

PROCEEDINGS OF THE ONE HUNDRED TENTH
ANNUAL MEETING OF THE NORTH DAKOTA
STATE BAR ASSOCIATION

OFFICERS

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SANDI TABOR President-Elect
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WILLIAM NEUMANN Executive Director

PROCEEDINGS

June 11, 2009

PRESIDENT DAVID MARING: I would like to call the 110th Annual Meeting of the State Bar Association of North Dakota to order.

Thank you all for being here. We're going to begin with the presentation of colors by the Civil Air Patrol Color Guard, which will be followed by the National Anthem sung by Mike Gilbertson and accompanied by Nicki Schultz.

(Presentation of Colors by Civil Air Patrol Color Guard, made up of Brian Sautner, Marcus Kelsh, Eliot Axvig, and Nick Schon. Singing of National Anthem by Mike Gilbertson, accompanied by Nicki Schultz.)
(Applause.)

PRESIDENT MARING: Our thanks to the Civil Air Patrol Color Guard for being here today and presenting the colors and also to Mike Gilbertson and Nicki Schultz. Mike Gilbertson happens to be the son of Jane Gilbertson, one of the staff members for SBAND. He did a fantastic job, so we appreciate him being here.

Now, I would like to appoint Justice Dan Crothers to be the parliamentarian. Will you accept that position, Justice?

JUSTICE DANIEL CROTHERS: Yes, Mr. President.

PRESIDENT MARING: Thank you very much. I appreciate that.

We'll have several events today that will require members to participate and talk, and for the benefit of our record if you could try to remember to

give your name before you start talking, we have a court reporter taking things down, and that will make it far easier if the names can be given.

I want to start with some thank yous and a particular thank you to the local committee who put together this convention, and I'm going to name their names. I'd like to have them stand up. And let's hold our applause until we get them all standing. Mitch Armstrong is the chair. LeeAnn Barnhardt, Annette Bendish, Carey Goetz, Petra Mandigo-Hulm, Tiffany Johnson, Jessica Knutson, Chris Nyhus, and Tony Weiler.

Now this group has put together just a wonderful convention. I assume that because I'm the president at least for another hour or so people don't tell me the bad things, but I've heard a lot of great comments about what's going on, so, Mitch and the committee, I want to commend you for just putting together a great convention and a great program for these few days. (Applause.)

A special thank you, also, to the folks involved in the silent auction. Margie Lee, Dianne Peterson, Holly Crothers and Jo Petersen all volunteered to assist with the silent auction, and they put in a tremendous amount of time and energy to that event, and we are very appreciative of that. I'll also be thanking them tonight.

Now at this point in the meeting, it calls for me to give my president's address, which must mean that I'm a short-timer if I get to give my president's address, which I am.

Tom Kelly was the manager of the Minnesota Twins from 1986 to 2001. And when Tom Kelly retired after the 2001 season, his retirement speech went something like this.

He said, "I've been lucky enough to have managed the Minnesota Twins for 16 years. I've been lucky enough to have won as manager for the Twins two World Series, in 1987 and 1991. I've been lucky enough to coach such great players as Kirby Puckett and Kent Hrbek and Dave Winfield." And his final line was, "How lucky can a fellow get."

And so today I want to express the same sentiments about being president as Tom Kelly did about being manager of the Minnesota Twins. I've been lucky enough to work with committees and task forces that are staffed and fulfilled by people from the Bar Association who've put in a lot of time and effort, and there's not a lot of thanks or glory for what they do, and I've been lucky enough to have those committees working with the Bar Association during this past year.

I've been very lucky to have Bill Neumann, the great leader and Executive Director of the Bar Association, as the leader during this past year and all of the staff members for the Bar Association that do such a tremendous job.

I've been lucky to have a dedicated and hard-working Board of Governors. Those of you who have not been on the Board of Governors—and I urge you all to do it someday—will find that there are a number of issues that come up that you never expected or things that the Bar Association Board of Governors would work on. There are a number of problems, a number of details, a number of rules that the Board of Governors has some involvement in and participates in the development of various policies and rules. And it's a group of people that works hard, reads the materials, don't always agree on things, but we always know that we're all working for the benefit of the Bar Association, so I'm lucky for that.

I'm lucky to have traveled around the State of North Dakota giving talks at the various local bar associations, anywhere from groups of three up to groups of sixty or more, depending on the community. I'm lucky enough to have traveled around the country to various places for ABA Conventions, Western States Bar Conventions, and other conventions that have required attendance by the president of your association.

So in the words of T.K., as Tom Kelly was known, “how lucky can a fellow get?” Thank you very much for allowing me to be your president for the past year.

Now when I was at the Western States Bar Convention in Hawaii—hard duty—and it was during the flood and I didn't pick up any sandbags during this spring, so I apologize for all those things—but during the Western States Bar Convention there are different states that come to that convention and each of the presidents give a five- to ten-minute talk about what their state bar association is doing and financial issues, that type of thing.

This year it just so happened that North Dakota followed California, and the president of the California Bar Association got up and gave a report something like this:

"We have 200,000 members in our Bar Association. We're the largest single bar association of any state and, other than the American Bar Association, the largest bar association in the world. We have financial problems to the extent that we're cutting programs and cutting staff and, as you know, our state budget is in big trouble and because of that the court system is suffering and there are a lot of problems with our budget and with our financial situation."

I followed that, and I was somewhat apologetic, but I'm not sure that we need to be apologetic. First of all I said, "You know, things on the West Coast and things on the East Coast eventually move to us, so we may have the financial problems some day. Right now because of the slowness of

movement we're still using the hula hoop and Edsels are in our showrooms." I know Mary's going to love that one. Sorry.

But, in any event, the rest of the report was that we have 2,000 in our Bar Association, our state has a \$1.2 billion budget surplus and, in addition, the Bar Association is doing well financially. And, in fact, you'll find out—there might be a report on that as we go along—Mr. Bill will probably speak of it—there's going to be refund checks sent to members of the Bar Association because of a surplus of funds.

And so our situation, obviously, size wise, many other characteristics, is quite a bit different than California; but I think we should celebrate as a Bar Association the fact that we are doing well, our economy is strong, our Bar Association is strong, and things at least at the moment are going very well for the State Bar Association of North Dakota.

So when you become the president of the Bar Association, Bill Neumann says, "I'm sure you've got a lot of ideas, Mr. President; but, remember, we have so many staff people, we have so much time, we have so much money, so don't try to recreate the world."

And so keeping that in mind, I had a couple of things that I tried to focus on this year. One was to continue the very great work of the committees and task forces that were already operating and also to introduce a concept that we'll be hearing about a little bit later through Ron McClean, that is, a professionalism code for the State of North Dakota.

But the second thing was to try to increase the involvement of young lawyers in the State of North Dakota. And there are various things that have been done during the year by the Board of Governors to help increase the involvement of young lawyers. One of them is that a task force has been put together with Jane Dynes as the chair and that task force is called Young Lawyer Involvement Task Force, and we'll get a report on that today. But the whole idea is to find opportunities for more young lawyer involvement and try to get rid of obstacles to young lawyer involvement.

The second thing that the Board of Governors has done is to approve a program called a Young Lawyer Leadership Training Program, and the first version of that will take place in November of this year, and we're going to be inviting applications from young lawyers across the state. Hopefully some twenty-five or thirty can participate in this first ever Young Lawyer Leadership Training Program.

A woman named Kathy Story from Memphis, Tennessee, is going to lead the training program and many of you know her and have attended programs where she's been the leader, and she is very experienced in leadership training, and I suspect it's going to be a great weekend for the young lawyers that can participate in that program.

There is one other item that I've been encouraging, and that is a constitutional amendment which will allow a young lawyer member to be on the Board of Governors for the State of North Dakota Bar Association to increase the Board of Governors from thirteen to fourteen members, and that's going to be considered today, and I think we're going to have a lot of fun talking about that today.

So those are the things, just one area that the board has been working on during this past year, and I think it is very important and very vital to our Bar Association to have young lawyers getting involved, gaining leadership skills, and eventually taking over positions of responsibility in our Bar Association.

So the whole concept of being on the Board of Governors and becoming the president of the Bar Association, I don't think it's really easy to understand all the various things that you're called upon to do, all of the various opportunities you have to participate in activities of the Bar Association, and it's been a wonderful ride this last year. I'm going to be very happy after a little while to hand this to Jane, but I can say I've truly enjoyed my year as your president and it's been a privilege to serve as your president. Thank you. (Applause.)

Next on the agenda I'll call upon Chief Justice Gerald VandeWalle to give the State of the Judiciary address. (Applause.)

CHIEF JUSTICE GERALD W. VANDEWALLE: Thank you. Thank you. Please, please sit down. We've got a short period of time, so I appreciate the standing ovation. When it's over with you may not want to do it.

President Maring and fellow members of the State Bar Association of North Dakota, I'm pleased to be here today to deliver the court's annual message to this assembly. I intend to outline briefly some of the matters, other than legal actions, that have occupied the judicial branch since I last spoke with you.

We have decided to go green and this message has not been printed. It will be available on the Supreme Court's Website along with the January 2009 State of the Judiciary message to the Legislature.

The courts and the practice of law are continually adapting to new ideas, new expectations, and new technologies. To anticipate and deal with these changes, the Judicial Planning Committee, chaired by Justice Carol Kapsner, has been reactivated and held its first meeting on Tuesday of this week. The work of this committee will be important as we try to map the future of the courts and keep abreast of the issues which will face us.

This year the court adopted a new Rule of Court, Rule 3.4, which is designed to secure the personal information of litigants. It is a difficult decision to determine where to draw the line when the information is necessary

to distinguish one person from another or required by an outside entity to process a court order, and we received some negative feedback.

The new rule provides two different options for submitting designated personal information. We believe these options are the best way to gather information that is necessary to process cases and yet afford litigants some measure of protection against theft or harassment.

This session of the Legislature was different for reasons you already know about. While the Legislature chose not to study some of the issues we asked it to look at in the coming interim, and while we did not receive all the new positions we asked for, the Legislature did authorize two new judges and the Supreme Court has started the preliminaries in determining the chambers for those new judges. There were a few bumps, but for the most part it was a good session for the Bar and the Judiciary. This is due in large part to the leadership of President Maring, the Board of Governors, the Executive Director Bill Neumann, State Court Administrator Sally Howlewa and the staffs of the association and the courts. I appreciate and thank them for their efforts not only with the Legislature, but in the many other areas that affect what we do as lawyers and judges.

I do want to comment briefly on a few legislative actions which affect the bar and the bench.

The Parenting Act. This past biennium this association's Task Force on Family Law worked very closely with the Interim Committee on Judicial Process to identify best practices for handling divorce cases involving children. The result of that study was introduced to the Legislature as Senate Bill 2042 and passed with minimal changes.

There are three components to the Parenting Act—Sherry Mills Moore says I'm going to discuss three—that require all of us to make some adjustments in our way of speaking and thinking and yet afford us an expanded opportunity to assist families through one of the most difficult periods of their lives. Those three changes are new terminology, the introduction of parenting plans, and a new Parenting Coordinator Program. I want to say just a few words about each of these.

Terminology. I know it's difficult to suddenly stop using the familiar words of "custody" and "visitation" and instead use the longer, and what may feel like more awkward, terms of "primary residential responsibility" and "parenting time." I will need to make a special effort to adapt, and I ask you to make a concerted effort to do so, also.

The change in terminology is not just "window-dressing," as some people have suggested, but a more fundamental change. These terms do not carry the negative connotations of the current terms and they more accurately describe what occurs when a couple divorce.

The Parenting Plans. A parenting plan will be required for all divorce cases involving children filed after August 1 of 2009. These plans are designed to eliminate future conflict by spelling out the rights and responsibilities of each parent. While this is good in and of itself, the plans also serve a deeper purpose. By emphasizing the specifics for the future, it should shift the focus of the litigants from the mindset of "I'm divorcing" into a post-separation mindset that reflects the reality of the parenting from separate homes.

The Parenting Coordinator Program. Finally, the bill establishes a Parenting Coordinator Program. The role of the parenting coordinator is to resolve parenting time issues in high-conflict cases. The court, with the assistance of the Alternative Dispute Resolution Subcommittee, is currently working on a parenting coordinator rule and putting together policies, procedures, and protocol for the Parenting Coordinator Program. We expect this program to be running statewide by early fall. It will require cooperation among the lawyers, the parenting coordinators, and the judges to make this program work.

The Family Law Mediation Program has been running for more than a year now in the South Central and Northeast Central Judicial Districts. The acceptance of the program and the initial evaluations of its effectiveness have been excitingly positive. In August, we will be expanding the program into three more districts, the Southwest, the Northeast, and the Northwest. We are excited about the opportunity to offer these services in more areas. While time will tell the story of the lasting success of the mediations, we believe that the program will continue to prove its value to the litigants who use its services.

Bias cannot be tolerated in any governmental branch or institution, but it is particularly harmful in the courts, to whom the public rightly looks to us for fairness and neutrality. To be certain that our courts are meeting the needs of all who come before them. I asked the Legislature for funding a Task Force on Racial and Ethnic Fairness. The Legislature appropriated the funds and this task force will begin its work later this fall. Some of you may be asked to serve on this task force, and all of you will be asked to participate in focus groups and surveys. I hope you will take the time to assist us in this important endeavor. The Gender Fairness Task Force revealed we had work to do, and the time has come for us to look at where we are in matters of race and ethnicity.

One of the initiatives of the court under the leadership of Justice Mary Maring is the Justices Teaching Institute. LeeAnn Barnhardt, the Judicial Educator, has planned the third such institute for this fall and some social science teachers from the middle schools and high schools will come to

Bismarck for the program to hear from the five justices more about our system of government and especially the courts and the legal system.

We have also been pleased, along with many of you, to be involved in the "We the People" program sponsored by the State Bar Association. If we intend our legal system and the system of government under which it operates to continue, it is important that we support and become involved in helping succeeding generations to understand and appreciate what we have.

We are implementing a new district court case management system called Odyssey. Because there were some disasters with some governmental agencies' information technology projects, there was concern among the legislators about the new case management system for the Judicial Branch. However, our Court Technology Committee chaired by Justice Sandstrom, the operations oversight group chaired by Judge Schmalenberger, the technology staff, the State Court Administrator, and, in fact, the users have done a superb job in selecting a provider and working with the provider.

Once the Legislature saw the preparatory work that has been done, they appropriated the necessary funds to implement the new system this biennium. The system will be implemented in Cass and Traill Counties in October. This will begin a two-year process of converting all district courts and ten municipal courts to the new system. The new system will incorporate electronic filing and document management. The court is fully funding the electronic filing component, so there will be no added cost to litigants for using it.

Odyssey will also make it possible to transmit notices and orders electronically. At some point I believe we will need to look closely at some of our long-standing rules to decide when and how we can leverage this technology to better serve all of us, including the lawyers using the court system.

Two weeks ago Justice Crothers and I attended a conference in Chicago entitled, "The Future is Here." It was sponsored, among others, by the ABA and the Conference of Chief Justices. Its purpose was to alert us to what is taking place with the practice of law globally.

I moderated the opening panel composed of representatives of the legal profession in England, Australia, and New South Wales, as well as a professor of International Law from Penn State University. That panel and other panels during the day discussed the advent of multi-disciplinary practices, as well as investor-owned law firms.

Although it was not intended to be the topic of the conference, the issue of the admission of foreign graduates to practice in this country also arose. I serve on an ad hoc committee on International Issues of the Section of Legal Education and Admission of the Bar. I chair a subcommittee

whose task it was to determine whether or not the American Bar Association should consider a model rule on the admission of foreign lawyers. Our subcommittee's report is due to go to the larger committee this week. These issues are all intertwined and bear watching.

The luncheon speaker at the Chicago meeting was Michael Greco, past president of the ABA. He told us that we should take advantage of lessons we can learn from those countries that are now engaging in far-reaching experimentation, and that questions need to be answered before we seriously consider the types of reforms implemented in England, Wales, and Australia.

He set forth a list of provocative questions, including one that asks, "Why should not the state supreme courts, pursuant to the separation of powers doctrine, regulate the legal profession in the United States, as opposed to Congress, the Executive Branch of government, the state legislatures, or an independent and all-powerful Legal Services Commissioner, as in Australia?"

These are issues with which we are sure to be faced as the economy becomes even more global and the status quo and the practice of law is challenged.

Mr. Greco ended with this admonition. I quote directly and I commend it to you, and I'm quoting: "We must ensure that any changes made with the legal profession in the United States preserve the core values and principles of an ethical, independent legal profession. That is our challenge and our responsibility."

Although the face of how we practice law changes over time, the core values we aspire to do not. I am proud of the collaboration between the courts and the Bar Association in North Dakota and all we do to make those values come to life. I look forward to continuing that cooperative relationship. Thank you again for allowing me to speak to you about our court system. (Applause.)

EXECUTIVE DIRECTOR WILLIAM A. NEUMANN: Good afternoon. I'd love to take this chance to tell you all about everything the Bar Association does for you; but if I did, we'd have to give you three hours of CLE credit, and we really don't have the time, so let me just mention a couple of things.

One that pops out right now is this annual meeting, which if all it was was CLE at one hundred fifty bucks, it would be one of the best bargains in the community.

But, of course, it's so much more than that. There's the comradery, the chance to spend some social time with our colleagues; there are all the many, many active committees, sections, task forces that are doing things

for us. One that's been apparent here today and talked about already is the Custody and Visitation Task Force. It's been working for over two years on that Parenting Plan Bill that finally passed and it's still working on implementation of that bill.

There are so many other things, too, but the one I really want to get to and brag about—well, tell you about—is the one that's already been mentioned by President Dave and that is thanks to the excellent guidance and supervision of your farsighted Board of Governors, we're doing a dues refund this year, and we're doing it at a time when just about every other Bar Association in the country is cutting programs and cutting staff and cutting budgets.

I think it was in the year 2000 your Board of Governors passed a policy that said that when the bar's assets exceed a certain point, money will be refunded to everybody who was a member last September 30. That's what the policy says and that's what's going to happen.

For all of you who were members last September 30—sometime this September, a check for \$61 is going to show up in the mail. That comes to roughly about \$120,000 worth of money going back to our members this fall. Of course, if— if you want to seize this opportunity to support your Bar Foundation, all you have to do is endorse that check and send it on back to us and we will do the right thing with it, but we'll send you a letter suggesting that, along with the check.

For now, that's all I have to tell you. I'm so glad you're here. I'm so glad to be here myself. This is a great job, a great cause, a great purpose, and I'm happy to be here to serve you. Thank you. (Applause.)

PRESIDENT MARING: There are many ways that we, as members of the Bar Association, can serve the public and our communities, and one of them is by providing pro bono services. We're very proud today to provide some awards to three attorneys in our state who have been very supportive of the Volunteer Lawyer Program. They provided services that help those who otherwise wouldn't be able to afford to participate in the civil justice system to have that opportunity.

We have three attorneys today that we're going to be providing a small token of appreciation to, and I'm going to ask the Chief Justice to come forward and to hand out the gift to our three recipients. The first recipient is Robert Keogh with 176 donated hours. (Applause.) The second recipient is Kent Morrow with 175 hours. Kent, are you here? (Applause.) We'll make sure he gets his gift. The third one is Diane Melbye at 123 hours of pro bono service. Thank you, Diane. (Applause.) And we'll be hearing a little more later about the pro bono effort, and Sandi Tabor will be giving us a report on the Pro Bono Task Force.

Each year the president gives or has the opportunity to give an award out to an outstanding chair of a task force or a committee, and this year I've selected a Fargo attorney who a few years ago became involved in the American College of Trial Lawyers and found out that the American College of Trial Lawyers has a Code of Civility that's been in existence since about 1955. He found out, also, that some thirty-six states and another one hundred plus city, county and local bar associations have established civility codes, and he started promoting a civility code for the State of North Dakota.

That went through some committee work and then came back to the Board of Governors, and the Board of Governors appointed a task force to look into whether or not this state should have a civility code and, if so, what form it would take and whether it would be adopted by the Supreme Court or whether it would be adopted by the membership.

And so this person who has done this outstanding work, our Fargo attorney, has had several task force meetings within the past several months; and I'm told by his staff that not only does he come to each and every meeting to Bismarck, but he's there twenty minutes early with everything open and ready to go. And our recipient of the Outstanding Chair Award for 2009 is Ron McLean. Please step forward. (Applause.) And Ron will be talking with us a bit later about that effort and the task force report and the recommendation to this organization.

Next we're going to have a series of reports and we have several of them, so unless there is something really, really important that you need to tell everyone that's going to take more than two to three minutes, let's try to limit it to about two to three minutes in your reports.

We'll start out with the SBAND Financial Report by Michael J. Williams. Michael.

TREASURER MICHAEL J. WILLIAMS: This is the Financial Report for the year 2008. Before I begin my report, I would like to point out that a copy of my report, a report on the 2009 budget, and the 2008 audit are provided in the General Assembly handouts.

Relative to the audit, the Board of Governors was pleased with the findings of the 2008 audit which, once again, gave the Association an unqualified opinion, which is the highest opinion available for an association.

The '08 audit reflects year-end assets of \$1,171,440, up from \$1,039,437 in '07. This includes \$511,669 in restricted cash assets, \$27,236 in equipment, and inventory of \$3,274. In 2008 the Association's revenue was \$1,122,264, which compares to \$1,067,858 in '07. We incurred expenditures of \$982,662, compared to \$912,845 in '07, for a net increase of \$69,817 in expenses for year-end '08.

Our unrestricted general fund assets on December 31, 2008, were \$592,067, for a total of net assets in the amount of \$1,103,736, up from \$964,134 in 2007.

During the year 2008 the Association generated \$1,122,264 in total revenue, which again was up from '07. Forty-three percent of our total revenue or \$479,614 was from license fees available for SBAND's general operations, 15 percent or \$172,445 is legislatively mandated for the operation of the disciplinary system.

Our total expenditures for '08 amounted to \$982,662, including total disciplinary expenses of \$190,808 and general and administrative expenses of \$613,707. Included in the administrative expenses are CLE seminar costs and office overhead.

Your Board of Governors is pleased to announce that under a dues refund policy created back in 1999 a total of \$121,767 will be devoted this year to a dues refund to everyone who was an enrolled member on September 30, 2008. Refund checks of slightly more than \$60 will be mailed early this fall; and if you didn't hear Bill Neumann mention, the Bar Foundation would greatly appreciate contributions of those checks, if you are so inclined.

The 2009 Budget—all Association expenses have been closely monitored by the Board of Governors to guarantee that you, our membership, receive the best value for your dollar. The Board tracks all spending through detailed monthly financial reports to ensure that your Association can continue to provide the quality services and programs that we've all come to expect. The Board continues to monitor all financial trends. If anybody would like more information about the budget, please feel free to contact Bill Neumann at the SBAND office. Thank you. (Applause.)

PRESIDENT MARING: We asked Bill at the Board of Governors meeting on Tuesday to give us just a brief financial report, and his report was, "We're doing good." And that's what Mike's report was, too. Next we'll call on Mo Holman to talk about the SBAND Lawyer Assistance Program.

MS. MAUREEN HOLMAN: The Lawyer Assistance Program is still a relatively young program. We still have all of our original committee members. This year we made a lot of progress in two separate areas.

The first one is the one that got us started initially, which is diversion from discipline, and we are getting more and more referrals from Inquiry Committees, Disciplinary Board, and self-referrals.

We operate to help an individual lawyer who is in the discipline system perhaps get diverted from the system and get into treatment, if they need it, for perhaps addiction problems, mental health problems, even office

management problems. And they are completely diverted from the discipline system, so we've got more and more referrals that way. We basically monitor their involvement in treatment programs.

We also are sometimes involved in terms of people who have been in the discipline system but they want as part of the discipline that is imposed on them, they want a monitoring system, and we can act as that.

Perhaps more importantly we have made very great progress in the second area that we want to focus on, which is prevention of problems, trying to keep attorneys out of the discipline system.

And you may remember that a year ago you were told about the Member Assistance Program. That has kicked off. It is a benefit to every member of the Bar Association.

You have the right to contact the Member Assistance Program, receive free assistance, I believe it's up to six contacts with counselors, with whoever needs to be there to help you, generally speaking, to deal with like mental health problems, family issues, because it can be not only the individual attorney, but members of their family. You have kids that have difficulties. You can go in, you contact the 800 number, it goes to St. Alexius, but St. Alexius has facilities throughout the state. So whoever needs help in the state—they can be connected with a provider who can provide them with counseling or whatever is necessary.

It's a free perk for membership in the Bar Association, and we at the Lawyer Assistance Program are thrilled that this exists, hoping that it will keep people out of the discipline system. It gets used. It seems like every time somebody from our committee has a chance to talk about this program, we get more contacts, so we are hoping to keep telling you about it because we want people to be able to use it.

Every member of the bar should have received a brochure. If you need a contact number, call the Bar Association—they can give it—or contact any member of the Lawyer Assistance Program. Thank you. (Applause.)

PRESIDENT MARING: Thank you, Mo.

There are several other committees, sections, and task force reports that are included in your materials, and I would ask that you take the time to read them. The task forces, sections, and committees put in a tremendous amount of time, they do a tremendous amount of work for our organization, so please review those and see all of the various things that are going on within the task force and committees.

Next I'll call upon Sandi Tabor to give us a report on the Blue Ribbon Pro Bono Task Force.

MS. SANDI TABOR: Thanks, Dave. I'm glad you know the name of our group because we keep forgetting it, so we've now just reduced it to the Pro Bono Task Force.

In response to declining case placement in the SBAND Volunteer Lawyer, President Dave Maring formed a special task force to evaluate VLP and provide recommendations to the Board of Governors.

While the Association's VLP program has traditionally been very successful, the operations of the program have not been examined in great detail for many years. In particular, case placements have dropped from 331 in 2000 to only 43 in 2008. This reduction warrants a full review of program operations.

The task force is now in high gear and we will be exploring a number of things, but in particular new ways to engage attorneys in pro bono services. We had a great meeting on Wednesday. We had a facilitator from the American Bar Association's Pro Bono Center who just provided us with a wealth of information and some great ideas and encouraged us to think outside the box when it comes to what changes we might make in the Pro Bono Program.

We are going to look at expanding the type of cases eligible for pro bono services in hopes that we can attract more attorneys into the VLP Program and finally, and probably most difficult, we're going to look at how to increase VLP services in a rural state like North Dakota where we now have some counties that have no attorneys.

Fortunately, as I mentioned, we had a delightful gentleman, Scott Wiley, from—I believe he runs a legal service program in southern Indiana. He had a lot of ideas. He, I think, gave us great hope that, in fact, we can make a difference in the program and get it back to where it used to be in the past.

We are not going to do this in a vacuum. If you have ideas, I encourage you to e-mail them to Carrie at the Bar Association office. I promise that we will look at them and we will discuss them as we continue in our meetings. And with that I thank you for your kind attention. (Applause.)

PRESIDENT MARING: Thank you very much, Sandi. And now we will have a report by Sherry Mills Moore on Custody and Visitation Task Force.

MS. SHERRY MILLS MOORE: Thank you, David. I think you've heard enough about this and the work we've done, and I appreciate the Chief explaining what the provisions are. This group was formed two years ago under Dave Petersen's presidency. I'd just like to say we came, we

worked, we conquered, so we submitted legislation which passed and now we are working on implementation.

The only other thing I'd like to do is to thank the members of the task force, so I'm going to read their names because I didn't do a written report. They are Sandi Tabor, Lawrence King, Jack McDonald, Judge Gail Hagerty, Judge Lee Christofferson, Sandy Kuntz, Bethany Abrams, Joanne Ottmar, Maureen Holman, DeAnn Pladson, Senator Tom Fiebiger, and Representative Nancy Johnson. And added to that committee now in its implementation phase we have Pat Garrity, LeeAnn Barnhardt from the court, Kathy Ferderer from the court, and Janelle Moos from the Council on Abused Women's Services. Thank you. (Applause.)

PRESIDENT MARING: Thank you very much, Sherry. Now we'll have a Young Lawyer Involvement Task Force report by Jane Dynes.

MS. JANE DYNES: The Young Lawyer Involvement Task Force was set up just this year. We recognize that the health of our Association depends on sustained participation by young lawyers. Currently many young lawyers volunteer their time and talents to SBAND. The purpose of the task force is to study ways in which the level of young lawyer involvement in SBAND can be increased.

Some efforts to increase young lawyer involvement are already occurring. As you know, a Young Lawyer Leadership Institute will be set up for this November. And as President Dave just told you and as you can see in your materials, there is a constitutional amendment to appoint a member of the Young Lawyers Section to the Board of Governors, and we will be discussing that shortly.

The task force has discussed some preliminary ideas to generate increased participation in SBAND by making SBAND aware of and responsive to the challenges and interests of the young lawyers. The work of the task force will continue, so you'll get an update, probably next year. Thank you. (Applause.)

PRESIDENT MARING: Thank you very much, Jane. And now we'll call Mike Williams back to the podium for a Young Lawyer and Law Student Liaison Committee report.

MR. WILLIAMS: Thank you. Our committee was established in 2007 by President Lawrence King and the SBAND Board of Governors. The committee members are listed in the handout which is printed in the brochure. I want to thank all of our committee members for their hard work on this particular committee.

The committee is a ton of fun. What we get to do is we get to run the Mentorship Program up at the law school, and we had sixty-five law students who were involved in it this year. Each one had an individual

mentor assigned to them, and the mentors and their students engaged in a wide variety of activities consisting of social events up at the law school, we sponsored two seminars, one in the spring and one in the fall, and then on an individual basis each mentor was responsible for coordinating a vast variety of activities with their particular student, consisting of general advice, going back and forth with e-mail and phone calls. We routinely invite the law students to our offices. We try to make it to Grand Forks when we can for a face-to-face meeting. The program has been at the law school very, very well received. We will continue to operate it next year.

I would like to mention the Young Lawyers Section, which has been really important in the operation of this committee. They've been responsible for operating some of the seminars that we've had, they've been responsible for recruiting mentors, and they played a really important role in our committee, so I wanted to thank them in particular.

We will continue with the Mentor Program next year. We hope it to be as successful as in the last year or two since we've established it. Thank you. (Applause.)

PRESIDENT MARING: Thank you, Michael. And now Scott Strand, the chair of the Young Lawyers Section, will give a report.

MR. SCOTT STRAND: Thank you, Dave. It is my pleasure to speak on behalf of this section here today. I have to admit the fact that my head is on the two television screens is freaking me out a little bit.

The young lawyers have been involved in a number of Association activities during this last year. We co-sponsored a CLE that was attended by nearly 150 Association members, we've had section representatives at a variety of Association activities, including the new lawyer admission ceremony in Bismarck last fall, and a variety of law school events.

Now the purpose of having our section representatives at these events has been to get a message to young lawyers and law students, and the message is this: get involved. And the fact that young lawyers have been involved over this past year is undeniable. If you look at your local bar associations, your local court chapters and other legal organizations, there are young lawyers that are involved and often holding leadership positions.

Now that said, however, we can do better and we need to do better. We need more young lawyers involved and we need a greater level of involvement. After this meeting here today the section will meet to continue our vote on important amendments to our bylaws that will help us accomplish this involvement, and I suspect there will be more on that in a little bit, and thank you for your time. (Applause.)

PRESIDENT MARING: Thank you, Scott. We appreciate your leadership on behalf of the Young Lawyers Section. And now Jack McDonald will tell us about the North Dakota Bar Foundation.

MR. JACK McDONALD: Thank you, David. The Bar Foundation, as you know or may not know, really has two roles, and one of the roles is to administer the IOLTA funds, the Interest on Lawyers Trust Account money that comes in from all of your trust accounts.

And the goal of the IOLTA program is threefold, really: To go to civil legal services for the poor, the public education about the law, and improvement of the administration of justice. And then the second function of the Bar Foundation is to provide a more general public service function, and the money from that comes from the funds we get from the silent auction tonight and from a portion of your dues and from donations.

On the IOLTA accounts it, obviously, has not been a very good year for investments, has not been a very good last couple of years for investments, and as of December of 2008 the program had generated about \$140,000, and this is down about \$35,000 from the 2007 program.

The contributions for 2008 are listed in the handout for this General Assembly. I won't go through that entirely. We did give Legal Services of North Dakota, \$50,000; SBAND Legal Program, \$50; the Southern Minnesota Regional Service \$3,500; and then we had a Constitutional Symposium and "Graduating Into an Adult World"—that's a booklet written by Ron Reichert; and SBAND Law Related Education Program, \$21,000.

This year we've cut back a little bit. We were not able to fund all of the programs. Fortunately, we do have roughly \$335,000 still in reserve. We didn't get any stimulus funds from the government, and so we had to cut back some of the funding for 2009.

In 2009, IOLTA Committee decided to award grants to the SBAND Volunteer Lawyer Program, Legal Services of North Dakota, Southern Minnesota Regional Legal Services, the SBAND Constitutional Symposium, and the SBAND Law Related Education Programs, and a newcomer this time, the North Dakota Council for Abused Women's Services.

I want to thank especially the IOLTA Committee. It's a committee separate from the Bar Foundation. The committee is chaired by John Petrik of Bismarck. Also on the committee is Lowell Bottrell from Fargo, Dave Petersen from Grafton, and then two non-lawyer members, Larry Rolfson from Bismarck and Jill Denning-Gackle from Garrison.

The Bar Foundation has a general public service function and we get our funds from the membership dues and pledges and the silent auction and other fundraising efforts.

For 2009, the Bar Foundation has approved continuing funding for the law school in honor of Professor Randy Lee; we fund the chair, the Randy Lee chair, partially fund a chair at UND; in addition we provide scholarships for the Law Review Case/Note Comment Award, homecoming scholarships for the top first-year law students, and a grant to the UND School of Law for its Public Interest Law Internship Program that they run during the summer. And in 2008, we had raised \$37,300 for the Bar Foundation for those efforts.

I want to encourage you all tonight, we're going to have—and shortly here now in about two hours, really—we're going to start the silent auction in the room right behind us and the reception, the Bar Foundation Reception. And I hope that you can come and attend the silent auction and really bid on those items. And don't look at this as a Wal-Mart or K-Mart special. This is not an idea to see if you can get it as cheap as possible, but to try to bid the items up as much as you can. It goes for a good purpose.

I want to thank the Nilles Law Firm in Fargo for hosting the reception tonight. Our goal is to provide funding for our program, so I hope you contribute as much as you can.

And then finally I, too, would like to thank the members of the committee, the Bar Foundation, Board of Directors. They are Jack Marcil from Fargo, Mike Stefonowicz from Crosby, Lolita Romanick from Grand Forks, Sherry Mills Moore from Bismarck, Paul Richard from Fargo, Bob Thomas from Minot, Sandi Tabor from Bismarck, Ben Thomas from Fargo, and Jim Hill from Bismarck. And we also have three ex-officio members: Dave Maring, the president, soon to be past president; Jane Dynes, the president-elect; Dean Rand from the law school; and then finally we have Bill Neumann as our secretary-treasurer, and Jeanne Schlittenhard from the SBAND staff as the program manager. So I want to thank them all very much. Thank you. (Applause.)

PRESIDENT MARING: Thank you very much, Jack. We're going to move into the resolutions and the constitutional amendment. And I do want to make one point about Resolution #1 before I call on Ron McClean, and that is that in your materials for Resolution #1, Aspirations of Professionalism and Civility, on the back of that page is Exhibit 1 to Resolution #1 that has some extraneous material that has nothing to do with Resolution #1 and it just goes on that category of "stuff happens," and so ignore that page. And with that explanation, I'll call on Ron McClean to give us a little report on that particular resolution.

MR. RON McCLEAN: Well, here I come in a serious suit, white shirt and red tie, and I'm not on the Supreme Court. I just wanted to assure Ron Reichert and anyone else that there's nothing in the Code of Civility that

deals with a dress code. I had to be in Grand Forks this morning trying to beat back a motion in limine and I have to say my response to the motion in limine was completely overshadowed by the announcement in Grand Forks this morning of Brittany Spears coming to Grand Forks.

In a serious note, we heard yesterday about President Lincoln wouldn't even use the word "enemy" to describe the Confederate Rebels. We heard Chief Justice VandeWalle talk about that we all come out as young lawyers not really prepared for all of the things we face, and I think one of the things we especially come out unprepared for is just good civil and professional behavior.

And I have to say to the defense of the law school and what Dean LeBel started a couple of years ago, on the first day of orientation lawyers come and speak to those young students on professionalism and behavior issues. We all are so busy now I wonder if we really have the time to be mentors or be role models or if there are role models or mentors around because we are just moving so fast there doesn't seem to be that 30-minute coffee break or lunch together.

And I think every one of us has kind of a default program. I know if I'm cross-examining, my default is ugly and I don't like it. And I think we all have a default when we're confused or uncertain to be aggressive or to be defensive. And this doesn't do anyone any good. This is a tough thing to do, practicing law, and I swear if there's one truth I can share with anyone, if you behave in a civil, polite manner, your life is just better.

President Maring gives me way too much credit on my role regarding this Code of Aspirations. He is the one who wanted to promote it and he is the one who has really done a lot of work on this.

He does have a dark past. While I have to live down being in Cass County, he has to live down having been a Minnesota lawyer. And while a Minnesota lawyer, President Maring was the one who primarily wrote the Minnesota Aspirations, so these have been things that have been important for him for a long time, and I was honored to be asked by him to do a task force, to do something that was so meaningful to him.

We put together a group that I think was very heterogeneous. I mean, you've got Orlin Backes, Jim Hill, Carol Johnson, Petra Mandigo-Hulm, Sherry Mills Moore, Judge David Reich, Kent Reiersen, Professor Katherine Traylor Schaffzin, and Pat Weir, Jr. I think they all worked hard and we came up with what we think was a good model. We all believe that the most important way to do this was to have the Bar Association put this Code of Aspirational Behavior upon themselves.

And we're not the first to do this. There are thirty-six other states and the District of Columbia and even—I say this lovingly to my Montana friends—even Montana has adopted a Code of Civility.

I think the most important thing to start is to look at the preamble. I know that there are plenty of people who are really worried about it. Well, how is this going to affect the law of lawyer negligence.? How is this going to affect the rules of professional responsibility? How is this to reflect to deal with court sanctions?

Well, it's real clear. The preamble says these are aspirations and they shall never be used in the law of lawyer negligence, the law of professional responsibility, nor as a reason for court sanctions. We basically then divided them up into groups, and I'll just kind of describe this.

Lawyer to Client. While we all are to be vigorous advocates, we are never to forget that our real duty is to give independent advice. And just because we're an advocate, that is no excuse to engage in abusive conduct, which our clients thoroughly enjoy, and we just have to stop that and be no part of it. It's easy to fall into that. It's easy when your client wants you to agree how much a bad person the other lawyer is.

Lawyer to Lawyer. We need to be just courteous and cooperative and be part of no personal attacks. One of my favorites is this that came out of a Grand Forks deposition from a friend of mine to another friend of mine. "You're an obnoxious defender of entities that kill people," and it went on from that. Now, you know, I think, what good did that do anybody? And we tried to even deal with the transaction lawyers. When you're drafting a document, the goal is to concentrate on substance, not style. The goal is to let the other fellow or gal know what changes you've made. It seems reasonable and polite. And as to the Lawyer in Court, of course, you'll not misrepresent, misquote, or make any misstatements.

And then kind of maybe the area of the resolution that has maybe the things that might raise eyebrows the most is a Lawyer to Community; and, you know, it has always been a role that lawyers do a great job at. I swear if I go to a Babe Ruth baseball game, I'll see a lawyer as a coach. If I go to a school event, I'll see a lawyer involved in the program. I think we do a tremendous job, as compared to our brothers and sisters who are doctors, who I never see in any kind of community involvement near to the level we do.

But basically these documents, the promises we made there in Lawyer to Community, are all taken from the North Dakota Century Code, which is the lawyer's promise that we took, the oath that we took. I know that the task force and the Board of Governors would urge passage of this resolution. Thank you.

PRESIDENT MARING: Would you move its passage?

MR. McCLEAN: I would move its passage. Thank you.

PRESIDENT MARING: Do we have a second?

MR. HILL: Second.

PRESIDENT MARING: And who is the second?

MR. HILL: Jim Hill of Bismarck.

PRESIDENT MARING: Thank you, Jim. Jim Hill of Bismarck. And then we can have some discussion on the motion to adopt this resolution. And because of the time, let's try to limit our comments to approximately a minute, somewhere in that area. Any discussion on this resolution? And I can't see very well. We have microphones front left—my front left—and front right. Any discussion on the motion?

MR. DAVID SCHWEIGERT: I have a question.

PRESIDENT MARING: Question. Could you come to the microphone, please, identify your name, and then state your question. Ron, maybe you could be by the other microphone to respond.

MR. SCHWEIGERT: This is just a question. My question, Ron, is in the other states where this has been adopted, has it stayed an aspirational thing or has there been a tendency to use that in courts as evidence, as kind of a guideline for lawyer conduct, those sorts of things, and have they taken those aspirations and maybe started to adapt them over time into their ethical rules?

MR. McCLEAN: Well, I've not seen that written, I've not seen that criticism, and I do practice in Minnesota pretty regularly, and I have never seen the Minnesota aspirations, which have been around for a number of years, ever used for those purposes.

MR. SCHWEIGERT: I just find it interesting in other states that I practice in, for instance, Montana— you mentioned Montana—the lawyers in North Dakota, in my opinion, we get along very well compared to the lawyers who practice in Montana who apparently have some aspirations and we don't.

PRESIDENT MARING: Dave Schweigert of Bismarck. Any other comments? If there are no other comments, I'd call for a vote. All in favor of the resolution, say "aye."

GENERAL ASSEMBLY: Aye.

PRESIDENT MARING: Opposed? The resolution passes. Thank you very much for your work, Ron. Now I will call upon Petra Mandigo-Hulm to read the proposed constitutional amendment. Could you come forward, please.

MS. PETRA MANDIGO-HULM: Do you want me here?

PRESIDENT MARING: You can be either place. Where would you like to be?

MS. MANDIGO-HULM: How about up there?

PRESIDENT MARING: Yes. Be the star of the show.

MS. MANDIGO-HULM: Oh, it is bright up here, huh?

PRESIDENT MARING: It is.

MS. MANDIGO-HULM: This is my first time up here. This is nice. Thank you, President Maring, and members of the bar. My name is Petra Mandigo-Hulm. I'm an attorney at Crowley Fleck here in Bismarck, formerly known as Fleck Mather and Strutz. I'm a young lawyer and I will be a young lawyer for another two years.

The amendment to the SBAND Constitution was not proposed by the Young Lawyers Committee. It was proposed by President Maring. However, obviously, we do support the amendment.

The amendment is to Article 5.1, and it will read as follows:

"The Board of Governors consists of: the President, the President-Elect, the Secretary-Treasurer, and the Immediate Past President of the Association; the Association's elected delegate to the House of Delegates of the American Bar Association; a representative from each judicial district of the State of North Dakota, determined according to the procedures specified in the By-Laws; a member of the Young Lawyers Section selected by that Section; and the Dean of the Law School of the University of North Dakota."

The part that is the amendment is the part that reads "a member of the Young Lawyers Section selected by that Section." Essentially the amendment would put a seat on the Board of Governors for a member of the Young Lawyers Section. I'm here to obviously urge you to vote yes. There are many reasons why you should vote yes. I'll briefly try to go through some of them.

First of all, the amendment will promote unity and involvement within the bar and our profession. Having a young lawyer on the Board of Governors will create unity between the young lawyers, the senior membership of our bar, and the governors of our bar. Young lawyers have insights and experiences that are different from the senior members of the bar, and that's a relevant and desirable thing for the Board of Governors to have.

Promoting and encouraging that unity is a goal that might be desired, but has not quite been attained and currently, for whatever reason, there is a separation between the young lawyers of the bar and the senior members of

the bar. I've been saying recently that there is somewhat of a paradigm shift that needs to be made to encourage this type of participation, both within the young lawyers and with everybody else.

I'm currently on the Joint Attorney Standards Committee, and I'll admit that when I volunteered for the committee I was supremely ignorant because—well, for a couple of reasons. I didn't have much experience. I had just finished clerking for Justice Maring at the Supreme Court, and when e-mail came out saying there's a vacancy, I thought, well, gee, how sad would it be if nobody volunteered, why don't I just e-mail Penny and say I'd like to do it. Well, I've since learned that those are prime appointments and that people seek them quite often. I do suspect that I had a proponent in the Supreme Court who was vying and arguing for my appointment.

That's one of the things that I recently became a little more familiar with in that these are prime appointments. I don't necessarily know why, but they are. It's quite difficult to get on some of these committees, and as a young lawyer it's even more difficult to get on these committees. I know for me and for a significant number of other young lawyers I've spoken to, they have volunteered time and time again and not been appointed to any committees.

The task force that was recently organized was organized in the face of this amendment. I am a member of the Young Lawyer Involvement Task Force, and one of the comments that was made there was that there is significant emphasis put on experience when the Board of Governors make their appointments to committees. And this is somewhat of a circular argument because if you can't get on a committee, you can't get the experience that you need to qualify and be competitive for those positions.

Another comment that was made during that meeting was from Bill Neumann, and he said—no offense to Bill because I understand what his goal is—but he said, "What do the young lawyers want the bar to do for them?" And that isn't what our concern is. Our concern is that we want to be a part of the bar, we want to be valued by the bar, and we want to do things for the bar. And it's time that we focused on that unity and focused on inclusion.

The amendment would open a vital communication link between the young lawyers, the governance, and the senior bar. There are currently two people on the Board of Governors who qualify as young lawyers. However, that's not necessarily a reason to vote no on the amendment. There's no guarantee that a judicial district will elect the young lawyer unto the Board of Governors. And with due respect to those people, they're there to represent their districts, not young lawyers.

Finally, and most importantly, you should vote yes on the amendment because young lawyers are really the future of this bar organization. If we don't train these young lawyers to become leaders, become active in the Bar Association, we're not going to have anybody to take over. I would imagine that most, if not all, law firms have a succession plan in place, and that involves having associates that you spend significant amount of time training and significant cost training.

If you look at the current committees, there's a group of people who seem to show up on every committee or populate most of the committees. And I think we all appreciate their dedication and their commitment to the bar, but there's a point in time when those people are going to not be here or not want to be so involved, and we need to do that kind of training for the future.

It's not unusual for bars to include a seat or multiple seats for young lawyers. Just a couple of statistics: 17 of 34 unified bars have seats or multiple seats for young lawyers; 17 of 21 voluntary bars have seats for young lawyers. If we don't encourage young lawyer participation now, our young lawyers are going to become involved and active in other organizations.

There are the Minnesota Bar Association, South Dakota, Montana, and there are individual organizations like Defense Research Institute and the American Bar Association. The young lawyers who can't get involved here are going to go somewhere else and get involved somewhere else, and it's time that we encourage the participation and retention of those folks here in North Dakota.

One criticism that's been made of the Young Lawyers Section is they haven't been very active, and I think today we've realized that that isn't the case. Another criticism has been that the Young Lawyers Section doesn't represent the entire young lawyer population. Since the annual Bar Association last year in 2008 the Young Lawyers Section has actually made it a goal to include the entire population, and to that end we are amending the bylaws to include all young lawyers and make it an opt-out system rather than an opt-in system. If we do do that, the membership of the section grows to probably over five hundred members. In addition we are doing some other amendments to make the bar or to make the section function better. My understanding, I think right now, is that we have overwhelming support for those amendments and we expect them to pass.

Is it fair to give one section of the bar a seat and not give the other sections of the bar a seat? Yes. I don't think the Young Lawyers Section is anything like the other sections of the bar. The young lawyers represent all gamuts of the law practice. And when you keep in mind that the goal is to provide leadership opportunities and to provide a succession plan and train-

ing for these young lawyers, what better place to pick that person than from the Young Lawyers Section?

As you listen to some of the other comments, because I think there are going to be some to the other way, ask yourself what's the down side. What is the down side to having a young lawyer on the Board of Governors? I really can't think of one, and I would ask that you do support the amendment and vote yes. Thank you. (Applause.)

PRESIDENT MARING: Would you move the adoption?

MS. MANDIGO-HULM: Pardon?

PRESIDENT MARING: Would you move the adoption?

MS. MANDIGO-HULM: Oh, I will, sure. I would like to move the adoption of the constitutional amendment.

PRESIDENT MARING: Is there a second?

MS. JANE DYNES: I'll second.

PRESIDENT MARING: Second is by whom?

MS. DYNES: Jane.

PRESIDENT MARING: Jane Dynes made the second. Please keep in mind this is a constitutional amendment and, according to our constitution, requires two-thirds vote in favor of it. Please also keep in mind that under our constitution as it currently exists that constitutional amendments are also to be voted on by absentee ballot, and there have been absentee ballots that have been received at the Bar Association office. Those ballots will be counted after this General Assembly meeting and the announcement of the total votes for and against will be announced tonight at the banquet.

So with that, I would call upon others who want to speak on this proposed constitutional amendment. James Hill of Bismarck. Have you got a microphone?

MR. HILL: May I approach?

PRESIDENT MARING: Yes, you may approach.

MR. HILL: Thank you, Mr. President and members of the General Assembly. I appear today to talk about this particular proposed constitutional amendment in a couple of positions.

First of all, as most of you know, I hope, I have been involved for a long time in bar politics and in bar activities. I was a member of the last two committees who actually made amendments to our constitution and our bylaws. The last one was when Christine Hogan was our leader and Stephen McClean, myself and Christine were the committee who put together the process of amendment of constitution and bylaws.

I love young lawyers. I love all lawyers. I am an advocate for lawyers. Young lawyers, all these little stones on the desk, as I start to talk, please

don't throw them as we go forward. I understand the need and the want to be more involved, but I suggest to you that this is the wrong way to do it.

I am also what I think to be a champion of women and their place in our Association. I've been well schooled by my daughter and my wife to do exactly what is right. We have in excess of 380 women that are members of our Association. They are not singled out for a particular seat on this board. Nonetheless, we have three members of the Board of Directors that are women and they are educated well into the politics of our Association, and dare I say they lead in most respects what we are doing.

This amendment, in my opinion, has suggested a problem that doesn't exist. Two members of the Board of Directors at the present time are young lawyers. If you look very closely at the assignment of the membership of committees you will find disproportionately in terms of percentages that young lawyers do serve on committees of our Association. What would be done in this instance, it would place in our constitution one section above all other sections as a seated member at the table.

Now I love all the sections. The Real Property Trust Section is a very powerful section. Should they have one? Should the—all the other sections— and I'm not going to go through all of them—go through each of those sections, I tell you, will exceed the numbers at least of what is presently the Young Lawyers Section.

Now we're told that what we will find very soon is a change in the mechanism of how the bylaws of the Young Lawyers will select a candidate. Well, in fact, at the present time there is no mechanism.

And at the present time the bylaws of the Young Lawyers Section doesn't give us any guidance in what's going to happen. It doesn't tell us how anybody is going to vote for this person.

This is an integrated Bar Association. Every single position on the Board of Governors of the Bar Association is voted based upon your membership as a member of this Association. If this were a proposed amendment that would place a young lawyer by category on the Board of Directors, which would give every member of this Association the right to vote on that member, I wouldn't have much of a problem with that. I could deal with the other sections and deal with the reality that we wouldn't have a woman's seat, but I can't deal with the reality that we may have a very disjointed voting process.

At the present time the Young Lawyers Section has thirty paying members. We don't know what the mechanism for adding members will be, we don't know how the vote will be, we don't know the term, we don't know how long that person can be on the committee.

The sections of the Bar Association exist only because the constitution says that the Board of Governors can allow sections to exist. They do not exist alone. They do not exist outside the framework. The bylaws that Petra—and she's done a wonderful job and she's a very worthy advocate for the position of young lawyers—but in this instance the bylaws themselves, even if they were proposed, would have to be approved by the Board of Governors because the bylaws, in effect, are the bylaws adopted by the Board of Governors.

And I say that with some knowledge because that's the way the constitution of the State Bar Association was drafted, and the reason it was done that way is because we have a very small bar. We don't want to be disjointed in our focus. We want to be in a position where we are bringing all segments of the bar together.

Now I think you're going to find some interesting statistics if you look deeply into the framework of our Bar Association. If you exclude the lawyers that are licensed outside the State of North Dakota, you have roughly 1,386 lawyers that are licensed here. Out of that number you've got 1,000 that are male lawyers, 383 that are female lawyers.

You get a situation where you just have too small an entity at this point to begin to segment the Bar Association as an entity. There's no reason why young lawyers can't be participants in an organization. And unless we have a fair and reasonable way for all members to vote on all of the seats that are on the Board of Governors, then I think an integrated bar's purpose is not met.

You also would be interested to know that of the attorneys that are licensed in North Dakota—these are the numbers from 2008—the largest group of lawyers are those in the 50 to 59 bracket—and I love that bracket since I'm in it—but there are 638 licensed lawyers in that bracket; there are 124 lawyers in the 20 to 29 bracket; 371 in the 30 to 39 bracket.

Now there's some realities here, folks. The Board of Governors entertained the appointment of a position on the CLE Commission on Tuesday night. The broadcast on the Website was two or three times. We had two candidates—two people—two people that put their name in. One was a young lawyer whom I encouraged from my office to put their name in. I had to go down to that person's office and pound on the door to get that person to send it in. There were two people.

Now we have to do a better job of getting our young people focused to take the time. We have to do the same job with the lawyers that are in the middle range. We have to take the senior lawyers, if you will, and do the same thing to get their involvement. But the reality is that this proposed amendment, if approved, isn't going to do that.

Now I'm going to call on a point of order for our Parliamentarian, Justice Crothers, because I believe that the proposed amendment is vacant in terms of the appropriate mechanism for appointment and that is because only the Board of Governors can define how a person can be elected. And if you'll note in the present constitution when it comes to the representatives of judicial districts, they are determined according to the procedures specified in the bylaws, and it's the bylaws of the State Bar Association of North Dakota.

If, in fact, we are to go forward in this particular venture, if the amendment could be made to say the member of Young Lawyers Section determined according to a procedure specified by the bylaws of the State Bar Association, that would alleviate probably my greatest concern about this particular amendment. It would be the same criteria as all other members are voted. In other words, if Chief Justice VandeWalle wants to vote on that, he can vote on that. All members should be able to do so.

So I'm going to call a point of order, Justice Crothers, and ask whether or not it is in order for me to propose an amendment to this constitutional amendment, to add the language after "Young Lawyers Section," the words "to determine according to the procedure specified in the bylaws of the State Bar Association," and it would go forth.

MR. NEUMANN: Do you want a copy of the constitution and bylaws?

PARLIAMENTARIAN CROTHERS: Hi. Dan Crothers. Mr. Hill, do I understand that your point of order is the question whether you can make or offer an amendment?

MR. HILL: Yes.

PARLIAMENTARIAN CROTHERS: Normally—well, I'm open to any ideas or counter-arguments, but it seems that normally an amendment would be permitted. The only question here is because there's advanced voting. Does our constitution—

PRESIDENT MARING: Hold on just a second. We need to get by microphones and identify ourselves.

PARLIAMENTARIAN CROTHERS: I'm just trying to get a clarification here what comes into play. Mr. McDonald, please approach.

MR. McDONALD: One question. People have already voted on this one. I don't know how many absentee ballots you've got, but you said people already voted on one and now you're going to change that. I don't know if you can do that or not.

PARLIAMENTARIAN CROTHERS: The ruling of your parliamentarian on your point of order is that amendments are not allowed.

PRESIDENT MARING: Okay. I would the—I let Mr. Hill speak a little bit longer because of the fact that Petra Mandigo-Hulm spoke for longer than a minute, but I do want to limit people to a minute. I'll call on Justice Mary Maring.

JUSTICE MARY MARING: Thank you, Mr. President. My name is Mary Maring and I rise in favor of this constitutional amendment and I'm here to tell you why. In my earlier life I was the chair of the Young Lawyers Section of the Minnesota State Bar Association. Along with that position, came a position on the Board of Governors for the State Bar Association of Minnesota. This was in 1982. I was pretty young, but I will tell you that the time, the year that I got to serve as the chair in Minnesota and then the position that that young lawyer held on that Board of Governors gave me the opportunity to view seasoned leaders, bar leaders conducting business. I was able to learn about the Minnesota Bar Association, what it stood for, what it meant to serve the profession, and it gave me the inspiration, it gave me the courage to go forward and seek other positions in the Minnesota State Bar Association, in the North Dakota Bar Association, eventually in the North Dakota Trial Lawyers Association, and so on.

We owe our young lawyers the opportunity to learn leadership. And if we are not willing to give them some opportunities to learn how to lead, to watch seasoned leaders, then I think we are strangling our own Association. We have to give them opportunities, and I urge you to do that and to vote yes on this amendment. Thank you.

PRESIDENT MARING: Thank you. Any other discussion on the motion? Please come up to the microphones if you want to have any further discussion or comments on the motion to amend the constitution. And I'm having trouble seeing. Go ahead and identify yourself.

MR. DOUGLAS MURCH: Doug Murch, Fargo, North Dakota. I am proud to be here and speak in support of the amendment. I will be very brief and I would echo everything that's been said before. I think this amendment is very important. I think the leadership of the bar would depend on it, and I can think of no better way to transition leadership from who we have now leading our Association to those who have been able to gain experience through a seat such as this, so I would urge you to vote for the amendment.

PRESIDENT MARING: Other people that want to speak? Please approach the microphone.

MR. FALLON KELLY: Hi. Just a couple of points.

PRESIDENT MARING: Identify yourself, please.

MR. KELLY: Fallon Kelly, young lawyer, qualified, I guess. And I just want to point out that I'm speaking on behalf of myself and not neces-

sarily on behalf of the Southeastern Judicial District. The Young Lawyers Section is amending its bylaws right now to include all people that qualify for membership by age or by years of experience, so from that date forward all members of the Bar Association at one point—or most of them—will be a member of the Young Lawyers Section.

The argument that the amendment should fail because not all bar members get a vote is misplaced. We already have representation on the board that is selected by less than the whole membership. I, for instance, do not vote for East Central representative on the board.

Yes, I am on the Board of Governors currently and I am also a young lawyer, but I will not always be there and the other member will not always be there, as well, so there will not always be a guarantee of young lawyer representation on the board.

What is this all really about? Young attorney involvement in the future of the bar. The perspective of age and experience does have value. However, that is one perspective. There is another perspective, and that is the perspective of young lawyers and the perspective of youth is necessary to a healthy variety of ideas for the Association. The Association should embrace, not shun, young lawyer involvement. Thank you.

PRESIDENT MARING: Mike Williams.

MR. WILLIAMS: My name is Mike Williams, I'm from Fargo, and I am here to speak in support of the resolution for two reasons, and I'll be very brief. The first reason is that I think it's good for young lawyers. I work with the Mentor Program and we work with law students up at the law school and with many young lawyers who participate in that program, and I can tell you that they are very anxious to serve our Association. They're anxious to get involved. They may not have the experience, they may not know where to turn, they may not know exactly how to do it, but they want to help, and we ought to give them the chance. There is a big difference between inviting them in your house and inviting them to sit down at the table, and what we would be doing is inviting them to sit down at our table. And I think that's an important thing to do for the young attorneys.

It's also good for our Association, though. When I was president I had the good fortune to travel to some of the ABA meetings, and almost all of the other states have a problem getting young lawyers involved. And our problem is we have young lawyers who want to get involved and it's nice to have that, but our young lawyers want to get involved and there's no other way for us to groom future leaders than to get them involved, allow them the opportunity. Here we can train them, we can allow them to be involved in policy decisions, we can allow them to learn more about our Association

and how it operates because it's good for the young lawyers and good for the Association. I'd encourage you to consider voting yes on the resolution.

PRESIDENT MARING: Other discussion on the motion to amend the constitution? Other discussion? Since we need to have numbers, Mr. Parliamentarian, Mr. Justice Dan Crothers, it's getting late, would you suggest that we have people stand that are in favor and opposed so that you can count, or how would you like that done?

PARLIAMENTARIAN CROTHERS: It can be a requirement for a count or the majority, so you can pick.

PRESIDENT MARING: Well, I'm going to suggest that all in favor of the constitutional amendment please stand and remain standing while Justice Crothers does the count.

PARLIAMENTARIAN CROTHERS: Where did counting come in?

MR. NEUMANN: Nobody mentioned that.

PRESIDENT MARING: Well, we need to know whether it's a two-thirds majority.

PARLIAMENTARIAN CROTHERS: Nobody said I was a math major.

PRESIDENT MARING: I don't know that you can see from up here. (Count being taken.)

PARLIAMENTARIAN CROTHERS: Twenty-one on that side. I have to count this side differently. (Count being taken.)

PARLIAMENTARIAN CROTHERS: Sixty-two in favor.

PRESIDENT MARING: Okay. Those in favor please sit down. Those opposed please stand up to be counted. (Count being taken.)

PARLIAMENTARIAN CROTHERS: Three opposed.

VOICE: Four.

PARLIAMENTARIAN CROTHERS: That's right, four.

PRESIDENT MARING: Okay. Has everyone had an opportunity to vote? Thank you. We still need to wait for our absentee ballots for tonight, but we have recorded the vote of sixty-two in favor and four opposed.

Next item of business then is to call on Jane Dynes to read the Resolutions of Thanks, and due to the lateness of the hour I think what we'll do is make the list of exhibitors and sponsors an exhibit to the transcript or in some fashion get it into the transcript so we don't need to read all the names.

MS. DYNES: Resolution #2: Appreciation.

WHEREAS, the businesses and organizations that graciously sponsored portions of the 2009 Annual Meeting and those that participated as exhibitors are:

But as you just heard, I'm not going to read them. They will be made an exhibit or somehow entered into the official record, so you can see that very long list.

Sponsors:

ALPS

American Bank Center

Basin Electric Power Cooperative

Big Muddy Bar Association

Blue Cross Blue Shield of North Dakota

Crowley Fleck, PLLP

Ebeltoft/Sickler

Edward Jones

Eide Bailly, LLP

Maring Williams Law Office

Media Productions

Nilles Law Firm

North Dakota Bar Foundation with a grant from IOLTA

North Dakota Commission for CLE

Serkland Law Firm

Smith Bakke Porsborg & Schweigert

Starion Financial

United Printing/Spit'n Image

Vogel Law Firm

W. T. Butcher & Associates, Ltd.

And the exhibitors:

ALPS

American Bank Center

Anne Carlsen Center

Benefit Specialists

Casemaker 2.1

Connecting Point Computer Center

Eide Bailly, LLP

Guardian & Protective Services

Legal Services of North Dakota

Noridian Insurance Services, Inc.

SBAND Law Related Education Program

SBAND Volunteer Lawyer Program

UND School of Law

W. T. Butcher & Associates, Ltd.

* * * * *

MS. DYNES: And,

WHEREAS, without their participation and financial support, the 2009 Annual Meeting of the State Bar Association of North Dakota would not have been the success that it was.

BE IT FURTHER RESOLVED, that the above be thanked for their gracious support."

Mr. President, I move the adoption of Resolution #2.

PRESIDENT MARING: Is there a second?

MR. McDONALD: I'll second.

PRESIDENT MARING: Let's get a second to identify by name.

MR. McDONALD: Jack McDonald.

PRESIDENT MARING: Jack McDonald seconds. Discussion on the resolution? All in favor say "aye."

GENERAL ASSEMBLY: Aye.

PRESIDENT MARING: Opposed? It unanimously passes. Resolution #2 has passed. Please read Resolution #3.

MS. DYNES: Resolution #3: Appreciation.

WHEREAS, the members of the South Central Judicial District and others have put considerable time and efforts into planning and organizing the 2009 Annual Meeting of the State Bar Association of North Dakota, and

"WHEREAS, those persons deserve special thanks for their efforts,

NOW THEREFORE, BE IT RESOLVED, that the State Bar Association of North Dakota extends a special thank you to those persons involved in the planning and organization of this Annual Meeting, particularly:

To: Members at Large: Mitch Armstrong (chair), for planning and overall coordination of a multitude of details; LeeAnn Barnhardt; Annette Bendish; Carey Goetz; Petra Mandigo-Hulm; Tiffany Johnson; Jessica Knutson; Chris Nyhus; Zachary Pelham; Tim Purdon; Justine Vinje; and Tony Weiler.

And, also, To: Margaret Lee; Diane Peterson; Jo Petersen; Holly Crothers; and the many volunteers and to the attorneys and law

firms for sponsorship and donations to the North Dakota Bar Foundation Silent Auction; and to the Nilles Law Firm for sponsoring the North Dakota Bar Foundation reception.

Mr. President, I move the adoption of Resolution #3.

PRESIDENT MARING: Is there a second to that motion?

MR. MICHAEL DALEY: Mike Daley, Bismarck, second.

PRESIDENT MARING: Mike Daley, Bismarck, seconds the motion. Discussion? All in favor of Resolution #3 say "aye."

GENERAL ASSEMBLY: Aye.

PRESIDENT MARING: Opposed? Resolution #3 unanimously passes. Thank you, Jane.

MS. DYNES: Now I'll read Resolution #4.

PRESIDENT MARING: There's a 4? All right. Go at it.

MS. DYNES: Appreciation.

WHEREAS, David Maring and his wife, Justice Mary Maring, have served the State Bar Association of North Dakota during the past year at a great personal sacrifice to themselves and their family, and,

"WHEREAS, the State Bar Association of North Dakota has been greatly improved and enriched due to their efforts,

"NOW THEREFORE, BE IT RESOLVED, that the State Bar Association of North Dakota commends President David and Mary Maring for their dedicated efforts."

Mr. President, I move the adoption of Resolution #4.

PRESIDENT MARING: And you should take over handling this motion, since I'm somewhat involved.

MS. DYNES: Is there a second?

MR. PETERSEN: David Petersen, Grafton.

MS. DYNES: Did you hear—

PRESIDENT MARING: Dave Petersen.

MS. DYNES: Oh. All right. All those in favor say "aye."

GENERAL ASSEMBLY: Aye.

MS. DYNES: Any opposed? Resolution is granted.

PRESIDENT MARING: Yes. Bill Neumann.

MR. NEUMANN: Just as a point of clarification on the vote on that constitutional amendment, Brandon in his wheelchair supported the motion

but could not stand to be counted. He would like the record to reflect a vote of 63, rather than 62.

PRESIDENT MARING: Thank you very much, Mr. Neumann. Okay. Thanks, Jane. Next we'll do the memorials, and I would ask you to stand—those that are able to stand, please stand—and we're going to remember our colleagues who passed away during the time period of June 12, 2008, through June 11, 2009.

Theodore "Ted" Camrud
The Honorable John R. Kerian
John S. Whittlesey
Daniel S. Letnes
John F. LaQua
James H. Williams
Austin G. Engel
Ronald A. Hodge
Michael L. Halpern
Robert C. Heinley
The Honorable Albert C. Bakken
Thomas J. Clifford
W. Jane Dunham
S. Lee Vinje
Dean Winkjer
Jake C. Hodny
John P. Grosz
James R. Johnson
The Honorable Frank Kosanda

We honor our members who have died in the past year. Thank you very much. And you can be seated. Now we have elections, and we'll conduct the elections for president-elect and for secretary-treasurer.

We have had nominations that have already been provided to the Bar Association, and based on our procedure then no additional nominations would be accepted from the floor. And I'd call upon Alice Senechal to nominate Sandi Tabor as the president-elect.

MS. ALICE SENECHAL: Alice Senechal, Grand Forks. President Maring, thank you. It is my honor to nominate Sandi Tabor for the office of president-elect. Do we have some—there we go. Okay. Thank you. There are many reasons that Sandi Tabor should be elected to this office. Let me review ten of them.

Quickly, number ten: Esther Williams is not eligible. Some of you know that Sandi is one of a group of women who are Esther Williams wan-

nabes. They mostly get together and laugh and have fun, and I'm told that they sometimes drink something that is called "Esther Gin." It shows that Sandi has a keen sense of humor. That is an essential trait for someone who is to be president of this Association.

Number nine: Sandi can shingle a lake cabin. That shows that she is eager and open to learning new skills, something that's important for all lawyers.

Number eight: She's a good aunt, she's a good daughter, she can balance family and work. We should all strive for that.

Number seven: She's quick on a jet ski. She can beat the critics.

Number six: She knows all the rooms in the State Capitol. It's an important body of knowledge during a legislative year.

Number five: She was a member of the Joint Committee on Attorney Standards "onesie" team. She is a survivor. Randy Lee, Sandi, and I spent I don't want to know how many hours reviewing each and every word of each and every comment of Rules 1.0 to 1.9. We are here to talk about it. She is a survivor. She can do anything.

Number four: It's the only Bar Association position she has not yet held. She has been our executive director, she has worked on the Joint Committee on Attorney Standards and has chaired that committee. She has worked tirelessly on the Legislative Committee year after year, session after session. She is now a member of the Board of Governors. Her work for the Bar Association has earned her the Distinguished Service Award.

Number three: Sandi has a passion for good lawyering in her own work and in making it a better environment for the rest of the lawyers here in North Dakota.

Number two: Sandi has a fundamental orientation of service to others, a hallmark of our profession. We see that in her work as Chief Deputy in the Attorney General's office for a number of years; twelve years, I think, on the Bismarck City Commission; the Indigent Defense System that exists because of Sandi's efforts a few years ago; and she's now taken on the task of improving the way we deliver pro bono services. She has a fundamental orientation of service.

And for all of those reasons, number one: Sandi Tabor will be an outstanding president of the State Bar Association of North Dakota. Thank you. (Applause.)

PRESIDENT MARING: Thank you, Alice. Is there a second to that motion?

MS. SHERRY MILLS MOORE: Yes. Sherry Mills Moore seconds that motion.

PRESIDENT MARING: Any discussion on the motion that Sandi Tabor becomes the president-elect? Hearing no discussion, all in favor of that motion say "aye."

GENERAL ASSEMBLY: Aye.

PRESIDENT MARING: Opposed? Sandi Tabor is unanimously elected as our president-elect. Congratulations, Sandi. (Applause.) Any words of wisdom you want to impart now or do you want to keep those?

MS. TABOR: Save them.

PRESIDENT MARING: Save those words. Next we'll go into the election of the secretary-treasurer and I'll call upon David Petersen.

MR. PETERSEN: I'm here.

PRESIDENT MARING: Yes. Go ahead, David.

MR. PETERSEN: I rise in support of Mike Williams for our incoming secretary-treasurer. As you know, Mike has stepped in recently to complete this, and I think in all history we haven't given a rebate of dues and so maybe in some small part that was attributable to him, maybe not, but we'll say that anyway.

But, anyway, Mike has been a long-time servant to this organization. He has served in almost every role, in fact a couple times. He comes back with a steady hand, a keen intellect, and the interest in serving you in this way for another two years. I urge your support of him for secretary-treasurer.

PRESIDENT MARING: Is there a second?

MR. JOHN KAPSNER: Second.

PRESIDENT MARING: Who is it?

MR. KAPSNER: John Kapsner.

PRESIDENT MARING: John Kapsner seconds. Any discussion of the motion? All in favor of Mike Williams to be elected as secretary-treasurer say "aye."

GENERAL ASSEMBLY: Aye.

PRESIDENT MARING: Opposed? Michael Williams is unanimously elected as secretary-treasurer. Congratulations, Michael. (Applause.) And now it's my great pleasure to call Jane forward so I can hand her this very heavy gavel. And let's show our appreciation and congratulations to Jane as our new president. (Applause.) (Handing over gavel.)

PRESIDENT DYNES: Thanks, Dave. It's been a good year. You've done a great job.

PAST PRESIDENT MARING: All right.

PRESIDENT JANE DYNES: I don't have a lot to say. I would just like to say the spirit shown in this room this afternoon is what our profession, our Association is all about. I'm looking forward to the upcoming

year and the opportunity to serve, and I hope everybody sticks around and makes it to the Bar Foundation Auction in just a little bit. We'll see you later. Thank you. (Applause.)

PAST-PRESIDENT MARING: Do you want to finish it up?

PRESIDENT DYNES: No, you take it away.

PAST-PRESIDENT MARING: No, actually, why don't you remind everyone to come and bid at 6:30.

PRESIDENT DYNES: Okay. Bid, bid, bid at 6:30. Remember, it's not a "Blue Light Special" kind of deal.

PAST-PRESIDENT MARING: And entertain a motion to adjourn.

PRESIDENT DYNES: Oh, I'll entertain a motion to adjourn.

CHARLES DeMAKIS: I make a motion we adjourn.

PRESIDENT DYNES: Who was it?

CHARLES DeMAKIS: Charles DeMakis.

SANDI TABOR: I second.

PRESIDENT DYNES: Second, Sandi Tabor. Thank you. We're adjourned.

CERTIFICATE OF COURT REPORTER

I, Ann M. Bremer, a Registered Professional Reporter,

DO HEREBY CERTIFY that I recorded in shorthand the foregoing proceedings had and made of record at the time and place hereinbefore indicated.

I DO HEREBY FURTHER CERTIFY that the foregoing typewritten pages contain an accurate transcript of my shorthand notes then and there taken.

Dated at Minot, North Dakota, this 3rd day of July, 2009.

Ann M. Bremer, Registered Professional Reporter