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Report of Judicial Selection Committee/Report of Committee on Jurisprudence and Improvement of the Law

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copies to each member on this day with the request that they cooperate in submitting to the Bar Association at our next annual meeting all ideas in furtherance of the objectives and continuation of this committee.

Respectfully submitted,

HON. J. J. MORIARTY, Chairman	HON. J. F. D. MEIGHEN
HON. ALBIN S. PEARSON	BELDIN H. LOFTSGAARDEN
HON. BYRON R. WILSON	DONALD O. WRIGHT
HON. MARK NOLAN	JAMES T. SPILLANE
HON. JOHN A. WEEKS	CLARENCE R. SMITH

REPORT OF JUDICIAL SELECTION COMMITTEE

TO THE MINNESOTA STATE BAR ASSOCIATION:

Your Committee reports:

Report

1. Meetings were held whereby the machinery was set up for the holding of such plebiscite, and ballots were distributed to all the lawyers in the State of Minnesota whose addresses were available.

2. The ballots were counted by the Committee in Minneapolis, Minnesota, on the 26th day of September, 1946, and the results thereof were as follows:

Julius Olson	1845
Frank Gallagher	936
W. C. Christianson	838
Rollin Johnson	633

3. After the results were determined, public announcement thereof was made through the press.

Respectfully submitted,

JOHN W. McCONNELoug, Chairman	HERBERT H. DREWS
ROBERT F. LEACH	E. F. HOESCHEN
WARREN MILLER	CALVIN HUNT
P. M. LINDBLOOM	JOHN D. JENSWOLD
CHARLES B. HOWARD	CLARENCE O. HOLTEN

REPORT OF COMMITTEE ON JURISPRUDENCE AND IMPROVEMENT OF THE LAW

TO THE MINNESOTA STATE BAR ASSOCIATION:

Your Committee recommends:

Recommendations

FIRST—That the subcommittee which has already been appointed make a complete research and study of the subject of abolishing the classification and writs of certiorari to review, mandamus and prohibition and substituting a simple practice act for obtaining such relief.

SECOND—That the special committee now engaged in preparing a complete revision of our non-profit corporation laws continue with its work and submit its report at the conclusion thereof.

THIRD—That in view of the recent enactment by the Legislature directing the Supreme Court to create a committee of the Bar and, on the report of the committee, to adopt rules for pleading and practice, the Bar Association appoint a committee of contact and cooperation with the official committee appointed by the Supreme Court for the aforesaid purposes.

FOURTH—That further consideration be given to the necessity of clarifying Sections 219.77 and 219.78 of the Statutes.

FIFTH—That a committee be appointed to act in conjunction with the Committee on Uniform State Laws and keep in touch with the work of the American Law Institute in preparing and having adopted a new Commercial Code.

SIXTH—That a study be made of the advisability of amending the present statute to provide that in all civil actions a five-sixths jury verdict may be returned after six hours' deliberation.

SEVENTH—That a study be made of the advisability of recognizing trial by special jury in certain contested title actions.

EIGHTH—That a special committee be appointed to consider and review Chapter 502 of the Minnesota Statutes, and particularly Section 502.78 thereof relating to Powers of Appointment, and to consider and review Section 559.02 of the Minnesota Statutes relating to service on unknown defendants in actions to determine adverse claims to real estate.

Report

In support of its recommendations the Committee makes the following report:

As to the Committee's first recommendation:

In the field of special proceedings as distinguished from actions, the Committee feels that undue emphasis is placed upon the form of remedy. There are a great variety of such special proceedings, each having its own forms, pleadings and practice provisions. The litigant must decide at his peril whether one remedy or another is the proper one. He may not learn of the error of his choice until after the time for appeal or review has expired and the applicable statute of limitations has run, and great injuries may result from the rule requiring the choice of a particular remedy on a certain state of facts.

As to the Committee's second recommendation.

The special committee now engaged in preparing a revision of our non-profit corporation laws is functioning and will submit its report at the conclusion of its work.

As to the Committee's third recommendation.

It is considered advisable to have the Bar Association designate a group of its members as its representatives to cooperate with the Supreme Court and the committee created by it for the adoption of rules of pleading and practice. Since the new rules on pleading and practice will have the effect of repealing several sections of our present statutes, we feel that the work of such committee will be highly important and that the Association should be kept advised from time to time of the progress of this work.

As to the Committee's fourth recommendation.

This recommendation concerns a study of Sections 219.77 and 219.78 which the Committee thinks are not ambiguous or inconsistent. The Revisor

of Statutes has advised your Committee, however, that his office has received communications from practicing attorneys who seem to think that the two sections cover identically the same ground and that one of the sections should be deleted. Your Committee feels, however, that Section 219.77 applies solely to employees of railroads, while Section 219.78 applies to persons who are employed by employers other than railroads. In view of the misunderstanding which apparently exists in the minds of some members of the profession, it is felt advisable to have a further study of the two sections.

As to the Committee's fifth recommendation:

When the American Law Institute completed its work, it was thought unwise to have so useful an institute close its affairs. The institute approached the National Conference on Uniform State Laws and an agreement was reached between them that if they could raise sufficient funds they might create a new Commercial Code. They succeeded in raising the necessary funds for this purpose and are quite well along with the preparation of the Code. It is deemed inadvisable to present any of the Bills to the Legislature for adoption until the Code has been completed since the chapters are so inter-related that until the research has been completed, it will not be possible to arrange the wordage of each chapter as not to conflict with other chapters. The authors of the proposed Code desire to present it to at least one session of the Congress, probably the 81st, and get the Federal reaction before approaching the States. We assume that the final Code will be in form for introduction in the Minnesota Legislature at the 1951 Session. This will entail the rewriting and probable repeal of eight important chapters of Minnesota Statutes 1945. Our commercial chapters are very much outdated. The Negotiable Instruments Act, for example, was enacted in 1896. Since its adoption the Federal Reserve Bank and its subsidiaries or agents have come into existence and the bank clearings system has been adopted. All of our commercial chapters are out of line with the Federal Acts. For the reasons indicated, we recommend the appointment of a committee to keep in touch with the work of presenting and having adopted a new Commercial Code at the appropriate time.

As to the Committee's sixth recommendation:

Your Committee has received suggestions from numerous members of the Bar that our present statute be changed to provide for a five-sixths jury verdict after six hours' deliberation in all civil actions. Your Committee understands that the members of the Association are not in full accord with this suggestion. For that reason a study of the advisability of seeking an amendment of the present statute is recommended.

As to the Committee's seventh recommendation:

It has been called to your Committee's attention by those acting as Referees in contested title actions that our State should recognize and permit trial by special jury in certain cases involving titles and we suggest a study of this matter by the incoming committee, and particularly the article on this subject appearing in 31 M. L. R., P. 232, and note No. 91, P. 251.

As to the Committee's eighth recommendation:

Since there is evidently some misunderstanding among the members of the Association as to the meaning of the provisions of Chapter 502 of the Minnesota Statutes, and particularly Section 502.78 thereof relating to Powers of Appointment, and as to the meaning and sufficiency of the provisions of Section 559.02 relating to service on unknown defendants in actions to determine adverse claims to real estate, it is deemed advisable by your Committee to have a special committee appointed at the next annual meeting to consider and review the above statutory provisions so that the same may, if found necessary, be clarified, amplified or otherwise changed.

Your Committee further reports that pursuant to the recommendation