeting, when we take up the report of the Committee on the Unauthorized Practice of Law.

I wish to move the adoption of the Ethics Committee Report.

Motion seconded and carried. The report was declared adopted.

THE CHAIRMAN: Next is the report of the Committee on Legal Biography. If the chairman is not here, or anyone who desires to make a report, that will be passed. It is only eleven o'cock and as we have to have a very short session this afternoon, I would like very much to take up the afternoon program and dispose of as much of it as is possible. The first thing in the afternoon meeting would be the report of the Committee on Legal Education. Is the chairman of that committee here, or anyone authorized to make the report?

MR. CATHERWOOD: Mr. President, Mr. James E. Dorsey is the chairman of this committee.

A VOICE: Name and address.

ANOTHER VOICE: Don't you know your name?

MR. CATHERWOOD: Brother Duxbury just reminds me that my name is Catherwood and my home is in Austin. Mr. James E. Dorsey is the chairman of this committee. The report is found on page 14. (See Appendix p. 94.) It is full of things that ought to have consideration. It gives the number of applicants for admission to the bar during the past year, and the number of those who were rejected, and the number of those who were placed on probation. The outstanding thing in this report, Mr. President, is the reference to a certain percentage of applications for admission to the Bar, the applicants who were admitted only under the provisions of an enactment of the Legislature of this state at its session in 1925, which provided that individuals belonging to a certain class should be admitted to the Bar upon motion, and receive a certificate without examination. At a joint meeting of the Committee on Legal Education of this Association, and the Minnesota State Board of Law Examiners, and the Members of the Supreme Court, this legislation was considered and discussed,—with some frankness, Mr. President. The feature of it that I wish to suggest here, (without discussion, because it really speaks for itself), is that under that enactment, there were more than twenty-eight per cent of all the applicants to appear, who were admitted to practice and received their certificates without any examination at all. Legislation of that character does not come under the class of legislation that was condemned by the president in his address, because it is distinctly legislation that applies not only to the legal profession but to society as a whole. It is legislation well intentioned. Nobody can question it, but it is unfortunate; it is class legislation and cannot be sustained and never has been properly sustained in any court, and is extremely undesirable. That is a feature of this committee's report, that I know all of the committee will unite with me in condemning before this assembly, this association, and this state. (Applause).

THE PRESIDENT: Mr. Catherwood, do I understand that that will be the report of this committee?

MR. CATHERWOOD: It is the report of the committee which is embodied in the printed report here on page 14 of the announcements. (See Appendix p. 94.) Now following another pertinent suggestion of my friend, Duxbury:

I will move that the report be adopted by this association.

Seconded by Mr. A. V. Rieke and others and carried.

MR. RIEKE (Minneapolis): Is there not going to be some action taken with reference to what Judge Catherwood said just a moment ago, any more than the mere adoption of that report, that the association ought not go on record absolutely condemning such a law as is found upon the statute books? It strikes me that there might be some discussion—

THE PRESIDENT: If there is any coming, it ought to come right now.

MR. KIDDER: I would like to make the motion at this time that this association go on record with some sort of recommendation to the Supreme Court on that question, as I understand that when that law was passed, it was a belief of a great many of the able lawyers of the state and a number of them leaders in this association, that this was class legislation, that it involves discrimination, there being no relation between the specific features of the qualification in the bill and ability at the bar, or legal ability of any kind, and the Supreme Court (perhaps it might be said) passing upon the legality of the law, by waiving the rule which requires every applicant for admission to the bar, to take the examination,—the statute placing the rule for admission to the bar in the power of the Supreme Court.

Now it seems to me that it would be an appropriate thing for this association to express itself as being in favor of no further waiving of the rule for admission to the bar in this state, by the Supreme Court. I think the Supreme Court would be affected by such an action by this association. I think we ought to have the courage of our convictions to say so, if we do not believe the Supreme Court should further waive the rule. Of course, our soldiers in the war suffered injuries, but that is no qualification for practice at the bar. We might just as well have a law that provided that every man who had one leg gone should be admitted to the bar without the examination, as a matter of sympathy. People of that sort are entitled to sympathy, but admission to the bar without examination ought not to be a matter of sympathy. I think if we would pass some sort of resolution here on that question recommending to the Supreme Court what we think ought to be done that it would have some weight. I, therefore, make the following motion:

MOTION

That this association respectfully recommends to the Supreme Court that no further waiver of the rule for examination of law applicants to be admitted to the bar be made by that body.

Motion seconded.

THE PRESIDENT: Any further remarks?

MR. CATHERWOOD: My name is Catherwood.

MR. DUXBURY: He still remembers it.

MR. CATHERWOOD: The good friends who are surrounding me are determined that I shall not forget that, if you do. I recall, unless my memory is very faulty, that there was a resolution of almost this same character presented to the Rochester meeting last year. Frankly, I do not like

the form nor the intention of the resolution which is proposed. As members of this association we are asking the members of the Supreme Court of this state to do a remarkable thing. The members of the Court, representing one of the branches of our state government, the judiciary, have no power, either constitutionally or by statute or otherwise to regulate the performances of the legislature, where all of this trouble first originated. If this association can do anything, and wishes to do anything effective, as I see it, it would be to refer the matter with certain instructions or suggestions to the legislative committee of this association. Where legislation of this kind, which is so called into question, and which we cannot argue as being anything but unfortunate and improper and unfair, and destructive to the very policies to which this association has pledged itself,—the betterment of the membership of the bar is at stake,—the Supreme Court is guided by the law. Here is a law that is presented to the Court for endorsement to the application of certain citizens who claim they come under it. They present to that Court the assertion that they have complied with the provisions of that law that the Legislature has created. Now without some machinery, some form of procedure which has accompanied the creation of that law, by which there can be a hearing upon that, it is too much to ask, and too much to expect of any Court, to voluntarily, from the bench, without being asked by anyone representing the bar, or the state or its people, to say to one who comes before that Court, or two or a dozen or twenty-seven odd, as in 1925—"you don't come under this law, and if you do the law is invalid. No one has attacked that with any motion or suggestion, but as a Court, we tell you, young gentlemen, to walk out of here because this law is invalid." Don't expect our Supreme Court to do that. If you pass such a resolution along the lines suggested, address it through our legislative committee to the Legislature of this state, not the Court.

MR. KIDDER: If I might be permitted to say a brief word. As I understand the action of the Supreme Court they do not admit anybody under this statute. It seems to me the decision of the Supreme Court, when these men were first admitted, practically assumed the probable invalidity of the act, but the men were admitted by a waiver of the rule under the power of the Supreme Court and the statute which says they shall make rules for the admission of men to the bar. They were never admitted under the statutes. But they have not passed on the act. They have not said it was valid. The matter was presented, and can be presented again. It is not necessary, because briefs are before the Court and the Court is fully advised of the reasons for holding the law invalid. If the Court says it is invalid, the only way they can be admitted is to waive the rule, which the Supreme Court says they have power to do. We are not asking the Court to ignore a statute, we are asking them to pass on it. It seems to me we ought to have a judicial determination as to whether or not this law is valid.

MR. DUXBURY (Caledonia): I have been talking to Catherwood, but I can't get him to say what I wanted him to. I have been listening to this discussion with much interest, because I seem to know very little about that law. During the last five years, I have been working in a special

line of compensation law, and all I know about law is what I know about that, and that is only a little, so I don't know much about this law, but I have the impression that there was such a law, and that the law itself has a limitation as to time in which these people might take advantage of it. I would like to know whether anyone knows whether I am right or wrong about that.

A MEMBER: I am reasonably certain that the statute is limited as to time,—possibly next June.

MR. DUXBURY: If there is that limitation then, all the damage that can be done is already done, and no further damage will be done under that law. If the damage is done, let us endure it, or if they have been improperly admitted, let us have some proceedings before the Court by which they can be disbarred, if they ought to be disbarred. But if the thing has gone as long as that I think we should endure the results of the unwise acts of the Legislature and hope they will not indulge in any further such acts, the unwisdom of which I think is quite obvious. I quite agree with my friend, Catherwood, (which I seldom do), that the resolution as proposed is not in good taste. It is asking the Supreme Court to pass upon something as a matter of grace and that is rather more than we should expect. If there is some method of getting the question before them in a proper proceeding, they will probably give us their conclusion on that, but they will not be apt to do it as a matter of being good fellows, or as a matter of grace. If we are properly informed, that this statute expires by its own limitations before another legislature can meet, we ought to drop this question. And for that purpose I move that the resolution proposed be laid on the table.

The motion was duly seconded and carried and the resolution was laid on the table.

THE PRESIDENT: Is the chairman of the Committee on Local and State Bar Associations present?

MR. GEORGE J. ALLEN: My name is George J. Allen and I used to be a music teacher, and then I became a school teacher and finally got to be a lawyer in southwestern Minnesota. Our committee has not held itself together during this year, but we have communicated by telephone and telegraph and writing, and through these means of communication, we have been able to work so that we have our report ready. The report will be found on page 27 of the printed pamphlet. (See Appendix p. 108.)

Now, in addition to this, I want to say, our committee has recently sent some letters to the judges of the different parts of the state to ascertain for your edification or enlightenment on the subject what local district associations were held. A great many counties are organized into local bar associations, having officers and functioning at times as they meet.

About half the districts of the state are now organized into district associations; and most of the counties are organized as well, I think that is all the report I have to make.

THE PRESIDENT: The secretary just handed me his letter, Mr. Allen. I don't know as you are advised on the subject matter, but you may wish to incorporate it in your report.

MR. ALLEN: Yes, this is a letter from Mr. James P. McMahon, informing us that in the city of Faribault, Rice County, the lawyers met in a body on February 18, and formed an organization called the Faribault Bar Association, which includes every lawyer in the city. I would say that at the Southeastern Association the other day we elected Judge Buckham of Faribault as our president, a man now ninety-three years old.

MR. MARKHAM (Rush City): I want to say, Mr. Allen that our Tri-County Bar Association has existed for approximately twenty years, embracing the lawyers of Chisago, Pine and Kanabec counties, and while we are a part of the 19th District, Washington County, and Stillwater County, forming separate organizations,—we have not been identified together, their interests seemed to have been separated from ours, but we have our original organization of the Tri-County Bar Association, which has been in existence now for approximately twenty years. We are a migratory body; we meet first in one point in the county, and then in another.

THE PRESIDENT: You have heard this report. What shall we do with it?

MR. ALLEN: With the addition of Mr. Markham's report, I would like to move the adoption of the report.

Motion seconded and carried.

THE PRESIDENT: Mr. Allen, the secretary, has asked me to ask you if you will submit to him, or transmit to him, a copy of these various associations, with the names and addresses of their officers.

On the whole day's program, there is just one matter left. What shall we do with it, have it now, or wait until after lunch and then have it then?

VOICES: Have it now.

THE PRESIDENT: Mr. Shearer, are you ready to report on your committee, the Committee on the Uniform Procedure in Federal Courts?

MR. JAMES D. SHEARER: Mr. President and Members of the Association: The report of this committee will be found on pages 17 to 20 on the printed report. (See Appendix p. 98.) It is somewhat long, not because we have any pride in expression, but there are a number of questions and bills involved and we thought it better for you, to bring it up at length, so that if you will only read this report you will know what we have done, you will know all that we know, and then perhaps some. I am not going to weary you with reading any part of this report, except to make a motion on the recommendations. I do wish to say this, I think it has been said many times before,—but it is a remarkable thing that this first bill which we speak of, the bill to provide for the formulation of rules in law cases the same as in equity cases, that is, to be done by the Supreme Court,—has been before Congress for more than twelve years. It has one very active opponent, Senator Walsh. There has been from time to time a few others who have stood with him against this bill, and the chief argument that they have brought against it is that under the practice the formulation of such rules would change the existing practice and would make it harder for the ordinary country lawyer, or

the village lawyer, or the city lawyer who seldom goes into the court, and they would have to learn these rules all over, whereas, now, under the general existing practice, the federal practice follows so far as may be the state practice. However, we all know there are so many exceptions to that rule that they are almost as numerous as the rules themselves. If any of you will read the brief found in the printed report of the American Bar Association which is republished from year to year,—this has been brought before Congress,—and the instances there where the practice does not conform are so numerous that they have got to be learned over again anyway. All I wish to say about that is, that such men as Charles Evans Hughes, Thomas W. Shelton of Virginia, who is chairman of the American Bar Association Committee, and Justice Sutherland of the Supreme Court, and others, have been before Congress or committees of Congress time and again trying to get that bill passed, and it has passed the house once or twice, but the Senate will not bring it out. They will not give it a chance for its life on the floor, due to senatorial restrictions, I suppose.

There are some authorities cited there, and I hope you will read it, and if you are interested at all in the work of this committee, I hope you will refer to one or two of those authorities if you have not already read them.

Now, the recommendations, I will make them under separate motions as there might be some objection to some of them and not to others. I think I am speaking for the members of the committee when I say that these recommendations we consider worthy of your O. K. At one of our meetings we were very fortunate to have Justices Sanborn and Molyneaux with us. There was not a very large meeting of the members but we were very glad to have them there and we got some valuable suggstions from them.

Mr. Chairman, I move the adoption of this part of the report, page 19, paragraph 1, (see Appendix p. 100), that the incoming committee shall continue to strive for such legislation as will promote uniform procedure in the federal courts. Paragraph 2: that this association especially urges the passing of S 477, H R 419, to empower the Supreme Court to make and publish rules in common law actions. S 6292 H R 5265, for appointment of court reporters. I will stop there for the present. I move the adoption of those recommendations.

Motion seconded and unanimously carried.

MR. SHEARER: Now, Mr. President, I move also the adoption of the committee's report as to S 624 H R 3260, the Caraway bill. This is the bill seeking to abridge the power of federal judges in the trial of cases by prohibiting them and making it reversible error if the federal judge in the trial of a case shall refer to the witness' testimony or to evidence in the case, and express his opinion. I think our judges, (and our committee is unanimous in that opinion), have always exercised that power with discretion, and there is no particular reason why it should be curbed, especially so as in our report of last year it was not then apparently understood that our district court judges held that power now. I move the adoption of that part of the report.

Motion seconded and carried with two dissenting votes.

THE PRESIDENT: The motion is carried I judge. Do you want any rising vote on it? If not, it will be declared to be carried. Is there anything further Mr. Shearer?

MR. SHEARER: Mr. President, I move the adoption now of the third recommendation, that the pay of jurors and witnesses in federal court ought to be substantially increased to square with the present cost of living and travel. There is a bill in Congress to that effect,

Motion seconded and carried.

MR. SHEARER: The fourth recommendation which I now move is that the incoming committee seek to have amended the existing federal law referred to in (b) in the foregoing report. That paragraph refers to the existing law in criminal cases where a husband and a wife may not testify for or against each other in certain cases. The judges especially referred to this, and I think as many judges as are here will perhaps bear me out in that, that there are many cases where there is no other evidence available and it has seemed wise for us to say at this time that we recommend that some change ought to be made in that law. (c) is that in civil cases, where jury trial is waived and the case tried by the Court, the Appellate Court cannot pass on the sufficiency of the evidence to sustain the findings and judgments of the trial courts, if such question was not distinctly raised before the close of the trial. We think that ought to be amended to permit the practice to conform to the practice now existing in the state courts. I move the adoption of these recommendations.

Motion seconded.

THE PRESIDENT: Any remarks?

MR. CATHERWOOD: Do I understand from the report that it is proposed by this recommendation to remove from our statutes the privileged communication rule with reference to a husband testifying against his wife,—is that the effect of that recommendation?

MR. SHEARER: No. I think——

MR. CATHERWOOD: Please explain it.

MR. SHEARER: No, I think it is to suggest that the rule should be modified in criminal cases. It would have no effect whatever upon our statutes, but in federal cases.

MR. DUXBURY: How do you propose to modify it, in what particular?

MR. SHEARER: To have a bill introduced in Congress to permit at least in certain cases to modify the severity of the rule. Now, our committee has not gone into that to any very great extent, but the suggestion was made by the judges at that meeting and we simply put it in our report for your consideration. If there is the slightest discussion or question on that, I will withdraw the resolution as to the last two suggestions.

MR. CATHERWOOD: Well, there will be quite serious objection.

MR. SHEARER: Very well, Mr. President, I will withdraw then, my last motion, so far as (b) and (c) are concerned. That is all there is about it.

MR. DYKE (St. Paul): I heard a member of your committee discussing the particular matter referred to, from which I understand that it is the rule in federal court now that a wife or a husband cannot testify in favor of one another in criminal cases, and the purpose of the proposed amendment is to modify that rule so that if a husband is on trial for bootlegging, say, he can call his wife to testify that he was not making any liquor, or whatever the case may be.

MR. DUXBURY: I do not know whether any of the rest of you are in the same situation that I am in, but I do not like to have this association adopt a resolution with no more information than I have in this instance. I don't know but I might be in favor of that resolution, perhaps very heartily so, but I haven't information enough to know what I ought to do. Catherwood seems to be against it, which would indicate that I ought to be for it, but I hate to take action on that basis alone. That is the reason why I think that resolution ought to be withdrawn and not passed here, unless we have further time to discuss it, so that we may have some basis for a conclusion.

MR. SHEARER: I thought I made myself clear that I would withdraw those resolutions covering the last two suggestions, with the consent of my second. I believe Mr. Duxbury is right, that it is important enough so that it ought to be left to sink in for one year, and perhaps we will all be more informed about it at that time.

THE PRESIDENT: The Chair understands that it was withdrawn, and there is nothing now before the house.

THE PRESIDENT: Mr. Caldwell, the secretary, has the usual announcement to make, and before he makes it, I want to say that it is vitally important that the matter of banquet tickets be attended to promptly, because at the banquet on Friday evening, it looks as though there will be from four to six hundred present and you can readily see that it makes a lot of difference to the people who are providing for it, and particularly this hotel, to get some idea how many will attend, and whether there will be four hundred or six hundred.

MR. CALDWELL: The president has stated what I was going to say. You will find the tickets at the door when you go out.

(The meeting thereupon adjourned until nine thirty A. M. July 8th, 1926.)

Duluth, Minnesota, Wednesday, July 8, 1926, 9:30 A. M.

Meeting called to order, Mr. Abbott in the chair.

THE PRESIDENT: We will now have the report of the committee on Small Debtors' Courts. Is the chairman of that committee present?

MR. REED (Minneapolis): As you know, where there is a race to be run, and one of the participants has one leg only, and is obliged to run the race on the same terms as the others, justice has not been done to that man yet. Our constitution holds that everybody is equal before the law, and they are, but if they can't get to the law, and can't get the use of it, it is no good to them. It reminds me of a story of a man,

who before the passage of the Eighteenth Amendment, was carrying home a jug of liquor. In climbing over a fence he dropped it and it fell on the other side of the fence, the cork came out and the liquor drizzled out on the ground, "good, good, good, good, good," and he said, "I know you are good, but I can't get to you." Justice for the poor has not gotten to them yet, even in our own country. The movement towards Small Debtors' Court and the Conciliation Court has been a long step in that direction, but there is still one particular feature that I think needs some action, and that is in the matter of garnishment proceedings. We are giving that to you in our report. In a case where a man is out of work or has a small salary, what can he do if he is garnished or held up for six months before he can get his pay? That is one thing in our proceedings that ought to be cured. There are plenty of poor fellows who lose their jobs and they are put to all sorts of hardships before the culmination of the garnishment proceedings. Most of these men who are working for wages would pay their debts if they had a chance, but how can a man pay his debts if he has a wife and a family on his hands and no home and nothing coming in, how can he pay them? I know from my own connection with what we call charity societies that there are men being supported in the meantime by the state while they are paying what wages they get, on garnishment proceedings to some fellow. Under this proposed procedure, a man, when he is garnished, might apply to a Court, and tell his condition and the Court will make an order in which his wages shall be paid over to a trustee, and applied as the Court may direct. This proposition is already in use in some parts of the country, in Massachusetts and in the English county courts. As a matter of fact, in the English courts the poor man under this law is better protected than in the United States, and I am not deferring to English law particularly. It is suggested that under this law it does not apply to those who have not consented to it; that is, somebody else may garnish him while he is still in the hands of the trustee. I don't think that should be allowed. But this proposition is to have the debtor make an application to the Court to pay over his wages, so much as he can and live, and the Court to apply it on the debt, and while that order stands, this man cannot be sued by anyone else. I understand there is one man in Minneapolis who is going to oppose it with all the force he has, but if he has any ideas that will make it better, I hope he will bring them out, and I hope you gentlemen will take the same course.

THE PRESIDENT: Mr. Reed, there is a letter here which has just come in. Perhaps you will want to consider it in making your report.

MR. REED: This is the letter from Mr. Mendow. (Reads:)

June 28, 1926.

Committee on Small Debtors' Court,
Minnesota State Bar Association.

Dear Sir:

After going over the report of the Committee on Conciliation and Small Debtors' Court it must come to your attention that the bill of Mr. Mack of Duluth is one severe weakness. Suppose that a non-assenting creditor brings a garnishment proceeding or levies an attachment, then the

debtor is in no position to make his payment to the trustee, and as a result all of the assenting creditors would have the right to also commence garnishment and attachment proceedings, and unless provision is made that in the event that the assenting creditors must excuse the neglect in the event that a non-assenting creditor commences an attachment or garnishment, the Trustee Plan will cause more difficulty than the present ability of a debtor to stand for one garnishment, make assignments of wages, or run to cover in some other fashion to avoid any more garnishments or attachments.

Another argument against the plan is that the Court in fixing the ratio to be paid over to the Trustee will be constantly in the same situation as the judges of the District Court are in alimony matters, and men will be going to jail for contempt because of their view that the Court's fixing the amount under a voluntary arrangement is arbitrary and not contingent with their own view of their ability to pay.

It seems to me that the feasible arrangement would be to permit the debtor to himself fix the amount that he can pay in. That the creditors have notice, and if they assent, then they should be stopped from instituting garnishment or attachment proceedings. If the debtor fails to keep his bargain then he can be subjected to garnishment and attachment proceedings. The matter must be entirely without the charge or suspicion that a man can be imprisoned under the guise of a contempt for his debt.

If the Bar Association should recommend the report of your committee in this connection, I should feel it my duty to arouse a public sentiment against any such law that would unquestionably have the effect of imprisonment for debt under the guise of a contempt of court. In other words, you are going to put small claims in the same category with the payment of alimony. Public necessity does not require any such advantage to creditors.

It is not possible for me to be at the Bar meeting to undertake an argument against the report of the Committee, so I would be greatly obliged to you if you could call the attention of the Association to the proposition raised by this letter.

Very truly yours,

H. Z. MENDOW.

MR. REED: In calling your attention to the matter, it is our wish that there shall be a law which will relieve the present injustice of our garnishment proceedings. I have no recommendation at this time, but this trustee process suggested in this report is the basis of that proceedings.

THE PRESIDENT: What do you want done for your committee?

MR. REED: Let it rest with the association. I am willing to work along this line, and I know that some of the committee are interested in this connection. I am not making any recommendations, except I will move that the committee's report be accepted.

MR. RIEKE: Second the motion.

Motion put and carried.

THE PRESIDENT: Mr. Reed, do I understand that your motion contemplated some action?

MR. REED: The gist of it is, that a step towards the amendment of the garnishment laws should be made and made along the line suggested, if that is the opinion of this bar association.

THE PRESIDENT: Does the second consent to that motion?

MR. RIEKE: Yes, I second the motion.

THE PRESIDENT: You have heard the motion as made and seconded.

MR. J. L. WASHBURN: I move that the motion be laid upon the table until such time as Mr. Reed can put this motion in writing so that we may know definitely what we are voting on.

Motion seconded, and carried, and the motion was laid on the table.

The President called for the report of the committee on the Abolishment of Common Law Marriages.

MR. PAIGE: I am very sorry to present a report which I think will be more or less unsatisfactory. It is true, however, that there is a very wide difference of opinion within the committee. The committee has not been able to have a committee meeting which it should have had, in order to have ironed things out. I will read the report and then make a few explanatory remarks.

Your committee reports that it is not sufficiently in accord to be able to recommend any definite legislation at this time. It is in agreement as to the desirability of such legislation as will prevent child marriages and hasty marriages. At present it is uncertain as to the possibility of amending existing laws so as to secure these ends and at the same time retain the common law marriage. It recommends that the present committee be enlarged by the addition of Judge E. F. Waite to its membership and that he be made chairman of the committee. This is signed by Pierce Butler, A. L. Agatin and James Paige.

Judge Waite will be willing to make a very extensive study of the subject this winter, and I think that he ought to be added to the committee. Judge Waite for a number of years has been in touch with different lines of social work and has had long experience on the bench and these questions pertaining to common law marriage have come before him in his court.

I move the adoption of this report, for this reason.

Motion seconded.

MR. PAIGE: I would say that Mr. Child is not registered, and Mr. Grant S. McCartney, the other member of the committee is not here, I understand, this morning, although I hear that he has registered. This report is joined in by Mr. Pierce Butler, Mr. Agatin and myself, and it was submitted to Mr. Child some weeks ago.

THE PRESIDENT: You have heard the motion and it is seconded. Are there any remarks?

MR. RIEKE: What is the report and where can it be found?

MR. PAIGE: I have just handed the report to the stenographer. I haven't another one.

THE PRESIDENT: Did you read it?

MR. PAIGE: I read it.

MR. RIEKE: Does the adoption of this report, whatever the report may be, carry with it the appointment of Judge E. F. Waite to serve on this committee? My understanding is that the recommendation is that Judge Waite be added to the committee and that he is going to give it special study during the winter and I hope that we may later look for a real report; that is what I gather from it. I would like to know if the adoption of this report now before this convention carries with it the appointment of Judge Waite?

THE PRESIDENT: Will Mr. Paige answer the question?

MR. PAIGE: The intention of the committee was not that it should resign, and a new committee be appointed, simply because they could not agree among themselves. This is Mr. Butler's suggestion. He thought there was no reason for it, and I felt that there was great value in having added to it the strength of Judge Waite's contribution, which I know he will make in the solving of these problems, and therefore, the report is to the effect, at this time, is that we do something to prevent child marriages and hasty marriages. There is a doubt whether that can be done, and still leave common law marriage status as now. Probably some of us feel it will be necessary to abolish common law marriage; others feel that is a very sacred thing and must not be abolished under any consideration. We would like to have Judge Waite added to the committee, and made chairman of the committee. That is the report of the committee, that the committee remains in existence, and in addition that Judge Waite be added as chairman.

MR. DUXBURY: I am confused. This raises another question in my mind: If this committee has been in full accord on the subject matter which they have had under consideration, and the report by a minority of the committee or possibly only a part of the committee, it seems to me a minority, that the committee be enlarged by someone that they may think eligible to change the view—it seems rather an unusual proceeding. I do not know how the other members of your committee not joining in the report feel with reference to adding a member whose views are quite well known. However, I am willing to reserve my conclusions and let this body do what they want to do. I am not going to vote on it anyway.

THE PRESIDENT: Any further remarks?

MR. RIEKE: I rise to a question of privilege: Are we going to have another session before the legislature meets as we did two years ago? If so, I think it would be a capital idea if by that time this matter could be fully threshed out and a bill prepared. Supposing we had a session in St. Paul like we did two years ago, and a number of bills gone over just before the legislative session,—and I call attention to this now, because I take it that my friend, Mr. Reed, might have a bill ready by that time in the matter of the conciliation court, so that it might be presented to the legislature of 1927. Otherwise it would be a long time before this organization can get its recommendations where they will do any good, by the time we could do that a year hence and then wait two years for another legislature, most of it would be forgotten. I am asking if there is any such thing in the minds of the president or the officers of this

organization that we will meet in St. Paul in the fall as we did two years ago, while Mr. Eaton was president. If that were definitely settled now, many of these things could be referred to that meeting and they could be ready for discussion, because just now we are not really discussing anything definite.

THE PRESIDENT: So far as the Chair is concerned, I have not been advised of any special meeting of the association. The one held last year was for a special reason, and I have not heard that any was contemplated for this fall.

MR. WASHBURN: I understand the motion to be that the committee be continued, that Judge Waite be added to it as chairman and that we are informed that Judge Waite will make more or less of a special study of the subject involved in this report during the winter. If he is going to do that, couldn't we rush around to the next session of the legislature, anyway? There is some encouragement in this situation, that the committee is in the heartiest accord. As far as I am concerned I have not any particular interest in the subject. But I would favor keeping the committee that has agreed, and when they agree, and are all done threshing it out, let them report. I am in favor of Mr. Paige's report and would adopt it with that idea, and let Judge Waite be added. He is an able man, and let him be added to the committee in the way that the report recommends. I am ready to vote along with the affirmative. (Applause).

THE PRESIDENT: Are you ready for the question on Mr. Paige's motion? All in favor signify by saying Aye, contrary No.

The motion is carried, with no dissenting vote.

THE PRESIDENT: Inasmuch as Mr. Lewis is going to address us at 11:20, I think it will be as well at this time to proceed with the report of the committee on the Bar Organization, and before calling upon the chairman of that committee, I want to say just a word to you about something that I have observed this last year. I have attended two or three meetings of this committee, and I have seen them work late into the night, well past midnight. When the committee had arrived at a practical conclusion on the subject matter, a special meeting of the Board of Governors was called. I think practically every member of the Board of Governors was there and it was discussed for several hours in the Board of Governors. Finally it was referred to this meeting for such disposition as pleases you. I want to very much compliment that committee for the energetic work they have given to it and the immense amount of time it has taken. I will call on Mr. Morris Mitchell, chairman of that committee to come forward, giving you a report. (Applause).

MR. MORRIS MITCHELL: The report is contained on page 20 of the printed report. At the meeting of the committee yesterday, it was decided that the first part of the report better be read in full. So I will first read the report in full, excluding the constitution, and then read the constitution section by section, and stop at the end of each section for discussion.

(The report was read as found on page 20 of the printed pamphlet, omitting the constitution.) (See Appendix p. 101.)

(Mr. Mitchell read Articles 1, 2 and 3 of the proposed constitution as printed.)

THE PRESIDENT: Is there any objection, to get at it in the short way, to Article I? If not, we will assume that that is passed. Article 2, you have just heard that read. Is there any objections or remarks in connection with Article 2; if not, we will consider that that is passed. What is your pleasure in reference to Article 3?

MR. MITCHELL: I move its adoption.

Motion seconded.

MR. DUXBURY: I want to suggest that it appears from the reading of the provisions of the constitution, that such a thing as life members will not exist after the present life members die, that there won't be any in future years; is that the purpose?

MR. MITCHELL: That is the purpose.

MR. DUXBURY: Well, he has answered it, yes. (Laughter). I was just wondering whether that would be wise or not. The same policy which has dictated the making of life members might exist in future. Why would not it be wise to have the old provision in the constitution with reference to life membership? It may be that it is not wise. I would like to know what is the view of the committee as a result of their discussions with reference to discontinuing the life membership.

MR. MITCHELL: At the present time I think I am correct in stating that the life membership does not carry with it a subscription to the Law Review and under our present constitution life membership would carry with it—all our members would be entitled to receive the Law Review. It was thought better not to link it up in that way, as an association to have to pay out something every year, that it would be unwise to make any expenditures without the money coming in, and it was thought best to eliminate it entirely. Of course, if they are retained, they would have to be raised considerably above what they used to be, which was $50.

MR. JAMES D. SHEARER: I think the paragraph (d) does not refer to any future life membership. Does that discontinue selling life membership?

THE PRESIDENT: That is the question Mr. Duxbury asked, and it was replied to by Mr. Mitchell that that was the purpose.

MR. WASHBURN: As a life member of some years' standing, I don't know whether I speak for all my brethren or not. I am not very much interested in the life membership. I have never seen it appear that the life members are live members. It seems to me that they are just about the same. So far as I am concerned I don't care when you cut off the life membership, before I die or after. (Laughter).

THE PRESIDENT: Any further comments on this section?

MR. DUXBURY: I think from what I have heard that I agree with the conclusions of the committee. I think life memberships were probably for certain exigencies, and for fellows who had enough money to buy one. I don't think that probably exists any longer, and I think the committee were wise to change it.

THE PRESIDENT: Are you ready for the question? All of those in favor of the adoption of Article 3 of the proposed constitution signify by saying Aye, contrary No.

The motion is carried.

(Mr. Mitchell read Article 4, Sections 1, 2, 3, 4, 5, 6, 7 and 8.)

THE PRESIDENT: You have heard the reading of the proposed Article 4. What is your pleasure in reference to it?

MR. MITCHELL: I move its adoption.

Motion seconded.

THE PRESIDENT: You have heard the motion and it has been seconded. Any remarks on the adoption of Article 4?

MR. LOEVENGER (St. Paul): There is one section of this proposed article which it seems to me it might be well to postpone voting upon until another portion of the proposed constitution has been acted upon; that is Section 7, providing that the Board of Governors shall have the same privilege of voting at meetings as the representatives of the local associations and so forth. I do not know what this association is going to do with Article 7. I don't know what voting privileges are to be accorded to representatives, or whether we shall proceed to organize on a representative basis, or whether we shall organize on some other basis, consequently this particular section, at any rate, ought to be held in suspension for the time being until it is determined on what basis the voting privileges on the floor of the association will be determined.

I move that we separate the motion by eliminating Section 7 from it at this time and vote upon that separately later.

THE PRESIDENT: Any second to that motion.

MR. WASHBURN: If 7 were read now for the information of the membership, might we not then be as well qualified to vote on it as we ever would be to vote on this section?

THE PRESIDENT: Would that meet with your sanction?

MR. LOEVENGER: No, I believe Article 7 is liable to raise some discussion. I think it should be taken on separately.

THE PRESIDENT: The thought that Mr. Washburn expressed was that Article 7 might be read now, so that we could have it before us as a matter of information.

MR. LOEVENGER: No objection to reading it, but I don't believe that will serve the purpose. I understand there will be considerable discussion, which would not be apropos at this time.

MR. SHEARER: To save time why can't we go on as suggested by the gentleman, without making any motion, and when we have finished 5, 6 and 7, adopt them all together, or act on them all together? I apprehend there will be very little discussion on any of that unless perhaps it is 7.

MR. CATHERWOOD: I don't understand, Brother Shearer, whether that is to foreclose debate on all that precedes?

MR. SHEARER: No, I mean to suggest that we adopt the suggestion of the speaker and pass it for the present at least,—not pass it by motion, but go on, and vote on it later.

MR. CATHERWOOD: Mr. Mitchell, have we passed Sections 1 and 2 yet? (Laughter).

MR. MITCHELL: The sections have all been approved.

MR. CATHERWOOD: And, can we debate on 1 and 2 now; Sections 1 and 2, Article 4, have those been adopted without debate?

MR. MITCHELL: No, nothing in Section 4 has been adopted at all.

MR. CATHERWOOD: Why not get through with these before we go on to 7? I want to make a suggestion at the proper time about 1 and 2.

MR. MITCHELL: As far as I am concerned, I think Mr. Loevenger's motion might save time. I think if a motion is made to adopt all of Section 4, except Article 7 at this time, then when we come to Article 7, we can include Section 7 of Article 4 in the same motion, and have a debate on everything together. I think that will simplify matters.

MR. CATHERWOOD: I don't want to start any trouble, but let me ask you, Mr. Mitchell, why is there a change in the policy that has been followed for more than a quarter of a century for the election of the membership of the Board of Governors? Why do you abandon the practice of having one representative from each judicial district of the state?

MR. MITCHELL: That particular portion of the report, that part of the organization was taken from the bar organization bill, which the association agreed to. It was then agreed that this basis of representation was a more equitable arrangement than at present, and that inasmuch as the three larger cities have so much larger proportion of lawyers than some other districts, it would be equitable to give them a few more, although, of course, that is no where nearly in proportion. In Hennepin County, for instance, I think we have some twelve hundred members of the bar, and St. Paul and Duluth are proportionately much larger than their number of representatives now given, and it was thought that there were a number of men there who would render valuable service on the Board and that the association was depriving itself of the services of some good men by not giving the larger centers more members on the Board of Governors than they now have. This, of course, still leaves the control of the board in the districts outside of the three cities. There was no disagreement at all on that in the Board of Governors or in the committee itself, and every judicial district was represented.

MR. CATHERWOOD: Let me ask you, speaking about the control of the organization, how many members of this board constitute a quorum?

MR. MITCHELL: I don't think that is provided. That would be a question of the by-laws.

MR. CATHERWOOD: It is a matter of a good deal of importance, Mr. Chairman. There is a good deal of territory involved, nine members may constitute a quorum, nine members from the Twin Cities and Duluth. That is quite important, in view of your departure from the policy of this association under which it has worked since its organization, and although the committee agreed without any dissenting voice on this representation, I question whether this association is prepared to endorse that in view of the marked departure from the policy which has been followed by the association. I don't like it, I don't think it is fair, I don't think it should be agreed to without very careful consideration.

MR. WASHBURN: It seems to me if my memory is good, that we threshed that out at the meeting when the bill was being prepared that

went before the Legislature. It seems to me that a man undertakes a task, whether he comes from the Twin Cities or any other place, to demonstrate that a judicial district that has ten or fifteen or possibly twenty-five members of the bar in it, must, in order to be fairly treated have the same representation that a district that has twelve hundred members in it.

MR. REED: I rise to a point of order. The question before the house is whether we shall include Section 7 in this motion on Article 4. That is all that is before the house. The side issues that are coming up, when we come to it, are being discussed, and we have not gotten anywhere.

MR. WASHBURN: Well, that is not getting us anywhere. I am discussing whether this should be adopted.

THE PRESIDENT: Well, let us hear the point of order again.

MR. REED: There is nothing before the house now, except the proposition of whether to include Section 7 in the motion on the approval of Article 4.

THE PRESIDENT: There are two motions, if I am correct, that have been made. One is for the adoption of this article as proposed, and the other is to pass it until the subsequent sections have been read. Those are the two motions before us at the present time, as I understand it.

MR. LOEVENGER: May I correct that by saying that the motion that I made was to call for a division, asking them to separate the Section 7 of Article 4, to hold that to be voted on later in connection with Article 7.

THE PRESIDENT: Your motion was to simply defer action on that single Section of Article 4?

MR. LOEVENGER: Correct, in the nature of calling for a division.

MR. STONE: I desire to offer a substitute for all pending motions, that the Chairman proceed with the reading of Articles 5, 6 and 7 and then that all articles now before the house beginning with Article 4 be considered, Article 7 to be considered first and passed upon.

MR. SHEARER: Second the motion.

THE PRESIDENT: You have heard that motion which is a substitute for all other motions. All those in favor say Aye, opposed No.

The motion is carried.

(Mr. Mitchell reads Article 5, Article 6 and Article 7.)

MR. MITCHELL: Inasmuch as Articles 7 and 8 are rather closely linked together, I would like to read Article 8.

THE PRESIDENT: If there is no objection.

(Mr. Mitchell read Article 8, Section 1, and Section 2.)

MR. MITCHELL: I want to state now that there was an amendment suggested by the Ramsey County Bar Association, that in Section 2 of Article 8, we provide for a referendum at the discretion of the Board of Directors. Section 2, as the committee now recommends it, has been amended and at the present it stands as I will read it.

MR. MITCHELL: (reading) "Section 2. At all meetings of this association, all members (regular, individual, honorary and life) shall be entitled to the privileges of the floor to introduce motions and resolutions, and to participate in all the business of the association. All such members

shall be entitled to vote upon all matters coming before the association, provided however that"—

Now, we add there after the word "after", and then skip down to the last three lines and from there it reads:

"Provided however that after five local bar associations of this state shall have voted to affiliate with this association under the terms of this constitution, then"

Then back to the place where we started—

"Then after the first vote is taken on any matter, any ten representatives of affiliated local associations may demand a vote on such matter by representatives of the local associations, in which event, only the representatives of such local associations and members of the Board of Governors shall be eligible to vote on such matters, and such vote shall decide the matter—"

And provided further that the Board of Governors may in its discretion order a referendum on any question, such referendum to be taken either by mail or by vote of the local associations in such manner as the by-laws may provide.

I move the adoption of Articles 4, 5, 6, 7 and 8.

Motion seconded.

THE PRESIDENT: You have heard the motion on Articles 4, 5, 6, 7, and 8. Are there any remarks?

MR. LOEVENGER: It has already been suggested that this constitution when discussed before the Ramsey County Bar Association last winter aroused considerable discussion, and I believe I am fair in saying, considerable disagreement with at least one of the underlying principles. You will notice that under the proposed constitution you are electing a representative Board of Governors from the various judicial districts with extraordinary powers; almost unlimited powers. You will notice that in addition to making your board a representative body, you are proposing to make this association likewise a representative body, and that the eventual effect of making this association at its meetings a representative body is substantially to disfranchise the membership, except as to the power of voting for governors or delegates to the convention. You will notice, if you analyze the proposed constitution that the convention—this convention, does not have the power to elect its officers. That is delegated to the Board of Governors. You will notice that this convention does not have the power to elect governors. That is delegated to the local affiliated societies,—associations. You will notice that this convention has no power to make rules or regulations for the government of its officers or of any of its committees. That is delegated to the Board of Governors. You will notice that we have not any power to determine when or where we shall meet. That is delegated to the Board of Governors. You will notice that we have no power to amend this constitution. That is delegated to the representatives consisting of the representatives and the Board of Governors. You will notice that we have no power to suspend or expel members. That is delegated to the Board of Governors. You will notice from the proposed amendments just stated by the chairman, that we do not even have the power to ask for a referendum. That is delegated to the

Board of Governors. Not only do we not have the power to ask for a referendum, but we do not even have the power of asking for a referendum on anything of vital importance to ourselves, gathered in this association, and if any of us should happen to be so unfortunate as not to be elected either to the Board of Governors, or to be a representative, then we may come to a meeting and we may cast a complimentary vote; but if the Board of Governors and the representatives, or ten representatives, if you please, demand that the rest of us be disfranchised on any matter of any importance, of vital importance, and presumably it would be a matter of vital importance,—the more important the matter is, the less the chances are that the membership of this association would have an opportunity to pass upon it finally,—Now, if that is to be the principle upon which this association desires to incorporate itself, it has a perfect right to do so, but if you once adopt this principle, it will be almost impossible to change back to the point where you will have a right to vote or a right to amend this constitution, unless you can succeed in getting a majority of the representatives to pack that particular convention and agree to it. In other words you will have to ask the representatives at the convention to limit their own power in order to give back the right of franchise to the membership. I don't believe that so far as our annual convention is concerned it is very wise or politic to make the right to attend this convention with full powers—if you please—to act upon any affair—to act upon any of the affairs of this association—contingent upon representation only. Every member of this association who has the inclination, who has the energy, or who is willing to make the sacrifice of time and money, to come to a state bar association ought to have the opportunity of participating to the fullest extent in bar association affairs, and be permitted to vote, and know that when he casts his vote, it will count, that he will not be overwhelmed by a comparatively small group of men, however sincere that small group of men may be. To my mind, organized as we are, homogeneous as we are, having none of the things that tend to divide a political body,—for the administration of law in the state of Minnesota is as homogeneous as the practice of medicine in the state of Minnesota,—it does not appear to me that there will be the same conditions as in a political body, where you have an industrial section, and a mining section, and an agricultural section,—where one section will outvote the others. It is inconceivable that any such situation should ever arise. Neither do I have any fear that there will be any conflict between the large cities, in trying to outweigh or outvote the smaller communities, or that there will be any danger of packing these conventions. I cannot conceive of any meeting in St. Paul, or Minneapolis, or Duluth, or Mankato, or any other substantial city of the local bar meetings en masse, to adopt any resolution that could possibly in the wildest stretch of the imagination be inimical to the rest of the bar, or to any other particular locality. I do not believe such issue can be raised or pointed out by any member of this convention. Personally, I am not very much concerned, as to the question of whether our officers are elected by the Board of Governors or by the membership, but I do feel that you are making a very substantial error if you adopt as the principle of the organization of this association

of the state bar, a constitution which limits the authority to representation, and then on top of that, remove the possibility of a referendum to the membership at all, or except at the will of the Board of Governors. I don't believe that we need the representative system. I believe this gathering here, and any similar gathering, when we once become fully organized, as I believe we will be under this proposed constitution, splendid in the idea that it should be a federation of local organizations,—that every practicing attorney should be a member of his local organization, that every district should have representation upon the Board of Governors, by a representative Board of Governors, by a strong board of governors, which has the power to do the things to manage the affairs of the association as it should. But that is as far as we should go. This association, this body of men representative as it is and will be in the future, should retain to itself the power to control the Board of Governors. We have no right to abdicate that power. There is no body of men wise enough to have absolute uncontrolled power. I do not care whether you call them Board of Governors or representatives; I don't believe that we need a representative form of government for this association, and most assuredly I don't believe that this association ought to abdicate in favor of the relatively small Board of Governors or representatives. (Applause).

THE PRESIDENT: Are there any further remarks on the motion as made for the adoption of these five sections?

MR. FOLEY: When I heard Mr. Mitchell read that report, it occurred to me that part of the report was that each member of the association had a right to offer a resolution or make a motion and vote upon each act or thing that came before the association. Am I right in that?

MR. MITCHELL: That is correct, and there is a further provision that upon the demand of ten persons there can be a vote by delegates of the local association and that that vote by delegates shall be the final vote, and can in itself override any other vote.

MR. WASHBURN: We have struggled along for a good many years, trying to keep up attendance, and trying to keep up interest in the bar association. I don't think that I have ever witnessed anything in the association or in the meetings which has anything of a sectional character to it, and I agree with my friend who spoke a few moments ago. Some years ago,—I think it was five years ago,—at a meeting, a member from Southern Minnesota advocated this delegate system. It was not brought up for final consideration, but it was intimated in one of his speeches, and a good many said that that would ultimately come as the natural outcome in the effort to keep up the interest of the association. I believe in representative government, and I don't shy from it in this association. (Applause). I believe, too, that this association, (and I think my friend believes that) is coming to a sort of a parting of the ways. We have got to do something, then, and we have got to do something to maintain a general interest all over this state, in this association, and I believe if we adopt this delegate system that we will succeed in making this association more useful and more powerful and beneficial to its members and the State at large than we can hope to do keeping on as we are. I don't think that there is anything in these Articles of Incorporation as presented here, as

involved in these four sections that are under discussion, that deprives local associations of anything of value. On the contrary, I believe that it will stimulate them to a greater interest in the association, and that when we have these meetings, we will be here on some sort of a basis of representative equality. On a question that has been raised and was raised at the discussion in Bemidji, I will say just a word while I am here. The basis of this representation is by no means of complete equality. The three largest cities of the state very readily agreed to and yielded to the basis of representation as set forth by what was adopted at that meeting, and it went into the bill that went before the Legislature and was not passed. It gave Minneapolis 4, St. Paul 3, or Ramsey County, and St. Louis County, 2. As I understand now, that is added to all over the state by one more. That is to say, the number of the Board of Governors,—all over the state the small districts' membership are increased one number, one vote, by their membership in the Board. Now it seems to me that there might be considerable said to the point that that is not a complete representation and a fair proportion. There cannot be anything said by any representative of the small district association, that he is not treated most fairly and generously. So far as I am concerned I may have had some differences of opinion on some phases of this, but I believe that we will have gone a long way when we adopt these four sections and proceed with the next one. (Applause).

THE PRESIDENT: I dislike very much in the midst of this discussion, which is getting to a most interesting point, to ask permission of the members to postpone further hearing on this matter until the afternoon. The speaker of the day has come from Chicago to address us this morning, and if I may have your permission to so do I shall ask postponement of further consideration of the constitution, at this time, to be taken up sharply at 1:30 o'clock this afternoon. Another good reason for it is that we have a number of visitors here today, and it cannot be a subject of especial interest to any but members. We will take this question up further this afternoon at 1:30.

CHAIRMAN: Ladies and gentlemen, I am very happy to be here this morning to introduce the speaker. In my correspondence with him in reference to this engagement I wanted to have him be at the banquet tomorrow night but he replied that he was in the trial of a case in the federal court and that it was so close to the adjournment period that he was not able to get the judge's consent to any further delay. The attorneys did but the judges wanted an early adjournment. I then wrote him again and asked him in lieu of the evening engagement if he could not find his way clear to come up to us arriving here in the morning and leaving in the afternoon. I received a most generous reply stating that he would make every effort possible to do so. He subsequently advised me he had arranged with the Court to allow him to go for this day in order that he might come and address us.

Without any further comments or remarks, I take great pleasure, this morning, in introducing to you Senator Lewis of Chicago, Illinois.

(Prolonged applause.)

(Senator Lewis' revision of the stenographic report of his speech had not been received at the time of going to press, and is therefore unavoidably omitted.—*Ed.*)

CHAIRMAN: Mr. Lewis, the Bar Association of the State are deeply indebted to you for your magnificent address.

We will now stand adjourned until one-thirty.

Wednesday, July 8th, 1:30 P. M.

Meeting called to order by the President.

THE CHAIRMAN: I wish there were more people here, but I think we will have to proceed. This is an important subject matter, and I would like a full attendance, but it does not seem possible to get that. We were discussing a motion on the adoption of Sections 4, 5, 6, 7 and 8. That motion was made and seconded and we were having a discussion upon that motion. I see Mr. Mitchell is not here. We will wait for him.

MR. REED: May I present a resolution at this time on the Small Debtors' Court, that I said I would present in writing? May I present it now?

THE PRESIDENT: We will be glad to have it.

MR. REED: Allow me to say as to that letter from Mr. Mendow, that I do not intend to give any wrong inferences. I would be glad to have all the opposition I can have, and I would like to have that letter introduced in the record, if the Court please?

THE PRESIDENT: Will you make that a part of your report?

MR. REED: Yes, I will make that a part of the report.

The report of the committee is embodied in the following resolution:

RESOLVED, that the present garnishment law ought to be amended in furtherance of justice and the proposed trustee practice appears to offer a plan for the relief required, and the committee on Small Debtors Courts be continued, and this matter be referred to it for further report.

I move the adoption of the resolution.

Motion seconded and carried.

THE PRESIDENT: This morning we called for a report from the committee on Uniform State Laws and no one was present to respond. I do not think there was any member of that committee present, but since that I have received this letter from the chairman of the committee, Mr. Bridgman, which I will read as it is in the nature of his report.

July 3, 1926.

Dear Mr. Caldwell:

I shall not be able to be present at the meeting of the Minnesota State Bar Association at Duluth next week, inasmuch as I have been appointed Commissioner on Uniform State Laws from Minnesota, to fill the vacancy left by the death of the late Rome G. Brown; and the National Conference on Uniform State Laws meets next week at Denver, Colorado, and I am planning to be present.

I have requested Senator Benson and Senator Thwing, who are the other members of the Committee on Uniform State Laws, to present the Report of our Committee, if either of them is present at Duluth next week. In case they do not present the Report, would you kindly see to it that

the Report of our Committee is presented to the State Bar Association; and that the Resolution at the end of the Report is proposed for adoption, and a vote taken thereon by the Association.

I see by the program, which you have sent out, that this Report is scheduled for Thursday, July 8th, at 11 o'clock A. M.

Very truly yours

DONALD E. BRIDGMAN.

The other two members of the committee not being present, and now having read that report and this letter from the chairman, what is your pleasure with reference to the report as printed on page 9 and published in the announcements? (See Appendix, p. 90.)

It was moved and seconded that the report be adopted.

Motion carried.

THE PRESIDENT: The resolution that we have just voted upon, of which we were perhaps not informed, reads as follows:

"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 Judgment Acts, Uniform State Law for Aeronautics, and Uniform Fiduciaries Act."

Having voted upon that without knowing what it was, if any of you have changed your opinion, I will be glad to have you take up the motion and reconsider it. If not, it will stand approved as read.

While waiting for Mr. Mitchell, the chairman of the Committee on Reorganization, is there any other matter that you desire to present at this time?

MR. KIDDER: I don't know in what order on the program the report of the treasurer should come, but it seems to me it might be given at this time to fill in. Mr. Graves writes me that he hopes he can be here before the end of the meeting and he sends by the secretary, his report. The report is as follows:

RECEIPTS

Balance on hand July 20, 1925	$1405.37
Proceeds of sale of banquet tickets	552.00
Dues received	3841.90
	$5799.27

DISBURSEMENTS

1925	Voucher Number		
July 27	189	Jessie Carey Smith on a/c 1925 meeting expense	$ 75.00
July 27	190	Evans & Company Programs and banquet tickets	14.50
July 7	191	Jessie Carey Smith on a/c stenographic services at meeting	108.00
July 12	192	The Kahler—202 plates @ 2.50	505.00
July 12	193	The Kahler—July 28th statement	40.25
July 12	194	Evans & Company—Letterheads and envelopes	36.25
July 12	195	Walter Mallory—Expenses and services of three entertainers	97.20
July 13	196	Chester L. Caldwell—Postage	5.00
Sept. 18	197	Evans & Company—Postals for Secretary	8.75
Sept.	198	Bank collection charges	1.10

Sept. 30	199	Minnesota Club—Governing Board luncheon 9/23..	31.80
Sept. 30	200	H. C. Boyeson—Letter file for Secretary	1.15
Oct. 12	201	Evans and Company—Postals	8.75
Nov. 17	202	Universal Circular Letter Company for cards	14.62
Dec. 16	203	The Minnesota Law Review, a/c 1925-1926	900.00
Dec. 16	204	Universal Circular Letter Company—multigraphing	19.68
1926			
Feb. 10	205	Evans and Company for postals	8.75
Feb. 10	206	Minnesota Law Review	178.25
Feb. 15	207	Chester L. Caldwell—Postage	5.00
Feb. 15	208	William G. Graves—Postage	5.00
Feb.	209	Refund on dues to Hugh G. Parker	1.00
Feb.		Walter Ferrill check returned	5.00
Feb.		Check returned for signature—To Theodore A. Schacht	5.00
Feb. 27		Bank Exchange	3.66
Mar. 1	210	Sanborn, Graves & Ordway for file	.75
Mar. 17	211	Minnesota Law Review—March payment	179.25
Mar. 29		Bank Exchange	1.04
Mar. 30	212	Minnesota Law Review—Colwell Printing Company —a/c Com. on Reorganization	38.25
Apr. 5	213	Evans and Company—envelope inserts	4.50
Apr. 8	214	Minnesota Law Review—April payment	181.50
Apr. 8	215	Evans and Company—letterheads and envelopes	23.55
Apr. 17	216	J. W. Hunt—Refund of dues for Wilson G. Crosby	5.00
June 1	217	Evans and Company—Circulars and envelopes	61.00
June 1	218	Saint Paul Letter Company	5.85
June 1	219	Minnesota Law Review—May payment	190.75
June 1	220	Chester L. Caldwell	600.00
June 16	221	Minnesota Law Review—June and July	405.50
			$3775.65

TOTAL RECEIPTS	$5799.27
TOTAL DISBURSEMENTS	3775.65
BALANCE ON HAND (July 1, 1926)	$2023.62

NOTE: The total received from dues of members during the past year was $5247.27, made up as follows:

From arrears accrued prior to January 1, 1925 ..	$ 224.00
From 71 new members	355.00
From dues current in 1925 and 1926	4603.27
From 1926 and 1927 dues	65.00
	$5247.27

WILLIAM G. GRAVES, Treasurer.

I move the adoption of the report, subject to the report of the auditing committee to be made later to either the secretary or Mr. Graves when he arrives. I will turn the report over to the auditing committee.

Motion seconded and carried.

THE PRESIDENT: Is there any other matter which you desire to bring up at this meeting?

MR. REED: Judge Waite called my attention to this, and I would like to have the matter brought before the meeting. It has to do with the drivers of automobiles, and I offer it in the form of a resolution as follows:

RESOLVED, that it is the sense of the meeting of the Minnesota State Bar Association, that there should be a law in some way requiring compulsory insurance for the drivers of automobiles.

Will someone second the motion, to show the opinion of the bar?

MR. FOLEY: I will second the idea as far as the principle goes.

MR. REED: I will put it in definite form. This is a little more definite:

RESOLVED, that it is the opinion of the State Bar Association that there should be a law requiring compulsory insurance in some form for the drivers and owners of automobiles.

THE PRESIDENT: Do you mean license, insuring the drivers and owners?

MR. REED: No, it is not a license, it is compulsory insurance to benefit the fellow hurt, or the family of the one that is killed.

I move the adoption of the one just read as a substitute for the other.

Motion seconded.

THE PRESIDENT: I understand it is moved that it is the sense of this meeting that the owners and operators of motor vehicles be required to obtain insurance against accident. Is that it?

MR. REED: Yes, it should be liability insurance.

THE PRESIDENT: Liability insurance. Have we the subject of that motion in mind?

MR. REED: The resolution was that a law should be passed.

THE PRESIDENT: Yes, that a law should be passed. Have you all got that in mind? If so, are you ready for the motion?

A MEMBER: It seems to me that in order to avoid any question as to the association voting in favor of a class, towit, the insurance companies, that we ought to put into it, a provision that they are required to take out insurance or give bonds to the state.

THE PRESIDENT: Any further remarks on the question?

(Cries of question.)

MR. REED: I don't know as all of us are taking this seriously. I don't know if you read the newspapers. Some of us do.

(Voices) No, no.

MR. REED: Do you notice the record of people killed or injured every day, and the majority of these cases are the fault of people who are absolutely irresponsible, and there is no remedy. You might get judgment against them, but it would be no good. If we had such a law, it would certainly cut down the number of irresponsible drivers. Perhaps you don't think the automobile question is a serious question, but the number of automobile accidents has so increased from day to day, and the number of our friends killed by them, and the number of those injured, in which there was no redress possible. The judge has called my attention to it, because so many cases have come before him, where the parties were absolutely irresponsible and there was no redress whatever, no

matter what the damage was. I think the matter ought to be taken seriously in view of the seriousness of the situation.

THE PRESIDENT: Are you ready for the question?

(Cries of question.)

THE PRESIDENT: All of those in favor of the motion signify by saying Aye, those opposed No. I will have to ask for a rising vote. Those in favor will please rise. There are seventy-two in favor. Those opposed, rise. The motion is carried.

Mr. Morris Mitchell has arrived, and will he take the stand for further cross-examination. (Laughter). The motion that we were considering at the time of the adjournment was one in favor of the adoption of Sections 4, 5, 6, 7 and 8 of the Proposed New Constitution. Some comments have been made upon it, and we were in the midst of discussion on Number 7, when we took adjournment. We are ready for further remarks.

MR. CHERRY: I take it that this motion to adopt these five articles, 4 to 8 inclusive, really involves the heart of the report of this committee. The heart of the new scheme of organization of the bar of this state is in those five articles. I am not a member of this committee. I have never been a member of any committee that has worked on reorganization of the bar, but I have quite a real interest in the adoption, at least in substance, of this report, and in this proposed organization of the bar, and I want just a few minutes to tell you why. I have been a member of this association for a number of years. For something like ten years, I have been on one or another of its committees which have to do with preparing and presenting to legislatures proposed legislation in behalf of this association. I have had to do, as a member of one or another of its committees, with preparing suggestions to the Supreme Court, in behalf of this association, for rules or other action by that court. We have just had a vote taken a moment ago, and there were announced to be seventy-two in favor of the motion, and I take it there were about twenty-five opposed. Let us say, one hundred people voted, and that is a large number to vote in a meeting of the Minnesota State Bar Association upon any question. We have had many meetings when the vote has been by fifty or sixty or seventy,—seventy members of the bar of the state. And I have had experience in going before legislative committees and presenting matters approved by this association in the name of the association only to have the point made, and it was unanswerable, that what I represented was the vote of fifty or sixty lawyers of the state of Minnesota, and not a representative vote, or the widespread opinion of the bar of this state. At the time of the last meeting of this association in Duluth, as Mr. Washburn said this morning, a suggestion was made by a member of the association from Mankato that there ought to be some way of getting at the sentiment of the bar of the state, of having these meetings represent, through local associations, the opinion of the bar all over the state, so that when we speak, or committees speak for this association, they can speak for the bar of Minnesota. This has been tried in one way or another,—first, by the bill for the incorporation of the bar, and now by this committee's report—to get, in some effective form, a system which

would permit and provide for the expression of the opinion of the bar of the state. It is not only in the legislature where the question is raised. At that same meeting here in Duluth, there were only about fifty to sixty people present when important matters and committee reports were up for adoption or rejection by this association. I happened to be talking about one of these matters with a judge of the Supreme Court in the lobby of this hotel. It was a matter which called for action by the Supreme Court. He said, "You have upstairs about sixty people. Are you going to ask us to act on this as the sentiment of the bar of the state, while there are not more than sixty lawyers here, and how shall we know the sentiment of the bar of Minnesota?" I say, therefore, that I am interested in the adoption of this motion because it means the adoption in substance of this whole scheme. What have you got in these five items? Not a thing that interferes with the kind of meeting we had here this morning. Not a thing that interferes with the kind of meeting that the Minnesota State Bar Association has had every year. Not a thing which would prevent putting forward a resolution on the floor of such a meeting, having it voted upon by every lawyer present,—action of that sort is not prevented at all. Of course, there is nothing to prevent the attractive social features of the meetings, and there is nothing to prevent action by those present, but in substance, the provision is that it may be possible on a matter in which there are diverging opinions in local bar associations, to speak what they feel and in a representative way—to give voice to the opinion of the lawyers who cannot be present, when there are widely diverging views. So when the motion is up by the vote of those present, if it is desired,—and mind you, they can only have that after we have proceeded just as we are now proceeding,—if it is desired to get the opinion of those who have been chosen to represent their own community, so we can say to the legislature or Supreme Court, or anyone else to whom we are applying, that this vote represents the opinion of the bar of Minnesota,—you have the provision for getting such a vote. That is all, in my humble opinion, that this proposed constitution does provide. Isn't it important that this should be provided? Many of you have had experience along the lines I have spoken of as my own. It is important that the bar of this state should be able to express its opinion. Does anyone doubt that if it could express its opinion upon matters which legitimately concern the bar, and in which the leadership of the bar is of importance to the state, that that opinion would command the respect of the legislature and of the court, and of everybody else? There can be no doubt upon that. The doubt exists, and the trouble comes, because we cannot express that opinion. We have tried different methods. I belonged to a committee some years ago, for which I importuned the treasurer of this association to get enough funds to send out cards and get a referendum of all of the members of this association on matters which were to come up at the meeting so that we might have a general vote. That did not work. We got fewer responses to those cards than we had people present at the meeting itself. That availed nothing; but we have a number of very live, active bar associations in this state. We ought to have in every community an active bar association. Every lawyer can belong to such an association and attend its meetings. He does

not have to sacrifice his time and spend money which he may need, or which he may not feel able to spend at the time, to go to some other part of the state to the annual association meeting, but he can attend his own local association and vote on these things and have his representatives, who will go and carry his wishes to the annual meeting, and then, if it becomes important to get a vote by representation, we can get it. That is the substance of this. And I would urge, gentlemen, that if there are amendments, serious things to be considered, which do not interfere with the sp.rit of this proposal, which will not interfere with getting that kind of vote and the possibility of getting the organized voice of the bar of this state back of the things we are all interested in, then those amendments should be considered. But any attempt to call this a plan to get an autocratic control of the bar of the state, as seemed to be suggested this morning, is entirely outside of this problem. I hope that this motion will be adopted, and if any amendments are deemed necessary, that they be seriously considered, and will be such as will not prevent the carrying into effect of this most important purpose.

THE PRESIDENT: Any further remarks?

MR. KNAPP (St. Paul): I feel that this motion should prevail, because it offers the way that will more nearly get a general sentiment of the people throughout the state. It is unthinkable that a group selected as this group is selected, passing upon a subject, would not come nearer to coming to the same decision, than this group as an entirety,—if it could be gotten together,—would give. So I feel that this motion should prevail for the reason that it is the best form of getting the absolute sentiment of the bar, and that anything that a group selected as this group is selected would determine, would come nearer being the sentiment of the bar, than if we tried to get the whole group together, which is impossible. So, I wish to add just that word, and believe that this motion should prevail.

THE PRESIDENT: Any further remarks?

(The question was called for).

THE PRESIDENT: Are you ready for this question? All in favor of the resolution as made, that Paragraphs 4, 5, 6 and 8 of the proposed article, are ratified, approved and adopted signify by saying Aye, contrary No. The motion is carried. It requires a two-thirds vote, but there were only about three votes against it, as I got it. (Applause).

MR. MITCHELL: (Reading Article 9, Sections 1 and 2) I move the adoption of this article.

Motion seconded and carried.

MR. MITCHELL: (Reading Article 10, "Expulsion"). That provision, by the way, is taken, I think, verbatim, from our present constitution, and this is added, "The expulsion of individual members for non-payment of dues, may be by order of the president, secretary and treasurer, under the general rules prescribed by the Board of Governors. Expulsion or suspension of individual members may also be accomplished by the association itself, by a two-thirds vote of the members present at any annual meeting." The word "usual" there is a misprint. It should be annual.

MR. RIEKE: I move the adoption of Article 10.

Motion seconded.

THE PRESIDENT: Are there any comments?

MR. LOEVENGER (St. Paul): Although, I presume my remarks may not meet with general approbation, I cannot resist the temptation to say that to me it is a remarkable piece of legislation for this body in convention assembled, to authorize a Board of Governors to expel a member from the Minnesota Association, for what this law, this constitution calls conduct unbecoming a gentleman. I can conceive that some of us might think that a man who takes a drink is guilty of conduct unbecoming a gentleman. Perhaps some of you won't think that. I can think of a great many things that may be considered as conduct unbecoming a gentleman. I don't believe that that kind of language belongs in the constitution of the State Bar Association, and those words in my mind should be stricken out. I don't believe that the expression "for misconduct in his relation to the association, the profession, the state, or the nation" is sufficiently definite to give any member of the association an idea of what is actually contemplated. Of course, if a man is guilty of a crime, he may be disbarred and he should be expelled. If that is what is intended, it should be stated, but the standards of what constitute misconduct in relation to the nation may vary so widely between individuals that it seems to me that it is entirely too loose a statement to be incorporated in the constitution of the bar association. I should like to see this particular article revamped so as to put it into a form which it seems to me would be more in conformity with the constitution of the State Bar Association.

MR. MITCHELL: May I explain to Mr. Loevenger that that provision is taken verbatim from the present constitution; it is not an amendment at all.

MR. LOEVENGER: Then it should be amended.

MR. THOREEN: I think that article should be made broader if anything. As I read this constitution it provides for two kinds of members, regular and individual. I think it should read "any regular or individual member may be suspended or expelled for misconduct" and so forth. A man should not be allowed to be a member of the State Bar Association if he is a regular member and commits any of the things that this article contemplates. I think it is merely a question of the use of language, "individual member" and "regular member."

MR. KIDDER: That provision, as I understand the deliberations of the committee, was put that way for the purpose of leaving to the local bar association the question of expulsion from both the local bar and this, which, of course, kills two birds with one stone. In the case of any member who was a regular member of the local bar, his expulsion from this organization would act automatically in his being expelled from the local bar, and it was thought that the local members of the district bar association of which he was a member were in much better position to pass upon the question of his expulsion than could be done by all the lawyers of the state, in a case of individual members, who are not members

of the local bar association. The only body that could pass on that would be some body representing the bar association as a whole. I think that answers Mr. Thoreen's suggestion.

MR. THOREEN: It occurs to me, that it is much less embarrassing for a body such as the Board of Governors, to pass on a question of this kind, rather than the members of the bar who are associated every day with a man who is charged with misconduct. It is possibly embarrassing for us in a small town to pass upon alleged conduct of a fellow member of the bar, with whom we associate every day. If the charges were preferred by the Ethics Committee of our association and referred to the Board of Governors, it would give the state association the authority to pass on it without embarrassment, and with despatch.

MR. WASHBURN: Wouldn't it cure all this, if we make a motion to amend Article 10 by striking out the word "individual"? It should read "any member." I make that motion as an amendment.

THE PRESIDENT: Do I understand you make that as an amendment to the original motion?

MR. WASHBURN: I make that as an amendment to the original motion, to have the word "individual" omitted.

THE PRESIDENT: Are you ready for the question on the amendment as proposed?

MR. LOEVENGER: May I suggest that your constitution provides for no appeal of any kind from the action of the Board of Governors in this respect, and we need this in case there should be an act of injustice on the part of the Board of Governors, which is quite distant from the scene of action. It might possibly receive evidence that might not picture the situation clearly. There is no appeal either to the local association, or to this association, or to any other body from any action of the Board of Governors, taken to expel any member. At the present time a member of an affiliated association, may at least hope that by his own affiliated association he will receive fair consideration. I don't mean to imply that he might not receive fair consideration from the Board of Governors, but the possibility of a miscarriage of justice by a Board of Governors, to my mind is far greater in the case of a member of an affiliated association than it would be if he submitted his case to his own local association. For this reason I am very much opposed to the proposed amendment.

MR STONE: I hope the proposed amendment may not prevail. This particular language has received careful consideration by the committee. I agree with much of the thought that is expressed, and now formulated in Mr. Washburn's amendment, that in order to make this constitution a success, we must get the cordial support of all local bar associations. With that in view, I think it is only wise, practical and diplomatic now to permit this language to remain as it is.

THE PRESIDENT: Are you ready for a vote on the amendment as made by Mr. Washburn?

MR. JAMES D. SHEARER: In case Mr. Washburn's amendment is to be insisted upon, or voted upon, the word "individual" occurs in another place. It occurs in the next to the last line of Section 10, Article 10, and

if it is going to be struck out, it should be struck out in both places. I think Mr. Washburn would want to include that in the amendment.

MR. WASHBURN: Yes, sir, I will include it in the amendment. I think it is all part and parcel of making this organization effective, and a law unto itself. Notwithstanding the remark of Mr. Justice Stone, I do not believe this amendment should prevent the cooperation of the district organizations. If it does, then God help them. (Laughter).

MR. L. E. JONES: I would like to present one matter for the second time in my life in opposition to the ancestor of our association. I hope Mr. Washburn will withdraw this amendment. The Board of Governors have threshed this out and there was a constitutional angle to that matter. What are you going to do with this local member? He is a member of his local bar and how are you going to try to discipline him and expel him, and he is still a member of the local bar? We had that put in for a purpose. It was done prayerfully, and I hope my Brother Washburn will withdraw that amendment. We will reach the fellow that they can't reach, and let the men at home handle the fellow at home. The amendment should not prevail. Ali you members of the Board of Governors know why it should not pass.

THE PRESIDENT: Any further remarks?

(Cries of question).

THE PRESIDENT: The vote is now upon the amendment. All of those in favor of the adoption of the amendment signify by saying Aye. Contrary No. The motion on the amendment is lost. We will recur to the original motion, the adoption of Article 10. All those in favor of Article 10 as written, say Aye. Those opposed, No.

(The motion was carried without a dissenting vote).

(Mr. Mitchell reads Article 11, the first paragraph).

THE PRESIDENT: Article 11 is read. You have heard. What shall we do with it?

MR. HENRY DEUTSCH: I move to adopt.

Motion seconded and carried.

THE PRESIDENT: I think it would be very much in order for some one, in view of the vote upon the separate articles as proposed, that someone offer a resolution that the constitution be adopted or rejected, as a whole.

MR. SHEARER: Mr. President, I so move, that the constitution be adopted as a whole.

Motion seconded, and unanimously carried.

MR. MITCHELL: I now move the adoption of the committee's report.

MR. RIEKE: Second the motion.

Motion carried.

MR. DAGGETT: I think it would be highly fitting if this associaiton at this time entered a vote of thanks to the committee, who so diligently worked on this proposed constitution. I know the time they have spent and the expense that the individual members have gone to in order to

dig out the facts and ascertain the experience of other associations under a constitution of this kind, and I move that the association at this time tender to Mr. Mitchell and the other members of that committee a vote of thanks for the work that they have done in preparing and getting together the data for this constitution. I hope that it will be a rising vote.

Motion seconded.

THE PRESIDENT: You have heard the motion as made and seconded, and before I put that motion, I simply desire as president for the past year to express my appreciation for the work of that committee. I don't believe that there is anyone here who was not on that committee who has the slightest appreciation of the blood that was sweat by the members of that committee in the work that they have done. They may be wrong on some features that may appear but they have done honest and conscientious work and have put in a world of time, and I would be very glad to ask for a rising vote upon the motion just made.

(Applause, all rising).

MR. MITCHELL: On behalf of the committee, I wish to express our sincere thanks for your action, and I want to issue a challenge to every member here: this constitution will either make this association or not, just in accordance with the efforts that each individual member puts behind it. This is simply the skeleton, something to work on. If every member who is here today will go out and determine that in his own district he will see that his local association votes to affiliate, and if there is no local association in his district, that there is one formed—and then if they go out and get every possible lawyer in it, it will mean that you will have an organization here that we have never dreamed of before, that we can really do the things that we all have felt for a long time the bar should do. It is going to take a lot of work on the part of everyone here, and I hope that everyone here will consider it his duty to go out and see that the thing is put over in his particular community. It will be a hard job, but if you will all do your part, we will find, I think, when we get through, that it is worth while, and that we have an organization that will make the bar of Minnesota something that it has never been before.

THE PRESIDENT: And I rather assume that it will be the function of this committee to continue until the new constitution is in operation. I may be wrong about that. This committee may die a natural death at this time, but it does seem to me that a resolution should be offered to the effect that this committee remain in supervision over the details of this reorganization plan, that that would be very advisable. They are conversant with every phase of it, and I am sure their service would be of the utmost value to us.

MR. DAGGETT: In view of what the Chair has said, I would like to add a suggestion. There will be a necessity for reorganization of all local bar associations. I think that this committee which has performed the work of drafting this proposed constitution are more conversant with what would be necessary for reorganization of the entire bar of the state, under both affiliated associations and the association itself, and that one of the prime necessities would be the preparation of a constitution and

proposed by-laws under which affiliated associations will organize. I will make the following

MOTION

I move at this time that this committee be continued for another year, and that they be authorized and empowered to prepare a form of constitution for the organization of the local associations or affiliated associations, together with proposed by-laws for such associations.

At a meeting yesterday on the boatride this matter was discussed to some extent by those present at the meeting, and it was pointed out that very essential and very necessary work will have to be done, and I think the committee that has created this organization will be better able to do that than anybody else. For that reason I propose the motion.

THE PRESIDENT: May I add that it might be advisable if you would incorporate into that motion the authorization and power and direction of this committee to complete the constitution, and have it filed, according to law.

Motion seconded.

THE PRESIDENT: You have heard the motion made and seconded. Those in favor say Aye, those opposed No. The motion is carried, this committee is continued in force.

The report of the Committee on Unauthorized Practice of Law was not presented this morning.

MR. DEUTSCH: The report of the committee will be found on page 16. (See Appendix p. 96.) I am not going to read the entire report, and will refer to it only to refresh your recollection, with reference to the work of this committee. You will remember that this committee was initiated several years ago, largely in accordance with the activities of similar committees, particularly in the large eastern bar associations, having in charge this question of the unauthorized practice of law, which at that time was confined largely to the matters of trust companies and other organizations of that kind offering to make wills and render other gratuitous legal services in the anticipation of being appointed executors, such work as that of notary public, abstractors, real estate title and abstract companies,—furnishing opinions on abstracts without charge, and other incidental activities. This committee, of which I have the honor to be the chairman, since I think the second year, or the middle of the first year, of its existence, has labored industriously from year to year, and we are gratified to report that in a large measure the work of the committee has borne fruit without any necessity for drastic action, either on the part of the committee or of the association. The trust companies in the state, following the lead of the eastern trust companies, and the resolution adopted finally by The Association of Trust Companies, have as far as I can learn largely ceased the practice of advising and rendering what they consider legal services to their clients, or to the community without charge or otherwise. I make that statement rather advisedly. I think most of them have conformed strictly to the letter of the situation, some of them I think have not yet fully realized or complied with the spirit of it, and there are still some instances where this unauthorized

practice of law continues by indirection, if not by direction. In some of the smaller communities of the state, perhaps some of the banks and trust companies have not become cognizant of the practice as now in vogue in the larger centers, and we still have a few complaints. I am glad to say the last year we had just one, and the situation was very quickly and courteously corrected by the bank when its attention was called to it. It is my opinion, however, that it is still necessary that this question be agitated and brought to the attention of trust companies, and particularly of the banks in the smaller communities, and that a vigilant watch be kept of the situation by the lawyers so that we may be assured that the spirit as well as the letter of what we are striving for is carried out by institutions which are interested therein. Another phase of the activity of the unauthorized practice of law, which is growing, rather than diminishing is the activity of collection agencies and activities of lawyers who are employed by collection agencies and permit the authorized use of their names by the collection agencies for the purpose of permitting them to conduct their business. This matter was referred to in a report yesterday. There are collection agencies who have arrangements with attorneys whereby without the knowledge of the attorney of the particular matter, when they desire to sue on a claim, they are permitted to use the name of the attorney, who in some instances do not even office with them, and who, as indicated yesterday, when they are called up, have probably a total ignorance of the fact that any suit was commenced with their names attached to the pleadings or summons. This practice ought to be stopped. Any detection of it ought to be followed vigorously, in my judgment, and stringent measures should be taken to discontinue the practice, and in that connection, as well as in the other instances of trust companies and banks and otherwise, it is my opinion that the committee on Ethics or the other disciplining committees of the organization ought to have their attention called to it, and that attorneys who become parties to the transactions, or encourage them by the use of their names, or their services, ought to be called on the carpet before the association and disciplined. That has been done in New York and Chicago and some other centers, and I think perhaps in a mild form here. It would be very salutary in producing the desired results. Another form of this activity of unauthorized practice is perhaps within the law, but nevertheless I believe a violation of law, the activity of the collection agency, that evades the matter of the practice of law by ostensibly obtaining from their client an assignment of the claim, and then suing on the claim in the name of the collection agency. Of course, the assignment is not bona fide, no consideration is paid for it, the claim does not belong to the assignee, it is simply beating the devil around the stump to evade the practice act of the state. In my judgment a vigorous action ought to be taken to stop this proceeding on the part of these collection agencies. A very considerable number of complaints still come almost constantly to the committee or its members, more particularly from the rural centers about the practice of law in the probate courts, by banks, and so forth, and by the bank officials. I have felt, and my committee agrees with me that this is a matter that should be presented to the Association of Probate Judges, as I understand they have rules which fully cover this subject, and it is merely a ques-

tion of the individual probate judges abiding by the rules adopted by their association, and insisting that where legal services are to be performed in estate matters, that it shall be by attorneys, that laymen shall not be entitled to fees for performing legal services.

Our recommendation in this matter is that it be referred to the Association of Probate Judges, with request that they take the necessary action.

Another matter called to the attention of the committee the past year has been that in one or two instances where attorneys have been suspended or disbarred or otherwise disciplined, that they sometimes directly, or by indirection, continue to practice law and even to the extent of appearing before the courts. Our recommendation is that it be suggested to the various judges presiding in the various courts that drastic measures be taken to stop this practice which indicates an entire contempt for, and lack of respect for, the judicial branch of our government.

The other recommendations of the committee have reference to the matter of suggesting that the funds be provided to finance the committee in order that it may carry on the work. Correspondence should be had at times with the trust companies and banks in this state, calling their attention to the activities of this association, and this recommendation, and seeking by amicable means to obtain a cessation of the practices of which we complain.

All these recommendations are respectfully submitted and I want to add just this: I am not sure that all the members of the association, or the members of the bar of the state quite appreciate the spirit of the activities prompting the work of this committee. It has been even charged that lawyers are trying to establish a union, or endeavoring to monopolize the practice of law, and put it on a purely commercial basis. I think a moment's thought will convince any of you that the real purpose back of these activities is not a selfish one. The primary motive is to maintain the integrity of the bar, to insist that there are certain ideals, certain standards, certain responsibilities which lawyers are obligated to live up to, and to sustain, by reason of their positions as officers of the judicial machinery of the state, and that if we have any selfish motives at all, it is that we shall not be compelled to submit to too much temptation,—being but human and likely to err, and that we are asking assistance along these lines, so that we may not be compelled to be in competition, if you please, or to be subjected to the reflection cast by the practice of these individuals who assume to perform our functions without having any of the responsibilities, and, I might say, without having any of the ideals or standards of the profession.

I move you, therefore, Mr. Chairman, the adoption of the recommendations, and the acceptance of the report as it appears in the printed copy.

Motion seconded.

THE PRESIDENT: You have heard the motion and seconded. Any remarks? Those in favor signify by saying Aye, contrary No.

The motion is carried.

This, gentlemen, finishes the program for this session.

MR. KIDDER: Just a brief suggestion. It has occurred to some of the gentlemen here that one of the objects of that committee might perhaps as well be carried out without the expenditure of funds which they suggest might be provided the committee through the organization which now exists, that instead of attempting to write the individual bank, for instance, that this matter be taken up in some official way by the committee with the Bankers Association of the state. I think an opportunity could be given some of the members of this committee to present our attitude on the question at the annual meeting of their association, (of bankers), to see at least, if some concerted action could not be induced by the banks to in some measure limit the activity of the banks along the line of practicing law. The same thing might well be done at the annual meeting of the real estate board. I think the large majority of the unlawful practice of law is done by real estate men and bankers. That has been, I believe, the consensus of opinion. Why couldn't they be reached through those organizations? This is just a suggestion here, that the committee undertake that.

THE PRESIDENT: That finishes the program for this session. Tomorrow morning at the session, the report of the treasurer will be taken up. When we adjourn, I would suggest that we adjourn until ten o'clock, instead of nine thirty. We hope that Judge Cant will speak to us at ten thirty. The report of committees before his address will be very short, and we will have Judge Cant's address at about ten thirty. I don't think I should let you go without once more calling your attention to the necessity of securing your banquet tickets. (Laughter).

MR. EATON (Rochester): One matter was omitted in relation to the organization of the state bar. The work to be performed by that committee is enormous. I have been a member of it for two years, and they will need some funds for carrying out the work, and I make the following

MOTION

I move that an appropriation not to exceed $500 be authorized for the use of that committee in performing this reorganization of the state bar.

Motion seconded and carried.

(At this time the meeting adjourned until ten o'clock July 9th).

Friday, July 9, 1926, 10:00 O'clock A. M.

Meeting called to order by the President.

THE PRESIDENT: Do not forget the young lady at the door has the banquet tickets. In that connection I would say that she has asked me if I will be kind enough to request Mr. Washburn to get his ticket. (Prolonged laughter and applause)

REPORT OF COMMITTEE ON JURISPRUDENCE AND LAW REFORM

MR. CHERRY: The report of the committee on Jurisprudence and Law Reform will be found on pages 8 and 9 of the printed pamphlet. (See Appendix p. 88.) I would like to take up some of the matters

mentioned in that report,—not because you have not read it, because, of course, you have,—but simply by way of bringing them specifically to the attention of the association. The first matters discussed in our report are two matters referred to the attention of the association at the meeting last year. The first one referred to is a resolution adopted by the association, calling for a change in disbarment procedure, and calling on this committee to draw a bill for the next session of the legislature, which would change the disbarment proceedings. Your committee has not drawn such a bill, but instead, for reasons stated in the report, and which I will summarize briefly, recommends that there be no such bill drawn, and that this association approve and commend most heartily the present procedure, and the action under it by the Supreme Court and by the Board of Law Examiners, and by several of the bar associations of the state. I think that resolution last year was adopted without an understanding of just what the procedure is and how it functions. By a law passed in 1921, which was passed at the instance of this association and this committee, the Supreme Court was given complete control of the disbarment procedure. The procedure which has been adopted has been a very efficient one. When an accusation is made against an attorney, and he has had an opportunity to answer it, a referee is appointed to take testimony, and under that practice, that referee may be, and commonly is, given power to rule upon the evidence, and is instructed to make findings with his report. The principal difficulty with the old disbarment procedure was that the referee did not have such power, and that the person chosen as a referee was consequently a mere reporter of the evidence received, and the Supreme Court, when it came to pass upon the question of whether the attorney should be disbarred or not, had before it what was aptly termed in one of the opinions of the court, the cold record, upon which to determine the important question of whether a member of the bar had so far misconducted himself as to merit disbarment. The present procedure seems to be an admirable one, and most of us think that it is not only good in its form, but that it is functioning very well. There have been decided this year since last September, and there are now pending, more disbarment proceedings than this state has ever had at any one term of the Supreme Court. Those disbarment cases are efficiently presented. The referees chosen are commonly judges of the District Court, and they are chosen by the Supreme Court, as your committee is informed by those who have to do with these matters, with great discretion, both in the interest of the member accused and in the interest of the bar of the state and of the public. Those matters are promptly heard and they are decided equally promptly by the Supreme Court when they come up for decision. The whole record seems an admirable one, and in view of the fact that it is not a great many years since this association found itself in the position of criticising, sometimes openly and sometimes not quite so openly, but always rather conspicuously, both the Court and the Board of Law Examiners, your committee, having looked into this matter under that resolution asks the association at this time to adopt a resolution, and that RESOLUTION is

THAT this association approves and commends the attitude of the Supreme Court, both in the procedure which has been adopted and in

its action towards disbarment cases, and furthermore, warmly approves and commends the State Board of Law Examiners, and particularly its secretary, for the very efficient conduct of those cases and the several local bar associations through their grievance committees which have done excellent work.

I move you, Mr. President, the adoption of that resolution.

The motion was seconded and carried without discussion.

MR. CHERRY: The second matter referred to the committee had to do with the practice of using, in the collection of claims, papers which closely resemble and are obviously intended to mislead the recipient by the resemblance which they bear to a Summons. I suppose most of us are rather familiar with those, and have seen them at one time or another, and the idea was that this committee draw a bill which would attempt to stop that practice. Again, your committee has not drawn a bill but has this to report: that on June 11th of this year the Supreme Court, in a disbarment proceeding very severely and effectively condemned that practice. The particular attorney was suspended and not disbarred, but that was only because of the particular circumstances which are cited in the opinion, which I need not go into; but the Court emphatically said that that sort of practice would not be countenanced. It seems, therefore, to your committee, that in so far as lawyers are concerned, the matter has been completely covered by that decision, and any lawyer who uses such papers in future faces the certain action stated in that opinion,—that he is subject to disbarment. Your committee did not find that these papers were used otherwise than with a lawyer's name signed to them. The paper used looks like a Summons and it is signed by some attorney for the plaintiff. Your committee merely reports that situation and recommends that no action be taken unless it should appear that it be necessary—because of these papers being used without a lawyer's signature. It does not seem that that will be very likely to happen, due to the fact that the whole significance of the paper comes from the name of the lawyer being attached. Your committee is open to suggestion on the matter, if it is desired that there should be action taken.

The next matter that we have to report upon is the matter of proposed changes in criminal procedure. We had, at a special meeting of this association, in the fall of 1924, as some of you may remember, a rather protracted consideration of this committee's report on proposed changes in criminal procedure. Some of the proposals submitted by this committee were adopted. Those adopted were put in the form of bills and submitted to the legislature and failed of passage. In view of the appointment of a crime commission by the governor of the state, and the fact that that commission will deal with those matters among other things, your committee merely leaves them in that form and notes the fact that that commission has on it a very considerable representation of members of this bar association and of people active in this bar association, and we have every confidence that such matters will be thoroughly considered there.

Now, coming to the proposed changes in the statutes, your committee has two to recommend at this time. The first is, an amendment to General Statutes of 1923, Section 210, which is the section which provides for

retirement of judges in cases of disability where it is found that the judge is not able to go on with his judicial services. By what is undoubtedly an omission in that statute, no provision is there made for the retirement of Commissioners. There doesn't seem to be any reason why Commissioners of the Supreme Court should not be in the same position as the judges of the Supreme Court.

I, therefore, Mr. President, on behalf of the committee make the following

MOTION

That this association endorse and recommend an amendment to that statute to the end that Commissioners of the Supreme Court be in the same position as judges of that court in regard to retirement provisions.

Motion seconded by several members, and carried unanimously.

MR. CHERRY: The other proposed statutory change has to do with the law passed at the last session of the Legislature, chapter 262, Laws of 1925, which provides for the management and disposition of property within this state by persons who have absconded or disappeared. The statute was intended to take care of a very difficult situation, and it is only just beginning to be made use of. It is to be noted that one class of persons are not taken care of in that statute, and that is, persons committed to penal institutions in this state who are as effectively prevented in many cases from taking care of their own property, and whose families might be just as destitute in the absence of some method of applying the property to their use, as would be the case where the person disappeared or absconded. Your committee recommends and I move

That this association endorse an amendment to that statute which would make the same provision in cases of persons confined to penal institutions as is now provided for those who have absconded or disappeared.

The motion seconded and unanimously carried.

MR. CHERRY: There are two proposed amendments to the state constitution which will come up for vote at the General Election this year, and your committee thought that an expression of opinion by this association at this time might be of some value in connection with the vote on these amendments. The first one has to do with the Supreme Court and merely increases the number of justices from four to six. As you all know, this is not the first time that something of that sort has been presented to the voters. It is a point that surely needs no argument in this presence, that such an amendment is highly desirable.

The second one has to do with the so-called double liability of stockholders. This association is already on record in favor of an amendment to the state constitution in that connection. The amendment now up for the action of voters was presented by the Legislature at its last session, and on behalf of your committee:

I move that this association endorse, approve and support those two amendments to the constitution.

Motion seconded.

MR. GRIMES: Won't you separate those, please?

MR. CHERRY: I was trying to save time but if it is desired I will do that. May I then change that and move that this association approve and recommend the active support by its members of the amendment proposed in regard to the number of associate justices of the Supreme Court being increased from four to six.

THE PRESIDENT: Inquiry has been made by a member. Will you explain a little further?

MR. CHERRY: The proposed amendment has been made to have a court of seven justices, including the chief justice and six associate justices. The present provision for two Commissioners, as we all know, is a statutory stopgap until such an amendment might be provided, and this is, as I have said, not the first time that has been attempted. It is up for action by the voters at this election and your committee desire a vote of the association on it.

THE PRESIDENT: You have heard the motion as made and seconded, applicable to this first provision, which has just been read. Are you ready for the question?

MR. CATHERWOOD: This is not the first time this proposition has been presented to this association,—the chairman of the committee is right. There is one suggestion that has been made in characterizing the provision of the work as a stopgap that I do not agree with. The people of Minnesota have disapproved the constitutional amendment once, and it was quite thoroughly canvassed. In our section of the state, speakers were campaigning for some time. Now it is proposed to submit it to the people of Minnesota again. We, on the outside do not know—many of us have felt that instead of being a stopgap as termed by the chairman of the committee, that it has worked with at least a degree of stability in the personnel of our Supreme Court. The members of the Supreme Court themselves, and the Commissioners are the best judges of whether the present system is desirable or not. I am not prepared to support or present a recommendation of this kind to the people of Minnesota, until I am advised by some member of the Court or the Commission as to whether that amendment ought to be recommended to the people of Minnesota, or not. Personally, I am opposed to the amendment. The working of the Court since the appointment of the Commissioners has been beyond criticism, so far as the effect of the procedure has appeared to us. If it works out to the satisfaction of those who are engaged in the work, I think we had better let well enough alone.

MR. ANDRE, C. J. (St. Paul): Speaking before the Ramsey County Bar Association recently, Chief Justice Wilson expressed the hope that this amendment would pass and explained how it was working to the disadvantage of the Court at present, in that some times the minority of the Court decides the case, that is to say, two Commissioners and two of the Justices may be on one side, and the other three Justices on the other side of the case, with the result that a minority of the Court decides, makes the decision, because the Commissioners have no vote. The Commissioners, as I understand have all the powers of Associate Justices, except this, that they do not vote, and they are called Commissioners instead of

Justices. I believe that Mr. Justice Wilson's appeal for the adoption on this amendment answers that question thus raised.

THE PRESIDENT: Any further remarks?

Motion put and carried without a dissenting vote.

MR. CHERRY: Then in behalf of the committee, I move you the endorsement of this association of the proposed amendment of the constitution, referring to the so-called double liability of stockholders.

MR. J. M. BRADFORD: On that question I am in favor of the abolishment of the double liability. I was a member of the Legislative committee last year, and Mr. Mitchell and I spent a great deal of time over a bill which would abolish that double liability, and I do not believe Mr. Cherry—and I know that I, at this time do not believe that the bill that was prepared is approved by you.

MR. CHERRY: It was not the one that we thought ought to be passed, Mr. Bradford.

MR. BRADFORD: No, and I hate to have the association go on record in this way on that particular bill. If you would word your motion so that we go on record in favor of a bill which would abolish the double liability of stockholders, I would be in favor of it, because I think the bill they had up last year is very unsatisfactory.

MR. OSCAR MITCHELL (Duluth): I think that I would agree with Mr. Bradford, if there was any choice in the matter, but if this is a question of whether or not the constitutional amendment which has been proposed by the Legislature shall be recommended for adoption, I am thoroughly in favor of abolishing entirely the double liability of stockholders in this state. I should have been glad to see an amendment proposed by the Legislature that would have left it to the Legislature as this apparently does, to say whether or not a double liability shall exist, but this measure that was passed by the Legislature, which is now to be submitted to a vote of the people as a constitutional amendment, was the measure which those probably in closest touch with the situation thought would be most likely to receive votes enough to be adopted. If this association votes in favor of this amendment or recommending this amendment to the voters, it is the voice of this association that it is in favor of a step towards abolishing the double liability of stockholders in this case. If the association votes down this recommendation, it will go out to the voters of the state as condemnation of this amendment, which is a step certainly in the right direction. I think that the motion on the recommendation should be adopted as the best and the only chance we now have of making an expression of this nature upon this question.

THE PRESIDENT: Any further remarks?

(Cries of question.)

Motion put and carried without any dissenting votes.

MR. CHERRY: I think that is all, Mr. President, except that on behalf of the committee, I move that the report of the committee be accepted and filed.

Motion seconded.

THE PRESIDENT: Any remarks?

MR. PAUL J. THOMPSON: I want to say something in regard to this last paragraph in the report. I am very sorry Mr. Cherry did not go into that a little more fully. I was in one of our neighboring states a week ago, and they were telling me there of the method employed there in keeping the statutes up to date. They keep the same section number for each particular subject, and after each session of the Legislature, the statutes are revised and the new legislation is added to the particular section, keeping the same number. Now, I started to practice with the 1894 statute, then we had the 1905, and the 1913, and now we have the 1923. If you start with 1923 statutes and try to trace back the history of any particular statute, you will find that you have got quite a job on your hands. Now it seems to me that this last proposition that this committee makes in this program should be carried out. There was a bill introduced in the last Legislature to have a revision of our statutes, something along the Wisconsin line. Several other states have similar plans. It would be the greatest convenience that lawyers can imagine if our statutes could be brought up to date every two years and the same section numbers and chapter numbers kept for the different subjects. So I take it that this motion which is now made to adopt this report will carry with it a hearty recommendation of the last paragraph in the report.

MR. ANRRE, C. J. (St. Paul: Before voting on this matter I would like to ask the chairman of the committee if the third amendment to the constitution has received consideration, that one relating to reforestation?

MR. CHERRY: We did not think that that came within our jurisdiction, pretentious as our title is,—what Mr. Burr used to call the committee with the high sounding title, jurisprudence and law reform,—but as yet, we have never taken to the woods, so we did not consider that.

(Laughter and applause).

THE PRESIDENT: Any further remarks? Those in favor of the motion say Aye, contrary No.

The motion is carried.

Next on the program is the report of the committee on Membership. Is the chairman present?

MR. OLAI LENDE (Canby): Mr. Chairman, this is undoubtedly the last report that will be made by a Membership Committee of the Minnesota State Bar Association, in view of the fact that the new constitution was adopted yesterday. The futility of a membership committee of the Minnesota State Bar Association may be appreciated to a small extent, when I say that a year ago there were about 585 lawyers, members of the Minnesota State Bar who were in arrears, with dues in arrears aggregating some over eleven thousand dollars. It is patent that this condition cannot exist and the Minnesota State Bar continue, and I bespeak for the bar a great change in the membership by reason of the local bar associations that are to be formed and to become federated and affiliated with the state bar. Thus, instead of one membership committee, we shall undoubtedly have nineteen membership committees. The membership committee for several years last past has resolved itself into a collection agency, in the collection of dues that are in arrears. In the work during the last year

we have done the best we could, and we have compromised with members who are in arrears and we have added new members— quite a number of new members have been added to the association during the last two days, and I am unable to report the number of memberships that have been added during the year, except to say that the committee, the members of it throughout the nineteen districts of the state, have done the best they could. We have collected as much money as we could, and our labors are ended.

I move you, Mr. Chairman, that the report that has been submitted to the association and is printed on page 15 of the pamphlet (See Appendix p. 96.) be received and filed.

THE PRESIDENT: Mr. Lende, may I ask a question for my own information, and possibly for that of some of the members? How many members are there now in the organization approximately?

MR. LENDE: Perhaps the secretary can give us that information.

MR. CALDWELL: About 1350.

THE PRESIDENT: You have heard the motion as just made for the adoption of the report of the committee. Is there a second?

Motion seconded, put and carried.

MR. EATON (Rochester): It has occurred to me that under our new scheme of organization, the same recommendation should be made at this time to the affiliated organizations as to how to deal with the members in arrears. In Rochester we have several members who are in arrears and they have spoken to me personally. They would like to become members of the bar association, but to be frank with you, they can't afford to pay up their arrearages at this time. As I understand, it is necessary, for them to become members of the state bar association, to become members of the affiliated organizations during the next year. That being the case, there ought to be some means for them to pass up the past and start fresh.

MR. LENDE: May I answer the gentleman from Rochester by saying that the adoption of the constitution yesterday makes a new start. The past sins are forgiven, the debts are remitted, and we start anew, and when we join the local organization at home and pay the dues at home, that automatically pays the dues to the state bar, and the local organization remits to the state bar, and I want to assure you that the local membership, the membership of the district organization has ten times the influence upon the members at home that we have upon the state bar, because a man that becomes two or three years in arrears will say, "I will drop the state bar. I don't want to have anything to do with it," and there you are, you can do nothing. This new method, as I understand it, makes a new start, and the $11,000 that are in arrears are forgotten, and we start anew.

MR. LOEVENGER: I do not like to question the statement of the chairman, but it does not sound quite logical to me to say that because this association amended its form of constitution, that by that act all the memberships in this organization are wiped out and that all obligations to the organization are cancelled. I doubt whether the treasurer of this organi- or the secretary has any authority to cancel any of the obligations to this organization, by reason of the amendment of the constitution, and if that is to be the intent, it seems to me the only way it can be accomplished

legally, so as to relieve our officers of the responsibility, is to have a motion to that effect.

THE PRESIDENT: The chair was impressed with that same fact when Mr. Lende was speaking. I do not just see how they could accomplish this. I think it would be well to have a resolution.

MR. LOEVENGER: With that in mind, Mr. President;

I MOVE, that upon the going into effect of the new constitution, and its adoption by the affiliated local organizations, that thereupon the unpaid dues on the books of the members who become members of this association through affiliation with local associations, be remitted.

THE PRESIDENT: May I offer one suggestion? I think under the new constitution, there are provisions there that some members may become members of the state organization, without passing through the local organization. It would impress me that it would be wise to clean that sheet entirely. That is only a suggestion, but you have brought the matter up.

MR. BRADFORD: I am going to suggest an amendment to that motion, that the matter of remitting past dues and the handling of past dues and everything of that nature, be referred by this meeting to the Board of Governors of the association, with full power to act I do not believe we are in position today to study out all of the fine points of Mr. Loevenger's resolution, or whether we should or should not pass it, but when the Board of Governors get together once a month, let us lay on their shoulders the burden of figuring that out, and do it right by giving them full power to act. I offer that as a suggestion.

MR. LOEVENGER: I should be glad to withdraw my motion in favor of Mr. Bradford's suggestion.

MR. LENDE: Isn't there a previous motion pending on the report of my committee?

THE PRESIDENT: The motion is for the adoption of Mr. Lende's report. The motion has been seconded. Any further remarks? All in favor say Aye, contrary No.

Motion carried.

MR. BRADFORD: Now, Mr. Loevenger, I renew our motion, instead of being an amendment, we offer it as an original motion.

MR. LOEVENGER: I second that motion.

THE PRESIDENT: You have heard the joint motion of these two gentlemen made and seconded by each other. Are there any further remarks?

MR. ———— : As a member of this committee, I have been penalized by being twice upon it, and I think Mr. Loevenger stated that prior to the passage of the motion now pending that we claim both under Judge Stone's chairmanship and Senator Lende's that we have had the misfortune of having to do with this job of collection agencies, acting as a committee—whether it is the fault of the association, or otherwise, I don't know, but we have carried out, or tried to carry out the principle in obtaining funds from the several members who are in arrears,—not only one

year, but several years,—and I have given the members throughout my district to understand that almost anything they did would be acceptable. That being the case, I thought that explanation was due before the vote is taken, in order that the Board of Governors may be advised as to what has already taken place in the several districts. We have been glad to get anything we could in order to adjust the matter.

THE PRESIDENT: Are you ready for the composite motion? All in favor of the motion by Mr. Bradford and Mr. Loevenger signify by saying Aye, opposed No.

The motion was carried.

THE PRESIDENT: I think before we announce the speaker of the day, I will take up any unfinished business, anything not new but unfinished. If there is anything let us have it now and get that behind us.

MR. CALDWELL: I have a letter from Mr. Kenneth G. Brill which I will read.

April 28th, 1926.

Mr. Chester L. Caldwell,
Attorney at Law,
503 Guardian Life Building,
St. Paul, Minnesota.

My dear Sir:

I presented resolutions to the recent meeting of the Executive Committee of the Ramsey County Bar Association, which I think will receive little or no attention, and I am therefore calling the matters to your attention as Secretary of the State Bar Association.

I think that the State Association should pass a resolution requesting the Justices of the State Supreme Court to wear robes, and that an able committee should present the matters to the Justices. I think that the same should be done with reference to the Judges of the United States District Court of this District.

I have written you suggesting that some action be taken with reference to the further revisions and compilations of the statutes. Undoubtedly a system such as they have in Wisconsin would prove satisfactory.

The resolutions dealing with these matters provided that the matters should be called to the attention of the State Association, as they are of course, matters that that Association should deal with. As far as I know, they were not considered by the Executive Committee of the Ramsey County Association.

Yours very truly,

KENNETH G. BRILL.

MR. CALDWELL: Supplementary to this letter, I have been handed a form of resolution by the secretary of the Ramsey County Bar Association. Undoubtedly some action was taken by the Ramsey County Bar Association. Of the two resolutions, one refers to the Supreme Court and the other to the United States District Court.

(Reads resolutions.)

WHEREAS, the Executive Committee of the Ramsey County Bar Association embrace this opportunity to express the high esteem in which

they hold the members of the Bench of the Supreme Court of the State of Minnesota, and,

WHEREAS, it has been a time honored custom for those in judicial positions to wear robes of office, and, recognizing that there is that element of the mind which prevents, in many people, a full appreciation of the serious attitude which should be maintained toward the enforcement of the law and the orderly settlement of disputes, resulting in a lack of respect for the Court, when the Judges appear upon the bench without judicial robes,

NOW THEREFORE, be it resolved, that entirely aside from our esteem for the present members of the Court, and desiring that this matter be considered without the personal element being present, we respectfully request that the Justices of the Supreme Court of the State of Minnesota wear, when upon the Bench, the customary judicial robes.

Resolved further, that we deem it advisable that this matter be considered and acted upon by the Minnesota State Bar Association at its next meeting and request that this be done.

MILTON C. LIGHTNER, Secretary.

WHEREAS, the Executive Committee of the Ramsey County Bar Association embrace this opportunity to express the high esteem in which they hold the members of the Bench of the United States District Court, District of Minnesota, and

WHEREAS, it has been a time honored custom for those in judicial positions to wear robes of office, and, recognizing that there is that element of the mind which prevents, in many people appearing before the Court, a full appreciation of the serious attitude which should be maintained toward the enforcement of the law and the orderly settlement of disputes, resulting in a lack of respect for the Court, when the Judge presiding appears without a judicial robe,

NOW THEREFORE, be it resolved, that entirely aside from our esteem for the present members of the Court, and desiring that this matter be considered without the personal element being present, we respectfully request that the Judges of the United States District Court, District of Minnesota, wear, when upon the Bench, the customary judicial robes.

Resolved further, that we deem it advisable that this matter be considered and acted upon by the Minnesota State Bar Association at its next meeting and request that this be done.

MILTON C. LIGHTNER, Secretary.

MR. CALDWELL: There is a similar resolution in respect to the United States District Court.

THE PRESIDENT: I don't know that that is unfinished business; it sounds to me very much like finished.

MR. DUXBURY: Somebody wishes to amend by inserting that they wear gas masks, too. (Laughter).

THE PRESIDENT: Meeting called to order. The gentleman that has just made that remark is Mr. Duxbury. Do you wish to consider that now, or shall we bring it up later?

MR. WASHBURN: We might just as well take it up now.

THE PRESIDENT: If there is no objection we will proceed with it now. Is that offered in the nature of a resolution before this meeting?

MR. CALDWELL: No, it is a communication from the Ramsey County Bar Association.

MR. H. J. BESSESSEN: I move to lay the matter on the table.

Motion seconded and carried, and the matter was declared tabled.

THE PRESIDENT: What is your pleasure as to taking up new business, would you like to do that now? If there is no objection, the matter now before us is that of new business, have you any suggestions in that line?

MR. D. F. FOLEY: Last winter, in Minneapolis, one of the newspapers took up the proposition of chattel loans and small salary loans. This newspaper appointed a committee of about forty lawyers to look into the question of usury and extortionate rates of interest. I happened to be a member of the committee, and Mr. Paul Thompson was also on the committee. The proposition that was considered and handled was to see what could be done about those who borrowed money in small amounts and were charged large rates of interest. The lawyers on that committee handled several hundred cases and we found that the interest rates ran from fifty to a thousand percent. I remember particularly handling one case myself where the rate, as I figured it was one thousand fifty percent, for a small loan; and to charge interest at the rate of five hundred percent was a very, very common thing, and one hundred percent was generally considered not adequate at all. Now, the laws of the State of Minnesota at the present time are adequate to cover the situation as a theoretical proposition, but not adequate as a practical proposition. The reason for that is this, those people who are in the business of loaning money, one hundred dollars or ten dollars or twenty-five dollars, must charge more than eight percent, and I believe the law allows them to charge fifteen percent on less than one hundred dollars or a lesser rate plus a commission of two percent, and going into the question we found many hundred thousands of dollars were loaned in Minneapolis at that rate of interest. In handling the business thousands of dollars worth of loans were entirely canceled because the rates were usurious and extortionate. All we had to do was to take it up with the loaning company and in nine cases out of ten they they were glad to settle for the amount originally loaned. Sometimes we paid them the principal plus six percent interest, but that would not give the loaning company enough return on its money to make the business a paying business. Now, there is a place in business, and in industry, for just such institutions that loan money in amounts of one hundred dollars and less and charge large rates of interest. There are many, many people who may require loans of one hundred dollars or less on security of chattels or salary. Those people must have a place where they can borrow money. There is a plan that I am not thoroughly familiar with, but it is known as the Russell-Sage Foundation plan, I think that is the name given to it. They have a system where they charge three and one-half percent on monthly balances. The lawyers on this committee gave the matter some considerable study and agreed among ourselves that that was probably a fair compensation for the money

owner, and after a good deal of discussion with the loaning people we got most of them to agree to accept the plan as a basis for the future, and this agreement was acceptable to the newspaper, The Daily Star. It occurs to me that probably in St. Paul, Duluth and all larger cities there is a great deal of exactly the same thing going on. There is a plan in some states which will allow them to charge in excess of seventeen percent on such small loans. The Russell-Sage Foundation plan has been adopted, I understand, in twenty-eight states, and it occurs to me, and it occurred to the other members of the committee so far as I know, that if the Russell-Sage plan were adopted as a law in this state people who needed salary loans of one hundred dollars or less could secure their money on a reasonable rate of interest. Now, of course, three and a half percent on monthly balance is high, but there is such a large loss in loaning such money they must charge a high rate, and those people have a perfectly legitimate field in business. So it occurred to me that it might be proper to draft a resolution for your consideration, and I have prepared the following:

RESOLUTION

Whereas it appears that in the larger cities much misery is caused by loaning money at usurious and extortionate rates of interest on salary and chattel loans;

And whereas it appears that the laws are at present inadequate to practically protect such borrowers;

BE IT THEREFORE RESOLVED, That the incoming president of this association is hereby authorized and directed to appoint a committee of five to study the question, cooperate with the proper legislative committee, to the end that the law governing such loans may be appropriately amended and that such committee shall report to this association at its next annual meeting.

Mr. President, I move the adoption of that resolution.

Motion seconded.

MR. JAMES D. DENEGRE (St. Paul): I just want to state for the information of all here that such a measure was introduced in the legislature. My recollection is, in the 1923 session. Considerable assistance was given by representatives of this Russell-Sage Foundation and there was a desperate fight on it and the bill was defeated, but at that time there was a very strong sentiment among a very large portion of the legislature, especially when the bill was first introduced; but those who were opposed were pretty well organized and they convinced a lot of our bar members that there was a nigger in the woodpile somewhere, but the bill was defeated by a very narrow margin.

MR. CHERRY: I would like to say that I understand that if that bill is introduced the Russell-Sage Foundation has planned to have a very considerable campaign made in this state prior to the meeting of the legislature and at the time the legislature is in session, and get a full reconsideration of the bill, and there is a very large representative committee forming throughout the state to work for that measure. With Mr. Foley's consent, I would like to have this association, if it feels pre-

pared at this time, by the way of substitute to this motion,—I would move that this association recommend the passing of that act.

MR. FOLEY: I will so accept the amendment.

MR. J. L. WASHBURN: I know just a little about this. I was invited to serve on the committee Mr. Foley speaks of. I should hate to have this association go on record as endorsing the Russell-Sage Foundation bill. A very large amount of work will be done in behalf of that bill and there is a state-wide canvass going on now, getting ready for it. The bill, briefly stated, I think, may be said to authorize the loaning companies to make loans of this kind and to charge forty-two and one-half present. I have not yet reached that stage of degradation where I am willing to support a measure to be put on the statute books allowing forty-two and a half percent for loaning money. I don't like it. It may be that it is worse than that, but I don't feel justified in supporting such a measure.

(Applause.)

MR. PAUL J. THOMPSON (Minneapolis): I would like to say just a word about this matter because I, too, was on this volunteer committee. And we arrived at this conclusion, that there should be an arbitration board in the City of Minneapolis to pass on claims where the party who borrowed the money claimed he was paying an extortionate interest; such a board composed of the editor of the Daily Star, one of the aldermen and one of the representatives of the loaning companies, sits every Tuesday afternoon to hear complaints. They act as an arbitration board and they are settling all the claims of extortionate interest on the basis of three and one-half percent per month on monthly balances, which is about the same as the Russell-Sage Foundation plan. As I understand Mr. Foley's resolution, it does not commit this association to that particular plan, it simply recognizes that a situation exists which calls for a remedy and recommends that it be remedied at the next legislature. I think the time is ripe. The loan companies of Minneapolis were greatly disturbed by the campaign that was carried on by the Daily Star and by the volunteer services of these lawyers, and I do not think that they will bring the opposition against the bill that they did in the former legislature. This does not commit the association to any one plan, but it simply commits us to a helpful attitude towards this legislation which is very likely to come about in the next legislature.

MR. F. W. REED (Minneapolis): I have been interested in these matters for at least twenty-five years and have had my attention called to this from time to time. There is no question about the proposition, hundreds of thousands of dollars of these loans are being made all the time and have been from the beginning of our cities on a basis of sometimes as high as a hundred and thirty-five percent. If you don't believe it, look into it. This proposition instead of increasing the rate is to save the poor fellow from paying over the three and a half percent per month on balances. It was drawn up on the basis of the experience of the Russell-Sage Foundation to make a living basis for the poor fellow who has to borrow money, so that he can get it on a basis where he can live. That is what this means, and any man that opposes this movement, on the

basis that it is usurious, does not know what he is talking about. Let him look into it. They are charging them now from one hundred and thirty-five to one thousand percent, and it is conducted in such a way that two-thirds of the fellows don't know where they are at. If you will look into it, you will find that from twenty-five to fifty percent of them pay these loans once and twice and three times and sometimes ten times the amount of the original loan, and are having demands on them every month paying interest, and not knowing how to handle it, they are still paying. There are many cases where men in Minneapolis have been in the hands of these loan sharks for ten years, and every dollar that they can get over and above their daily expenses goes to them and they don't know where they are at. The proposition legitimatizes the business, it gets it down to a proper basis, and the loaner can get a legitimate proposition, and at less than one-third of what he is getting it now, and if anybody will oppose this movement he ought to look into it, because it is purely a proposition to help the borrower from the hands of the sharks and get it on a legitimate basis. The usury law is passed to save the small man from the hands of the usurer but it is the thing that kills him. If it was not for our usury law, the small man would be ten times better off. If he wants to borrow ten dollars, can he get it at the bank? Not a dollar. Can he go to any of his friends that loan money for other purposes? What will he do? He goes to the sharks and they make him pay these tremendous sums, make him pay the cost of the business, make him pay everything, and they make him pay, in addition, for the disrepute of the business, and as the thing now stands it is the destruction of the poor man who wants to borrow some money and has no security. When you legitimatize this and put it on a proper basis, if the time comes when they can loan money for a lower rate of interest, the natural course of competition will reduce the rate, but this proposition is purely a philanthrophic proposition on the basis of it and the sole purpose of it, and the result of it is, and will be, to save the man from paying one thousand percent, and allow him to get it on a basis of three and a half percent a month.

MR. DENEGRE (St. Paul): I just want to speak a moment. As I recall it, in the 1923 session of the legislature that bill passed the house. I don't know what happened in the senate, but it seems to me that this resolution should be adopted. That matter has been carefully worked out by the Russell-Sage Foundation, and I don't think there will be much opposition in the next session. I have had in the last month a case brought to me in St. Paul where the rate was a hundred and twelve percent, and I remember that the record of a loan association in St. Paul supported this bill.

MR. DUXBURY: It requires some temerity to express a doubt after we have heard the expressions from some of the speakers, but I still indulge some doubts about whether the friends of this measure ought to ask this body to take any action on that matter. As was indicated by the remark of Senator Denegre, the farmer members fought it, and if they have the further information that the State Bar Association has endorsed it, their suspicions may be further aroused and you may have a handicap rather than anything else. (Laughter.) Besides that, I have

been tending to the conclusion for sometime in these meetings that we attempt to take action about matters about which we have very little information. I think it is a matter we had better let alone. There are two sides to the question, no doubt about it, or there would not be differences of opinion. It is well meant, no doubt, by many people, but very many well meant measures do more harm than good, and it is pretty hard—I think most of you who have been observing the course of human affairs for sometime have almost concluded that it is almost impossible to make anything absolutely fool proof except possibly the penitentiary, and we are not sure of that. If you put this measure through, these fellows are violating the law now; they are crooks of the deepest dye and they will violate the law, and the only thing to do effectively with that sort of practice is to make it highly penal, make it as nearly fool-proof as possible. It ought to be a penal law and it ought to be enforced, and Minneapolis ought to stand for a law that will effectively put the crooks into the pen even if it depopulates the town. (Laughter and Applause.)

THE PRESIDENT: After the remarks just made, I am forced to recognize Mr. Foley again.

MR. FOLEY: I would like to ask Mr. Cherry to withdraw his amendment and allow the original resolution to go through as it is for this reason: That means a committee is to be appointed by the incoming president with full authority to deal with the question in such a manner as they think proper. Mr. Duxbury's suggestion can be met with and we can put the city people as well as the country people, if such there be, in the penitentiary where we can all visit them—visit with each other. (Laughter.) If Mr. Cherry will withdraw his amendment, I think there can be no objection to it.

MR. CHERRY: I want to comply with that request, but I want to say one word. In reply to the slur on our fair city of Minneapolis, and also about one other thing which Mr. Duxbury said about there being two sides to this question. Well, that is true, there are two sides to every question, he says, and that is true of fly paper, but there is a vast difference in the effect of the two sides. (Laughter.) I am very happy to withdraw the substitute motion and to second Mr. Foley's original motion.

THE PRESIDENT: We now recur to the original motion, that the incoming president appoint a committee of five to investigate this matter and report it to the next meeting of the association.

MR. J. D. MARKHAM (Rush City): If I may be permitted at this moment to ask the brother to withdraw the resolution entirely. It is apparent that it will be voted down, and if it is voted down—

(Voices: "No, no.")

MR. MARKMAN: The effect of it will be—I think so—that they will turn it around and use it against us.

THE PRESIDENT: Please restate the resolution, Mr. Foley.

Mr. Foley read the resolution.

THE PRESIDENT: All those in favor, say "Aye". Contrary, "No". The motion is carried.

There is quite a lot of new business to come before the meeting, and if there is no objection, when we adjourn, we will adjourn until one thirty. We do want a full attendance. We don't want the impression to get abroad that the officers for the coming year were hand-picked, as they were this year. (Laughter.)

(The President conducted Judge Cant to the platform.)

THE PRESIDENT: This is the first time in thirty-five years that I have ever led this gentleman by the hand. I have been led by him for about that length of time. It gives me very much pleasure this morning, to introduce the speaker of the day, who very reluctantly consented to speak to us this morning, and everybody here and everybody in the state greatly admires him as a man, as a citizen and as a judge. I want to present to you Judge Cant of Duluth.

A SURVEY

By Judge William A. Cant

Mr. President, Ladies and Gentlemen: With your kind consent I will proceed at once with the reading of the address which I have prepared. I have tried to dignify it by calling it a survey or a Minnesota survey, and I will now read it to you.

From territorial days we have had excellent lawyers in what is now the State of Minnesota. Looking back forty years or more, there were those whose influence for sound thinking, correct methods of procedure and high-minded citizenship, has reached down until this time. The State, however, was then much younger than it is now, and the adventurer, both in law and morals, was much more common. We may decry certain conditions which still persist, but in doing so we should bear in mind the very great improvement which has taken place.

In those early days, while the lawyer of recognized ability and character occupied a high place in the opinion of his fellow-citizens, it happened quite too often that he took second place in the popular mind with the rascal who did not scruple to use any means to win a lawsuit. The tendency to applaud such villainy extended to certain members of the Bar itself. Idols, then, were cheap, and men often tried to assay and realize on material that now invariably goes to the dump. All this is fairly past. At times we still speak of certain men as eminent, when they are merely notorious; but the offending species is nearly extinct, and better days have come.

In this section of the State we may almost specify the day and hour when the old methods of trickery, cunning, chicanery, overreaching and oppression, which before that date, though not universal, were all too common, gave way to the system, thereafter to be common, though perhaps not universal, of hard work, straight-dealing and high grade professional service. With the courts, at least, there is a vast difference between dealing with, and listening to the arguments of men who are themselves without character, and who make little distinction between truth and error, and those who, with a maximum of sincerity, present in an intelligent and persuasive way the views which they entertain, with legitimate reasons therefor.

The law schools are entitled to much credit in helping to establish better standards. The country has grown older; better men on the whole have been attracted to the profession; the public exacts a higher grade of service; and what is quite important, it has come to be recognized that trickery is out of date, and that when coupled with ability, honesty is the greatest asset which the lawyer has. The weakling resorts to cunning and fraud to piece out and supplement his meager powers.

In any event, this occasion should not be one of adverse criticism, but

of congratulation at the conditions, in many ways admirable, which now prevail.

In this connection it should be noted that in civil matters, attorneys are often subject to censure by laymen when no grounds whatever exist therefor. Under the very complex conditions which exist in our modern life, when misunderstandings arise, they very seldom present a bold question of right and wrong. It is often most difficult to determine what the rights of the parties are, and, in most cases, those rights are entirely divorced from any question of morals. In such cases attorneys, with a full knowledge of the facts, may very properly espouse the cause of either side, and in good faith advance any legitimate argument which may be made in its behalf. In no other way would the court be fully enlightened and a just conclusion finally be reached.

It is when the right of the matter is manifest and where the truth is apparent to all honest and intelligent men, that the profession is degraded by the espousal and advocacy of the side which is palpably wrong. We have long worked in a polluted atmosphere in such matters, and under the seeming justification of rules which, as interpreted, were clearly erroneous. This is especially true with respect to criminal cases where violation of the rules has been most frequent and the general havoc to society most severe. In a recent communication to the membership of the American Bar Association, President Long, taking a broad view of our duties and responsibilities, says "We now have organized crime, which should be confronted by a fully organized Bar." Can we look in the faces of those round about us and say that this has been realized? Our code of ethics is plain and reasonable and just. Innocent persons are sometimes wrongfully accused. Cases sometimes arise where the situation is much complicated and where the question of guilt or innocence is not easily apparent. Any lawyer is justified in defending a person accused of crime. It may be his duty to do so. A proper zeal may be exhibited in seeing that nc man shall be convicted, except according to the forms of law; that no evidence shall be reccived except such as is properly admissible in the case; that every legitimate consideration favorable to the defendant shall be duly presented and urged in his behalf, either against his guilt or in mitigation of his punishment; and in case of conviction that the sentence shall be such only as is permitted under the law. All this is highly honorable; but unfortunately, no such limitations mark the activities of some who see fit to defend persons accused of crime. In many cases they do not confine their efforts to any such field. Their evident purpose is by hook or crook, by fair means or by foul, to accomplish the acquittal of the defendant regardless of his abounding guilt. This is an outrage against honest living men and women everywhere and a disgrace to a great profession. Such attorneys are, of all men, most despicable. The public looks on at the sad results which they bring about and shudders at what is possible in the name of the law.

When Courvoisier was on trial for the murder of Lord William Russell, he was defended by Phillips. From the first the defendant protested his innocence. Chief Justice Tindal presided. In the midst of the trial, on the reception of certain unexpected and condemnatory evidence, the defendant suddenly confessed his guilt to Phillips. The latter immedi-

ately consulted the Chief Justice in private and requested his advice. The advice given was that since the confession was made to his counsel in confidence, the latter was not at liberty to disclose it to the world and that it was his duty to proceed with the trial, which was done. This advice went no further than was entirely proper. It involved no suggestion that counsel should assert that his client was innocent. In the absence of an expressed desire on the part of the defendant to plead guilty, there was no other advice to give, and nothing else could be done than to go on. The advice of the court was right, but if the matter has been correctly reported, the action of Phillips thereafter at the trial was most reprehensible. This case, however, not rightly understood, and not properly analyzed, has led many astray into the belief that even with a full knowledge of the guilt of their client, they may still strain every point to effect his acquittal, and are justified in throwing into the case a flood of violent assertions indicating their personal belief and conviction in the entire innocence of their client. A statement of the personal beliefs of counsel in any case is usually improper and sometimes is a violation of an attorney's oath. A statement known or believed to be untrue should be ample ground for disbarment. We complicate matters much by many and extended rules. They should be reduced to their lowest terms. With respect to the conduct of counsel, one simple rule to which there is no exception, is that they must not attempt to deceive either judge or jury. The faithful observance of such rule, in many cases, would turn darkness into light.

It may be urged that no lawyer may know definitely whether his client be guilty or innocent. This is a convenient by-play, and taken literally, is sometimes true; but the lawyer is presumed to know what he should know and what others clearly apprehend. He is not to be deaf and dumb and intensely stupid with respect to this one point, when he is known to be reasonably shrewd and knowing about other things. He is not to refrain from inquiry when inquiry should be made. The honest man very usually divines the truth about such matters, while a certain few who do not fall strictly within this classification always fail to discern the real facts, especially when it is to their interest that such discovery shall not be made.

The almost scandalous number of barriers for the alleged protection of accused persons, is sufficient of itself to make this country the garden of crime which it now is, without adding thereto special privileges to counsel so that they may use the arts of deceit and fraud for the confounding of jurors at the trial. The great body of the profession scorn any such thing, but the very few still remain who regard such unconscionable privileges as their inalienable right.

We speculate about the prevalence of crime in this country and the causes thereof. There are many causes and they go deep into the character of our people, and the principles which they recognize and follow. Among the circumstances and conditions which tend to cause and encourage the commission of crime, without doubt, is the assurance which every intending wrongdoer has, that no matter what he does,—no matter how dastardly the offense he may perpetrate, or how contemptible,—there is always within reach some member of the legal profession ready to champion the cause of villainy in any form, and who for money, will do anything and everything, not alone to protect the accused in all his legal rights,

but to secure his full acquittal at any cost. This amounts to a direction or invitation to the depraved to proceed with their nefarious undertakings, and a promise that in any event, if apprehended, they shall have the benefit of determined and unscrupulous efforts in their behalf. These members of the Bar are the common enemy of our good citizenship everywhere and it is they who bring upon the profession the caustic criticism which it is sometimes our lot to bear. Lawyers of excellent character from time to time appear for and defend those who are accused of crime, but it is not they who accomplish the harmful results. We should be much more concerned with character of our men than with their scholarship. Both are important, but character emphatically comes first. If it were known today, that, beginning tomorrow, the members of the profession and all the members, would do nothing in the defense of crime, or of those accused thereof, except what might be done by strictly honest men, it is more than likely that in the very near future the body of crime in the country would suffer a serious collapse.

We may well reflect upon the volume of our crime, but in view of the rare privileges which we extend to those who may be contemplating offenses against the law, and our extreme solicitude for their personal safety and welfare, we need not marvel greatly at the vigorous and thriving industry which has developed under our fostering care. There could be no other result. The most robust of protective tariffs, against which we sometimes exclaim, is a pale and shadowy support, when compared with the substantial guaranties which, with a lavish hand, we bestow upon the fraternity which perpetrates our crime. As stated by some of the most distinguished lawyers and judges now living, there is no doubt that if we should shed some of the alleged palladia of our liberties, about which we hear much prating, private rights would be more secure and public and private welfare generally would be greatly advanced.

Aside from the necessary quality of integrity, great lawyers must first be great thinkers and their thoughts and interests should not be confined too closely to their professional duties. Those duties come first, but the wide world is all about them calling for leadership and help. The legal profession touches human interests and human welfare at every point. The privileges and responsibilities of its members are greater and more real than we are inclined to appreciate. They extend far beyond the law to questions of every kind which affect the wellbeing of humankind whereever they may be. All about us and the world over are those who are immersed in a struggle merely to live. Many are sorely pressed. They have not time, nor inclination, and often have not the equipment for right-thinking. In respect to large matters, others must think for them, and should think, not of their exploitation, but in reasonably generous terms, for their welfare. Above all things, such people must be induced to begin thinking right themselves. Again, there are those who have time and inclination and equipment to think, but it would be better if they had not. They are wild in their views, unstable in the positions which they take and are worse than blind leaders of the blind. The world needs men of sane equilibrium who can see clearly and think soundly. In a large and unselfish way the Bar should supply such need.

Our men should have a firm and intelligent grasp of those questions which attract public attention and affect the lives of the people. Where such questions are not clearly understood or give rise to differences of opinion, the Bar should be a powerful and steadying influence along right lines. This is true, first, as to many questions and matters of general interest and importance; and, second, as to those questions related to the law and to public and private welfare, as affected thereby.

Among the first class are the disposition to blame the government or Deity for all that goes wrong, instead of looking to ourselves; the shiftless tendency, through extravagance, of living from hand to mouth, thereby surrendering a position and spirit of independence; the great American infirmity of trying to get something for nothing; excessive public expenditures, where the still more important matter is that we often fail to get value for the moneys we expend; lack of appreciation and sympathetic assistance for our public servants; the necessity for encouraging men and women of character, ability and prominence in the community, to participate actively in public affairs; elimination of the hostile spirit between certain groups of our people and substituting in its place the spirit of cooperation and fair play; a fine type of patriotism, local and national, which at the same time is consistent with high regard for other countries and a real friendship for their people; the thought that as wild animals in varying stages of civilization,—for such we are,—we all greatly need training,—you may call it religious, moral, legal, if you please,—with respect to our rights and duties; the development of that most important principle affecting human conduct,—almost a profound secret,—that from a purely practical standpoint and entirely apart from spiritual values, a sympathetic recognition of the rights of others, and conduct appropriate thereto,—habitually, and not for show, works out in every way greatly for the best; that instead of men being created equal, as that expression is commonly interpreted, no two men are equal in their powers or in their deserts; and that by the term "liberty" is meant liberty under the law,—the liberty of Englishmen, for which they fought, and as interpreted under their constitution,— and that a man has liberty to do, not what he may wish, but what the law permits. The list may be extended to include our far flung credit system with its baneful consequences; and observance of law, in respect of which all of us have the privilege of standing up like men, but some fail; and then we might add farm relief, the world court,—any subject of interest and importance concerning which clear and right-thinking should be done.

Concerning various of these matters, there is much confusion of thought, the attitude of our citizenship is affected thereby, and great harm results. There should be insistence upon better and sounder thinking. More pilots are needed.

The second group of matters concerning which the thought and influence of the Bar should be distinctly felt, relates to matters more directly related to the law and the administration thereof. Much progress has been made. There is much yet to do.

1. As to crime and our attitude in reference thereto.

This concerns everybody. Anyone may be the victim thereof at any time. The defense of persons accused has already been discussed. There

are other aspects to be considered. Let us not deceive ourselves,—the great deterrent of crime is the certainty of adequate punishment. Immediately connected therewith, and an element necessary for hopeful results, is that such punishment be imposed without the slightest infusion of revenge or illwill. In dealing with crime, the primary consideration is the protection of innocent people who are going about their daily tasks from day to day and who have a right to be unmolested. The reform of the accused is secondary and incidental. He is given an opportunity to reform and he should be generously helped. Sometimes good is accomplished. Very often not. Some do not want to reform. They scorn the idea. The energies sometimes expended in trying to reform an utterly worthless being would keep fifty men from going wrong if the work was done with them at the other end of the line where the stock is worth saving. The work in saving men should usually be done before they go wrong.

2. Our long delays in the administration of the law are a reproach to courts and counsel alike. A book, which is the greatest reservoir of pure wisdom extent, with much else that is not, contains this statement: "Because sentence against an evil work is not executed speedily, therefore the heart of the sons of men is fully set in them to do evil." Under such circumstances they are encouraged and willing to run the risk. Nothing may ever happen. The indictment of delay attaches to proceedings, both civil and criminal. Moreover, the time consumed in the actual trial of a case is often much too long. There is merit in getting at the point quickly.

3. With us the impaneling of a jury is often a sad farce. It is not especially so in this state. In some states two thousand men have been drawn out of which to select twelve who might be able to qualify. In some cases more than two months have been used in selecting a jury. This is hardly believable of grown men. No other country knows anything about such enthroned nonsense as this.

4. Men must keep sacred their obligations. In proportion as they are honest and considerate of the rights and feelings of others, civilization advances. The abandonment of these qualities means barbarism. The Bankruptcy Act, in a quiet but powerful wy, is doing much to break down the sense of obligation among the people. It is a great encouragement to rank dishonesty where no encouragement is needed. There are many cases where in the best of faith, the debtor has fought bravely against financial disaster and has finally been overwhelmed. The burdens are so great that, for him, there is no hope except through the beneficent provisions of the bankruptcy law. He should have the relief they afford. But in far too many other cases the story is simply this: That in a selfish and extravagant way, the debtor, often not a trader at all, has reached out for everything he could get on credit, including borrowed money, and with no feeling of responsibility about payment and no thought of practicing self denial, he files a petition in bankruptcy and in a cowardly way turns his back on his creditors and dismisses the matter from his mind. The courts hear of frequent and pitiful stories, where people with less means than the bankrupt, and often people who are old and infirm, are swindled of the little they have, through the convenient operation of this law. It is prostituting the sense of common honesty in the minds of many people,

and is clothing such prostitution with that respectibility which the law affords.

5. The pastime of objecting to the introduction of evidence is greatly over indulged in this country. Mr. Elihu Root, in speaking on this subject, said that we have a hundred objections and twenty exceptions in this country to one in England. He might easily have made it a hundred apiece. Good lawyers here sometimes go through the trial of an entire case with hardly an objection. On the other hand, common experience is quite to the contrary. It is within the memory of men still living, that we once had a lawyer in this city who habitually objected to every question of opposing counsel on the theory, as he stated himself, that with this dragnet on everyting, he might possibly get something worth while.

6. The initiation of counsel into the mysteries of Federal practice is a serious and unwelcome experience. Men of high standing in the profession and who are masters of the situation in State practice, are lost in the maze of Federal procedure. Occasionally they are caught in a snare. They rightly complain of the situation. The State practice in Minnesota is straightforward and simple. In the Federal court it is considered a jungle. It seems incredible that such condition should have persisted so long. The whole matter is capable of being greatly simplified, either to accord with the State practice, which would be admirable, or to be controlled by rules to be adopted by the Supreme Court and to be applicable throughout the United States. The distinctions between law and equity which are perpetuated by the Federal constitution, would limit slightly the extent to which the process of simplification may go.

7. A distinguished member of our profession has said that the certainty and uniformity of the law is one of its chief glories. It is a good expression, but would sound still better if in actual experience we were more clearly to approximate its truth. Onlookers, either professional or lay, need not be keen in their observation to know that however it may be in theory, in its actual administration, the law is neither certain nor uniform. The necessary correction may not easily be made. Human frailty and imperfection stand in the way. The citizens are not only interested spectators of how lawyers and judges interpret and apply the law, but often they are interested participants in those operations as well. It is thoroughly well known that in cases which, on the facts, can hardly be distinguished, the results are often very different. Two men who are accomplices in crime are accorded separate trials. One is promptly convicted. The other, quite as guilty, on identically the same evidence, is promptly acquitted. In a civil case where damages are sought for the loss of an arm, a jury awards $3,000. In another case of the same kind, brought by a man of about the same age, and from the same walk of life, and under the same law, the award is $15,000; or at or about the same term of court, in a death case, where the deceased was an exemplary man in every way and in early middle life, leaving a widow and children, the award is $425; while in the case of a young man who had lost a leg, the verdict is $7,000. Incidents with such striking features are not of daily occurrence, but cases exhibiting lesser degrees of inequality and injustice are constantly before us and are such as to shock the general public and go far to destroy confidence in the certainty and uniformity of the law

as actually applied. The impression gains ground that such application is most uncertain in its results, and the public, conscious of injustice, oppression and wrong in individual cases, prefers to suffer on, rather than to apply to the courts, or welcomes some form of arbitration or conciliation as much more prompt, less expensive and very likely equally as just. In the main these uncertainties and inequalities which are often most grievous arise in connection with the trial of jury cases. In trials before the court without a jury, much greater uniformity is obtained, but even here there is no immunity from criticism. The remedy for all this is not easy to find. In part it must be worked out through allowing greater power to the trial judges, and placing more fully upon them the responsibility for the attainment of justice under the law in each particular case.

The list of subjects of this second group, relating more directly to the administration of the law, might be indefinitely extended. Near at hand are the need for declaratory judgments, for greater uniformity in the statute laws, and for a code of international law. There are many others of equal or greater importance.

In the law we are making progress, but that progress is slow. The delays are not due in any large measure to the Bar. They are due mainly to our fettering traditions, to our legislative bodies, and to the courts themselves. For a proper discharge of the great duties resting upon the profession there should be early relief. We must have strictly up to date methods, far beyond those now employed, and comparable for efficiency to those adopted and used in other great fields of human endeavor.

The profession of the law is not great merely because of its antiquity, or because of the great number engaged therein, or because of their scholarship, or ability, or zeal. It is great, if at all, because under and by the law human rights are defined and determined and protected; and its true greatness is in proportion as these things are done well.

(Prolonged applause, all standing.)

THE PRESIDENT: Everybody be seated just a moment, please. Judge Cant, the Bar Association of the State want to thank you very much for your splendid address.

(Applause, all standing.)

THE PRESIDENT: We will now proceed with the regular order of business.

MR. BRADFORD: For the last twenty years we have received many courtesies from the West Publishing Company. We have had the benefit of their mailing list, and they have mailed circulars to our members without charge, they have furnished us with the last twenty years with our song books which we use at the banquets and they have afforded us the greatest courtesy whenever we have applied to them. We have always intended to thank the West Publishing Company for their courtesy, but in the rush of business at the close of the meetings, we have never gotten around to it so far as I know, and I want at this time, to propose that we, at least, once in twenty years shall voice our appreciation of the many courtesies and real benefits which the West Publishing Company have bestowed upon the officers of the association.

I, therefore, make the following

MOTION

That this association express to the West Publishing Company of St. Paul, the assurance of their appreciation for the courtesies and kindness and willingness which they have always accorded to the officers and this association, and that the secretary send a copy of this resolution to the West Publishing Company.

The motion was seconded and unanimously carried.

MR. KIDDER: The treasurer has not appeared and we have heard some rumors that he has left the country. (Laughter.) The auditing committee wishes to hold a series of investigations on the subject, and I move that the auditing committee be authorized, after an opportunity to inspect the books and vouchers of the treasurer, to make its report to the Board of Governors after the meeting.

Motion seconded and carried.

MR. MITCHELL: A number of the members were talking yesterday with Justice Stone about the matter of relieving the congestion of business in the Supreme Court. He made the very pertinent suggestion, one that we all thought was very well worth coming before the association, and I will request the chair to call on Mr. Justice Stone to state the proposal which he feels will do a great deal to relieve some of the present congestion of business in the Supreme Court.

THE PRESIDENT: Mr. Stone.

MR. STONE: Mr. President, again I am the victim, as I have been before, of sometimes talking too much, an unfortunate habit. The proposition referred to by Mr. Mitchell is simply this: The increasing number of cases appealed to the Supreme Court of Minnesota might be reduced by over fifty a year by the abolition of appeals directly from the Municipal Court. The facts briefly are these. We are handling an increasing number of cases each year, the number is now something over 500, being increased fifteen to twenty or thirty each year. That has been the experience of the past few years. That means that each member of the court must write opinions in over seventy cases, so that to reduce the number by fifty, you will see the extent relatively and absolutely to which you have reduced the annual grist. There is now the right of direct appeal only in case of the municipal courts of St. Paul, Minnesota, Mankato, possibly Winona, and there may be some others. I make this statement subject to correction. The fifty municipal court cases which come directly into mind, are almost entirely from the municipal courts of the Twin Cities. It is my judgment (and I am speaking now only for myself, do not do the other members of the court the discredit of attributing to them, my views) in this district, the Eleventh Judicial District,—well, I will confine it to the county of St. Louis, the city of Duluth, if you like, I am informed by good authority that the system of direct appeal from the municipal courts to the district court is giving satisfaction and has for a long time. I am informed that the procedure is by appealing not for trial de novo in the district courts, and that the work is disposed of, the cases heard, and the typewritten records and typewritten briefs are used,

the Court is satisfied, the litigants are satisfied, and what is more important the counsel are satisfied. This system is working here satisfactorily. Why not adopt it all through the state? It can be done very simply by repealing all the provisions of the old special acts giving the right of direct appeal to the Supreme Court. If this can be brought about, the work of that court will be lightened to the extent indicated, and one of them at least, will be very, very grateful for he confesses freely, (speaking again only for himself) that his own work with the present stress under which it must be done is not being done properly. I think the suggestion, if adopted, will postpone for a considerable length of time, some other measures for the relief of your court of last resort. It will postpone, I believe, for a long time, the necessity assumed by some to be approaching of an intermediate appellate court. In any event the suggestion is submitted, not on my own initiative, but in the manner you have observed, for whatever consideration you care to give it. I thank you. (Applause.)

MR. DAGGETT: In view of the remarks of Justice Stone, that the association go on record as favoring the introduction of the bill into the next session to remedy the situation by having a statute enacted requiring appeals to be taken to the District Court instead of the Supreme Court,—I so move.

Motion seconded, by Mr. Rieke.

MR. HALLAM: I suggest that Mr. Daggett add to the motion that the matter be referred to the Legislative Committee to frame appropriate legislation.

MR. DAGGETT: The amendment is seconded.

MR. RIEKE: I accept the amendment.

MR. STONE: If you do believe in it, you must take some active measures. The only way to bring a thing of that kind about, if you believe in the suggestion and want it to be brought about, will be for every one of you to get busy with your own representative in the next Legislature. Without that sort of individual work, your resolutions will amount to no more than they have in the past.

THE PRESIDENT: You have heard the amended motion, or the original motion with the amendments attached. Are there any further remarks?

(Question called for.)

Motion put and carried unanimously.

THE PRESIDENT: Any further new business?

MR. KIDDER: I think that not only the fair and decent thing to do, but I think it is something that we all want to do, that is, to pass a resolution expressing the most hearty thanks of this association to the bar association in St. Louis County, and Duluth especially, and to the city of Duluth, for the courtesies which have been extended to us and the most excellent entertainment which has been afforded to us. I could go on and expatiate on the subject, at great length, but in view of the shortness of the time, I know you all appreciate what could be said on the subject, and I, therefore, move you, Mr. Chairman, a vote of the heartiest thanks of this association to our hosts and the city of Duluth, for the entertainment which has been afforded to us.

MR. FOLEY: In seconding that motion I want to ask Mr. Kidder to permit an amendment to it. I would like to include especially the name of Howard T. Abbott of Duluth.

THE PRESIDENT: I am obliged to declare Mr. Foley out of order. You have heard the original motion as made—

MR. KIDDER: All those in favor of the motion as amended signify by the usual sign. Those opposed, No. I declare the motion carried as amended. (Laughter and applause.)

MR. CALDWELL: During the past year, my relations with the president have been most cordial and pleasant. He has impressed me as a man of superior culture and learning. I have before me a letter of international import, and of sufficient importance that I think it should be read by someone of higher dignity in this gathering than a mere secretary, and I will therefore pass it to the president to read and interpret for you.

THE PRESIDENT, (laughing): This is a letter received by somebody addressed to somebody that was sent to me, and I referred it to the secretary for such action as he would take upon it. It is made now at the request of some subsidiary of the Paris Bar Association, and about the only thing that I could translate in it myself was that they would like to have us donate to their libraries over there certain of our statutes, several sets of our Minnesota reports, and as near as I could get at it about $8,000 worth of books, and when I got to that it was all I could translate, so I passed it on. What would you like to do with it?

MR. BURNS: I move that we contribute all the 1923 statutes. (Laughter and applause).

(The committee to nominate the Board of Governors then made the following report, through Mr. Frank E. Putnam, Chairman):

"Committee on nominations for members of the Board of Governors of this Association for the coming year nominate the following named persons as members of the Board of Governors of this Association for the ensuing year, to-wit:

JUDICIAL DISTRICT—	Name	Address
1st	Charles P. Hall	Red Wing
2nd	Thomas C. Daggett	St. Paul
3rd	Herbert Bierce	Winona
4th	Paul J. Thompson	Minneapolis
5th	E. H. Gipson	Faribault
6th	J. L. Lobben	St. James
7th	George W. Frankberg	Fergus Falls
8th	A. L. Young	Winthrop
9th	James H. Hall	Marshall
10th	John W. Hopp	Preston
11th	Frank Crassweller	Duluth
12th	A. W. Ewing	Madison
13th	Charles Dealy	Pipestone
14th	Julius J. Olson	Warren
15th	Thayer C. Bailey	Bemidji
16th	L. E. Jones	Breckenridge

17th .....R. H. McCune .....Fairmont
18th .....Will A. Blanchard .....Anoka
19th .....Reuben G. Thoreen .....Stillwater

(Signed)

FRANK E. PUTNAM,
Chairman."

MR. FRANK E. PUTNAM: I move that the report of the committee be accepted and the secretary of the Convention cast the ballot for the Board of Governors as nominated.

Motion seconded.

The motion was put and carried, the secretary cast the ballot, and the nominees were declared duly elected as the Board of Governors for the coming year.

THE PRESIDENT: Nominations are now in order for your new president.

MR. JULIUS E. HAYCRAFT: One year ago at Rochester, I had the privilege of putting in nomination the the vice-president of this association, and he was elected to that position. The nomination was endorsed and approved with marked enthusiasm. I stated at that time, Mr. President, that that nomination was made with the distinct understanding that if the vice-president made good and was of good behavior during the year, that he would be elevated to the position of president of this association. I live in the community with the gentleman referred to and I am pleased to report that his conduct has been of the best. True, he has smoked some cigarettes and indulged in some profanity now and then, (I think sometimes including the courts) (laughter), but on the whole, his conduct and behavior have been good. I, therefore, take this opportunity to nominate him for the presidency of this association, I mentioned a year ago that he had served in the state senate a term of twenty-four years, a period unequaled and unparalleled in the history of the state or territory of Minnesota; that he had been fifteen years chairman of the Judiciary Committee of that body, I come to you now with an additional report: that he has filed for a seventh term in the state senate and has no opposition either at the primaries or at the polls. (Prolonged applause.) This record stands unequaled and unparalleled. I will not tire you with any lengthy remarks. We who know him best in southern Minnesota love him best, and we believe that the esteem in which we hold him extends all over the state, and to every part of the state. Mr. President, I take great pleasure in nominating for the president of this association for the coming year, that old Roman, Senator Frank E. Putnam of Blue Earth. (Prolonged applause).

THE PRESIDENT: Are there any other nominations?

MR. FRANK CRESSWELLER: I move that the nominations be closed and that the secretary cast the unanimous ballot of the association for Frank E. Putnam as president.

Motion seconded.

THE PRESIDENT: All those in favor—

MR. REED: As a legislative matter, I accuse the nominee of being not a man of truth. I have met him at the reception last night and incidentally asked him who was to be the president of the association, and he said he didn't know. (Laughter.)

MR. WASHBURN: I rise to a point of privilege. I want to inquire who it was that made that nominating speech, whether it was Julius Haycraft or Oscar Hallam? (Laughter.)

THE PRESIDENT: All those in favor of the motion for the secretary to cast the unanimous ballot of the association for Mr. Putnam signify by saying Aye. Opposed, No.

The motion was carried unanimously and the secretary cast the ballot, and Frank E. Putnam was declared president for the ensuing year.

THE PRESIDENT: Mr. President Putnam, I congratulate you and would offer you the Chair at this time, but I know you would not take it. Nominations are now in order for vice-president.

MR. DAGGETT (St. Paul): I want to place in nomination at this time for the office of vice-president, the name of Mr. Fred Stinchfield of Minneapolis. I think Mr. Stinchfield is well enough known to the membership of the association not to require any words of eulogy from me at this time. He is young and active, and I think in view of the record Senator Putnam made during the last year, we can look forward to that being duplicated by the activities of Mr. Stinchfield. I take pleasure in nominating him.

On motion, duly made, seconded and carried, the nominations were declared closed, and the secretary was instructed to and did cast the ballot for Mr. Stinchfield as vice-president.

THE PRESIDENT: The next in order is the election of the secretary. The field is wide open. (Laughter).

MR. BADGER: I move that the nominations be closed and that the president cast the unanimous ballot.

THE PRESIDENT: For what? You have heard the motion. Are there any remarks? If not, all in favor of Mr. Caldwell as secretary, say Aye; opposed, No.

The motion is carried unanimously.

The next is treasurer. We will be glad to have any nominations. Are there any nominations? If not, the chair will appoint Mr. Graves, but I would rather have it done the other way.

(Mr. Graves was nominated from the floor, the nomination was seconded, and on motion duly made, seconded and carried, Mr. Graves was declared elected treasurer for the ensuing year.)

(The meeting then adjourned sine die.)

NECROLOGY

ALLEN, ADOLPHUS, Minneapolis, May, 1926
ALLBRIGHT, CLIFTON A., Crow Wing County, Dec. 24. 1925
APPLETON, SAMUEL, St. Paul, May 21, 1925
AUSTIN, JOSEPH, Virginia, Nov. 6, 1926
BORST, WILSON, Windom, July 24, 1926
BREWER, MORRIS P., Minneapolis, March 28, 1926
BROWN, ROME G., Minneapolis, May 22, 1926
CALLAGHAN, HON. CHARLES E., Rochester, Aug. 13, 1926
COOK, JACOB H., Minneapolis, March 24, 1926
CROSBY, SIMON PERCY, St. Paul, Sept. 23, 1926
DAVENPORT, BENJAMIN, Minneapolis, Nov. 10, 1925
DURKIN, MILES, Minneapolis, Nov. 6, 1926
ERDALL, LEONARD T., Minneapolis, Dec. 22, 1925
GIBBONS, JOHN F., Bemidji, Nov. 6, 1924
HARRIS, LUTHER C., Duluth, Nov. 2, 1926
HUTCHINSON, THOMAS, Minneapolis, May 3, 1926
KELLY, HON. WILLIAM LOUIS, St. Paul, Jan. 26, 1926
KNATVOLD, THORWALD V., Albert Lea, Dec. 23, 1925
KOON, WILL A., Minneapolis, Jan. 21, 1926
LEARY, DANIEL J., Browns Valley, Aug. 16, 1925
LAWLER, DANIEL W., St. Paul, Sept. 15, 1926
LOE, BERT O., Granite Falls, March 1, 1926
LORD, SAMUEL, St. Paul, Sept. 1, 1925
LUM, LEON E., Duluth, March 18, 1926
MCELWEE, CHARLES CLARKSON, St. Paul, Dec. 16, 1926
MCGRATH, WILLIAM H., Minneapolis, Feb. 27, 1926
MCINTYRE, WILLIAM B., Minneapolis, Jan. 5, 1926
MATHEWS, ROLLAND M., Marshall, Dec. 24, 1925
MATSON, CHARLES N., Renville, Feb. 10, 1926
MIDDLETON, CHARLES ROBERT, Baudette, May, 1926
MILLER, A. A., Crookston, Jan. 26, 1926
NEVIUS, GEORGE L., Minneapolis, June 5, 1925
OBERG, ALFRED T., Minneapolis, Jan. 11, 1926
OLDENBURG, HENRY, Carleton, April 17, 1926
ORMOND, JAMES B., Morris, May 7, 1926
OSBORNE, JAMES W., Ely, April 17, 1926
PILGRIM, WILLIAM H. H., Minneapolis, Nov. 7, 1925
PEABODY, O. M., Minneapolis, April 27, 1926
PLACE, WILLIAM H., Minneapolis, Nov. 18, 1925
PULLIAM, JAMES MONROE, Minneapolis, Sept. 2, 1925
RADKE, HERBERT, Minneapolis, May 9, 1926
RICHARDSON, WALTER, St. Paul, Aug. 19, 1926
SCHRIBER, BISHOP H., St. Paul, Sept. 11, 1925
SCOFIELD, EDWARD JAY, Elbow Lake, May 10, 1926
SPILLANE, JOHN J., Waseca, Jan. 17, 1925
SMITH, ARTHUR D., Minneapolis, Nov. 1, 1925
SIMPSON, DAVID F., Minneapolis, Oct. 11, 1925
SULLIVAN, CHARLES J., St. Cloud, April 13, 1926
THOMPSON, R. E., Preston, Dec. 2. 1925
WATKINS. FRANCIS A., Carleton, March 5. 1926
WEEKS, C. LOUIS, St. Paul, Nov. 14. 1925
WHEATON, CHARLES S., Elk River, Dec. 19. 1925
WILLIS, JOHN W., St. Paul, Sept. 12, 1925
WOODMAN. PRENTISS M., Minneapolis Sept. 4, 1925
WYMAN, GEORGE H., Anoka, Jan. 22, 1926
YOUNG, A. L., Winthrop, Dec. 4, 1926

APPENDIX

REPORT OF ETHICS COMMITTEE

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

The committee of ethics of the Minnesota State Bar Association beg leave to submit the following report.

During the past year several complaints have been referred to us involving the conduct of attorneys practicing law in Minnesota and we summarize the year's work as follows:

Some complaints have been referred to us concerning attorneys practicing in Minneapolis and St. Paul. Both cities have active Bar Associations and both have active and capable ethics committees. It is our opinion that such complaints can be more expeditiously and effectively handled by the local committees and we have followed the practice of so referring them. Our observation is that they have received proper attention.

Several complaints have been lodged against attorneys on the ground of failure to report or to answer correspondence as to matters of importance placed in their hands by non-resident clients. Some of these we have not deemed of such a character as to merit action by our committee. In some cases financial matters have been involved either by reason of advances made by clients or collections made by attorneys. In some cases attorneys of general good reputation have been offenders. In some there has plainly been no intentional dishonesty. In some cases facts are disputed. This committee finds it very difficult to satisfactorily determine disputed questions of fact. In some, the blame is claimed to be due to fault of agents or associate attorneys. In some cases, where the delay in reporting or remitting has seemed inexcusable or the failure to answer correspondence plainly culpable, we have admonished the attorneys concerned.

In some cases the complaints though not wholly unfounded, involve matters of very minor concern.

In September 1925, an attorney of the Minnesota Bar sent a check to a Register of Deeds in North Dakota to pay for the recording of a mortgage. The check was dishonored by the bank on which it was drawn, with the information that the attorney had no funds there. The attorney ignored letters of the Register of Deeds. The matter was reported to the President of the State Bar Association and was referred by him to the Ethics Committee. The Committee wrote the attorney asking for an explanation but received no reply. The attorney was then advised that the Committee would consider the matter at a meeting on a date named and asked him to be present. He neither came nor answered the letter. The matter is a small one but the Committee felt that it should not be overlooked and referred the matter to the Board of Law Examiners for action.

A complaint submitted involved the conduct of an attorney in solicitation of business. The complaint was accompanied by a letter sent to an undertaker, in which the attorney gave references as to his competency to represent clients in the probating of estates and asked the undertaker to suggest his name "as a suitable attorney to handle the

estate of persons for whom you are the undertaker," and offered to pay the undertaker for his trouble and expense in suggesting his name to friends, 20% of the fee received. The committee felt that this should receive a reprimand and acted accordingly. The employment of laymen for compensation or commission to solicit business for attorneys is contrary to good professional ethics and practice. Such conduct has already received the disapproval of this Association and in fact the Association has gone farther than this in the disapproval of the practice of soliciting business.

In concluding this report, let us say that the function of this Committee is not clearly defined but we have acted on the assumption that its duties are substantially as follows:

To give attention to any complaints submitted to the Committee against attorneys practicing at the Minnesota Bar. If those complaints seem on their face to be groundless or not of sufficient consequence to justify action, to advise the parties submitting them of that fact. If they are such that explanation on the part of the attorney may be desirable, then to give first an opportunity for such explanation and if such explanation is so clear that there is manifestly no ground for complaint, then to so advise the parties making the complaint.

Where a hearing is desirable, to afford the attorney an opportunity to be heard.

Where facts are disputed and the attorney's statement of fact states a case upon which there would be no ground for complaint, to advise the parties making the charge that the facts must first be established by some proper legal proceeding, since it is not practicable for this Committee in most cases to hear and determine questions of fact.

Where the facts show some breach of professional ethics or good practice but do not seem to warrant proceedings in court, to advise the attorney by reprimand or some other proper action. If the case seems to warrant action in court in the nature of proceedings for disbarment or suspension, then to refer the matter to the State Board of Law Examiners.

Respectfully submitted,

H. S. MEAD
JOHN JUNELL
D. L. GRANNIS
R. G. THOREEN
OSCAR HALLAM. *Chairman.*

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 for the year 1925-26 reports as follows:

By resolution of the Association at the 1925 session, two matters were referred to this committee, with instructions to draft bills for presentation at the next session of the Legislature. The first had to do with disbarment procedure. It proposed a statutory provision for the trial of issues in disbarment proceedings by the district court. When accusation is made against an attorney, the present practice is for the Supreme Court to appoint a referee to hear the evidence. Under the statute (enacted in 1921 at the instance of this association) the referee may be given power to rule upon the admissibility of evidence, and to make findings of fact upon the evidence received. It has been common practice to appoint as referee a judge of the district court, and to give

him the powers mentioned. The procedure seems to your committee to be admirably adapted to its purpose and in actual practice to work well. The number of disbarment proceedings has greatly increased. They are efficiently tried and determined without delay. Your committee, therefore, respectfully recommends that no attempt be made to change the present procedure. Our investigation has led to the further conclusion that the Supreme Court has adopted an attitude, both in the procedure established and in the prompt and vigorous action which it has taken in the cases presented, which calls for the endorsement of the Association. Your committee also finds, a very efficient and active prosecution of disbarment proceedings by the State Board of Law Examiners, and especially by its secretary and increasing activity on the part of Ethics and Grievance Committees of a number of the Bar Associations of the state. Accordingly, the committee begs to report instead of a proposed statutory enactment, a recommendation that this Association commend the efficient activity of the Supreme Court, of the State Board of Law Examiners, and of the several Bar Association committees, to the end that such excellent public service may receive the public approval and support of the Bar of Minnesota.

The second matter so referred concerned the use of papers closely resembling summons, in an attempt to enforce the payment of a claim. Your committee calls attention to the opinion of the Supreme Court in a disbarment case, filed June 11, 1926. In that opinion the use of papers of the kind referred to in the resolution was strongly condemned and the definite statement made that such practices will not be tolerated. It appears to the committee that the Supreme Court has made it abundantly clear that attorneys who may indulge in this improper practice must expect to be disbarred. The judgment entered was of suspension for six months; but the failure of complete disbarment resulted from the facts of the particular case, and a similar escape can not be anticipated in any further case of such misconduct. Your committee has not found the use of such papers to be prevalent except when signed by members of the Bar. Accordingly, your committee has not prepared any proposed legislation upon this subject. If it should appear, however, that such papers are being employed by others than attorneys, your committee will, at the request of the Association, prepare proposed legislation to care for that situation.

At an adjourned meeting of the Association held in November, 1924, your committee reported a number of recommendations for changes in criminal procedure. Several of these recommendations were adopted and were placed before the Legislature in the form of proposed bills at its 1925 session. They failed of passage. The Governor of Minnesota has recently appointed a Crime Commission. This Commission has under consideration reforms in criminal procedure. It is confidently expected that recommendations for legislative action will be made by the Commission. This Association is well represented in the membership of the Commission, among others in the persons of its president and vice-president. The Commission has appointed two executive secretaries in succession from among the members of this committee. It is hoped that recommendations of the Commission for changes in criminal procedure may be based, at least in part, upon the resolutions adopted by this Association in 1924, and that they may have a favorable reception at the next session of the Legislature.

Your committee has considered a number of proposals for changes in the statutory law of the State. It recommends two amendments to the statutes. The first is an amendment to General Statutes 1923, Section 210, to include the Supreme Court commissioners in the provision there made for the retirement of Judges of the Supreme Court.

The second is to provide for the inclusion in Chapter 262, Laws 1925, of persons imprisoned upon conviction of crime. The present stat-

ute makes provision for the management and disposition of property within the state of persons who abscond or disappear. Your committee recommends that the same provision be made applicable in the case of convicts. Without such provision, the families of persons confined in penal institutions may be without adequate method of securing support and maintenance from the property of the convict, and the same difficulties attempted to be met by this statute in the case of those who abscond or disappear, would seem to require attention in the case of convicts.

Your committee calls attention to two of the proposals for amendment of the State Constitution to be voted upon at the general election this year. One proposes to increase the number of associate justices of the Supreme Court from 4 to 6. The increasing burden of the court's calendar is so well known to the Bar that it is deemed sufficient simply to report recommendations that the Association approve and that its members actively support the proposed amendment. The other proposes to place in the control of the Legislature the so-called stockholders' double liability. This Association has already recorded its belief that the double liability of stockholders in ordinary business corporations should be abolished, and the committee recommends approval and support of the pending proposal as the best available means to that end.

This committee has frequently brought to the attention of the Association the need for expert revision of our statutory law. At the 1925 session of the Legislature, a bill was introduced providing for a permanent commission to be charged with the duty of putting into good form our present body of statutory law and the further duty of keeping it in such form. Your committee recommends such an enactment and asks the Association to endorse the principle thereof. If that is done, a bill making provision for such a commission may well be passed by the Legislature at the next session.

Respectfully submitted,

C. G. DOSLAND
JUSTIN MILLER
JAMES G. NYE
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 sixteenth annual report of the Committee.

There has been no legislative session during the past year, and therefore no new uniform law adopted in Minnesota. However, through this report we desire to keep the members of the Association informed of leading current events in the field of Uniform State Laws.

UNIFORM DECLARATORY JUDGMENTS ACT

The matter of greatest interest to lawyers is probably the Uniform Declaratory Judgments Act. This Act relates to Court Procedure and provides that an action may be commenced to secure a judgment declaring rights, status and other legal relations, although other relief is not asked for. It is preventive justice and enables rights to be determined before action is taken and damage sustained. It applies to legal rights generally, the remedy of declaration of rights now found

in special fields, in the Statutory Action to Determine Adverse Claims, and in the Decree of Distribution in the Probate Court. It has been discussed in our 1923 and 1925 Reports. The Act has been before the Legislature in the last two sessions, and the committees have seemed impressed with its merits; but the Legislature has hesitated to pass the Act, apparently because of the change in practice involved, but has not acted adversely. Meanwhile additional states are adopting the Act, and none have repealed it, experience with it being satisfactory. At present sixteen states have the declaratory judgment as follows: in California, Connecticut and Rhode Island it was adopted in a partial form prior to 1919; in New York, 1919, Florida, 1919, Michigan, 1919, Wisconsin, 1919, and Kansas, 1921, it was adopted in a general form but prior to the preparation of the Uniform Act in 1922; in Colorado, 1923, New Jersey, 1924, North Dakota, 1923, Pennsylvania, 1923, South Dakota, 1925, Tennessee, 1923, Utah, 1925, and Wyoming, 1923, the Uniform Act has been adopted. The Declaratory Judgment is found in every jurisdiction bordering on Minnesota, except Iowa; it is in Wisconsin, North and South Dakota, Ontario and Manitoba.

In England, Australia, Canada, and much of continental Europe, the Declaratory Judgment has been in successful use for a long period. It was adopted in England in 1883. In an excellent article entitled "An Appraisal of English Procedure" by Prof. E. R. Sunderland of Michigan Law School, in the American Bar Association Journal, for December, 1925, he gives a suggestive review of the chief procedural methods in English courts which account for the "mysterious efficiency of English justice." He devoted six months to study of the English Courts in London. He says, "There was no evidence of hurry, of driving pressure, of anxiety to make every moment count. On the contrary, cases often seemed to proceed with a rather slow dignity. And yet it was clear that the English court reached its verdicts and judgment far more directly, more simply and more rapidly than an American court". Prof. Sunderland then outlines the main features of the procedure reforms worked out in England some forty to fifty years ago, but which have been only partially followed in the United States. One of the most important of these new methods is the declaratory judgment. He says of this in part:

"Cases calling for summary judgments and declarations of rights are in this way withdrawn from the regular dockets, permitting them to go forward very rapidly under appropriate special proceedings, and, at the same time freeing the regular dockets from much congestion and delay." . . . . . .

"The service rendered by the courts under the declaratory judgment practice is quite analogous to that rendered by modern hospitals which diagnose and treat diseases in their incipient stages and thereby prevent the development of more dangerous conditions.

"So useful and effective has this practise become in England that several judges of the High Court are frequently engaged simultaneously in making declarations of rights, and the size of the dockets which they dispose of is eloquent testimony of the speed with which the work can be done."

It thus appears that several additional states are adopting the act each legislative year, and that all states adopting declaratory judgments since 1922 when the Uniform Act was adopted have used that Act for the purpose. This is a lawyers' Act; and we recommend again that this Association endorse it, and that the members urge its passage to their respective representatives and senators in the legislature.

The vacancy in the number of Commissioners caused by the death of C. A. Severance, who had been a Commissioner from Minnesota since they were first appointed in this state, has been filled by the appointment of Bruce W. Sanborn of St. Paul, who attended the last

meeting of the National Conference in Detroit, together with Commissioner S. R. Child of Minneapolis.

NEW UNIFORM ACTS COMPLETED BY NATIONAL CONFERENCE.

The National Conference at the annual meeting in Detroit, August, 1925, completed and approved for adoption by the states, several interesting Acts, Uniform Arbitration Act, Uniform Written Obligations Act, Uniform Interparty Agreement Act, and Uniform Joint Obligations Act. These acts were also all endorsed by the American Bar Association.

The Uniform Arbitration Act, a statutory arbitration procedure, has the following features: any existing controversy may be submitted to arbitration by agreement, without limitation as to the nature of the controversy, and the agreement shall be binding; the court to appoint arbitrators in the absence of agreement to the contrary, or on failure to otherwise appoint; provisions for hearing by arbitrators and making of award; appearances before arbitrators to be only by attorneys at law or regular employees of parties; provision for subpoena of witnesses, and depositions; power in court to make order for preserving property or securing satisfaction of award pending arbitration, thus giving parties remedies similar to replevin, attachment and injunction; questions of law may be submitted to court at any stage; provisions for confirmation, vacation and modification of award, entry and enforcement of judgment, and appeal. The Act contains a number of provisions not found in the present Minnesota law, which make it more practical to resort to arbitration and improve the procedure.

A small group of attorneys, largely from New York City, secured the postponement of the endorsement of the Act by the American Bar Association from 1924 to 1925 by raising a point of order; but the vote was reached in 1925 and the Act overwhelmingly adopted. The opponents wished the Act to make valid a clause in a contract that any future controversy arising under the contract should be submitted to arbitration, following the law of New York and New Jersey; but it was felt that this was taking away a person's right to resort to the courts, and that merchants in New York and other large centers would put buyers in other places under compulsion to include such a clause in all contracts and thus deprive them of their rights to resort to the courts in future controversies, and that very few states would pass such an Act. The Act as adopted provides only for submission to arbitration of existing controversies.

The American Law Institute which is preparing a restatement of the Common Law, in the course of its work comes to places in the law where the divergences on important matters in the different states are so wide and so well established that a statute is needed to meet the case, judicial interpretation being insufficient. The National Conference is co-operating with the Institute in the matter, preparing and approving Uniform Acts on certain of these points as they arise. The first three of such Acts were approved at the last meeting, and relate to the law of contracts. They were drafted by Prof. Williston who is Reporter in charge of the Restatement of Contracts for the Institute.

One of these Acts, the Written Obligations Act, provides that a written and signed release or promise shall not be invalid for lack of consideration if it contains an additional express statement, that the signer intends to be legally bound. It seemed desirable that there be some way of making an enforceable promise of a gift, such as is needed in case of subscriptions for charitable purposes. This was formerly possible by use of a seal; but seals being abolished in many states, this Act substitutes an express declaration in writing and signed, that the signer intends to be legally bound.

Another Act, the Interparty Agreement Act, provides that contracts, conveyances, releases and sales may be made between a person acting on his own behalf and the same person acting jointly with others, thus avoiding the technical rule of the common law that an individual could not contract with an unincorporated body of which he was a member.

The third Act, Joint Obligations Act, prescribes the effect of a judgment against, payment by, and discharge of, one of several joint or several obligors, working the matter out in more detail than the present Minnesota statute.

The Uniform Acts not yet adopted in Minnesota, in addition to the four approved in 1925, and the Declaratory Judgments Act, include: Aeronautics Act, approved by the National Conference in 1922, and enacted already in 10 jurisdictions; Conditional Sales Act, approved in 1918, and enacted in 9 states; Fiduciaries Act, approved in 1922, and enacted in 9 states; Sales Act Amendment, approved in 1922, and enacted in 4 states; Warehouse Receipts Act Amendments, approved in 1922, and enacted in 7 states; and Stock Transfer Act, approved in 1909, and enacted in 18 states.

The legislature has from time to time made a small appropriation for the Uniform State Law Commission, which is used to make a contribution for this state to the National Conference to meet its expenses, to which the American Bar Association makes the largest contribution, and also to meet the expenses of the Commissioners who give their time and services for many days each year without charge. The state benefits largely by this work and should bear its share of the expense along with the other states.

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, Uniform State Law for Aeronautics and Uniform Fiduciaries Act.

Respectfully submitted,

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

REPORT OF COMMITTEE ON LEGAL BIOGRAPHY

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

Your committee respectfully reports that there have been reported to date the deaths of the following members of the Bar during the past year:

Clifford A. Allbright, Samuel Appleton, Rome G. Brown, John F. Gibbons, Hon. William Louis Kelly, T. V. Knatvold, Bert O. Loe, Samuel Lord, Leon E. Lum, William A. McGlennon, W. H. McGrath, Rolland M. Mathews, Charles N. Matson, Charles R. Middleton, A. A. Miller, Henry Oldenburg, James W. Osborne, O. M. Peabody, Victor L. Power, Herbert Radke, Bishop H. Schriber, Edward Scofield, H. A. Simons, John J. Spillane, Hon. David F. Simpson, R. E. Thompson, Francis A. Warkins, C. Louis Weeks, Charles S. Wheaton, John W. Willis, George H. Wyman.

Respectfully submitted,
THOMAS FRASER, *Chairman.*

rules for admission to the Bar since the last report of your Committee. Amended rules were adopted by the Supreme Court just prior to the 1925 report. Your Committee has observed how these rules have been working and it is the opinion of your Committee that the adoption of these rules has resulted in more exact determination of the merits of the applicants.

The results of the examinations conducted by the State Board of Law Examiners during the past year are as follows:

Applicants Taking Complete Examination.	Passed.	Failed.	Conditioned.
June 1925 162	97	46	19
October 1925 32	16	7	9
February 1926 .. 30	24	6	none
Total 224	137	59	28

Applicants Taking Conditional Examination.	Passed.	Failed.
June, 1925 1	1	none
October, 1925 13	6	7
February, 1926 .. 8	4	4
Total 22	11	11

The total number so admitted to the Bar by examination over this period is 148.

During this same period 57 applicants have been admitted to the Bar under the provisions of Chapter 39, Laws of Minnesota, 1925. This is a substantially larger number than was contemplated by some of the legislators at the time this law was adopted. A further large number of applicants will probably be admitted to the Bar under the provisions of this act after the law schools have completed their courses in June of this year. Two members have been admitted to the Bar under the provisions of Chapter 117, Laws of Minnesota for 1925. The result is that out of 207 members who have been admitted to the Bar during the past year (exclusive of those admitted by reason of having practised for the required period in sister states), over 28% have been admitted without examination. These figures show the wisdom of the resolution adopted by the Association at its last session urging examination for all applicants other than those qualified by reason of practise in other states.

Your Committee wishes to express its appreciation of the services rendered to the Bar by Board of Law Examiners, who, by their unselfish drudgery and high ideals are doing much to raise the standard of those admitted to the Bar in Minnesota.

Respectfully submitted,

S. D. CATHERWOOD
FRANCIS B. TIFFANY
JAMES E. DORSEY, *Chairman.*

REPORT OF LEGISLATIVE COMMITTEE

Chester L. Caldwell Secretary.
Minnesota State Bar Association,
Guardian Life Bldg., St. Paul, Minn.

Dear Sir: As Chairman of the Legislative Committee, I beg to report that inasmuch as there has been no session of the Legislature since the last meeting of the Minnesota State Bar Association, I have not seen fit to call my Committee together, and there is therefore nothing for the Legislative Committee to report.

Most respectfully yours,

JNO. M. BRADFORD, *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 occupies the entire East wing of the third floor in the State Capitol Building. The Library contains 98,551 bound volumes and approximately 10,000 pamphlets including United States and State documents. Current accessions for this year numbered approximately 2,022 volumes received from the following sources:

Books purchased	982
Books exchanged	679
Books donated	361
Total accessions during 1925	2,022

The Library staff consists of the following persons: Librarian, Assistant Librarian, Reference Librarian, Clerk.

Fund for Purchase of Books and Binding

Cash on hand January 2, 1925	4,417.50	
Annual Appropriation July 1, 1925	10,000.00	
Refund May 25th	8.00	
Refund May 25th	20.60	
		$14,446.10
Paid out for books and binding	8,956.10	
Balance January 2, 1926	5,489.85	
Cancelled by auditor	.15	
		$14,446.10

Fund for Contingent Expenses

Cash on hand January 2, 1925	643.41	
Annual Appropriation	2,000.00	
		$2,643.41
Amount Expended	2,189.92	
Balance January 2, 1925	453.49	
		$2,643.41

The Library is continuing the addition of new steel stacks to take care of the increase of volumes. Binding and rebinding are progressing as fast as funds permit. The cataloguing and accessioning of State and Government documents is progressing. The Library by statute is under the immediate care of the Supreme Court, and we learn that the staff is courteous and efficient.

James H. Quinn
James Paige, *Chairman*
James E. Markham
Edward Lees.

REPORT OF COMMITTEE OF LEGAL EDUCATION AND ADMISSION TO THE BAR.

To the Minnesota State Bar Association:

The labors of your Committee have not been onerous. The legislature has not been in session and there have been no changes in the

REPORT OF MEMBERSHIP COMMITTEE

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

About the time that this committee began its work there were 585 lawyers of the Minnesota State Bar Association in arrears with dues unpaid aggregating $11,081.00. An effort has been made to collect this money but with what success we are unable to report for the reason that money has been sent in directly to the treasurer. The negligence of its members in failing to keep up their dues argues in favor of reorganizing the state Bar so that the first requisite of becoming and remaining a member is to be a member of the local district bar in good standing with dues fully paid. The futility of being able to collect arrears from members aggregating all the way from $10.00 to $48.00 is apparent. Members who are in arrears claim that they have severed their connection with the state Bar and there rest upon them no obligation to pay the amount claimed.

The labor of each member of the committee has been confined to his home district and whatever has been done credit should be given to the members of the committee and none is due its chairman. This report has not been signed by its members but their names are appended.

Respectfully submitted,

O. A. LENDE, *Chairman*,
(12th District.)
D. C. SHELDON, 1st
THOMAS J. KENNEDY, 2nd
MORRIS J. OWEN, 3rd
FRANK MORLEY, 4th
H. M. GALLAGHER, 5th
HORACE W. ROBERTS, 6th
ROGER L. DELL, 7th
C. H. MACKENZIE, 8th
HENRY N. SOMSEN, 9th
L. L. DUXBURY, 10th
MASON M. FORBES, 11th
THEODOR S. SLEN, 12th
GEORGE P. GURLEY, 13th
WILLIAM E. ROWE, 14th
C. L. BIGELOW, 15th
HENRY G. WYVELL, 16th
ALBERT R. ALLEN, 17th
H. L. SODERQUIST, 18th
J. D. MARKHAM, 19th

REPORT OF COMMITTEE ON UNAUTHORIZED PRACTICE OF LAW

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

Your Committee on Unauthorized Practice of the Law has endeavored to function during the past year by holding meetings and giving consideration to conditions to which the activities of the Committee might be directed and recommendations to further its activities.

The Committee is of the opinion that its work in years past has to a large degree eliminated one of the principal objectives toward which the work of this Committee was directed, to-wit: the practice of law by trust companies and banks, indicated largely in the matter of drawing wills and acting as executors of estates.

In the Tri Cities, Minneapolis, St. Paul and Duluth, at least, your Committee is of the opinion that the trust companies are conforming to the letter of their promise to abstain from those practices. There are some indications that the spirit of their promise is not being fully observed, and that there are occasions when, by indirection, the things are done which are contrary to what is deemed right and consistent practice and the observance of the amenities that should exist between such organizations and attorneys.

There are indications that this form of practice of law is still carried on in cities and towns outside of the Tri Cities. The attention of the chairman was called to one specific instance where a trust company solicited the drawing of wills and offered to perform that service free of charge in consideration of being appointed executor. Upon the company's attention being called to the practice by the chairman of this committee, prompt response was had with promise to abstain from the practice.

Your committee is of the opinion and recommends that work on this subject be continued and that funds be provided for correspondence with the trust companies and banks with a view to obtaining their co-operation in the strict observance of the limitation of their right to practice law, either directly or indirectly.

Your committee also recommends that the Committee on Ethics or Grievances, or whatever other committee of the Association may be proper, be requested to give consideration to this question with particular reference to checking up and considering this matter with those attorneys who are employed by banks and trust companies and who directly or indirectly become parties to the practices on their part which are disapproved.

Considerable complaint is still had with reference to examination of and rendering of opinions on abstracts of title to real estate by trust companies, banks and abstract companies and laymen and your committee requested the Secretary of this Association to obtain information as to the extent to which these practices are now indulged in with a view to recommending the necessary measures for the correction of the condition.

Your committee has had called to its attention a practice that has grown up by collection agencies of soliciting claims, taking an assignment of them in their own name or in the name of an employee, for the purposes of suit and then bringing suit in the name of the assignee as attorney pro se.

Your committee considers this a mere subterfuge to permit laymen to engage in the practice of law and avoid the responsibilities which attach to the privileges of the profession and that these practices should be summarily checked.

It has been brought to the attention of your committee that little headway has been made in checking the unauthorized practice of law in Probate Courts. Your committee is of the opinion that the remedy lies in the enforcement by the Probate Court Judges of the rules adopted by their association. Your committee therefore recommends that the matter be brought to the attention of the Association of Probate Judges and that they be requested to make their rules effective by insisting upon their observance.

The attention of your committee has been called to instances of the continued practice of law by evasion and subterfuge by members of the Bar who have been disciplined by suspension or disbarment. Your committee is of the opinion that the permitting of such conduct conduces to bringing the courts and the profession into contempt and is subversive of the efforts that are made to maintain the dignity, integrity and standards of the Bar. Your committee therefore recommends that the judges of the courts use drastic measures to stop such practices.

Your committee is of the opinion that little progress can be made along the lines of the work laid out for your committee without the provision being made for financing the necessary expenses of following up the matters within the scope of the committee. Your committee is also of the opinion that little in the way of effective results can be obtained without securing a closer affiliation with and co-operation of the local Bar Associations. It is the opinion of the committee that the work of the State Association should be tied in with the work of the Local Bar Associations and that the local Bar Associations ought to be requested to co-operate and affiliate with the State Association.

While this is a matter related to this committee only in an indirect way insofar as it is associated with the problems presented for the consideration of this committee, your committee, nevertheless, feels justified in recommending that an effort be made to secure a closer affiliation and co-operation on the part of the Local Bar Associations, particularly with reference to the subjects germane to the purposes of this committee.

Your committee recommends that the activities represented by the work of this committee be continued.

Respectfully submitted,

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

REPORT OF COMMITTEE ON NOTEWORTHY CHANGES IN STATUTORY LAW

Mr. Chester L. Caldwell, Secretary,
St. Paul, Minn.
Dear Mr. Caldwell:

Your committee on Noteworthy Changes in Statutory Law reports that because of the fact that there was no session of the Legislature during the current year and consequently no legislative action of any kind, your committee feels that there is nothing upon which to base a report, and consequently that there is nothing further to report for this meeting of the Association.

Respectfully submitted,
JUSTIN MILLER, *Chairman.*

REPORT OF COMMITTEE ON UNIFORM PROCEDURE IN FEDERAL COURTS

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

Your Committee has the honor to make the following report of its activities during the past year.

The following Bills have been before the Congress:

1. S-477—H. R. 419 (Last Congress No. S. 2061) to empower the Supreme Court to make and publish rules in Common Law actions. Introduced by Senator Cummins. It is still the victim of senatorial courtesy whereby Senator T. J. Walsh of Montana and one or two others have been able to prevent a vote on the Bill for over ten years. We have been told by Thomas W. Shelton of Virginia, Chairman of a similar committee of the American Bar Association, that Senators Walsh and Goff promised Mr. Shelton last month a speedy vote on this Bill. We had word from Congressman Walter H. Newton that there was no

chance of getting the Bill through during the present session of Congress. He says that a good deal of opposition has developed to this Bill within the last year. Quite a number of lawyers seem to think that the federal procedure should conform to the state procedure in the various states. This, of course, has been the chief reason which Senator Walsh has always given for his determined opposition to the Bill. It is very well known however, by practitioners in the Federal Courts that there are many instances where the federal procedure in law actions does not follow the state practice. Senator Walsh and the other opponents of this Bill have been thoroughly advised of this by the Committee of the American Bar Association. There are so many instances where the federal procedure does not follow the state procedure that this does not seem to be a valid reason for opposing the passage of this Bill.

2. S. 2692—H. R. 5265. This is the Bill providing for the appointment of official stenographers for the courts in the several districts. Justices Sanborn, Molyneaux and Cant are of the opinion that this Bill is of very great importance and should be passed. The former said:

"I can see no justification or excuse for a court not keeping a complete transcript of all proceedings which take place. Men are tried and sentenced in these courts without any stenographic record made of the proceedings. The poor transgressor is almost foreclosed from taking an appeal, while the wealthy are able to go as far as they wish."

At present the litigants have to furnish and pay for their own court reporter in order to have a record of the trial.

It has been said by some in this connection that as the law does not provide for official reporters, no legal schedule of charges is provided by law, so they may charge what they please for transcripts. We believe the reporters in our federal courts in this state have not taken advantage of this and yet they could if so disposed. It has been reported to the Chairman of your Committee that there is a lobby of reporters in the East opposing the passage of this Bill. The Chairman of this Committee of the American Bar Association has reported that there seems to be very little interest manifested in this Bill. However, most of the members of your Committee have written to their respective Congressmen and the Senators urging passage of this Bill. Hon. Walter H. Newton of the House has recently reported that this Bill had been favorably reported out of the Committee in the House and will probably pass the House.

3. S. 624—H. R. 3260. This is the Bill of Senator Caraway of Arkansas, abridging the power of federal judges to refer to or comment upon witnesses and evidence as guaranteed by the Seventh Amendment to the Constitution. See Blackstone, page 375, Book III; Capital Traction Co. v. Hof, 174 U. S. 1, 15, 43 L. Ed. 874-8; Vicksburg Ry. Co. v. Putnam, 118 U. S. 545, 30 L. Ed. 257.

The point made against this Bill is that the Congress cannot constitutionally abridge the powers of a federal judge "whenever he thinks it necessary to assist the jury to call their attention to parts of evidence he thinks important, and express his opinion upon the facts; and the expression of such an opinion when no rule of law is incorrectly stated and all matters of fact are *ultimately left to the jury for its determination,*" cannot be reviewed on writ of error, because such a trial is "according to the rules of the common law" under the Seventh Amendment to the Constitution.

Our committee all agreed last year upon united opposition to this Caraway bill, feeling that our Federal Judges could be trusted to exercise this power with a wise discretion. Your Committee has done what it could in opposition to this Bill.

4. H.R. 5194. A bill to provide for declaratory judgments. The Committee of the American Bar Association on jurisprudence and law reform has had this in charge for several years and appear to

have been making progress. Mr. Newton reports to your Chairman that the Bill has been favorably reported out of the Committee and is waiting the action of the House. A majority of your Committee favor this Bill.

5. S. 2693-H.R. 5566. Abolishing writ of error in civil and criminal cases and substituting the right of appeal. The Federal Judges generally favor this Bill as much less cumbersome than the present method.

6. H.R. 5476-S. 2691. Providing for no loss of civil rights on conviction of crime unless the defendant's sentence is imprisonment for more than a year, or unless the verdict of the jury or the sentence of the court expressly so specifies.

This Bill met some opposition and has been returned to the Committee on Jurisprudence and Law Reform of the American Bar Association for amendment. Your Committee is believed to favor this Bill.

The above are all the Bills your Committee sponsored this year. At a meeting of our Committee held in Minneapolis about the middle of April to consider the above Bills it was suggested by several of our Judges who were good enough to attend the meeting of our Committee, that the following matters ought to receive some attention:

(a) That the pay of federal jurors and witnesses of $3.00 per day and mileage is grossly inadequate under existing conditions and that their fees ought to be increased. We are advised, however, by Mr. Newton that his Bill increasing the fees of witnesses and jurors has passed both Houses and has probably already become a law.

(b) That the existing law that a husband or wife may not be a witness for or against each other in a crimiual case ought to be changed.

See Sec. 858. p. 1421 Vol. 9 Fed. Stat. Ann.
But that section has no application to criminal trials.
See Logan v. United States, 144 U. S. page 443.
U. S. v. Hughes, 175 Fed. 240.
Hendrix v. United States, 219 U. S. 79.
U S. v. Crow Dog, 14 NW. 437.
Jin Fuey Moy v. United States, 254 U. S. 18.
Also see dissenting opinion of Justice Stone in
Adams v. United States, 259 Fed. 214, and
Fitter v. United States, 258 Fed. 567.

(c)

The following was also brought to the attention of your Committee by several of the Judges and is not believed to be generally understood by the profession, viz:

Where a jury trial is waived and the case tried by the Court: "The Appellate Court cannot pass on the sufficiency of the evidence to sustain the findings and judgment of the trial court, if such question was not distinctly raised before the close of the trial."

Alen v. Cartan, 7 Fed. (2nd Series) 21.
Wear v. Imperial Window Glass Co., 224 Fed. 60.
Sec. 1672 Vol. I U. S. Comp. Stat. 1916.
It was suggested that this practice should be amended to conform to our state practice.

RECOMMENDATIONS

Your committee is of the opinion that the incoming committee should

1. Continue to strive for such legislation as will promote uniform procedure in the Federal Courts.

2. That this Association especially urges the passage of S. 477-H.R. 419, to empower the Supreme Court to make and publish rules in Common Law actions. S. 2692-H.R. 5265 for Court Reporters and that we unitedly oppose S. 624-H.R. 3260, the Caraway Bill, abridging the trial powers of the Federal Judges.

3. That the pay of jurors and witnesses in Federal Courts ought to be substantially increased to square with the present cost of living and travel.

4. That the incoming Committee ought to study, and if deemed wise, seek to have amended the existing Federal law referred to in (b) and the practice referred to in (c) of the foregoing report.

Respectfully submitted,

JAMES D. SHEARER,
JOHN HOPP,
CARL W. CUMMINS,
J. M. FREEMAN,
L. E. JONES,
A. B. CHILDRISS,
H. G. GEARHART,
WILL A. BLANCHARD,
JAMES J. QUIGLEY,
JULIUS E. HAYCRAFT.

REPORT OF COMMITTEE ON BAR ORGANIZATION

TO THE MINNESOTA STATE BAR ASSOCIATION:

At the meeting of the Association in Rochester last year, this Committee was instructed to prepare a revision of the Association's Constitution, designed eventually to make the State Association a federation of all of the local bar associations of the state, and to make membership in either a local or state association carry with it membership in the other. The Committee held several meetings of its members and one joint meeting with the Board of Governors of the Association, and drafted a proposed revision of the constitution of the Association.

At the meeting of the Board of Governors, each member of the Board was instructed to call a meeting of the lawyers of his judicial district for the purpose of considering the proposed constitution. Such constitution, together with an explanation of its plan of operation, was printed in pamphlet form and copies were sent to each member of the Board of Governors to be distributed among the lawyers of his judicial district. There is no accurate report available as to the exact number of such meetings which have been held, but reports have been received of meetings of local associations of the three largest cities, and of other local associations in other parts of the state, at which meetings the proposed constitution was discussed and approved. At some of the meetings, minor changes in the constitution were suggested.

It will probably be helpful to repeat the explanation of the new constitution which was included in the pamphlet.

"The general plan is to work towards an organization where the state association will be simply a federation of local associations and membership in the local association will carry with it membership in the state association. Such an organization, of course, cannot be realized at the start, so it is necessary first, to provide for the affiliation of such local associations as desire to affiliate with the state association and, second, to provide for membership in the association in territories where there are no affiliated local associations. This is done by dividing the membership into two classes (in addition to honorary and life members), called "regular" and "individual" members, "regular" members being those who are members of affiliated local associations and "individual" members being those from districts where there is no affiliated local asso-

ciation. After a local association has affiliated with the state association, the only way for a lawyer residing in that district to join the state association will be to join the affiliated local association. This will carry with it membership in the state association.

The members of the Board of Governors of the Association are elected from judicial districts by the members of the Association in that district. Ordinarily, it is hoped that local associations will be organized by judicial district, as this seems to be the most natural territory for local bar organizations. Where there is such a judicial district organization which desires to elect its representative to the Board of Governors, it will be allowed to do so in any way its constitution and by-laws provide. In the absence of a judicial district association which so elects, the election will be by ballot mailed from the state association offices to each member of the association in that district. Nominations by petition or by a nominating committee from each such judicial district are also provided for.

The officers of the Association are elected by the Board of Governors instead of by the members as at present. It was felt that an election by representatives of every section of the state would be better than a purported election by the members at the annual meeting as at present which procedure almost invariably resolves itself into confirming the report of a handpicked nominating committee.

Probably the most important part of the whole plan is that relating to the voting at the annual meeting. Two objects seemed desirable: first, that every lawyer who attended a meeting of the association should have an opportunity to participate in the meeting and be heard on any matter on which he wished to speak, and, second, that there should be some plan of voting on debated questions which (1), would prevent the charge being made that the vote of the Association was only that of a small group, and (2), would also make it impossible for the larger number of members from the locality where the meeting was held to outvote the comparatively smaller number from other parts of the state. It was quite a problem to get a plan which would accomplish both objects. The Committee believes that the proposed constitution does this. It provides for representatives from each local association on the basis of one delegate for each twenty-five members. It provides that every member shall be entitled to participate in all meetings, being allowed to introduce motions and resolutions, to participate in discussions, and to vote on all questions, except those where ten members have demanded a vote by the representatives of the local associations, in which case, the vote of such representatives decides the question. This leaves the ultimate control of all matters in the representatives of the local associations, but allows all members to take part in the meetings. In other organizations in which such a system of voting has been in vogue, the practical result has been that, on the great majority of questions, no vote by representatives is called for and the vote of those present is allowed to stand as the vote of the association. But this reserve power is a safeguard against any attempt to pack a meeting or to railroad a measure through any meeting.

The problem of dues and the manner in which they should be collected was also a hard nut for the Committee to crack. At the start, there was a wide variety of views as to the amount of the dues and how they should be collected. It was generally agreed that the state association should have $2.00 per member, as it could not operate efficiently on less than this. At the present time, the dues of the state association are $5.00 of which about half goes to the MINNESOTA LAW REVIEW, which, as the official journal of the association, is sent to each member.

The Law Review publishes separately the annual proceedings of the association and reports of its committees. This separate service used to cost the association over one thousand dollars a year. The Review also sends its seven regular issues to each member. The association pays The Review for all service $3.00 for each of the first five hundred members

and $1.50 for each additional member. Deducting the former cost to the Association of publishing its proceedings and reports, the seven regular issues of The Review (for which alone other subscribers are paying $3.00) have cost the association for the last two years, only an average of approximately $1.00 per member. The Review can only be supplied at this price because by its printing contract it is able to publish the proceedings and reports at less than the former cost to the association. The average cost to the association for all the service of The Review has been approximately $2.45 per member for the last two years.

After some considerable discussion, the Committee was unanimously of the opinion that the arrangement with The Minnesota Law Review should be continued and the cost of the subscription added to the dues. It will be noted that the cost of The Law Review per member decreases as the number of subscribers is increased. It was decided that at the start the dues should be $5.00, as at present, including The Law Review, the hope being that, as the membership increased, this could be reduced. It was suggested that, as the Association increased in strength, The Law Review would be used more and more to render practical assistance to the members of the Association and to dispense information regarding the Association, such features as brief syllabi of all Minnesota and United States Supreme Court cases, and articles along the lines now included in the American Bar Association Journal, being added to the leading articles, recent cases and other helpful features which The Review now contains. The Committee was informed that the new edition of Dunnell's Minnesota Digest now being compiled had digested all the issues of The Minnesota Law Review to date and that this would tend to make The Review a necessity for lawyers in Minnesota.

Dues of members of local associations to the state association are the obligation of the local association and, in practice, every local association would have to add to its present dues, the dues of the state association, paying these to the state association yearly. If a member failed to pay his dues to the local association, the local association by cancelling his membership therein within a certain time after the dues were payable, would be relieved of obligation to the state association for dues for such member. Cancelling his membership in the local association would automatically carry with it cancellation of state association membership.

This plan of collecting dues has worked admirably in the medical societies and in the Washington Bar Association. The Committee believes it is practical in the Minnesota State Bar Association and that it is the keystone of an efficient and worthwhile organization, which will justify its existence and enable the Association to render great service to its members, to the legal profession as a whole and to the public."

This Committee, therefore, presents the following resolution for adoption by the Association.

BE IT RESOLVED by the Minnesota State Bar Association: (1) That the constitution of such Association be amended so that the same shall read as follows:

ARTICLE I—*Name*

The name of this association shall be MINNESOTA STATE BAR ASSOCIATION.

ARTICLE II—*Object*

This Association is formed to bring into one compact organization the entire bar of the State of Minnesota, to cultivate the science of jurisprudence, to promote reform in the law, to facilitate the administration of justice, to elevate the standard of integrity, honor and courtesy in the legal profession, to encourage a thorough and liberal legal education, to cherish a spirit of brotherhood among the members thereof, and to perpetuate their memory.

ARTICLE III—*Members*

The membership of this Association shall be composed of the following:

(a) Regular members, consisting of the members of the Bar of Minnesota who are members of any affiliated local bar association.

(b) Individual members, consisting of such members of the bar of the State of Minnesota as are now members hereof, and such as may hereafter be accepted to individual membership herein by the Board of Governors. After a local bar association has affiliated herewith, and while it is so affiliated, no resident of the territory covered by such local association shall thereafter be admitted to individual membership herein. If a local association ceases to be affiliated herewith its members shall be transferred to individual membership herein. Upon the formation and affiliation of a local bar association covering the territory in which any person now having membership herein, or hereafter procuring individual membership herein, shall reside, such member, upon being or becoming a member of such affiliated local association, shall at once be transferred to regular membership herein.

(c) Honorary members, consisting of the Judges of the United States Courts within this State and of the Supreme Court and District Courts of Minnesota, during their respective terms of office, and such other honorary members as may be elected by the Association.

(d) Life members, consisting of such members as have heretofore purchased life memberships in this Association.

ARTICLE IV—*Board of Governors*

Section 1. The management of this Association shall be vested in its Board of Governors. Such Board shall consist of twenty-five (25) members to be selected in the manner hereinafter provided, and of the President, Vice President, Secretary, Treasurer and the two last preceding Presidents as ex-officio members thereof. Members of the Board of Governors shall hold office from the conclusion of the annual meeting following their election until the conclusion of the annual meeting of the following year.

Section 2. One member of the Board of Governors shall be elected by and from the members of the Association in each judicial district in Minnesota, except the Fourth Judicial District, which shall elect four, the second Judicial District, which shall elect three and the eleventh Judicial District, which shall elect two.

Section 3. Except as provided in Section 5 hereof, nominations to the Board of Governors shall be by the written petition of any three (3) or more members of the Association residing in the same judicial district as the nominee. Such nominating petitions shall be filed with the Secretary of the Association within a period to be fixed by the By-Laws. Notice of the time for all nominations shall be given by mail to each member. Nominations shall be made from the membership of the Association. Where no nominations are received from any judicial district within the time fixed by the By-Laws, the President shall forthwith appoint a nominating committee from such judicial district to make such nominations.

Section 4. Except as provided in Section 5 hereof, election to the Board of Governors shall be by ballot of the members of this Association in each judicial district. The person or persons receiving the highest number of votes shall be elected. The Secretary of the Association shall conduct the elections, mailing ballots containing the nominations for the judicial district to each member in good standing in such district on or before the first day of May in each year. The election shall be held on the third Monday in May in each year and ballots shall be deposited in person or by mail with the Secretary of this Association on or before such date. Vacancies in the Board or in any of the offices of this Association shall be filled by the Board for the remainder of the term. The Board shall pre-

scribe rules and regulations for the annual election not in conflict with the provisions of this Constitution.

Section 5. An affiliated local bar association, the territorial limits of which are co-terminous with those of a judicial district, may choose the member or members of the Board of Governors for such district in accordance with its own Constitution and By-Laws, upon adopting a resolution to that effect and notifying the Secretary of this Association of such action, in which case Sections 3 and 4 of this article shall cease to be applicable. Such election shall be held on or before the third Monday of May in each year and the Secretary of this Association shall be forthwith notified of the results.

Section 6. The Board of Governors shall have power to make rules and by-laws, not in conflict with any of the terms of this constitution, concerning the election and tenure of officers, and committees and their powers and duties, and, generally, for the control and regulation of the business of the Board and of the Association. Such by-laws may be amended by a majority vote of the Association at any meeting, in the manner provided in Section 2 of Article VIII hereof.

Section 7. The Board of Governors shall have the same privilege of voting at meetings of the Association as the representatives of the affiliated local associations provided for in Article VII hereof.

Section 8. The regular meeting of the Board of Governors shall be held immediately following the annual meeting of the Association, and there may be such other special meetings of the said Board as the President, or in his absence, the Vice President, shall determine, or upon the written request of any five members thereof.

Article V—*Officers*

The officers of this association shall be a President, a Vice President, a Secretary and a Treasurer, who shall be elected by the Board of Governors at the regular meeting thereof held as provided in Section 8 of Article IV hereof. The President and Vice President shall not be eligible for re-election within two (2) years after the expiration of their terms of office. The duties of officers shall be the usual duties of similar officers in organizations of this character, and may be more specifically defined in the by-laws.

Article VI—*Affiliation of Local Bar Associations*

An "affiliated local bar association," within the meaning of this Constitution, is a local bar association, comprising a judicial district of the State of Minnesota which shall have voted by a majority vote of all its members to affiliate with this Association, and shall have undertaken to pay to this Association for each of its members the annual dues of this Association. Other local bar associations based on other territorial limits may be permitted to affiliate under the same terms by a vote of the Board of Governors, but such affiliation shall be subject to termination by the Board of Governors. Where any person is a member of two such local associations which have become affiliated under the above rule, he may elect through which of such local associations he shall pay his dues to the State Association and shall be accredited to that local association for all purposes of this Association.

Article VII—*Representatives of Affiliated Local Bar Associations*

Prior to the annual meeting of this Association in each year, each affiliated local bar association shall choose persons to represent it at all meetings of this Association for the ensuing year. Such representatives may be appointed or elected by such local bar associations in such manner as their constitutions or by-laws shall provide. Each affiliated local association shall be entitled to one such representative for each twenty-five (25) members thereof and one for each major fraction in excess of an even multiple of twenty-five (25) members thereof for whom dues shall

have been paid to this Association or who are honorary or life members of this Association. An association which has paid dues for less than twenty-five (25) members shall be entitled to one (1) representative.

ARTICLE VIII—*Meetings*

Section 1. This Association shall meet annually at such time and place as the Board of Governors may select. Special meetings of the Association may be held upon such notice as the Board of Governors may determine, at a time and place to be stated in such notice.

Section 2. At all meetings of this Association, all members (regular, individual, honorary and life) shall be entitled to the privileges of the floor, to introduce motions and resolutions, and to participate in all other business of the Association. All such members shall be entitled to vote upon all matters coming before the Association, provided, however, that after the first vote is taken on any matter, any ten representatives of affiliated local associations may demand a vote on such matter by representatives of the local associations, in which event, only the representatives of such local associations and members of the Board of Governors shall be eligible to vote on such matter, and such vote shall decide the matter.

The foregoing proviso shall not become effective until five (5) local bar Associations of this state shall have voted to affiliate with this Association under the terms of this Constitution.*

ARTICLE IX—*Dues*

Section 1. Honorary and life members shall be exempt from the payment of dues. With these exceptions, the annual dues shall be as follows:

(a) From each affiliated local bar association, Five Dollars ($5.00) for each of its members, except those who are honorary and life members of this Association.

(b) From each individual member, Five Dollars ($5.00). Such dues shall entitle each regular and individual member to receive the issues of the official journal of the Association for one year.

Section 2. Dues to this Association shall be payable in advance on the first day of January in each year. Each affiliated local association shall forward to the Secretary of this Association a list of members of such local association, together with the annual dues for each such member.

ARTICLE X—*Expulsion*

Any individual member may be suspended or expelled by the Board of Governors for misconduct in his relations to the Association, the profession, the state or the nation, or for conduct unbecoming a lawyer or gentleman, or for the non-payment of dues for one year. Expulsion or suspension of such members for misconduct shall require the vote of not less than two-thirds of the members present, but in any case not less than ten (10) votes, upon specific charges, notice and trial.

The expulsion of individual members for non-payment of dues may be by order of the President, Secretary and Treasurer under the general rules prescribed by the Board of Governors. Expulsion or suspension of individual members may also be accomplished by the Association itself by a two-thirds vote of the members present at any annual meeting.

ARTICLE XI—*Amendment*

This constitution may be amended by a two-thirds vote of the representatives of affiliated local bar associations and the Board of Governors present at any meeting of this Association. Before any amendment to this constitution shall be voted on at any meeting, notice thereof shall be given by the Secretary of this Association to the president or secretary of each

*This sentence has been added to the draft of the Constitution as submitted in the printed pamphlet.

affiliated local association not less than thirty (30) days prior to the date of such meeting.

(2) That the Board of Governors and officers of the Association be elected at this meeting in the manner provided by the present constitution and by-laws of this Association, and that the Board of Governors and officers so elected hold office until the conclusion of the annual meeting of 1927, at which time the Board of Governors and officers elected in accordance with the new constitution shall take office.

(3) That the Board of Governors and officers be directed during the period between this meeting and the annual meeting of this Association in 1927, to bring to the attention of the lawyers of each judicial district of the state the new constitution of this Association, and to invite the affiliation with this Association of all local bar associations of the state, organized wherever practicable according to judicial districts.

Respectfully submitted,
COMMITTEE ON BAR ORGANIZATION,
By M. B. MITCHELL, *Chairman.*
May 7th 1926.

REPORT OF COMMITTEE ON CONCILIATION AND SMALL DEBTORS' COURT

On behalf of the Committee of Conciliation and Small Debtors' Courts, I beg leave to submit the following but do not bind my Committee thereto.

The law for garnisheeing of wages has become, as used, a method of wrong and injustice and should be reformed if possible. The Small Debtors' and Conciliation Courts under our law seem to be the place where it could be done. The method proposed is called the "Trustee Plan." This plan is in use in the English County Courts and in a form in Massachusetts. There is now being proposed the establishment of such a Conciliation Court for the City of Duluth following in general Chapter 317 of the Laws of 1921 but adding this Trustee Plan by a special bill.

This proposed bill has been tentatively drawn by Stanley L. Mack Esq., Clerk of the Duluth Municipal Court. In this bill this Trustee Plan is set out in these words,—

Sec. 6. The said conciliation court shall have jurisdiction upon the application of the debtor in any action pending before said court to appoint a trustee to receive that portion of the personal earnings and income of the debtor as may be fixed by the court and such additional sums as the debtor may voluntarily pay or assign to said trustee, who shall distribute the money pro rata among the creditors having claims against the debtor at the time of the application.

Said application of the debtor shall disclose his assets, his personal earnings and income; the names, ages and relationship of those dependent upon him for support; names of those, if any, who are contributing to the support of the family and the amounts received monthly from each; and the names of his creditors and the amounts of their respective claims.

Upon the filing of such application the court shall, after notice to the creditors named in the application and a hearing therein, fix the proportion of the personal earnings and income of the said debtor which shall be set aside for the use and benefit of his creditors, hear and adjudicate the claims of the creditors and determine the amounts which said trustee shall pay to each of said creditors. All creditors consenting to such trusteeship shall be estopped from bringing or maintaining any proceedings in garnishment, attachment or in aid of execution in the municipal court of the city of Duluth, or in any

other court, so long as the said debtor shall not default in the payment to the trustee of that portion of his personal earnings and income ordered by the court to be paid or assigned to said trustee at such regular intervals as may be fixed by the said court. This provision however shall not be construed to prevent any creditor who shall not have consented to the arrangement for a trusteeship from bringing or maintaining proceedings in garnishment, or recovering a judgment against the said debtor, nor to prohibit the levy under a writ of attachment or execution upon the property of the debtor, other than that which may be in the hands of the said trustee. The bringing or maintaining of any proceedings in garnishment, attachment, or in aid of execution in violation of this provision shall be construed as a contempt and the said conciliation court is hereby vested with like power and like jurisdiction of municipal court to punish therefor.

The judges of the municipal court, assistant judge and conciliation judge, may provide, by rule, for notice to such creditors as are recited in the application of the debtor, the authentication and adjudication of claims, the time and manner of payments by the debtor the distribution of the fund and all other matters necessary or proper to carry into effect the jurisdiction conferred by this provision.

The court shall designate as trustee, to serve without additional compensation as such trustee, the clerk of the municipal court of the city of Duluth or the manager of the free legal aid bureau or welfare department of the city of Duluth. If the official bond of such officer shall be conditional upon the fulfillment of the trust as such trustee, no additional bond shall be required. If not, such trustee shall execute to the city of Duluth for the use and benefit of said city and all persons injured by failure to observe its conditions a penal bond in the sum of one thousand ($1000.00) dollars, with such sureties as the council of the city of Duluth may approve, conditioned that he will pay over on demand to all persons all money to which they may be entitled which may have come into his hands in virtue or by reason of his office as trustee. Such bond shall be filed in the office of the auditor of said city.

Said trustee shall make such reports as the court may require and shall be provided with the necessary blanks, books, stationery, postage and other expenses for the execution of his duties in the same manner as other expenses incident to the court are provided for."

It is the wish of your Committee that this Trustee Plan be brought on for discussion at the next meeting of the State Bar Association.

FRED W. REED, *Chairman.*

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

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

This Committee finds that there is little else for it to do than to use its influences and endeavors to create more local associations.

Wherever they are organized and functioning, there seems to be a desire to harmonize the work with that of the State Bar Association.

We all understand that whether or not an association shall be organized in a county or district, rests with the local bar. This Association, and its committees, cannot command; we can only suggest and assist.

Of course there is much of local interest which can be handled and discussed more advantageously by the lawyers of a county or district than by the bar of the whole state; however, we must all agree that the State Association can wield a much larger influence on matters of general interest.

We find that the local associations frequently meet socially, and put on interesting programs and discussions. Their deliberations are more often indulged in by the younger members, thereby developing them for the greater work here.

In some instances, the wives and sisters of barristers have organized themselves into auxiliary societies, thereby drawing the families into closer acquaintance. This leads to occasional picnics and other social functions—sometimes at a lake, or down the river—whereby the families all go together. Thus, when the State Association meets, the wife urges the tired old fighter to get away from his office, and to go, and to take her along; and, if he has not before been a member, he finds it wise to become one, in order to keep peace at home. Sometimes we can thus stir up a little strife at home, to our advantage, without thereby enlarging the number of cases on our court calendars wherein the plaintiff and defendant both bear the same family name—cases which the courts so aptly recognize as "court cases" on the call of the calendar.

We find that the Twin Cities have both city and county associations. That Duluth is well organized and co-operating, is evidenced by the fact that its members are our hosts this year.

Many of the counties have County Associations, with fixed minimum fee schedules.

The southeastern part of the state has what is known as the Southeastern Minnesota Bar Association, embracing parts of three judicial districts.

Quite a number of the Judicial Districts have formed associations, and others are organizing. We are informed at this writing that a meeting will be held in Worthington on June 5, 1926, to organize a Thirteenth Judicial District Association. We shall be interested in hearing at the State Meeting that they successfully organized. A similar report from the other Judicial Districts which have not yet organized local associations will be welcome news.

We urge that the local associations advise this committee annually the names and addresses of the officers elected for the ensuing year. This information in our hands, and by us passed on to the officers of the State Association will do much to cement the ties between them, and to co-ordinate their work.

COMMITTEE.
GEORGE J. ALLEN, Chairman
HENRY H. FLOR
GEORGE W. BUFFINGTON
ALBERT BALDWIN

MINUTES OF THE DISTRICT JUDGES' MEETING

July 6, 1926

Pursuant to call duly issued under the provisions of Chapter 33 of the laws of the State of Minnesota for 1919, the judges of the District Court of the State of Minnesota met at annual session in the Memorial room of the court house at the city of Duluth, Minnesota, on the 6th day of July, 1926.

Judge Meighan was called on for an address, taking as his subject, "The Judge and The Trial Lawyer." Judge Meighan having served in the capacity of Judge on the bench and at the table, gave an interesting talk on the judges as seen from the counsel table. Among other suggestions in the course of his talk, he raised the question as to whether or not it would not be desirable to have the presiding judge indicate to counsel the reasons for his rulings, stating that in this way he thought it might expedite trials and assist counsel in presenting their case more clearly with less liabilty to error. He also suggested that where the county commissioners are called upon to choose jurors that it would be wise for the judges to take the matter up and talk over with that body the selection, and in this way perhaps a higher class of jurors might be chosen for court work; also that it might be wise for the judges during the course of the trial to protect witnesses from browbeating and perhaps insinuating and insulting remarks by counsel, as is often the case.

Justice Pierce Butler, Associate Justice of the Supreme Court, being present at the meeting, was introduced by Judge Fesler and asked if he would be kind enough to make a few remarks to the judges present. Justice Butler responded and confined his remarks almost entirely to reminiscences as to former district judges and former members of the bar of this state, bringing out the high quality and standing of these individuals, and the influence that these men had made upon him, as well as the community and the state at large.

Judge Carroll A. Nye moved that this body express to the West Publishing Company its gratification and thanks for the excellent work in the publication of the Rules of the Judges of the State, as well as the Rules of the Fourth, Second and Eleventh Districts, which motion was carried unanimously.

Judge Qvale called for the reports of committees, and Judge Fesler reported as chairman of the Committee on Procedural Law and Practice, presenting the following resolutions:

1. That the Board of Parole should not release any prisoner until he had served the minimum statutory term.

2. If committing Court fixes one year or less as a minimum, Board of Parole should not have power to parole or lease.

3. Board of Parole should notify appropriate Judge and County Attorney of all applications for parole.

4. Board of Parole should have power to parole or release only those serving under a first commitment.

5. None of the judges present were in favor of any restrictions on present powers or practice of the Board of Pardons, except (1) that no pardons should be granted on *ex parte* affidavits as to facts, and (2) that the guilt of the prisoner should not be considered as a basis for official action unless reasonable notice and opportunity to be heard be given the County Attorney, the committing Court, and others who might be specially interested.

6. That, whenever possible, information and indictments be drawn under the habitual criminal statute.

7. That the County Attorney have the right to comment on the failure of the defendant to testify.

8. That the State have the closing argument to the jury.

9. That the State and the defendant have the same number of challenges.

10. That, in the discretion of the Court, those jointly indicted be tried jointly—as in U. S. Courts.

11. That right to file informations be extended to cases where the maximum punishment may be *twenty* years.

12. That power of Court to amend indictments be extended.

13. That motions, dilatory pleas and appeals, after verdict of guilty, be expedited, as recommended by the "Crime Commission" of 1922.

14. That matters of bail and stay of judgment, after sentence, be exclusively vested in trial court.

15. That State be permitted to appeal in criminal cases to settle doubtful questions of law.

16. That jeopardy be defined to cover only those cases where trials proceed to conclusion.

17. That the consent of the defendant to certification of ruling on demurrers be *not* required.

18. That, at some time in the proceedings, before any testimony is taken, the defendant be required to make known to the Court the nature of his defense.

19. That the Court, after consultation with counsel, call expert witnesses chosen by him, who shall testify as officers of the Court and be subject to cross-examination by the State and the defense.

which upon motion of Judge Montgomery were unanimously adopted.

Judge Olson then moved that the Secretary of this Association be instructed to forward to the crime commission a copy of the resolutions just passed, with the recommendation that these resolutions or such portion of them as seem desirable to the Crime Commission be included in its report to the Governor, with the hope that the recommendation of the judges, as well as other recommendations of the Crime Commission be incorporated in the Governor's recommendations, and that all or as many as possible be placed upon our statutes

by the legislature at its coming session, and that the judges present each pledge his support in so far as possible in carrying out the program of the Crime Commission and the recommendations of the Governor, which motion was carried.

Judge Bardwell, as secretary, reported that in pursuance of instructions passed at the last annual meeting, he had secured the consent of the State Bar to print in its proceedings such portion of the proceedings had by the judges at their meeting as were important, and that the State Bar Association had very generously acceded to his request, and that excerpts of the proceedings of this body were incorporated in the annual report of the State Bar Association.

Judge Orr moved that a committee on Permanent Organization be appointed to report any recommendations that it might have toward making the organization a permanent organization, and electing officers in accordance with such recommendations, which motion was duly carried.

WINFIELD W. BARDWELL,
Secretary.

SUBJECT INDEX

MINNESOTA LAW REVIEW

JOURNAL OF THE STATE BAR ASSOCIATION

Volume XII

SUPPLEMENT

Proceedings of the Minnesota State Bar Association 1927

MINNEAPOLIS, MINN.
LAW SCHOOL
UNIVERSITY OF MINNESOTA
1927

OFFICERS OF PREVIOUS YEARS

PRESIDENTS

HIRAM F. STEVENS, St. Paul 1901
MARSHALL B. WEBBER, Winona 1902
FREDERICK V. BROWN, Minneapolis 1903
EDWARD C. STRINGER, St. Paul 1904
A. C. WILKINSON, Crookston 1905
ROME G. BROWN, Minneapolis 1906
J. L. WASHBURN, Duluth 1907
PIERCE BUTLER, St. Paul 1908
LAFAYETTE FRENCH, Austin 1909
JAMES D. SHEARER, Minneapolis 1910
CORDENIO A. SEVERANCE, St. Paul 1911
JOHN G. WILLIAMS, Duluth 1912
HUGH V. MERCER, Minneapolis 1913
HARRISON L. SCHMITT, Minneapolis 1914
STILES W. BURR, St. Paul 1915
FRANK CRASSWELLER, Duluth 1916
GEORGE W. BUFFINGTON, Minneapolis 1917
L. L. BROWN, Winona 1918
ALBERT R. ALLEN, Fairmont 1919
AMBROSE TIGHE, St. Paul 1920
WILLIAM D. BAILEY, Duluth 1921
WILLIAM A. LANCASTER, Minneapolis 1922
ROYAL A. STONE, St. Paul 1923
BURT W. EATON, Rochester 1924
HOWARD T. ABBOTT, Duluth 1925
FRANK E. PUTNAM, Blue Earth 1926

VICE-PRESIDENTS

MARSHALL B. WEBBER, Winona 1901
FREDERICK V. BROWN, Minneapolis 1902
EDWARD T. YOUNG, Appleton 1903
A. C. WILKINSON, Crookston 1904
ROME G. BROWN, Minneapolis 1905
J. L. WASHBURN, Duluth 1906
PIERCE BUTLER, St. Paul 1907
LAFAYETTE FRENCH, Austin 1908
JAMES D. SHEARER, Minneapolis 1909
CORDENIO A. SEVERANCE, St. Paul 1910
JOHN G. WILLIAMS, Duluth 1911
HUGH V. MERCER, Minneapolis 1912
HARRISON L. SCHMITT, Mankato 1913
STILES W. BURR, St. Paul 1914
FRANK CRASSWELLER, Duluth 1915
GEORGE W. BUFFINGTON, Minneapolis 1916
L. L. BROWN, Winona 1917
ALBERT R. ALLEN, Fairmont 1918
AMBROSE TIGHE, St. Paul 1919
WILLIAM D. BAILEY, Duluth 1920
WILLIAM A. LANCASTER, Minneapolis 1921
ROYAL A. STONE, St. Paul 1922
ELMER E. MCDONALD, Bemidji 1923
HOWARD T. ABBOTT, Duluth 1924
FRANK E. PUTNAM, Blue Earth 1925
FREDERICK H. STINCHFIELD, Minneapolis 1926

SECRETARIES

STILES W. BURR, St. Paul 1901
WILLIAM R. BEGG, St. Paul 1902
CHARLES W. FARNHAM, St. Paul 1903-12
CHESTER L. CALDWELL, St. Paul 1913

TREASURERS

FREDERICK V. BROWN, Minneapolis 1901
F. W. GAIL, Stillwater 1902
JAMES D. SHEARER, Minneapolis 1903-5
W. H. YARDLEY, St. Paul 1906-8
ROYAL A. STONE, St. Paul 1909-15
JOHN M. BRADFORD, St. Paul 1916-20
ROY H. CURRIE, St. Paul 1921-24
WILLIAM G. GRAVES, St. Paul 1924

MINNESOTA STATE BAR ASSOCIATION

OFFICERS, 1927-1928

FREDERICK H. STINCHFIELD, Minneapolis ..... President
THOMAS C. DAGGETT, St. Paul ..... Vice President
CHESTER L. CALDWELL, St. Paul ..... Secretary
WILLIAM G. GRAVES, St. Paul ..... Treasurer
PAUL DANSINGBERG, St. Paul ..... Librarian

BOARD OF GOVERNORS, 1927-1928

Judicial District

1st—CHARLES P. HALL ..... Red Wing
2nd—THOMAS C. DAGGETT, New York Life Bldg. ..... St. Paul
JOHN A. BURNS, Pioneer Bldg. ..... St. Paul
WILFRED E. RUMBLE, Merchants Bank Bldg. ..... St. Paul
3rd—HERBERT M. BIERCE ..... Winona
4th—MORRIS B. MITCHELL, 1330 1st Nat. Soo Line Bldg. ..... Minneapolis
GEORGE B. LEONARD, 701 Andrus Bldg. ..... Minneapolis
WILBUR H. CHERRY, University of Minnesota ..... Minneapolis
LEE B. BYARD, 1654 Security Bldg. ..... Minneapolis
5th—A. L. SPERRY ..... Owatonna
6th—J. L. LOBBEN ..... St. James
7th—CONSTANT LARSON ..... Alexandria
8th—C. H. MACKENZIE ..... Gaylord
9th—JAMES H. HALL ..... Marshall
10th—JOHN W. HOPP ..... Preston
11th—FRANK CRASSWELLER, Exchange Bldg. ..... Duluth
VICTOR STEARNS, 300 Lonsdale Bldg. ..... Duluth
12th—T. O. GILBERT ..... Willmar
13th—E. H. CANFIELD ..... Luverne
14th—JULIUS J. OLSON ..... Warren
15th—PATRICK J. RUSSEL ..... Bemidji
16th—LEWIS JONES ..... Breckenridge
17th—R. H. McCUNE, ... Fairmont
18th—WILL A. BLANCHARD ..... Anoka
19th—REUBEN G. THOREEN ..... Stillwater

STANDING COMMITTEES FOR 1927-1928

ETHICS

HOUCK, STANLEY B., *Chairman* ..... Minneapolis
BROWN, MONTREVILLE J. ..... St. Paul

LORD, SAMUEL, JR. ..... Owatonna
MCCLEARN, H. J. ..... Duluth
QUINLIVAN, R. J. ..... St. Cloud

JURISPRUDENCE AND LAW REFORM

CHERRY, WILBUR H., *Chairman* ..... Minneapolis
MIDDAUGH, H. G. ..... Duluth
FRANKBERG, GEORGE W. ..... Fergus Falls
GRAVES, WILLIAM G. ..... St. Paul
MEIGHEN, J. F. D. ..... Albert Lea

UNIFORM STATE LAWS

BRIDGEMAN, DONALD E., *Chairman* ..... Minneapolis
BIERCE, HERBERT M. ..... Winona
JOHNSON, A. W. ..... Albert Lea
THWING, ALFRED L. ..... Grand Rapids
STREISSGUTH, T. O. ..... New Ulm

LEGAL BIOGRAPHY

CHILDRESS, A. B., *Chairman* ..... Faribault

Judicial District

1st—JOHNSON, ALBERT ..... Red Wing
2nd—ORR, GRIER M. ..... St. Paul
3rd—GATES, VERNON ..... Rochester
4th—BARDWELL, W. W. ..... Minneapolis
5th—SENN, FRED W. ..... Waseca
6th—JOHNSON, HARRY A. ..... Mankato
7th—NYE, CARROLL A. ..... Moorhead
8th—TIFFT, C. M. ..... Glencoe
9th—ENERSON, ALBERT H. ..... Lamberton
10th—PETERSON, NORMAN E. ..... Albert Lea
11th—FESLER, BERT ..... Duluth
12th—QUALE, G. E. ..... Willmar
13th—NELSON, L. S. ..... Worthington
14th—GRINDELAND, ANDREW ..... Warren
15th—WRIGHT, B. F. ..... Brainerd
16th—FLAHERTY, S. A. ..... Morris
17th—HAYCRAFT, JULIUS E. ..... Fairmont
18th—GIDDINGS, ARTHUR E. ..... Anoka
19th—STOLBERG, ALFRED P. ..... Center City

LIBRARY

PAIGE, JAMES, *Chairman* ..... Minneapolis
BONNER, JOHN F. ..... Minneapolis
QUINN, JAMES H. ..... Fairmont
MARKHAM, JAMES E. ..... St. Paul
STONE, ROYAL A. ..... St. Paul

LEGAL EDUCATION AND ADMISSION TO THE BAR

CATHERWOOD, S. D., *Chairman* ..... Austin
BROWN, EDWIN C. ..... Minneapolis

BRILL, KENNETH G. ..... St. Paul
DEVANEY, JOHN P. ..... Minneapolis
GAGE, GEORGE F. ..... Olivia

LEGISLATIVE

PEARSON, ALBIN S. *Chairman*, 2nd District, St. Paul.

Judicial District

1st—ARNTSON, A. E. ..... Red Wing
3rd—RICHARDSON, W. B. ..... Rochester
4th—MURPHY, CHARLES T. ..... Minneapolis
5th—EDISON, H. J. ..... Kasson
6th—ROBERTS, HORACE W. ..... Mankato
7th—LARSON, CONSTANT ..... Alexandria
8th—COLLER, J. A. ..... Shakopee
9th—ENGLISH, A. R. ..... Tracy
10th—JOHNSON, ANDREW W. ..... Albert Lea
11th—ADAMS, C. E. ..... Duluth
12th—GJERSET, OLAF ..... Montevideo
13th—LUND, E. R. ..... Windom
14th—HOUGAN, J. H. ..... Crookston
15th—DELURY, DANIEL ..... Walker
16th—HOUSTON, CHARLES E. ..... Wheaton
17th—GROTTUM, B. E. ..... Jackson
18th—SPINDLER, HENRY ..... Buffalo
19th—LAMSON, WILLIAM ..... Hinckley

MEMBERSHIP AND CO-OPERATION WITH LOCAL ASSOCIATIONS

MITCHELL, MORRIS B., *Chairman* ..... Minneapolis

Judicial District

1st—HALL, CHARLES P. ..... Red Wing
2nd—KELLY, JAMES E., ... St. Paul
3rd—MURDOCK, JOHN W. ..... Wabasha
4th—COAN, JOHN R. ..... Minneapolis
5th—ALEXANDER, F. A. ..... Owatonna
6th—MORSE, F. E. ..... Mankato
7th—SHERWOOD, H. B. ..... Long Prairie
8th—SULLIVAN, GEORGE F. ..... Jordan
9th—HAUSER, ALBERT ..... Sleepy Eye
10th—PETERSON, J. O. ..... Albert Lea
11th—JAQUES, ALFRED ..... Duluth
12th—FOSNES, C. A. ..... Montevideo
13th—HOWARD, C. T. ..... Pipestone
14th—O'BRIEN, MARTIN ..... Crookston
15th—RUSSELL, PATRICK J. ..... Bemidji
16th—MURPHY, F. W. ..... Wheaton
17th—NICHOLAS, E. H. ..... Fairmont
18th—WELCH, THOMAS C. ..... Monticello
19th—MARKHAM, J. D. ..... Rush City

Public Relations

Deutsch, Henry, *Chairman* ..... Minneapolis
Barnard, L. D. ..... Renville
Rumble, Wilfred E. ..... St. Paul
Fosnes, C. A. ..... Montevideo
Seifert, Alexander ..... Springfield

American Citizenship

Nelson, Arthur E., *Chairman* ..... St. Paul
McNally, L. P. ..... Minneapolis
O'Hara, Joseph ..... Glencoe
Sasse, Frank G. ..... Austin
Soderquist, H. L. ..... Cambridge

Co-operation of Bench and Bar

Kidder, Charles S., *Chairman* ..... St. Paul
Anderson, Sam G. ..... Hutchinson
O'Brien, James E. ..... Minneapolis
Dosland, C. J. ..... Moorhead
Owen, Morris J. ..... Winona

SPECIAL COMMITTEES

Chattel Loans

Foley, Daniel F., *Chairman* ..... Minneapolis
Hoshour, Harvey ..... Duluth
Orr, Charles N. ..... St. Paul
Kjorlaug, M. U. S. ..... Minneapolis
Sharp, Edgar E. ..... Moorhead

Uniform Procedure in Federal Courts

Congressional District

5th—Shearer, James D., *Chairman* ..... Minneapolis
1st—Sawyer, A. W. ..... Winona
2nd—Somsen, Henry N. ..... New Ulm
3rd—Benson, Henry N. ..... St. Peter
4th—Doherty, M. J. ..... St. Paul
6th—Quigley, James J. ..... St. Cloud
7th—Murphy, F. W. ..... Wheaton
8th—Gearhart, H. G. ..... Duluth
9th—Grady, F. A. ..... Crookston
10th—Goodwin, Godfrey G. ..... Cambridge

Small Debtors Court

Reed, Fred W., *Chairman* ..... Minneapolis
Dailey, C. O. ..... Mankato
Grannis, D. L. ..... South St. Paul
Magney, C. R. ..... Duluth
Ronken, Oscar C. ..... Rochester

MARRIAGE LAWS

LEONARD, GEORGE B., *Chairman* ..... Minneapolis
AGATIN, A. L. ..... Duluth
JACOBSON, ROLF P. ..... Morris
KELLY, E. P. ..... Minneapolis
KNAPP, E. A. ..... St. Paul

OFFICERS OF THE JUDICIAL DISTRICT BAR ASSOCIATIONS

FIRST

President: HON. WILLARD CONVERSE ..... South St. Paul
Vice-President: D. C. SHELDON ..... Pine Island
Secretary: CHARLES P. HALL ..... Red Wing
Treasurer: ATTORNEY STULLMAN ..... South St. Paul

SECOND

President: KENNETH G. BRILL, 422 Endicott Bldg. ..... St. Paul
Vice-President: HAROLD G. KERR, 1615 Pioneer Bldg. ..... St. Paul
Secretary: MILTON C. LIGHTNER, 212 Endicott Bldg. ..... St. Paul
Treasurer: WILLIAM P. O'BRIEN, 522 Merchants Bank Bldg. .... St. Paul

THIRD

President: JOHN W. MURDOCK ..... Wabasha
Vice-President: GEORGE J. ALLEN ..... Rochester
Secretary: WILLIAM G. LINDMEIER ..... Lake City
Treasurer: ROBERT M. LOOBY ..... Winona

FOURTH

President: JOHN R. COAN, 715 Metropolitan Bank Bldg. .... Minneapolis
Vice-President: ARTHUR W. SELOVER, 910 McKnight Bldg..... Minneapolis
Secretary: RICHARD L. TIGHE, 1010 Security Bldg. ..... Minneapolis
Treasurer: ALVIN L. DRETCHKO, 654 McKnight Bldg. ..... Minneapolis

FIFTH

President: F. A. ALEXANDER ..... Owatonna
Vice-President: H. J. EDISON ..... Kasson
Secretary: C. N. SAYLES ..... Faribault
Treasurer: HENRY M. GALLAGHER ..... Waseca

SIXTH

President: C. J. LAURISCH ..... Mankato
Vice-President:
Secretary: BERNARD D. GROGAN ..... Mankato
Treasurer:

SEVENTH

President: GEORGE W. FRANKBERG ..... Fergus Falls
Vice-President: H. E. LEACH ..... Alexandria
Sec'y-Treasurer: HARRISON B. SHERWOOD ..... Long Prairie

EIGHTH

President: P. W. MORRISON ..... Norwood
Vice-President: F. C. IRWIN ..... Belle Plaine
Sec'y-Treasurer: O. S. VESTA ..... Arlington

NINTH

President: ALBERT HAUSER ..... Sleepy Eye
Sec'y-Treasurer: WILLIAM MITCHELL ..... Tracy

TENTH

President: S. D. CATHERWOOD ..... Austin
Vice-President: A. D. GREY ..... Preston
Secretary: J. O. PETERSON ..... Albert Lea
Treasurer: F. G. SASSE ..... Austin

ELEVENTH

President: ALFRED JAQUES, 411 Lonsdale Bldg. ..... Duluth
Vice-President: LEONARD MCHUGH, 409 Alworth Bldg. ..... Duluth
Secretary: GALEN E. BUSH, 409 Alworth Bldg. ..... Duluth
Treasurer: WILLIAM A. WATTS, 514 First National Bank Bldg. ..... Duluth

TWELFTH

President: A. W. EWING, ... Madison
Secretary: O. W. NORDBYE ..... Granite Falls
Treasurer: CHARLES A. OBERG ..... Willmar

THIRTEENTH

President: E. H. CANFIELD ..... Luverne
Vice-President: C. T. HOWARD ..... Pipestone
Sec'y-Treasurer: E. J. JONES ..... Worthington

FOURTEENTH

President: MARTIN O'BRIEN ..... Crookston
Vice-President: CHARLES E. BOUGHTON, SR. ..... Red Lake Falls
Secretary: L. S. MILLER ..... Crookston
Treasurer: WILLIAM P. MURPHY ..... Crookston

FIFTEENTH

President: PATRICK J. RUSSELL ..... Bemidji
Vice-President: DANIEL DELURRY ..... Walker
Secretary: CLARENCE R. SMITH ..... Bemidji
Treasurer: DONALD D. RYAN ..... Brainerd

SIXTEENTH

President: F. W. MURPHY ..... Wheaton
Vice-President: HARRY WYVELL ..... Breckenridge
Secretary: CARL E. EASTVOLD ..... Ortonville
Treasurer: F. C. ANDERSON ..... Herman

SEVENTEENTH

President: E. H. NICHOLAS ..... Fairmont
Vice-President: D. L. MORSE ..... Blue Earth
Secretary: KARL L. RUDOW ..... Jackson
Treasurer: B. E. GROTTUM ..... Jackson

EIGHTEENTH

President: THOMAS C. WELCH ..... Monticello
Vice-President: .....
Secretary: .....
Treasurer: .....

NINETEENTH

President: J. D. MARKHAM ..... Rush City
Vice-President: EDW. D. BUFFINGTON ..... Stillwater
Secretary: WILLIAM H. LAMSON ..... Hinckley
Treasurer: J. C. POPE ..... Mora

OFFICERS AMERICAN BAR ASSOCIATION
1927-1928

PRESIDENT

SILAS H. STRAWN, First National Bank Bldg. .....Chicago, Ill

SECRETARY

WILLIAM P. MCCRACKEN, JR., 209 S. LaSalle St. .....Chicago, Ill

ASSISTANT SECRETARY

RICHARD BENTLEY, 209 S. LaSalle St. .....Chicago, Ill.

EXECUTIVE SECRETARY

OLIVE G. RICKER, 209 S. LaSalle St. .....Chicago, Ill.

TREASURER

JOHN H. VOORHEES, Treasurer's office, room 1119 S. LaSalle St.
Chicago, Ill. .....Sioux Falls, S. D.

MEMBER OF GENERAL COUNCIL FOR MINNESOTA

JOHN JUNELL, First National Soo Line Bldg. .....Minneapolis

LOCAL COUNCIL FOR MINNESOTA

CLIFFORD L. HILTON, *Vice President*, 102 State Capitol .....St. Paul
ALLAN BRIGGS, 597 Lincoln Avenue .....St. Paul
FLORENCE SELANDER, 614 New York Life Bldg. .....Minneapolis
HERBERT M. BIERCE, Hirsch Block .....Winona
H. G. MIDDAUGH, 305 Sellwood Bldg. .....Duluth

PROCEEDINGS

of the Minnesota State Bar Association

ANNUAL MEETING

St. Paul, Minnesota, July 12, 13, and 14, 1927

PRESIDENT PUTNAM: The meeting of the Bar Association will come to order. There has been a meeting of the presidents and secretaries of the several bar associations called to meet in the next room, 1226, at 10:30 o'clock. It has been thought best that meeting be held at the present time. I will ask that the presidents and secretaries of the various local bar associations meet in room 1226, which is just a short distance from here. There is a man coming to make an address before that meeting, so I ask that you adjourn at this time and return here as soon as possible.

PRESIDENT PUTNAM: The secretary will call the roll of governors and representatives.

(Whereupon the secretary called the roll.)

MR. CALDWELL: The President asks me to explain about the two Boards of Governors that we have—to explain the situation. There was some confusion arising from the wording of the constitution, in regard to the members of the Board of Governors who are entitled to sit here. The Board that was named at the meeting at Duluth, upon the recommendation of the Nominating Committee, is the Board that will sit at this meeting. The new Board elected by the several district bar associations will convene immediately upon the final adjournment of this Association, and will continue in office until the adjournment of the annual meeting a year hence. So that the old board, as we will call it, with the addition of new members added to fill vacancies, will sit at this meeting and vote upon those questions where they are alone entitled to vote with the representatives, while the newly elected board will convene upon adjournment of this meeting, and will retain office until a year hence.

The President recognized Mr. Kenneth G. Brill, President of the Ramsey County Bar Association.

MR. BRILL: We do not think any formal welcome from the Ramsey County Bar Association is necessary; you understand that no one would be half so welcome to the local lawyers as yourselves. This meeting of our Association is particularly important, as it is the first meeting under our new constitution, the new organization; and we are glad indeed to have you here. We are particularly glad to have so many ladies here present to share the enjoyment of our entertainment. All our plans have been laid to include them.

My purpose in speaking is to introduce a man who, I think, is responsible for the expression, "I introduce a man who needs no introduction." His father was one of the leading judges of this state, a judge, who,

I believe, was never reversed by the appellate court. If there should be any doubt in your minds as to your welcome by the city at large, our good friend, Mayor Hodgson "Larry Ho" will now dispel it. (Applause.)

ADDRESS OF WELCOME

HON. L. C. HODGSON: Mr. President, my friends, this is once in my life I am somewhat embarrassed. Some time ago, my old friend, Kenneth Brill, who happens to be also the son of the best friend I ever had, asked if I would deliver a brief address of welcome to the Bar Association of this state. I said, "Ken., I am willing to say what little I can, but here is a gathering of intelligent, intellectual people, leaders of the state; I wouldn't know what to say." He said, "That is just why we have invited you. We believe if you will come over and mingle with the members of the Association, when you go home, your wife will say, 'Larry, what has suddenly transformed you into a clean citizen and a perfect husband?" With such an alluring proposition held out, I said, "Ken., I will come, not because I can say anything of importance to the lawyers, but to express to them the greetings of the City of St. Paul.

As Mayor I would be glad to welcome any representative delegation, but as an individual I get more joy out of it, more pleasure out of welcoming this Association than I probably would out of any other association because of the fact that, whether you believe it or not, or whether I indicate it or not, I was practically raised in a law office. I see many old friends here that have long been dear to me—my old friend here; Judge Childress, and dozens of others around here. It is a privilege indeed to come and shake hands with them this morning. It gives me a sense of coming to welcome you, not officially as Mayor of St. Paul, but as my own personal friends.

As I say, I was born and grew up in a law office; I think probably due to the fact I have not made as complete a wreckage of my life as might be expected. I sometimes think the romance has been taken out of the legal profession. I recall, as a boy, when my father used to go out to Farmington, Lakeville, Le Sueur, and other places, because when I was a boy, nearly 50 years ago, a term of court meant something,—one time when we were out in Farmington, at the hotel, at a term of court, a bitter winter evening, all the lawyers drew up to the fire place and were discussing the affairs of the day. A half-witted boy walked into the room, and one of the lawyers wanted to have some fun, and said, "Where did you come from?" The boy said, "From hell." The lawyer said, "What did you see there?" And the boy answered, "Just as it is here, the lawyers nearest the fire place."

When I came in, I met my old friend here, Tom from Faribault, and he said, "Larry, isn't it peculiar, when you get a bunch of lawyers together, they know how to visit." I believe that is true. There are certain professions that some of your members may have come in close contact with of which that is true. The only way I can account for that on the part of the lawyers is by quoting the old proverb that says, "Those who are partners in crime, stick closely together." (Laughter.)

I have known, I believe, most of the members of the Bar Association in this state for the last forty-five years; most of them have been my per-

sonal friends. I am glad to welcome the members of this great Association to St. Paul, in a spirit of friendship and also citizenship; and I want to say this to you, my friends, I do not believe that there is a profession in the world that has been as completely backward and inactive in the publicity which it should have as the legal profession. You pick up the funny papers,—most of the jokes have to do with the legal profession. I honestly believe that the legal profession, after all has been said in condemnation of its shortcomings,—that the legal profession is, in my judgment, the one profession, even including the ministry,—is the one profession in the world which, if followed honestly, will give men a true reverence towards life. I take off my hat to the preacher and the school teacher; they are performing a great function in life. But greater still is the lawyer—dealing with justice, that justice which oftentimes means nothing more than one individual putting his shoulder under the burden of somebody who cannot bear his own burden. I venture to say that of all the professions in the world, there is none in which there are so many workers who have inspired and served humanity, taken care of the widow and orphan, supported great public utilities, without pay, as the profession of the law. And if the day ever should come when the legal profession is not the first profession in the world in its teaching of reverence towards life, in its obligation to humanity, then the lawyers might as well go out of business, because the legal profession is the cleanest, most honest, and altruistic of professions.

There are a lot of cheap agitators who talk about the lawyers; a lot of people find fault with the decisions of courts. I am free to say I have found fault with the opinion of courts. After all, you know that no lawyer was ever beaten in court and retained the same respect he originally had for the particular court, did he? (Laughter.) But, gentlemen of the Bar Association, I have said a hundred times and I say it again, if you go through the literature of the world, to find the finest expression of sentiment, of justice for humanity, if you want to express the fact in the most effective way, every prospect of human justice, the volumes that contain the decisions of the supreme court of the United States contain the most convincing, the most eloquent, the most humane support of the principles of human justice that ever have been cited anywhere in the history of the world. And when men say that courts are crooked and lawyers are crooks, I say to them that the legal profession, with all its faults,—and God knows all human institutions are not without faults,—I say to them I believe with all my soul that the legal profession all through the ages has done more to advance equality among men, justice between men, and the prosperity of humanity, than all the other professions in the world.

But as I said in the beginning, the lawyers have been slow to get the proper publicity for their great profession. I was brought up in an atmosphere that made me look with reverence upon the great figures of American legal history. I would like to ask any man in this room if you wanted to find out anything about Theophilus Parsons, the greatest lawyer New England ever produced, how would you do it? If you want to get the life history of William Pinckney, the greatest lawyer of America, where would you find it? Nowhere! If you want to find anything about William M. Evarts, where would you go? The history of America has

been made by great minds, great old lawyers; after they died, they have been forgotten. There is nothing in the written history of this country to show their contributions to the great government and society of the United States. The only great lawyer in America, outside of John Marshall, that great legal light, who ever has been honored by a biography that would let his countrymen know what he did, was the great chief justice of Massachusetts. But we have had great lawyers—many of them, Benjamin, Ward, O'Connor. Not a line in written history to show how they fought the battles in this country.

The legal profession has been lame in attempting to build up a publicity that would give honor to the great names in the profession who have done honor to American history.

I get started—I am almost making a speech. You are busy; you want to listen to the distinguished speakers you have here. I want to say, as mayor of St. Paul, that we welcome you; personally I want to welcome you as a friend and comrade, a citizen of Minnesota, as one who all his life has been in the atmosphere you are in, as one who, whatever other weaknesses he has, loves and reveres the great precepts of American law that have been laid down by the fathers of this country, and so, in behalf of the capital city, and as a personal friend and comrade, and as mayor of St. Paul, I welcome you to this city.

You ought to be glad to come to this city which makes it possible for all you lawyers to make a living. (Laughter.) This is the city where the legislature meets and makes average mankind glad of his destiny. So, I welcome you to the capitol city of Minnesota. My friends, I welcome you as lawyers, as men. I hope you are living up to the oath of office you took, by attempting to make law synonymous with justice, synonymous with those processes which attempt to get a fair deal for all of the groups and elements of human society. I don't care very much whether men are radicals or conservatives, because definitions don't mean much. I would rather be a radical who loved men, than a conservative who hated men; I would rather be a conservative who was fighting for the rights of men, than to be a radical who didn't fight for the rights of men. But I appreciate that the legal profession, which has given more to the history of the United States than any other profession, will always be a profession that knows nothing either of conservatism or radicalism; that knows nothing either of optimism or pessimism, but is dedicated by its oath to the precept that all of the people of this country are entitled to a square deal, and that the biggest job you have in life is to strive to get a square deal for the other fellow; that you and I as lawyers will have the task, will be under the obligation of making the law synonymous with justice, synonymous with kindness, synonymous with that humanity that can forget technical decisions, and all considerations that are based upon technicalities, and that the great Bar Association is not going to worry about the technicality of the law, but is going to be dedicated to the higher aim in life, which guarantees life, happiness, justice to the humblest citizen who raises his hand in appeal to that justice which exists independently of man-made laws.

My friends, if you will pardon me for this long-winded speech, I will state again to all of you that I welcome you to St. Paul; I want you to be happy while you are here; I want you to come back every time you feel like it; I want you to come back, and hope that as the years go by the Bar Association of Minnesota, which stands for nothing except for a complete justice to every humble citizen within the State of Minnesota, you will return. Good luck, God bless you, and if you don't have a good time here, come and let me know, and I will attempt to lighten your labors and add pleasures that will meet with your approbation. (Applause.)

My dear friend, Chester Caldwell, says I didn't give you the key to the city. I thought I had done more than sufficient when I threw away the key to the county jail. (Applause and laughter.)

PRESIDENT PUTNAM: Gentlemen of the Association, Mr. J. M. Freeman, of Olivia, will now make the response to the address of welcome. (Applause.)

RESPONSE TO ADDRESS OF WELCOME

MR. FREEMAN: Mr. President, Hon. Mayor, and members of the Bar Association, as the chosen spokesman of the members of this Association on this occasion, I assure you, Mr. Mayor, we have greatly appreciated your words. It is the best welcome address I have ever listened to; and it is due entirely to the fact that his Honor has not as yet been admitted to the bar. (Laughter.)

MAYOR HODGSON: You don't know.

MR. FREEMAN: Perhaps he is, I hope he is. I was going to say that if he were a member of the Bar, he would not have had the courage to offer the honest words of criticism of our profession that he has. They are exactly what we need.

Now, Mr. Mayor, I am going to explain to you just why we, as a class, have failed to do that which you think we ought to do. Here this morning I can say that confession is good for the soul; we are all here; we are all lawyers,—no newspaper reporters,—and I can make a frank admission. The trouble with the bar of this state is that we, like all other professions, have men amongst us who are not desirable, who are not worthy of the great name of lawyer, and the rest of them are too cussed mean to admit their greatness. Why, you are looking in the faces, Mr. Mayor, of some of the brainiest and most intellectual men of the Northwest, but they hide it all under the bushel. Let this be considered not what I am saying, but what his Honor has said. Let us get out and make some admissions that will be agreeable to us all.

Now, Mr. Mayor, we have during the past twenty-five or thirty years met in various cities throughout this state. Everywhere we have been received with great hospitality, and with that sort of cordiality that has made us appreciate the communities in which we have met. But we always love to come back to good old St. Paul, and have our annual meeting. There is something here, there is an environment, a sort of inscrutable something that appeals to lawyers of this state. Here, as your Honor has said, the laws of the state are made; here they are interpreted; here it

is that the history of this great state of ours has been made. We, of the rural districts, are not only glad to come to St. Paul, but we are proud to know that we have contributed much toward the success, development and advancement of this great state. The rural districts of this state have furnished to the state some great intellects; they have helped to build Minnesota; helped to build St. Paul. We are proud of it.

It wasn't many years ago that this was a small river hamlet; just a few years ago that the making of the history of this state began. And today we are meeting in a great city, a wonderful city, a city that has not been inspired alone with the spirit of commercialism, but a city that has been inspired with the spirit of progress; here a substantial business community, a beautiful and great home community. We are proud, Mr. Mayor, to be with you today. We are mindful of the fact that St. Paul has furnished to this state, and to this great nation of ours, some of the most brilliant men, plucked from the members of this Association. We have in mind this morning Kellogg and Davis, Stevens and Severance, all brilliant and able members of this Association, we have in mind what they have done towards the administration of the nation's affairs. We are proud this morning to meet in this city, the home of those great men, and we are glad to know that we are going to spend three days with you, Mr. Mayor. We know they are going to be days of joy, and we know the hospitality and the friendships that you are going to extend here will be appreciated by all of us. We are going to have a good time. We don't want the key to the city, we don't care anything about the key; we are going to be all free lances, but good citizens, law-abiding citizens. Maybe a few will have their cars tagged, and we will call on you, Mr. Mayor, if that happens.

I thank you on behalf of the members of this Association for the very remarkable address you have given us, and for the courteous words of welcome which you have uttered. (Applause.)

PRESIDENT PUTNAM: Gentlemen of the Association, the Agricultural Society is having a meeting here at the same time we are holding this meeting. There is a gentleman here this morning, a congressman from Iowa, who has been very active on the agricultural situation question in Congress. He has consented to give us a talk this morning. I now take pleasure in introducing to you the Hon. L. J. Dickinson, member of Congress, who resides at Algona, in the state of Iowa, in a county adjoining Minnesota.

Address by Hon. L. J. Dickinson

Hon. L. J. Dickinson: Mr. President and members of the Association, I am glad to see such a splendid group gathered here, representing the legal profession of the state of Minnesota. When you get together, I say, God pity the rest of the commonwealth. (Laughter.) What I don't know about the law of Minnesota, would make a large book. I have had very limited experience with the lawyers of Minnesota. I remember one case I tried in Fairmont, where Senator Putnam was on the other side. The court held with Senator Putnam, and the matter was appealed. I remember I came up to St. Paul. I had a New York case and he had a Massachusetts case. Although I come from a long line of Dickinsons reared in Massachusetts, I wasn't convinced that that Massachusetts law was right. Senator Putnam was convinced it was right. When I got up before the Supreme Court I kind of forgot the case for a few minutes, but when Senator Putnam got up, he said, "If the court please and gentlemen of the jury," (Laughter) and immediately I felt at home.

You people, regardless of where you live, regardless of the community in which you reside, are not a bit richer than your clients. You may think that you are, but you are not. Whenever your clients get to a place where they have to come to you and give you their I. O. U. for your fees, and ask you to advance the costs, if necesssary, to bid in at a sheriff's sale, then you begin to realize that there has been an economic slump in your locality.

I remember the other day my old partner said to me,—although I have no interest in the firm, it still carries the name of Harrington & Dickinson that was established in 1897 and carried on for 20 years. The good people of that district for one reason or other, for which I have not been able to determine, sent me to Congress, to get rid of me or for the good I could do, I have never been able to find out the reason, Mr. Harrington told me the other day that the whole trouble with the law business now is, "I have all the business I can do, but I can't get any cash." What is the cash dependent upon? It is dependent upon the economic turnover of your locality. The economic turnover of the average locality in Minnesota is the price you can get for the products produced.

The majority of you are living in the rural localities where you are dependent on the crop turnover for your fees, grocer's bills and livelihood. I think I know something about the problem.

A great many people have said to me that there is absolutely nothing in attempting to revive agriculture by legislation. A great many people have said that the trouble with our trying to do that is seeking some political recognition and spreading propaganda for such purposes. Well, Frank Murphy has been an advocate of that for a great many years. But I never knew him to run for anything, so I don't think it can have political propaganda behind it. I don't believe that there are many men in public life who are familiar with farm relief from a political standpoint. There is a reason for it. I want to discuss it a few minutes, but I am only going to take a little time.

I was getting shaved in a barber shop and I noticed up on the wall a sign "Licensed Barber," John Smith, or whatever his name was. I wondered why he had the license there. He had a license because it was required by the state of Minnesota, to limit the number of barbers, so everybody couldn't start a barber shop. In the University of Minnesota they have been increasing the requirements for admission to the bar. You say it is to raise the standard of lawyers. Bunk! Why don't you admit it is to limit the number of men that can go into the legal profession? That is all it is for.

I noticed down here in every doctor's office a sign, "Licensed Physician and Surgeon." They will say it is to raise the standard of doctors. Well, it is not at all. It is to limit the number of men that can practice the medical profession. I noticed down here that the waiter who waited on me this morning had a union badge on the lapel of his coat. What is the purpose of a union badge? It isn't to make for more efficiency in the service of a waitress or waiter. No, it is to limit the number of people, to control the number of people that can practice that calling.

Why not be honest with ourselves? You will find this in the banking group—trying to control the finances of the country. Again, the railroad group. Just now you are consolidating the Great Northern and Northern Pacific. What are you doing it for? Why, it is to control the management of the rails and their lake connections, to have the greatest railroad system in the Northwest.

I notice down here you have growing up in St. Paul just exactly the same thing that is growing up in practically every other municipality of this size, and that is chain stores all along the line. I notice in the city of Des Moines, which is a fine city of 165,000 or 170,000 people, they have recently consolidated two of the great drygoods stores down there. What was the purpose of the consolidation of those two stores? Was it so my wife, when she goes down to Des Moines to go shopping, would have only one place to go and have a charge account, instead of two? No, it was to cut down the overhead and limit competition, that drygoods stores in the present economic state of the country might carry on. You are going to do that same thing in Minneapolis and St. Paul before that crisis is through. What does it mean? It means in practically every line of trade or endeavor that the doctors, lawyers, barbers, waiters, workmen,—you are following the same general lines.

The prosperity of Minnesota depends in large part upon the farmer who produces the raw commodity out of which your food stuffs are made, and out of which your clothing is made. And yet there are a lot of people turn around and say, whenever you try to do anything for the farmer, that it is political propaganda, trying to work out a personal program for your own advancement. I want you people to get away from the idea that there is not any truth in the belief that you can do something for the agricultural people of the Northwest by legislation. I have told this story,—the other night I was coming out of St. Louis on the sleeper, and just as you men do late in the evening, I drifted into the smoking room to visit with whomever happened to be in there, before going to bed. I drifted into the smoking room and found three or four fellows

visiting there, none of whom I had met. I sat down in one corner,—I didn't know them, and they didn't know me. One fellow broke out in quite a strong expression and said, "Well, if we could just get away from this propaganda for farm relief legislation in this country, we would have peace." And he added, "There is nothing to it." That woke me up, and I said, "What is your business?" He said, "I am a banker." I said, "What do you sell?" He said, "Services, money." I said, "What has this government done for you in the way of national legislation to stabilize the price of your commodity? Well, we passed the Federal Reserve Act, Comptroller of the Currency Act, National Bank Examiners, Federal Reserve Bank,—one of which is in St. Paul or Minneapolis, I don't know which; the government has established all of the legislative machinery from top to bottom, the most expensive piece of machinery it has, to protect one particular interest in this country, and all of it is for the purpose of stabilizing money." After I got through with that fellow, he went to bed, because I showed him the government had spent more money trying to stabilize the price of his commodity than it could possibly spend under the proposed farm relief to make that stable too. You may think it is just aiding the fellow that wants to eat but doesn't raise eats, but buys his eats as cheap as he can. But if the economic situation of your locality depends on those eats, I care not what line of endeavor you are in, you are interested in the price of eats, the prices men can receive for them.

I found that, following the World War, our railroads were in a tremendously chaotic condition. I don't know how many of you fellows are retained by the Great Northern, Northern Pacific, Milwaukee, or any other road in Minnesota; I don't care. But you know, if you happened to have some stock in those railroads, following the war, you were interested, because your stock wasn't worth much more than some of my bank stock is in Iowa, where the bank failed, because you didn't know what was going to happen to the railroad. Did you work it out by cooperation of the railroads? No. Did you work it out by saying we ought to organize some corporation that will loan the railroads money at a low rate? No. Did you work it out by efficiency in the operation of the railroads? No. How did you work it out? You came down to Washington and made all necessary arrangements for stabilizing the transportation system of this country. Some of you ought to think over the various things that have been done in your localities, throughout the country, and see that all of this is having a tendency to centralize control. The only fellow left out is the fellow on the farm who produces the raw products. You may think you can leave him out and get by, but you can't. He is the most important factor in the economic stability of this country. And all we want to do with farm relief legislation is to so arrange that he has something to do with the sale and the bargaining power, and the price he is going to be paid for his commodity.

Who fixes the lawyers' fees? Well, I used to fix mine; and if you don't fix yours, you are a bunch of suckers. You can charge your fees according to the client's ability to pay. But you are usually trying the case, and can't say he is in position to pay the fee you ask. When it comes to farm products, many of you say the law of supply and demand

should govern. If some of you people have been advocates of this law of supply and demand theory, you go home and revise your ideas. I will tell you why. The old law of supply and demand has lost out. It covers the long cycles perhaps, but it has nothing to do with short cycles in prices. Only recently we have seen corn fluctuate from about 60c to 90c at the local elevator, then back to 80c and then up to 87c. Yet conditions were the same in the Mississippi Valley. We have had practically nothing that changed the conditions in the corn area in this country. According to the various propaganda they put out, it fluctuates in the various communities. They know the visible supply; they know the crop conditions. Yet it is the short fluctuations up and down that are practically the ruination of the farm people. This game ought to be stopped; it is the short fluctuations up and down that are the ruination of the farmer.

The other day my mother had 6,000 bushels of corn on the old home farm. It got up to 67. She thought I had some business ability. She said, "You sell that corn whenever you think it ought to be sold." I looked over the field, and finally reached the conclusion I better sell the corn for 67c, so I sold it. Within three weeks' time corn went up 12c a bushel. And I thought I was a fellow of average intelligence in understanding crop conditions, and market reports. It was nothing more nor less than speculative propaganda that made those fluctuations. If the farmer does not receive relief, the old Mississippi Valley is going to have a hard time in the near future. Freight rates are against them! The St. Lawrence canal, the water-way to the sea, is not the solution. Suppose in your time and mine we started on that program. Do you know how long it would take to finish the St. Lawrence canal and make a water-way to the sea? It would take 12 or 15 years. Do you know how long it would take to dredge the Mississippi River and get a six-foot channel from here to the Gulf, and provide all the other necessary conditions? It would take six, seven, or eight years! There are a lot of farmers of Minnesota and North Dakota that are not going to be able to hold on even six or seven months, let alone six or seven years. So what is the use of prescribing to a man who is on his death-bed a series of exercises that he is not going to be able to use? What is the use of prescribing a remedy where you know the patient is going to die before he can take it?

We are asking for legislation, legislation that will be corrective, that will bring about a remedy that will be effective within a limited length of time, and if we can't get that, the farming proposition has got to go on. You may think Minnesota isn't on the decline; but a study of the economic turn-over of Minnesota shows that it is on the down grade. The only difference between Minnesota and Iowa is that the slope we are on is a little bit steeper angle than Minnesota. You have iron mines up here, you have more dairy interests. We are more of a hog producing state, without these various returns that come in from outside resources, while Minnesota has the other resources that keep your slope from being quite as depressed as ours. How are you going to arrange to give the producer bargaining power? In my judgment it can be done through giving a board the right to name a cooperative group to sit in at a centralized market and give them bargaining power in the matter of the control of the surplus of commodities, and that is the whole purpose of the Mc-

Nary-Haugen bill. The whole purpose of the machinery to be set up is to have some one at the centralized market in control and paying the actual producers. You may say, well, the government should never have gone into business. No! It has only been in business for about 151 years. Don't tell any one that is intelligent that the government isn't in business, because it is in business. It is in the banking business right here in Minneapolis; it is in the banking business in every locality in the United States; in the industrial business where we fix the price of a commodity, or stabilize it by raising or lowering the tariff schedule. It is in the dairy business right now, for the benefit of the state of Minnesota; and I joined with the delegation from the state of Minnesota and voted for the increased tariff on dairy products. Is the government in business? No, it was the stabilizing influence that helped to shoot the price up on your dairy products where it could carry on on a higher scale, without meeting the competition from Denmark, Norway and Sweden. No, the government isn't in business, but it is the safety-valve that determines the degree of prosperity of every community in the country.

Right now, I don't know how much Swiss cheese you make in Minnesota. Over in Wisconsin they are interested in the tariff on Swiss cheese. And that matter has been taken care of. Don't tell me the government hasn't been stabilizing business, because it has. We want it to do the same thing for everything raised, or any other farm commodity that you want to name.

There are one or two other phases of this matter I want to take up, but I will only take two or three minutes more. A great many people say if the farmers would diversify, they could work out this whole problem; that the wheat producers of the Northwest are raising too much wheat; that they should cut it down. All right, they cut it down, and there was an increase in the acreage of corn down in the southwest section of North Dakota, also South Dakota, Nebraska, Kansas. What happened? You cut down the acreage of wheat, and did a little better for the wheat men; but what did you do for the corn men? You had a surplus of corn all over the United States. Corn, within six months' time went down from $1.70 a bushel to 22c at the market elevator down in Iowa. A banker that had 6,000 bushels of corn as security, one day it was good for $5,000.00, and the next day it wasn't good for $1,000. And that is happening to a lot of bankers in Iowa right now. You can't do this by diversification. One individual may help himself out. But if you increase one commodity, you merely change the surplus from one commodity to another. And so you are not going to solve this question by diversification.

There is another group say you can do that by cooperating the market. Why can't the lawyers of Minnesota cooperate and fix a policy to be followed by all the bar over the state of Minnesota? You will find some fellows that won't follow out the policy adopted by the Bar Association. You say, why can't all the farmers get together? I will tell you why. It is because in Iowa there are some counties that produce corn for sale; other counties that buy corn to feed. In Minnesota you have some counties that produce corn and oats for sale; in other counties you buy those products to feed your dairy cattle. Now you are asking

the man that feeds corn for dairy products and the other fellow over here to get together in a common union and agree upon a policy where they have conflicting interests; and that is humanly impossible. The result is you are never going to get all the individuals together on a policy of production and sale of raw products. The only way you have is to centralize the market; have your product where the producer has an interest in the matter. And that is the sole purpose of the McNary-Haugen bill.

There are other people saying we are going to solve the problem by loaning the farmer more money. The great trouble with that is that they have borrowed too much money now. As a matter of fact, loaning money never helps a man. He is sitting in on a game where he is running at a loss. If you can't show a return on his product where he can show a profit, every day, then every dollar you loan him puts him that much deeper in the hole. For that reason get over the idea that you are ever going to solve the farm problem by loaning money at lower interest. We are interested in freight rates, in production, everything that will help build up the farm program; but until you can have some control over the prices the farmer is going to receive for his product, the farm situation is not going to improve.

Let me suggest one thing more,—if you have any respect for yourself, don't say, because corn has increased from 50 to 90c in Iowa, that the farm problem is all solved. Why? Because when they increase corn, they cut down hogs; and the cost of corn and hogs governs in Iowa. One dollar in corn represents five dollars in hogs, so there is a fluctuation in these commodities, one high, one low. If the farmer is good commercially, high grade, he can make money; but there isn't one out of a hundred can do that, and for that reason you have the economic slump in this Valley that has been going along year after year. It isn't going to be remedied by the cooperative organization; it isn't going to be remedied by loaning money; it isn't going to be remedied by letting them alone. They must be put on a parity with the other people, by giving them some protection. In my judgment the farm relief situation is largely a matter of future legislation, fixing national policies, and if they don't get that, you are not going to start building up the economic status of the Middle West unless something of that kind is done.

There is much more I would like to say to you, but time is short. On the whole I know that you people up here have a kindly sympathy for the problems of the farm people of the state, and I have appreciated very much the opportunity of making a short statement before you with reference to National Farm Relief Legislation. (Applause.)

PRESIDENT PUTNAM: I want to make an announcement to you before you go. This afternoon Senator Caraway, of Arkansas, will address the Association on the subject of Laws and Law-makers as I Have Known Them. I understand this is a very interesting talk or speech he will give us, and I hope all the members here present will be here this afternoon at two o'clock.

Now, there is one other subject that is not on the program here today. This is a talk that is to be given in connection with the organization of the State Bar Association. The last two years we have completed, to some degree, but not wholly, the reorganization of the State Bar Association.

Now, a speaker has offered to come here and talk to the presidents and secretaries of the local bar associations—very many of them are not here yet,—but it was thought best to have him address the entire Association for a little while. He is going to talk on the subject of organization; he can tell you what the regular medical doctor has done as to organization, and perhaps he may be able to give us some pointers so the lawyers can make an organization that is effectual. I don't think it will ever be possible for the lawyers to make as effective an organization as the regular doctors have organized for their own benefit, but he may be able to give you some pointers at this time. I now introduce Dr. Wright, president of the Minnesota State Medical Association, who will address you for a few minutes.

ADDRESS BY DR. WRIGHT

Mr. Chairman, members of the Association, I feel somewhat embarrassed appearing before so large a group as this. I don't feel like Irvin Cobb felt, when he went back to his old town of Louisville, and got in the hotel where they were having a public function in his honor. Somebody asked him how he felt, and he said, "I feel like a lion in a den of Daniels." I don't feel like that; I feel very humble, very nervous, as a matter of fact, speaking to such a group.

I have been asked to come and say something about medical organizations. As you know, the medical organizations or associations, or the doctors, rather, of this country have been organizing for many years. The American Medical Association was organized first in 1849; it struggled along for many years, opposed by many of the leading members of the medical profession. They thought it was wrong to organize; it wasn't right for doctors to organize, it was too commercial; it didn't appeal to these high-minded doctors. About thirty years ago the organization began to really take on its present form. That was due to the fact that a man of ability as an organizer had charge of the organization,—Dr. Simmons who recently retired. He built it up into a condition whereby organization has done not only a tremendous amount of good for the doctors but for the public as well. Don't ever have any misunderstanding about that. The better men of any profession are not working entirely for personal gain; I want that distinctly understood. No man would go into a profession and stay in it if he wanted to become rich. He doesn't do it.

These organizations, what do they do? What does this organization do? First, they have a council of pharmacy, a group of men who spend their time investigating every new method of treatment devised; they are paid for this work. They go into every form and method of treatment, and they try to find out whether it is worth while, whether it can do any good. They tell the profession about it, 92,000 in this country, keeping them fully informed as to what is going on. They publish a journal of internal medicine, which is for medical men in particular; they publish various other journals, a directory of the medical profession, which has in it the names of every man licensed to practice, whether homeopath, eclectic or a graduate of our regular schools. In addition to that they look after various interests, arrange meetings, as you do. The organization is simply an organization which is run by so-called house-delegates made up of members elected from the various states, on the basis of one delegate to every five hundred physicians. They elect their own officers. The actual business is run by a board of trustees which is elected by the house delegates. They do not all go over the same period of years, so that only one starts out in a period of two years. The officers are elected every year.

Our own organization was organized in 1859. It struggled along. They had a lot of good fellowship during those days; not so much now,—and a few scientific meetings. That has gone on for a long time. We are organized on practically the same basis today. It is a local organiza-

tion. They meet every year and they transact the business of this association,—the state delegates. They publish a journal; they appoint various committees to look after the interests of the profession; they act as censors on the conduct of members of this organization. They have the power of dismissal, which at the present time no member would wish to have happen. If his conduct is unbecoming in the eyes of the medical profession, they can dismiss him from the organization. I believe that is absolutely necessary. An organization which has not the power to censor its own membership will fail. They meet every year, and they transact their business.

In 1924, and I think you are more interested in this period than anything else—as you know there are various types of legislation that have been passed,—we got nothing through the legislature, because nobody took the time to interest anybody in anything that pertained to the medical profession. 1924, at St. Cloud, they reported that there was no use attempting to pass legislation, because they felt it was a waste of time. The conclusion was it would be better for the doctors to sit down and wait until the people came to them and asked for advice. In 1924 Herman Johnson was appointed; he started in to organize the profession; he first went about the state talking to the local societies, and got them interested. He spent practically two years of his time doing this, without compensation. He went to the legislature, in 1924 or 1925, it was. That winter they passed the statute of limitations, decreasing the time from six years to two years in malpractice action. It is a very fair proposition; it was something that would appeal to anyone as being just. The largest percentage of these cases were being brought just before the six years' time had expired, when all the witnesses had separated and the nurse gone, and there was no way of establishing the innocence of the doctor. That was put over. We were told it couldn't be done; we were so told by members of the legislature themselves, by members of your profession. That thing went through because Johnson took the time to go down there and talk to these men and convince them of the justice of that particular thing.

Now, we have been trying for many years to pass a bill that would limit or restrict and provide some qualifications for the man who is going to practice any form of the healing art. It only seems reasonable for that man who is going out to practice any form of the healing art, that he should have some qualifications. He should know some anatomy, bacteriology, and some of the few fundamentals. That seems a reasonable proposition; certainly it seems reasonable to me. Anyhow, we have been fighting for that thing for a long time. We are opposed to the idea that a barber can go and in six months come back a doctor.

I wish to take issue with the former speaker as to the reasons for pressing such points. When the state of Minnesota gives a man the right to practice law or medicine, it doesn't guarantee him any income; it doesn't guarantee a living. It guarantees that he can go out and pose before the public as a man in whom they can have confidence, who will inspire them with respect, a man whom they will feel free to consult professionally. Now, if you are not going to have such requirements any longer, if it doesn't mean anything to be a doctor, if anybody can be

a lawyer, that license means nothing to you or to me. That is why we want to raise our standard; that is the sole reason why. Not because I want to keep other people out, because there is no monopoly in this thing. Any one who will provide himself with the necessary requirements can become a lawyer or doctor. There is no attempt to restrict or control competition. It means simply that a man must know something along the lines he is going to take up to become a doctor, and the same is true of law.

I may be wrong about this, but I believe the days of the old type of lawyer are almost gone. A man now to be a lawyer must have an education; he must go to school, and learn all they know about law. In the old days we had some wonderful lawyers developed by going into a lawyer's office to get an education. But those men were men that educated themselves. It wasn't just because they could get in that way that they were good lawyers.

We were able to put that law through; we were able to pass that law this year, providing for cleaning up our profession. Do you know what it means to the practice of medicine,—putting in the council of the State Medical Association the power to act as to the men who are to be on the State Board of Examiners? In other words, we are trying to take that board out of politics. We have a live organization, and I believe it stands for things that are absolutely right and sound. That is the reason. Our strength lies in that one thing, that we are working not only for our own good, but for the people of the state of Minnesota. If we started out to work purely for our own selfish interests, we wouldn't get far. If the time comes when we start out to create a monopoly in the practice of medicine, to keep good men out, or in any way restrict the individual opportunity of any man to practice, then we might as well tear down our shingles. I have always felt that there should be many more educated men in the professions. I think we can admit, without opposition, that a doctor who gets now a modern education, graduates from college, a medical school, is an educated man; we must admit that lawyers are educated men; dentists are becoming very well educated men.

It seems to me there must be some common grounds where we can get together on certain types of legislation that concern professional men; we have to stand together in a certain way. The legal and medical professions are very closely interrelated in their work. There is a legal aspect to the medical all of the time. Therefore I feel it would be a very good thing to have some sort of committee to straighten out the border-line things that come up between the two professions, and get together on these things.

I shall be glad to answer any questions in regard to the medical profession's organization. I hope I have made myself clear. I certainly thank you for the opportunity to speak before this group, as a feeble representative of my profession. Thank you. (Applause.)

PRESIDENT PUTNAM: On behalf of the Association, I thank Dr. Wright for his appearance before us and his address which he has given us on the subject of organization.

It is necessary now to appoint a committee of three to audit the accounts of the treasurer of the State Bar Association. On that com-

mittee I appoint Chas. S. Kidder, of St. Paul, Morris Rieke, of Minneapolis, and Carl Rado, of Jackson.

MR. CALDWELL: Judge Waite, of Minneapolis, has requested me to ask Messrs. Agatin, Macartney, and Pierce Butler, Jr., to meet with him immediately after adjournment.

United States Senator Caraway will address this assembly promptly at two o'clock. Please, everybody, be on hand at that hour. The Senator must start on time, as he is going to leave the city, and everybody should be here promptly to hear his address.

PRESIDENT PUTNAM: The meeting will now stand adjourned until two o'clock.

Afternoon session, pursuant to adjournment.

PRESIDENT PUTNAM: Gentlemen of the Association, this meeting has been blessed with a considerable degree of talent from the outside. There are two United States Senators from different states here, attending this meeting, for the time being. Senator Caraway is on the regular program for a talk this afternoon. One other Senator, Hon. H. W. Barclay, from the State of Kentucky, is also here, and I am now calling upon him for an address to you for such time as he sees fit to take. I take pleasure in introducing to you Senator Barclay. (Applause.)

ADDRESS BY SENATOR BARCLAY

Mr. President and members of the State Bar Association of Minnesota,—My dear friend, Frank Murphy, did me the kindness this morning to invite me up to observe your proceedings for a very brief period of time, and suggested that he would like me to be introduced to the audience, not because of any great degree of pulchritude upon my part, but that I might diversify my activities while in the City of St. Paul, from agriculture to law, but when the noon adjournment approached without that formality being complied with, I had hoped that the chairman would find himself too busy to call upon me for any remarks.

I am happy to be here, to be in the City of St. Paul, at a time when your State Bar Association is in session. I would not trespass upon your time, because I am sure that before these outsiders get through with their speeches, you will regret that you had your meeting at the time the farmers were holding their conference, and that thereby a lot of alleged outside talent was injected into your proceedings, inflicted upon you. But inasmuch as I have been called upon by the president to say just a few words, I will take a few moments to offer a suggestion or two that I think is not entirely out of place at a State Bar Association meeting.

As I said last night to an audience at the Agricultural Conference, when I became a member of the senate and went back to Washington, my wife said I felt somewhat proud of my promotion, and that my hat increased in size. Naturally one feels a sort of exhilaration when he has been lifted up a little bit. I heard a story in Washington that rather shook my confidence. One of the teachers in Washington had a class in government. When she had taken up all the other branches, she finally came down to Congress. She said to her class, "How is Congress composed?" One boy held up his hand, and said, "It is composed of the senate." She said, "Isn't there a lower body than that?" And he said, "There certainly isn't." (Laughter.) Then I had very serious doubt whether I had been promoted or demoted by my election to the senate.

But after all it doesn't make any difference. We get ourselves puffed up with a little brief authority and imagine our names are household words in every home in the United States. We suddenly awaken to the fact that our next door neighbor doesn't know anything about us.

I come from the City of Paducah, in the western end of Kentucky, across from Illinois. Irvin Cobb is also from that city. (Laughter.) When I was a young fellow, I read law in the office of Judge Bishop, who was for seventeen years judge of our circuit court. When Mr. Cobb decided to become famous as a literary character, he took as his first hero this old judge, changed his name from Bishop to Prest and wrote about Old Judge Prest. Every year Cobb comes back to Paducah and they give him some sort of appreciation meeting. On one of these occasions I was asked to present him to the public audience, as a recognition that I had read law in the office of his first literary character. I had known Cobb from the time he was a cub reporter on the banks of the Ohio reporting the incoming and outgoing of steamboats; I had seen

him promoted to police reporter; to city editor, to managing editor, then to the Saturday Evening Post and international fame. So I started out at the bottom to introduce Mr. Cobb. I said, "Ladies and gentlemen, I have been asked to introduce Irvin Cobb. Who is Cobb? I remember when he was a cub reporter on the banks of the River, reporting the incoming and outgoing steamboats. Who is Irvin Cobb? I remember when he was promoted to police court reporter in our city hall. Who is Irvin Cobb? I remember when he was made city editor of our local newspaper. Who is Irvin Cobb? I remember when he went to Louisville and became connected with the old Louisville Dispatch. Who is Irvin Cobb? I remember when he went to New York, was given a small assignment on a great daily, which he performed so well, that he received full recognition. Who is Irvin Cobb? I remember when he wrote his first article in the Saturday Evening Post. Who is this man Irvin Cobb? I remember when his name leaped the Atlantic ocean and became a household word. Who is Irvin Cobb?" Just then some old man, a little man, rose up, struck his hands together, and said, "Barclay, by God, I'll bite; who is he?" (Laughter.)

So, my friends, it doesn't make much difference whether we are senator, lawyer, or private citizen. We are all tremendously concerned about this thing we call government; and I know of no profession that wields greater influence in shaping the forms of our government, and in shaping public estimation in this world, than the legal profession. As was suggested this morning, in every great fight in the world's history for the liberalization of government, the legal profession has taken the lead. It isn't all of government to be president, high as that honor is; it isn't all of government to be governors, nor senators, nor members of Congress, nor members of the various legislatures. It isn't all of government to be a judge on the bench, nor a juryman in the jury-box. The highest assumption of government in its practical application to the ordinary problems of society, is the bringing into common touch those who enact the laws, those who interpret the laws and those who are supposed to obey them.

We have seen in the newspapers discussions of the question whether the federal government is not going too far in their assumption of power; whether it has transcended its original design and perhaps usurped some of the functions of local government. I am inclined to the opinion that in many respects probably we have gone too far, for there is no time from the cradle to the grave when we are not constantly in touch with this thing we call government. When we are born into the world, that momentous event is recorded in a book for that purpose. When we ride in an automobile or ride in a car, the government has a tax, in order to raise revenue to support political institutions; in front and behind is a tag for which we have paid city or state, without which we are subject to immediate arrest, because of the law. When we get married or divorced, we are divorced or married because of the law. We sit here peacefully,—at least physically comfortable, although you may be at this moment in mental agony, (Laughter)—because of this thing which we call the law. When you return to your homes, whether they be humble or spacious, you realize that no intruder or invader has been able to divest you of your title, because the law has said somewhere in the court house an instru-

ment called a deed has been recorded, which serves notice on mankind it will protect you in the possession and enjoyment of the premises until the title is properly transferred.

Every man and woman is hedged about by this thing we call government, which is only another expression for law. And I would suggest to those who believe the government goes too far sometimes in the regulation of men, to reflect upon the fact that in our complex civilization, there is no escape from an attempt upon the part of some form of government to fix restrictions and regulations which will protect the lives of men and women, their rights in this complex civilization we have brought about.

During the first administration of President Wilson, there was a vacancy upon the supreme bench, and there was a candidate for that high office from the state of Kentucky. A Kentucky delegation went to the White House to recommend this distinguished lawyer; and I have never forgotten and shall never forget the very unexpected question President Wilson put to our delegation when we, in our turn, had recommended this distinguished judge of Kentucky for this high station. President Wilson turned to us and said, "Gentlemen, does your candidate believe that the law grows or does he take the legalistic view that it is finished?" And in that interrogation President Wilson gave a picture of the man whom he desired to appoint to the supreme bench. The law is a matter of growth; so is government a matter of growth. And therefore we cannot fail to recognize the fact that in our complex civilization, when we have harnessed all the forces of nature to bring them to be subservient to the desires of man, it is not strange if government finds it necessary to go beyond the restrictions that in the beginning may have been exercised, in order that the rights of society may be protected, and that our form of government may go forward in advancing columns, in proportion as we believe that not only law grows but that government grows according to the needs of the people.

This morning we may have gotten a mistaken idea as to what was meant by one of the speakers when he suggested that the requirements for admission to the bar and to the medical professions had been somewhat advanced or raised, in order that men might be kept out of those professions. I agree with my friend from Iowa as to the agricultural problem; but I cannot go with him in the suggestion that the great profession of law, which as I have said, has been at the fore-front of every liberal movement for the rights of mankind in the history of the world, is actuated by so narrow a selfishness that it desires to restrict the admission to the bar in order that it may eliminate competition in the profession. (Great applause.)

When I recall great physicians like Dr. Reed, who gave his life in the tropics, in order that he might demonstrate the conquerability of yellow fever, I cannot believe the great medical profession is actuated by any such sordid motive in lifting the requirements for admission.

I think that the legal profession is the most liberal, and the most generous, not only towards its members but to those who desire to become members, of all the professions with which I am acquainted. If I should find any fault with the legal profession, it would be because it is too lenient, too generous, too charitable; and if I had my say about it,

in lifting the requirements for admission to the bar, I would not only take into consideration intellect and superior professional training, but I would take into consideration moral character and intellect, so that men, when they enter the great profession of law, may not mar nor blot it. (Applause.)

I have seen in my community, and every lawyer has seen in his community, men who have been admitted to the bar and retained, when they ought to have been kicked out,—all because of the generosity and charity of other members of the profession. (Applause.)

So, my friends, in conclusion, I would say this to the legal profession,—do not allow yourselves in the practice of law, in the representation of your clients, in looking upon public questions from a lawyer's standpoint, do not allow yourselves to be restricted in the straitjacket of formal legalism but recognize that you are a part and a very vital part of this thing that we call government in the United States, and seek to elevate the standards of your profession, the standards of conduct not only in the court house, but in dealing with great political, economic and social questions, so that those who have the right to rely and depend upon you and have confidence in your opinions, will all the more lean on you for guidance in the direction of liberalizing our institutions, so the people who have not had our advantages may be prouder of their country, more confident of their government, and more willing to serve it in peace as well as in war. I thank you. (Prolonged applause.)

PRESIDENT PUTNAM: In behalf of the Bar Association I extend the thanks of the Association to Senator Barclay for his talk to us this afternoon. It has been wonderfully instructive. He has brought to the minds of the members of the Association perhaps many things that many of us would not have thought of otherwise.

I will now introduce to you another outside speaker; another United States Senator,—from the state of Arkansas. I heard him the other night over at the farmers' meeting, and I had quite a visit with him the other morning. I think you will hear some wit and some good sense I take pleasure in introducing to you Senator Caraway of the State of Arkansas.

ADDRESS BY SENATOR CARAWAY

Mr. President, ladies and gentlemen, I presume I am presented as Exhibit A, (Laughter) to show you that anybody may be a senator in the United States. (Laughter.) I practice law. That is when I can get a client. I formerly was a teacher in the public schools. I taughty sixty months and I never taught in two schools in the same community. There was a reason. (Laughter.) Getting tired of this, I waived the examinations necessary to entitle me to practice, procured a license and opened an office. I think I enjoyed a distinction that few lawyers here have,—from the time I opened the office in the town where I practiced law, I was the leading lawyer in that community. I was the only one there. (Laughter.)

The subject that I had suggested to myself that I would discuss briefly with you is the lawyer and those who make the law. I realize more than you realize the peril to your organization when you invite some one who is a member of the Senate to talk to your association. I am a member of a body that does business on rumors; where accurate information is always discouraged, because it tends to set a precedent we do not care to live up to, (Laughter) and where, as you have been often informed is unlimited discussion. Many people condemn it; those who have heard it, condemn it most. (Laughter.) However, let me say this seriously, that I think the Senate is the last refuge of absolutely free government in America; it is the only place I know where every question may be discussed openly and freely, and finally decided, after everyone who wishes to be heard, has been heard.

I was a member of the House of Representatives for eight years before I went to the Senate. Under the present rules of the House, there is no freedom of discussion; there is no opportunity for the House to express itself freely upon matters that are injected or have been brought into the house for solution. Under its rules a few men parcel out the time for general debate, and after the speakers have been named and the time allotted, every other member of the House goes out to his office and writes letters to his constituents to tell of the valuable services he is rendering, and that he hopes they will continue him in office.

I heard the discussion that preceded the vote that declared a state of war existed between this country and the Imperial Government of Germany. When it narrowed down to three men in the House, they drew straws as to who should have the first chance and therefore have an audience of two. A friend of mine drew the long straw, and made his speech to the clerk and the presiding officer. I say, and I am saying this advisedly, from a long and familiar acquaintanceship with the proceedings in the House,—and it isn't a criticism,—that I have myself voted and I have seen other men vote when they hadn't heard one word of the discussion. Why, it is like trying a lawsuit before a Court that sleeps until he is ready to render his decision. You have all had that experience. (Laughter.) Some one of my political persuasion would stand at the door and would tell me what the question was upon which I was about to vote and

how our folks were voting and how the enemy was voting, and I would go in with that information and vote.

I saw a contest settled in the House of Representatives between two men from North Carolina, when the vote had been tie, and the tie vote had been lifted five times. Every one of us went out to hunt up somebody on our side which would break the tie in our favor. We finally found a man who was chiefly known because his daughter married Walter Johnson, the great base ball pitcher. He was locked up in his office, entirely oblivious of what was going on. They broke in, and he thought the police had him, and he kept telling them he was exempt from arrest, because he was a member of the House. That made the necessary vote.

In the Senate there is absolute freedom of discussion. Under its rules, it makes no difference what the attitude of the presiding officer may be, he must try as much as he can to look at the matter from his side and his enemies' side patiently. He must recognize the humblest member, and that member is entitled to be heard. Every man has a right to be heard and every question is to be thoroughly discussed.

When we first become acquainted with many of the men whose names are household words, as Senator Barclay facetiously said,—when I first became acquainted with that wonderful scholar from Massachusetts, Senator Lodge, I didn't agree with him politically, and I knew him intimately, and I think the public opinion of Senator Lodge was erroneous,—when we first become acquainted, we get our ideas from reading the newspapers. When we get acquainted with the individual, we are never able to identify him with the portrait the press has painted. Senator Lodge was a man of remarkable grasp; he had a hearty laugh; he would slap you on the shoulder and seem to be very much interested in what you were interested in. And I may say,—and I hope I will not be thought to be unkind to him,—that he was the most finished swearer I have ever known. (Laughter.) It was a liberal education to sit there and hear those almost unknown oaths that were never heard down in my more temperate community. (Laughter.)

Senator Lodge had that thing we call personality. We never know what it is; we never have been able to determine why we are interested in one man and not in another. It is something that makes some born leaders. Senator Lodge had that. He had a poor voice for speaking; it was so low it was difficult to understand him. He had to look down at his manuscript. I never heard him make an extemporary speech in his life; whether he could do it, I don't know. He wrote his speeches. I was sometimes opposed to the things he advocated; usually was. Yet there was something about him that compelled me to sit and hear him through, however much I wanted to interrupt and tell him he was all wrong. He had that about him that compelled those who didn't agree with him to hear his side of the controversy.

I knew the Senate when several other men were in power, for many have passed out by the hand of death. I knew when Senator Stone was a member of the Senate, a man who acquired, for reasons that I don't know, the nickname of "Gum-shoe Bill." I have never been able to determine why he was so designated, because I never knew a man more outspoken than he was.

I had the honor to serve in the Senate with that great man, Senator Knute Nelson, a man whose word was his bond, who sought to be fair in the Senate just as he was absolutely fair to everybody who had occasion to come before the committee over which he presided, which was one of the most important committees. If anybody had been nominated by the president for an appointive office, the right to pass upon that nomination came to the Senate, it made no difference to him who it was nor from what section of the country he came, he was certain to get a sympathetic hearing before that committee; it made no difference what Senator Nelson's private views were, he accorded to everybody a full and open hearing, to find out what their objections were or reasons were for desiring to have the man confirmed or rejected by the Senate.

Senator Penrose of Pennsylvania,—I think no one who didn't know him, would recognize the picture the press painted. I doubt if Senator Lodge was a more accomplished scholar than Penrose. He read the classics regularly; he was acquainted with all the best literature, I think, in the English language; he was a man who was absolutely honest, so far as his personal relations were concerned,—I didn't sometimes indorse his political methods; but whatever he said to us he would do, he would do. He had a capacious memory; he never forgot a promise to a friend. I one time took a lady by the name of Maud Younger to see him. She was a member of that party that picketted the White House because the women said they wanted to vote. Of course they didn't; we found that out later. (Laughter.) She wanted to see Senator Penrose, but didn't know him at all, so I went to the Senate with her. He weighed about 280 pounds and fanned winter and summer. He was sitting there fanning. I introduced the lady. She very eloquently presented the women's side in that controversy and desired him to vote for them. She said, "You might just as well vote; it's coming." He said, "So is death coming, but I am not going to rush out to meet it." (Laughter and applause.)

Then there is Senator Hefflin of Alabama. I expect you smiled many times when you read about him. The story I have been told about Alabama is illustrated in Senator Hefflin. A number of men were in an old hotel in Washington, together with Senator—somebody from Texas, whose name I don't recall,—Culbertson, who had been born in Alabama. He and some other representative men were discussing Indian names, those which were the most musical. They had had several before they commenced this discussion. Finally Culbertson said, "Alabama, place of rest, is the most musical name of all the states." Some other man who had taken no part in the discussion, but evidently had participated in the other part, said, "Is that what Alabama means, place of rest?" Culbertson said, "That's it. I don't know whether it is the most musical, but certainly it is the most appropriate. I spent three months in Alabama myself, and I never saw anybody doing anything, but one man, and he was falling off a house." (Laughter.)

One time Senator Hefflin was very much disturbed over an occurrence. But let me say first that Senator John Sharpe Williams, of Mississippi, however you may disagree with him about his political views, in my judgment was one of the ablest men that ever sat in the Senate, drunk or sober,—and he was usually not sober. He had the power of stating a

question so clearly and so concisely that nobody could misunderstand. You were absolutely informed upon the question when John Sharpe Williams got through stating it,—a man who was graduated from one of the leading universities of America, then went to Heidelberg, Germany, and took a course there, and one in France, a man who spoke several languages. He used to tell a story of a funny experience he had in Mississippi. He said that one time he was running for the House. One of his opponents was charging him with being an aristocrat, and said he spoke three languages. John said, "Yes, I speak three languages; I speak the white man's language, nigger language, and the profane language." But John Sharpe's hearing was bad. When he came into the Senate and any one was talking, he would cup his hand, go and sit down by the speaker, look him in the eye, and as soon as he found out what he was talking about, if he was interested, he would stay; if he wasn't, he would get up with a very eloquent shrug of his shoulders and would walk out. He usually walked out.

But during the dedication of the Lincoln memorial, when President Harding was reading his address, an aeroplane which was sent to get pictures from the air of the dedication, in flying over the assembly, flew so low that it disturbed the president and he had to suspend his address until the aeroplane was gone. There was a great deal of criticism in the papers about it. A short time thereafter Hefflin was at the monument to make an address to somebody that came there, and an aeroplane flew over him and disturbed him. He came back immediately to the Senate and introduced a resolution to make it a crime for one operating an aeroplane to fly at an altitude of less than 3000 feet, thereby disturbing public gatherings. He was making a very impassioned speech, telling about how this aeroplane had disturbed him, how his speech had been interrupted by somebody. John Sharpe came wandering in, sat down under Hefflin, his hand cupped over his ear, and looked intently at Hefflin until he found out what he was talking about. Then speaking, without permission, he said, "When the eloquent Senator from Alabama speaks, let no sparrow tweet." Then he started out. Hefflin, who wanted the record to show that John Sharpe wasn't exactly sober, said, "At least Mr. President, when the Alabama Senator speaks, he is in command of his faculties." John said, "Huh?" Hefflin repeated, "I said, when the Alabama Senator speaks, he is in command of all his faculties." John said, "Huh, what difference does that make?" (Laughter.)

Senator Reed, of Missouri, who, by the way, if I believed that people came back to earth and lived again, I would say was Andrew Jackson come to earth again, from whatever way he came, (Laughter) is a man with the same love of liberty that Jackson had; that is, you are entirely welcome to do anything and think anything you want to, provided it doesn't conflict with any view he entertains. (Laughter.)

One time when the Republicans had brought in their revenue bill of 1921, they formed a conspiracy of silence; they decided they would make no explanation of their vote upon the matter. The combination consisting of Senator Penrose, of Pennsylvania, Senator McCumber, of North Dakota, and Senator Smoot, of Utah, sat on the middle aisle, first Penrose, then McCumber, then Smoot. For three days they declined to answer any

question about this bill. Senator Reed was making a very impassioned speech, walking up and down the aisle. Finally in an outburst he said, "Say, why don't you answer? You sit there as dumb as oysters and with the same intellectual cast of countenance." (Laughter.)

Senator Reed said one time, in discussing a candidate opposed to him for office, that he himself didn't believe in the transmigration of souls; he didn't believe that a man might go down through the cows, eat grass with the cows and come up through man and obtain immortality; but if it were true that when a man died his soul entered that of a child and was born over again, the trouble with his opponent was that no smart man died the day he was born. (Laughter.)

I have had the honor of knowing rather intimately well as we know people in public life and nothing more, several men who have been president of the United States. I knew Senator Harding when he was in the Senate. He came into the Senate, and I presume the last time he was on the floor of the Senate to say anything, when he had taken the oath of office. He came on the floor of the Senate in executive session, and asked us to confirm his nomination for the various appointive offices. I realized that he did it because he had selected Mr. Dougherty of Ohio as attorney general, and several papers had opened war on that gentleman, suggesting that he was not technically a fit person to be appointed attorney general. The president didn't want to be embarrassed by reference of that appointment to the judiciary committee, and therefore came on the floor and asked the Senate if it would confirm his appointees without delay, and we did it.

Senator Harding, in the Senate, was a very lovable man. I believe he ought to have stayed in the legislative body, instead of becoming executive, because I do not think his talents lay that way. A man with a hearty hand-shake, imposing personal appearance, and the most obliging, kindly man I ever knew. Everybody loved him in the Senate, although they did take issue with some of his actions when he became president of the United States.

The Senate, let me say, is a peculiar body. In the British parliament they say no man has ever had a great career in the House of Commons who has been a great lawyer, that there was something incompatible between the profession of law, where one had obtained prominence, and a career in the House. Possibly that is true in their case, because the British constitution, as we know, is not a written constitution; whatever the parliament may say is the law, is the law, King of England or no King. The leaders in the British parliament are men who are not lawyers by profession. I one time had the pleasure of sitting in the House of Commons and hearing the son of Charles Dickens make a speech. He pulled his speech out of his pocket and commenced to read, and every member of the House got up and left. I believe I was the only one who remained in the gallery. I stayed to hear it but didn't hear it, because the speaker was so indistinct. He hadn't a spark of the inspiration that made his father the most wonderful man of letters of his age.

I have never seen the wisdom of electing a man to office to make a law, who had to hire a lawyer to tell him what this law did that he had passed. It strikes me as rather inconsistent that a man can make a

law he doesn't understand after he has made it. Now, there is a constant clamor going up over this country to have a business man elected to Congress. I have served with several, and I have not yet seen one that was not always at a loss when discussing matters that involved legal questions, and most laws do. Most laws do not deal with industrial matters; they begin with the legal aspect.

Since we have a written constitution, we have more or less great questions upon which the Supreme Court in its opinion may declare unconstitutional. I hope you will know what I say is not in the nature of a personal criticism.

Taft was president of the United States. Perhaps many of you have forgotten. He is reputed to have been one thousand percent wrong on every question. They made him chief justice. Now, of course, he can do no wrong. His interpretation of all laws must be absolutely right. I didn't often agree with Mr. Roosevelt that we ought to appeal from the Supreme Court to the people. What I want to say is that more or less we have to guard against the Supreme Court having the last guess, saying that we guess wrong. And I think that nobody but somebody somewhat trained in the law is going to be very effective in questions of that kind. But all great lawyers are not necessarily great senators when they break into the Senate, many of them. You elected a man to the Senate who had the reputation of being a great lawyer,—Kellogg. He was peculiarly unhappy in the Senate; he never did fit in, never did find a place in the Senate; he never was able to be effective in the Senate. As secretary of state I don't doubt he is a very able member of the cabinet. He didn't happen to fit into the Senate. And lots of people of great ability I have seen come to the Senate who were absolutely out of place. Senator Pepper, of Pennsylvania,—I presume as scholarly a man as any member of it. He is said to be the greatest authority upon ecclesiastical law in the world. I have been told that they consult him from England as to certain matters involving ecclesiastical law questions. Ever since I have known him, he has been counsel for the College of Bishops in America of the Episcopal church. He is a man of splendid attainments. He came to the Senate, and recently he went out. I know I am not unkind when I say that he never found his place in the Senate at all. He told me, "I started in wrong, and I have never been able to right myself."

Many men of less ability, not so well grounded in the fundamentals, have shone in that body, while men like Senator Pepper haven't found a place at all.

The Senate is necessarily a place where the ability to think quickly and to say something pungent always pays larger dividends. They are the people about whom you read and about whom you learn most in the public press. True, they are not always leaders, but they are more influential in shaping legislation than men of greater ability who have no such power of expression.

In the present Senate,—and I want to say this, we talk about the golden ages of the Senate; all golden ages are past. It doesn't make any difference what golden ages you talk about, it is always an age that has gone by. A member of the House once said, (his name was Garland, and he wasn't always in possession of his faculties that Hefflin wanted

the country to know Williams wasn't), that he regarded the golden age as that time when he had an idea and a certain member of the House was absent. (Laughter.) But I believe there are in the Senate now men of as great capacity, as devoted to public duty, as ever adorned that body. When Webster, Clay, Calhoun, and men of that kind, made their reputations, they dealt very largely in theory. The theory of government was discussed more than anything else. Very few questions came before the Senate for discussion, comparatively few indeed, and therefore men with the capacity to reason, draw out and theorize, made themselves deathless reputations. Take Webster, with his reputation as a lawyer—mention is made of the fact that he lost most of the cases he tried in the Supreme Court of the United States. When we remember that he argued one case three days, we are not surprised that he lost that. Take Borah—you won't agree with him on some things; he is one of the greatest orators America has produced. He is a man who fortifies himself well before discussing any question. It is exceedingly dangerous to interrupt Borah, because he is likely to have his information so well in hand he will confuse those who interrupt him. He is a man of great vision. I don't believe in what he does much; I am a party man. I believe this country must be directed by a party; I believe in party responsibility. I believe if I am elected as a Democrat, I mean by Democratic members, I must serve them. I do not believe I have a right to be elected on the party ticket, and then support the enemies of the party, any more than I would have if I should enlist in the army, put off my uniform, and fight for the enemies of my country. (Applause.) But I don't believe that many questions that come before Congress are party questions. I appreciate the welfare of my country is a question that should be viewed from my country's viewpoint only; I have no right to take a narrow partisan view of it, if it involves the happiness of a hundred million people, and I won't do it.

Those things my party has prescribed, and to which I subscribed when I sought the suffrage of the people who elected me to office, I am bound to respect, and I respect the people who respect their parties. It is no criticism of any party, and I don't want it so understood. I believe that party government is essential to the preservation of the form of government under which we live. I believe well-balanced parties would be to the advantage of this country. I believe any state, for instance,—naming no names, but meaning Minnesota,—(Laughter) would be better if you had a live opposition party; I believe Arkansas, where I live, would be better governed if we had a live opposition party, although I don't want one. (Laughter.) I believe that the changes in party government are essential to good government; and I believe that the Republican party is much better when it is just hanging on by its eyelashes, (laughter and applause) than when it has got complete control of every branch of government, without any power contesting its control. I believe the Democratic party, when it gets into office, by the wisdom of the people, which it sometimes does, (Laughter) gives the country the very best government it ever had, because we realize if we don't do it better than the Republicans,—because there are more Republicans than Democrats,—that they will put us out of office, which they always have done. Therefore we believe that the political con-

dition under which this country would best function would be two parties in the field, with us a little in the ascendancy. (Laughter and applause.)

I have known several presidents of the United States,—able presidents. I hope you will pardon me, without any regard to what your views may be on the questions involved,—but I believe the man who more nearly voiced the hopes and aspirations, more nearly put into words the hopes of good men and women all over the world, regardless of nationality or race,—I believe the man who came nearer to voicing their hopes, since Jesus Christ walked this earth, was Woodrow Wilson, former president of the United States. (Applause.) In saying that, I am not asking you to subscribe to his theory. I don't care whether you were for the League or against the League. I think Europe has done about everything she could to justify a belief in the hopes he fixed in the League.

I voted for war, and I did it, so help me Almighty God, with the belief if we did send these four or five million American boys from American homes, as crusading armies, to give up their hopes and aspirations, to lay aside their dreams—send two million of them four thousand miles across the sea and across mountains, where 100,000 of them laid down their lives, where today more than 30,000 of them sleep and will be sleeping in foreign soil until time shall be no more; I believed, so help me Almighty God, when we asked the mothers of America to send their sons to bolster up these armies that were exhausted, that they were going to end war, that no other mothers would be asked to make the sacrifice we were asking them to make.

I don't know whether President Wilson would have been willing to send these boys to their death, send more than half a million to worse than graves,—we find them wandering in the streets of every town and village of America, worse than dead, hopeless mental and physical invalids. I don't believe he would have had the courage to ask them to make the sacrifice, unless he did believe we were going to find means to end wars. And it didn't happen. Instead of one cause of war then, we have 1,000 now. Whether or not the experiment was worth trying, I don't know; but I do believe that somewhere, somehow that we broke faith with those who lived and with those who died. I am not asking you to subscribe to any theory the government did or did not assent to, and I am charging nobody with bad faith. I don't even indorse the statement made by former Secretary Daniels, of North Carolina, that the trouble between Senator Lodge and Mr. Wilson was jealousy. He said that Senator Lodge had been known as a scholar in politics before Wilson was elected; and after that he was known as a scholar. I say that it took courage. In 1915 two men stood shoulder to shoulder, with the opportunity to become immortal, because it represented the very foremost thought of this earth in the means of solving international wars and preventing bloodshed, instead of drenching the fields with blood. One of those men was President Wilson; the other was Senator Lodge, of Massachusetts. I do not charge, and I do not believe that Senator Lodge was actuated by any improper motives when he refused to subscribe to the Treaty of Versailles; I do not believe he betrayed his country, and I never have been appreciative of the people who so charged, even though they were in my party. I do not believe a man who served the long years

he did would be guilty of such an act; I do not believe a man who was going back upon a statement he had formerly made, did it for any capricious reasons. I believe he felt impelled to do it because he believed the country's safety lay that way, in this action. I think if anybody was open to criticism, it was the president of the United States in stating he was capricious. I knew him quite well; I realize he was impressed with his own logic, with his own intellectual attainments more than anybody else, and I think Mr. Wilson was in rather a hasty temper at the time. I believe both men to have been sincere; and they parted company through two ideals. Which was the better, we will never know.

I knew quite intimately the men running for the presidency in 1912, when the Republicans met in Chicago, and Johnson, of California, was a candidate for nomination. I have thought and I say it all the more frankly because I and the senator didn't happen to agree upon some private matters,—I thought that Senator Johnson lacked the frankness in that discussion that Senator Lodge disclosed. I thought he wasn't entirely devoid of a desire for personal aggrandizement. When I remarked that Senator Johnson's progressivism was temperamental and not political, it was resented. I still think I was right about it.

Senator Moses, whom I want to introduce to you briefly. He said that he delivered a talk on the farm bloc in New Hampshire when there were only 18 present,—17 lawyers and a yellow dog; that in South Dakota it was better—the yellow dog and the rest of us pretending to be lawyers. Senator Moses, and with him I shall close, is a cynic in politics. He is brutally frank; he loves to say something that will shock you; he loves to tread upon every one of the traditions you idealize; he loves to say something that you feel somehow is not quite correct, but to save your immortal soul you can't find the answer to it. (Laughter.) I think he has been instrumental in putting to death more shams than any other man now living. I have never seen a man that wanted to parade before the Senate his mental or moral qualifications, whatever robe was wrapped around him, that Senator Moses didn't cut it open and rip it off, and leave him bare. (Applause.)

PRESIDENT PUTNAM: The Association has been blessed with its visitors to Minnesota. On behalf of the Association I extend its hearty thanks to the Senator from Arkansas for the very able and instructive address that he has given. I am sure every one has been entertained and instructed by it. I hope that some time he will come back again and give us another address.

MR. SCANNELL: I move a rising vote to the senators who have given us these talks today. (The motion was duly seconded, and thereupon all members stood, applauding.)

PRESIDENT PUTNAM: The next on the program is the report of the Committee on Legal Education. (See Appendix p. 126.) I believe Mr. Catherwood is chairman of that committee.

MR. CATHERWOOD: Mr. President, the report of the committee is on page 8 of the circulars that were sent out. (See Appendix p. 126.) Whether all of the printed committee reports were given to the members, I don't know. This report, at any rate, was given to the members by the

secretary; and the members of the Association and a good many others are in a way familiar with it. The printed report is short, and all I need do is to refer to the two features which are known as special enactment by the legislature, which they passed providing certain special conditions under which candidates for admission to the bar could receive their diplomas without an examination. One year ago, at Duluth, this legislation came up, and you will recall it came in for considerable criticism. The laws are covered by Chapters 309 and 391, of the same general character, providing certain individuals may be admitted to the practice of law without undergoing an examination.

Since this report was made public, I have had some correspondence, received a number of letters from those more intimately acquainted with the legislation than the committee or the members of this Association, aside from those who are members of the legislature. There are circumstances which, when brought to the attention of the committee that had charge of this legislation, that would appeal to anybody. I do not hesitate to pronounce the legislation, as such, undesirable, because it is discriminatory; it indicates to the committee that there are occasions which do arise which indicate that there should be some elasticity in the rules as well as the laws under which the State Board of Law Examiners operate.

Now, simply a word to make myself clear. Chapter 309 provides that a person who is a graduate of any law school, who has been honorably discharged from the World War and who has been a court reporter for seven years, be admitted to the bar without examination. A lawyer looking that over, does not relish it.

The circumstances in connection with that legislation are perfectly easy of understanding, and I got the information first hand. I leave it to the Association to say whether such an act ought to be condemned. The young man in whose behalf that bill was introduced, was a law student; he was a graduate of one of the well-known, accredited law schools of the country, and had been given his diploma from that law school about a year or a year and a half before this country declared war against Germany. He came home, went into a training camp, was appointed a military officer and went to France. When he got back, after the close of the World War, and got himself in mental and physical condition to undertake an examination before the bar, before the Board of Law Examiners, he was denied the right to take the examination, because of the lapse of time that had occurred since he got his law diploma. There was no question as to the young man's fitness; but he was not, under the rules in force, permitted to take the examination. His local senator, I think, or possibly a member of the house, of his own motion introduced a resolution or motion that gave this young man the opportunity to practice.

Now, my suggestion is, and the committee supports me in it, that there should be, and there is now an enlargement of that rule, I understand, that permits an applicant to take the examination within four years after receiving a law school diploma. It is, I believe, largely a question of arbitrary rules, which the Board of Examiners feel it is bound by. That is all I have to say about it.

MR. BOWEN: May I say a word. I don't know anything about the particular case to which you referred, Judge Catherwood, but in order that

the Association may not get the impression that the Board of Law Examiners have been arbitrary in their rules, I think this should be said, that the board rule to which Judge Catherwood referred, limiting the time within which a man may take the examination, was, as early as 1920, waived by the court in the case of all men who had been in the service, (I know it was waived in my own case) so it was possible for men to take the examination, notwithstanding how long a delay had occurred between their work at school and their application, provided that the delay was due to their being in military service in the meantime. I say that merely in order that the Association may not get the impression that the Board of Law Examiners and the supreme court, whose servant they are, were arbitrary.

PRESIDENT PUTNAM: The next on the program is the report of the Committee on State Library. (See Appendix, p. 126) (No response.)

PRESIDENT PUTNAM: The next is the report of the Committee on Legal Biography, Judge Childress. (See Appendix, p. 125)

JUDGE CHILDRESS: Since last year, forty-two members of the bar have passed away. On page seven of the advance sheets, you will find a list of thirty-two. In addition to those names, I have the following whose names have been reported since those names were printed:

Wilson Borst died at	Windom, Minn.	July 24, 1926
Judge Chas. E. Callaghan	Rochester, Minn.	Aug. 13, 1926
Oscar T. Stenvick	Bagley, Minn.	Sept. 30, 1926
Luther C. Harris	Duluth, Minn.	Nov. 2, 1926
Miles Durkin	Minneapolis, Minn.	Nov. 4, 1926
Joseph Austin	Virginia, Minn.	Nov. 6, 1926
Albert L. Young	Winthrop, Minn.	Dec. 4, 1926
Ezra R. Smith	Brainerd, Minn.	Jan. 14, 1927
DeWitt H. Fisk	Bemidji, Minn.	Mar. 11, 1927
Clifford L. Benedict	Crosby, Minn.	June 28, 1927

The report sent in covered not only the names, but the addresses of those who died, and the date of their death. In addition to that all the members of the committee furnished memorials or short biographical sketches of each one of them; they have been given to the secretary. The secretary tells me that a full list of all those who have died, with their addresses, and date of death will be published in the MINNESOTA LAW REVIEW. The report that appears on page seven (see Appendix, p. 125.) is just a condensed report, so the members of the bar may know how many died up to the time of that report. But, as suggested by a member this morning, we are going to have biographical sketches or memorials of all the members of the bar who have died and they will be deposited with the secretary. When the REVIEW comes out in December, there will be a full list of the names of deceased members and their residences. I now move the adoption of the report.

(The motion was duly seconded, and upon vote of the members was adopted.)

PRESIDENT PUTNAM: The next order of business is the report of the Legislative Committee, found on page 9, Bruce W. Sanborn, chairman. (See Appendix, p. 127.)

MR. CALDWELL: Mr. Sanborn is not present. I understand Mr. Gjerset is present.

MR. GJERSET: Mr. Sanborn asked me to read this report. It is found on page 9 of the pamphlet containing the program of the Association. It may be unnecessary to read the full report. (See Appendix, p. 127.)

There are and have been many bills in the minds of the Bar Association year after year that have been up for passage in the legislature. Some of them have fallen by the wayside, and some of them have now bcome law. Among those passed at the last session is a bill proposing an amendment to section 3 of article X of the state constitution, which would give the state legislature power to prescribe and limit, from time to time, the liability of stockholders. It had been heretofore recommended at our meetings that we favor this bill as furnishing the most practical method of achieving this end. The amendment is to be submitted to the voters at the general election in 1928.

Then section 210 of the General Statutes of 1923 provided for the retirement of justices of the supreme court under certain conditions. That was amended to include the commissioners, as recommended by the Association.

Another measure, the new Highway Code, as Chapter 412 of the Session Laws of 1927, was passed, but with considerable modification of the bill as introduced and as favored by the Hoover Commission and the National Conference on Uniform State Laws.

Those are the measures adopted by the last legislature.

The important measures which failed of passage were a bill to increase the number of associate justices of the supreme court from four to six. That matter of course is not defeated for the first time; it has had many tries before. This was introduced, but failed of final passage.

Then the Declaratory Judgments Act was passed by the Senate and was reported out favorably by the House Judiciary Committee, but failed of final passage in the House.

The Uniform Arbitration Act also passed the Senate and was reported out of the House Judiciary Committee, but without recommendation. It failed also of final passage in the House.

A bill to increase the salaries of district judges was, as you know, passed by the Legislature, but was vetoed by the governor. There is nothing new I could say to the Convention in regard to that matter. I think they all know the court's decision, first in district court and then in the supreme court.

Mr. Sanborn suggested if I had a talk in connection with this matter, I might express it. You know we members from the country do not take the interest in the committee work when it is carried on in the city that we ought to, and I am one of those.

I want to say a few words in regard to uniform state laws. It has been stated repeatedly that there is a tendency in our government towards the encroachment of the federal power; that there is a sort of neutral ground that may be occupied by the state, until the federal government takes hold. Of course the federal government will take hold when there is any necessity, unless this bill takes care of this field; probably the

federal government must eventually do so. This effort at uniform state laws, I think, would tend to keep the jurisdiction of the states intact. The trouble is, in many instances, when these bills are introduced into the legislature, they are amended until they are not in reality uniform state laws. We may be up against that difficulty.

In regard to the judges' salary bill, it may be out of place to refer to it any further. It has been the talk of the Bar Association, and I think it has been the talk of this committee for some sessions past to strive for increase of the judges' salaries. Looking at the thing from the outside, as men on the outside look upon the judges of the courts, as servants who earn salaries,—on that standard, their salaries are large, and we could suggest this one thought, that the judges of our courts are not in the business field any more. When a man goes upon the bench and stays there for a length of time, supposing he gives fifteen or twenty years to that service, he is eliminated from every opportunity to gain a position in the practice of the profession; he cannot very well, after that lapse of time, take up with the same advantage the practice of the profession of law, after he gets along in years; it is not to be expected. He cannot make this radical adjustment as successfully and as easily as he would want to.

There is one more reason why the committee or the Association have insisted from time to time upon the betterment of the economic or financial condition of that profession, or that branch of our profession which in reality it constitutes. Considering judicial functions, there are those principles which are eternal and unchangeable. The profession in its daily business as an institution of government, and the state itself, must move continually, in order to live and perform its really most valuable function, which is to perpetuate a form of government in harmony with the eternal and unchangeable law of that branch of our profession which sits in court day in and day out, not as parties to and advocates of interests, but disinterestedly looking for justice and for the results upon human society, which law abstractly considered, ought to be. The judges ought to be removed from the necessity as far as possible of thinking of a struggle for bread for themselves; they ought to be removed from that, because their work calls for mental poise in the harmonizing of various matters and in striving for good order, justice, peace, and so on. Therefore our efforts made in connection with that matter are at least to do something toward ameliorating the conditions that have surrounded our judiciary in the State of Minnesota.

Perhaps I tread upon fields where I ought to be still; but that has been my feeling personally, I am frank to confess. I have conceived the situation as one that should be practically above the striving for economic means, when men of ability naturally, education and training devote their lives and energies to that particular calling.

I now move that the report of the Legislative Committee be adopted.

(The motion was duly seconded, and upon vote of the members, was adopted.)

PRESIDENT PUTNAM: The next order of business is the report of the Committee on Ethics; Judge Hallam, I think, is chairman of that committee. (See Appendix, p. 122.)

JUDGE HALLAM: Mr. President and gentlemen of the Association, the Committee on Legal Ethics humbly submits the report that you find printed on page 3 of the program. I may say that the committee has received some complaints against attorneys in the state of Minnesota during the past year, but these complaints have not been numerous. Some of them are frivolous, some relate to controversies over fees, which do not involve any question of ethics,—perhaps a matter for judicial decision. Some relate to a failure to give prompt attention to correspondence. While grievances of this character may sometimes involve ethical consideration and matters of discipline, it did not seem to the committee that any of the cases of this class involved either.

The committee did receive some more grave complaints, some of them very grave, most of them against attorneys in St. Paul and Minneapolis. I think during the years I have been on the Ethics Committee, there has never been a complaint against any attorney in the City of Duluth, for some reason.

Each of the cities of St. Paul and Minneapolis has an active Bar Association, well organized, and a well organized committee, and they have shown a disposition to handle and to handle well the local cases. The committee of this body has been in the habit of referring to the local committees all grievances that have arisen in those cities. So far as I know, they have been handled energetically and properly.

The committee received, I think, but one complaint of consequence against an attorney outside of these cities, and that was in the Seventh Judicial District. The Seventh District bar had recently organized under a new plan of organization, and that report was sent to the secretary of the Seventh Judicial District organization, and I know has received proper attention.

Two complaints were received by the committee against collection agencies sending out notices on printed forms which simulated legal processes. The supreme court in a recent case condemned this practice, and held that the use of such a notice by an attorney is ground for discipline. In neither case reported to us did it appear that the act was the act of an attorney; no name of an attorney appeared, and probably there was no attorney involved. The jurisdiction of the Association is over attorneys. While that is true, it did seem proper for the committee to take cognizance of the matter, and to call the attention of the parties using this form of notice to the decision of the supreme court. In one case we did not receive a very courteous reply. The response was to the effect that others were using these forms all over the country, and they proposed still to continue. Just what further proceeding will be taken, I do not know.

It will be observed then that the duties of this committee have been somewhat lightened by the efficiency of the local organizations, and it is our belief that matters of discipline can, in most cases, be handled best by the local organizations. It is a little cumbersome to get a special committee together, although the members of this committee are somewhat concentrated; but so long as the local organizations are so well organized and give such efficient attention to it, when it is a matter which a local

organization can handle, it will probably be found that best results can be reached by handling it in that manner.

The committee wishes further to call attention to the fact that during the past year the State Board of Law Examiners has been diligently active in prosecuting offenders who violated their oath of office as attorneys, and the supreme court of the state has in several proper cases administered prompt discipline. There have been more of those cases that have been acted upon more expeditiously than for some years past. If you will observe the cases, they are highly meritorious cases. This, I think, has had a salutary effect upon the number of complaints that have been received, so that complaints of that character coming to this committee have been less than usual during the past year.

I think the outstanding feature of the past year, in the matter of legal ethics, has been decided progress toward the high standard set by the supreme court in the matter of such violations.

With this, the committee submits the report, and moves its adoption.

(The motion upon being duly seconded and put to a vote, was carried.)

PRESIDENT PUTNAM: The next is the report of the Committee on Uniform State Laws, which will be found on page four of the pamphlet. (See Appendix, p. 123.) Mr. Bridgman.

MR. BRIDGMAN: Mr. President and Gentlemen, the development of state laws within the last two or three years, not only the acts which have been put out, but the acts which are now in the process of framing by the National Conference, and they are important, calls for congratulation at this time of the Bar Association on the work they have done in starting and carrying on this work for uniform state laws. The wide-spread and increasing influence of this movement, its importance in wide fields of business and other activities, its influence on our forms of government, its salutary effect in preserving the rights and jurisdiction of state legislation, as contrasted with federal legislation, as referred to a short time ago, the economies and benefits to the country as a whole, by reason of having these uniform laws on important subjects, all reflect in a high degree the wisdom and efficiency with which this movement has been carried on, largely through the American Bar Association.

The report you will find on pages 4, 5, 6, and 7, and there you will find a statement of the acts that were adopted by the National Conference, and recommended for passage in all the states by the American Bar Association at the last convention at Denver, in 1926. You will also find a statement of legislation which was enacted and that defeated, for Minnesota; and also a statement of the acts before the National Conference at the present time, together with certain observations.

The important achievement at Denver was the question of motor-vehicle laws. For the last ten years there has been agitation for uniform laws covering motor-vehicles. It is a matter where there have to be statutes regulating the licensing of cars, operators, and pertaining to the rules of the road. At one time it was thought the federal government should step in and handle the entire field. This was adopted by the American Bar Association; it was decidedly in opposition to the matter

being handled by the state governments. The matter was then referred to the National Conference, in 1923, at the meeting in Minneapolis, and they took the first definite steps towards turning out a motor-vehicle code. The movement developed. Other organizations became interested; the Hoover Conference, so-called, was called, at which the American Automobile Association, the National Council of Safety, and a great many other organizations interested attended. They framed this code. Instead of making one act of it, the subject was divided into four, as being better suited to the needs of the state.

The law passed in Minnesota this past winter is the Highway Traffic Act; it covers the question of the rules of the road, equipment, construction of vehicles, highway signals, and certain criminal offenses. You can see the advantage of having that proposition put in this form. The act represents the best thought on these lines. It permits automobiles to be sold—contracts made in standard form to meet the regulations of all states; it permits automobilists going from one state to another to know what the rules are in each state he goes through.

The other three acts are of importance, but not of the same importance as the Highway Traffic Act. One regulates the licensing of chauffeurs and operators. There was a law sought to be passed in Minnesota, but there was strong opposition, and it was not passed. On the one hand it means additional expense and certain restrictions on individuals; on the other hand, it means keeping off the road a lot of men who, by examination, are found to be incompetent to run cars, thereby increasing safety on the road. The other two acts, Licensing of Cars and Certificate of Title and Anti-theft Act,—we have something along that line in Minnesota, and that may in the course of time be adopted and passed too, if it is decided to make a change along that line.

The three acts at Denver,—Uniform Criminal Extradition Act, Uniform Chattel Mortgage Act, and Uniform Federal Tax Lien Registration Act—we have a similar statute in Minnesota at the present time.

I would like to call attention at the present time to the desire for a change in the nature of these uniform acts. One you are familiar with in the past,—modifications of the commercial law, Uniform Negotiable Instrument Act, Sales Act, Warehouse Receipt, Bills of Sale, Partnership Act. These acts that are appearing now, and that they are working on are of a different class. These are in the nature of unifying, making uniform and developing the best form of statute where we did have statutes, in the nature of police regulations, many of them.

In regard to the motor-vehicle code, a great many states did have statutes. That is a question of police regulation.

The uniform public utilities act which they are working at now; the question of state regulation and forming a uniform act for state and public utilities commissions; then the incorporation act,—they are working at that along the same lines; and the uniform real property mortgage act. In many of these cases there may be simply an attempt to put in statutory form what is already in the common law. The Public Utilities Act is a good illustration of the advantage of these acts, in preventing federal encroachment. In several of these fields I mentioned, if the state did not

step in with uniform laws and give the people the benefit of these uniform codes or acts, in a short time the federal government would be stepping in, as in the case of a statute in the matter of motor-vehicle regulation; and it is also true in the case of public utilities regulations.

All of the acts that were before the legislature this winter and which passed the senate, are of special interest to lawyers. One, the Uniform Declaratory Judgments Act, we have reported on a number of times; you are all familiar with it. It has already been passed in a large number of states. Oregon finally passed it this winter, as well as others; and a considerable number of decisions in these states that already have the law, are referred to in our report.

The other act, the Uniform Arbitration Act, in the main follows the present act in Minnesota, which provides for a clause being put into a contract that all disputes that arise under that contract should be submitted to arbitration. This act simply provides that once a controversy has arisen, the parties may submit to arbitration.

There has been more or less discussion among the lawyers about this matter of arbitration. Those who have thought it over agree that it will be of decided benefit to the profession. Among the provisions of the Uniform Arbitration Act is one which provides that the parties at any time during the course of the arbitration may call upon the court for a decision on any point of law that may arise. Another provision is that outside of the parties and their regular employes, only attorneys at law may appear before the arbitrators. There are other provisions which guarantee that there will be a fair and really judicial decision of the matter before the arbitrators.

Cases arise, especially in counties where it may be six months or a year before a case is reached, where, unless you can get a proper decision, the matter will be dropped or settled. It is of decided advantage to refer these matters, under a well worked out statute, to arbitrators, and have them decided in that way.

I move the adoption of the report.

(Motion duly seconded, and upon vote of the members, motion carried.)

(Upon motion, duly seconded and carried, the meeting adjourned until Wednesday morning.)

Wednesday morning session, July 13, 1927, pursuant to adjournment.

PRESIDENT PUTNAM: The meeting will now come to order. The secretary wishes to make some announcements.

MR. CALDWELL: I want to make an announcement that perhaps you have never heard before. The banquet tickets are on sale at the desk. I want to impress upon you the necessity of getting those tickets early. Last year there were fifty turned away at Duluth, who couldn't get in at the banquet, and there was a great deal of grumbling. I wish you would get your tickets immediately.

The young ladies at the table have some stickers for automobiles, for out of town members, that is for members out of the Twin Cities. If

you have your automobile here, by sticking one of the stickers on the side window,—not on the front wind-shield, because that is prohibited by law,—you will avoid a call on the police department in connection with parking.

PRESIDENT PUTNAM: Gentlemen of the convention, I think the suggestion of the secretary as to procuring police protection in the Twin Cities is a mighty good thing. I have walked around the streets, looked around and watched, and the only fellows that get interfered with on the streets, are the country driven cars, so I think it is pretty nearly necessary for you people to get the proper police protection.

There are one or two matters I wish to call to the attention of this Association. I reduced them to writing, expecting to read my little paper at the opening of the convention yesterday morning, but the outside talent that everybody wanted to hear, side-tracked everything else. I will read what I have to say, so there won't be any misunderstanding of its meaning or otherwise.

Address by President Putnam

Until the adoption of the present constitution of the State Bar Association, its constitution directed the president of the Association to give an address at the opening of the annual meeting. In going back over the records of the Association for several years, I find that every president has more or less apologized to the Association for making the address, falling back on the statement that he was required to make the address under the constitution. In the present constitution no provision is made for an address by the president. I assume this was done advisedly.

I am not making any address. I will mention two matters of importance to the Bar. My remarks will not be long.

There is the subject of revision of Statutes. There was a revision of our statutes in 1866. Between 1866 and 1905 there were several compilations but no attempt at revision. In 1901 a law was passed providing for a Revision Commission to examine and compare the existing general laws in force together with the judicial interpretation and construction thereof, and to recommend such revision and codification as should "in their opinion simplify, harmonize and complete the public statutes of this state." This was a rearrangement of the existing statutes in a compact and convenient form—not a legislative enactment of the rules of law in general but a restatement of the existing statute law. Thirty-five thousand dollars was appropriated for this purpose and at a time when a dollar reached farther than it now does.

Nearly forty years had then elapsed since the 1866 revision. The revision, as made, included the entire statutory law of the state down to and including the 1903 Legislative Session. The condensation of this vast accumulation into reasonable limits required the rewriting of nearly every section.

The 1905 revision was an actual revision. There was the usual criticism from the bar. Lawyers are prone to criticism—not from pure devilishness, but from a real desire for beneficial advancement. Lawyers are a peculiar bunch. Their real business is criticism—part of their nature and work. Their criticism, however, reaches to the vitals of the question pending before them.

Since 1905 there has been no revision of our statutes. There was a compilation in 1913. A compilation is not a revision. It is a mere collection of laws gathered together and arranged according to the particular ideas of the compilers. Laws in force are left out—some as pure omissions, some because in the judgment of the compiler they are repealed by other laws. In the last analysis, a compilation, to a large degree, represents the individual judgment of the compiler and lacks certainty.

In 1923, under an act of the Legislature, there was another compilation. It is unnecessary for any extended discussion of this com-

pilation except that it has developed a proficiency of profanity among the members of the Bar that has placed them in a class by themselves. They have become so expert in that line that they are beyond the reach of competition.

The situation is bad. Since the 1905 revision, twelve legislatures have come and gone, have operated twelve separate mills for the creation of laws, consisting of amendments, new laws and the rewriting of existing laws. Turning to the session laws of these sessions, we find that since 1903 4864 laws have been passed, not taking into account resolutions, appropriation bills and constitutional amendments. These laws relate to the important subjects of taxation including inheritance taxes, insurance, corporations, cities, villages and towns, roads and all other subjects of statutory law. Owing to the complexities of modern life there has been a never ceasing stream of penal laws which affect the daily life and activities of the citizen. Many of these laws serve no real useful purpose but are there because of the pernicious activities of minority groups who wish to control the activities of others solely for the purpose of exercising power. These laws are on the books and it behooves the citizen to know the extent thereof. The whole of our statutory law directly and indirectly reaches and affects every citizen of the state. When a question arises under any of these laws and you are called upon to act you have to trace all the changes and amendments down through the laws passed by twelve legislatures to be reasonably sure of your position. Let me call your attention to the laws relating to the powers of municipal corporations. Try to work out these laws and you will find yourself running round in circles. An actual thorough revision would condense all existing laws into one compact statute and you would have before you the whole body of statutory law.

It is needless to go further into detail. The situation is not exaggerated. This is a very mild statement of actual, existing conditions. Our statutes are in a chaotic condition. Other states are in the same situation and facing the necessities arising therefrom, have done constructive work and brought about a great improvement in their statutes. Wisconsin has developed a plan whereby in a very short time after the end of a legislative session their statute is revised down to date and the entire body of its law is together in a compact form so that the lawyer, the courts and citizens of the state do not have to search back through a great number of law books to ascertain the actual law. It has been a real success. There were some initial expenses in the first instance, but the actual benefit that resulted made the expense a small matter in comparison with the benefits. After the first revision, the expense has been very little. Iowa has worked out a somewhat similar plan of revision and their statute is down to date all the time.

This subject has been before our legislature for several sessions but the members were unable to agree upon the form of the law until the last session. The 1927 legislature worked out a revision plan along the Wisconsin line and, after careful consideration, passed the law. The attorney general's office assisted in the framing of the law and

approved the same. This was actual remedial law. The law carried a very moderate appropriation for the work. This law was guillotined through a pocket veto and our statute is left in the chaotic state described.

All the lawyers of the state have a common interest in this matter. We sincerely hope, at the next session of our legislature that the lawyers, as a whole, will get behind some plan for statutory revision and work with the members of the legislature from their respective districts and help put over some plan of statutory revision in the common interest of the courts, litigants, lawyers and citizens of the state. If the bar, as a body, will get back of such a plan, there is no doubt of the passage of such a law.

I will briefly refer to the State Bar Organization. The lawyers of the state might, with great benefit, sit at the feet of the regulars of the medical profession. They could learn some of the benefits of a real organization. The regular doctors have a real effective working union that operates 365 days in the year. They work together as a unit where the interests of the profession are at stake. All their dissensions and disagreements are threshed out behind closed doors and not in public view. Today the regulars are the IT and the only IT in the medical profession in Minnesota. They have chloroformed the homeopaths and will soon have the osteopaths and all other schools and cults of medicine in a state of coma. Their organization has one sole object at the end of the row—the benefit of the medical profession.

I want to say here, outside of this paper, that there was one doctor in the Minnesota senate at the last session. He came in there and staid in the legislative body every morning the legislature was in session. He abandoned his profession all through the sitting of the legislature, and he was watching every move that was made with reference to so-called medical laws and everything that affected the health laws. He attended all the committee meetings, public health and others that related to that profession and those provisions of the law; he staid there night and day. He fought every law that the regulars didn't want, and he put over every law that the regulars did want. That is what organization of the medical profession did. And I think the lawyers, if they would get their brains working together, and get down to where they could act and coöperate together, ought to be able to accomplish as much as the regular medical profession has accomplished.

The lawyers lack power of cohesive concurrent action when it comes to doing things for the benefit of the profession. It has been impossible for them to act together for their common benefit. There is the question of unauthorized practice of law. So far the lawyers have been unable to act as a unit in this regard. This is a real question facing the younger members of the Bar. The trust companies in fact are actively engaged in the practice of law, drawing wills, trust deeds, acting as trustees, guardians and personal representatives of decedents. They are combining the duties as trustees, guardians and personal representatives with the practice of law in connection with such duties. They collect and receive fees as trustees, guardians and personal representatives and, in addition to such fees, collect fees

for legal services rendered in connection therewith, all of which goes into the general profits of the trust company. They hire some lawyer, at a moderate salary, charge up the current fees in all instances, which amount to very much more than what is paid to the attorney for the services rendered. This makes them, to all intents and purposes, in actual unfair competition to the Bar of the state, in fact an unauthorized practice of law.

This condition is growing more serious every year. From time to time there is a sporadic attempt to correct this condition but there is lack of coordination among the lawyers. They seem afraid to do anything for themselves. Instead of a united front against a common enemy, they turn their backs and retreat. It is not to the credit of the Bar. There are many other things that concern the Bar in which there ought to be concerted action. In my humble judgment, if the members of the Minnesota Bar would get into the State Bar Association, become active members thereof, put up a united front and work with a united purpose for their common benefit, there is no reason why most of the problems the profession faces cannot be cured.

The regular doctors take care of their own troubles. The lawyers stand still. The Bar is taking second place to the medical profession in working out its problems. The only way the lawyers can accomplish results is by actual, cohesive organization. The State Bar Association furnishes the instrumentality for the accomplishment of such result. To many of the older members of the profession, the matter is not of great moment. They are passing off from the stage. To the younger members of the Bar, it is of the highest importance and it is up to them to perfect a strong organization that will act together for the common benefit of the profession. There should be active work done to bring all the members of the Bar into the organization. They could do their own house cleaning and build up the profession and give the profession its proper place in the Sun.

This covers to a certain degree the report of the Committee on the Unauthorized Practice of Law. I wish to say I am not plagiarizing from the report of that Committee, because this was reduced to writing before I ever saw the report of the Committee. Perhaps I may have added a little something to the report of that Committee by what I have said. If so, I hope that something will result from it.

The report of the Committee on Unauthorized Practice of Law is quite complete and thoroughly covers the ground and should receive careful consideration from this body.

(Applause.)

PRESIDENT PUTNAM: We have a speaker set for 11:00 o'clock, and it is approaching a quarter after eleven. I am going to ask the Association to pass this business for the time being, so we can have the opportunity of hearing him now. We have here the Chief Justice of our supreme court, the Hon. Samuel B. Wilson, who has consented to address us at this time on a subject of public importance; he has just told me that his subject was "The Crime Situation." I now take pleasure in presenting to you the Hon. Samuel B. Wilson, chief justice of our supreme court.

ADDRESS BY SAMUEL B. WILSON
Chief Justice of the Supreme Court of Minnesota

In 1925, and to some extent since the World War, there was prevalent in our state a noticeable disrespect for law—a condition sometimes termed a "crime wave." Perhaps the principal cause, both directly and indirectly, was the high cost of living and the inclination to make money through violation of the eighteenth amendment to the federal constitution. The all too general disrespect for this law breeds disrespect for all laws.

There is no crime wave in our state today. It may well be questioned if there was during the period mentioned. In 1923 the peak of the so-called crime wave is supposed to have been reached. But the census bulletin of the United States shows that the commitments to prison in 1923 were 37.7% below 1910. During the same period in the state of Pennsylvania the decrease was 39%. Actually and in proportion to the total population in 1923 there were more offenders committed to our penitentiaries and reformatories than in 1910 by 13.2%, which refutes the suggestion that the courts are growing too lenient or that there has been a break-down of criminal justice. Space devoted to crime in our metropolitan newspapers of today is less in proportion to their total reading matter than was the case fifty years ago.

The crime situation in Minnesota brought about the appointment by the governor of the Crime Commission which made a somewhat theoretical and lengthy report to the recent Legislature. Some good, wholesome substance contained in the report would have been practically eradicated if all its specific recommendations had been adopted by the Legislature. This substantial matter includes:

1. "Penalties should be moderate. Speedy and certain punishment are the best preventives of crime. Extreme penalties hinder punishment. The history of the criminal law proves, and our study confirms, that when extreme penalties are provided, the agencies charged with the administration of the law will mitigate them or even prevent their infliction."

2. "The penalties provided should be such as will meet public approval at all times. Penalties should not, in a period of excitement, be increased to a degree that will shock the same public when the excitement has passed."

3. "Speed and certainty are hindered, not helped, by severe statutory penalties. If we keep severity out of our statute book, we shall have greater assiduity in our officials,—and this we need most of all."

4. "The minimum penalty should be low. It should be appropriate to a first offender and to extenuating circumstances. It should be so moderate as to create no occasion for the Board of Pardons to reduce it."

5. "The merit of the indeterminate sentence law is that penalties may be intelligently admeasured to suit the particular case."

These expressions must appeal to the judicial mind. It seems to me that the recommendations of the Crime Commission should command the attention of our association. Necessary reforms in legal procedure have for ages originated with the practical lawyer who is best qualified to determine such matters. The layman, of course, is the proper judge as to results, but the experienced judicial mind must continue to lead in matters of such professional importance. The profession must at least give the benefit of its knowledge and experience to the Legislature which will ultimately be governed by its own good judgment. It has been fairly well demonstrated that it cannot be coerced, and it is gratifying that our legislature will not act hastily in important matters.

As one in a position to have some conception of the operation of the courts of the state, I have no hesitation in saying that there is little, if any, unnecessary delay in the Minnesota courts. To my mind the one thing that causes some unnecessary delay relating to both criminal and civil practice, is the inability of the litigant to speedily get a transcript. The cause cannot advance without it. The reporter may be in court continually and does not make it until it is convenient for him to do so. There is a way to provide a remedy. The Legislature should authorize the district judges to appoint additional stenographic help to do the regular work of the court reporter while the latter promptly makes a transcript for a defeated litigant who should have the right to demand immediate action in the making and furnishing of the same. The reporters do the best they can but in many districts they work nights and Sundays to make the transcripts but they are materially delayed because of their work in court. It should be the imperative duty of the trial court to make it possible for the reporter to make the transcript immediately. The commission did not stress this almost exclusive cause of delay. There is very little occasion to criticise our court procedure from the time the trial starts until the verdict is rendered. Generally speaking, it is satisfactory. Aside from waiting for a transcript I know of no reason for complaint after verdict in the trial or appellate court.

In a way, the whole theory of the Crime Commission was based upon a fundamental error. The bootlegger, "hijacker," repeated "hold up" robbery and sometimes a murder, without any conviction, publicity prompted its creation. The possibility of success in these new fields of operation, and the improbability of apprehension has doubtless taken many men from their usual avocations. And why few convictions? Merely because the offenders were not apprehended. This was not the fault of the sheriffs and police but more directly attributable to an effort to police our large cities and country districts with too few men. To lay the result at the door of the courts, county attorneys and peace officers or to juries and counsel for the accused is unfair. It cannot be attributed to the judiciary. Twenty-nine judges out of every 30 more often come near stretching the laws to the verge of breaking their oaths to punish than to protect criminals. Only a few days ago we had a case before our court wherein one of the ablest district judges in the state in the trial of a court case did a

rather unusual thing. A party to the action declined to answer certain questions on the ground that to do so might incriminate him. The trial court said that for the party to assert his constitutional right tended to discredit him and also said that the right to so refuse to answer was rarely asserted by an innocent man. I am confident that some of you will regard this as a crushing of a constitutional guaranty. Somehow I hesitate in concluding that this theory is sound, but I refer to it as indicating which way the courts solve doubtful questions.

The real problem is to catch the criminal. New methods of travel are adopted by the wrongdoer to make his escape. That is not an affair of the court. The Legislature has at the suggestion of the Crime Commission enacted c. 224 Laws of 1927 creating a Bureau of Criminal Apprehension. This may be helpful but we must not expect much from it. It will keep records and furnish detectives but beyond that it cannot be efficient.

It is for the Legislature to devise methods to apprehend offenders. They doubtless know how this can be done. It is not for the judiciary to suggest. As voters and taxpayers, we are therefore responsible for the failure to successfully cope with crime. Like death and taxes, crime will always be with us; and like time and tide will not wait for our preparation to combat it. There is no use of becoming hysterical over crime. It exists in humanity. It is a courageous individual or public that demands the last pound as punishment for the misconduct of man. It might be well to pause and consider how few people would escape if every one who committed a crime were punished.

Crime is partially condoned when justice is postponed. In our daily affairs of busy life crime, except when it affects us directly, is soon forgotten.

Delay has long been the first line of defense in a criminal case. Lapse of time softens the zeal of the prosecution. Witnesses may die or disappear.

The main thing is that the law and its administration bring the offender to swift and certain accountability. It is not the severity of the punishment. Delay incident to waiting for a grand jury is ridiculous in the extreme. It should no longer be retained except to be used in extraordinary situations.

No system has yet been found which will always result in a correct determination of the facts. We deal with human affairs, and we hope to be human. The jury system seems closer to the ideal than any other but it is impossible to wholly remove passion, prejudice and improper consideration from all jurors, just as it is impossible to select only perfect judges. But judges are just ordinary human clay. The old human cry that it is better that nine guilty men escape than that one innocent person be convicted is still sound.

Of course we know that the verdict of a jury is not the epitome of human wisdom. The mere fact that the trial court might find the facts to the contrary does not destroy the decision of the jury. A captain on a jury is of wonderful influence. The jury must have some latitude. If safeguards are to be stricken down, who is safe?

In the country districts where there are but two terms of court in a year we do not get the speedy results in a criminal prosecution that might be wished. In Minneapolis with its heavy load of litigation, parties may not get through the courts as speedily as they should. But criminal cases have preference for trial. A fair illustration of what the legal machinery in Minnesota is doing in its most congested county is the case of State v. Harry Shepard. This was an important case. Shepard committed a crime in Minneapolis Sept. 6, 1926. He was indicted Sept. 9, 1926. On Sept. 25, 1926 he moved for a change of venue which was denied on Oct. 1, 1926. He was put on trial Oct. 13, 1926. The case was on trial for three weeks and defendant was convicted on Nov. 4, 1926. On Jan. 8, 1927 a motion for a new trial was made, in part upon the case to be settled. It was denied on Jan. 12th. An appeal was made the next day. It was set for argument in the supreme court on Apr. 5, 1927. Because of delay in getting the transcript and in printing the record the case was reset for Apr. 21, 1927. The printed record contained 793 pages. Appellant's brief contained 108 pages. Respondent's brief 64 pages. There was also an extensive supplemental record of newspaper clippings and a reply brief. The opinion was filed June 3, 1927. Yet, even this speed was the subject of criticism from a layman who sought publicity through the columns of the Minneapolis Journal. Considering the volume of the record it is doubtful if it would have been advisable to move much faster. We must not sacrifice justice for the sake of speed.

Great changes, mostly in favor of the state, have taken place in our criminal procedure. Technical objections to indictments have little consideration in our courts. The illustrations of such in the speeches and writings of Marcus Kavanaugh of Chicago are unfair because the cases selected are old. He, however, does not select his illustrations from Minnesota. A more simple statement in the indictment should be sufficient.

For a quarter of a century the courts of our state have led in throwing aside the so-called technicalities of ancient law. The rule was announced in State v. Nelson, 91 Minn. 143.

Criminal procedure is the method provided by law for the apprehension and punishment of those who commit crime. We expect all innocent persons to be acquitted and all guilty ones to be convicted. Perfection is not possible. We must, therefore, strive to have a system that will serve to convict the maximum number of guilty persons and at the same time allow the minimum number of convictions of persons who are innocent.

If we should modify our procedure by taking away the presumption that a person is innocent until his guilt is proved beyond a reasonable doubt—we would convict more people. But we would convict more innocent people. The result would be intolerable.

Our jurisprudence provides a review of a conviction by a higher tribunal to keep innocent men from being sent to prison. Upon such appeal a reversal does just what it was meant by law to do. Our law guarantees the safety of all innocent men who may, any day, be victims of circumstances, appearances, personal malice, or hasty indignation.

History is full of the ancient method of cruel punishment. The change therefrom was gradual and certain. We have been brought to a better way of dealing with the criminal. Penalties are more commensurate with the crime. They make more for reformation while having regard to their punitive effects. Many people of today speak sarcastically of our prisons. They are called palaces. In my judgment our prisons are terrible enough—perhaps too terrible. The criminal is the product of society and yet we punish him primarily for the protection of society; his reformation is secondary but important.

The report of the crime commission gives little consideration to the important factor of redeeming a youthful wrongdoer to society. Experience teaches that many men have committed crime, and, having paid the penalty therefor, became good citizens.

The crime commission's report makes this statement: "It is not an uncommon occurrence for a criminal to state, sometimes in open court, that he has paid his attorney . . . a substantial sum to be used for bribery." Where such a disgraceful incident has ever occurred in this state I do not know. If it ever occurred it is strange indeed that it did not result in disbarment proceedings against the lawyer. I think it safe to assume that if it ever occurred nobody believed it.

Another piece of driftwood in the path of the crime commission is its comment as contained in its report charging that an accused has too many chances. They say the complaining witness may not prosecute. That the police, may, perchance, lodge a charge when a heavier one could have been made. That the county attorney may permit a plea of guilty to a lesser charge. That the grand jury may not indict. That the petit jury may not convict or that they may convict for a lesser crime. That the court may not give him the maximum sentence. That the appellate court may grant a new trial. That the Board of Parole may act before the sentence is served. That the Pardon Board may commute the sentence. It is true that some of these things may happen. It may be that one or more ought to happen. But the commission says that all this is for the accused and no one intercedes for society. Society is the state. Everyone of these agencies thus indicated by the commission as possibly acting, and presumably wrongfully, are officials who are just as much interested in society as the crime commission itself. One false step along such line would terminate the official career of any such person. The vice in this assertion is that these things do not happen unless there is some justification therefor. All such officials desire to give good faithful service and many are characterized by their harshness rather than sympathy. Each of these agencies is interested in law enforcement and the guilty get little undeserved help from any of them. It also overlooks the zeal of some county attorneys. The report rests on the unjustifiable assumption, first, that every man put on trial is guilty and, second, that every man guilty of crime should serve the maximum sentence. The report sounds much as if every person who is guilty of grand larceny should serve a like sentence. They perhaps are like the ancient king to decree that every person guilty of crime should be put to death. He justified this on the theory that the small offense deserved death and he had no greater penalty

for those who committed more serious crimes. True, the commission says that the officers are subjected to pressure and that they are weak. I do not think they are weak. They do their duty. They ought to have some discretion in many of these cases. Does not confession count for anything? Does not aid in convicting others deserve any reward? Does not restitution of stolen money count for anything? Is not marriage in the proper spirit when a child is to result from one guilty of carnal knowledge an important circumstance in saying what the penalty shall be? Is not society interested in having the head of a large, poor family take care of them instead of turning them over as wards of the state while the father serves a long term? Is society to assert itself in every offense though the parties do not want a prosecution? Public officials charged with the enforcement of criminal laws must have some discretion. It is not always advisable that every offender be prosecuted. Nor is it always best that the offender serve a full term or at all. We must look at these matters from the practical, sensible viewpoint, and not merely from a fine-spun theoretical view. Has the time come when we must kill an accused in order to keep our officials from favoring him in some way?

We all agree that the habitual criminal and the gunman are entitled to little consideration and it would seem that his views on life and his hostility toward man condemn him as hopeless and servitude is his lot.

The crime commission was composed of high grade citizens who acted with high and worthy motives. Doubtless some few of its members felt that they were so acting when during the legislative session they issued what in substance were bulletins in which the apparent purpose was to coerce the legislature into accepting their recommendations. They were indeed zealous in championing their conclusions. Fortunately the legislature was not easily stampeded. Experienced legislators know the danger of passing laws which are advocated by people acting under the influence of passion, prejudice, or to meet the requirements of an inflamed public sentiment. If ill-advised measures of governmental administration are adopted under the influence of such pressure they will be in force long after the occasion which gave rise to them.

Let me briefly mention the other new laws credited to the commission. Chap. 233, Laws 1927 relates to bonds for the appearance of defendants in criminal cases. I am not in a position to know of the necessity for such a law in the large cities. Certainly in the country districts it is not only unnecessary but a hindrance to the prompt administration of justice. It rests on theory in disregard of the practical. It requires too many records as to details and will burden the accused with additional services of an attorney. If this law were to strike down the professional bondsman it could have accomplished its purpose in a much more simple and efficient manner.

Chap. 236, Laws 1927 is a good law. It provides punishment for habitual criminals.

Chap. 255, Laws 1927 requires a district judge to make and file an order setting forth the reasons why he accepts a plea of guilty to a crime less than the one named in the indictment. It also requires the county attorney to put in writing, and file, his reasons for his consent thereto.

I know of no demand or just reason for such a law. Its purpose is to have the accused get the heaviest sentence possible regardless of the facts in the particular case. The law practically demands an apology from the judge and county attorney. It puts them on the defense. It is to the court a red light out ahead reminding him that some one is about to strike if he does any act which may be construed as favorable to the accused. It tends to block the exercise of discretion. It is a wholesome justice that protects the individual when the tide is all against him. That is when he needs the true rule of law just as much as the state and the state should be interested in so administering the law. Theoretically it is. Practically the state is no bigger than the man who represents it in the particular case. The effect of this law is to destroy compromises which are often best for the state as well as for the accused. These officers are too busy with necessary important affairs to stop and put in writing reasons that prompt their action. Again the discretion and judgment of judges and county attorneys are swept aside and the theorist is supreme. Indeed this law tends to reduce the important office of a district judge to a ministerial clerk. The power of the important office of district judge in Minnesota has never been abused and there is no occasion for striking it down.

Chap. 296, Laws 1927 provides that a district judge may dismiss a criminal case upon its own motion or motion of the county attorney. Provided, however, the reasons must be stated in the order, and the reasons of the county attorney must be stated in writing and filed as a public record. This law is subject to the same criticism as the last one.

Chap. 297, Laws 1927 authorizes amendments to indictments. It is a good and desirable law.

Chap. 294, Laws 1927 very properly provides for additional punishment, in the discretion of a district judge, when a felon commits his crime armed with a firearm.

Chap. 306, Laws 1927 provides a minimum prison sentence of one year where in the discretion of the judge there may be a prison or reformatory sentence. Why it has been found advisable to disqualify a judge from sentencing a man to prison for 6 or 9 months I cannot imagine. Such sentences have heretofore been imposed. If sentenced in the fall or winter it is better that the prisoner be released at the season of year when work may be available. It would seem that this is a mere arbitrary law originating in a mind determined to strike hard at the trivial offender or one whose conduct might permit a light prison term. Why such desire?

If we adopt the theory frequently advanced that we must be more stringent in criminal procedure and punishment the time will soon come when the public will lose respect for the courts and will condemn their acts. The best evidence that I am right in this assertion is the Sacco-Vanzetti Massachusetts murder case reported for the second time in the last volume of the Northeastern Reporter. Here are two men who have been convicted, under the usual rules of court procedure, of the crime of murder. The defendants injected into the case that they were radicals. Following their conviction an international aspect appeared upon the horizon demonstrating the mighty arm of Russia sowing seeds of dissension throughout America and indeed throughout the world. Through the propaganda of the radicals many newspapers have come to the defense

of these two men. Over seventy men, including many university and college professors have written magazine articles conveying the idea that these men have been wrongfully convicted. Indeed campaigns of protest have assumed such proportions that the governor of Massachusetts has appointed a commission of three men to investigate and report. Good citizens are misled by the agitators and a large number of our people are now sympathizers with these two men. Last Thursday 16,000 laborers in Tampa, Fla., went on a sympathetic strike for one day. Two thousand people in St. Paul have just signed a petition for these men.

Indeed American justice by reason of this case has been threatened with the dictates of international terrorists. Propaganda pamphlets have been distributed in France, Italy, Spain, England, Russia, Mexico, Japan, Central and South America. A bomb has been thrown at Ambassador Herrick, another placed in the American Consulate in Lisbon. Threats of death have been made to American Consuls in Peru, France and Cuba. In Massachusetts the home of a relative of a government witness was bombed. Threats of violence were made against officials connected with the trial. The home of Judge Thayer has been placed under special guard. Eight persons have been injured by acts of terrorism. When the supreme court of Massachusetts rejected the first motion for a new trial guards were placed at the home of the chief justice. After the second motion for a new trial was denied this terrorism was renewed and assumed disquieting proportions for American officials in France. Police authorities in Boston took prompt action to protect the justices of the Massachusetts court. The police doubled the guard at the home of Judge Thayer who has been under police protection for several years. The United States Consulate at Geneva received threatening letters and police protection was extended to the American legation and Consulates in Switzerland. The day following the sentence circulars were placed in windows in the downtown section of New York declaring "Sacco and Vanzetti must not die." A guard was placed in the state department corridor near the office of Secretary Kellogg. All these things occurred within the period of two or three days. More followed. This is sufficient for present purposes.

Dean J. H. Wigmore has written an article in answer to one of the persons who has severely arraigned Massachusetts justice. I feel that every lawyer in Minnesota should familiarize himself with the Sacco-Vanzetti case and also with Dean Wigmore's article in reference thereto. This case is a fair example of how the people will rebel when they believe an injustice is done in the courts.

In the liberality of criminal procedure which is silently and effectively advancing I see no danger. To my mind it is indicative of the administration of wholesome justice. I have no fear of a decay of constitutional guaranties nor that the rights of the accused, long deemed impregnable, are to crumble in the hands of the legislature or the judiciary. I have too much confidence in the stability and conservative judgment of a Minnesota Legislature to anticipate such unfortunate laws.

The federal and state constitutions provide that no man shall be compelled to be a witness against himself. Abstractly this constitutional guaranty has little justifiable support. But it was put in for a purpose.

It was a safeguard against abuse which was inflicted on people in the past and it was to guard against, in this land, one of the atrocities that had caused our ancestors to come to America in pursuit of freedom. Up to the present time there seems to have been no inclination to directly do away with this safeguard. But we are frequently confronted with the proposition, which is endorsed by the Crime Commission, that a law should be passed giving the court and county attorney the right to comment on the failure of the defendant to testify. From a practical standpoint such right on the part of the court or county attorney would completely destroy the constitutional guaranty. It would force him upon the witness stand. It would also do an injustice to the accused who might not be inclined to add perjury to his sins. This fundamental safety was intentionally written into our constitutions. It does not enable truth to be smothered with sophistry nor does it chain justice to ignorance and prejudice. It has a wholesome influence and it is well to keep it to avoid possible abuse. Our system of government contemplates that we take pride in the protection of individual rights as against those clothed with governmental power.

The crime commission makes some recommendations concerning which there may be serious doubt. They say that when possible the second offense statute should be used; that when a sentence is suspended by a court a written record should be made of the reasons therefor. They say that where men are jointly indicted they may be tried jointly in the discretion of the trial court. They say the state should have a right to reply to the argument of the defense. They say that the court and county attorney should have the right to comment on the failure of the defendant to testify. They ask for an arbitrary law providing a minimum penalty of five years for every felony in which a gun or dangerous weapon is used in the commission of the offense. They say that a suspended sentence should be impossible where the crime involved the use of a gun or other dangerous weapon. They ask that parole be made impossible until the offender has served the minimum sentence.

Suspended Sentence and Parole

The Crime Commission criticises the suspended sentence but does not wholly condemn it. They merely put it to death by surrounding it with red tape. They concede that the average term served is longer under our indeterminate sentence than under our old system. They say that the percentage of suspensions was too large but they do not indicate that a single suspension was granted where not deserved. To my mind the statute authorizing the district judge to suspend a sentence and put a prisoner on probation is one of the best in our criminal procedure. I do not concur in the view that a district judge should be required to put in writing in the record his reasons for a probation. It seems to me that it is best that the power of suspension rest with the district judge.

The reason for punishment is for the good of society through prevention, and reformation. Punishment is legitimate only in so far as it tends to reach some definite end.

Absolute justice is metaphysical justice and hence is unacceptable as a principle of law. Punishment tends to restore the public peace that has

been disturbed by crime. Every act of punishment is an open threat that it will be repeated upon a recurrence of the crime. Such threat serves to maintain the public peace. Punishment is an act of authority opposed to an act of rebellion.

The infliction of punishment tends to strengthen governmental authority. Sometimes prevention fails. In that case repression is imperative. Punishment re-establishes the power of the law.

Punishment relates to a past act. It is not revenge. It is not evil for evil. It is evil for the sake of the greatest good possible. It is a direct discipline by the state.

During the last few months much has been said in Minnesota about the superiority of England's methods of handling criminal cases over our method. The laymen may be justified, from the assertions made in this connection, in concluding that our criminal trials are conducted to suit wealthy offenders, and that the lawyers and courts all join in delays. The comparison is out of place. Great Britain and Ireland contain less square miles than the state of New Mexico. The greatest distance between any two cities in England is about 600 miles. It is entirely surrounded by water. A fugitive has little chance for escape. Scotland Yards has long been a more efficient police service than any we have. We do not spend the money necessary to maintain such service. England does have less crime than we. Why? I do not know. There are some fundamental things that bear upon the inquiry. (England has less than 400 homicides in a year. In 1922 in an area occupied by 93,000,000 of our 110,000,000 people we had 7788 homicides of which 5714 were committed with firearms.)

We cover perhaps sixty times as much territory as England and we have twice her population. She is an older country and hence longer experienced in government. Her population is made up of English, law-abiding citizens. She has a foreign population of only 3%. In our cities there are thousands whose parents are foreign born. If we include these 80% of New York's population is foreign born. This is ¾ of non-English speaking people and is a fair average of 19 of our largest cities. Indeed in only 14 of the 50 largest cities of America does the native parentage population equal 50% of the total. England's population has been bred to English customs and traditions for ages. We have welcomed the immigrant from every land and our melting pot has a composite mixture of nations which has produced many people who have no regard for law or order.

Legal procedure suitable for a monarchy will not suit our needs or requirements. Those who advocate the adoption of the autocratic English methods would be the first to condemn them. Our forefathers wisely concluded that we should have a different method. That is why we are what we are. Under our legislative branch of government we get very nearly what the people desire. We have made great advance in legal procedure. Our criminal procedure today in Minnesota could not be recognized as our procedure forty years ago. Our laws require lawyers to act as counsel for accused regardless of his financial condition. The oppressed in our state have never suffered for want of means to have a proper defense. The state provides a lawyer, compels the attendance of his

witnesses, and affords him every necessity. This is not done because of the particular defendant but it commands confidence in the spirit of our laws and it shows that society seeks no unfair advantage. The rights of the people are protected by counsel chosen in every county. England's success in handling her criminal cases affords us no example. In this respect we lead. She catches but one-third of her shopbreakers and persons who commit crimes involving fraud. She catches 60% of those who commit larceny. In 1924 there were 112,574 crimes that came to the knowledge of the police. Three hundred and ninety of these were supposed murder. Of these 83 of the murderers committed suicide. England's batting average in the trial of criminal cases does not equal ours. In 1921, 63 persons were put on trial for murder. Only 15 were convicted. It is only fair to say, however, that because murder is punishable by death the proportion of acquittals is higher than for other crimes.

It is important that the lawyer give his counsel and advice in keeping our laws and their enforcement in such condition as to have the approval of an intelligent public.

One of the fundamental things in criminal procedure is the reformation of the first, and particularly young, offender. The theory is to help reclaim a useful citizen to society rather than vengeance. I realize that many people call this "sentimentalism." Brutal punishment cannot be justified as a means to abate crime. All history refutes this. Hope is a potential solvent in reformation. Crime proceeds from the impunity of criminals and not from the moderation of punishment.

Probation, and the indeterminate sentence parole laws, blaze the way to reclaim offenders. Compensation for prisoners is an efficient adjunct. The probation officer gives a real service. He retrieves the first false step of the prisoner. Strength of purpose is inculcated and the sick limb upon the social tree is doctored and new life is infused. The means for all this a good investment for the state. The reward therefor will be abundant. Victor Hugo in Les Miserables showed how Jean Valjean got a life sentence for stealing a loaf of bread, and that novel produced a reform in France. It is often better in dealing with first offenders that we follow nature, which has given shame to man for his scourge; and let the heaviest part of the punishment be the infamy attending it.

For 20 years England has been a strong advocate of probation. In 1924 out of 6379 convictions for major crimes 1453, about one-fourth, were released on probation. Out of 44,264 other indictable offenses 22,141, 50%, were released on probation. Out of 534,303 persons tried summarily and convicted 459,791 persons were punished by fine only. In England they permit a fine to be paid in installments. Of 34,436 persons found guilty of simple larceny 17,604 were put on probation. Only 6639 out of the 34,436 were imprisoned without the option of a fine. In short in 1924 England had in round numbers 65,000 adult persons on probation. If we may profit by English methods of criminal administration may we not take from her renewed confidence in the theory of probation?

Parole boards are created for the express purpose of dealing with an unstable, unreliable and criminal class. Their work, in a measure, depends upon confidence and trust. We must not expect 100% success. But let a paroled man go wrong as they sometimes will and at once a

powerful press announces that a crime has been committed by a convict released on parole, therefore paroles cause crime because if he had not been so released he could not have committed it. This tends to undo the success of the parole system. About 80% of those released on parole never commit another crime. It is said the parole system permits 20% of such prisoners to commit crime. This claim or argument is neither fair nor true. Perhaps 20% of all prisoners repeat. Judicial statistics of England and Wales of 1911, p. 138 show that out of 159,747 persons convicted, 100,605 persons had been previously convicted, 23,023 one time, 12,154 twice, 9104 three times, 7057 four times, 5474 five times, 17,431 six to ten times, 13,783 eleven to twenty times, and 12,579 over 20 times. I insist that the parole system reduces crime. It has been a success in Minnesota, although it has been traveling a road beset with many perils, due probably in the first instance to the failure of the Parole Board to take the press into its full confidence. The press never abuses a confidence and there was no occasion for the board to cover its acts with mysterious secrecy. Of course it did not want the public informed as to the whereabouts of every prisoner placed on parole. Undoubtedly it is better for the prisoner that no publicity be given to his whereabouts. But if the newspaper men who attend its meetings were given full information the board's wishes would have been duly respected. The claim so frequently made that the police officers be advised when a prisoner is paroled is ridiculous. That would serve no useful purpose. The police cannot be the guardians or custodians of such paroled prisoners. If the police are to be put on the trail of a paroled man he will have a hard fight for rehabilitation.

The police and prosecuting attorneys try to do their duty. They struggle against the force of crime. They often have confidence in their suspicions. They become partisans. They do not worry about the presumption of innocence. In court they stand as the representative of the people, a part of whom act as jurors. The court, trying to administer law and justice, becomes an ally to the prosecution.

It is not hope of parole that produces crime. Its causes are many and deep-seated. Certainty of detection and celerity in trial deter crime. Where crime flourishes it is because few criminals are caught. We must not be carried away by the cry for severe punishment. Do we want severe punishment in the home? Our dealing with anyone subject to our control and discipline must involve discernment of differing character, fairness, firmness, and kindness. Harsh treatment in prison is undoubtedly responsible for many habitual criminals. What shall we desire? Punishment, suffering and fear, or moderate punishment, education and hope? Extreme severity can never tend to an intelligent and moral uplift. The parole system is the nearest ideal that has yet been advanced.

I do not make my comments in the spirit of a critic nor in the attitude of a partisan soliciting your aid to support my ideas. My purpose is to call your attention to the situation in the hope that each of you as a member of our profession may concern yourself with the subject under consideration. It is worthy of your help and the public welfare calls upon your ability and learning for support. Whether your views are in harmony with mine or hostile to mine is not important. If the lawyer's influence in

every community is used the result will be satisfactory because their composite judgment will solve the problem. The responsibility for a correct solution rests upon the individual lawyer of Minnesota. He has a conservative and judicial mind. He is able to disregard hysteria and its passing phases and is capable of devising ways to aid those who are disposed to reform and to plan means of detection and punishment more certainly and equitably for those bent on crime. (Applause.)

MR. HENRY DEUTSCH: The chief justice has put more humanity into a report on criminal proceedings than any discussion I have ever heard. I think we should extend to Chief Justice Wilson our sincere thanks for this address. I make that motion.

(Motion duly seconded and upon vote of the members, carried.)

MR. L. L. BROWN: I move you, Mr. President, that the secretary be instructed to cause a reasonable number of copies of the address of Chief Justice Wilson to be published for general distribution to the public.

MR. CALDWELL: What number do you mean?

MR. BROWN: Leave it to you. It is a matter discussed among the public. We will read the Review, but that doesn't reach the public.

(Motion duly seconded and upon vote of the members, carried.)

PRESIDENT PUTNAM: It is now ten minutes after twelve, and I suggest a motion be made to recess until two o'clock. (Whereupon a motion was made, seconded and carried, adjourning until two o'clock P. M.)

Afternoon session, July 13, 1927, pursuant to adjournment.

PRESIDENT PUTNAM: There is a gentleman here who wishes to be heard concerning a new statute,—Mr. Mason. I have promised him five or six minutes to make a statement to the convention.

MR. W. H. MASON: Mr. Chairman and gentlemen: I know you are all interested in a new Minnesota Statute. You have an opportunity to have your wish fulfilled in that respect. The Citer-Digest Company,—its editorial staff,—have been working for months on a recompilation of the present statutes. This statute will not change the numbering of the 1923 edition. It will add all the new laws, and those which are superseded will be left out. The new statute will present the law just as it now appears in the 1923 statutes, plus the new laws, minus those that have been expressly repealed by subsequent legislation. The statute will have a complete new index. (Applause.) The trouble with the present statute is that the 1913 index was used for the 1923 statutes, without additions.

A VOICE: That was not the only thing the matter with it.

MR. MASON: Well, I don't want to be too severe on it. You gentlemen know from your own experience the trouble you have had. And I sincerely hope, and I think I can assure you, that the new statute will be at all times up to the standard of good statutes.

Now, all the men working on this statute realize that there should be a revision; that represents a great deal of work and a great deal of time. Our 1905 revision was authorized in 1901. The revisers were to report

some time in 1902, but they didn't make their report until 1905, and if my recollection is correct, they had to be given a pretty hard jolt before the 1905 legislature met, in order to get their report ready even at that time.

The general plan as presented to the last legislature was to follow the plan adopted in Wisconsin. Well, do you realize it took them about 15 years to revise that statute! The plan was they simply took the old statute, revised the first chapter and produced it at the next legislature, adding chapter after chapter, and it wasn't completed until the statutes of 1925.

It is now completed. But I think a revision at this time will be very much more difficult than the revision of 1905. There is a perfectly overwhelming crop of new legislation that has come in; we have had a great many uniform laws, and those laws have not been taken into account in the existing statutes, which have been allowed to stand; we have reenacted the Workmen's Compensation Act; a number of other laws have been entirely overhauled; in general all the laws have been more or less tinkered with, until now the statute is in serious need of revision. Private compilers cannot revise; we are not pretending we are going to give you a revised statute. That is something that must be done under legislative authority, and must be done by the expenditure of a great deal of money, and the expenditure of a great deal of time. You cannot hope to get a legislative authorization until 1929; that is two years just to begin the operation. It will take at least four years if you intend to produce a revised statute complete; that will be six years. What are you going to do in the meantime?

Well, the Citer-Digest Company is producing a new statute. It will be on the market early this fall. We are thoroughly in accord with your revision plan. If the Wisconsin plan is adopted, I would suggest, if our statute meets the approval of the profession, of the Bench and Bar, that it be used as the basis for the commencement of a thorough revision. The revision probably ought to be done by chapters; take up a few of the first chapters, and issue the book. The only change you would have to make would be to add the index in so far as revision has progressed. That is the plan which I have in mind, and the announcement of this new statute will go out within a few days; some of the announcements have gone out already.

I think whatever plan you discuss on the revision, it ought to be on the line of getting immediate relief from your statute complication.

That is all I think I have to say. I would be perfectly willing to meet any of the gentlemen or any committee to discuss the thing and go over our work. But in any event, the statute will appear early this fall. I thank you.

PRESIDENT PUTNAM: The next order of business is the report of Committee on Coöperation of Local and State Bar Associations, found on page 17 of the committee reports; the chairman of the committee is George J. Allen. (See Appendix, p. 139.)

A VOICE: He isn't present.

MR. CALDWELL: Somebody make a motion that the report be received and placed on file; it occupies but a few lines.

MR. DEUTSCH: I move that the report of the committee on Coöperation of Local and State Bar Associations be accepted and placed on file.

(The motion having been duly seconded, was put to vote of the members and carried.)

PRESIDENT PUTNAM: The next is the report of the Committee on Abolishment of Common Law Marriages, page 18 of the committee reports. The chairman of the committee is absent, and Mr. Agatin, one of the members of the committee, will present the supplementary report.

MR. AGATIN, (Duluth): Mr. Chairman and gentlemen of the Association, the Committee on the Abolishment of Common Law Marriages has been laboring under considerable difficulty. I understand the president appointed Judge Waite, of Hennepin County District Court, chairman of that committee, and on page 18 of the pamphlet you will find a letter from him, in which Judge Waite stated that he felt that it wasn't the right thing for him to serve as chairman on a committee of this particular kind, handling a subject that is involved in considerable controversy and different views.

As a result, however, of the whole thing, the committee met informally this morning, consisting of myself, Mr. Pierce Butler, Jr., Mr. George S. Macartney and Judge Waite, and concurred in this report which I will read. This report was prepared by Judge Waite, and the Committee concurred in it.

REPORT OF SPECIAL COMMITTEE ON ABOLISHMENT OF COMMON LAW MARRIAGES

On page 18 of the current bulletin of the Association there appears a letter to the President from the person originally named as chairman of the 1926-7 Committee on the Abolishment of Common Law Marriages. This is in no sense a report of the Committee, but perhaps its publication serves a useful purpose in dispensing with further explanation of the Committee's inactivity.

However, four of the six members have met and agreed upon the following, to be submitted to the Association:

The appointment of the first committee on this subject in 1925 was doubtless prompted by apprehension lest the then current agitation in certain quarters might result in legislation abolishing common law marriage in Minnesota, which the proponents of the Committee regarded as undesirable. The agitation subsided for a time, and the Committee did no work. In 1926 the Association continued the Committee for another year, with substantially the same membership. Like its predecessor the present Committee has done nothing, a fact which is perhaps explained if not excused in the letter to which reference has been made.

Two courses are now open to the Association: to discontinue the Committee, or to again appoint a special committee, in the expectation that at last, the Association having thus made clear its interest in the subject, a careful study will be made and recommendations presented next year. The Committee favor the latter course, provided there can be found a chairman who can and will function.

Certain intelligent and public-spirited groups are much dissatisfied with our marriage laws, and in particular with the social detriment that is, as they believe, incident to the legal recognition of common law marriage.

While these groups have not yet secured any radical changes in the laws, there is danger that an ill-considered bill may get through; and on the other hand proposals tested and found to be wise are likely to lack the cooperation they might properly receive from the organized bar.

The subject of marriage is of such supreme importance that agitation of changes deemed desirable from a social viewpoint should be paralleled with study of existing conditions and all proposed changes by those who are able to take the more complicated legal viewpoint. There need be no conflict between that reasonable conservatism which ought to characterize the bar, and open-minded recognition of the facts. And is it not well that laymen who are seeking social betterment shall feel that the bar offers the guidance it is specially qualified to give?

Should the Committee be continued, we think a better name would be SPECIAL COMMITTEE ON MARRIAGE LAWS. We doubt if there is any substantial sentiment in the state for doing away with common law marriage in its essential character as marriage by informal contract, without ceremony of any sort; but there is a growing public demand that a public record of every lawful marriage shall be required, and that all marriages shall be subjected to at least such regulation as now applies to those for which licenses are issued. To accomplish this without the abolition of marriage by informal contract will be a delicate and difficult task.

A. L. AGATIN
PIERCE BUTLER, JR.
G. S. MAÇARTNEY
E. F. WAITE

I move the adoption of the report.

A VOICE: I second the motion.

PRESIDENT PUTNAM: Before the motion is put, it is well to state, at the meeting at Duluth last year, this special committee on Common Law Marriages was created, and Judge Waite, of Minneapolis, was made, by the resolution, chairman of the committee. The president appointed the balance of the committee, and made Judge Waite, chairman. What action do you wish taken on the report; any debate on this motion to adopt the report of the committee? If there is no debate, as many as are in favor say aye; opposed, no. The motion prevails.

The next order of business is the report of the Committee on Chattel Loans, of which Mr. Foley is chairman. As he had to be absent, he asked that it be put over until tomorrow morning. The same is true of the report of Committee on American Citizenship.

So, then, we come to the question of the report of the Committee on Jurisprudence and Law Reform, which is found on page 4 of the Committee Report; Mr. Cherry is chairman of this committee. (See Appendix p. 123.)

MR. CHERRY: Mr. President and members of the Association, the report in the pamphlet, on page 4, is a very brief one, and merely calls attention to matters which are presented by this committee, or were presented last year, and recommended for passage by the legislature, both of which were passed by the legislature, and one of which was vetoed by the governor. The one which was vetoed it may perhaps not be necessary to say was vetoed because it carried an appropriation. That measure was one which called for a revision of the statutes, such as we have heard dis-

cussed here today. No doubt at another session of the legislature that bill can be passed, and very likely will not then meet the same difficulties which have arisen this time.

Your committee suggests in the final paragraph a matter about which I want to say a few words, upon which your committee will not ask any action of the Association at this time. That is the so-called Judicial Council. A number of states in this country have Judicial Councils. The movement seems to have been definitely formed first in Massachusetts, where, through the action of their Bar Association, a Judicial Council was created. Other states have followed Massachusetts, notably Ohio, Wisconsin, Oregon, Washington, California, and finally, in this year, Kansas and North Dakota.

Those statutes differ somewhat in their provisions; they differ in the personnel of the commission provided, or the council; but in each case the fundamental idea exists that there ought to be in every state a body, at least partly official and partly made up of lawyers who are not officials, who shall have the duty of keeping track of those matters concerning the administration of the law, primarily procedure, which need attention from time to time.

There is in the State of Minnesota, as you will realize if you think of it, no one officially charged with the duty of having in mind the situations in our judicial administration which from time to time may need amendment or consideration at least. About all that we have is this Bar Association, and in this Bar Association, the committee for which I am now reporting has, from time to time, made recommendations which come before meetings such as this, and then go to the legislature. I think for some years there has not been a session of the legislature without this Association being represented by bills prepared in pursuance of recommendations which have taken that course.

That is a very small way to act, to get at the whole problem. It is tinkering with it, and tinkering with it in the method which you will realize, we have a committee of five lawyers who do not have much time to give to it. It comes before this association. Then it goes to the legislature, without very effective backing, and the results are not as satisfactory as they might be. The Committee wants to suggest for your consideration the creation of a Judicial Council in the State of Minnesota. We recommend that the members read the article with reference to it appearing in the January, 1926, issue of the Law Review, Volume 10, Page 85, an excellent article by Judge Paul of the State of Washington, written at the time they were passing their act, reviewing several statutes. You will find in the American Bar Association magazine of May, this year, 1927, page 275, an account of the new acts passed in Kansas and North Dakota.

Even though there should be a special commission for the revision of the statutes, such a Judicial Council is necessary. Witness the fact that a state like Wisconsin, which has a revision system that we have today heard extolled, and deservedly extolled, has such a council. Even in a state which has the most thoroughly integrated bar, such as California, which has now passed a law incorporating the bar, it is found necessary to have a Judicial Council.

It is the recommendation of your Committee that that matter be taken under consideration by the Association; that it be considered part of the business of the new committee on Jurisprudence and Law Reform for consideration, on a definite proposition, at the session next summer. With that statement, I move the adoption of the report.

JUDGE CHILDRESS: I second the motion.

PRESIDENT PUTNAM: It is moved and seconded the report be adopted. As many as are in favor, say "aye"; opposed, "no". The ayes have it; the motion prevails.

The next order of business is the report of the Committee on Conciliation and Small Debtor's Courts, found on page 15 of the committee reports. Mr. Reed is chairman of the committee: (See Appendix, p. 137.)

MR. FRED W. REED: At the session in Duluth a year ago this committee suggested a law in accordance with the bill as presented on page 16. It was, I think, stated that there was a bill to be presented at the legislature of 1927 by the Duluth members, establishing a Conciliation and Small Debtor's Court in that city. That was done. It was passed as Chapter 17 of the Laws of 1927. In that bill they have adopted identically the proposition proposed in this bill.

As I remember it, when this report was made a year ago, this Association commended the idea and referred the matter back to our committee with the idea of drawing a bill in accordance therewith. In accordance with that recommendation, this bill was drawn and submitted to both houses of the Legislature, as 273 in the Senate, and 422 in the House. In the House it never got out of the Judiciary Committee, composed of lawyers, which we had reason to notice was somewhat conservative at times. In the Senate it got out on general orders, and died there.

Now, the garnishment law is a tremendously unjust law in a great many instances, yet you cannot abolish it. But where a man gets behind he gets into debt. He may want to pay his debts, and the majority do; he gets a job, and then his wages are garnished. What in the devil can he do? The general custom of all employment agencies, corporations, railroads, is to dismiss a man for the second garnishment. There is no form of relief for him. Now, if he himself could apply to the court to have the court appoint the clerk a receiver of his income, and to determine how it should be applied and in his application go on and state to the court what his income is, what his debts are, whom he owes them to, and what his obligations are, then he could have some method of paying off his debts and still live. He has no such method at the present time. Then the bill goes on farther and states if he indicates in this application or shows that he has no property whatever except his wages, then in the report he must show all debts, what his income is, what he can do toward the payment of his creditors, and so on, and the court cites them all in, appoints a receiver to determine how much shall be paid, and to whom it shall be distributed, and orders all creditors estopped from bringing or maintaining any proceedings against him, so long as he complies with the order.

In many instances, as a matter of fact, there are not more than three or four creditors of such men, and they usually would be better off if they came in under the receivership, so they would finally get all that is coming to them, by slight degrees, rather than by garnishing a single month's wages and getting all they can out of that. So in the majority of cases I think, where there are only three or four creditors, they will usually come in and join in the application.

I understood there was a similar law in Massachusetts. I am unable to say through whom I got the information, but I received a statement to the effect that they had entirely abolished the garnishment of wages, but they still retain the garnishment of salaries. How they arrive at the distinction, I do not know.

I have presented this bill, and I hope it will receive at least the recommendation and support of the members. Perhaps you have in mind a way it can be bettered. I move the adoption of this report, and the approval of the proposed bill. It is a special committee and I do not know as we will have any further excuse for existence. If there is, I shall be glad to do anything I can.

(The motion having been duly seconded, was put to a vote, and duly carried.)

PRESIDENT PUTNAM: The next order of business is the Report of Special Committee on Bar Organization, found on page 14, Mr. Morris B. Mitchell, chairman. He is sick in the hospital. Mr. Chas. S. Kidder, of St. Paul, is a member of that committee, and did some work in connection with it. Can you say something on the report of the Committee on Bar Organization, Mr. Kidder? (See Appendix, p. 135.)

MR. KIDDER: I haven't prepared anything. What was the question?

PRESIDENT PUTNAM: On the report of the special committee.

MR. KIDDER: Mr. Mitchell has charge of all the figures and matters in connection with it. I haven't any information.

PRESIDENT PUTNAM: The reason I called upon you is that Mr. Mitchell is in the hospital, sick. I was inquiring whether you knew anything about it, so you could discuss the matter.

MR. KIDDER: I have no particular information on how long the work has gone on, how far it has progressed. The last I had, it was quite thoroughly organized, as I understand; only one district has refused to join or affiliate with the State Bar Association. Outside of that, I think the organization work is progressing. It is the Sixth District, Mankato, that has refused to join. I think that is the only one so far. There may be one or two that haven't acted.

PRESIDENT PUTNAM: I am inclined to think that district can be brought in line.

MR. CALDWELL: Somebody make a motion. This is quite a full report.

MR. HENRY DEUTSCH: I move the report be received and placed on file.

(The motion being duly seconded, was put to a vote and carried.)

MR. GRAVES (St. Paul): I should like to call the attention of the meeting to the recommendation which Mr. Mitchell makes in the last paragraph of the report. It is possible it would be useful to have some discussion about what, if anything, can be done along that line. It indicates the way in which the funds of this Organization, as it seems to me, can properly be spent, when we have them in sufficient amount.

It may be too early to say anything at this time, but it does seem to me that something more personal, more effective than the present method of spreading information among the members of the bar would be perhaps most useful.

DEAN FRASER: There is a reference here to the part which Mr. Graves has been discussing—his recommendation that there be a news bulletin published by the Association to go to all its members. I may say that there is a Bench and Bar Section in the LAW REVIEW, which has been trying to do that thing, but we have had great difficulty in getting the local associations to report anything of interest in their jurisdictions to the LAW REVIEW. We could make the Bench and Bar section of the LAW REVIEW more serviceable to the lawyers if the officers of the district associations would report from time to time about their meetings and any other matters of interest to the profession.

The proposition of the committee is for a distinct publication to that end. I think we can do more with the periodical we now have if we get greater coöperation from the Associations and from the individual members.

MR. YOUNG (Madison): Perhaps it would be well to state at this time that the presidents and secretaries of local judicial associations held a meeting on the first day of this session, and that a committee has been appointed to represent the local associations for the purpose of conferring with the new Board of Governors for the coming year, to work out some of the problems that are covered by this report.

PRESIDENT PUTNAM: That perhaps leaves the situation all right. Are there any suggestions? If not, the report of the committee has been received and placed on file.

The next order of business is the Report of the Committee on Unauthorized Practice of Law, on page 10 of the report, Mr. Henry Deutsch, chairman. (See Appendix, p. 128.)

MR. HENRY DEUTSCH: The report of the Committee will be found on page 10 of the reports, and as a preliminary to the activities of the Committee, I will, with the permission of the president, reread a portion of his annual address, which I understand was read here this morning.

(Reads from president's annual address.)

That summarizes or epitomizes perhaps better than I could the reasons which underlay the appointment of this committee some ten or twelve or fifteen years ago and its perennial or annual activities in reports to this Association and the adoption of the reports by this Association, until we come down to the present moment where the committee is bringing to the attention of the Association the necessity for going one step beyond the adoption of the resolution. In other words, while it is true that some

six years ago, if I am not mistaken in the date or time, the trust companies, at least those in the larger cities, agreed that they would coöperate with the bar and would adopt and carry into effect the resolution adopted by the National Association of Trust Companies, deprecating and condemning the practice of law by trust companies, and do everything they could to turn that work to lawyers, yet the fact remains in some instances,—I won't say how many, nor will I name the localities or companies,—either through the negligence of the officials of the company in failing to transmit the message or over-zealousness of the company, the fact remains there is a continuance of the practice of law on the part of some of the trust companies,—this unauthorized practice of law has continued and is in effect in some sections of the state up to the present year, and it is particularly flagrant among the banks and smaller trust companies in the smaller towns, cities and villages. Therefore it has seemed to your committee that the time has come for this Association to demonstrate the fact that it is something more than a mere gathering together for a social time or intellectual purposes, and that it can function and carry out its purpose in maintaining the standards and the dignity of the bar, in compelling, on the part of laymen, the recognition of the fact that law is a profession and not a business, and that only those who have been properly licensed by the state, after due preparation, shall be permitted to carry on the practice of law.

We can divide this subject into three classifications, rather inaptly indicated by the resolutions which are submitted for adoption by this Association.

1st, the practice of law by trust companies and banks, along the lines indicated by the president's report, in acting as attorneys, or of men in their offices who are attorneys, doing the work and turning the fees into the trust company, in the drawing of wills and other instruments which should properly be drawn by a lawyer, in connection with legal services performed in probating of an estate and doing administration work, which properly belongs to and properly can be carried on by a trust company or bank, and in many other instances where in giving legal advice or diverting, if you please, legal work from the attorneys, the trust companies and banks may properly be chargeable with being engaged in the practice of law. In that connection therefore we are offering the first resolution.

You will read the report and you will see that we have indicated by every fair means, and in the effort to be impartial and at the same time kindly, without endeavoring to bring any coercive or over-stressful measures, the committee has endeavored to bring the attention of the trust companies and banks to the fact that they are doing a thing not permitted by law and to endeavor to secure their coöperation in the discontinuation of such practice. And I will say, to the credit of many of the trust companies, that when their attention has been called to this fact, they have very quickly coöperated with the committee and indicated their willingness and desire to discontinue the practice. But there are some which are still recalcitrant and still refuse to consider the question of ceasing to do what they are not authorized to do.

Therefore as a preliminary measure, your committee recommends that the committee be authorized on behalf of the Association and at its expense

to transmit to each bank and trust company in the State of Minnesota a letter indicating the policy of this organization to require all corporations and other persons not authorized to practice law to desist from doing so, and to indicate that unless the request is complied with, legal steps will be taken to enforce the same. And I move the adoption of that resolution.

A VOICE: I second the motion.

JUDGE BUFFINGTON: May I suggest to Mr. Deutsch that before he moves the adoption of the first resolution, that he continue with the second and third, in order that there may be discussion, if there is discussion, and then make whatever recommendations the Association may wish.

MR. DEUTSCH: I have no objection, and the motion on the first resolution is withdrawn for the present.

The second division of our work has particular reference to the matter of the number of banks in the smaller communities who have persistently, and almost without any effort to desist, continued to follow the practice of having themselves appointed administrators or executors of estates and collecting not only the fees as such but the legal fees and doing all the legal work. We had hoped to correct this through the coöperation of the probate judges, and did secure their coöperation by the adoption of Probate Court Rule No. 5, of the Probate Court Association of Minnesota, "No person not duly admitted to the practice of law, shall appear as attorney or counsel in any action or proceeding in this court, except in his own behalf, etc." Many of the probate judges have coöperated with the committee and the Association in rigidly enforcing that rule. Judge Childress had a very interesting experience recently, in which they succeeded in having a probate judge reverse his former position and agree to abide by the rule. Similar proceedings have been had in other districts or counties. In some of the jurisdictions, like Stillwater, for example, on the initiative of the judge of probate himself the rule has been rigidly enforced, and I understand is working in a very satisfactory manner. But there are a considerable number of probate judges,—and I use the word "considerable" advisedly,—there are a considerable number who have been reported, who have in fact told the lawyers to go to hell; they don't intend to enforce the rule. Those judges, in the opinion of your committee, ought to be brought to time by such means as attorneys in those districts can use coöperatively and more effectively through this Association.

The reasons they usually give for permitting the banks to practice are largely without any valid foundation, and in many instances due to laziness or carelessness or indifference of the judge. My opinion is something ought to be done in the way of bringing this question to the attention of the probate judges and to the respective bar associations in the different districts, with a request that an effort be made to bring the probate judges into line or do what is necessary to accomplish that result.

The major part of this discussion has relation to what we might call the so-called collection agencies and adjustment companies. We have a large number of collection agencies in the state, particularly in the

three large cities. Some of them are legitimate; a great many of them are illegitimate.

I suppose some of you are familiar with many of their practices. One of the most common practices of a collection agency is to have an assignment made of a claim of the creditor to the collection agency, purely a fictitious assignment, and then sue the claim in the name of the collection agency, thus ostensibly giving the collection agency the right to practice law, because it is suing its own claim without really having any authority to do it.

Another nefarious practice is the use on the part of the collection agencies of the similitude, if you please, of legal papers, documents we use in bringing suits, such as summons and complaint, giving the impression to the debtor that it is a regularly authorized legal proceeding. That matter has been argued before our supreme court within the last year, but we have not yet reached a collection agency. And in connection with this work by the collection agencies are those activities on the part of attorneys, licensed to practice, who permit a collection agency to use their names. In a certain action that came before me personally, I called up the attorney whose name appeared on the papers, to get an extension of time. He said, "I never heard of the case." I said, "Your name is on the summons." He said, "We have an arrangement with this concern whereby when they want to sue to collect, they can use our name as attorney." It is easy to be seen that a practice of that kind on the part of collection agencies ought to be eliminated completely and speedily.

Then we have another group of people who are advertising in the daily papers, in the Twin Cities, offering free legal advice on damage suits and things of that kind; some corporations, others individuals acting under company names, unquestionably engaged in the practice of law, but not authorized to do the same.

We propose to reach these difficulties, if this first resolution is adopted, as indicated, by a letter to all the banks and trust companies, seeking to secure their cooperation, and by fair means and decent means get them to cooperate with us and desist from these practices which are condemned and which are unlawful.

The second resolution has to do with the proposition that if they fail to desist, that the Board of Governors shall institute or authorize the institution of the necessary proceedings, either criminal or civil, to compel these companies to desist from the unauthorized practice.

The third measure or resolution which is proposed, which strikes directly at the attorneys, is that proceedings shall be taken against attorneys of trust companies, banks, or otherwise, who coöperate with these institutions in the unlawful or unauthorized practice of law, by permitting them to use their names as attorneys or by acting as attorneys on salary, turning in their fees to the banks or trust companies, or by a division of their fees or otherwise.

That, in a more lengthy statement than I had expected to make, comprises the general outline of what this committee has found, and the remedies for which are epitomized in the three or four resolutions which I shall now read:

(Mr. Deutsch then read the resolutions, First, Second, and Third, as appear on page 129.)

I shall be glad to move the adoption of these singly or en bloc. I move the adoption of these resolutions.

A VOICE: I second the motion.

JUDGE BUFFINGTON: I suppose I know most of you gentlemen. I suppose a great many of you will feel that I have fallen from grace, when I say I am counsel for a bank and indirectly, by reason of affiliation, interested in the activities of a trust company.

Now, I want to assure you I am heartily in accord with the principles enunciated and the policy followed by this committee; and if, Mr. President, I may be indulged a moment with a personal statement, I want to say that I have been a member of this Association for a great many years,—in fact I am a life member. During a great many of those years, I was active in the activities of this Association; I was chairman of the Committee on Ethics for two years; a member of the Board of Governors; and one year I had the honor—and it is an honor—of being President of this Association.

Now, maybe I did fall from grace, when I went from the active profession, or, rather, resigned from the Bench to take this particular position. But they couldn't take away from me the spirit of a lawyer which has carried me through in my new work. And I was particularly interested, and have been for years, in this subject of trust companies doing a lawyer's job and practicing law in an unauthorized manner.

When this report came out, I called up Mr. Deutsch, got quite personal, and wanted to know if there was anything against my trust company, and he cited two instances where a report had been made, in substance, that one of the members of the organization in the trust company had said to a client, "You don't need a lawyer." Now, that statement, if true, should be corrected by our trust company, because my association with that trust company has been at least close enough, so far as policy of the work is concerned, so that I can say that it has tried, not only has tried, but is continuing to try to observe and respond to the ethics of the situation; and moreover is in hearty accord with the principles enunciated by this committee; and I am surprised beyond measure to learn from the chairman of the committee of these one or two instances. That fact or element suggested to my mind that Mr. Deutsch or the members of this committee ought to call the particular attention of our trust company to this one thing that they now complain about. I mention it because I am giving the reason for being interested.

I know, and I know you all know, that I am earnest, and my experience with this Association,—and I hope my reputation as a lawyer, and I hope an ethical one,—is sufficient, when I tell you that this trust company with which I am indirectly associated, and in fact I may say all the trust companies of Minneapolis and St. Paul, are trying to and are responding to the ethics of the situation.

Now, nobody connected with our trust company, and I may say I can speak for the other trust companies, wants the trust company, as an entity, to practice law. The trust companies ought not to be allowed to

do so. I have been wondering in a few instances, and I am now asking Mr. Deutsch,—suppose I am attorney, which I am not, for a trust company, and the trust company was executor of an estate, I, as attorney for that company, would have a perfect right, would I not, notwithstanding the fact I was a paid representative of that trust company, to act for that trust company, provided I did it as a legal representative of that trust company, and did not have, either openly or secretly, any arrangement or agreement with the trust company to turn over the fee?

And I may say further, it has been my experience,—I may be mistaken, but I have asked one or two trust company representatives,—where a trust company is executor of an estate or administrator of an estate, (which they have a perfect right to be under the law,) the paid man, who is on a salary, does not receive, so far as the trust company that comes under my observation is concerned, nor does the executor ask for any fee for services, and the only fee that is secured is the fee that the trust company charges for administering the estate.

As far as the bank is concerned, I may feel a little personal about this matter. I have been associated with the bank three years as counsel, and I have had many opportunities to not only give advice but to draw papers. Whether or not a customer of a bank has a right to present to the bank's attorney a proposition and ask for his assistance on the subject, expecting him to do something for nothing, expecting to get something free,—perhaps that's human nature; I don't know. But so far as my bank is concerned, or our bank is concerned, since I left the Bench I have never been in court, I have never advised a customer of the bank, I have never drawn a contract for a customer, but in each instance where requested to do so, have said, "Get a lawyer." I have never been on a pleading, except as counsel for the bank. I think I have a perfect right to add my name as counsel,—because I am counsel,—in a case where the bank is a party.

I don't know how things are in the small towns, but I do in the city. I want you to know, because I feel close enough to you gentlemen, members of this Association, who, I believe, are my friends, because I am a friend of all of you, and my heart is with the lawyers, as my record shows for me,—that what I object to in the report is not the principle underlying it, but I think something should be added to it. Perhaps Mr. Deutsch cannot reveal it and tell me or the officers of my company the situation about which there was a complaint made to his committee. It might have arisen by some clerk in the office taking action, where the trust officers are absolutely and entirely innocent of any charge of this kind. When I reported the matter to the officer of this company having in charge the operating policy of this organization, I am advised that it is not the policy of our company to gobble this business, but to respond to the ethics and the principles of the Bar Association, and to have lawyers do the business.

Furthermore, in our institution,—and it is true in other institutions that I know of,—when a lawyer brings to the trust company an estate, invariably that lawyer's card is placed in the file, and he is retained on this proposition, unless there is subsequent objection by the client, to handle the legal administration of that estate. I cannot conceive, so far

as my observation has gone,—and I bring it to your attention because I think it is true, of my trust company,—and I think the other trust companies in the Twin Cities at least,—taking any other attitude. They are responding to this situation in a very fine manner. And if they are, they ought to have their day in court, and you people ought to know it.

I assure you, as a lawyer, that so far as my trust company is concerned,—and I am sure from a report I have received from another trust company in Minneapolis, the same principle attaches,—there is no gouging.

The trust companies are here to stay, and I think they should work in harmony with this Association and the lawyers, and that is the desire, so far as I can see. I don't know how it is with trust companies outside of the city, but that is the desire of those in Minneapolis, and I am assuming it is the desire of those in St. Paul, and I hope in other places.

There is one thing more. I have admitted the principle of the thing; I have frankly revealed to you what occurred between Mr. Deutsch and myself; and I have told you the disposition of this trust company, and I think other trust companies, that necessary procedure should be taken in certain cases. My objection to the first proposition with respect to sending out letters with the policy of this organization indicated that unless they desist from the unauthorized practice of law, necessary legal steps will be taken—

MR. BROWN: If they are doing it.

JUDGE BUFFINGTON: If we are doing it. What I am objecting to is our not having a hearing. If, for instance, this committee has a case where they think there has been an infraction of a principle, an ethical offense, it ought to be submitted to the trust company, in order that they may investigate that report. We are either lying to you when we say to you that we are responding to this as best we can, or else we are telling the truth. At any rate, give us a show, and give us a show in the right way. If the matter has to be presented to the Board of Governors of this Association, let it be done subsequent to a hearing, so the officer of a trust company may, if he can, defend himself, have an opportunity to do so, and tell the committee or the Board of Governors, as you will, his side. If the trust company's side is presented, it is possible that there has been a mistake made, and not a great mistake, not a grievous mistake. In other words, we don't want to be subject to an omnibus resolution or procedure, unless we have a hearing.

I want to assure you that if there is anything done, so far as my institution is concerned, which is wrong and a violation of the principles of this resolution, it will not have my sanction, and this committee or the Board of Governors will have my hearty cooperation. My only thought in giving you this, is that before the Board of Governors do anything, and in fact before the committee actually does something, instead of following up a threat through a letter by an active bit of litigation, they are big enough, and they have the right spirit, I hope, to allow us or to give us a hearing, and if they are in the right, we have to stop. But we would like to know in any instance just what happens, and have the right to defend the accusation.

So far as I am personally concerned, I would prefer that these resolutions, if they are to be adopted as a whole or separately, that in some form the trust company or bank accused,—I am not afraid of the bank,—so far as I am personally concerned, I am speaking voluntarily, without any action on the part of the trust company, so far as the trust company is concerned,—that before any legal steps be taken, or before any report of this committee to the Board of Governors even, or if the Association doesn't like that, I will go a step further, before the Board of Governors takes action, that the trust company's officers who are accused of some violation of the ethics of this Association, or perhaps law, have a hearing.

Therefore before,—unless there is further discussion,—before this motion for the adoption of these resolutions is voted upon, I move you, Mr. President, that the resolutions be amended, either by proviso, or separately to each one of them, that prior to any action being taken, the bank or trust company be informed as to the character of the accusation and be entitled to present their side.

MR. DEUTSCH: I answer Judge Buffington relative to his question,—I think those of the Association who have attended sessions for the last ten or twelve years will agree with me when I say, with all due modesty, that my committee is composed of the most human and humane individuals you ever saw. We are not looking for an opportunity to prosecute anybody; we want to be saved from it. There is nothing in the resolution to indicate any intention to convict anybody without a decent hearing on the charge preferred. You will notice I purposely avoided in the report indicating any specific instance, or mentioning any names, simply because I wasn't in position to do so, because the information I had was confidential.

When Judge Buffington called me up, I told him that I couldn't tell him without violating a confidence, but I did tell him the information came to me from a gentleman who has been and is very active in the affairs of this Association and his local association, and whose word, I think, would not be challenged. We were sitting at dinner, speaking of my committee in connection with his interest in the Association, and he told me of these two particular instances, which as Judge Buffington thought referred to Judge Buffington's company. I immediately said, "Will you let me use your name, and take it up with the trust company?" He said, "No, I can't, because it would place me in an embarrassing position; that there might be a feeling that he had violated a confidence, and he would get himself in bad with the trust company." That is all there is to that incident; I have made nothing of it. It is only one of a great many we have.

You realize, in our position as attorneys, we are confronted with situations where information comes to us that we are not permitted to divulge.

I agree with Judge Buffington if it came to a specific case of direct charge against a trust company, as a basis of an action against the trust company for violation of the rules with reference to the unauthorized practice of law, it would be necessary to have something in the way of a specific statement or complaint, based upon the facts, which would have to be presented and an opportunity given the trust company to be heard. I take it that all of you would assume that that was basic in the resolu-

tions that we are offering for adoption, to assume that such proceeding would have to be taken.

The Judge asks a question along these lines,—he says that assuming he is the attorney for the Minneapolis Trust Company or the First National Bank, on a retainer or salary; suppose the trust company has itself made executor or administrator of an estate, and for the persons interested in the estate or in connection with the estate there are legal services to be performed,—may he, as attorney for the trust company, or, rather, is he as such justified in rendering this legal service for additional pay, which he keeps—

JUDGE BUFFINGTON: Without pay; they never do charge.

MR. DEUTSCH: The position our committee takes, and that is the position taken by the Bar Associations throughout the country where this question has been raised, is this,—that the function of an attorney for a trust company is to advise clients with reference to the functioning of that company as a trust company generally and not in the particular instances where special legal services are required, for which an attorney ought to be employed. In other words, if I carry Judge Buffington's question to its ultimate limit, it is the very evil we are complaining of. In other words, it is a simple matter, under those conditions, for a trust company to say,—"We are going to charge you one-half of about three, whatever the percentage may be, for the administration of this estate," and you personally will do the legal work, because it has to be done in the probating of every estate, and there will be no charge for the legal services. The trust company, whether it does it itself or, as it does in this case, through its regular counsel, is practicing law; and because it is a corporation, and not licensed to practice law, it cannot do through another what it cannot do itself; and the thought of our committee has been, and that has been the opinion of the courts in New York and elsewhere, and other committees of a similar character as well as bar associations, that a trust company is not authorized on its own behalf as executor or administrator of an estate, to perform the legal services for that estate; that that properly belongs to and should be referred to an independent attorney practicing law in the jurisdiction. That is my position as I see it, and it is the position concurred in by the other members of the committee; and it is one of the evils that we are trying to remedy by these resolutions we are offering for adoption.

We want the trust company to perform the functions of a trust company purely and simply. Let the organization do the purely administrating or, if you please, executive work in handling an estate; and we want them to have the legal work done by somebody that is independent of a trust company, and thus stop trespassing upon the field of attorneys, or quarreling on the part of trust companies themselves over the legal business connected with estates. I say that without any thought of added expense to the estate, because it is fair to assume, and I think it is a fair statement to make, if the trust company does furnish this legal service, whether it makes an extra charge or whether it calls it a charge, it is absorbed in the charge it makes as administrator or executor, and therefore it is giving legal advice it is not authorized to give.

There is nothing in our resolution that is expected to be drastic. We are trying to do what we have done right along,—to get the cooperation of the trust companies and banks. And I want to say, for your information, as illustrative of what has been done previously,—two years ago, when we had the American Bar Association meeting at Detroit, the first day of the meeting, and for three days afterward, I think it was, the trust companies of Detroit coordinated and cooperated, joined, in paying for a full page,—I think it was two full pages advertisement in three of the newspapers of Detroit, setting up the fact that they were not engaged in the practice of law, and urging upon the community the necessity of employing their own attorney or lawyer to draw their wills and arranging for the handling of the estate, and to have attorneys handle the estates when they came into probate court. This was done in Detroit; similar things were done in New York and other places; and the result of this type of propaganda ultimated in the adoption by the National Association of Trust Companies of a resolution taking a firm stand on the proposition we are advancing here that the function of a trust company is purely an administrative one, and that it must divorce itself entirely from any phase of the practice of law in connection with the work it is doing for an estate or any individuals that come to it. That is all we have in mind.

I will say for your information, in talking to one of the trust officials this morning, I suggested that we might get a long way in view of their repeated assurances of a desire to cooperate, if we could have a meeting of the trust officers of the three cities, and perhaps of some of the other cities, at which we could lay our cards on the table, and see if through that cooperative and coordinated effort we couldn't bring into line all the trust companies in the state, and all the banks, and solve this question, without the necessity,—and I think it would be a necessity,—of resorting to any drastic measures. It is largely a matter of education and effort with the banks in the smaller communities, bringing home to the intelligence of some of those bankers the fact that they are not the whole community, nor the whole state; that they have to have some regard for the rights of the legal profession, and some regard for the laws of the state.

So it occurs to me, Mr. President, that we ought to have by this time a thorough understanding of it, and know that there is no need or necessity for any question of change in the wording of the resolutions.

JUDGE CHILDRESS: Mr. Chairman and gentlemen, it seems to me that the question of the unauthorized practice of law is the most important question that comes before our State Bar Association. We have been working for years to get an Association that includes practically all the lawyers of the state; and I think this question of the unauthorized practice of law is the most important question that we will have to consider.

It is high time that the Bar Association, the legal profession, did something to put an effectual stop to the illegal practice of law. Last Friday the supreme court of this state decided that it was a criminal offense for a groceryman to sell aspirin tablets. Now, they put that upon the broad ground that it was a detriment to the public for a groceryman

to deal in drugs. The druggist, the pharmacist, are compelled to pass an examination; they are compelled to study and get a license before they deal in drugs. It seems to me that we ought to put this thing upon the broad ground that it is for the benefit of the whole people, or general good, that the unauthorized or illegal practice of law should stop. The supreme court of Michigan, in the last advance sheets, 214 N. W. 160, in the case of Stout vs. Hallsted, condemned the practice of the layman drawing up legal documents. In that case there was a contract for deed involved, $15,000.00 was involved. A layman drew up that contract. The supreme court of Michigan had to throw it out, had to set it aside; and they took occasion to condemn the practice of laymen drawing up legal documents, and suggested that the time had come when the legal profession should get together and put a stop to that sort of thing.

Now, we have in our country districts,—I don't know whether you have it up here in St. Paul and Minneapolis, or not,—but we have laymen engaged in drawing up deeds. Some people say that a deed is a simple matter. A deed might involve a great deal of property; it might be the basis of an important lawsuit; they draw up chattel mortgages, real estate mortgages, and they sometimes draw up wills. We lawyers don't like to make a complaint; we don't like to file a complaint and have our neighbors arrested for doing that. Some of our lawyers even go so far as to countenance that sort of thing. They think it is all right, because in the end, in the long run, the lawyers get more out of it than they otherwise would. I have in mind a contract for deed that was drawn up. I would have charged only $5.00 for drawing it up, but I got $100.00 for it when it got into court. It is a reflection upon the administration of the law, and I think it should be stopped.

For that reason I want to suggest that the second paragraph of this resolution be amended so as to read as follows:

"Second—That the Board of Governors of the Association be directed and instructed to take the necessary steps to prosecute the necessary legal proceedings, whether criminal or otherwise, against any banks, individuals or trust companies which refuse to comply with the request of your committee to cease the practice of law." Just add the word "Individual" there.

JUDGE BUFFINGTON: Individuals not authorized to practice.

JUDGE CHILDRESS: Yes, individuals not authorized to practice.

MR. DEUTSCH: I accept the amendment.

JUDGE CHILDRESS: I want to suggest another thing that has come to our attention in the Fifth District. The president of our Fifth District Association appointed a committee on the illegal practice of law, and that committee consists of one member from each county, and I happen to be the chairman of that committee. Now, what do we do? There is a member of that committee in each county, and he keeps track of what is going on in the probate court, and if there is an estate being probated in the probate court by someone not a lawyer, he notifies the chairman of the committee. I, as chairman of the committee, call a meeting of the committee in the probate office of the county where that estate is to be

probated, at the hour set for the hearing on whatever is to come up. If it is a hearing for the appointment of an administrator or for the admission of a will or anything like that, we meet in the probate office, and notify every lawyer in the county to be there, so when the hearing comes up, the committee all meets and the lawyers are all there, so that in that way we are letting the judges of probate know that the lawyers are back of them in their efforts. We don't tell them we are trying to straighten them out. We tell them we are there to help them, to back them, to see that their probate rules are carried out. Now those probate rules forbid anybody from practicing law in probate court, or anybody appearing there except an heir, or a creditor on his own claim. Now, what happened? Not long ago I was notified by one of the members of the committee that a case was going to be called in probate court in one of our counties at a certain hour,—10:00 o'clock on the 5th of July, to be exact, so I notified the members of the committee to be there; and when I got there, I found that an heir, a lady, had been appointed administratrix of that estate, and that she was probating the estate. When we got inside the court house, we heard quite a row there. I looked in and there were five ladies and they were roasting each other and talking, and the judge had taken refuge back in his vault. I heard one of the ladies say, "You haven't any right to be administratrix of this estate; it is against the law for anybody but a lawyer to probate an estate; you haven't any right to charge as administratrix." "Well," she said, "I haven't charged very much." The other lady said, "It doesn't make any difference; you have no right to do it, the lawyers could prosecute you for doing that."

It was a good thing for us to go there at that time and hear that, because there were others in that court room; there were five women there all condemning the administratrix for what she had done, for charging, and for acting as administratrix of the estate. When they got through, we went up and had a nice little talk with the court, and the court thought that under that rule adopted by the probate court that an heir could probate the estate, but we soon convinced him that under that rule an heir could only appear for himself. If he represented anybody else, he was acting as attorney, and that was prohibited. That rule does not include administrators or executors who have not been admitted to the practice of law. In other words, this rule prohibits anybody but a lawyer from appearing in probate court in an estate, except that an heir may appear or a creditor in behalf of his own claim. Now, our interpretation of that is that an heir can appear for himself, but he hasn't any right to represent any of the other heirs, and if he does, he is violating the law.

What we want is for the Board of Governors and the State Bar Association to take this matter up and go for these people and prosecute them. It can be done. If a man can be sent to jail for sixty days for selling 15c worth of aspirin tablets, why can't we do something to put these people where they belong, to put a stop to the practice, do something about these people who are drawing up documents and wills?

At the last term of court in Steele County, at the general term, the judge told me that there was a case being tried in which a woman witness who never studied law, never graduated from any school, got on the witness stand and testified she drew up a will.

We ought to put it upon the broad ground it is for the best interests of the public; that it has to be stopped, not because we want to protect the legal profession so much, but put it upon the broad ground, as the supreme court did last Saturday, that it is for the best interests of the public generally that people in the grocery business do not sell aspirin tablets.

It seems to me, Mr. Chairman and gentlemen, right here it is the most important thing this Association has to deal with; it is something we are all vitally interested in. I mean to keep at the Fifth District Bar Association organization until we agree to do something to put a stop to this unauthorized practice of law.

Gentlemen, I hope, as far as the complaint of Judge Buffington is concerned,—I don't believe that the Board of Governors is going to condemn anybody without giving him a hearing; I don't think they will do that. So far as that is concerned, I have no objections to Judge Buffington's amendment, and I am quite sure the Board of Governors and this Association will never condemn a trust company or any band of individuals without giving them plenty of notice and a chance to be heard.

JUDGE DOE (Stillwater): My name is John Doe; I have served in all the jails in the United States, during the past 400 years. Incidentally, I am the probate judge at Stillwater, and have been since the first of January, 1907. We had a law in 1905 forbidding the probate judge or his clerk from giving any device or drawing any papers in any manner in the court or that may come before it. In 1910 I addressed a letter to the attorney general of this state, asking two questions; I cited that statute,—what does it mean; must every case be represented by a lawyer in court? I told him otherwise, insurance agents, notaries public, blacksmiths, jewelers, anybody, can come in and practice before the probate court. I called his attention to the statute forbidding any one not a lawyer to appear in any court representing a party. You will find his answer to my letter in the 1910 opinions of the attorney general. Every one in my county is always behind me. There has not been a single case in the probate court since 1910 not represented by a lawyer. (Applause.) I had some difficulty naturally in enforcing that rule. People came into court and complained, "Why, the judge used to do these things." I said, "Yes, there wasn't a law forbidding it before."

Prior to 1905 lawyers had tried to get such a law before the legislature and failed; but facing the batch of 1905 bills they slipped it in, without much idea of passing it. It went through; I, for one, thank God it went through. It relieves me of a lot of work I should never be called upon to do. So, when people complain, I read that statute to them, and then I call their attention to the attorney general's letter.

Now, gentlemen, the lawyers themselves are somewhat to blame about this. Out in our counties throughout the state, a lot of old fellows, (I call myself a young man), who are probate judges themselves, are met with this situation, if they try to enforce this law,—somebody in the county files for nomination. They will say, "Those fellows stand in with the lawyers; they are pulling your leg;" and they will try to knock them out of office. You can't blame those old fellows, who, if they are knocked

out of office, have no way of earning a living, for following that practice. So, it is up to you to get behind your judge of probate.

So, when the matter comes up, I cite the opinion of the attorney general, in the 1910 volume of the Attorney General's Opinions; call their attention to the provision in the present statute forbidding the judge or his clerk from acting, and that is all there is to it.

My friend over there who was formerly a probate judge may tell you I preached that to the probate judges at our annual meetings for years.

The people are fair when they find out it is a law. They will agree with you if it is a law, we should respect it.

So far as the trust companies go, the First National Bank has the power and it does at times act as trustee, or representative, or guardian, but they always ask in those cases, "Whom do you want for attorney?"

I think the probate court work is the nicest, cleanest work in this state; I think the lawyers ought to have it. I find them at all times fair and square with their clients, and reasonable in their fees. It is work you are entitled to and you should have. (Applause.)

PRESIDENT PUTNAM: Mr. Duxbury is recognized.

MR. DUXBURY: Mr. President and members of the Association, I have listened to this discussion with reference to the unlawful practice of law, in which probate courts have been involved, trust companies involved, and banks. We have had assurances at various times that the practice, if there were any such practice, on the part of the trust companies, would be discontinued. I haven't any doubt in my mind that there are many trust companies and banks in Minnesota, as our friend Judge Buffington says, that are diligently striving to observe the spirit of this agreement. The thing that surprises me, and that I cannot understand, is why representatives of those trust companies, who are so immaculate in their conduct,—and I don't question it,—why aren't they interested in making the other fellow do the same thing they do? Why is it they are so sensitive about any further inquiry into this matter, or further agitation? I can't understand that. It seems to me if a trust company or bank is observing this practice and this requirement, that they ought to coöperate with us in making the other fellows competing with them do the same thing! If they believe in that practice, I believe that is what a trust company should do,—they ought to be requiring the other fellow to do the same. That is why I can't understand their seeming position, coming from gentlemen in harmony with the principle, who still want to keep still and do nothing about it. If there are no abuses along that line, the activities of this Association will do no harm. But most of you men know that while some of the large trust companies cannot afford to be charged with that sort of unethical practice, that there are many banks and trust companies that are doing it. Those who do not indulge in this practice ought to be in harmony with this Association and coöperate with this Association in trying to bring about a situation that will make their competitors observe the same laudable conduct they have observed. (Applause.)

MR. KNAPP (St. Paul): Speaking of the proposition of amending the resolution. By way of information, Mr. Deutsch has said it is a matter

of education, that the public should come to learn that lawyers should practice law. The thing I would like particularly to call the attention of this body to is an article which appeared in Collier's some three weeks ago with reference to the drawing of wills in which it is intimated that the great trust companies have a monopoly on all the brains and are the only ones that are able to draw wills, and stating that when you want to be sure your will is correctly drawn, even if you have taken it to your regular lawyer, go to some trust company and have them go over it and find if it is drawn correctly, because these organizations have brought together aggregations of legal talent that will see that your property will go where you want it to go, rather than having a will drawn by a lawyer who draws a will once in a life time, while these great organizations are drawing hundreds of them every day. So, I suggest I would like to supply this to the reporter. I will look it up in a day or two at the library, and supply the reporter with this article referred to in Collier's, this propaganda which says to go to a trust company to have your will prepared.

If propaganda of that kind is to be broadcast, we, as lawyers, ought to publish propaganda that a lawyer is the proper person to draw a will, the proper person to probate an estate, to render legal services in connection with the probating of an estate,—that a lawyer is the proper person and not a trust company.

MR. BROWN (Winona): That reminds me that very article was brought into my office and not less than three clients asked me about it.

MR. GRAVES: I would recommend a proposition for the approval of the members something like this,—"And violate the rules against the unlawful practice of law."

MR. DEUTSCH: No objection. I suggest it might be added after the trust company and the other words, "whether corporations, associations, individuals or probate judges."

MR. KIDDER: We have a report that in one of the counties the probate judge is doing seventy-five per cent of the work, and that he was charging fees for it. I want to say this, in talking with a large number of men in Ramsey county that we have secured in the Association this year and that we hope to keep in the Association, there is no subject seems to be closer to their hearts. They say, "You spend three days time trying to do the work the legislature spends three months at; you play; you take snap judgment on a lot of questions such as common law marriages, which you haven't time to digest; you talk about a lot of propositions. But if you put in ten per cent of your time talking about something of actual benefit to the legal profession, that is right close to them, that is about all you do." There is a good deal of truth in that; we have got to a point where we have to admit that comes pretty close to home. If this sort of statement has no appreciable effect upon the bar or public, it at least will have a bearing, a psychological effect upon the prospective candidates for this Association, and upon a lot of men that come in hoping at least that we will do something, accomplish something to at least show where our

hearts are. Don't abuse the trust they repose in us. Let's get a real start along this line and give some encouragement to those boys who are trying to get the entire bar of the state into this Association. We are older, most of us who take part here, we are men who have already made our way, more or less; but the bulk of the lawyers of this state are young men, men who are just coming along in their profession, and a little more interested now in the advancement of the bar, in something being done by the bar, than they are in playing. And if you do something that looks like a move in the right direction, you will get more whole-hearted support from the young men of the bar than you can possibly expect otherwise.

PRESIDENT PUTNAM: While they are drawing the amendment to the resolution, I would like to say a little myself.

I have been a member of the Bar Association for a good many years. I know I have kicked against the Bar Association as well as any other man in the state; I know what the country members say; I know the country members are affected by this every day in the year, by this unauthorized practice of law by banks and others, individuals, perhaps blacksmiths, or horse doctors, or whatever you may call them. Now that, as I said this morning, doesn't affect the older members half as much as the younger members. We are passing out pretty quick; but the younger members are coming in to take our places, and it doesn't make it any easier for them in future than it was when we started out.

It is up to the Association, if it is going to succeed, if it is going to represent the bar of the state,—it has got to do something for its members along the lines that protect them in their daily lives as members of the Association. On this unauthorized practice of law, it is vital to reach every young member of the bar and to a considerable extent all other members.

I hope these resolutions will substantially pass, for the reason as suggested by the member from Ramsey County, Mr. Kidder, that it will show that this Association at least is trying to do something besides pass resolutions. We are facing a real proposition. The federal government permits national banks with a capital of $50,000.00 to be executors and trustees of personal representatives of estates. The state banks with a capital stock of $50,000.00 on the opposite side of the street—what could we do in a spirit of fairness except permit the state bank across the street to have the same rights and the same privileges that the national bank had? Otherwise you are discriminating against your state banks.

Now, it seems to me that the bar of this state—that the younger members have to get in the harness with the older members and help put through some legislation, if possible, that will make those companies, banks and trust companies, and national and state banks live up to the law as to the unauthorized practice of law.

I was a little amused at my friend Duxbury, when he got up and made his talk. His department up there in the capitol is conducting a law business in direct competition with the lawyers of the state of Minnesota. I don't like to see it. I don't know whether he thought about it when he was speaking or not.

MR. DUXBURY: You are right. You passed the law.

PRESIDENT PUTNAM: So far as much of the small stuff is concerned, it doesn't make much difference to me. It doesn't pay a lawyer to touch it. It is all right for the purpose of these small accidents. But the death cases and serious injuries where the compensation runs up into money,—that is a direct competition with the lawyers of the state. You hardly get a death case in the country any more. The country members of the bar in my district couldn't give a man advice as to his rights under the Workmen's Compensation Act. A man drove into the office the other day. He was coming to the city; he had had an accident and he wanted some advice. I simply had to tell him that it would take me a long time to dig up what he wanted to know, and I might not be right then. I told him to see some one in the industrial commission and see what his rights were. He wasn't able to pay.

That is the situation. I am not criticising Mr. Duxbury or his commission; but that is the situation, the status.

MR. DUXBURY: Sure.

PRESIDENT PUTNAM: You are running up against it. To illustrate what you are running up against. A member of the Association was talking with an attorney, some days ago, who represents the receiver of a National Bank. He had drawn a summons and complaint in two or three suits on promissory notes. A few days after he had drawn those and had the papers served he received a kindly letter from the receiver, a very kindly letter, suggesting that he draw up some summonses in blank, leaving the space to put in the name of the plaintiff and defendant and the amount in the summons, sign them up and send them to the receiver, and let the receiver draw his complaints and summonses and serve them. He was to receive the munificent sum of one dollar for each, for drawing up the summons and signing it. Now, some young lawyer that might be representing that receiver, under the circumstances, might have fallen, out of necessity and want, for the situation. But this attorney had intestines enough, intestinal capacity enough to tell the receiver, in pretty plain language, to go to hell, that he wasn't going to subject himself to disbarment.

I hope these resolutions will pass, and I want to call attention, with reference to the trust companies, to one thing; we were up against this same proposition a few years ago. If you will look over the Minnesota reports, you will find a will drawn in the City of Minneapolis, and further drawn by one of the trust companies, which the supreme court finally set aside. It was a very large estate, involving a mining property. If that matter had stuck as drawn by that trust company, untouched, the commissions out of that one estate for the time it ran, would have paid a substantial dividend on every dollar of the capital stock of that company, without doing another thing but looking after that estate; and that will was drawn by the trust company.

This will substantially shut out the heirs of the deceased. I do not believe the man who signed that will had any understanding of what he was doing. He was depriving his own children of any real, substantial right in the property, his grand children, and I don't know how many

generations on and on, until it was finally gone. But the supreme court found some loop-hole and set it aside.

The whole theory of trust companies in drawing wills is to hold on to them as long as possible and to provide for accumulation on and on, as long as it is possible. My remarks are intended more for the benefit of the young members than for the older ones, who know perhaps more about these trust companies and how their various departments run.

I want to see the young fellows get into the harness themselves; they can get some practice in getting into this fight, and learn something. I hope they will do it.

MR. BROWN (Winona): Another few years and every one of these men that came down from a former generation, won't care what is going to happen to the young men.

There are other places where you will be called upon. For instance, before the railroad and warehouse commission, as well as Duxbury's commission, and others, where the question is about closing or opening a depot, you will find that the man in charge of the hearing, instead of being an attorney, probably will be some commercial agent from some village council, representing the people and acting as attorney. The commission doesn't like that. So I say you young men get into the legislature—we don't care about it—and have a law to protect these bodies, so that their records can be kept right, by having their proceedings managed by attorneys. Isn't that right? We want protection!

MR. DUXBURY: I didn't feel that I was being chastised by the President, because I understand the situation. But I do want to say if there is anybody in the world that has felt resentment against the provision of the Compensation Law requiring us to give assistance and advice to claimants, I am that particular individual. It is a provision that does not prevail in any other state so far as I know but Minnesota. But it is in the law. It is another instance of the state of Minnesota, in its sovereign capacity, going into business, the legal business.

We have another activity we are conducting,—a series of free employment agencies, because of the fact, as is well known, the business of the employment agency is subjectable to a great many abuses; and in order to regulate those abuses the legislature, in its wisdom,—that is a phrase that covers a multitude of sins,—provided that the State of Minnesota should go into the business and service of getting employment for people in search of work. And I know something about the results. They are not satisfactory; they are wholly repudiated. It is along the same lines as a law passed by the legislature on a constitutional amendment which attempts to regulate what is supposed to be abuses in loaning money to farmers, by the state going into the business in competition with private parties. That is not my idea of the functions of government. The function of government is to regulate business abuses. But you cannot do it by the state stepping into the business itself.

In the compensation work, if lawyers would study this up, if they would inform themselves upon the compensation law, and not turn their backs upon it and speak of it with contempt; would realize it was their duty to advise clients with respect to their legal rights under the com-

pensation laws and other laws, then they might render some services. But unfortunately it is a rather lamentable spectacle that some good lawyers make of themselves when they are trying to do something in the compensation work. It is absolutely true. There are a great many of them who don't touch bottom at all; they have wrong notions. They think they can get something for pain and suffering and all sorts of things, not in fact in the compensation law. We had a case where a very prominent attorney advised his client he could get $7,500.00 for him for injury to one of his eyes. It resulted in a long trial, about a dozen doctors, and the result was, the conclusion of the referee was that he didn't have a single thing wrong. They started up with one eye absolutely blind and the other seventy-five per cent. Of course if he had that, he didn't have the right remedy. But that is the trouble. It is the duty of lawyers to inform themselves upon the compensation law and to serve their clients. When you do that, it is true in many of those cases that do not involve a large amount, you cannot get remunerative compensation for your services; but you get it large enough, and you can. I think we should get rid of this anomaly in our law. The sooner you get rid of it; the better you please me.

MR. DEUTSCH: May I offer now the amendments or the resolution amended. Resolution No. 1 to be amended so as to read as follows:

"That it be authorized on behalf of the Association and at its expense to transmit to each bank, trust company, or other corporation or association, except those of lawyers or other individuals and probate judges practicing in their own courts, a letter indicating the policy, etc."

The second resolution as follows:

"That the Board of Governors of the Association be directed and instructed to take the necessary steps to prosecute the required legal proceedings, whether criminal or otherwise, against any banks, trust companies or other corporations or associations, except those of lawyers, or other individuals and probate judges practicing in their own courts, which refuse to comply with the request of your committee to cease the practice of law."

PRESIDENT PUTNAM: You have heard the amendments proposed to sub-divisions first and second of the Report of the Committee on the Unauthorized Practice of Law. Are you ready for the question?

VOICES: Question, question.

PRESIDENT PUTNAM: As many as are in favor, "aye;" opposed "no." The motion prevails.

MR. DEUTSCH: May I add two other resolutions, one that the committee be authorized to transmit to the probate judges of the state a letter indicating the policy of this organization, and requesting the enforcement of rule No. 5, of the rules of practice in the probate courts of the state of Minnesota, and the statute relating to the practice of law by probate judges.

I would like also to offer a resolution that the committee be instructed and directed to present to the Association, at its next meeting, a formulated rule of what constitutes the practice of law.

MR. KIDDER: Second the motion.

PRESIDENT PUTNAM: You have heard the motions made by the member from Hennepin County. All those in favor, "aye;" opposed, "no." Motion prevails.

MR. QUINN (Faribault): In connection with this unauthorized practice of law, I wonder if it would be possible for this committee to speed up their brief on what constitutes the practice of law and have it in the hands of the county attorneys within a short time.

MR. DEUTSCH: I would like to suggest in connection with that, that that last proposition is a big one, and we would like the coöperation of the attorneys and members of the Association as far as possible. I would like to have anybody who has ideas on these subjects to write in. We are glad to have all the assistance and coöperation we can in carrying this thing through in the spirit of work we have done this afternoon. Address any communications to Mr. Henry Deutsch, 908 Baker Building, Minneapolis, my office.

PRESIDENT PUTNAM: The question is on the motion to adopt the report of the committee as amended.

MR. DEUTSCH: I move the report of the committee be adopted.

(The motion having been properly seconded, was put to a vote, and carried.)

PRESIDENT PUTNAM: I want to call your attention to this matter. Immediately after the adjournment of the general meeting, tomorrow, the Board of Governors elected by the several Judicial Bar Associations will meet to elect officers as provided in section 8, article 4 and article 5 of the constitution. That meeting occurs directly after the adjournment of this meeting tomorrow. We will try to hurry up the program tomorrow morning, so there will be plenty time to perform the business and get to the ball game.

MR. MERCER (Minneapolis): I move you, Mr. Chairman, there be referred to this committee the power to formulate a law for the next legislature to regulate the practice of law before quasi-judicial bodies such as Mr. Brown has mentioned.

(The motion having been duly seconded, was put to a vote of the members, and carried.)

MR. CALDWELL: The program provides for a dinner-dance at the Athletic Club at seven o'clock. No tickets are required. Just wear your badges so they can recognize you as a member of the Association. Following the dinner-dance, which will end at nine, there will be a stag for the members at the Mushroom Cave on South Wabasha Street.

(The meeting then adjourned until ten o'clock a. m.)

Thursday morning session, July 14, 1927, pursuant to adjournment.

President Putnam called the meeting to order at 10:15 a. m.

PRESIDENT PUTNAM: There are some few members present who act like church members in the morning when they are taking the collection.

MR. BROWN: We were up forward last night all right.

PRESIDENT PUTNAM: Yes, I noticed you were in the front ranks with the boys, too.

There was a report of a committee put over yesterday, the report of the Committee on Chattel Loans, found on page 19 of the committee reports. Mr. Daniel F. Foley is chairman of that committee, and is recognized. (See Appendix, p. 139.)

MR. FOLEY: Mr. President, and ladies and gentlemen of the Bar Association, the committee was appointed last year to investigate the matter of small loans. In that connection a few meetings were held and quite a commotion stirred up last winter before the state legislature. There was a joint meeting of the House and Senate last winter to consider the matter, and they reported favorably on a bill. Practically all of the agencies in the state of Minnesota in that particular line agreed on one particular bill, commonly known as the Russell Sage bill.

The committee appointed by the president of this Association thought it inadvisable to take any active part at that time in securing the passage of that bill. However on investigation and some considerable study of the situation, we concluded that the only bill that would be operative and give results was what is known as the Russell Sage bill. We have a report approving that, but asking that it be not passed at this time. We ask the Association to take no action on it at this time, but that it be passed until a year from now, and in the meantime that the members of this Association, if they are inclined so to do, and we would like if they would, take sufficient time to study it and see just what the bill means. It is H. F. No. 63.

It went down to defeat at the hands of the legislature last year I think by a rather narrow margin. I don't think there is anything I need say, other than to ask you to study the bill, and act favorably a year hence.

Unless someone would like to have me do so, I feel it is unnecessary to read the report of the committee, because it will be found, as the president announced, on page 19.

In the hearing before the joint committee of the House and Senate last winter, there were opponents of the small loan bill, and naturally proponents of it. It was admitted in that hearing by those who were charging excessive rates of interest, that the rates charged ran from 180 to 200 per cent a year, which is clearly a violation of the law. In one instance it was admitted that there was as high a rate of interest as 1800 per cent on the basis of a short time loan,—if the loan had run for a year, it would have been 1800 per cent. Of course it is outrageous, unjust, and I think I might use the word extortionate. The committee hasn't authorized me to use that, but that is my own personal view.

I ask that the bill be considered by the members and brought up for final action next year.

It occurs to me that Mr. Kjorlaug should be appointed a member of this committee. I believe there is no one in the state of Minnesota, no one anywhere, more intimately familiar with these short time loans at high rates of interest than Mr. Kjorlaug. To illustrate, in this hearing before the joint committee last winter, he had made some comprehensive study of the situation and had gone to the trouble of securing letters from

governors, banking departments, public officials all over the country. One letter in particular, from Governor Louden, wherein he said that the bill which we indorsed was in force in Illinois, and very much good had come from it.

The great difficulty that the bill met last winter was this, the members of the legislature were afraid,—and not without some reason,—that if a bill was passed such as we hoped would pass, that they would go out in the country districts and loan money to farmers and charge them 42 per cent, i.e., 3½ per cent on the monthly balances, which in the washout would mean 42 per cent interest on a year. The bill was amended so that it operated only in districts with a population of 150,000, which was meant to make it apply to cities of the first class. Nevertheless the members of the legislature were very much afraid even with that provision that small loan agencies would start loaning money to farmers or merchants or persons in small communities and charging them 3½ per cent.

The legislature has appointed a commission of three or five, I have forgotten which,—it is referred to in their report,—which commission will study the loan cases, loan proposition, and report to the legislature, at which time we hope to have a satisfactory bill passed.

Much can be done by this Association if we can have your unanimous approval a year hence on this bill. So therefore, Mr. President, I move the consideration of this bill be postponed until a year hence; and I make a part of my motion that Mr. Kjorlaug, of Minneapolis, be appointed a member of the committee.

A VOICE: I second the motion.

PRESIDENT PUTNAM: You have heard the motion as made that the committee report be adopted, and the matter continued over until the next legislature; and that Mr. Kjorlaug be appointed a member of the committee. Those in favor, "aye;" opposed, "no." The motion prevails.

Is Mr. Nelson in the room? Arthur E. Nelson, chairman of the Committee on American Citizenship. That will be found on page 11 of the committee reports. (See Appendix, p. 132.)

MR. NELSON: Mr. President, ladies and gentlemen, I apologize for not being present yesterday afternoon, but I was engaged as a member of the transportation committee in taking care of the ladies. I will read the report and then make a few short statements relative to it.

(Mr. Nelson then read the report.)

I might say in the City of St. Paul we have a committee that regularly arranges for attorneys in the city to make appearances in each of the public and parochial schools on the Friday before Memorial Day. And efforts are also made by this committee to arrange for the appearance of attorneys to speak on this subject of citizenship and American government, at any time called upon by the members or the authorities of the different schools. We feel that out in the various communities in the state, as well as in the city, it might not be out of the way for attorneys to gratuitously deliver a course of lectures for the school children on the subject of the American constitution, the Declaration of Independence, and so on. It seems to me that this could very well be promoted, if agree-

able to the Association, through the various organizations that have now been perfected.

The report is respectfully submitted with a motion that it be adopted.

(The motion having been duly seconded, was put to a vote, and carried.)

PRESIDENT PUTNAM: The next order is the report of the Committee on Changes in Statutory Law. Is Mr. Arntson present?

MR. ARTHUR E. ARNTSON (Red Wing): Mr. President and ladies and gentlemen of the convention,—unfortunately the chairman of this Committee, unbeknown to any of us, took up his residence in California some time ago. It was only some two or three weeks ago I realized some one had to make this report, and it devolved upon me. I was wondering how many of the lawyers here have read the newspaper supplement of law? All of you who have, just raise your hands. With that in mind, gentlemen, I have prepared perhaps a little longer resume of the new laws than otherwise would have been done. If you get tired listening to me, just raise your hand, and I will turn over the page.

(Mr. Arntson then read his report. (See Appendix, p. 129.)

MR. ARNTSON: I move the report be adopted.

(The motion having been properly seconded, was put to a vote of the members, and adopted as read.)

PRESIDENT PUTNAM: The next is the report of the Committee on Uniform Procedure in Federal Courts, found on page 12 of the committee reports, Mr. James D. Shearer, chairman. (See Appendix, p. 134.)

MR. SHEARER: The report of your committee, on pages 12 and 13 of the pamphlet, appears to be signed only by the chairman of the committee, and in order that your minds may be disabused of the fact that the chairman is in a hopeless minority, I will say that while we didn't have a meeting of the committee last year, because it appeared to be unnecessary, the report being practically the same as the year before, and the personnel of the committee being exactly the same as the year before, with the exception of two or three members, however, when the committee report was drawn, a copy of it was sent to each one of the members and some correspondence ensued with the two new members,—I think there are only two new members, I don't have the list before me,—and the committee report appeared to be satisfactory to them. With the copy of the report which was sent a postal card was sent to each member of the committee, and he was requested, if there was anything in the report that didn't meet his views, to kindly say yes or no and send it to the secretary. Since coming to the meeting, I have been informed by the secretary that it is either unanimous or practically unanimous; I think there has been no dissent on the part of the members of the committee to the committee report.

Now, congress last year was very busy, as you all know, especially with the farm problem, and with some other problems, which seemed to make it impossible to get any legislation along the line of the jurisdiction of your committee. However, there is something to report, and I hope,—although I cannot be sure that you have all had time to read the

report of the committee,—I hope you have read or scanned it, and more than that, I hope that you have been able, a number of you at least, to read the report of the speech of Senator T. J. Walsh of Montana, given before the Oregon State Bar Association last October. That speech is reported in full in the February number of the American Bar Journal. I must say I read it and studied it; and while Senator Walsh, for the last 12 or 15 years, has been the chief opponent to the passage of this bill for the authorization of rules in common law actions, to be made by the Supreme Court of the United States, he has given very few, if any, reasons until he embodied them in the speech before the Oregon Bar Association. I commend it to your attention.

I am never afraid to hear from the opposition, because I think this Association, and every lawyer, wants to get the right slant on every law, and if he is wrong he wants to be shown. I commend that to you as a fine, clean-cut, lawyer-like statement of Senator Walsh, and I think he has voiced every objection and then some that could be made to the passage of this bill.

Nothing was done as far as the bill is concerned, during the last Congress since two years ago. There has been a little further opposition added to that of Senator Walsh. The chairman of the Judiciary Committee of the House, Graham, of Philadelphia, is very strong against the bill. I don't know what will become of it. Mr. Shelton, Thomas H., who is chairman of this similar committee of the American Bar Association, feels optimistic, and in our report I am quoting a part of what Mr. Shelton said. He has been chairman of this committee and has appeared before Congress numberless times, and has had the help of William Howard Taft, Justices Sutherland and Van Devanter, and a score of others including Hon. Elihu Root. They have simply been unable to get that bill out of the Senate and onto the floor, which really isn't the American way. If there are objections against the bill or the law, any bill or law, the American way really is to be fair enough to bring it out on the floor and let us have a vote on it. That is all we ask; that is all the committee has been asking Congress.

Senator Frank Kellogg originated and introduced the bill—Senator Cummins sponsored it. He is gone. Maybe they will all die before we get any distance, because the thing has been pending twelve or fifteen years; but Mr. Shelton informs us Senator Borah, and Senator Norris of Nebraska, and a good many others, have joined us, so while there have been accessions to the enemy, there have likewise been accessions to those who favor the bill. That is the way that stands.

Another bill we were especially interested in was the bill providing for the appointment of federal stenographers—official stenographers for the federal courts. We made a very full report on that last year. It isn't fair that a poor man who comes into federal court has to go down in his pocket and pay a stenographer for having him report that evidence. Mr. Justice Sanborn expresses himself that way, and others. And we made a report, quite full, last year, so I will say nothing further on that, except this, as last year there is a very strong lobby in the East, among the official reporters. I would be very loath to say why, I don't

know why, but Senator King, of Utah, simply gets up and objects to the bill, and then the bill is side-tracked. That is the way that is.

Senate file 624, the bill of Senator Caraway of Arkansas, whom I suppose you all heard speak to us here, is a bill that has been in Congress several years, which seeks to prevent federal judges from referring to the evidence or expressing any opinion on the evidence of witnesses during the trial of the case. No action has been taken on that bill during the last year at all. That bill has been opposed very strenuously by eminent members of the bar all over the country, and I might say to you that it is claimed it violates the seventh amendment to the constitution of the United States. I simply give it to you, so you will know what it is:

"In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law."

And it is claimed that the rules of the common law have always provided, as stated by Blackstone and others, something like this,—when the evidence is gone through on both sides, the judge, in the presence of the parties, counsel and all others sums up to the jury, omitting all superfluous circumstances, stating what evidence there is for and against the contentions of the parties, with such remarks as he thinks necessary for their direction, giving his opinion in matters of law arising upon the evidence.

There seems to be not a particle of question, gentlemen, that since time immemorial in common law,—and common law has carried over into our federal system at the time of the adoption of the constitution,—it has always been that way.

May I say, still further, when our committee made its first report and began to look this matter up, especially when Senator Caraway's bill was introduced, there seemed to be a misunderstanding among the members of the bar as to whether our own trial judges had any such power; and it was found that the supreme court has said that our district judges before whom we try cases have now and have had that exact power, and they have exercised it right along. Taking that for granted, I hope there will be no dissent from it, because last year we gave you the authorities. I have no doubt any of you questioning it, will look it up. This practice has obtained in federal court from time immemorial. The question now is, do Minnesota lawyers want to change the federal rule, under the Caraway bill and prevent our federal judges from taking any part in the trial, i.e., referring to the evidence, referring to the witnesses, calling attention to matters of importance in the trial? The Caraway bill provides that it shall be reversible error for the court so to do. Now, do Minnesota lawyers who have been born and brought up under the system which now obtains in federal courts and in this state, do you want to change that? That is the whole question on the Caraway bill.

In reference to this matter,—I don't want to make this report too long,—our supreme court and the supreme court of the United States has held over, and over, and over again that that is a power under the constitution. Mr. Thomas H. Shelton has made an admirable brief on the question, from which it appears, quite clearly I think, that should the Caraway bill become a law, it would be unconstitutional. A great many other lawyers think so.

I have here some words from men who took this matter up, especially under the proposed Caraway bill, substantially as found in 174 U. S. p. 1, one of the principal cases on the subject. The other authorities are so fully collected and collated by Mr. Shelton it would be superfluous to say anything. They establish the proposition, under the seventh amendment, that parties in the federal court are entitled to trial by jury, in which the Judge assists upon the facts as well as upon the law. That report is signed by a man who was for ten or twelve years chairman of the Committee of the American Bar Association on matters of federal practice, and by a number of other prominent lawyers, including Henry W. Taft, brother of the chief justice, Walker D. Hines who was in charge of the railroads during the war, and others.

Now, I don't want to say anything more upon that. I only want to call your attention to one thing that some of you boys may possibly or may possibly not have looked up, and that is, in my humble judgment, it is taking a long step backward to attempt by the passage of the Caraway bill to change this, to attempt to stem the tide of popular disapproval which would follow that. I know,—I think we all know,—that there is an under-tow, a tendency as strong and resistless as the tides, in the popular opinion that the courts are not functioning to the extent that they ought to function in the trial of cases, such as criminal cases. There is no use of our hiding our heads in the sand, because I think it is so; we all know it. And there is that strong tendency all along the line. I have noticed it for the last two years or more. Any motions in district court, where the court could do so and so, but the court has cut the red tape and said, "I will not." Ten years ago they would not have decided that way. I think it is an evidence of progress. I think it is like our friend Senator Barclay said the other day, that the law has got to grow, but it has got to grow slowly and conservatively. I believe in getting at the meat of things and doing it quickly; in getting at the gist of the thing and cutting through the red tape.

What I started out to say is this, in a recent case, 213 N. E. Rep. 890, the supreme court of New York said that it was the duty of the trial court to interpose at once when counsel undertook to inject an incident into his argument, and that without waiting for objections from opposing counsel, and went on to say that at no time should the presiding judge cease to be on the alert to preserve a litigant's rights to a fair trial.

I think I can see in that and I know there is the tendency all along the line to progress; and if we stand for the Caraway bill, I think we should be taking a long step backward. I think it would be in direct opposition to the large mass of intelligent people's wishes.

Now, the other matters are a bill to provide for declaratory judgments, which didn't come up for the same reason; the bill providing for no loss of civil rights under certain circumstances, unless the sentence of the judge was for more than a year.

The one bill which became a law in the last year, which we sponsored, was the bill increasing the pay of jurors and witnesses in federal court. That was very satisfactory.

Now, the committee has made three recommendations, and the first two I will embody in a motion to adopt the first two recommendations of the committee, which are, that the committee continue to strive for uniform procedure in federal courts; second, that the Association urge upon congress the passage of S. F. 477, which is the bill empowering the Supreme Court to make rules in common law cases, the same as in equity cases exists now. And that we approve and ask for the enactment of the bill providing for the appointment and pay of court reporters throughout the federal courts. I make that as a first motion.

PRESIDENT PUTNAM: Gentlemen of the convention, it is now eleven o'clock, and that is the hour set for the address of Judge Haycraft. Many of the members of the Association having to go away, they especially requested that Judge Haycraft's address on the subject of Lincoln be taken up at the time fixed. So I am going to defer any further action on this committee report until after Judge Haycraft's address.

In that connection I want to call the attention of the members of the new Board of Governors not to leave or go away until after the adjournment of this meeting, because the Board of Governors meets immediately after the adjournment, for the election of officers of the Association.

Now, when I started out to arrange a program for this meeting, my first impulse was an all-Minnesota meeting, to have all the speakers who addressed this meeting be practicing Minnesota lawyers or citizens of the state of Minnesota. I took it up with some members of the Association, and they disagreed with me. I then started out to get some outside speakers. I had very hard luck, as I had to provide a reserve speaker, in the event that I could get no one outside of the state. And until almost the opening of this meeting, we had no outside speaker. So I asked Judge Haycraft to prepare an address on some subject and present it to this meeting, so that we could have a full program in the event we didn't have an outside speaker. Judge Haycraft is on the bill, and the bar want to hear him, and I now take pleasure in introducing to you Judge Julius E. Haycraft, of the 17th Judicial District, who will address you on the subject of Abraham Lincoln, the Lawyer-Statesman. (Prolonged applause, all standing.)

LINCOLN AS A LAWYER-STATESMAN

By Judge Julius E. Haycraft

Mr. President and members of the bar, I was glad that the president in his introduction stopped just when and where he did. I am glad that he made the explanation and apology for my being upon the program; it saved me from doing so. There is only one particular in which he should be corrected. I am not second choice; I am last choice. I am about in the position of the candidate for sheriff who solicited the vote of the farmer. The farmer said, "I can't vote for you, but you are my second choice." All efforts to elicit an explanation were met with the same reply, "You are my second choice." Finally the candidate said, "May I inquire, then, who is your first choice?" To this he received the reply, "Anybody to beat you." (Laughter.)

The character involved in this address—Abraham Lincoln—is so well known, has been so profusely written about and so minutely discussed, that it appears at first thought superfluous work to add anything more to the vast mass.

That this is particularly true, when applied to one so poorly equipped as myself, none can deny. The title, therefore, for these remarks may appear, and may be, an unfortunate selection. However, my study of, and my love for, this great American lawyer has impelled me to make the attempt.

The interest in Lincoln and in Lincoln literature is increasing yearly. The martyred president meets the true test of greatness, that of growing in interest as the years increase. Then he is so many sided, so poorly understood and so misunderstood, and so frequently erroneously described, that even an humble admirer may be pardoned for contributing his part toward a better understanding of this unusual but wonderful man.

I shall devote but little time to the question of whether Lincoln was a poor, a mediocre or a great lawyer. Personally, I believe he was a great lawyer. I believe so because he was a great man, possessing one of the greatest minds the world has ever known. I cannot conceive of one so endowed becoming earnestly engaged in our profession without becoming conspicuous in its annals.

His associates, the men with whom and before whom he practiced, were exceptional. It has been the privilege of but few, if any, to have been intimately associated with such a galaxy of intellect. Here are some of their names, with the distinctions they afterwards acquired: Samuel H. Treat, United States District Judge; Richard J. Oglesby, Governor of Illinois and United States Senator; Richard Yates, Civil War Governor of Illinois and United States Senator; John M. Palmer, Governor and United States Senator; Shelby M. Cullom, Governor and United States Senator for a long period of time; Orville H. Browning, United States Senator from Illinois and member of President Johnson's cabinet; Lyman Trumbull, Justice of the Supreme Court of Illinois and United States Senator; Edward D. Baker, United States Senator from Oregon; James A. McDougal, United States Senator from California;

David Davis, United States Senator from Illinois and Associate Justice of the United States Supreme Court, made so by Lincoln's appointment; and last and greatest of all, that wonderful character, one whose life was so interwoven with Lincoln's, Stephen A. Douglas. Douglas was Attorney General of Illinois, Judge of the Illinois Supreme Court, Member of Congress, United States Senator for fourteen years, and a candidate for the presidency in 1860. J. T. Stewart, Judge Stephen T. Logan and Leonard Swett were prominent legal lights with whom Lincoln associated. Stewart was a member of Congress from Illinois. Let each lawyer search his memory for a list of those with whom he has been associated in his practice, and I state with confidence that none will approach the distinguished list just enumerated.

Lincoln had a large practice. He was identified with 175 cases appealed and decided in the Supreme Court of Illinois. The appellate procedure in those cases was simple as compared with present day procedure, and it must be conceded that the 175 cases mentioned do not equal 175 twentieth century appeals. But 175 appealed cases is a large number. We should remember that Lincoln actually practiced law not to exceed twenty-two or twenty-three years. He was admitted to the bar in March, 1836, and inaugurated as president in March, 1861. During that period, twenty-five years in all, he served in the Illinois Legislature, a term in Congress, made a memorable race for the United States Senate and was nominated and elected President of the United States.

Lincoln did not win all his cases, the oft-repeated and foolish statement to the contrary notwithstanding. He won 92 or 52½ per cent of the 175 appealed cases, and lost 83 or 47½ per cent.

In addition to the 175 cases mentioned he had at least 12 in the federal courts and 3 in the United States Supreme Court.

But, it is said that these cases were small and unimportant. Granted that most of the cases were small, but not that they were unimportant. Illinois in his time was a new state. Many of the decisions in these cases were pioneer decisions, established precedents and settled the law for future generations.

Lincoln had his large cases. The larger cases, naturally, came in the later years of his practice. He was the retained attorney for the two great railway systems of the state at that ime, the Illinois Central and the Rock Island. In this connection it may be of interest to know that he rode upon passes furnished by these railroads. He did not deem it improper or derogatory to his dignity to do so. No one seems to have questioned its propriety. In fact, it appears that he possessed and used the railroad passes during his senatorial canvass in 1858 and during the time of his candidacy for president in 1860.

He tried the Illinois Central Railroad gross earnings tax case in 1855, the Effie Afton or Rock Island Bridge case in 1857, the Armstrong murder case in 1858 and the so-called "Sand Bar" case at Chicago in 1860. He finished the "Sand Bar" case a month before his presidential nomination in the same city. The trial of the "Sand Bar" case was his last lawsuit in court. He won the four cases mentioned. In 1855 he was counsel in the Manny-McCormick reaper case at Cincinnati. There,

and in connection with that case, he first met Edwin M. Stanton. Stanton was most unkind. He cried out:

"Where did that long armed creature come from and what does *he* expect to do in this case?"

Stanton bulldozed and insulted Lincoln, and it is a splendid exemplification of the forgiving spirit and broadness of mind of the Great Emancipator that, after all this, he called Stanton into his official family and made him Secretary of War at a most critical period in our country's history.

All of these cases were important, and at least two were highly important. The gross earnings tax case was a pioneer of its kind, and is an authority to this day. It had been cited by twenty-three courts as early as 1912. The Illinois Central Railroad was, pursuant to law, paying a tax based upon its gross earnings. Notwithstanding this, one county in the state sought to collect taxes upon property owned by the company. Lincoln, as counsel for the railroad company, resisted this attempt and won a clear-cut victory. The Illinois Central showed its appreciation by refusing to pay his modest fee of $5,000.00, thereby forcing him to bring suit to recover the amount. So great is our character that the officers of this railroad company in recent years issued and distributed a small brochure explaining their attitude regarding this fee and endeavoring to exonerate the officials.

The Rock Island Bridge case was even more important. That case was a contest between river craft and the railroads as a means of transportation. And, incidentally, it was a contest between the cities of Chicago and St. Louis. The case involved the right to construct bridge piers in a river channel and to bridge the Mississippi River, notwithstanding the necessary interference with steamboating in that river. The steamboat interests not only claimed the right to use the river channel for transporting their boats, but also to control the channel so as to prevent any obstructions like bridge piers being placed therein. Lincoln was counsel for the bridge company and won the case. It is comforting to note that he was on the side of progress in this contest. The case was bitterly contested—a steamboat captain was accused of bribery and the bridge burned and had to be rebuilt during the trial.

The so-called "Sand Bar" case involved certain accretions to the shore of Lake Michigan, and was tried in federal court, at Chicago.

In the cases last mentioned the contests were earnest and protracted. The best counsel obtainable was employed and the cases were fought to the bitter end. Lincoln won all these cases. He was the leader of the Illinois Bar during the latter years of his practice.

No more need be said about his ability as a lawyer.

At one time in his early practice he had the distinction of representing Daniel Webster in some litigation of no great importance.

Lincoln never ceased to be a lawyer. He is the most striking instance of a lawyer president and a lawyer statesman. Although called upon to face and solve governmental problems such as no man in our history, before or since, has been called upon to face and solve. he never for a moment forgot that there was a legal way, and never considered going beyond, over or around the constitution. The great president was almost a worshiper of the constitution, a believer in that fundamental instrument to

an extent that would shock the sensibilities of some of our present day reformers and advocates of day-to-day theory of government. Hear him, as far back as 1849. In speaking of the constitution, he said:

"No slight occasion should tempt us to touch it. Better not take the first step which might lead to a habit of altering it. Better, rather, to habituate ourselves to think of it as unalterable. It can scarcely be made better than it is. New provisions would introduce new difficulties, and thus create an increased appetite for further change. No, sir: Let it stand as it is. New hands have never touched it. The men who made it have done their work and have passed away. Who shall improve on what *they* did?"

A perusal of this extract would cause many of today's statesmen to declare that Lincoln was not in favor of any change in our constitution, that he considered it sacred and unamendable. He did consider it sacred, but he did not consider it unamendable. He recommended to Congress the Thirteenth Amendment which abolished slavery, and did much to cause its submission and its ratification.

The great War President knew his constitution well. He knew and admired the departmental divisions,—legislative, executive and judicial. He believed that these divisions were wise and should ever be kept separate, as provided by the framers of that instrument. He believed that one should not unduly encroach upon another. He never unconstitutionally or improperly imposed his views upon Congress. He did not believe in a free use of the executive veto, and it is a startling historical fact that, although his presidency was in the most chaotic, stormy period known in our history, and although Congress is known to have been obstreperous, obstinate and even insulting, he exercised the veto power but twice, once because, as a lawyer, he believed the act unconstitutional, and once to return a bill to have its provisions made more definite. I submit that, in view of all attendant circumstances, his record in this particular is remarkable indeed.

Speaking of the executive veto and answering the contention that the president was the representative of the people, Lincoln said:

"In a certain sense and to a certain extent he is the representative of the people. He is elected by them as well as Congress is, but can he, in the nature of things, know the wants of the people as well as three hundred other men coming from all the various localities of the nation? If so, where is the propriety of having a Congress? That the constitution gives the president a negative on legislation, all know, but that the negative should be so combined with platforms and other appliances as to enable him, and, in fact, almost compel him, to take the whole of legislation into his own hands, is what we object to. To thus transfer legislation is clearly to take it from those who understand with minuteness the interests of the people and give it to one who does not and cannot so well understand it."

Lincoln's active practice of the law, particularly his rather rough and tumble trial of lawsuits, fitted him admirably for the solution of problems encountered at Washington. It gave him an invaluable insight into the character of men. He came in contact and in conflict with the bulldozer and the bluffer, the honest and the sincere, the trickster and the opportunist, the high minded and the stable. He knew jurors, drawn from the masses, as he was afterward required to know the masses themselves.

Years before his presidency he had met the Stantons, the Sewards,

the Chases, the McClellans and the Grants. The action of the three cabinet members mentioned was such that he would have been warranted in dismissing each from the cabinet. A smaller man would have done so. Lincoln did not. He kept them in the cabinet, and under his skillful, tactful management, caused them to render valuable services to their country. Chase was a candidate for the nomination to succeed his chief while still in the cabinet. Lincoln's "resentment" ended in an appointment of Chase to the exalted position of Chief Justice of the United States Supreme Court. Seward's ill-advised "Thoughts for the President," of April 1, 1861, was presumptuous and egotistical. His action was sufficient to call for a reprimand and dismissal. He was not dismissed and not even reprimanded. He was kept at the head of the state department and has gone down in history as one of our greatest secretaries of state. Seward became Lincoln's stalwart friend, but he never forgot who was master. Lincoln's prompt answer to those "Thoughts for the President" is a masterpiece of self-restraint and common-sense. Stanton's treatment of Lincoln at their first meeting was brutally insolent. After his inauguration Stanton referred to the President as "that old fool in the White House," yet Lincoln called Stanton to his cabinet and made him Secretary of War. He made use of his talents and his stubbornness in that position, and, when the end came, in the early morning hours of April 15, 1865, it was Stanton, with tears streaming down his cheeks, who broke the silence by the utterance of that prophetic and historical sentence—"Now he belongs to the ages."

Lincoln's lawyer training was conspicuous in his political life even as early as his term in Congress in 1847 to 1849. Nowhere is the tact of the lawyer in governmental affairs better illustrated than in his "Spot Resolutions." These resolutions called on the administration for information relative to the Mexican War. It is sufficient here to say that the Polk Administration was so embarrassed that it could not, dared not, and did not answer or comply with the resolutions. The administration maintained a discreet silence. Read the "Spot Resolutions" and you will find that none but a lawyer possessing a lawyer's tact could have conceived and written them.

There is no better illustration of an opponent being destroyed by a capable cross-examiner than is furnished by one of the instances of the famous Lincoln-Douglas debates. Senator Douglas was a lawyer and a judge and was conspicuous in his profession. He was a wonderfully great man, but his career has suffered immeasurably and unjustly by being so completely overshadowed by the career of Lincoln.

At the time of the great debates Douglas had been many years away from the practice of law. He had been Senator for nearly twelve years and perhaps had tried no lawsuit during that time. Lincoln was fresh from the court-room. He had tried the Armstrong murder case in May of that year. He was at the very zenith of his legal career. In principle there was not so much difference between the jury of twelve men at the court-house and the larger jury of citizens assembled to hear the debates. Douglas forgot for an instant that he was inactive in the practice of law, and in an evil moment decided to ply Lincoln with questions. He did. The questions were proposed at the Freeport debate. The questions were

just what Lincoln wanted, as it gave him the right and the opportunity to ask counter-questions of his adversary. The Douglas inquiries were loosely drawn and easily answered. They could all be disposed of by a negative answer. When the questions were handed Lincoln, he said:

"I will answer these interrogatories upon condition that Judge Douglas will answer questions from me, not exceeding the same number. I give him an opportunity to respond."

Lincoln paused, but no response came from Douglas. The pause was just such a one as the cross-examiner makes when a witness is unable to answer an embarrassing question. After waiting a brief while, with all eyes fixed upon his opponent, Lincoln continued:

"The Judge remains silent. I now say I will answer his interrogatories whether he answers mine, or not, but, after I have done so, I shall propound mine to him."

He then answered the Douglas questions all with a negative, and then, to show his fairness, took them up again and answered them with explanations. After thus answering the Douglas interrogatories Lincoln propounded his, in only one of which we are now interested. It read:

"Can the people of a United States territory in any legal way, against the wish of any citizen of the United States, exclude slavery from its limits prior to the formation of a state constitution?"

Douglas was plainly embarrassed, and flushed of face. The Senator was no novice. He sensed his mistake and realized the seriousness and importance of either an affirmative or negative answer. He realized, as was true, that, if he answered, *no,* to the interrogatory, he would lose the senatorship which he then held and to which he was seeking re-election; that, if he answered, *yes,* to the interrogatory, it would come up to plague and embarrass him among his southern friends, without the aid of whom he could not be elected president. It must be understood that he was at that time not only a candidate for reelection to the senatorship of Illinois, but was also a candidate for the presidency as well. An answer of *no* also placed him in a position of antagonism to the Dred Scott decision, and he had been freely criticizing Lincoln for having assumed such a position. By introducing question asking he was bound to answer those propounded to him by his opponent or appear so unfair as to lose the confidence of his most ardent supporters.

He answered the interrogatory, *yes.*

By his answer he was re-elected senator from Illinois, but by his answer he was defeated for the presidency of the United States. History records no instance of a single question and a single answer being fraught with such importance and such results.

At Freeport, Illinois, there is a monument marking the spot and the time of the debate between these two great characters. I know not what inscription is upon it, but I think I know the inscription that should appear thereon. I suggest this:

"At the debate held here a question was asked by one of the debaters and answered by the other. By the asking of this question the one propounding it became president of the United States. By answering it the other lost the opportunity to become president of the United States."

Two years later Douglas faced a divided Democracy—a Southern wing and a Northern wing—thereby making Lincoln's election a certainty

from the start, for each wing had its candidate, Douglas for the Northern wing and Breckinridge for the Southern wing.

Was the Democratic party thus divided on account of Douglas's answer to the question just read? Listen to a distinguished southern Democrat in 1860. He thundered:

"We accuse him (Douglas) for this; that having bargained with us upon a point upon which we were at issue that it should be considered a judicial point; that he would abide the decision; that he would act under the decision and consider it a doctrine of the party; that, having said that to us here in the Senate, he went home, and, under the stress of a local election, his knees gave way; his whole person trembled. His adversary stood upon principle and was beaten; and, lo, he is the candidate of a mighty party for president of the United States. The Senator from Illinois faltered, he got the prize for which he faltered; but the grand prize of his ambition today slips from his grasp because of his faltering in his former contest, and his success in the canvass for the senate, purchased for an ignoble price, has cost him the loss of the presidency of the United States."

Southern Democrats denounced him as a traitor and a renegade. During the campaign of 1860 it was facetiously stated that Douglas was a greater man than Lincoln. Lincoln, it was said, only split rails, while Douglas split the Democratic party.

There was a shrewd country lawyer sitting in his modest home on Eighth Street, at Springfield, who knew just when and how his opponent happened to split that party.

The famous Dred Scott decision was recent and directly involved in the Lincoln-Douglas debates in 1858. Lincoln's position in regard to slavery was in conflict with that decision. Douglas assailed him vigorously for his attitude towards and his comment on this, now, and then, historical opinion. And even today, by those who wish it true, Lincoln is cited as one who criticized the Supreme Court of the United States and who refused to be bound by its mandates.

What are the facts? The decision, you will recall, held that a slave was property, that his master might take him into any territory he saw fit, territory which was slave or territory which was free. The decision made effectual the repeal of the Missouri Compromise provided for in the Kansas-Nebraska bill. The Missouri Compromise had held the two sections together in a sort of a cessation of hostilities attitude. This repeal opened old wounds and precipitated the slavery question in a most virulent and obnoxious form. The handing down of the opinion was unexplainedly delayed for two years, marking it to some extent a political decision. This is particularly true when the unusual period and disturbed conditions of the country are considered. The opinion was by a divided court, a division also along political lines. The writer of the opinion, Chief Justice Taney, as a basis for it, assumed an historical basis which never existed. Lincoln's position in this important matter is most ably stated in one of his replies to Judge Douglas's strictures. He said:

"We believe as much as Judge Douglas (perhaps more) in obedience to and respect for the judicial department of government. But we think the Dred Scott decision is erroneous. We know the court that made it has often overruled its own decisions and we shall do what we can to have it overrule this. We offer no resistance to it. If this important decision had been made by the unanimous concurrence of the judges, and without

any apparent partizan bias and in accordance with legal public expectation and the steady practice of the departments throughout our history, and had been in no part based on assumed historical facts which are not really true; or if, wanting in some of these, it had been before the court more than once, and had been there affirmed and reaffirmed through a course of years, it then might be, perhaps would be, facetious, nay, even revolutionary, not to acquiesce in it as a precedent. But when, as is true, we find it wanting in all these claims to the public confidence, it is not resistance, it is not facetious, it is not even disrespectful, to treat it as not having yet quite established a settled doctrine for the country."

It will be noted that the lawyer statesman did not suggest or intimate that the judge who wrote the decision and those who sponsored it be recalled. He only proposed that an attempt be made to overrule or distinguish it in the exact manner approved by court procedure.

When Lincoln became president the nearly century old question of whether this was one indissoluble Union, fastened together by a chain or iron or a league of states bound only by a rope of sand, was at its acutest stage. It had not been decided whether or not a state might withdraw at its pleasure, or whether or not perpetuity in our Constitution was expressed or implied. On the one hand, Washington and Hamilton and Webster and others had declared for perpetuity and an indestructible nation, and John Marshall, while others talked, proceeded to render decisions which were fast making it such a nation. On the other hand, Jefferson, Madison, Calhoun and many others gave the states high preference over the federal government, and were the advocates of a loose association of states. Andrew Jackson had been on both sides, advising Georgia once to ignore an act of Congress and a decision of the Supreme Court of the United States, but later, in 1833, holding South Carolina in the Union by threats that could not be misunderstood. Jefferson had penned the "Kentucky Resolutions" in the latter part of the eighteenth century, advancing, what now seems to be, so preposterous a doctrine that a state might, or might not, obey the acts of Congress as it saw fit.

Lincoln did not falter. He maintained a consistent position from his earliest manhood to the day of his death. That position was that this country was an indestructible union of states; that a state could not secede; that proclamations or ordinances of secession were void. He stated it in his "lost speech" at Bloomington, in 1856—lost because the reporters became so enchanted and enraptured with the man's earnestness and eloquence that all forgot to make notes. It is remembered, however, that in that speech he said:

"We will say to the southern disunionists, 'we won't get out of the Union and you shan't.'"

He reiterated the same principle in his first inaugural address, in this language.

"I hold that in contemplation of universal law and of the constitution, the union of these states is perpetual. Perpetuity is implied, if not expressed, in the fundamental law of all national governments. It is safe to say that no government proper ever had a provision in its organic law for its own termination. Continue to execute all the express provisions of our national constitution, and the Union will endure forever—it being impossible to destroy it except by some action not provided for in the instrument itself."

He also said in his first inaugural:

"I take the official oath today with no mental reservations and with no purpose to construe the constitution or laws with any hypercritical rules."

He had an eye single to the preservation of the Union and considered other questions, including the great question of slavery, itself, as incidental. To the Confederate Peace Commissioners whom he met at Hampton Roads, in the latter part of the war, and who came with voluminous peace proposals, oral and written, he is reputed to have said:

"You let me write 'Union' at the top of the paper, and you may write whatever you like beneath it."

His position is well stated in his reply to what is now referred to as Horace Greeley's "hysterical" open letter. This distinguished journalist changed his views to accord with every new suggestion or whim. Lincoln did not follow. Greeley became dissatisfied—he had a sort of a war nightmare. He wrote the President an open letter in which he upbraided, censured, advised, instructed and practically insulted the chief magistrate. Lincoln's reply was lawyer-like; it was dispassionate and kind. The reply, however, again reiterated his oft stated position. In his reply he said, in part:

"As to the policy I 'seem to be pursuing,' as you say, I have not meant to leave any one in doubt. I would save the Union. I would save it the shortest way, under the constitution. . . . My paramount object in this struggle is to save the Union, and it is not either to save or destroy slavery. If I could save the Union without freeing any slave, I would do it; and if I could save it by freeing all the slaves, I would do it; and if I could save it by freeing some and leaving others alone, I would also do that. What I do about slavery, and the colored race, I do because I believe it helps to save the Union, and what I forbear, I forbear because I do not think it would help to save the Union. I shall do less whenever I shall believe what I am doing hurts the cause, and I shall do more when I shall believe doing more will help the cause."

He urged the formation of state governments in Louisiana and Arkansas and election of congressmen therefrom, upon the theory and basis that these states never had been, and could not, constitutionally, have been, out of the Union.

Early in his administration the Mason and Slidell or so-called "Trent Affair" arose. It constituted a perplexing and most embarrassing and most acute situation with Great Britain. England at the beginning of the Civil War had declared neutrality and was, therefore, a neutral nation, subject to all the provisions of international law governing the rights of neutrals on the high seas. Some of our sailors had taken Mason and Slidell, Confederate envoys, forcibly from an English ship. Demand was made by England for their release. The American Press hooted the demand; the Navy Department approved Captain Wilkes' action; Congress gave him a vote of thanks. Popular clamor was intense, and, like practically all passionate reasoning, fallacious. It was also exactly contrary to the position assumed by this nation and to our own declared policy in such matters, and contrary to international law. The opportunists and precedent be damned crowd were in full swing. Most, if not all, his cabinet members yielded to popular clamor. But Lincoln did not yield.

He determined to adhere to American principles, American precedents and the provisions of international law governing the rights of neutrals, and he proposed to do this even though the situation was serious and embarrassing. Discussing the situation the President said:

"We must stick to American principles concerning the rights of neutrals. We fought Great Britain for insisting by theory and practice on the right to do precisely what Captain Wilkes has done. If Great Britain shall now protest against the act and demand Slidell and Mason, we must give them up and apologize for the act as a violation of our own doctrines, and thus forever bind her over to keep the peace in relation to neutrals and so acknowledge that she has been wrong for sixty years."

Time forbids that I enter into a discussion of the Alabama Claims controversy. Suffice it to say that it is now generally, if not universally, conceded, that Lincoln's foresight and his instructions, as carried out by that greatest of all American ambassadors, Charles Francis Adams, made it imperative that the United States, a decade later, win one of the most important international lawsuits ever tried between nations. No one but a lawyer, and a great lawyer, would have had such foresight and would have taken such steps so far in advance.

Lincoln was always and ever a lawyer. He reasoned as a lawyer and acted like one. His political campaigns, his acts as a public official, whether in office small or great, are but exaggerations and exemplifications of these traits. In the Taylor campaign in 1848 he wrote an over-enthusiastic friend that "in law it is good policy never to plead what you need not, lest you oblige yourself to prove what you can not." Even today there are some lawyers who could profit by obeying this caution.

As President, Lincoln by his Emancipation Proclamation freed a large number of slaves. This was done without Congressional act and without direct mandate from the people. It was, and is, one of the most important steps ever taken by the chief executive of a great nation. The constitutional power to issue such a proclamation has been a subject much discussed. None, however, had so profound an understanding of that subject as the president, himself. None made so careful a search for constitutional foundation upon which to act. He had urged compensated emancipation. He had urged it in season and out of season, suggested it in different forms. He had urged that it be done by Congressional act. He was right. It would have been a sane and happy solution of this most troublesome problem. But Congress was obstinate, if not recalcitrant. Nothing came of the proposition. Lincoln felt his way carefully and became convinced that, as commander in chief of the army and navy in time of war, he had such constitutional power. He realized that that power was vested in him as president and commander in chief, and not in one of his generals. Thus realizing, he found it embarrassingly necessary to revoke proclamations made by no less than five of his generals: Fremont, Hunter, Butler, Phelps and Schenck. The Fremont proclamation was the most important and sweeping. But Lincoln hesitated not. Writing to another about it, he said:

"If the general needs them (slaves), he can seize them and use them, but, when that need is past, it is not for him to fix their permanent future condition. That must be settled according to laws made by lawmakers, and not by military proclamations. The proclamation, in the point in question, is simply dictatorship. It assumes that the general may do

anything he pleases. . . . I cannot assume this reckless position nor allow others to assume it on *my* responsibility."

The President also pointed out that, if the proclamation stood unrevoked, the border states of Kentucky, Missouri and Maryland would probably be lost to the Union and go over to the Confederacy. Had this occurred, there is but little doubt that the southern Confederacy would have been successful. He not only revoked the proclamation, but he removed the general who made it, as well.

The Proclamation of Emancipation issued by him later clearly states the constitutional power under which he acted. It reads:

"Now, Therefore, I, Abraham Lincoln, President of the United States, by virtue of the power in me vested, *as Commander in Chief of the Army and Navy of the United States, in time of actual armed rebellion against the authority of the United States, and as a fit and necessary war measure for suppressing said rebellion,* . . . and by virtue of the *power and for the purpose aforesaid,* I do order and declare that all persons held as slaves within the said designated states and parts of states are, and henceforward shall be free;" concluding with this language: "And upon this act, sincerely believed to be an act of justice, *warranted by the Constitution upon military necessity,* I invoke the considerate judgment of mankind and the gracious favor of Almighty God."

It will be noted that in all particulars in this important matter he was within the carefully ascertained constitutional power and that he was careful not to transcend such power. He was complying literally and honestly with the statement made in his first inaugural address:

"I take the oath today with no mental reservations and with no purpose to construe the Constitution or laws by any hypercritical rules."

Complete abolition of slavery, as all know, was accomplished by the thirteenth amendment to the constitution, recommended to Congress by President Lincoln and proposed and ratified in the exact manner provided by that instrument. Thus was accomplished one of the greatest objects in modern times and in modern history, under the most unpropitious circumstances, by a lawyer, acting as a lawyer and in strict accord with the fundamental law of the land and well established legal rules. It is doubtful whether history, ancient, medieval or modern, records an act of greater importance, and certainly none brought about with such a strict adherence to legal principles.

These are a few of the many achievements of Abraham Lincoln. He accomplished all without disregarding the constitution, but by complying with it. He accomplished all according to law.

When we realize the disturbed conditions, the critical circumstances under which Lincoln acted—a divided country, a nation in arms, an internecine strife such as the world had never known—our impatience is intensified with those of today who would flout the provisions of our fundamental law, who would emasculate it by needless amendments, who would construe it one way today and another tomorrow, that some temporary purpose may be accomplished to remedy some real or fancied ill.

We have had lawyer presidents, a majority, in fact—we have had lawyers who became statesmen, many it is true, but our history furnishes no instance of another who at all times and under all conditions adhered so completely to legal principles and to legal rules and who at all times acted so consistently as a lawyer.

Lloyd George, the great World War English premier, said: "Lincoln is the finest product in the realm of statesmanship of the Christian civilization."

Who was this great man? From whence did he come? What were his antecedents and what his environments? He was born of obscure parentage at a place almost lost to history.

But today he grows in greatness as the years advance. Almost literally, his whole life, from the cradle to the tomb, from the hovel to the White House, is marked and preserved to posterity. There is that splendid memorial at Hodgenville, Kentucky, the place of his birth, and that other more magnificent memorial at the nation's capital, the place of his most important acts and of his tragic death, that memorial, the lagoon of which so fittingly reflects the 555 foot monument shaft of that other great American, George Washington. His tomb is a shrine. The registration of visitors to his tomb in 1926 was 121,000. The great of all the countries of the world come at all times to lay a wreath upon his tomb. Almost every spot where Lincoln stood has been marked in some manner. But the greatest of all is a simple marker in his old home town, one in keeping with the simplicity of his life. Lincoln, while living at Springfield, passed a certain corner of the old state-house grounds on his way from home to office and return. At this corner there has been erected a five foot granite marker with a single unexplained inscription upon it: "Lincoln passed this way." Friends, members of the bar, when a man becomes so great that fifty years after his death the people of his town erect a granite monument to mark the path he trod in daily life, he has reached the supremacy of human greatness.

He was unusual. He was unique. He was like none other. He stands out in history conspicuously, singly and alone, America's greatest president and our greatest lawyer statesman.

(Great applause, all members standing.)

PRESIDENT PUTNAM: I wish the members would be seated for a few minutes more while we complete the business. The pending business at the time Judge Haycraft started to speak related to the report of the Committee on Uniform Procedure. The motion pending is one, that recommendation three of the committee be adopted, and second, that recommendation two of the report of the committee be adopted, and an additional motion that a court reporters' bill be prepared for the federal court. The question is now open for debate.

MR. MURPHY: I am in favor of the Caraway bill. I can't give my consent to the approval of the report, in this, that this Association go on record as being opposed to that bill. Gentlemen of the bar, I think we are venturing upon a pretty dangerous matter, perhaps more significant than you appreciate, in directly placing ourselves on record as opposed to the Caraway bill and thereby, by implication, agreeing to that part of the report that is not in writing.

I have very firm convictions on this subject that I have entertained for a great many years, and I am not very likely to surrender them now. I have always been opposed to the idea of a presiding judge favorably or unfavorably commenting upon the testimony of any witness, unless in

those exceptional cases which very rarely arise, the situation should seem positively to demand it. I do not think that the courts ought to invade the field of the province of the lawyers or of the jury; and I yield to no man in this audience in my admiration and respect for all of the judges of all of the courts in this state, and in what I have to say there is nothing personal whatever. I think the moment the presiding judge comments, either favorably or unfavorably, upon the testimony of any witness on either side of the case, that the other litigant is immediately at a disadvantage. I have never accepted the idea as being very important that the judge may comment favorably or adversely on the testimony of a witness, and then say, "Of course, gentlemen of the jury, it is for you to decide what weight you will give to the testimony of this witness." The people have, I am very happy to say, a profound respect for the courts. The average juror has a very profound respect for the courts, and he should have, and I am strongly in favor of their continuing to respect the judiciary. But when the courts are permitted to become advocates for one litigant or the other, to what ends will that lead? What is likely to be the attitude of a litigant whose witness is condemned openly before the jury?

I think the greatest system in all the world is the American jury system, and the bulwark of American jurisprudence is the jury system. I have had a good deal of experience in courts. I want to continue my respect for the orderly administration of justice. I do hesitate to agree to the opening up of a program that will some day find you or find me engaged in the trial of an important case with an additional advocate opposed to us; and by the same token, I don't want any additional advocate favoring me in the trial of any case. I appreciate just as well as you do, gentlemen, the fact that there has been a practice of the federal judges commenting upon the testimony of witnesses. I have had no experience in that respect that would make me bitter or resentful, but I think I have in me a spirit of fair play. A litigant goes into federal court in the firm conviction, —or at least I would like to have him have the firm conviction,—that there his matter, whether important or unimportant, as people usually consider matters in dispute,—that he will have an absolutely square deal when he selects one of us to represent him.

I have confidence in the lawyers of this state to fittingly represent their clients in that court. I realize, as possibly you must realize, that judges at one time were practicing lawyers; that it is natural for us to have our prejudices, our sympathies and our leanings, especially in relation to great public questions. The placing of one of the eminent members of the bar on the Bench doesn't strip him of all the human attributes that have guided him through all his life; it doesn't strip him of his prejudices and biases. It should perhaps in a way, but it just doesn't do it. Again I want to emphasize that I have had no experience that causes me to speak in this way. I can not escape the conviction that, as time goes on, the rights of the ordinary man are being more and more impinged upon. Are we not, as time goes by, surrendering more and more of our individual rights as citizens? I am not in favor of abdicating to any authority whatever my natural rights or the natural rights of the great mass of common people that makes this country what it is. (Applause.) The greatest thing about Lincoln was he never lost his common touch; and his claimed im-

mortality—and he does belong to the immortals,—was due to the fact that he never overlooked the common man, and he maintained his common touch until he died. That is what made him great. And he said, as our brother Haycraft so beautifully stated it this morning, he said, "Let this thing alone, this is the Magna Charta of the rights of the people."

On what field are we venturing here; to what will this lead us? It is not perhaps so important that we grow so serious about going on record against this Caraway bill, but do we want to sit here as lawyers of this state and accept the theory that in the district courts the judges may venture into the same dangerous field of commenting upon the testimony of witnesses? Why is that necessary? Do you want to have the judges of the district court of this state become advocates for one side or the other on every case that is tried? The judges of this state have uniformly kept out of that field, and I have the greatest respect and admiration for them for the reason, that they have sensed the fact that though they may have very firm convictions about the testimony of a witness upon the trial, that it is not their province to become an advocate. And again I repeat, that saying to a jury, after a witness is condemned or is praised, that "you are the judges of the facts" does not cure the situation and it never will.

If by opposing the Caraway bill, we give our sanction to the idea that the courts may comment upon the testimony of witnesses in the federal courts, I think we commit ourselves to the idea that the courts may comment upon the testimony of witnesses in the district court. And what one of you wants an advocate for you or an advocate against you upon the trial of any case? And again I say this, with the finest sort of spirit, with no spirit of criticism for any judges that have sat in this state and especially the judges of the United States courts in this state,—for whom I have the greatest admiration in the world,—they rarely venture into the field of criticising or praising the testimony of witnesses that appear before them; but that is not true in other districts of the United States.

And so you see the possible effect of adopting this report, and asking this Association to go upon record as opposing the Caraway bill. As one member of the bar of this state, I will not consent to that; and I am going to continue to support the Caraway bill. In the administration of justice we have a very definite machinery set up. We have lawyers to present the cause of their clients; and it is their business to select the witnesses who shall appear on their side, and to do their best to impress the Court and the jury with the merits of their side of the case. I am just one of those old-fashioned practitioners, who believes in that practice, who believes in keeping just as far away as we can from the development of any oligarchy of power in our judicial system or in any other branch of our public life.

I agree with Senator Walsh also in respect to the matter of establishing rules in common law cases in the federal courts. I think we are getting along mighty well in this state in the trial of our law cases in the federal courts just as the rules stand; and I have some hesitancy about accepting out of hand a set of rules prepared for the guidance of the federal courts in the handling of that class of case, in the preparation of which neither you nor any of us are going to have any hand. I don't know what these rules will be, but I do know when they are made, you will have

to abide by them. Why venture into new and untried fields, when there doesn't seem, as I view it, to be any particular call for it?

I thank you for your attention. (Applause.)

MR. SHEARER: Mr. President, just a few words. I think I can agree to everything my friend, Mr. Murphy, has said, with the exception of one statement which he made at the beginning, which is, "I oppose the Caraway bill." Now, Mr. Murphy's argument, it seems to me, in favor of the passage of the Caraway bill is strange, to say the least. This Caraway bill seeks to change a system and a custom which has been in force since 1789, and Mr. Murphy thinks it is necessary to pass it, although he admits that during his entire practice, that he has never suffered from it, never suffered from the present system. I appeal to every one of you who have tried cases whether you have suffered from the present system from any injudicious expression of opinion by a federal judge. I don't think you have. Since R. R. Nelson and Judge Lochren, all down the line to our present judges, we have had men of the finest type and caliber, high-class men who have never over-stepped the proprieties as judge. Now, Mr. Murphy says this, he says, "I think that once in a while a situation comes in the trial of a case where a judge should speak." He has admitted that, and in so doing he has admitted the whole question. In other words if the Caraway bill is passed, it does away with the power of a judge absolutely; it does away with the right to an expression of an opinion, and makes it reversible error.

MR. JAQUES: What does the bill do?

MR. SHEARER: It says the judge shall not comment on the evidence or on a witness; and if the court does in the course of the trial, even though he leave the matter finally to the determination of the jury as a question of fact, it shall constitute reversible error.

MR. JAQUES: The Court isn't allowed to sum up at all what the evidence is?

MR. SHEARER: He can't comment upon it, upon the testimony of any witness. Now, as I have said, that is the rule in this state; it has been so determined. Judges rarely exercise it; that shows their splendid discretion. Wherever they have exercised it, the supreme court has sustained them, where the appeal has been upon that ground.

Now, gentlemen, after living under that system,—and my friend Murphy says no harm has come from it in his cases, and I believe no harm has come from it in your cases,—what would be the psychology of passing such a law? A judge is gagged, bound, and everybody knows it. A man can come on the witness stand, an attorney can put him on the stand, and he can say that a buffalo climbed up a grape tree and ate grapes from the top of it, and the judge would be absolutely unable to say a word! Why, it seems to me that is ridiculous that we should in this day and age ask to pass this law, changing the custom of more than a hundred years.

On the other we haven't anything to say. We think the power to make rules in common law cases should be given. We have lived under the equity rules which the Supreme Court of the United States has

passed for the governing of equity cases, and we think we could live under the rules that the supreme court would pass governing common law cases.

MR. JONES: I am a member of the committee. I am in favor of the report of this committee, but I don't want any of my friends in my section of the state to vote for or against this bill without further understanding, and I don't thoroughly agree with what Brother Shearer said about the Caraway bill. It does not prohibit federal judges from commenting on the testimony or referring to witnesses. That is one objection I have. It simply prohibits federal judges from commenting on the effect of what a witness said, or belittling or praising it. I think that this bill should pass, but I don't vote for it on the theory that the Caraway bill is actually what we say in our report, because it doesn't prohibit what we say.

MR. SHEARER: Do I understand you are against us on the Caraway bill?

MR. JONES: No, I am with you. I think the Caraway bill ought not to pass, but I don't think it ought not to pass for the reasons you say. (Laughter.)

SEVERAL VOICES: Question, question.

PRESIDENT PUTNAM: Are you ready for the question?

MR. SHEARER: May I interrupt. I didn't interrupt Mr. Murphy, because the first motion covered simply the first and second recommendations. Mr. Murphy talked on the third. But I am going to make a different motion, and cover the entire recommendation, put them all together.

PRESIDENT PUTNAM: I think they ought to be divided, and that is what I understood from Mr. Murphy's statement.

MR. SHEARER: Very well then, if you would rather vote on them divided, I will renew my original motion.

PRESIDENT PUTNAM: The first motion made, as I understand it, is that you adopt paragraph three of the recommendations of the committee, which reads as follows: "That we oppose S. F. 624, H. R. 3260, known as the Caraway bill, abridging the trial powers of the federal judges." The motion has been made and seconded that the recommendation be adopted. I think the statements of these two lawyers makes it very clear what you are voting upon. Are you ready for the question?

A VOICE: Question.

PRESIDENT PUTNAM: As many as are in favor of the adoption of this recommendation say "aye," opposed "no." Those in favor of the adoption of the recommendation, will please rise. (Members rise.) Those opposed. (Members rise.)

The secretary advises me that 58 are in favor of it, and 22 opposed; the motion therefore prevails.

The second motion is as follows: "That this Association urges upon the Congress the passage of S. F. 477, H. R. 419, to empower the Supreme Court of the United States to make and publish rules in common law action; and S. F. 2692, H. R. 5265, providing for the appointment and pay of court reporters in the federal courts."

Those in favor of the adoption of this motion, say "aye," opposed "no." The motion prevails.

There was a separate motion made as to the court reporters, but it is covered by the second motion.

The next order of business is the report of the treasurer.

MR. WILLIAM G. GRAVES: As stated at the meeting yesterday, on the date of this statement, July 1, the Association had a balance on hand of $2,810.47. Since that time the balance has been reduced to $2,550.

TREASURER'S REPORT

RECEIPTS

Balance on hand July 1, 1926	$2,023.62
Proceeds from sale of banquet tickets	1,218.00
Dues received	4,753.00
Total receipts	$7,994.62

DISBURSEMENTS

	Voucher Number	Paid to	For	Amount
1926				
July 6	222	Evans & Company	Programs and tickets	$ 16.00
July 6	223	St. Paul Letter Company	Addressing envelopes	5.00
July 6	224	Evans & Company	Postals	20.50
July 12	225	Anna T. Fuerst	Railway fare and berths, meals and miscellaneous	22.00
July 16	226	Walter Mallory	Expenses and services of three entertainers	111.64
July 16	227	James Hamilton Lewis	Expenses	125.00
July 23	228	Jesse Carey Smith	Stenographic services at meeting	75.00
July 23	229	Rockwood & Mitchell	Expenses re Bar Organization	7.51
Aug. 2	230	The Spalding Hotel	1926 Bar meeting expenses	1,515.10
Aug. 4	231	Evans & Company	Envelopes and letterheads	20.50
Aug. 13	232	The Spalding Hotel	Balance of expenses of 1926 Bar Meeting	19.60
Aug. 19	233	Morton Barrows	Expenses to Duluth and return	15.00
Aug. 27	234	H. C. Boyeson Company	One file	1.15
Oct. 11	235	Rockwood & Mitchell	Expenses re Bar Organization	39.35
Oct. 20	236	Clark R. Fletcher	Refund on dues	13.00
Nov. 2	237	Rockwood & Mitchell	Expenses re Bar Organization	17.70
Nov. 4	238	Royal A. Stone	Unpaid portion of expenses from Saint Paul to Bemidji	17.00
Nov. 6	239	Everett Fraser	Expenses re Bar Organization meeting at Austin	15.07
Nov. 6	240	Royal A. Stone	Expenses of trip to Alexandria	12.00
Nov. 22	241	Jesse Carey Smith	Stenographic services	110.00
Nov. 30	242	Rockwood & Mitchell	Expenses re Bar Organization	6.77
Dec. 13	243	H. C. Boyeson Co.	One file	4.85
Dec. 23	244	Minnesota Law Review		900.00
1927				
Jan. 3	245	Chester L. Caldwell	Allowance as Secretary	300.00

Jan.	7	246	McClain & Hedman—One file	.75
Jan.	10	247	Rockwood & Mitchell—Expenses re Bar Organization	4.25
Jan.	18	248	Minnesota Law Review—Subscription to Minnesota Law Review for Hon. Fred W. Senn of Waseca	3.00
Feb.	8	249	Rockwood & Mitchell—Expenses re Bar Organization	22.50
Feb.	14	250	Evans & Company—Postals for Bar Organization	8.75
Feb.	14	251	Minnesota Law Review—February payment	200.75
Mar.	4	252	Minnesota Law Review—March payment	205.75
Mar.	16	253	Chester L. Caldwell—Postage	5.00
Apr.	8	254	Minnesota Law Review—April payment	239.75
Apr.	13	255	Evans & Company—Envelopes and copies of constitution and by-laws	82.50
Apr.	26	256	Thomas C. Daggett—12 luncheons for State Bar Association for meeting March 26th	12.60
Apr.	26	257	Charles Kidder—Cigars and cigarettes for same meeting	3.50
May	16	258	Minnesota Law Review—May payment	330.25
May	19	259	Ambrose Tighe—Reimbursement for over-payment of dues	5.00
May	31	260	Minnesota Law Review—Subscription of Joseph B. Cotton	3.00
June	3	261	Chester L. Caldwell—Postage	5.00
June	6	262	Minnesota Law Review—June payment	279.00
June	22	263	St. Louis Button Co.—Badges and buttons	57.56
June	23	264	Minnesota Law Review—July payment	282.50
June	23	265	Chas. J. Moos, Postmaster—Postage for Mr. Graves	5.00
June	24	266	McClain & Hedman—Ledger binders, index and white sheets	36.30
June	24	267	St. Paul Letter Co.—Form letters and addressing..	1.70
			Total disbursements	$5,184.15

TOTAL RECEIPTS $7,994.62

TOTAL DISBURSEMENTS $5,184.15

BALANCE ON HAND (July 1, 1927) $2,810.47

NOTE: The total received from dues of members during the past year was $4,753.00, made up as follows:

From arrears accrued prior to January 1, 1926...	$ 184.00
From current dues in 1926 and 1927	4,554.00
From 1928 dues	15.00
	$4,753.00

WILLIAM G. GRAVES, Treasurer.

The total number of members paying dues was 854 the past year. We have been in this situation, that by vote of the Board of Governors it was decided that there would not be dropped from the membership list the names of any members until they are in arrears for dues for a period of more than a year. As a result of that members, even though delinquent, for as long as two years, have received the REVIEW, and the REVIEW has been paid for all the copies it has issued to members. The situation will now change, and since members become members through local organizations, we shall not continue sending the REVIEW to members in arrears.

I anticipate next year to see considerable increase in the number of

members paying dues. I would like to see our "war chest" rise to a figure considerably in excess of our present little balance of $2,500.00.

PRESIDENT PUTNAM: What action shall we take on the report?

(The motion having been made and seconded that the report of the treasurer be adopted, was upon vote of the members, carried.)

PRESIDENT PUTNAM: There is a report of the Committee appointed to make an audit of the accounts of the treasurer, consisting of Mr. Kidder and others.

REPORT OF AUDITING COMMITTEE OF RECORDS OF TREASURER

Your Committee to audit the books of Mr. William C. Graves, as Treasurer of the Minnesota State Bar Association from July 1st, 1926 to July 1st, 1927, reports that they have carefully checked the records of the treasurer for said period and find his report correct and complete.

We were greatly assisted by the excellent condition in which the treasurer has kept the records, his bank statements showing each deposit, and vouchers appearing in order for all of the disbursements except a few small items.

COMMITTEE
By E. W. KIDDER, Chairman.

MR. KIDDER: Of the committee that was appointed, two members of it, besides the chairman, seem to have disappeared, at least I couldn't locate them yesterday. So I chose two other men to assist me in auditing the records of Mr. Graves, and we beg leave to report that we went over the books carefully from July 1, 1927, and find the records correct and complete. We were greatly assisted by the excellent condition in which the treasurer has kept his records; his bank statements show each deposit; he has vouchers for all disbursements, except a few small items; the canceled checks are all kept in regular order with the stubs in the check book; there are receipted bills or vouchers for all except one or two small items. The records are all in most excellent condition.

PRESIDENT PUTNAM: What shall we do with the report?

(Upon motion being made and duly seconded, the question was put to a vote of the members, and carried.)

PRESIDENT PUTNAM: There is one other matter and that is the report of the Committee on State Library, which has been passed for three days. No one has seemed to be here that was on that committee. Will somebody make a motion. (See Appendix, p. 126.)

(Thereupon a motion was made and seconded that the report of the committee be received and placed on file, and upon vote of the members was carried.)

PRESIDENT PUTNAM: The last thing is unfinished and new business. Is there anything to be brought before the Association?

MR. CRASSWELLER (Duluth): The ladies of the visiting members, a good many of them, have come to this City of St. Paul, and have been royally entertained, especially yesterday afternoon, I understand, through the courtesy of W. H. Yardley, they were entertained at Marine on the St. Croix. I wish to move a vote of thanks to Mr. Yardley for his courtesy.

A VOICE: Second the motion.

PRESIDENT PUTNAM: All those in favor of the motion will please rise. (Members rise.) It appears to be unanimously adopted.

MR. JONES (Breckenridge): I am sure every one of us here has appreciated the wonderful hospitality extended to us not only by our brethren of the bar, but by the whole city of St. Paul, and its officers and officials; and I therefore move that we, as an appreciation of that, all rise and extend our thanks not only to the citizens of St. Paul but to the officials who have extended their hospitality to us, and to the Ramsey County Bar Association who made that possible.

A VOICE: Second the motion.

PRESIDENT PUTNAM: All those in favor of the motion please rise. (Members all rise.) The motion is unanimously adopted.

MR. BRILL: Now that the meeting is about to close, I wish again to express our appreciation of the privilege of having the State Bar Association meeting with us. It has been a great pleasure and a privilege. We are glad you came and appreciate your expressions of good will. I should like to ask that the meeting extend to the management of the St. Paul Hotel a vote of thanks for their courtesies extended to us.

A VOICE: Second the motion.

PRESIDENT PUTNAM: Now, as many as are in favor of the adoption of the motion by Mr. Brill please rise. (All members rise.) The motion is unanimously carried.

MR. HENRY J. BESSESEN: I have never seen a bar meeting at which there has been so much evidence of the general fitness of things. We know it is largely due to our wonderful presiding officer, Mr. Putnam, working with the other officers; to the secretary, who has labored long and hard, and to our treasurer who keeps the money. I move a vote of thanks to them all, and I want to include a special rising vote of thanks to our outgoing president. I move we extend them a hearty rising vote of thanks, and have it spread upon the minutes of the Association.

MR. SHEARER: You have heard the motion and the second, those in favor please rise. (All members except the officers mentioned rise.) The motion is unanimously carried, Mr. President.

PRESIDENT PUTNAM: Before the motion to adjourn is made, I wish to thank the members of the Minnesota State Bar for the confidence reposed in me, when they conferred upon me the presidency of this Association. I felt some fears as to the outcome and results of this meeting. It was the first meeting under our new plan of reorganization. And a great many times during the past thirty or sixty days the subject has been uppermost in my mind as to what the outcome of this meeting would be.

I want to say to the members of the bar that I have never attended a meeting of this Association where they have come the first time in full numbers, have come the second time in full numbers, and have come the third time in substantially full numbers, have listened and have taken part in what is going on, as they have at this meeting. I think that shows to some degree, to a very large degree, that the reorganization scheme will

be a success, and that the Bar Association of Minnesota will become the representative organization of the bar of the State of Minnesota, and be an organization that will act for the best interests of that bar. And I again wish to thank the bar for the interest they have taken in this meeting. (Applause.)

MR. CALDWELL: Immediately upon adjournment the Board of Governors will meet in this room, the new Board of Governors, those who were elected by the various Judicial Bar Associations of the State.

THE PRESIDENT: The meeting stands adjourned.

NECROLOGY

JOHN T. ALLEY, Buffalo, May 29, 1927.
JAMES N. BEARNES, Minneapolis, June 13, 1926.
CLIFFORD L. BENEDICT, Crosby, June 28, 1926.
B. G. BENSON, Minneapolis, Jan. 5, 1927.
MORTON W. BREWSTER, Wells, March 29, 1927.
ALBION G. CHAPMAN, Lanesboro, Feb. 13, 1927.
LORIN CRAY, Mankato, March 3, 1927.
WILLIAM H. CUTTING, Buffalo, May 14, 1926.
LEVI M. DAVIS, Long Prairie, May 29, 1927.
JAMES DENIS DENEGRE, St. Paul, Dec. 30, 1926.
J. I. DILLE, Minneapolis, Feb. 1, 1927.
RAY G. FARRINGTON, Ortonville, March 1, 1927.
NIEL B. FERGUSON, St. Paul, 1927.
DEWITT H. FISK, Bemidji, March 11, 1927.
JEAN A. FLITTIE, Mankato, May 11, 1927.
COLIN C. JOSLYN, Minneapolis, April 5, 1927.
JOHN J. KIRBY, St. Paul, Jan. 11, 1927.
THOMAS J. MCDERMOTT, St. Paul, June 20, 1927.
THOMAS P. MCNAMARA, St. Paul, March 26, 1927.
GUY A. MEEKER, Minneapolis, March 16, 1927.
EUGENE C. NOYES, Minneapolis, April 18, 1927.
WILLIAM PEET, Minneapolis, 1927.
GEORGE E. PERLEY, Moorhead, May 1, 1927.
NET JAMES ROBINSON, Tracy, May 30, 1927.
J. N. SEARLES, Stillwater, April 25, 1927.
JAMES SCHOONMAKER, St. Paul, Feb. 10, 1927.
EZRA R. SMITH, Brainerd, Jan. 14, 1927.
C. W. STANTON, Bemidji, June 2, 1927.
HALVOR STEENERSON, Crookston, Nov. 22, 1926.
OSCAR T. STENVICK, Bagley, Sept. 30, 1926.
HERBERT H. STEVENS, Minneapolis, Jan. 24, 1927.
CHARLES R. ST. JOHN, St. Paul, Jan. 22, 1927.
JOHN B. TROCHILL, Olivia, Jan. 26, 1927.
DELANCY WEBSTER, Minneapolis, March 8, 1927.
BYRON H. WHITNEY, Slayton, Sept. 13, 1926.
EDWARD B. YOUNG, St. Paul, May 25, 1926.

APPENDIX

REPORT OF COMMITTEE ON ETHICS

HON. FRANK E. PUTNAM,
President Minnesota State Bar Assn.

Dear Sir:

The Committee on Ethics of the State Bar Association begs leave to report as follows:

This Committee has received some complaints against attorneys in the State of Minnesota but these complaints have not been numerous. A few of them related to controversies over fees or failure to give prompt answer to correspondence and while grievances of both characters may sometimes involve ethical considerations and matters of discipline, it did not seem to us that these cases involved either. This Committee received some complaints, few in number, however, against attorneys in St. Paul and Minneapolis. Each of these cities has a well organized and efficient bar association and an efficient ethics committee, and it has been the experience of this Committee in the past that those local organizations handle such matters well. Accordingly these complaints were referred to the local organizations for handling.

This Committee received one complaint against an attorney in the Seventh Judicial District and the complaint was sent to the recently organized Seventh District association and assurance was received that it would receive proper attention.

Two complaints were received against collection agencies sending out notices on printed forms and simulating legal process. The Supreme Court in RE Dows, 168 Minn. 6, condemned this practice and held that the use of such a notice by an attorney is ground for discipline. In neither of the cases referred to us did it appear that the party sending out the notice was an attorney but the paper was signed in such a manner as to give the impression that it was signed by an attorney. While the jurisdiction of this Committee is in general confined to practicing attorneys, it seemed to us that the simulation of legal process and of forms used by attorneys was such as to call for admonition of this Committee and this course was taken.

It will be observed that the duties of this Committee have been somewhat lightened by the efficiency of local organizations and it is our belief that matters of discipline can in most cases be handled best by the local organizations where such organizations exist and are functioning efficiently. Cases may well arise, however, which can better be handled by the State Association.

We are pleased to call attention to the fact that during the past year the State Board of Law Examiners has been diligently prosecuting offenders who have violated their oath of office as attorneys, and the Supreme Court of this state has in proper cases administered prompt discipline. This may account in some measure for the fact that the number of complaints that have come to this Committee has been less than usual.

Respectfully submitted,

OSCAR HALLAM, *Chairman.*
E. L. MCMILLAN
REUBEN G. THOREEN
W. L. CONVERSE
PAUL S. CARROLL

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 for the year 1926-27 reports as follows:

Recommendations made last year. Of these one was enacted by the legislature at the 1927 session—the amendment to G. S. 1923, Section 210, to include the Supreme Court commissioners in the provision there made for the retirement of judges.

The two proposed amendments to the State Constitution approved by vote of this Association on the Committee's motion, failed of approval at the election in November, 1926. One, concerning the double liability of stockholders, will be again submitted to the voters in 1928.

The bill for a Commission to revise the statutes was again introduced in the legislature. This time it passed both houses, but was vetoed by the Governor in pursuance of the economy program. Now that it has received approval in principle, it can be confidently expected that it will be enacted when the financial question ceases to raise so strong an objection.

Your Committee is considering the suggestion that Minnesota should follow the lead of a number of states in the creation of a Judicial Council. It is hoped to make a report upon this subject, and to amplify the Committee's report generally, at the Association meeting.

Respectfully submitted,
Wilbur H. Cherry,
Chairman.

REPORT OF COMMITTEE ON UNIFORM STATE LAWS

To the Minnesota State Bar Association:

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

New Uniform Acts of 1926 Denver Conference

The National Conference of Commissioners on Uniform State Laws at its Annual Conference at Denver in July, 1926, completed, approved and recommended for passage in all of the States, several important new Uniform Acts as follows: Uniform Motor Vehicle Code consisting of four separate Acts, to-wit: Uniform Motor Vehicle Registration Act, Uniform Motor Vehicle Certificate of Title and Anti-theft Act, Uniform Motor Vehicle Operator's and Chauffeur's License Act and Uniform Act Regulating the Operation of Vehicles on Highways, also Uniform Chattel Mortgage Act, Uniform Federal Tax Lien Registration Act and Uniform Criminal Extradition Act. The text of all these Acts with accompanying notes is to be found in Reports of American Bar Association, Vol. LI, 1926, pages 530 to 626. The Acts are recommended for passage in all of the states by the American Bar Association.

The Uniform Motor Vehicle Code is one of the most important groups of acts which the Conference has prepared. Work on it was definitely started in 1923 at the annual meeting in Minneapolis. In 1924 the National Conference on Street and Highway Safety was called by Secretary Hoover in which the American Automobile Association, Chamber of Commerce of the United States, National Safety Council and other national organizations interested, were represented; and the co-operation of these organizations with the National Conference on Uniform State Laws in framing a Uniform Motor Vehicle Code for the various states, was secured. As a result the present Code has been prepared which is also recommended for adoption by the various state legislatures by the National Conference on Street and Highway Safety and its constituent organizations.

The Uniform Motor Vehicle Code well illustrates one of the advantages of uniform state laws which is becoming of more importance, that is the aid they afford in preventing Federal encroachments on State activities. In our dual form of government there is a very large twilight zone where the state may act until the Federal Government enters and takes over the field. Then there is always the possibility of expansion of federal activities by amendment of the United States Constitution. It is recognized that there are grave evils attaching to increase of federal activities and of the Federal bureaucracy centered in Washington, which tends to become irresponsible, and that it is very desirable that the states continue to function without impairment of their activities by federal encroachments, and that their vitality be not lost. The popular demand for federal action is largely based on the advantages of uniformity of laws throughout the country. These advantages can be achieved by the states passing uniform laws, and at the same time the disadvantages of federal encroachments be avoided. The popular demand for federal action will then be avoided.

In the matter of Motor Vehicle Laws, the question was debated by the American Bar Association a number of years ago, whether the necessary legislation and the very convenient and indeed necessary uniformity of laws in this field should be secured by federal laws or by uniform state laws. Most of motor vehicle traffic comes in the twilight zone where the Federal Congress could act, if it wished to, by reason of its power over Interstate Commerce and Post-roads, and of federal aid to state roads. It was decided in favor of uniform state laws; and the matter was referred to the National Conference on Uniform State Laws to frame standard uniform laws. There has been a considerable demand for federal laws on motor vehicles; but it is believed that adoption by the states of the Uniform Motor Vehicle Code will meet the situation and provide the necessary uniformity of rules of the road and of regulations of speed, car equipment, size and weight, etc., motorists passing from state to state.

Uniform Legislation in Minnesota in 1927

Governor Christianson called a Conference on Street and Highway Safety for November 19 and 20, 1926, at the State Capitol, to consider the Uniform Motor Vehicle Acts. The Conference resulted in a committee on which the League of Minnesota Municipalities, State Highway Department, Attorney-General's Office, Minnesota Commissioners on Uniform State Laws and other bodies, were represented. The passage of several of the Uniform Acts was urged in the legislature, and the Uniform Act Regulating the Operation of Vehicles on Highways was passed with some modifications. (Chapter 412, Laws 1927.) The name is changed in section 66 to "Uniform Highway Traffic Act." It covers operation of vehicles, rules of the road, size, weight, construction and equipment of vehicles, highway traffic signs, penalties, and procedure upon arrest and reports. Former laws on the subject are repealed by section 68.

The Uniform Declaratory Judgments Act was introduced in the Senate by Senator Child and in the House of Representative Quinlivan. It passed the Senate without opposition, and after being favorably reported by the Judiciary Committee of the House it failed of passage in the last days of the session on the vote on final passage in the House. The acceptance of the declaratory judgment as part of civil procedure in most of the civilized world and its adoption in the United States each year by additional states, (already having been adopted by states with an aggregate population of forty millions) as well as its intrinsic merit, insure its ultimate passage in Minnesota. It has been discussed in our 1923, 1925 and 1926 Reports. See 33 Corpus Juris 1097-1102, 12 A. L. R. 52 Note and 19 A. L. R. 1124 Note. The recent decisions in the United States are found in recent volumes of annotations of Corpus Juris, and in A. L. R. Blue Book of Supplemental Decisions, 1927, under 19 A. L. R. 1124, and in the last supplement to Volume 9 of Uniform Laws Annotated. See also 5 Minnesota Law Review 32, 172.

The Uniform Arbitration Act was introduced in the Senate by Senators Nelson and Child and in the House by Representative Campbell. It also passed the Senate without opposition, but failed of passage on the final vote in the House at the end of the session. (For text of act see Reports of American Bar Association, Vol L, 1925, p. 591; also see our 1926 Report.) The United States Arbitration Act (Title 9 of U. S. Code), which applies to transactions in interstate and foreign commerce, contains a provision that a clause in a contract agreeing to submit to arbitration any controversy that may arise thereafter out of the contract, shall be valid and enforceable. Such a provision is not found in the Uniform Act, which provides only for agreements to arbitrate existing controversies and which follows in the main the present Minnesota statute. (G. S. 1923, Chapter 81.) The differences in the Uniform Act are matters of detail of procedure making the proceeding more workable and effective.

The Uniform Fiduciaries Act was introduced in both Senate and House. The Uniform Joint Obligations Act and Uniform Interparty Agreement Act were both introduced in the Senate. (See A. B. A. Reports, 1925, p. 595, and our 1926 Report.)

The work of urging Uniform State Laws at the session of the Legislature was participated in by Frederick H. Stinchfield, of Minneapolis, member of the General Council of the American Bar Association for Minnesota, George W. Morgan and Edward A. Knapp, of St. Paul, members of the A. B. A. Committee on Uniform State Laws, and John A. Hendricks, Crookston, Frank E. Morse, Mankato, and Guy C. Parker, Minneapolis, members of the Commercial Law League Committee on Uniform State Laws, and others, in addition to S. R. Child, Bruce W. Sanborn and Donald E. Bridgman, Minnesota Commissioners on Uniform State Laws. Representative Lightner was especially active in support of the Uniform Acts.

PROPOSED UNIFORM ACTS NOW BEFORE THE NATIONAL CONFERENCE

The more important proposed Uniform Acts which will come up before the National Conference at Buffalo, next August, are Real Property Mortgage Act, Public Utilities Act, Incorporation Act, and Mechanic's Lien Act. The Mortgage Act has been largely drafted in Minnesota and embodies in large part features of Minnesota law which are recognized as the most satisfactory for all parties concerned of any of the states. The Public Utilities Act illustrates again the uniform acts as preventing federal encroachments. With giant power and super-power appearing in the utility field and the interstate relations increasing, a demand is arising for the federal government to step in and regulate the public utilities as it did the railroads by the Interstate Commerce Act of 1887. A Uniform state law for public utilities and their regulation by a state commission will be an important move in holding this activity for the states.

Respectfully submitted,

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

REPORT OF COMMITTEE ON LEGAL BIOGRAPHY

Your Committee on Legal Biography respectfully states that there have been reported to date the deaths of the following members of the Bar during the past year: John T. Alley, James N. Bearnes, Clifford L. Benedict, B. G. Benson, Morton W. Brewster, Albion G. Chapman, Lorin Cray, William H. Cutting, Levi M. Davis, James Denis Denegre, J. I. Dille, Ray G. Farrington, Niel B. Ferguson, De Witt H. Fisk, Jean A. Flittie, Colin C. Joslyn, John J. Kirby, Thomas McDermott, Thomas P. McNamara, Guy A. Meeker, Eugene C. Noyes, William Peet, George E. Perley, Net James Robinson, J. N. Searles, James Schoonmaker, Ezra

R. Smith, C. W. Stanton, Halvor Steenerson, Oscar Stenwide, Herbert H. Stevens, Charles R. St. John, John B. Trochill, DeLancy Webster, Byron H. Whitney, Edward B. Young.

Respectfully submitted,

A. B. CHILDRESS, 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 occupies the entire East wing of the third floor in the State Capitol Building. The Library contains over 100,000 bound volumes, and approximately 14,000 pamphlets and State documents. Current accessions for this year numbered about 11,968, received from the following sources:

Books purchased.
Books exchanged.
Books donated.

The Library staff consists of the following persons: Librarian, Assistant Librarian, Reference Librarian, Stenographer and Clerk.

The Legislature granted the usual Annual Appropriations for the years 1927-28—divided into three respective funds: Maintenance, Contingent, and Books and Binding. The Legislature gave the Library a special grant of $2,000 to cover binding of accumulated material.

The Library will continue the addition of new steel stacks to take care of the increase of volumes.

The financial statement of the Library can be seen in the State Auditor's office.

The Library by statute is under the immediate care of the Supreme Court, and we learn that the staff is courteous and efficient.

JAMES H. QUINN.
JAMES E. MARKHAM
EDWARD LEES
JAMES PAIGE, Chairman.

REPORT OF COMMITTEE ON LEGAL EDUCATION

This Committee is unable to report any progress. The first regrettable circumstance that has arisen since the last annual meeting was the resignation of Mr. James E. Dorsey from this Committee. He is efficient in the highest degree. He had been chairman of the Committee for a number of years, the rest of the members naturally depended on him, and when the new Committee was re-organized, there was a misunderstanding as to who was chairman, and about all that has been done in the interim was to keep a check on the legislation of the season of 1927, which had a bearing on the subject of legal education and qualifications for admission to the Bar.

Several bills were introduced prescribing special privileges under which applicants can be admitted without examination. Report upon such legislation was made at the last meeting, and received the hearty and practically unanimous disapproval of the Association; but the action was fruitless, as shown by what occurred at the session of the Legislature just closed.

Among the proposed bills are the following:

Senate File No. 344: This bill proposed that individuals who had served a certain period of time as Justice of the Peace could be admitted to the Bar without examination.

It appears not to have become a law.

Chapter 309 became a law, and provides in substance that a person who is a graduate of any Law School in any state, has been honorably discharged from the World War, and been a Court Reporter for seven years may be admitted to the Bar without examination.

Chapter 391 became a law, and provides that a person who has been a Court Reporter ten years, been discharged from the World War, and a High School graduate, and has attended Law School not less than two years, can be admitted to the Bar without examination. This bill does not require the applicant to be a Law School graduate.

All of these bills were opposed and contested by the Committee.

It seems difficult to prevent such legislation. It is promoted by some of the strongest men in the Legislature. The emphatic protests made against it by this Committee and by the State Board of Law Examiners two years ago appears to have been unavailing. This leads to the conclusion that there must be something under the surface in connection with our procedure for Bar examinations that the Committee is unable to discover. The opposition which we have interposed to this legislation has always awakened extreme hostility from its promoters in both houses. Complaint has reached the chairman of your Committee personally that the procedure adopted by the Board of Examiners is not sufficiently elastic; that too much formality is insisted upon; and that applicants have encountered arbitrary treatment at the hands of the examiners.

The Committee as such has not been able to discover that there is ground for these complaints. We do urge, however, that the laws referred to are undesirable, and if there are conditions existing that afford just ground for such legislation, those conditions ought to be removed.

Respectfully submitted,

FRANCIS B. TIFFANY
EDWIN C. BROWN
S. D. CATHERWOOD

REPORT OF THE LEGISLATIVE COMMITTEE

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

A number of bills in which the Association has been interested were enacted into law at the 1927 Session of the Legislature. Others which the Association has considered of no small importance either failed of passage, for one reason or another, or received the veto of the Governor.

Notable among the bills which were passed and received approval of the Governor were the following:

An act proposing an amendment to Section 3 of Article X of the Constitution, which would give the Legislature power to prescribe and limit from time to time the liability of stockholders. It had been heretofore recommended at our meetings that we favor this bill as furnishing the most practical method of achieving the end sought. The amendment is to be submitted to the voters at the General Election in 1928.

Section 210 of the General Statutes, 1923, providing for the retirement of Justices of the Supreme Court under certain conditions was amended to include Commissioners of the Supreme Court, as recommended by the Association.

The new Highway Code, as Chapter 412 of the Session Laws of 1927, was passed, but with considerable modification of the bill as introduced, and as favored by the Hoover Commission and the National Conference on Uniform State Laws.

Important measures which failed of passage were:

A bill to increase the number of Associate Justices of the Supreme Court from four to six. This was introduced, but failed of final passage.

The Declaratory Judgments Act was passed by the Senate and was

reported out favorably by the House Judiciary Committee, but failed of final passage in the House.

The Uniform Arbitration Act also passed the Senate and was reported out of the House Judiciary Committee, but without recommendation. It failed also of final passage in the House.

A bill to increase the salaries of District Judges was, as you know, passed by the Legislature, but was vetoed by the Governor. The validity of the veto, upheld by District Judge Stanton, is on appeal to the Supreme Court.

A bill, which has been before the Legislature for a number of sessions, providing for an expert revision of our statutory law, was passed, but was vetoed by the Governor.

Respectfully submitted,

JOHN F. D. MEIGHEN
HENRY N. SOMSEN
JULIUS A. COLLER
CHARLES T. MURPHY
L. L. KELLS
OLUF GJERSET
HUGH J. MCCLEARN
CONSTANT LARSON
WILLIAM H. LAMSON
BRUCE W. SANBORN, *Chm.*

REPORT OF COMMITTEE ON MEMBERSHIP

TO THE MINNESOTA STATE BAR ASSOCIATION:

The reorganization of the State Bar Association has made the membership committee an institution of ornament rather than one of labor. We have passed through a cycle of inactivity and we have no report to submit.

O. A. LENDE, *Chairman.*

REPORT OF COMMITTEE ON UNAUTHORIZED PRACTICE OF LAW

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

The Committee on Unauthorized Practice of Law submits the following report:

Conditions with reference to this subject continue about the same. There is still the constant complaint that banks in the rural communities are practicing law and that in many instances are doing so with the approval of the Probate Judges who are disregarding the rules adopted by their own Association.

There has also come to the attention of the Committee, although it was generally understood that the trust companies had agreed to refrain from indulging in the practices which were criticized and condemned in prior years, that some of them are violating the arrangement and indulging in the invidious practices, both contrary to law and contrary to their agreement with our organization.

We have endeavored to be patient and fair with both the banks and trust companies, but, in the opinion of your committee, the time has arrived when they must either conform to what is the law and abide by their promises, or steps should be taken to compel them to do so. Your committee is of the opinion that both banks and trust companies might be reached by criminal proceedings or by actions in quo warranto based upon the premise that they are engaged in business not included in or justified by their charters or articles of incorporation.

Your committee therefore recommends:

FIRST: That it be authorized, on behalf of the Association and at its expense, to transmit to each bank and trust company in the state of Minnesota a letter indicating the policy of this organization to require all corporations and other persons not authorized to practice law to desist from doing so, and to indicate that unless the request is complied with, necessary legal steps will be taken to enforce the same.

SECOND: That the Board of Governors of the Association be directed and instructed to take the necessary steps to prosecute the necessary legal proceedings, whether criminal or otherwise, against any banks or trust companies which refuse to comply with the request of your committee to cease the practice of law.

THIRD: That the Board of Governors be authorized and directed to institute the necessary proceedings for disciplining all attorneys either regularly employed or retained by such trust companies or banks or otherwise, who participate in or assist said banks or trust companies in engaging in the unauthorized practice of law by permitting the use of their names as attorneys, or by paying to or dividing with said banks or trust companies legal fees received by them in the practice of law.

Your committee further recommends that similar steps be taken against so-called collection or adjustment agencies and attorneys associated with them who are found to be engaged in the practice of law without being licensed so to do and particularly that proceedings be instituted against attorneys who permit the indiscriminate use of their names by collection and adjustment agencies in the bringing of litigation in which said attorneys are not retained by the client and in many instances have no knowledge of the fact that their names have been used as attorney in the particular proceeding.

Respectfully submitted,

ALEXANDER SEIFERT
GEORGE W. GRANGER
C. A. FOSNES
HERBERT M. BIERCE
JOHN M. BRADFORD
BEN E. BALLOU
HENRY DEUTSCH, *Chairman.*

NOTEWORTHY CHANGES IN STATUTORY LAW

The 1927 Minnesota Legislature passed about the same number of laws during the past session as in the sessions preceding, including curative laws and laws affecting certain counties and cities.

Among the new acts which became laws that may be of interest the following is submitted:

Chapter 10 prohibits the cutting, removal or transportation for decorative purposes or for sale of growing pine, cedar, evergreen and other trees, except nursery stock, without the written consent of the owner of the land on which the same are grown and requires the recording of such consent with the register of deeds of the proper county, and if not so recorded requires such written consent to be carried by the person so cutting, removing or transporting such trees. Failure to so exhibit such written consent is made prima facie evidence that no such consent was given or exists. A first violation of this act is made a misdemeanor, and each subsequent violation a gross misdemeanor. The act provides further that it shall not be a defense nor admissable in evidence that the violation charged was committed by the accused for the purpose of procuring Christmas trees or for any other decorative purpose.

Chapter 12 provides that all companies and associations subject to the payment of a gross earnings tax shall also be subject to the Motor Vehicle registration tax of this State.

Chapter 32 provides that a Savings Bank shall have perpetual succession.

In keeping with the times permission was given by the Legislature in Chapter 62 to all cities of the first class now or hereafter having a population of 50,000 or more to acquire land through the city council, or chief governing body, or Board of Park Commissioners for a Flying Field. They may acquire such land either by gift, purchase or condemnation proceedings and may for that purpose acquire land outside the city limits of their respective cities. Authority is also given to equip said flying field for the use of air-planes and to regulate the use thereof by ordinance. It is also provided that bonds not to exceed $150,000 may be issued to acquire and equip the same. Such field may be leased to the Government for air mail purposes, to the State of Minnesota and to individuals, firms and corporations for flying purposes. Limitation is made, however, that each such city shall acquire but one flying field.

Chapter 64 deprives trout fishermen of 15 days of such fishing by making August 15th of each year the last day for such fishing instead of September 1st as heretofore and places restrictions on bonfires near trout streams by providing that "No such trout may be taken by the use or with the aid of artificial light of any kind, including bonfires, automobile headlights and spotlights."

Chapter 68 regulates the sale of oil lands, leases and royalties and requires such lands, leases and royalties to be first registered with the State Board of Commerce and its approval given to such sales.

An instructive half-hour may be had by reading Chapter 69 of the 1927 laws, where the science of Massaging is carefully regulated by the Legislature.

By Chapter 79 cities of the second, third, and fourth class, villages or boroughs, however organized, may levy a tax not to exceed two mills for band purposes. This must be initiated by a petition signed by ten per cent of the legal voters of such municipality and be submitted to a vote of the electorate at the next following general municipal election and may be revoked in the same way. Not more than $10,000 in any one year shall be raised in this manner.

Chapter 137 authorizes County Treasurers to procure insurance against loss by robbery or burglary or both of public moneys in the treasury of the county or in the course of transportation for the purpose of deposit. Such insurance shall be for such amount as may be approved by the Board of County Commissioners and the cost of such insurance paid by the county.

Chapter 138 provides that any Bank, Savings Bank or Trust Company doing business in this State in receiving items for deposit or collection in the absence of a written agreement to the contrary, shall act only as the depositor's collector. It shall have no responsibility beyond the exercise of due care. Such bank shall not be liable for default, or negligence of its duly selected correspondent, nor for losses in transit, and each correspondent so selected shall not be liable, except for its own negligence. It may charge back any item at any time before final payment, whether returned or not.

Chapter 141 provides for the transfer of any prisoner in any of the penal institutions of this State to the United States District Court in this State for trial on Federal charges, and at the conclusion of such trial said prisoner shall be returned to the penal institution of this State where he was then serving a sentence and prior to his release the U. S. Marshall shall be notified by the superintendent of such penal institution. The chapter provides that this may be done on the application of the attorney general of the United States, or of any of his assistants, or the United States District Attorney for the District of Minnesota, or any of his assistants, who shall present and file with the Governor a written verified petition setting forth the facts and attaching thereto a certified copy of

the indictment in Federal Court under which prosecution of said prisoner is to be had.

A bill which created considerable interest and had the backing in general of the regular Medical practitioners in the state, and which was opposed by many of those who professed the other "isms" of healing, is known as the Basic Science law, and became a law as Chapter 149.

Chapter 156 provides for rather lengthy data concerning persons dying within the state to be furnished by the undertaker or person acting as such at the burial, cremation, or other disposal of the body, and to file such statement with the local Registrar of the district in which the death occurs.

It is provided by Chapter 157 that the standard of time in this state shall be the solar time of the 90th Meridian West of Greenwich, commonly known as Central time, and provides that no department of the State Government, or County, City, Town or Village in this State shall employ any other time or adopt any ordinances or order providing for the use of any other than that standard of time. Provision is made that if by any act of Congress the standard of time shall be advanced for any portion of the year that the time so fixed by such act of Congress shall be the standard time of this commonwealth for that portion of the year. This law was undoubtedly passed at the request or in the interest of the farming communities of the state, but the Legislature in its wisdom carefully saw to it that this law should not interfere with any future act of Congress on that subject.

Chapter 161 provides that school boards shall hire teachers at meetings called for that purpose. No teacher related by blood or marriage, within the fourth degree, computed by the civil law, to a Trustee, shall be employed, except by a unanimous vote of the Board.

Step-parents are made heirs of deceased soldiers for the purpose of receiving War Risk Insurance, when the decedent left no spouse, child, natural or adopted parents, grandchildren, brothers, sisters, nieces or nephews or other natural heirs. This is Chapter 206.

Chapter 224 created a Bureau of criminal apprehension, in charge of a superintendent to be appointed by the Governor. The bureau shall install systems of identification of criminals, including the finger print system and the Bertillon method. This chapter is a step in the right direction in the successful identification and apprehension of criminals.

A law of much importance to the Bar is known as Chapter 236 and relates to the punishment to be meted out to habitual offenders. In effect it provides that every person who, after having been convicted in this State of a felony, or an attempt to commit a felony, or under the laws of any other state or country of a crime which if committed in this state would be a felony, commits any felony or attempts to commit a felony in this state, upon conviction thereof shall be sentenced to imprisonment for not less than twice the shortest term nor more than twice the longest term prescribed upon a first conviction; and upon having been convicted three times previously, for the fourth offense on conviction shall be punished by imprisonment for not less than twice the minimum term prescribed upon a first conviction, and may be sentenced to life imprisonment. Provision, of course, is made that if conviction in the first instance carries with it a life sentence, that a life sentence shall be given.

Regulation of the occupation of hair dressers and beauty culturists. and the creation of a State Board of Examiners for the licensing of persons who carry on and instruct in such practices and for the approval of hair dressing and beauty culture schools, to insure the better education and training of such practitioners, and fixing penalties for violations of the act, is contained in Chapter 245.

To other grounds of divorce the Legislature added in Chapter 304 incurable insanity for a period of ten years immediately preceding the commencement of the action as an additional ground for divorce. It is pro-

vided that notice of the pendency of the action shall be served as the Court may direct upon the nearest blood relative and guardian of such insane person and the Superintendent of the institution in which he is confined. Authority to such relative and guardian and Superintendent to appear and be heard upon any and all issues is granted, and the status of the parties as to the support and maintenance of the insane person shall not be altered in any way by the granting of a divorce.

In order that the State of Minnesota may collect from the United States for expenditures made and obligations assumed by said state on behalf of the United States on account of raising and equipping troops employed by the state in aiding to suppress Indian hostilities within the state and upon the boundaries thereof, and for troops furnished the United States in aiding the United States in 1861-1865, it is provided by Chapter 315 that the Attorney General may retain attorneys to take exclusive charge of such prosecution and collecting and recovering from the United States any such claim or claims, but the attorneys so retained shall prosecute the said claims at their own expense and make no composition of said claims without first obtaining the written approval of the Attorney General. Compensation of such attorneys is fixed at twenty-five per cent of the sums and amounts collected and received by the state from the United States Government. It is believed that this is the first time that the state of Minnesota has engaged in the contingent fee business.

An innovation is provided by Chapter 409 in that by the use and operation by a non-resident or his agent of a motor vehicle upon and over the highways of the state of Minnesota he shall be deemed to have appointed the Secretary of State of Minnesota to be his true and lawful attorney upon whom may be served all legal processes in any action or proceeding against him growing out of such use or operation of a motor vehicle over the highways of this state resulting in damages or loss to person or property, and said use or operation shall be a signification of his agreement that any such process in any action against him which is so served, shall be of the same legal force and validity as if served upon him personally.

Nationally, the important pieces of legislation passed during the 69th Congress include,

First, The Revenue Act of December 1925, exempting about two and a half million people from paying income tax and reducing the normal rate about 50 per cent. This law did away with most of the "nuisance" taxes and the documentary stamp tax as the same pertains to conveyances and promissory notes.

Second, The National Bank Act was amended so as to permit branch banking for national banks in all states wherein the state laws permit state banks to have branches. The Act also was liberalized in loaning of money under the same conditions as the state banks now operate.

Third, A bill to control the radio was approved. This Act created a Commission to have full charge of all broadcasting and designation of stations.

Fourth, The federal judges were given a substantial increase in salary.

Respectfully submitted,

ARTHUR E. ARNTSON
CARL H. SCHUSTER

REPORT OF COMMITTEE ON AMERICAN CITIZENSHIP

It has been our aim during the past year to impress upon the attorneys of Minnesota their responsibility as community leaders in the promotion of civic betterment and governmental improvement. Efforts have also been made to take the lead in bringing about a proper recognition of our historic anniversaries and in taking full advantage of every opportunity to preach Americanism and what it stands for.

Although of the opinion that the tendency toward discontent with the American form of government is becoming less and less evident in Minnesota and elsewhere, your Committee on American Citizenship is firmly convinced that the time was never more favorable for an aggressive, popular campaign against the enemy who bores from within.

A study of the public mind will reveal a regular recurrence of malcontent produced by a combination of events or conditions nourished chiefly by the lack of correct knowledge concerning it. This dangerous state of thought has been permitted in the past to spend its force without a constructive challenge to interfere with its progress, the natural result being that it has expressed itself and then subsided into comparative quiet, only to be sustained by unostentatious though insidious means until another combination of circumstances should give it further opportunity to flourish.

In all probability criticism of our form of government attained its greatest glory immediately following the war, because in that event we had a combination of circumstances and emergencies never before known to the human race. Ultra-radicalism took full advantage of a situation which was made to its order and a review of the records of that time will show how dangerously near to a complete success it came.

Today we are passing through the regular period of calm, with the pleasing prospect that it will be of longer duration than usual. This being true, it occurs to your committee that an excellent opportunity for constructive work is being overlooked unless improved by men and women of conservative tendencies who have faith in the form and structure of our government.

No body of citizens, we believe, has the same intimate insight into our governmental machinery that falls to the lot of those belonging to the legal profession and as the purpose for which this committee was created was to promote American citizenship within the state, we desire at this time to make a definite proposal, in the carrying out of which, the Minnesota State Bar Association will show itself more than a preaching agency.

We believe it to be strictly the business of practicing attorneys to encourage the higher type of citizenship through actual contact with the younger generation now receiving its schooling. With this in mind, we strongly recommend that the Minnesota State Bar Association propose to the proper authorities that regular lectures on our government and its ideals, our constitution and the relationships existing between various governmental units be given as part of the curriculum, and that the members of this body be pledged to cooperate, gratuiously, in the work.

We believe we are correct in assuming that our school system today is not equipped to train our youth in a proper appreciation of government and what it means. We believe we are correct also in assuming that our school system provides for instruction in the theory rather than the ideals of government or an understanding of our public institutions. In this no criticism accrues to the system itself. If it were necessary to fix responsibility it would probably fall on the public, which does not provide ways and means for elaborating the course which now comes under the general head of Civics.

It is the judgment of this committee that a program, carefully drawn, such as has been suggested above, will not only stimulate a wholesome interest in public affairs which will re-act beneficially at the polls, but will do more than almost any other single activity to minimize even spasmodic antagonism to our public institutions.

Notwithstanding that we have today fewer evidences of discontent in Minnesota than in years past, this committee conceives the time to be ripe for a constructive effort having enduring benefits as its recompense.

ERNEST F. WATSON
FRANK G. SASSE
ROYAL A. STONE
ELI R. LUND
ARTHUR E. NELSON, *Chairman*.

REPORT OF COMMITTEE ON UNIFORM PROCEDURE IN FEDERAL COURTS

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

Your Committee makes the following report of its activities during the past year:

1. S. 477—H. R. 419. A bill to empower the Supreme Court to make and publish rules in Common Law actions.

For a number of years the chief opponent of the above bill was Senator T. J. Walsh of Montana. Senator Walsh has stubbornly opposed this bill witnout giving what appeared to be very satisfactory reasons therefor. By reason of his determined opposition and that of a few others, the bill has never been passed out by the Senate Judiciary Committee and given the benefit of a vote on the floor of the Senate. This, notwithstanding that Secretary Hughes and Justices Van Deventer and Southerland of the United States Supreme Court, and other lawyers and jurists have appeared before the Senate Judiciary and strongly urged the passage of the bill.

However, on October 2nd, 1926, Senator Walsh in an address before the Oregon Bar Association at its annual meeting in Portland, detailed at length his objections to the bill and his reasons therefor. It is fair to say that Senator Walsh's address is a clean-cut, lawyerlike, temperate and strong argument from his point of view, and should be carefully read by the members of our Association. Senator Walsh's article appears in February number of the American Bar Association Journal.

Your Committee however, is still of the opinion that the objections urged by Senator Walsh are not equal to the benefits that would eventually accrue from the uniformity that would be secured by the passage of this bill. Your Chairman is in receipt of a letter from Thomas W. Shelton, Chairman for many years of the same Committee of the American Bar Association, dated June 6, 1927, in which he says in part:

> "We are starting fresh with the new Congress in December, having failed to put the bill through during the short session. There were ninety-two Senators committed, but the death of Senator Cummins deprived us of a determined leader. Although both Senators Norris and Borah joined us, even their great influence could not overcome the simple 'I object' by Senator Thomas F. Bayard of Delaware, who seems to have joined Senator T. J. Walsh this session in objecting. A large majority of the Committee is with us. It looks as if we were justified in claiming not less than eighty-five per cent of the House. The difficulty will be in overcoming a majority in Committee led by Chairman Graham of Philadelphia. All that is asked of him is a report, favorable or unfavorable. Please have your Bar Association direct its energies in that direction, suggesting the Americanism of allowing the House to vote."

2. S. 2692—H. R. 5265. This is the bill providing for the appointment of official stenographers for the Federal Courts in the several districts. This bill was favorably reported by the Committee of the House, but was not acted upon by the House. The bill had in a previous Congress, been reported favorably by the Senate Committee, but at the request of Senator King of Utah, was recalled. It is understood that a strong lobby in the East opposes this bill.

3. S. 624—H. R. 3260. This is the bill of Senator Caraway of Arkansas abridging the powers of Federal judges to refer to or comment upon witnesses and evidence during a trial. No action was taken on this bill by either House in the last Congress. Your Committee hopes that the members of this Association will familiarize themselves with the decisions cited by us in our report for the year 1926. Also that they will familiarize themselves with the decisions of the Supreme Court of the

State of Minnesota cited below in which it is held that our State District Court judges have now, and have always had the same power to comment upon witnesses and evidence at a trial which the Federal judges now possess, so long as the final determination of the facts are clearly left to the jury to decide. Your Committee thinks that the Caraway bill ought not to pass. Our Supreme Court still adheres to the doctrine that the trial judge in this State is more than a mere umpire. See Ames v. Cannon River Manufacturing Company, 27 Minn. 245; 63 Minn. 525; 97 Minn. 227; 112 Minn. 247; 130 Minn. 121; and the recent case of Brown v. Barrow, 213 N. W. 891.

4. H. R. 5365. A bill to provide for declaratory judgments.

This bill passed the House at the last session of Congress, but failed in the Senate as we are informed by Congressman Walter H. Newton.

5. H. R. 5476—S. 2691. A bill providing that there shall be no loss of civil rights for conviction of crime, unless the defendant's sentence is imprisonment for more than a year, or unless the verdict of the jury or the sentence of the court expressly so specifies.

When our report for 1926 was made on this bill, it had been returned to a committee of the American Bar Association for amendment. Congressman Walter H. Newton informs us that he believes that the amended bill did not come before the las Congress.

6. Your Committee recommended in its report last year, favorably to the increase in pay of Federal jurors and witnesses. This bill became a law by the last Congress as public laws 148.

Your Committee leaves for further consideration by the members of the Association the two matters suggested in its 1926 report, marked (b) and (c) on page 100 of the November 1926 Minnesota Law Review.

RECOMMENDATIONS

Your Committee is of the opinion that the incoming Committee should,—

1. Continue to strive for uniform procedure in the Federal Courts.

2. That this Association urges upon the Congress the passage of S. 477—H. R. 419 to empower the Supreme Court of the United States to make and publish rules in common law action; and S. 2692—H. R. 5265 providing for the appointment and pay of court reporters in the Federal Courts.

3. That we oppose S. 624—H. R. 3260 known as the Caraway bill abridging the trial powers of the Federal judges.

Resectfully submitted,

JAMES D. SHEARER, *Chairman.*

Dated June 16, 1927.

REPORT OF SPECIAL COMMITTEE ON BAR ORGANIZATION

TO THE MINNESOTA STATE BAR ASSOCIATION:

At the meeting of the Association in Duluth last July, this committee was charged with the duty of supervising the organization of affiliated local bar associations in each of the nineteen judicial districts of the state. The committee has done its best to execute this commission.

Meetings have been called in each judicial district of the state except the Eighteenth by the member of the Board of Governors of the respective districts for the purpose of considering the organization of a judicial district bar association, (where the same did not already exist) and of affiliating with the state association under the plan provided in the new constitution. A suggested model constitution was prepared by this committee and submitted to the various meetings called to consider this question. Judge Royal A. Stone of the Minnesota Supreme Court, Senator Frank E. Putnam, Dean Everett Fraser of the University of Minnesota Law School, and the Chairman of this committee have attended meetings in all sections of the state for the purpose of explaining the federation plan involved in the new state constitution.

As a result of these meetings, thirteen of the judicial districts of the state now have judicial district associations definitely affiliated with the State Association. In most of these districts, the suggested model constitution submitted by this committee was adopted either as a whole or with minor changes. The districts where organized and affiliated associations exist afe the following: Second, Third, Fourth, Fifth, Seventh, Tenth, Eleventh, Twelfth, Fourteenth, Fifteenth, Sixteenth, Seventeenth and Nineteenth. In five of the judicial districts, namely, the First, Sixth, Eighth, Ninth and Thirteenth, judicial district associations have been formed, but so far have not affiliated with the state association. Probably several of these will have affiliated by the time of the state association meeting in July of this year. In the Eighteenth Judicial District no meeting has yet been held, but plans are under way to organize and affiliate at an early date.

It is of the utmost importance that associations which have affiliated, get together to consider their mutual problems and to devise ways of increasing their membership and making the associations of real assistance to the lawyers of their respective judicial districts. To accomplish this end, your committee recommended to the Board of Governors that on July 12th, (the first day of the state bar association meeting) a conference of the officers of the judicial district bar associations be held at the St. Paul Hotel, the place of the Minnesota State Bar Association meeting, this meeting to consider the various mutual problems of the judicial district bar associations, and to suggest means by which each of them may be effective in aiding the bar of its district. The Board of Governors authorized such a meeting and it is planned at this meeting to have addresses by several speakers on subjects concerned with local bar organization, these speeches to be followed by a general discussion. It is also planned to have a representative from each judicial district report on the work of his judicial district bar association thus far and their plans for activity during the ensuing year. Inasmuch as the Minnesota State Medical Association has been very successfully organized on this federation plan for a number of years, it is planned to have their President present to tell something of their successful method of operation. We also hope to have Justice Royal A. Stone who was a former president of the Minnesota State Bar Association and for several years a very active head of its membership committee, speak on the question of increasing memberships in the judicial district bar associations. The question of a minimum fee schedule in each judicial district will also be discussed by members of the committee who have spent considerable time on this question. Each judicial district association will be invited to send its President and Secretary and as many other delegates as it sees fit to this meeting.

This committee[1] recommends to the consideration of the Board of Governors, the question of the publication of a monthly news pamphlet. This would seem to be the best means of stimulating interest in the affairs of the Association. Practically every organization of this size which is operating with any degree of efficiency has such a news organ of some nature. The "Bench & Bar" Section of the Law Review does not seem to fill this need. It is not advantageously located in the Law Review and it is likely that many of the news items and articles which should be contained in such a news pamphlet would not be appropriate for the Law Review. Such a pamphlet might be issued as a regular monthly supplement to the Law Review, to be inserted in the copies mailed to members of this Association, or might be distributed separately. The collection of news and editing of such a pamphlet would be a considerable task, if properly done. If no one could be found who was willing to as-

[1]Due to the size of the Committee, no meeting has been held to prepare this report, but the Chairman has talked this matter over with various members of the Committee and believes this to be the consensus of opinion of the Committee.

sume this burden without pay, it might even be worth while for the Association to hire some young lawyer recently out of law school, with ability along this line, to edit such a publication. It seems probable that, if the Association expects to continue to receive support from the large number of lawyers of the state who are now its members by virtue of affiliation of the local associations, it must make itself a vital factor in the life of the average Minnesota lawyer. To do this, some adequate publicity agency such as the suggested news organ, would seem to be almost a necessity. We trust the new Board of Governors will give this matter serious consideration.

Respectfully submitted,
MORRIS B. MITCHELL, *Chairman.*

REPORT OF COMMITTEE ON CONCILIATION AND SMALL DEBTOR'S COURTS

The bill below was drawn and submitted to the Legislature of 1927 as House File 422 and Senate File 273 early in the Session.

In the House conservatism conquered and the bill never succeeded in getting out of the Judiciary Committee but was placed on general orders in the Senate and died in this form. In the 1926 meeting of this association your committee called attention to the need of such a law to protect those hard pushed by garnishment of their wages. I have not had a chance to get my committee together and I do not purport to bind any member but trust that both the members of this committee and of this association will pay sufficient attention to this bill either to promote its cause or at least make some move to supplant it by a better one. I am not sure it is the best that can be made but so far as I am able to determine it is a move at least in the right direction to meet a situation that urgently demands relief. No one would be more glad than your committee to see this bill amended out of existence by something better. Your Committee hopes at least it will be regarded with sufficient favor to submit it for the discussion of this association.

The bill forming a Conciliation and Small Debtor's Court for the City of Duluth noticed in the report for 1926 of this Committee became a law as Chapter 17 of the Laws of 1927 and includes in its terms the provisions of this proposed law but is confined to that city.

Respectfully submitted for the Committee,
FRED W. REED, Chairman.

A BILL

For an Act Authorizing any Municipal or District Court of Minnesota to appoint a Trustee to Receive and Distribute Earnings and Income of a Debtor and Distribute Same to His Creditors Upon the Application of such Debtor.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Any District or Municipal Court of record in this state of Minnesota shall have jurisdiction upon application of the debtor defendant therein to appoint a trustee to receive that portion of the personal earnings and income of said debtor as may be fixed by the Court and such additional sums as said debtor may voluntarily pay or assign to said trustee, who shall distribute the money pro rata among the creditors of the debtor who were such at the time of the application.

Said application of the debtor shall disclose his assets; his personal earnings and income; the names, ages and relationship of those dependent upon him for support; names of those, if any, who are contributing to the support of his family and the amounts received monthly from each; and the names of all of his creditors and the amounts of their respective claims, and whether said claims are disputed or not.

Upon the filing of such application the court shall fix a date for hearing thereon and shall cause notice of such hearing to be given by mail to all of the creditors named in the application not less than ten (10) days prior to the date of said hearing. At said hearing the Court shall fix the proportion of the personal earnings and income of the said debtor which shall be set aside for the use and benefit of his creditors, hear and adjudicate the claims of the creditors and determine the amounts which said trustee shall pay to each of said creditors. All creditors appearing and consenting to such trusteeship shall, during the pendency of the same, be estopped from bringing or maintaining any proceeding in garnishment, attachment, or in aid of execution in said court, or in any other court, so long as the said debtor shall not default in the payment to the trustee of that portion of his personal earnings and income ordered by the court to be paid or assigned to said trustee at such regular intervals as may be fixed by said court. The said court court shall have the power at any time, for cause shown, to determine any such trusteeship. This provision, however, shall not be construed to prevent any creditor who shall not have consented to the arrangement for a trusteeship from bringing or maintaining proceedings in garnishment, or recovering a judgment against said debtor, not to prohibit the levy under writ of attachment or execution upon the property of the said debtor other than that which may be in possession of said trustee. The bringing or maintaining of any proceeding in garnishment, attachment, or in aid of execution in violation of this provision shall be construed as a contempt and the said court is hereby vested with power and jurisdiction to punish therefor.

The judges of the said court may provide, by rule, for notice to such creditors as are recited in the application of the debtor, the authentication and adjudication of claims, the time and manner of payments by the debtor, the distribution of the fund and all other matters necessary or proper to carry into effect the jurisdiction conferred by this section.

The Court shall designate as trustee, to serve without additional compensation as such trustee, the clerk of said court. Said clerk shall be liable upon his official bond for the fulfillment of the trust as such trustee, and no additional bond shall be required.

Said trustee shall make such reports as the court may require and shall be provided with the necessary books, blanks, stationery, postage and other expenses for the execution of his duties in the same manner as other expenses incident to the court are provided for.

The provision of this act, so far as relating to trusteeships, shall apply only to debts created or contracted subsequent to the passage and publication of this act.

Section 2. Whenever any debtor in any action pending before the said court shall make it appear to the said court in his application for the appointment of a trustee under and pursuant to the provisions of section one (1) of this act, that he has no property or assets, except such as are exempt from execution under the laws of this state and that his only income arises from his current wages or salary, the court shall fix a date for a hearing, give notice to all creditors named in said application, as heretofore provided in section one (1) of this act, and if the said court at said hearing finds that the statements set forth in the said application are in all respects true, then said court may appoint a trustee for such debtor, as provided in said section one (1), and in addition thereto, may order that all creditors named in the application, whether consenting or not, shall be estopped from bringing or maintaining any proceedings in garnishment, attachment, or in aid of execution in the said court or in any other court, during the pendency of such trusteeship or so long as the said debtor shall not default in the payment to the trustee of that portion of his personal earnings and income ordered by the court to be paid or assigned to said trustee at such regular intervals as may be fixed by said court. The court shall give due notice of such order to all creditors concerned. The bringing or maintaining of any proceedings in

garnishment, attachment, or in aid of execution in violation of this provision shall be construed as a contempt and the said court is hereby vested with the power to punish therefor.

Section 3. All acts and parts of acts inconsistent herewith are hereby repealed.

Section 4. This act shall take effect and be in force from and after its passage.

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

Since re-organization of the Minnesota State Bar Association so as to include affiliated local bar associations, nearly every district in the state has organized and affiliated accordingly. At the same time, the many county and group organizations still function as before.

With nearly all the districts organized, and working co-ordinately with this body, there seems to be little which this committee can do, except to urge greater activity and to assist in gathering data as to membership and officials. To undertake that in this report would, in our opinion, duplicate the report of the Committee on Bar Organization, and thereby infringe upon your time and space.

GEORGE J. ALLEN, *Chairman.*

REPORT OF COMMITTEE ON CHATTEL LOANS

The Committee on Chattel Loans respectfully submits the following report:

During the session of the Legislature held in 1927 a bill, H. F. No. 63, was presented to the Legislature covering interest rates on small loans and providing penalties for a violation thereof. A great deal of debate was had in the House on this proposed bill. A public hearing was held before a joint committee of the House and Senate at which proponents and opponents of the proposed law were heard. The bill was recommended by the Joint Committee for passage but went down to defeat. At the hearing above referred to those who were opposed to the passage of the act admitted that interest rates on small loans were being charged from 180% to 200%, and it was suggested by some that in isolated instances rates ran as high as 1800% a year based on short time payments.

The Legal Aid Society of Minneapolis submitted a report showing that interest rates on short time loans were being charged at from 8% per month to 33-1/3% per month. It is estimated by Mr. Kjorlaug, former attorney for the Legal Aid Society of Minneapolis, that during a period of seven years approximately 1000 cases came to the attention of the Legal Aid Society where excessive rates of interest were charged. The condition is not peculiar to Minnesota only. In 28 states legislation has been passed, the purpose of which was the protection of small borrowers from excessive interest charges. Twenty-one states have passed the uniform small loans bill in practically the form that was presented to the 1927 session of the Minnesota Legislature, a copy of this bill is appended hereto as a part of this report.

No attempt has been made to investigate conditions in cities other than Minneapolis but from the discussions before the Legislative Committee above referred to, it is very evident that conditions in St. Paul are not different from those existing in Minneapolis. The uniform small loans bill went down to defeat primarily because of the objection of country members. Fear was expressed by the country members that if the bill were passed loan agencies would be established in country districts and would be, by the operation of this bill, permitted to charge the farmers

and others interest at 3½% per month on monthly balances. It would appear that in states where the bill has been in operation no attempt has been made to have it operate in country districts and no instances were suggested at the hearing before the legislature where any attempt was made to operate loaning agencies under the provisions of this bill in other than the larger cities.

A legislative committee has been appointed from the House to study the subject and will report to the next session of the Legislature with recommendations. The members of this committee are as follows: Mrs. Mabeth Paige, chairman; Guy Dille of St. Paul, Ray Quinlivan of St. Cloud, Otto Nellermoe, Minneapolis, and Gustav Schweizer of St. Paul.

Your committee recommends the adoption of the uniform small loan bill attached. We recommend, however, that no action be taken on the bill at the July, 1927, meeting of this Association. That the members of the Association study it and that it be brought up for consideration at the annual meeting to be held in 1928 for discussion and favorable action.

Respectfully submitted,

DANIEL F. FOLEY, Chairman.
JOSEPH R. KINGMAN
HOVEY HOSLAW
CHARLES N. ORR

CONSTITUTION
OF
MINNESOTA STATE BAR ASSOCIATION
ADOPTED JULY 8TH, 1926

ARTICLE I—*Name*

The name of this association shall be MINNESOTA STATE BAR ASSOCIATION.

ARTICLE II—*Object*

This Association is formed to bring into one compact organization the entire bar of the State of Minnesota, to cultivate the science of jurisprudence, to promote reform in the law, to facilitate the administration of justice, to elevate the standard of integrity, honor and courtesy in the legal profession, to encourage a thorough and liberal legal education, to cherish a spirit of brotherhood among the members thereof, and to perpetuate their memory.

ARTICLE III—*Members*

The membership of this Association shall be composed of the following:

(a) Regular members, consisting of the members of the Bar of Minnesota who are members of any affiliated local bar association.

(b) Individual members, consisting of such members of the bar of the State of Minnesota as are now members hereof, and such as may hereafter be accepted to individual membership herein by the Board of Governors. After a local bar association has affiliated herewith, and while it is so affiliated, no resident of the territory covered by such local association shall thereafter be admitted to individual membership herein. If a local association ceases to be affiliated herewith its members shall be transferred to individual membership herein. Upon the formation and affiliation of a local bar association covering the territory in which any person now having membership herein, or hereafter procuring individual membership herein, shall reside, such member, upon being or becoming a member of such affiliated local association, shall at once be transferred to regular membership herein.

(c) Honorary members, consisting of the Judges of the United States Courts within this State and of the Supreme Court and District Courts of Minnesota, during their respective terms of office, and such other honorary members as may be elected by the Association.

(d) Life members, consisting of such members as have heretofore purchased life memberships in this Association.

ARTICLE IV—*Board of Governors*

Section 1. The management of this Association shall be vested in its Board of Governors. Such Board shall consist of twenty-five (25) members to be selected in the manner hereinafter provided, and of the President, Vice President, Secretary, Treasurer and the two last preceding Presidents as ex-officio members thereof. Members of the Board of Governors shall hold office from the conclusion of the annual meeting following their election until the conclusion of the annual meeting of the following year.

Section 2. One member of the Board of Governors shall be elected by and from the members of the Association in each judicial district in

Minnesota, except the Fourth Judicial District, which shall elect four, the second Judicial District, which shall elect three and the eleventh Judicial District, which shall elect two.

Section 3. Except as provided in Section 5 hereof, nominations to the Board of Governors shall be by the written petition of any three (3) or more members of the Association residing in the same judicial district as the nominee. Such nominating petitions shall be filed with the Secretary of the Association within a period to be fixed by the By-Laws. Notice of the time for all nominations shall be given by mail to each member. Nominations shall be made from the membership of the Association. Where no nominations are received from any judicial district within the time fixed by the By-Laws, the President shall forthwith appoint a nominating committee from such judicial district to make such nominations.

Section 4. Except as provided in Section 5 hereof, election to the Board of Governors shall be by ballot of the members of this Association in each judicial district. The person or persons receiving the highest number of votes shall be elected. The Secretary of the Association shall conduct the elections, mailing ballots containing the nominations for the judicial district to each member in good standing in such district on or before the first day of May in each year. The election shall be held on the third Monday in May in each year and ballots shall be deposited in person or by mail with the Secretary of this Association on or before such date. Vacancies in the Board or in any of the offices of this Association shall be filled by the Board for the remainder of the term. The Board shall prescribe rules and regulations for the annual election not in conflict with the provisions of this Constitution.

Section 5. An affiliated local bar association, the territorial limits of which are co-terminous with those of a judicial district, may choose the member or members of the Board of Governors for such district in accordance with its own Constitution and By-Laws, upon adopting a resolution to that effect and notifying the Secretary of this Association of such action, in which case Sections 3 and 4 of this article shall cease to be applicable. Such election shall be held on or before the third Monday of May in each year and the Secretary of this Association shall be forthwith notified of the results.

Section 6. The Board of Governors shall have power to make rules and by-laws, not in conflict with any of the terms of this constitution, concerning the election and tenure of officers, and committees and their powers and duties, and, generally, for the control and regulation of the business of the Board and of the Association. Such by-laws may be amended by a majority vote of the Association at any meeting, in the manner provided in Section 2 of Article VIII hereof.

Section 7. The Board of Governors shall have the same privilege of voting at meetings of the Association as the representatives of the affiliated local associations provided for in Article VII hereof.

Section 8. The regular meeting of the Board of Governors shall be held immediately following the annual meeting of the Association, and there may be such other special meetings of the said Board as the President, or in his absence, the Vice President, shall determine, or upon the written request of any five members thereof.

Article V—*Officers*

The officers of this association shall be a President, a Vice President, a Secretary and a Treasurer, who shall be elected by the Board of Governors at the regular meeting thereof held as provided in Section 8 of Article IV hereof. The President and Vice President, shall not be eligible for re-election within two (2) years after the expiration of their terms of office. The duties of officers shall be the usual duties of similar officers

in organizations of this character, and may be more specifically defined in the by-laws.

ARTICLE VI—*Affiliation of Local Bar Associations*

An "affiliated local bar association," within the meaning of this Constitution, is a local bar association, comprising a judicial district of the State of Minnesota which shall have voted by a majority vote of all its members to affiliate with this Association, and shall have undertaken to pay to this Association for each of its members the annual dues of this Association. Other local bar associations based on other territorial limits may be permitted to affiliate under the same terms by a vote of the Board of Governors, but such affiliation shall be subject to termination by the Board of Governors. Where any person is a member of two such local associations which have become affiliated under the above rule, he may elect through which of such local associations he shall pay his dues to the State Association and shall be accredited to that local association for all purposes of this Association.

ARTICLE VII—*Representatives of Affiliated Local Bar Associations*

Prior to the annual meeting of this Association in each year, each affiliated local bar association shall choose persons to represent it at all meetings of this Association for the ensuing year. Such representatives may be appointed or elected by such local bar associations in such manner as their constitutions or by-laws shall provide. Each affiliated local association shall be entitled to one such representative for each twenty-five (25) members thereof and one for each major fraction in excess of an even multiple of twenty-five (25) members thereof for whom dues shall have been paid to this Association or who are honorary or life members of this Association. An association which has paid dues for less than twenty-five (25) members shall be entitled to one (1) representative.

ARTICLE VIII—*Meetings*

Section 1. This Association shall meet annually at such time and place as the Board of Governors may select. Special meetings of the Association may be held upon such notice as the Board of Governors may determine, at a time and place to be stated in such notice.

Section 2. At all meetings of this Association, all members (regular, individual, honorary and life) shall be entitled to the privileges of the floor, to introduce motions and resolutions, and to participate in all other business of the Association. All such members shall be entitled to vote upon all matters coming before the Association, provided, however, that after five (5) local bar associations of this state shall have voted to affiliate with this association under the terms of this constitution, then after the first vote is taken on any matter, any ten (10) representatives of affiliated local associations, may demand a vote on such matter by representatives of the local associations, in which event, only the representatives of such local associations and members of the Board of Governors shall be eligible to vote on such matter, and such vote shall decide the matter; and provided further, that the Board of Governors may, in its discretion, order a referendum on any question, such referendum to be either by mail or by vote of the local associations in such manner as the by-laws may provide.

ARTICLE IX—*Dues*

Section 1. Honorary and life members shall be exempt from the payment of dues. With these exceptions, the annual dues shall be as follows:

(a) From each affiliated local bar association, Five Dollars ($5.00) for each of its members, except those who are honorary and life members of this Association.

(b) From each individual member, Five Dollars ($5.00). Such dues shall entitle each regular and individual member to receive the issues of the official journal of the Association for one year.

Section 2. Dues to this Association shall be payable in advance on the first day of January in each year. Each affiliated local association shall forward to the Secretary of this Association a list of members of such local association, together with the annual dues for each such member.

ARTICLE X—*Expulsion*

Any individual member may be suspended or expelled by the Board of Governors for misconduct in his relations to the Association, the profession, the state or the nation, or for conduct unbecoming a lawyer or gentleman, or for the non-payment of dues for one year. Expulsion or suspension of such members for misconduct shall require the vote of not less than two-thirds of the members present, but in any case not less than ten (10) votes, upon specific charges, notice and trial.

The expulsion of individual members for non-payment of dues may be by order of the President, Secretary and Treasurer under the general rules prescribed by the Board of Governors. Expulsion or suspension of individual members may also be accomplished by the Association itself by a two-thirds vote of the members present at any annual meeting.

ARTICLE XI—*Amendment*

This constitution may be amended by a two-thirds vote of the representatives of affiliated local bar associations and the Board of Governors present at any meeting of this Association. Before any amendment to this constitution shall be voted on at any meeting, notice thereof shall be given by the Secretary of this Association to the president or secretary of each affiliated local association not less than thirty (30) days prior to the date of such meeting.

MEETING OF THE DISTRICT JUDGES

The annual meeting of the district judges of the State of Minnesota was held at St. Paul, July, 11, 1927. About forty of the judges were present. Meeting was called to order by Judge Qvale.

Report of the Committee on Permanent Organization was presented by Judge Orr, to the effect that the organization be known as the District Judges Association of the State of Minnesota, and shall meet pursuant to call as provided by law; that the officers of the association shall be a president, vice president, and secretary and treasurer, elected at the opening of each session, and that the association shall appoint committees from time to time as directed by the organization; which was unanimously adopted. Judge Carrol A. Nye, of Moorhead, was elected as president for the ensuing year, Judge Orr, of St. Paul, elected as vice president, and Judge Bardwell, of Minneapolis, elected as secretary and treasurer.

Judge Waite, of the Committee on Rules then presented a resolution that the Rules Committee for the years 1927 and 1928 be requested to be present at the 1928 meeting of said association a revision of the body of district court rules, with a view to reduction in volume, clarity in expression, and uniformity, which resolution was duly adopted.

The Committee on Rules for the ensuing year was appointed, as follows: Judge Waite, chairman, Judges Beckhoefer, Carrol A. Nye, Freeman, and Peterson. It was urged that each judge of the state cooperate with the Rules Committee and present to it such changes and modifications as seem appropriate and wise.

Judge Hallam delivered an address upon crime conditions.

Appropriate resolutions were adopted by the judges on the deaths of Judge Callaghan and Judge Stanton.

SUBJECT INDEX