PROCEEDINGS

of the

IDAHO STATE BAR

VOLUME I, 1925

First Annual Meeting

Lewis-Clark Hotel

Lewiston, Idaho, Sept. 3, 4 and 5

1925

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CAPITAL NEWS PUBLISHING CO., BOISE

The Idaho State Bar is organized in conformity to and functions under, statutes of the State of Idaho, found as Chapter 211, Session Laws of 1923, and Chapters 89 and 90, Session Laws of 1925.

Rules for Admission of Attorneys, Conduct of Attorneys, Disciplinary Proceedings, and General Rules, as adopted by the Board of Commissioners and approved by the Supreme Court of Idaho, are published in pamphlet form and may be had upon application to the secretary.

COMMISSIONERS OF THE IDAHO STATE BAR

JOHN C. RICE, Caldwell, Western Division 1923-25
N. D. JACKSON, St. Anthony, Eastern Division 1923-25
ROBT. D. LEEPER, Lewiston, Northern Division 1923-26
FRANK MARTIN, Boise, Western Division 1925-27
A. L. MERRILL, Pocatello, Eastern Division 1925-28

OFFICERS OF THE IDAHO STATE BAR

JOHN C. RICE, Caldwell, President 1923-25
N. D. JACKSON, St. Anthony, Vice President 1923-25
ROBT. D. LEEPER, Lewiston, President 1925-26
FRANK MARTIN, Boise, Vice President 1925-26
SAM S. GRIFFIN, Boise, Secretary 1923-

COMMITTEE ON LEGISLATION

B. W. Oppenheim, Boise, Chairman
Noel B. Martin, Lewiston
Clency St. Clair, Idaho Falls
B. S. Varian, Weiser
James R. Bothwell, Twin Falls

OFFICES OF THE COMMISSION

36 Federal Building, Boise, Idaho

ANNOUNCEMENTS

Attorney's License Fee—$5.00, payable annually prior to July 1, to the State Treasurer, Boise, Idaho.

Meetings of the Bar—The Western and Northern Divisions will hold Division meetings in 1926 at times and places to be fixed, respectively, by Commissioners Martin and Leeper.

Annual meeting of the Idaho State Bar will be held at Pocatello, Idaho, at a time to be announced later.

An election of a commissioner for the Northern Division will be held in 1926.

REPORT OF ANNUAL MEETING

OF THE

IDAHO STATE BAR

Lewiston, Idaho, Sept. 3, 4, 5

1925

The Idaho State Bar was called to order at 10 o'clock a. m. on September 3rd, 1925, at the Lewis-Clark hotel by R. D. Leeper, of Lewiston, vice president, in the absence of John C. Rice, President of the Idaho State Bar, who was unable to attend.

The chairman announced that, for the reason that many members enroute to the meeting would not arrive until the afternoon, the regular program for the morning session would be postponed until the afternoon.

A canvassing board to canvass the election returns for commissioners of the eastern and western divisions, was named at this time by the chairman. The board consisted of Jay Parrish, Boise, P. E. Stookey, Lewiston, and R. H. Johnson, Boise.

Mr. Leeper stated that some embarrassment had been occasioned to local members in charge of arrangements for the convention, by reason of the fact that Chester H. Rowell, of San Francisco, scheduled to speak on the "World Court", had telegraphed that he would not attend unless he could meet Senator William E. Borah in debate on this question. The chairman stated that there had been no mention of a debate in the negotiations with Mr. Rowell and that he regretted to announce Mr. Rowell's refusal to come to Lewiston.

John T. Becker announced that a banquet for members of the association only would be held on the following evening, followed by a dance from 9 to 12, and that music would be provided in the lobby of the hotel each afternoon from 1:30 o'clock until 2 o'clock.

The meeting recessed until 2 o'clock in the afternoon.

AFTERNOON SESSION, SEPTEMBER 3

The Vice President introduced Dr. E. G. Braddock, mayor of Lewiston, who delivered an address of welcome. Dr. Braddock said:

"Mr. Chairman, Members of the Bar of the State of Idaho, Ladies and Gentlemen: I hope that during your visit here you will give some time and thought to the great wave of crime that is sweeping our country and gnawing at our foundations. It is through you that we can find out the cause for this trouble and arrive at some treatment that will cure and eliminate this great evil. You attorneys must do this the same as a doctor determines the cause of a disease before he can effect a cure. I do not think that the doctor should be given such an active part in the investigation of crime. Too often these so-called

medical experts are men so vile and lacking in conscience that they will make untrue statements. Being a member of the profession, I think I can make that statement without treading on any toes.

"In behalf of the people of Lewiston, I hope that you will have a pleasant time while you are in our city and that you will enjoy yourselves so much that you will want to come here for another convention."

Chairman Leeper:

"I am acting in the place of Judge Rice, President of this body, and, therefore, I will present to you a statement which he has sent to me and which he would have made had he been here. Before I do this, however, I should like to read two or three letters and telegrams. This is a letter from Commissioner N. D. Jackson, of St. Anthony.

"Gentlemen: I regret very much my inability to attend the annual meeting at Lewiston. I trust and believe that the meeting will be of lasting benefit to the Bar and assist in safeguarding and preserving the integrity of the profession.

"Former Chief Justice J. F. Ailshie wires from Detriot, Mich., "My best wishes for a successful meeting of the Bar Association. It is hoped that your deliberations may prove beneficial to both the profession and the public and that you may also be able to point out a way for the more expeditious disposal of litigation.'

"Senator Borah will be here tomorrow. He has been in touch with Chester H. Rowell concerning the speech Mr. Rowell was scheduled to make here and I have just received the following wire from Mr. Rowell: 'Berkeley, Calif., Leaving Shasta Limited tonight. Can just make it by Saturday night with only fifteen minutes margin to catch connection at Portland.'

"I will now proceed with Judge Rice's address:

ADDRESS OF JUDGE RICE

At this, the first meeting of the State Bar held under the authority of the new law, it would seem to be most profitable to consider the changed situation brought by this law, and take a look into the future.

The law itself was passed at the 1923 session of the legislature. Under its provisions the three commissioners were elected. They met in due season and organized, but because the law did not make an appropriation the commission was without funds and found it impossible to function. The law having been passed, it received an emphatic endorsement at the hands of the 1925 legislature. At this session an appropriation bill was passed, making the funds already collected and those to be collected in the future available for the purpose of the commission. The law was further amended in other particulars and changed so that it is apparently in good working shape.

This law makes radical changes in the status of the practicing lawyers of the state and also enlarges the field of activities of the Bar materially and provides machinery by which these enlarged activities may be carried on. As to practicing lawyers in the state the law, in effect, requires compulsory membership in what we may term the State Bar Association. In this particular the sanctions of the law are adequate. It requires every lawyer practicing his profession to obtain a license, which of itself makes him a member of the association. The law not only makes it a misdemeanor to practice law without a license or to hold one's self out as a lawyer without a license, but also provides means for disciplining, by the Bar itself, those who refuse.

Undoubtedly, it will be necessary in time to obtain a clear definition as to what it means to practice law or to hold one's self out as a lawyer. So far but one case has been litigated in the courts involving this question. This case grew out of advertisements inserted in the Boise newspapers by one who had never been admitted to practice. The case was tried to a jury and the defendant found not guilty. Other cases will no doubt arise from time to time until finally a decision will be obtained clearly defining what it means to practice law.

The enlarged activities of the bar of the state as exercised through its commission fall into three divisions:

First: The Bar Commission has charge and, subject to the supervision of the Supreme Court, control over the matter of admissions to practice law.

Second: Prescribe rules of conduct for practicing lawyers.

Third: Takes charge of all disciplinary proceedings.

In all lines of its activity the Commission is subject to supervision and control by the Supreme Court.

As soon as a meeting could be arranged after the adjournment of the last session of the legislature, the Commission met at Boise and, pursuant to authority given in the law, adopted a set of rules for the government of its activities. A copy of these rules has been placed in the hands of every lawyer of the state. I hope that each one has taken the time to read the rules and that they have been found to be appropriate and complete. It was no small task to formulate this set of rules. It is hoped that they will be found simple and practicable and of such character that they will not require much amendment in the future. The rules were submitted to the Supreme Court and with some slight changes were approved. Probably you have all noted the disagreement of two of the members of the court as to the rules in one particular, namely as to the power of the Bar Commission to require members of the bar to assume and execute the duties which may be delegated to them or incur liability to disciplinary proceedings. These duties, it will be observed, have to do mainly with disciplinary proceedings. As the Commission understands the law, ample authority is contained therein for the rules as they stand. In justification it should be remembered that the members of your commission receive no compensation. They perform a public service and give their time, attention and efforts solely for the benefit of the state in general and of the legal profession in particular. The regular duties connected with their office require a considerable amount of time. Much more, I imagine, than most of you realize. The state is large in extent, which fact would render it difficult and expensive if the commission should undertake to personally investigate all charges and conduct all hearings. Not only that, but it is only fair to assume that all the honorable members of the bar are equally interested with the members of the commission in maintaining proper standards of practice and will be perfectly willing to render necessary assistance when called upon.

Thus far the commission has conducted one examination of candidates for admission to the bar. The result was somewhat surprising. Of twelve candidates, who took the examination, four were found eligible for admission and eight were rejected. Those desiring admission to the bar must meet the required standard of moral fitness and educational qualifications.

Under the heading of prescribing rules for the conduct of lawyers, you will observe that the commission has not prescribed any elaborate code of ethics. In addition to the statutory code of ethics, which, by

the way, is fairly complete in itself, a few of what were deemed to be the more important rules of conduct were prescribed. It may be that this part of the commission's work will in time need further elaboration. It is believed that it is the intent of the law that violations of the rules of conduct are cause for discipline.

Several disciplinary proceedings were authorized by the commission at its last meeting. I do not have reports as to what has been done, but, unless the matters are proceeding in due course, the commission will undoubtedly have to use pressure and require that these matters be proceeded with promptly.

The effect of the new organization upon the bar of the state ought to be beneficial. It should lead to greater professional interest and be conducive to higher standards in the profession. That the meetings of the bar must be held in the various sections of the state is, in my judgment, a wise provision. This will bring the work of the bar association closer to the lawyers of the different sections of the state and will have a tendency to advance the objects which the association should foster.

Again a united bar and an interested and enthusiastic bar should be able to increase in prestige and in influence in the state. The bar of the state is entitled to become a recognized power in certain directions. The bar almost without exception stands for the supremacy of the law. As a body it should stand for the enforcement of the law and become a pronounced factor in support of law and order. Its members are particularly interested in the machinery by which the state seeks to administer justice. The bar should have a voice, indeed, in my judgment, almost a controlling voice, in the selection of the judicial officers of the state.

Its counsel should be sought in the legislative halls of the state and especially so in regard to matters of practice and procedure. I suggest that there should be a standing legislative committee whose duty it shall be not only to examine into and propose amendments and changes in procedural law, but also be in a position to advise and counsel with regard to the legal effect of any proposed legislation whenever its counsel should be sought. For concrete examples, I shall refer to two measures enacted by the last legislature.

First, the amendment to the statute permitting general denials. I do not know what is the concensus of opinion among the members of the bar of the state as to whether this change was desirable or not, but having been made, it is desirable that it be properly used. I venture to suggest that no high class lawyer will make use of the general denial with the hope of tripping his adversary or catching him unprepared to furnish proof of formal allegations. If it is here to stay, and it probably is, the bar association can foster a general understanding that proper professional practice requires the defendant's attorney to admit allegations of the complaint which are manifestly true and of which it would impose hardship upon the opposing side to be required to furnish proof. Personally I am not opposed to the general denial if it is properly used. On the contrary, it tends to simplify pleadings. It would be well to consider the advisability of urging the passage of a statute similar in purport to one in the state of Utah, which provides that allegations of the execution of written instruments and endorsements thereon, of the existence of a corporation or partnership, or of any appointment or authority, or the correctness of any account duly verified by the affidavit of the party shall be taken as true unless the denial be specific and be verified. There might be added to such a statute also allegations of the existence of the marriage relation and perhaps other formal allegations which would occur to those drafting such a bill.

I refer also to Chapter 62 of the 1925 Session Laws providing for probate procedure in the case of what is called non-intervention wills. The bill as passed, it appears to me, is likely to be fruitful of litigation and productive of defective titles. I most respectfully suggest that the bar association could render valuable assistance in criticising and formulating such measures.

I have aimed in this address to be suggestive only. The matters I have touched upon should interest all the members of the bar of the state. I trust that other matters of greater importance and interest may be suggested and called up for discussion at this meeting of the association."

A letter from Oscar W. Worthwine, Commander of the American Legion, Department of Idaho, was read as follows:

"The Idaho Department of the American Legion takes pleasure in sending greetings to the Idaho State Bar in convention assembled at Lewiston, Idaho.

"Many of the ideals and purposes of the two organizations are identical; and the Legion is not unmindful of the great service rendered during the war by your members in connection with the various war-time agencies, particularly in the selective draft; nor have we forgotten the many services rendered without thought of compensation by you to our comrades since the war. We wish you God speed in the great work of Americanization you have undertaken; in this we pledge you our heartiest cooperation.

"Feeling confident that your deliberations will be guided by the high ideals of patriotism and service which furnished the foundation of your great profession, and assuring you of our good wishes and high regard, we are very sincerely,

"AMERICAN LEGION.

"Department of Idaho, Oscar Worthwine, Commander."

The chairman called upon the Secretary, Sam S. Griffin, of Boise, to make his annual report.

REPORT OF SECRETARY

The Idaho State Bar and its Board of Commissioners were organized pursuant to an Act of the Legislature passed at the 1923 Session (Chapter 212, 1923 Session Laws) presented to that body by a committee appointed at a general meeting of the Idaho State Bar Association.

The Idaho State Bar Association had considered the matter at two general meetings, the first held in 1921 at Boise, when a committee, previously appointed, reported on the necessity and desirability of such an act, and approved in general the so-called Goodwin Act, which had, after several years of study and reports to the American Bar Association, been formulated and recommended by a committee of the latter association headed by Mr. Goodwin.

Pursuant to the Act the Clerk of the Supreme Court appointed Karl Paine and Sam S. Griffin, members of the Boise Bar, to assist in conducting an election for commissioners; notices calling for nominations were sent to the Bar, and thereafter ballots prepared and sent

to the Bar. Upon canvass of the vote, John C. Rice of Caldwell, Idaho, was elected commissioner for the Western Division, N. D. Jackson of St. Anthony, Idaho, for the Eastern Division, and Robert D. Leeper, of Lewiston, Idaho, for the Northern Division.

The Board met and organized August 7, 1923, at Boise, all commissioners present. They drew lots for length of terms, resulting in a term of one year for Rice, two years for Jackson and three years for Leeper. Rice was elected president, Jackson vice president, and Sam S. Griffin, secretary.

At the first meeting discussion was had of rules to be formulated for admission, ethics, discipline and general rules, and the work of drafting such rules apportioned. Regular dates for meeting of the Commission were fixed for the first Mondays of March, June, September and December, the place to be designated by the president. Discussion was also had of disciplinary matters then pending before the voluntary Idaho State Bar Association, the chairman of the State Grievance committee reporting thereon.

Prior to the meeting of the Board the State Auditor had announced that he did not consider that the act carried an appropriation. Question had also been raised as to the constitutionality of the act. It was considered advisable to have the matter passed upon, and to do so Commissioner Jackson presented his claim against the state for expenses in attending the Board meeting. This claim being refused by the auditor, original application was made to the Supreme Court for Writ of Mandate, Frank Wyman, B. W. Oppenheim and Sam S. Griffin of Boise, and H. B. Thompson of Pocatello, representing Mr. Jackson, the Attorney General representing the Auditor, and briefs being filed by Mr. Goodwin, chairman of the American Bar Association committee, as amicus curiae; all constitutional matters were thoroughly briefed and argued and submitted December 10, 1923; decision was rendered July 3, 1924, three judges holding that there was no appropriation, two holding there was; two holding the act unconstitutional, two holding it constitutional, and one expressing no opinion on constitutionality (Jackson v. Gallet, 39 Idaho 382, 228 Pac. 1068). Petition for rehearing was filed but denied, the original opinion, however, being somewhat modified, and as modified appearing in the official report. Final determination of the case was not until early September, 1924.

Pending the litigation the Board was not, of course, in a position to go forward, although correspondence and routine matters in the secretary's office were attended to in considerable volume. The Court during this period and until June, 1925, conducted examinations for admission.

The Board again met at Boise November 24th, 1924, and formulated tentative rules for presentation to the Supreme Court, the Board, of course, not being in a position to act under the statute until rules were approved by that body. Discussion was also had of the necessity and desirability of amendment of the statute to eliminate inconsistencies, provide an appropriation, clarify provisions, and obviate objections raised in the litigation above mentioned.

Amendments to the organization act were presented to the legislature and passed at the 1925 session (Chapters 89, 90, 1925 Session Laws.) Thereafter the Board again met, April 6, 7 and 8, 1925, at Boise.

Meantime there had been gathered together rules of conduct, admission and discipline from practically all the higher courts and bar associations of the United States. Alabama had organized under a similar act, and its commission had formulated rules; North Dakota had a somewhat similar act. A great number of other states were, and are, considering such legislation.

The Board determined that under the act the general meeting of the Bar should be held at Lewiston, September 3, 4 and 5 of this year; that the terms of Rice and Jackson expired this year, and provisions were made for elections for successors by the Bar of their divisions; arrangements were made for meetings in the Western and Eastern Divisions, which meetings were held at Boise, June 26, 1924, and at Pocatello, August 24, 1925; approval of admissions permitted by the Supreme Court pending adoption of rules was given so that no one might question such admissions; the properties of the Idaho State Bar Association tendered to the Idaho State Bar by the former at its meeting in 1923, were accepted; provision was made for notice to all attorneys who had not paid 1923 and 1924 license fees so that ample opportunity would be given them to comply with the law before the Board would be required to take action thereon.

Rules were again considered and drafted in final form, and presented to the Supreme Court for approval. After approval, on April 27, 1925, they were published and copies sent to all known practicing attorneys in the state. They have been effective since April 27, 1925, and have governed, and now govern, admissions, conduct, discipline and general matters.

There had been filed, and were pending, at this time fifty complaints against attorneys in this state; most of them were not verified. The complaints were, as required by the rules, apportioned to the commissioner in whose division the accused resided, for preliminary investigation and report.

Arrangements were made for an examination for admission to be held at Lewiston June 2, 1925, the work of formulating questions being apportioned among the commissioners.

Forms for disciplinary proceedings, admissions and notices of meetings were drafted and provision was made for the necessary files, stationery, forms, etc., of the secretary's office.

The Board again met June 1, 1925, at Lewiston. The applications of twelve persons for admission by examination were examined; in some cases personal interviews were had. Certificates permitting examination were issued and on June 2, 1925, under the direction of the Examining committee, consisting of Noel B. Martin, Lewiston, and Walter H. Hanson, Wallace, examination was conducted. Grading of papers was by each of the members of the Examining Committee and each of the commissioners present, and the secretary, separately. As a result the board recommended the admission of four, the rejection of eight, which recommendation was concurred in by the Supreme Court.

The Board members reported on complaints which previously had been submitted; many complainants, although notified of the requirements of the rules, had failed or refused to verify complaints. These were, therefore, dismissed. Other complaints were dismissed as involving matters purely the subject of contractual relations and properly the subject of civil proceedings. Some were retained for further consideration. It has been usual in making preliminary and informal investigation to give opportunity to the accused attorney to submit, if he so desires, a statement respecting the matter complained of.

Two of these were against persons not attorneys and over whom the

There have been fourteen verified complaints filed with the Board.

Board had no jurisdiction; two involved dispute over contractual relations; these four have been dismissed. Seven will be the subject of preliminary report of investigation at the meeting of the Board September 3rd; in one prosecuting committee has filed charges before a disciplinary committee and service is now being made; in two a prosecuting committee will report to the Board at this meeting. A prosecuting committee appointed on the Board's own motion has investigated and will report at this meeting as to whether formal complaint should be filed and proceedings taken for disbarment.

Through the secretary's office most of the correspondence and detail is handled. There has been set up a visible card index system, through which can be ascertained the record of practicing attorneys. Some data is not complete as yet, but the cards are designed to show the history of admission to practice in this state, admissions in other states, schools, birthplace and date, naturalization, previous addresses, public offices, Bar Committee appointments, military service, license payments, history of disciplinary proceedings. By means of color signals, all attorneys in any county or division can be located, and the condition of payment of annual licenses. This file also contains a transfer section for removals and deaths; a list of applicants whose applications are pending; those rejected; local disbarments and suspensions; and a list of disbarments and suspensions; and a list of disbarments in every state in the United States, this data being supplied through the clearing house of the American Bar Association.

Forms include applications for admission by examination on certificate; certificates of rejection; certificates permitting examinations; recommendation to the Court; reference to prosecuting committees and to disciplinary committees; citations; subpoenas; notices of hearings; notices of delinquent license fees; register of complaints.

Files are kept for correspondence with each commissioner, members, committees, American Bar Association and Journal; State Treasurer, Claims, information to applicants, etc., for separate applications and complaints, requisitions, claims pending, claims filed, elections, meetings, etc.

The Board itself handles no funds except a small revolving fund. The secretary is under bond covering this. All license fees are payable on or before July 1st of each year to the State Treasurer who issues in triplicate a combination receipt and license, retaining one and sending two to the secretary. If the payee is admitted, and not disbarred or suspended, the secretary executes the license, retains one copy and mails the other to the attorney.

Every effort has been made to give every opportunity to active practitioners to prevent delinquency. Every official notice sent gives notice of time and amount of payment. For 1923 and 1924 special notices have been sent—three to delinquents; for 1925 one special notice, notice of division meetings, this meeting and ballots carried a notice respecting license fees. Delinquency automatically cancels membership in the Idaho State Bar and right to practice while delinquent.

The present list of the secretary shows active in this state—

Northern Division	146
Eastern Division	177
Western Division	299
Out of State	7
Total	629

When listing was commenced it was found that there was no accurate list of active practicing attorneys; a combination of the Supreme Court's list and the Idaho State Bar Association's list was used, and inquiry made of each county through the Clerks of District Courts. These were checked with license payments; the list started with over 800 names and has been cut down by subsequent information. A recheck will be made this fall as delinquencies for several years in some instances apparently indicate removal or death, while it is thought some foreign attorneys practicing in Idaho are not on the list and fail to pay the license fee.

DELINQUENTS

1923 (1924, 1925 paid)	4	
1924 (1923, 1925 paid)	11	
1925 (1923, 1924 paid)	106	(possibly some inactive, removed or dead.)
1923, 1924 (1925 paid)	9	
1923, 1925 (1924 paid)	10	(possibly some inactive, removed or dead.)
1924, 1925 (1923 paid)	34	(possibly some inactive, removed or dead.)
1923, 1924, 1925	26	(possibly some inactive, removed or dead.)

200 delinquencies out of a possible 1887.

Stated another way, there are delinquencies in
1923— 49 alone and in combination with other years,
1924— 80 alone and in combination with other years,
1925—176 alone and in combination with other years.

The net membership of the Idaho State Bar on this date (August 28th) is therefore 453, because delinquents for 1925 are not, under the law, members. It may be said that back and current payments are coming in at the rate of from ten to twenty a week, and many of the foregoing will shortly be eliminated.

Up to August 28th, 1925, there had been reported to the State Auditor total three-year payments of $7,590.00, disbursements of $2,378.87, balance in the appropriation on August 28, 1925, $5,202.13.

Expenditures covering expenses of the Commission and Bar from August 7, 1923, to August 28, 1925.

Travel expense of Commissioners and Secretary	$ 284.49
Salary of Secretary	1,150.00
Stenographer	124.76
Printing, forms and notices, stationery, index cards	474.70
Examinations—	
Printing questions	43.50
Examining committee	34.25
Books	9.00
Kardex Filing System	167.25
Stamps, telegrams, telephone	99.92
	$2,387.87

Mr. Stookey, chairman of the committee appointed to canvass the returns for commissioners in the Western and Eastern Divisions, made the following report:

"We, the undersigned judges appointed to canvass the vote of the Eastern Division, and the Western Division, of the State Bar of the State of Idaho for commissioners for said divisions hereby report and certify that we duly canvassed the votes of said respective divisions with the following results, to-wit:

"Eastern Division: A total of forty-three votes were cast and two were rejected. The candidates received the respective number of votes as follows:

Name of Candidate	Number of Votes Received
N. D. Jackson	7
Thos. D. Jones	3
A. L. Merrill	26
J. H. Peterson	4
O. A. Johanneson	1
E. A. Owen	1
Otto McCutcheon	1

"A. L. Merrill, having received a majority of the votes cast, was declared to be elected.

"Western Division: Total of fifty-eight votes were cast and four rejected. The candidates received the respective number of votes as follows:

Name of Candidate	Number of Votes Received
Frank Martin	56
B. W. Oppenheim	1
McKeen F. Morrow	1

"Frank Martin, having received a majority of the votes cast, was declared elected. Dated at Lewiston, this 3rd day of September, 1925.

JAY M. PARRISH,
P. E. STOOKEY,
RICHARD H. JOHNSON,
Judges.

"We, the undersigned judges, appointed to canvass the vote of the Eastern Division and the Western Division of the State Bar of the State of Idaho for commissioners for said divisions, respectively, hereby report and certify that we have duly canvassed the votes cast in each of said divisions and that the following candidates, having received a majority of the votes cast, were declared to be elected, to-wit:

"Eastern Division, A. L. Merrill; Western Division, Frank Martin.

Dated at Lewiston, Idaho, September 3, 1925.

JAY M. PARRISH
P. E. STOOKEY
R. H. JOHNSON,
Judges.

Frank Martin, newly elected commissioner, was escorted to the platform and made a brief address saying:

"Mr. President, Gentlemen of the Bar Association: I am not going to detain you with any remarks at the present time. I hope, however, that I will be able to be of service to the Bar of the state and I wish to say to you that I deem it an honor to be chosen by members of the Bar of my division to serve on this commission and to help in advancing the interests of the Bar which, I hope, will advance the interests of the state."

Chairman Leeper appointed the following members to serve on the resolutions committee: Richard H. Johnson, Robert McNair Davis and A. H. Connor. He suggested that all resolutions be handed to this committee, and that a resolution concerning the College of Law, University of Idaho, and a resolution concerning the investigation of crime, mentioned by the mayor in his address of welcome, should be presented to this committee.

Mr. Leeper stated that during the last two years he has been gathering statistics concerning juvenile delinquencies in Idaho, and that covering a period of ten years, he had concluded that delinquencies have doubled in the last five years; that in the five years immediately after 1919, there were six thousand cases. He considered the matter one that should interest members of the Bar and stated that he would go into the matter fully later if time permitted.

A letter from Jess Hawley, chairman of a committee appointed to make a report for the meeting of the Western Division held at Boise, was read.

"Hon. John C. Rice, President Idaho State Bar. Sept. 1, 1925.

"The committee which you appointed at the annual meeting of the Western Division of the Idaho State Bar has considered the drafting of a resolution respecting the form and substance of Rule 26 and related rules, and herewith submit the same.

"Mr. Haga and myself are in thorough accord in making the report. Mr. Paine, who was on the committee, was unable to attend our latest sessions, but with the exception of Rule 26A suggested in our report, we believe he is in hearty accord with the report. As to that rule, it not having been submitted to him, we are not authorized to note his approval.

"It is much regretted by the members of the committee that neither of them can attend the State Bar meeting at Lewiston and present an adequate explanation and discussion of the question as studied by them."

Respectfully yours,
JESS HAWLEY,
Chairman of Committee.

REPORT OF COMMITTEE APPOINTED TO SUGGEST CHANGES TO RULE 26 AND RELATED RULES OF THE IDAHO STATE SUPREME COURT.

Hon. John C. Rice, Pres., Idaho State Bar.

The committee appointed by you at the meeting of the Western Division of the Idaho State Bar, to draft a resolution respecting the form and substance of rule 26 and related rules of the Supreme Court of the State of Idaho, does conclude and report as follows:

1. The dismissal of an appeal for neglect of counsel to file a transcript within the time prescribed by the rules of the Supreme Court is to be condemned as an arbitrary denial of justice in practically every instance. Litigants should not be penalized because of choice of counsel. The neglect or default of counsel should not destroy the opportunity of an appealing litigant to have his case reviewed and the injustice or errors which he believes have resulted in adverse decision in the lower court corrected or at least examined by the court of final decision.

2. Under the present method of noting the fact of perfection of an appeal, many cases fail to be given priority upon the calendar of the Supreme Court. It should therefore be adopted as the practice hereafter that immediately upon the perfecting of an appeal, note thereof should be made and the case put on the calendar of the Supreme Court. The present system considers only, in fixing the place of the case upon the Supreme Court calendar, the date the transcript of appeal is filed with the Supreme Court. We have embodied in paragraph 26A our thought on this particular subject.

3. We respectfully recommend that a suitable resolution be adopted by the Idaho State Bar suggesting the adoption by the Supreme Court of the State of Idaho of the amendments to the Supreme Court Rules, hereunto attached, as rules 26 to 30, inclusive.

Respectfully submitted,

JESS HAWLEY
O. O. HAGA

Rule 26. Filing and Service of Transcript. In civil cases where an appeal is perfected, typewritten transcripts of the record (showing the date of filing the notice and undertaking on appeal) must be served upon the adverse party and filed in this Court within thirty days after the clerk of the court from which the appeal is taken shall have completed and certified to the transcript as specified in C. S. Sec. 7166, and if a printed transcript be filed, it must be certified to be correct by the attorneys of the respective parties or by the clerk. Written evidence of the service of the transcript upon the adverse party shall be filed therewith.

In criminal cases the record upon appeal shall be filed within the time specified in C. S. Sec. 9077.

Rule 26A. The Clerk of the District Court shall within ten days after the filing of the praecipe and the deposit of appellant's costs on appeal as required by Section 7166, C. S., deposit with the Clerk of the Supreme Court the amount so paid by appellant for costs on appeal and shall at the same time file with the Clerk of the Supreme Court a certificate stating the title of the cause, by whom the appeal was taken, the date of filing the notice of appeal and undertaking and the date when the deposit of the costs on appeal was made by appellant and thereupon the Clerk of the Supreme Court shall place the case on the calendar of the Court.

Rule 27. Compliance Enforced. A strict compliance with the rules concerning preparation of transcripts will be exacted of the appellant in all cases by the court whether objection be made by the opposite party or not; and for any violation or neglect in these respects which are found to obstruct the examination of the record, the court may order the offending party to pay the costs of a new or an amended transcript or any part thereof unless the matter objected to is inserted by order of the court or judge below.

Rule 28. Extension of time to file Transcript. Upon good cause shown by affidavit, or upon stipulation of the parties that good cause exists therefor, filed with the Clerk, the time limit in which a transcript may be served and filed, as set forth in rule 26, may be extended by an order of the court or justice thereof.

Rule 29. Penalty Imposed. If the transcript of record is not filed within the time prescribed by rules 26 and 28, through the neglect or failure of appellant's counsel, the appeal shall not be dismissed, but the court may, in its discretion, require the appellant's counsel to pay

the costs or expenses actually and necessarily occasioned to the opposite party by such failure or neglect, and may, in its discretion, also impose upon such counsel a penalty of not to exceed $100.00. If the failure to file the transcript within the time prescribed in said rules is attributable to the neglect of the appellant, the appeal may be dismissed. Five days' notice of motion to penalize counsel or to dismiss under this rule accompanied by copies of all moving papers shall be served upon the adverse party or parties.

Rule 30. On such motion there shall be presented the certificate of the clerk below, under the seal of the court, certifying the amount or character of the judgment, the date of its rendition, the fact and date of the filing of the notice of appeal, the fact and the date of filing the undertaking on appeal, the fact and time of the settlement of the statement, or reporter's transcript, if there be one; and in the case of typewritten transcripts, the fact and date of the completion and certification of the transcript by the Clerk below.

The report was referred to the resolutions committee.

O. H. Oversmith, of Moscow, stated that he would like to have the resolutions committee look into an incongruity in the law concerning the publication of summons and service of summons outside the state when there are known and unknown parties to an action, the former, under the 1925 act, requiring an order of the clerk, while the latter requires an order of a judge.

F. E. Butler, of Lewiston, agreed with Mr. Oversmith and suggested that a standing legislative committee of the Bar be appointed, to which all suggested changes in code procedure should be submitted for a stated period of time before the convening of the state legislature.

Chairman Leeper requested that Mr. Butler's suggestion be reduced to writing and submitted to the committee. He stated that the commission favored a standing legislative committee.

On account of the members of the Bar Commission meeting at this time, Chairman Leeper called upon Judge Miles S. Johnson, of Lewiston, to preside during the rest of the afternoon session.

Judge Johnson introduced E. V. Kuykendall, Superior Judge of the State of Washington, who addressed the meeting on the subject of "The Regulation of Motor Vehicle Traffic by the State."

THE REGULATION OF MOTOR VEHICLE TRAFFIC BY THE STATE

Remarks before the Idaho State Bar Association, September 3, 1925, at Lewiston, Idaho.

"In addressing you upon this subject, assigned to me by your committee, I will limit my discussion to the regulation of stages and trucks engaged in the transportation of persons and property for compensation over public highways.

The present Idaho statute is not, strictly speaking, of a regulatory character. It apparently has but two objects:

The protection of the public through liability and property damage insurance, on the part of auto transportation companies, and the collection of revenue for highway purposes.

While I have no first hand knowledge of the manner in which the law has operated, my impression would be that the exaction of five per cent of the gross income, would be very difficult of enforcement, and in many instances would seriously cripple or destroy the operating company. This feature will be dealt with more fully later. The requirement that all companies procure liability and property damage

insurance, is in harmony with legislation in many other states, though there should be more flexibility in the law so that small operators could be permitted to obtain a smaller policy or bond, or even be exempted entirely in certain instances, where the requirement would otherwise destroy the operation.

Your present statute applies to all operators including those who handle an occasional passenger or load of freight, while most statutes apply only to auto transportation companies operating between fixed termini or over a regular route.

That you may not regard me as a self-appointed critic from an outside state, it is but fair to say that your representative who requested me to speak to you on this topic, suggested that I discuss the Idaho statute, and common carrier motor vehicle regulation in general, from the standpoint of my experience of nearly six years as the head of the Public Service Commission, and its successor, the Department of Public Works of Washington. That department was charged with the duty of administering the Washington statute regulating auto transportation companies which became effective in June, 1921.

Our Washington law was not written by such department, and is by no means perfect, though the department succeeded to some extent in shaping the statute, and in eliminating some objectionable features, and procuring later amendments.

Without claiming personal credit for results, I believe it is safe to say that there are few if any states in the union where stage and truck regulation is more efficient and satisfactory than in the state of Washington.

I believe there is no state with the exception of California which has a more extensive stage and truck system. My travel and observation in many states has convinced me that Washington, speaking generally, has the best equipment, and the most efficient operation in stage and truck service of any state in the union.

I am not claiming that these results have been caused by the method of regulation employed, but it is evident that our laws and their administration have at least not prevented this somewhat remarkable development.

Since the state of Idaho has not yet embarked upon the real task of regulating common carrier auto transportation, I will state what my experience has suggested as the fundamental features of a proper regulatory law, and the reasons therefor, in the hope of assisting if possible in the ultimate formulation of a suitable regulatory law.

In most jurisdictions exercising regulatory powers over auto transportation companies, the administration of the law is lodged in the Utility Commission or other regulatory body of the state by whatever name it may be known. This is as it should be. No other agency of the state is so well equipped by organization and experience to administer the regulation. The principles underlying the regulation of auto transportation for hire are the same as those pertaining to any other common carrier service, such as railroads, steam boats and street cars with which the Utility Commission is dealing. Furthermore there should be coordination of all the branches of transportation, and this can best be obtained by their regulation through the same agency. Furthermore the engineers, rate experts, accountants and inspectors of the state regulatory body regularly employed can carry on the work pertaining to auto transportation, while any other state official or department would be required to build up a new organization with much greater expense to the tax payers and the utilities involved.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Many of the states have statutes requiring any public utility to secure a certificate from the state regulatory body declaring that public convenience and necessity warrants its establishment as a prerequisite to beginning operations.

Personally I believe this to be a wise provision as to all public service concerns. There may be room for division of sentiment as to the necessity for such a provision in relation to some utilities, but in my opinion such a requirement is essential to the efficient regulation of auto transportation companies, particularly those operating between fixed termini and over a regular route. It might be impracticable as to truckers and taxi-cab operators having no regular run. If such operators are brought within the scope of the law, they should at least be required to secure a permit, which should be subject to cancellation for violation of law or the rules and regulations promulgated by the regulatory body.

Actual experience has proven the benefits to the public of the certificate of public convenience and necessity by eliminating needless duplication of facilities, and tending toward economy and efficiency of operation in all lines of utility service. It is more essential in the regulation of motor vehicle transportation than in any other field, for the reason that it is a character of business that may be entered with a minimum of investment.

Most utility enterprises are reasonably secure from ruinous competition because of the enormity of the investment necessary to create a competing concern, and the difficulty of getting out whole in case of failure.

Without the certificate of public convenience and necessity any person who can, buy, borrow or rent a car may enter the auto transportation game. In preregulation days in my own state the reliable operators who sought to render dependable and continuous service were constantly harrassed by irresponsible jitney drivers who carried on a cutthroat competition during the summer months when operation was cheap and pleasant, but when weather and traffic conditions became unfavorable, they departed to more congenial climes, leaving the responsible operators to buffet the storms of winter after being deprived of a reasonable return during the summer. The protection afforded by the certificate is essential to the development of reliable and efficient auto transportation. Under no other plan will prudent business men freely invest their capital in up to date commodious equipment. In the end the public is benefited by more efficient service, more comfortable equipment, and cheaper rates.

Furthermore under the certificate plan the regulatory body can to some extent place the service where it is needed, and protect rail carriers where they are rendering adequate service, and public convenience and necessity does not require stages and trucks.

Many statutes exempt good faith operators already in the field on a certain date fixed in the law, from securing a certificate of public convenience and necessity. We have such a feature in the Washington statute. While such a provision sometimes results in permitting several operators in a field where one could more efficiently render the service, yet observation of the operation of the law has demonstrated that the more successful operator will usually acquire the rights of the others, and after merging the certifcates in one, he will purchase adequate equipment and render a much more efficient service, than was formerly furnished by several half starved concerns. Fur-

thermore this provision avoids the heartburnings which would result in the elimination of certain operators already in the field, and makes the task of the regulatory body more agreeable.

In drawing such statute the test date should be fixed prior to the passage of the law, otherwise there will be a stampede of operators to get into the exempt class. The Washington law took effect in June, 1921, and provided that certificates should be issued as a matter of course to all operators operating in good faith on January 15, 1921.

BONDS AND INSURANCE

Practically all new legislation on the subject requires auto transportation companies to furnish some sort of bond or insurance to protect the traveling public in cases of negligence resulting in death or personal injury, or damage to property.

In fact many states not exercising general regulatory powers over auto transportation have statutes requiring the furnishing of bonds or insurance, such as your own state of Idaho.

It is easy to understand why such requirements should exist as to auto transportation companies and not as to railroads. No considerable outlay is necessary to enter the transportation business. There is no private investment in right of way road bed or track. Practically the whole investment of the auto company is on wheels easily removable beyond state boundaries, so that without an indemnity bond or insurance policy a judgment against such an operator might be of little value.

Some states have made the mistake of requiring bonds or insurance policies in uniform amounts without regard to character of operation or volume of traffic. I believe this is true of Idaho, and also to some extent of Washington.

No reasonable person would contend that a mail carrier who occasionally transports a passenger or package to and from a mountain settlement, logging camp or mine, should furnish a bond equal to that of an operator transporting hundreds of passengers daily in a thickly settled community along congested highways.

As before stated care should be taken in framing a statute so that its provisions will be sufficiently elastic as not to put the small operator out of business and yet afford ample protection where it is needed. A considerable latitude of discretion might well be left to the regulatory body administering the law.

At the 1923 convention of the National Association of Railway and Utilities Commissioners, which met at Miama, Florida, the Committee on Motor Vehicle Transportation, of which I was chairman, submitted a report embodying a suggestive model statute for the regulation of auto transportation. Should any of you be interested in reading this proposed statute in detail, I believe you will be able to secure printed copies of this report from Mr. James B. Walker, Secretary of the Association, whose address is Pelham Manor, New York.

DIVISION INTO CLASSES

The proposed act divides auto transportation companies into two classes: Class A—comprises those operating between fixed termini or over a regular route; in other words comprising the only class of auto transportation companies heretofore subjected to regulation in most states; and

Class B—comprises those not operating between fixed termini or over a regular route; towit the independent truckers and for hire cars which have escaped all form of regulation in most jurisdictions.

The proposed act does not go into detail as to the manner of regulating these operators. To do so would be impracticable. The details must be worked out by the regulatory body, based upon practical experience and under the broad provisions of the proposed law, which require all rules and regulatons to be just, fair, and reasonable as to said two classes of companies in their relations to each other and to the public.

The Washington law is defective in that it does not undertake to provide regulation for class B companies. Numerous complaints were made by class A operators particularly freight operators that independent truckers were carrying on a cutthroat competition by hauling freight over their routes, yet without sufficient regularity to bring them under the definition of class A companies.

Under the proposed model statute suitable regulations could be formulated to keep each class in its proper field. The regulation could be made to fit the character of operation to which it purports to apply without discrimination against one class to the detriment of the other. The law would be sufficiently elastic to enable the regulatory body to cut and try, so to speak, until a workable set of rules would be evolved.

MOVEMENT OF CROPS TO MARKET ETC., EXCLUDED

The statutes of many states, and the proposed model statute excepts motor propelled vehicles, operated exclusively in transporting agricultural, horticultural, dairy or farm products from the point of production to market. This is a wise provision, particularly in the western states, where the movement of bulky crops such as apples and wheat requires the mobilization of all available trucks in the vicinity for a short period of time. To require every truck engaged in hauling wheat or apples from the field or orchard to the railway station to secure a certificate of convenience and necessity, furnish a bond and comply with other regulatory details would place a needless burden upon producers, operators and regulatory bodies alike.

FEES FOR EXPENSE OF REGULATION

The proposed act wisely undertakes to make the regulation of auto transportation companies self-sustaining. In the first place auto transportation companies enjoy certain privileges in the use of the public highways which other transportation companies do not enjoy; secondly the regulation of auto transportation is more expensive in proportion to its volume than is the regulation of any other kind of transportation or any other public utility. Furthermore it is doubtful in view of the heavy burden of taxation already existing, if the regulation of auto transportation would be undertaken by many states without some provision requiring operators to pay the cost of such regulation.

The state of Washington now provides for a gross revenue tax of not to exceed one per cent per annum to cover the cost of regulation. This tax produces about $50,000.00 per annum and affords sufficient revenue to cover the added expense which such regulation imposes. The companies are required to make reports and payments quarterly.

In addition to the gross revenue fee certain other fees should be exacted, particularly a fee accompanying each application for a certificate of public convenience and necessity. This fee should be substantial in amount, in order to discourage frivolous, or what might be

termed gambling applications. It has been the experience of a number of states that applications would be filed covering routes already served, and the operators in the field would hire attorneys, assemble witnesses and incur other expense, to defend themselves and protest the application; the regulatory body would perhaps incur the expense of an independent investigation (which is often the only way to obtain the true facts) only to find that the applicant had abandoned his case on a show of opposition, after a substantial expense had been incurred by other operators, and by the state.

If a fee of say, $25.00 were required to accompany each application, the applicant would think twice before filing, and the state would be recompensed to some extent for the expense of the hearing.

If the statute provides for the issuance of certificates to previous good faith operators, without the necessity of determining public convenience and necessity, a smaller fee might well be specified for such good faith applications, as they are usually determined upon ex parte hearings based on affidavits.

FEES FOR TAXES TO COVER ROAD CONSTRUCTION OR MAINTENANCE

Motor vehicle transportation is in a class by itself in respect of the road bed or way over which its vehicles operate. Boat operation is carried on over waterways for the most part provided by nature. Steam and electric railroads are required to purchase rights of way, construct roadbeds, lay ties and steel and maintain such structures at their own expense, and, in addition thereto, pay taxes thereon.

Motor vehicles engaged in the transportation of persons and property for hire operate over highways constructed by the public. It is no doubt true, as charged by the railroads, that as long as no compensation for the use of such highways is exacted of auto transportation companies, they are indirectly subsidized at the expense of the public.

In imposing taxes upon motor vehicle operations however, careful consideration should be given to existing fees and taxes in order to avoid pyramiding exactions to the injury of motor transportation and ultimately to the injury of the public.

In the state of Washington for instance the auto transportation companies subject to regulation, are paying about $81,422.00 per year license money, and about $50,000.00 per year gasoline tax, amounting in all to more than $130,000.00 per year for the use of the highways, as the license fees and gasoline taxes go into the highway fund. In addition they pay about $90,000.00 per year personal property tax, and one per cent gross revenue tax to cover the cost of regulation, making a gross annual payment exacted in fees and taxes of more than $270,000.00 or approximately 5.4 per cent of their gross operating revenue per annum.

No doubt similar situations exist in other states. If the auto transportation companies of Idaho pay similar fees and on top of that an additional four per cent gross earnings tax, (I am deducting one per cent from the gross earnings tax of five per cent to make the situation comparable to Washington) you are exacting from your auto transportation companies in various fees and taxes nearly ten per cent of their gross earnings. As Washington has a much greater population, greater density of traffic, larger companies with greater earnings in proportion to fees paid, an accurate calculation might disclose that Idaho companies are paying all told, much more than ten per cent of their gross earnings.

Carrying the illustration further, in California the license is a flat fee of $3.00 per year as against an average license fee in Washington for stages of $91.74 and for regulated trucks of $77.50. In California, all municipal fees and taxes are deducted from the gross revenue tax. No definite comparison can be made between the two states without data as to such deductions; but it is doubtful if the auto transportation companies of California pay a greater percentage of their gross revenue under the four per cent law than is required of such companies in the state of Washington under the various tax and license provisions of that state.

I have made these illustrations and comparisons to show the necessity for careful analysis of all statutory provisions covering licenses, taxes and fees before providing for additional sources of revenue or increasing the fees already provided by law.

It should also be borne in mind that the liability and property damages bond or insurance will cost for each stage approximately $150.00 per year, and for each truck about $50.00 per year unless changes in rates have recently been made.

GENERAL PRINCIPLES RELATING TO FEES AND TAXES

First: A reasonable gasoline tax should be imposed, applicable to all vehicles using the highways. The gasoline tax is the only method yet devised of requiring those who use the highways to pay in proportion to the use they make of the same. It is equitable, easily and cheaply administered and collected, it is paid in small dribs, without hardship or complaint. Many motorists do not know they are paying such a tax.

Second: All taxes imposed upon motor vehicle common carriers should be imposed and collected by the state as a unit, to the exclusion of county or municipal units, with the possible exception of city taxes upon vehiciles operating wholly within city limits.

Third: If it is desired to impose equitable taxes for franchise rights, the same might properly be imposed upon vehicles operating between fixed termini and over a regular route under the protection of certificates of public convenience and necessity, to the exclusion of those not so operating.

Fourth: Taxes or fees on motor vehicle common carriers, the proceeds of which are limited to the construction and maintenance of highways, should be imposed upon all stages, trucks and for hire cars, whether operating between fixed termini and over a regular route or otherwise, or whether operated for hire or by private industries in the transportation of their own commodities.

Fifth: In states where the imposition of a tax upon earnings would cripple or destroy small stage or truck operations rendering useful service in sparsely settled communities, any revenue tax imposed should apply only to revenues over and above a reasonable return to the motor vehicle carrier.

Sixth: Any new or supplementary fee or tax statute should take into account all fees and taxes paid under existing laws, to the end that all fees and taxes for any one purpose, or as a whole, shall not be unjust, unfair or unduly burdensome."

Following Judge Kuykendall's address, Attorney General A. H. Conner, discussed the Idaho law relative to the regulation of motor traffic in the state of Idaho. He was of the opinion that the judge's

address should be published so that it would be available for those interested in the question for the benefit of legislation.

Attorney General Conner said that the present law in Idaho has caused considerable trouble and that he had never seen a law so loosely and carelessly drawn, the present law presenting some half dozen questions that just get under the line of legality; that his office was now defending three cases in Federal Court and one case in District Court in which the constitutionality of the law was being attacked; that the law should be amended radically because so many features of it are impracticable. He did not consider the 5 per cent tax on commercially operated cars to be confiscatory as it was merely one of the elements of expense of operation. He suggested that members of the Bar use their influence on their respective legislators in getting this law drawn on a practical basis.

Eugene O'Neill, of Lewiston, explained how the laws of Massachusetts operated in connection with traffic matters. He said the state is divided into nine districts and each district has a man who looks after the laws of that particular division. Their legislature meets every year, and the nine officers from the various divisions meet with the governor at stated periods. He thought we might learn a lesson from their success with this method of government.

Judge Johnson referred to the matter of changing the rules regarding the filing of transcript on appeal within the time prescribed by the rules of the Supreme Court. He was of the opinion that this rule should not be changed. He believed in assisting attorneys in carrying on their business but did not believe in putting a premium on ignorance. He said the public should employ lawyers that would look after their business and, if they used no judgment in their selection, they should stand the penalty. He said district judges are in a better position to know whether there should be an extension of time for filing of transcript than the Supreme Court.

A. H. Oversmith, of Moscow, disagreed with Judge Johnson. He contended that, when the state licenses a lawyer, the public has a legitimate right to depend on the services of that lawyer and would have no way of knowing his inability or negligence in caring for business.

John R. Becker and A. H. Conner entered into the discussion of this matter.

Upon motion by Mr. Oversmith, the meeting adjourned for the day.

PROCEEDINGS OF SEPTEMBER 4, 1925

In opening the meeting, Chairman R. D. Leeper said:

"We will now resume the convention and I will first report on the organization of the Commission. The new Commission met yesterday, qualified and was organized. I am the only holdover member, my term expiring one year from this date, and, according to the rules, the holdover becomes the president. Frank Martin is vice president and Sam S. Griffin has been reelected secretary.

"Our regular program at this time calls for an address by Robert McNair Davis, Dean of the Law School at the University of Idaho, on the subject of "Legal Education."

LEGAL EDUCATION

Dean Robert McNair Davis

Members of the Idaho Bar Association:

I am very glad to have this opportunity to establish a closer relation between the University of Idaho and the organized Bar of the state and I think it is very significant that there is today an organized Bar of Idaho. I think that the year 1923 marks an epoch in the history of legal institutions in Idaho.

If you do not mind personalities, may I tell you how I happened to come to Idaho? A little over two years ago, I received a letter from the President of the University of Idaho saying that there was a vacancy in the College of Law and that I had been suggested to fill that vacancy. I was not greatly excited about it and did not answer the letter for several days. Finally, after some correspondence, I was invited to visit the university. I spent two days there endeavoring to ascertain the facts about the University of Idaho and the status of the College of Law but I was more particularly interested in noting all the facts I could that might enable me to learn the prospects of further development of legal education in Idaho.

The 1923 legislature had enacted a law providing for the organization of the Bar of Idaho and creating a board of Bar Commissioners, in which was vested the power to pass upon applications for admission to the Bar of Idaho and also the power of discipline over any members who might prove unworthy to the Bar of Idaho. The existence of that law accounts for my presence in Idaho today. I believe that this makes it possible for any legal educator to cooperate with the Bar.

Those of you who read the morning paper, noticed the item concerning the meeting of the American Bar Association and the address of the Attorney General in which he said these are troublesome times. I agree with him. We are so busy with our own lives that we have forgotten the duty that rests upon the legal profession. If we are to pass safely through these troublous times into times of greater law observance and enforcement, the burden must rest upon the legal profession.

Two important branches of the legal profession are the judge, and the attorney, who, sometimes, has and sometimes has not been active in service and who does not, even now, altogether have the confidence of the people. There was a time when barristers were entirely abolished. That has been true in our American history.

A new branch of the legal profession which has grown up within the past fifty years is the law school teachers branch. Today, we have probably 400 law schools devoted to legal education. If these problems that confront us today are to be solved it must be by the cooperation of these three branches of the profession, and that is why I welcome a chance to take part in this meeting and establish closer contact.

The teacher must be a specialist, if the work of improving the law or the procedure of the law is to be considered, he must have the cooperation of the specialist. Most of the notable law treatises that have been published have been the work of teachers, such as Blackstone's Commentaries. If you have not recently done so, I advise you to read again Blackstone's opening lecture on the study of the law. Commentaries on American Law grew out of his lectures in 1796 and 1797. The treatises of today that are masterpieces are the work of specialists. Evidently there is need and use of this third branch.

The American law institute finally came into existence. The work has since been sufficiently endowed under the Carnegie Foundation. We are now ready for the training of young men and women in law. I think the time has passed when they could be trained in a law office. Legal education is an interesting subject to me and I notice that the address of the president of the American Bar dwelt upon the improvement of the standard of admission to the Bar.

Legal education in the colonies was unknown and for a time lawyers were not allowed to practice. This was during the 17th century. With the development of commerce, advance of land values and growth of population, it became necessary to have legal practitioners and many colleges arose the graduates from which began to go to London to study. They afterwards became the leaders of thought and represented the legal side of the separation of the colonies. The standard of admission was then higher than it is now. In 1797 in New York, the Supreme Court required seven years of preparation before admission. Then for a time standards were lowered.

There was no bar for a long period in the middle of the last century. This caused depression of our standards of civilization. The corruption during that period can be attributed in part to the low standard in the legal profession. Since about 1890 we have been making improvement in the standard and in legal education. Reputable medical schools have rather exacting standards and it should be the same with law schools.

There used to be a controversy about the method of instruction in legal education. Since Langdell started his method of instruction, it was not many years until he had won his battle to establish the case method of instruction. I think it is difficult for one trained under other systems to grasp fully the case method.

After all, what is law? I suppose it is the result of human experience. There must be some law governing all multiplicity of conduct, the antithesis of chaos. We are trying to keep abreast of the life of the people in adopting these purposes and principles to the conditions of life. I can safely and truthfully say, even with the improvement of the past 35 years, that our standard for admission to the bar is lower today than that in any other civilized country. In England and France, the requirements are very exacting. Their conception of the profession is so high that it cannot be mingled with anything commercial. Some of us are forgetting that it is a profession and not commerce.

At the University of Idaho, we are trying to build gradually, a good little law school. We are trying to make the standards reasonably high. It is not for the indolent and the stupid, but we want every young man who can qualify. Most of them come from humble beginnings, all races, creeds and colors. We must first have character and we hope to help develop that character. This year, the rule requiring two years of legal training goes into effect and we use the case method of instruction. We are not trying to peddle fallacious certainties, to train the memory or to cram a fund of information. We are trying to train the powers of reasoning and to develop the technique of practice as much as we can in to discussion every day and give the student a chance to think for himself. We have now four members in the faculty, Mr. Merrill, Prof. Harris, Prof. Gill and myself.

As to the last examination, there were twelve applicants. Four were not of the law school and failed. Four passed and were graduated from the law school. Four came close and one of these missed by what might be termed an accident. The other three were very close

in line. I am not disappointed at the result. In the long run, it will serve a good purpose. It is well for them to know that they must get down to business. We don't want loafers, indolents or those not intellectually fitted for the work. What is required is a good mind and, most of all, character.

I appreciate this opportunity to talk with you intimately. This school belongs to the people of Idaho. We are here to build up the legal institutions of Idaho and help solve some of the problems that confront us in these troublous times."

Chairman Leeper extended the thanks of the association to Dean Davis for his address and opened the meeting to discussion concerning the cooperation of the members of the Bar Association and the Law School of the University. He remarked that this was the first time that lawyers had ever manifested any interest in the school and the first time the school had ever asked for help in solving its problems.

Judge Johnson inquired what the members of the bar could do to further the interests of the school to which Dean Davis replied that they could cooperate by sending Idaho students to an Idaho school and by giving them the ideals of the legal profession. He asked for members of the bar to visit the school and keep in touch with the work there. He suggested that a series of lectures by members of the Bar would be beneficial and that for his part he would be willing to work with the Bar Commission in working out the problems of the school.

John J. Gray, Coeur d'Alene, paid tribute to the earnest efforts of the teachers at the University of Idaho. He felt that perhaps some mistake had been made in establishing the law school at Moscow but that now that it was there, it should receive hearty support. He said it was a question of how many law schools the west can maintain. He thought the requirements of students entering law schools should be made more stringent and that no student should be entered until he had received his Bachelor's degree. He did not hold these views to limit the chances of students, but was of the opinion that many of the students not holding degrees were intellectually immature.

Frank Martin, Boise, commended the work of the Law School of the University of Idaho. He stated that the Commission and the University could work harmoniously in raising the standards for admission to the Bar of the State of Idaho.

Prof. Harris, of the Law School, spoke briefly expressing his hearty approval of cooperation between the school and the bar of the state.

Grover Pennell, Nezperce, J. C. Applegate, Clarkston, Washington, and R. H. Johnson, Boise, commented on the success of the law school and endorsed the plan of cooperation discussed by Dean Davis.

Judge Miles S. Johnson, Lewiston, suggested that the place of meeting be changed tomorrow to the court room. He made a motion that the meeting adjourn today to meet at the court room tomorrow and that the public be invited. The Elk's club was also suggested as a place to meet. After some discussion, the matter of selecting a meeting place was left to the President.

Frank Martin, Boise, made a motion that the matter of extending the appreciation of the association to Judge Kuykendall for his address be referred to the resolutions committee. This was seconded by Judge Miles S. Johnson and carried.

John R. Becker, Lewiston, announced the hour of the banquet as 6 o'clock in the evening.

Chairman Leeper announced that cars would be available at four o'clock to take visitors for a tour of the city.

AFTERNOON SESSION, SEPTEMBER 4

Chairman Leeper opened the meeting and said:

"For the past two years I have been gathering statistics that have never been published. I have obtained from the probate judges of the state the number of juvenile delinquencies in the state over a considerable period. The information has been compiled, with the help of a secretary, and I cannot claim any particular credit for it except in adding up the figures. This report is the first gathering of figures in a state which is entirely rural. It was done to find out if crime is increasing in like ratio in rural districts as in cities and my conclusions are that it is just as great in the rural communities. With your permission, I am going to present these figures. (See Appendix).

A vote of appreciation for his address was extended to Mr. Leeper.

James E. Babb, Lewiston, commented on the causes of increasing crime and deplored the fact that places of amusement tending to break down the morals of young people were permitted to run all the time when places where they could improve their minds were closed on holidays, citing for instance, the public library which is always closed on holidays while the picture shows are permitted to operate.

Dean Davis suggested that members of the bar as leaders in their communities would do well to have church affiliations.

Eugene O'Neill, Lewiston, commented on Mr. Leeper's report and suggested some evils that he was of the opinion should be eliminated. Billboards advertising cigarettes he regarded as a nuisance. He advocated the enforcement of the law against boys under 18 being permitted to smoke. He thought there would be no trouble in enforcing the laws if children were taught self control and respect for the laws.

P. E. Stookey, Lewiston, made some interesting comments on curbing crime by having the members of the bar themselves strictly observe the laws and thereby encourage others to be law abiding.

The chairman read a telegram from Judge Herman H. Taylor, dated at Spokane, Wn., addressed to Hon. Miles Johnson.

"Had hoped to attend meeting. Am unavoidably delayed here. Please convey to the association my sincere regrets and wishes for a successful meeting."

EVENING, SEPTEMBER 4

A banquet was held at 6 o'clock in the Lewis-Clark hotel, followed by a ball at 9 o'clock. At the banquet brief addresses were delivered by Attorney General A. H. Conner, Commissioner Frank Martin, John J. Gray, James E. Babb, R. F. Fulton and R. McNair Davis.

A musical program was furnished by Mrs. George Campbell, Mrs. Lindsay Beeson, Mrs. Boyde Corneilson, Mrs. Elsa Hughes, and Miss Mona Quilliam.

PROCEEDINGS OF THIRD DAY, SEPTEMBER 5

President Leeper called the meeting to order saying:

"We will now resume our regular program. We have only two matters left, the address of Mr. John P. Gray, of Coeur d'Alene, and the report of the Resolutions Committee. I want to remind you of the address tonight of Chester H. Rowell and tomorrow night the address of Senator Borah.

"Now, I take great pleasure in introducing Mr. John P. Gray, who is recognized as an authority on Mining Law, and for our edification, he has agreed to talk on "The Law of the Apex." I take pleasure in presenting Mr. Gray.

(Note: It is regretted that Mr. Gray's address, being unwritten, is not available for publication.)

Following Mr. Gray's address, the report of the Resolutions Committee was read by the Secretary as follows:

RESOLUTIONS

Mr. President: Your committee on resolutions makes the following report and recommendations.

1. We recommend the adoption of the attached resolution relative to cooperation with the College of Law at the University of Idaho. Dean Davis has modestly refrained from participating in the consideration which the committee has given this resolution.

2. We recommend the adoption of the resolution submitted herewith relative to the appointment of a committee for the study and prevention of crime in Idaho.

3. We recommend that the commission be given the power to appoint such permanent standing committees of the association as are usually appointed by similar associations and that the commission define the duties of such committees and superintendt their activities.

4. We recommend that the association give its approval to the proposal of the special committee of the Western Division to amend Rule 26 of the Supreme Court so as to provide that the time within which a transcript on appeal shall be served and filed shall run from the completion of the transcript by the clerk rather than from the time of the perfection of the appeal.

5. Your committee regrets that the special committee of the Western Division was unable to be present at this meeting. We have given such consideration as time would permit to the recommendations of that special committee relative to the dismissal of appeals for the failure or neglect of attorneys for appellants but do not feel that we have been able to give the matter sufficient thought to make a recommendation to this committee.

6. We recommend that this association go on record as favoring the amendment of Section 6886 of the Compiled Statutes so as to clarify and simplify the procedure in connection with the preparation and service of the reporter's transcript. We feel that this is a subject which cannot be passed upon lightly or without consideration and, therefore, recommend that it be referred to the standing committee on legislation, if such a committee is appointed and, if not, then to such committee as the commission may designate for their further consideration and report to the commission.

7. We especially recommend that the commission be authorized and directed to appoint a special committee on legislation and that it shall be the duty of this committee to make recommendations as to changes thought desirable in the code of civil procedure and that such committee cooperate with the judiciary committees of the House and Senate of the Idaho Legislature as occasion may require. We further recommend that this association invite suggestions and proposals for

the amendment, alteration and simplification of the statutes comprising the code of civil procedure of Idaho and that such suggestions as may be made be referred to the committee on legislation.

8. We recommend that the secretary of the association be instructed to extend the thanks of the association to the speakers who have contributed so much to our program with their splendid papers and addresses, to the retiring and incoming officers of the association for their earnest efforts for the success of this meeting and to the committees in charge of arrangements and those who have furnished entertainment for the association, for the splendid services that they have rendered.

RICHARD H. JOHNSON,
ROBT. McNAIR DAVIS,
A. H. CONNER.

Be it Resolved:

That the Idaho State Bar does hereby acknowledge the splendid work heretofore done by the Law School of the University of Idaho, realizes that members of the faculty at all times have labored earnestly, ably and conscientiously to carry on the work of the Law School and to advance its interests in every legitimate manner, and congratulates the school and the faculty upon their success in instilling upright character and legal learning in those young men graduated from it in the past;

That the Idaho State Bar recognizes, however, that the Bar of the State has not in the past manifested that keen interest in the Law School which it should manifest, and that the Bar of the state has not extended that help and assistance to the Law School and its faculty which it rightfully should extend;

That it is the opinion of this Bar that the Law School will appreciate and be benefited by the active assistance of the Bar and of the individual members thereof, and it is the sense of this convention that such active assistance should be extended to the faculty of the school, and that a permanent policy looking toward such end should be forthwith adopted and fully carried out;

Wherefore, be it further resolved, That the President of this association, with the consent of the Bar Commission, forthwith appoint a committee of five members from the bar of the state in good standing, at the same time appointing a chairman thereof, which shall be known as the Advisory Committee for the Law School of the University of Idaho, and that such committee be made a permanent committee of the Bar Commission which shall determine future appointments, length of terms and other necessary details;

That such committee promptly organize and, by and with the consent of the President of the University of Idaho and the faculty of the Law School, extend its aid and assistance and devise a suitable policy looking towards the promotion and conservation of the best interest of the Law School;

That after such policy is promulgated that this association and the members thereof cooperate to the fullest extent in carrying it out.

Be it Resolved:

That the Idaho Bar takes cognizance of a vast and alarming increase in crimes of all sorts in every state of the union, including our own;

That in our opinion this increase has been so great and so rapid, extending to all classes of society, that it has become one of the major problems before our people;

That it is apparent that ordinary methods of prevention and control, have to a large extent become ineffective and public officials have been unable to cope with the rising tide of crime;

That the effect of this condition is inimical to the welfare of society, the moral standards of our people are being lowered, and the characters of our youth are being corrupted;

Therefore, Be it Further Resolved, That the Idaho Bar recognizes a duty, which is also incumbent upon all good citizens of this country, to combat this rising tide of crime in every manner possible, to seek out the causes therefor, and to prepare and enforce all available remedies;

That a permanent committee be appointed by the Bar Commission from the members of this organization, consisting of five persons, to be known as the Committee for the Study and Prevention of Crime in Idaho; that such committee forthwith enter upon the duties of investigating the subject of crime and the increase thereof within this state, and make their findings available for public use."

Upon motion by Judge Miles S. Johnson, seconded by P. E. Stookey, the report of the resolutions committee was adopted.

A. S. Hardy inquired concerning Rule 26. R. H. Johnson, Boise, explained that the present rule 26 provides that a transcript be filed within 90 days after the appeal is perfected with the result that in many cases the transcript is not completed at that time and it is necessary to get an extension of time. This necessitates an order from the court. The amendment is to the effect that the transcript on appeal must be filed within 30 days after final completion by the clerk. The matter was discussed at some length by Frank Martin, Boise, and Attorney General A. H. Connor.

Jay M. Parrish, Boise, told the members of some difficulties the Internal Revenue office experienced in its work through neglect or carelessness of lawyers.

There being no further business to come before the convention, President Leeper adjourned the meeting sine die.

THE WORLD COURT

Address of Chester H. Rowell before the Idaho State Bar, Lewiston, Idaho, September 5, 1925.

There is only one great international question now practically before the American people. That is whether we shall join with the rest of the world in adherence to the permanent Court of International Justice, commonly called the World Court. The issue is very simple. There is only one way to go in. That is, to go in! There are two ways to stay out. One is to refuse to go in. The other is to offer to go in on impossible conditions.

I am here to urge that we go in *now*, on the conditions already outlined by Secretary Hughes and Presidents Harding and Coolidge. Senator Borah, if we may judge from his previous public utterances, contends that we should not go in now, and shall not go in at all until the forty-eight nations, now satisfied with the court as it is, make it over, and make over with it the law of nations and the constitution of the world. When that millenium arrives, and the court is no longer needed, then, unless some new objection meantime occurs to him, the Senator might consent to our adherence to the court. Which, I insist, is the same as obstructing us from going in at all.

They who take the affirmative of any proposition, who advocate action rather than inaction, are supposed to bear the burden of proof. But sometimes that burden shifts. In a libel suit, for instance, the burden shifts to the defendant on the mere showing of publication of a statement libelous on its face. So, on this issue, we may shift the burden of proof before we even begin to argue the case itself, by showing such an overwhelming weight of opinion, authority and example for it that he who would set himself apart in isolated dissent must sustain a very heavy burden indeed in asking others to agree with him in his disagreement with almost everybody else.

When the bugaboos that affright our supernationalists have not alarmed the equally sensitive nationalists of other countries; when we are advocating a proposition that has been urged by every President and every political platform, of both parties, in this country; that has been approved by a vote of more than ten to one in the House of Representatives and is favored by a large majority of Senator Borah's colleagues, of both parties, in the Senate; that has been indorsed by almost every articulate voice of organized opinion in America—by both parties and all the Presidents; by labor and capital; the American Federation of Labor and the United States Chamber of Commerce; by Bar Associations, national and state; by the principal religious and educational organizations; by practically every distinguished international jurist in the world, by women's clubs and farm organizations; by nearly all the newspapers and magazines; and by the repeated votes of the American people, in every election in which the issue has been involved—when this consensus of responsible opinion is so overwhelmingly one way, he who exercises the privilege of thinking alone that the rest of the world is all wrong, must expect little company in that position. He is like the mathematical postulate I once heard an exasperated professor propound: "Imagine a single, solitary, isolated point, all alone by itself, without anything else close to it." If what he is asserting is merely the personal right to flock by himself, that is conceded; but if he expects others to flock with him, the burden is on him, even in the negative, of convincing them against the otherwise almost unanimous voice of the human race.

This is a world court, but it is an American idea. From Jay's treaty on, we have led the world in international arbitration, and for over a century practically half the arbitrations in the world have been in cases to which we were a party. In a century and a half, we have had 70 cases, to the world's 140. With the close of the Nineteenth century, our policy expanded from international arbitration to an international court. The American delegates to the first Hague Conference, in 1899, were instructed by Secretary Hay, for President McKinley, to present a plan for a permanent international court. The conference did not go so far, but it did establish the Hague tribunal, a panel of semi-judicial arbitrators, which has flourished, with much usefulness and unwavering American support, ever since. At the second Hague Conference, in 1907, Secretary Root instructed our delegates to bring about—

> "A development of the Hague tribunal into a permanent tribunal composed of judges who are judicial officers and nothing else, who are paid adequate salaries, who have no other occupation, and who will devote their entire time to the trial and decision of international causes by judicial methods and under a sense of judicial responsibility."

President Roosevelt said that he hoped—

> "To see the Hague court greatly increased in power and permanency, and the judges, in particular, made permanent and given adequate salaries so as to make it increasingly probable that in each case that may come before them they will decide between the nations, great and small, exactly as a judge within our own limits decides between the individuals, great or small, who come before him."

The conference accepted the American proposal in principle, but had to defer the actual formation of a court until a way of electing the judges could be agreed on satisfactorily to both the small and large nations. Seven years more passed, with this problem still unsolved. Then seven other years, of war and its aftermath. And then another commission, still with Elihu Root as its guiding spirit, found the solution ready to hand. Most of the nations had grouped themselves, for other purposes, in the two Houses of the Council and Assembly of the League of Nations, one dominated by the large and the other by the small nations. Any decision reached by representatives grouped in this way would be satisfactory to both classes of nations.

So it was agreed that these representatives of the nations, already grouped in two houses under the authority of the Covenant of the League of Nations for its purposes, should also be assembled as an electoral college, under the independent authority of the Statute of the Court, for this Court purpose. If we adhere to the Court, it will be on condition that we have a vote in this electoral college, for the purpose of electing judges alone, but without membership in the League of Nations, or entanglement with it.

This was an American solution, too. It is exactly the way we had met our own problem of the large and small states, in the formation of the Union. It is the reason that there is a Senate, for Senator Borah to be a member of, and for Idaho to be represented in, on terms of equality with New York and Pennsylvania. It is not only our way; it is the only way, in which such a problem can be solved. If it were not solved, as to the Court electors, in this way, the only other way

would be to assemble another body, composed of the same representatives grouped in the same way. And that would still be the same thing.

Thus the problem of accepting the original American proposal was finally solved, still under American leadership, in accordance with American policy, by an American method, and was at once accepted by practically all the world—except America! Russia, too, is still out under its present policy of posing as an outlaw among nations, and there are a few small nations which have not yet gone in, but would promptly follow us in. Germany and Turkey are not yet legally members, but they have already accepted the jurisdiction of the Court and appeared before it, in particular cases, in anticipation of becoming so. In practical effect, everybody has accepted the Court except America and Soviet Russia.

And America remains out against the express policy of Presidents McKinley, Roosevelt, Taft, Wilson, Harding and Coolidge, against the announced pledges of both parties, and against the known will of the American people. The small group of Senators, who alone have prevented action, and who, with the tools of obstruction which the peculiar organization of the Senate gives them, may continue to do so, bear a heavy responsibility in the sight of the world and before the bar of history.

We have to consider, then, first the reasons why we should, in common with most of the rest of the world, adhere to the Permanent Court of International Justice, and then the objections raised, some of them by Senator Borah and others by his associates, against that adherence.

This court is the next orderly step in the development of civilized relations between nations. The preceding step was taken, under our leadership, a quarter of a century ago, in the establishment of the Hague tribunal, which is still functioning.

That tribunal is in no comprehensive sense a court. It is a panel of some 120 members, scattered over the world, who have never met as a body even once, in the whole long course of their existence. When a difference arises between two nations which are willing to submit it to settlement under this tribunal, each of them chooses one, or two, of the persons on this panel, and an odd member is added in any one of several ways. This board, assembled *ad hoc*, hears and determines the case, and then dissolves, never, probably, to meet again. Two of its members are avowed partisans, expressly chosen as such, and the methods of selecting the odd member, who is the real umpire, do not always result in finding one who, in ability, prestige and independence, is adequate to the task. There are no rules of jurisdiction, and the "court" may arbitrate matters of policy as well as of law, if they are referred to it. It is an arbitration, rather than a judicial proceeding, and the result is usually compromise.

Nevertheless, even this anomalous body has more than justified its existence. Or, if it had not, America, its mover and most continuous supporter, should not be the one to raise the complaint. It has been the chief instrument of such arbitration as the nations would consent to, and it has brought about the orderly adjustment of a long series of disputes which otherwise would have led to endless friction and possibly to war. Its very survival, through a generation, demonstrates its value. Without this experience, the consent of the world could never have been secured to the establishment of a more judicial tribunal—a tribunal which Senator Borah will tell you is not yet a full-fledged court, but which is certainly nearer to it than anything that would otherwise have been possible.

Now comes the next step, from the Permanent Court of Arbitration to the Permanent Court of Internationl Justice. Every possible safeguard has been provided, to make this a real court, both in its independence and in the strictly judicial character of its functions. Senator Borah's chief objection is that, to these possible safeguards, other impossible ones have not also been added. The members are chosen, not from the whole population, but on nomination by the jurists already members of the Hague tribunal, after consultation, not with the political governments, but with the most eminent judicial and legal authorities in their own countries. Thus their very nomination, in the first instance, is further removed from political control than is the choice even of the Justice of our own Supreme Court. Not more than one national of any country, can be a member of the court. Election from among these nominees is, to be sure, by an electoral college composed of representatives of governments, just as the appointment and confirmation of the Justices of our own Supreme Court is by political branches of the government, but the judges, when chosen, are completely independent of this electoral college, of the League of Nations, and even of the governments of their own countries. They serve for nine years, and may be re-elected; they are pensioned for life on retirement, even if this is by failure of re-election, and they can not be removed by the unanimous judgment of their own colleagues that their original qualifications have ceased to exist. They are not subject to control or discipline by any government or combination of governments whatever. They may decide against their own countries, as the French judge has already done, without being held to account to any body for so doing. Both by the conditions of their existence, and by the record of three years of actual experience, there are no more independent men in the world.

Even if we were not already the inheritors of twenty years of American policy in favor of just such a court, it should be obvious to us that this court is a vast advance on the discontinuous panel of the Hague tribunal. It is a court of law, not a board of arbitration. It decides, rather than compromises. Its jurisdiction is of justiciable questions alone, unless, in exceptional cases, by the request of both parties, it is authorized to settle a whole controversy *ex aequo et bono*. It is commanded to act on the law of nations, as found in treaties, in international custom, in the general principles of law recognized by civilized nations, and, as subsidiary means, in judicial decisions and the teachings of the most highly qualified publicists of the various nations. Its jurisdiction is voluntary, each nation determining for itself, in each case, whether it will submit that case; except as to nations signing a special proviso agreeing in advance to accept its mediation in certain cases. These cases are legal disputes concerning (a) the interpretation of a treaty; (b) any question of international law; (c) the existence of any fact which, if established, would constitute a breach of international obligation, and (d) the nature or extent of the reparation to be made for the breach of an international obligation.

About half the signatories, including the majority of the smaller powers, have accepted this obligatory jurisdiction, but the five great powers with the exception of France, have not, and it is not proposed that the United States do so. Until the Senate changes its attitude, and until the great powers are willing to join with us, it would be obviously futile to consider anything but voluntary jurisdiction for this country. But even for those that have accepted obligatory jurisdiction, or for us if we did so, it is to be noted that the authority of the Court is confined to strictly justiciable questions, determinable by law.

Within this limit, it is decidedly desirable to have decisions made by a permanent court which, though not bound by its own prior decisions, will normally respect them, or reverse them only for reasons given, and will therefore follow a coherent course, out of which an orderly body of law will develop, as has been the case with other courts.

What good can such a court do?

First, let us not do it the injustice of misjudging it by reason of what it can not do. It can not legislatively enact a new code of laws for the world, even where such legislation is needed. It can not send its bailiffs to hale powerful nations bent on war unwillingly before it, and enforce summary injunction on them. Strictly speaking, it can not forbid, prevent or stop war. It is not the world's president, the world's legislature, or the world's policeman. It must leave many things undone, including some which need to be done, and where there is, as yet, no means of doing. If we are to test every safeguard against war by its ability summarily and infallibly to stop a war actually started or bursting, then, by this test, not only this court, but every separate device, actual or proposed, will fail. There is no one way to prevent war, and probably there is no combination of ways yet feasible which would infallibly do so. This court is merely one of the ways of hindering one of the causes of war from growing to war size. It is justified if it helps accomplish this, and it is not condemned by any showing of its probable inability to accomplish other things beyond its scope.

There are only four ways to settle disputes between nations; by agreement, by arbitration, by adjudication, or finally, by war. Arbitration, with its habit of compromise, may be the best available way to settle questions of practical policy, but it has proved unsatisfactory in justiciable questions, which ought to be decided one way or the other. These, because one side or the other must back down and concede that it was wrong in principle, are precisely the most difficult questions to settle by agreement. A political representative who would yield on them would not dare return home, and he would find his actions repudiated by his own government. So such questions, sometimes relatively small, tend to drag on in deadlocks, with increasing ill will. A single one of them may not be likely to precipitate immediate war, but a series of them develops a dangerous war atmosphere, in which a later spark, otherwise harmless, may explode.

The experience of the world court already demonstrates that an *adjudication* can be, and is, accepted by both sides with good face, where the same thing by agreement would have been impossible, and that, once the dispute in principle is settled, a working agreement on the practical situation promptly follows. This has already happened on an issue between France and Great Britain, as to the nationality of certain English residents of the French protectorates of Tunis and Morocco. Their British nationality had been secured by treaty, but France decreed them now French nationals, with military and other duties, and claimed that this was a domestic exercise of sovereignty, not subject to international review. Finally it was agreed to submit this question to the court, which held that, while nationality is normally a domestic question, it had, in the case of those particular nationals domiciled in a protectorate, been expressly made international by the treaties themselves. France instantly accepted the ruling, and an amicable arrangement of the practical question followed, rendering unnecessary a trial of the case on its merits.

Adjudication thus becomes a way, not merely of deciding cases, but of avoiding friction over them. Like the chemical fire extinguisher, it stops the fire before it becomes really a fire. That it might not be adequate in a conflagration is nothing against it. That is not its job. And if chemical extinguishers were always available, and used, there would be no conflagrations.

In its brief career of three years, the court has already rendered fifteen opinions and judgments, which is many more than were rendered by either our own Supreme Court or the Hague tribunal in the early stages of their careers. Five of these were judgments, in cases directly before the court, and ten were advisory opinions or declaratory judgments, in matters involving both justiciable and non-justiciable elements, in which only the justiciable part was referred to the court.

It is worth noting, however, that all those advisory opinions were rendered in proceedings *inter partos*, on issues in actual controversy between those parties, and were decided after hearing and argument, and the decisions promulgated by the court, at the Hague, before transmission to the parties or to the League. Any fear that the Court, in those "advisory opinions," might act as the counsel or attorney-general of the League, or serve as a mere pedagogic advisor on abstract or academic legal propositions, is negatived by the action of the Court itself. It has refused to render an opinion on a moot question, or in a proceeding in which either party declined to accept its jurisdiction, or on an unargued case, or as private advice. Its proceeding, in these cases, is strictly judicial, and is in the nature of a declaratory judgment, rather than an expression of legal advice.

These opinions, too, have been among the most useful and constructive acts of the Court, and it would be a calamity to the progress of international jurisprudence if misinformed suspicion or unwarranted apprehension on our part should make their curtailment a condition of American adherence. If it is necessary to dispel the bugaboo that our sleep-walkers see in their dreams, there is no harm in a reservation declaring ourselves not bound by opinions in such cases to which we are not a party, but even this reservation is quite superfluous. It is needed only to allay the fears of those who do not know that it is already included in the statutes of the court and affirmed by its decisions, and would be the rule anyway, whether we reserved it or not.

There have been ten of these declaratory judgments: three interpreting clauses in the Treaty of Versailles in regard to the appointment of delegates to the international labor organization; one in regard to the nationality decrees in Morocco and Tunis; three on the legal aspects of certain boundary disputes; two on the rights of German settlers in Poland; and one on the interpretation of the word "established" in connection with the rights of certain Greek residents in Constantinople to be exempt from the general deportation agreement. Every one of these was an interpretation of the language of a treaty, to which the parties were signatory, and on a case actually in issue, on that treaty. Jurisdiction was declined in one case, a dispute between Finland and Russia over Eastern Carolia, because Russia refused her assent. In every other case, the opinion of the court was accepted without question, and greatly facilitated the adjustment of related questions then in dispute between the countries.

There were also five direct judgments, on three cases: one confirming the right of the ships of all nations at peace with Germany to use the Kiel canal, even when at war with other countries; two concerning certain concessions in the British mandate in Palestine, on

rights claimed under former grants by Turkey, and two regarding reparations due by Bulgaria under the treaty of Neuilly.

If these fifteen important issues, all strictly judicial, have arisen in three years, and their adjudication has in every case contributed to international good will and the removal of dangerous frictions, certainly the court has been worth while. We no longer have to judge the world court by fantastic speculations as to what it might do, when we have the actual record of what it has done.

On this record of actual service to the world, the question is no longer, why should America join? but, rather, why should America *not* join? If an institution proposed by ourselves on lines of our established policy, is already working and serving usefully those who adhere to it, who are most of the nations of the world, further American abstention is at least preposterous, even if there were no positive practical considerations to urge our adherence.

But to conclude that there will be no such practical considerations would be to assume that the past has no lessons for the future. Throughout our history, we have had occasions for arbitration on an average once in two years. With the increasing complexity of our contacts with the world, it is unthinkable that they will not be even more numerous in the future. A large part of them will be definite justiciable legal questions, much better adapted to adjudication than to arbitration, now that there is a tribunal to adjudicate them. The other party to each of these issues will almost certainly be an adherent of the Court. We are now competent, under the statutes of the Court, to be suitors in it. It is unthinkable that, when such cases arose, we should break all our precedents to set, for the first time in our history, the bad example to the world of refusing to adjudicate a question which the other party was willing to submit to such determination.

What, then, are we asked to do?

Strictly speaking, almost nothing. We already have the right to use the Court if we wish. We could not be compelled to use it, except when we wished, if we adhered to it. We already have, through our members on the panel of The Hague tribunal, the right to nominate candidates for election on the court, and we have once done so. We already have a member of the court, Judge John Basset Moore, though he was nominated by Italy, and not by us. There remains only one right to be acquired and one obligation to be assumed—the right to participate in future elections of judges, and the obligation to pay a small sum toward the expenses of the court. The expense would be negligible—at most, about thirty thousand dollars—and would, in any case, be determined by Congress, and the election takes place only once in nine years. Our member is already elected, and, if he lives, will undoubtedly be re-elected.

This is all. Formally, it is nothing. Substantially, it is much. It is evidence to the world that America is not afraid to finish what it started. It is our contribution toward making the world court really a world court. We are so large a part of the world that nothing is fully a world institution without us. It is evidence to the world that America, even though it refuses to join the League of Nations, is not committed to narrow and selfish isolationism, in all its relations to the world. It is our adventure in good faith, our gesture toward substituting confidence and hope for suspicion and pessimism in the world. It is opportunity for the smoother adjustment of our own difficulties, and our security of living in a less dangerous world.

The only real argument against our taking this step is that it is so small a step. Really, except for the bugaboos which have been raised against it, it scarcely justifies the fuss that has been made over it. But the stock objections all make the contrary assumption. They warn us against it because it is too great a step. We either must not take it, or we must, in taking it, safeguard ourselves against vast perils and unmeasured risks. It is necessary, therefore, to examine these objections, not because they are serious, but because certain persons have taken them seriously.

The commonest objection—but one which I understand Senator Borah does not make—is that this is a "League Court" and that adherence to it would somehow entangle us with the League of Nations. The Court, it is said, is the creature of the League and under the control of the unscrupulous chancellories of Europe; it is the legal adviser of the League, and for us to even to touch it would be to contaminate us with that tainted thing.

This argument, it seems to me, is pure hysteria. Certainly, it is founded on no facts. But there are those to whom the League has become a sort or phobia—a "symmachophobia" to give it is technical name—so that the mere mention of the League sets them into a sort of spasm, quite regardless of whether the mention proposes anything alarming or not. That is a state, not of mind, but of nerves. They are like some sensitized persons, who can not eat strawberries without getting the hives, or go near ragwood without getting the hay fever. With such persons, of course, argument is futile. But others may be interested to know the facts regarding this alleged "entanglement."

Some of these facts I have already pointed out. The court, we have seen, is in no sense the creature of the League. Nominations to it are made, not by the League, nor even by the governments, but by the judges on the Hague tribunal. We are already affiliated with that tribunal, and through it can make, and have made, nominations. The only function of the League representatives is to sit as an electoral college, once in nine years, to elect eleven judges. Even then they sit under the authority, not of the League Covenant, but of the Statute of the Court, which was enacted, not by the League, but by the independent action of the separate nations adhering to the court. This statute, and not the League Covenant, is the constitution and source of authority of the court. The court, to be sure, may be called on to interpret the League covenant, like any other treaty, as between its parties. Not quite all the members of the League are members of the Court, and there are non-members including ourselves, entitled to use the court. The League acts as agent, to collect the expenses of the court from League members, but if we adhered we could send our money direct to the court, if we were afraid it would be tainted by passing through the League's bookkeeping office. The only other connection with the League is in the giving of advisory opinions, which I have already mentioned. The judges, after election, are completely independent of everybody. They have already refused requests of the League, and voted individually against their own countries, and nothing happened, or was thought of. The "chancellories of Europe" have as little control over the judges of this court as the legislature of Ohio has over Chief Justice Taft. The Court does not even meet at Geneva, but at The Hague. The League took a certain part in the steps that led up to the court. So did the British Empire. The court is not entangled in either, and neither would we, if we adhered to it.

We have already, by statute of the court, the right to make full use of it if we choose. But obviously, we should not be very com-

fortable in doing so unless we had a vote in selecting the judges, and unless we paid our small share of the expenses—which would amount to about one-fortieth of a cent a year apiece. The proposal is that we be given a vote in the electoral college, but without any legal or other relation to the League of Nations. Certainly there is nothing in this to frighten any one not afflicted with an actual pathological phobia on the subject. I understand, in fact, that it does not frighten Senator Borah, and that this is not one of his objections.

Two other objections, however, Senator Borah does raise. One is that this Court is not a court, because it has no codified body of statute law to interpret, and because it can not enforce its jurisdiction or its decisions. The other is, that in its advisory opinions, the court does become counsel for the League, and might involve us, through those opinions, in some way with the League.

The first objection is a counsel of perfection. Of course, no world court can ever completely fill the function of the judicial department of the world until the world has also a legislative and executive department. There is no present prospect of organizing the world on this basis, and if there were, Senator Borah would be precisely its chief opponent. He is afraid of the League of Nations even in its present form, and if there were any possibility of its becoming a superstate, competent to enact laws for the court and to enforce its decisions, his horror would be only increased. He talks vaguely of "codifying" international law, and of including in it the "outlawing of war," but these words are meaningless unless you define them in terms of fact. Then, if they mean anything, it is something to which Senator Borah would be the last to consent. To include the "outlawing of war" in the world's statutes would be, not codification, but legislation. Mere codification could put into law nothing except what the codifiers could find authority for finding there already. The very proposal to codify international law assumes the existence of that law, and of ascertainable sources of knowledge of what it is. These sources are equally open to the court.

This is not to say that the law ought not to be codified. Indeed, steps are now being taken to do so, and the existence and good record of the world court have made the nations willing now to take some of those steps which a few years ago they refused. But this can not be done all at once, nor by a single operation. It is a process to which many things must contribute, most of all precisely the work of this court. Courts do not have to wait on codes. New York has a code, and Illinois has not. Both have workable courts, and New York had them before it had its code. Even a preliminary international code is a task of years, and its completion perhaps of generations. Indeed, if "codifying" includes any legislative functions, it will last forever, for there are always new laws needed to meet new conditions. A code even after the codifiers had written it, would have to be accepted in its entirety by each of the nations, by separate treaty. Senator Borah would be the leader of the demand that all American amendments to it be accepted and no others admitted. The job would never end.

Meantime the court is actually functioning, contributing by its decisions, one question at a time, to the clarification of the lew. It is thus that the common law of England and much of the constitutional law of America have grown. We, who are the products of that process, should be the last to object to its extension to the larger field. At any rate, it is not for us to decide whether it shall happen, but only whether we will be parties to it. The growth of the world's law will be conditioned by it, anyway, and we shall have to live in the world

as so conditioned. With or without us, it is going to happen. While it is happening, it is our interest as well as our duty to take part in it.

It is of course preposterous to say that there is no such thing as international law. This very year is the three hundredth anniversary of the beginning of international law as a systematic science, in the publication of Grotius' "*De jure belli et pacis.*" It has been developing ever since. It has now a vast collection of expressly statutory law, in the body of treaties between nations. It has recognized common law, not as complete or as definite as might be wished, but sufficient for a basis of judicial proceedings. That the law may be, and has been, broken, and that there is as yet no international organization strong enough to enforce it on a powerful nation bent on defying it, does not make it not law. It merely raises other problems of world organization, which this is not the place to discuss, and the world court is not the body to deal with. Certainly, the volumes of the world's treaties of international law, the faculties of international law in all our universities, and the honor paid to the great international jurists of the world, are not all founded on a fiction. If we concede that international law is not yet what we wish it to be, the thing for us to do is join this court, to help it reach that stage of development, rather than stand aloof, awaiting the impossible event of making it complete by some artificial compilation, or by the fiat of some non-existent legislative body.

An even more specious bugaboo is the pother about "advisory opinions." One would suppose that this was a new thing in the world. On the contrary, it is one of the oldest things even in American jurisprudence. Massachusetts has had the system of advisory opinions, without even the safeguarding limitations found in the world court procedure, since 1780, and eight other states, one of them your neighbor Colorado, have adopted it. None of the terrible things conjured out of their fears by our ghost-seers on these advisory opinions have ever happened in American experience. Neither are they indicated by the already significant experience of the world court with them. They have, on the contrary, proved to be one of its most valuable functions.

The bugaboo is that the right of the League to ask for advisory opinions makes the court the private, perhaps secret, legal advisor of the League. Of course, no such thing is possible even under the words of the paper documents, and the exact opposite has happened in fact. The principal questions that affright us have already been decided our way. The court has laid down rules to make these proceedings strictly judicial. It refused to give any advisory opinion when one of the parties to the issue declined to appear or recognize its jurisdiction. It decided that a question did not become international, or otherwise come under the jurisdiction of the court, by the mere fact of reference to it by the League. It resolved that it would not give opinions on moot or academic questions, but only on legal points involved in actual issues between parties, and that it would hear arguments on these issues, from the parties and any one also interested. The opinions are read from the bench at The Hague before being transmitted to the League Secretary at Geneva, and the first the League officials hear of them is through the newspapers. They are given the utmost publicity, to all the world.

In other words, the procedure and relation are the exact reverse of that of a legal counselor to his client, or of an attorney-general to his government. The league has a legal department, at Geneva, and uses it for all the purposes of such a department, including the study and formulation of questions to be referred to the court. But the

court itself fills none of these functions. It acts toward the League, in the interpretation of League treaties, just as it does in the interpretation of any other treaties between the nations parties to them. No one not a party is bound in either case. It acts as an independent judicial body, and these opinions are, as I have already pointed out, in the nature of declaratory judgments, and not at all as advice of counsel.

These are, so far as I have heard, all the bugaboos. Some of them, it need not be questioned, are of a nature to frighten those who have not read the statutes nor the decisions of the court and who do not know its purposes and procedure. To allay these fears, certain reservations have already been proposed by Secretary Hughes and Presidents Harding and Coolidge. These reservations provide that American adherence shall not involve any legal relation to the League or any obligation under it, that the United States shall have a vote in the election of judges; that it will pay a fair share of the expenses to be determined by Congress, and that the statute of the court shall not be amended without our consent. Even these reservations, except, of course, the one giving us a vote, are not needed on the facts, since they are already provided in the statute, but they are harmless, and if they will smooth the way to acceptance, nobody objects to them. The objection is to reservations and demanded amendments which would be clearly impossible of acceptance by the other nations whose consent is also necessary.

The worst of these is the set of resolutions reported last year under the nominal sponsorship of Senator Pepper, but which the Senator himself is reported as no longer supporting; if, indeed, he ever willingly favored them, which I have reason to doubt. These resolutions provided, in effect, that America would join in the court whenever its members who are also members of the League should repudiate the League as even their channel of communication with it, and that America would accept a vote on the court elections whenever Ireland and Canada would surrender theirs! Which is simply a longer-winded way of saying, "Never!" It would be honester to say it directly.

But, without attributing the same motives to Senator Borah's proposals may we not conclude that in practical effect they would be equally effective side-tracks. Their only result, if adopted, would be indefinite postponement. If we wait for the completion and agreement on a world code of laws, we will wait for a generation, and would have to wait longer without the court than with it. If we wait until anybody has authority to include the outlawing of war in that code, we will wait until other things happen in the world which Senator Borah and his fellow irreconcilables will fight to the death to prevent. If we wait until the League members deprive the court of one of its most valuable services to them, and through them to the cause of universal peace, we shall either wait long, or we shall be imposing on them an injustice, of no benefit to ourselves, as the unmerited price of our assent. Some of the things toward which the Senator aspires are desirable. But they will come the sooner by taking the step toward them now than by postponing the start until we can go the whole way in one leap. This government itself would never have been established if we had deferred the adoption of the Articles of Confederation until consent could be had to the Constitution. I am not saying that this court is perfect. I am merely saying that it is as good as we can get, and much better than anything we ever had before, that it is useful, and that we should join in it, for its benefits to ourselves and as our part in the betterment of the world.

Senator Borah thinks otherwise. Just for himself, personally, that is his privilege. There must sometimes be men who stand alone. When they go forward alone, where the rest of us have not yet dared, they are useful explorers, even when they are wrong, and sometimes they are right. But when they stand back alone, where the rest of us are ready to go forward, they are futile when they are right, and useless when they are wrong—and they are nearly always wrong. Backward, at least, we need not follow them. We may take counsel of their visions, but not necessarily of their fears.

Two eminent Senators of the United States, your Senator from your state, and mine from my state, are essaying to fill this role of backward leadership. By a peculiar kink of the party irresponsibility which has developed under our American form of government, these two senators, William E. Borah and Hiram W. Johnson, are chairman and ranking member respectively of the Senate Committee on Foreign Relations, and therefore the two most powerful men in America on just this question. In form, they are the official Republican leaders on foreign affairs. In substance, they are the leaders of the opposition.

They are brilliant leaders, too—perhaps the two most skilled, for this task of opposition, in the Senate. They have with them only a small minority of the Senators, but, under the peculiar constitution of the Senate, that minority, under their resourceful leadership, may succeed. They will cast their votes and wield their great power to turn this nation backward, when its known will is to go forward. Those votes are in their power to cast, beyond our power to prevent. All we can do is to make it clear, to them and to the world, that these votes are not our voice, that we follow, not their lone voices in the wilderness of doubt, but the ripened opinion of mankind; and that we are willing to accept for ourselves what the rest of the world has already accepted from us, a world court, where we can settle our differences by the orderly adjudication of the law, instead of by the wranglings, the brawlings, and the eventual violence which are its only alternative, whether between men or between nations.

THE WORLD COURT

Address of Hon. William E. Borah before the Idaho State Bar, Lewiston, Idaho, September 6, 1925.

(Note: The following is the report of Senator Borah's address as it appeared in the Lewiston Tribune of September 7, 1925. The address was unwritten, and on account of the press of public business Senator Borah has been unable to check its accuracy in detail or its completeness.)

"It is a great pleasure and honor for me to be a guest of the State Bar Association of Idaho and to speak on this very important subject under its auspices. I thank you sincerely. You heard last night the very able argument of my friend from California. I have for a long time had the opportunity of hearing arguments on this subject, but I can say that I have never heard an abler presentation of the matter than was made by your distinguished guest last night.

"I have the impression that he was discussing the court he would like to have rather than the one proposed. He stated that the burden of proof was on myself and others who agree with me, and that there are few who do not favor it, and that therefore the majority must have the conclusive reason on their side. I am not so sure about that overwhelming majority. I have had some experience with majorities. When the League of Nations was proposed, but few newspapers opposed it, but within six months after that a president was elected who absolutely opposed it. I propose to wait until the debate is over.

"When President Wilson returned from Versailles, he proposed that we enter the League of Nations, but claimed that no change could be made in it. I spoke on the subject in February, 1921, and was requested to speak against the league at Boston and consented to do so. Although warned by Mr. Lodge that it would be a "frost," Tremont temple where I spoke had no standing room left and I afterwards addressed an overflow meeting. It is dangerous to say just where the American people are on a political subject, by circulation of propaganda about the country. The League of Nations was defeated by the common people of the United States.

REASONS FOR THE FAITH IN HIM

"I propose tonight to give you a reason for the faith that is in me with reference to this issue. We are wide apart as to what constitues the facts on this important subject. It is claimed that I have joined the reactionaries. The question is whether one is in harmony with the principles and interests of this republic. I think that the world court is as much against such principles as is the League of Nations itself.

"My opponent says he is in favor of a world court. So am I, but there is no such thing as a world court proposed. The men who organized what is now called a world court did not intend to create a world court. They stated that they intended to create a world court as a judicial department of the League of Nations, and that is precisely what they did do. If we join this court, we will be in a department of the League of Nations. When it has been divorced from the League of Nations it will go through the senate in twenty minutes, so far as I am concerned.

"Those who formed the court were informed and declared that they were not creating an independent judicial tribunal. Those of us who have fought the League of Nations for the past five years have no doubt that if we enter it would be entering a department of the League of Nations. I thought my friend last night was exceedingly adroit in attempting to disentangle this court from the League of Nations. It is the most entangled proposition that could possibly be conceived. It is entirely subject to the League of Nations, both as to the election of judges and the right to use the court. If the league disappears, the court disappears.

"It has been said by a member of the court that 'the court is an agent of the League of Nations and is most intimately connected with it.' Judge Logan, who is now sitting in the court, says that it occupies a place similar to that of a supreme court to the state. We haven't any world court. We have a legal department of the League of Nations, and this we are asked to join.

WHY NOT SEPARATE THEM?

"Why not separate this court from the league? I want it absolutely uncontrolled by a political institution that has to do with 10,000 political questions that arise internationally. I have not discussed the wisdom or unwisdom of advisory opinion. Here is a league not connected with the court that may call on the Court for an advisory opinion just as the President of the United States may call upon the attorney general. I am concerned to know what relation is sustained between the League of Nations and the court. No closer relationship could be established. Only the league may call upon the court for an advisory opinion.

"The principles which I contend for have been the principles advocated by leading men of both parties for the past fifty years. John Bassett Moore, an eminent authority, says that the giving of an advisory opinion is fundamentally contrary to the proper function of an international court. Shall we heedlessly disregard the opinions of such men?

"Let us now consider the court as a judicial body. I want you to separate in your minds the two different phases of this court. As now proposed, this court is not any more like that proposed by Elihu Root than night is like day. Under Mr. Root's proposition, any nation could be heard. Under the League of Nations, no nation can be heard except by consent of the offending nation.

"Over in China tonight, we see the League of Nations working and the court, breeding another world war; and yet they say to me that this League of Nations is promoting the peace of the world.

"They said that all of the press were for this court. They were about all for the League of Nations, but I don't know if any of them are for it now, or not. President Harding, from the first, favored a world court and not a League of Nations court, and I supported him on that proposition. The sole contention is that we have the court separated from the league. Who makes the laws for the court? The Versailles treaty is the international law of Europe. It is necessary to have an international code of law, as clearly stated by Mr. Root.

"As my friend from California said last night, the world court is not under the control of anyone. If that does not constitute judicial despotism, I do not know what it is.

"We could divorce the court from the league and thus stay out of the league and join the court, but the league will not consent. They feel that they have an opportunity to do what they have failed hereto-

fore to do, get us into the league, tie us up with the league, so they will not consent to have an independent court. They are not primarily interested in the court; they are primarily interested in the league. We could keep our pledge to stay out of the league and still be a member of an independent world court, but the league people say you must have a league court, you can have no other. So this is a fight not against the world court but against the league court, and the battle goes on just the same as it did five years ago. Hundreds of thousands of dollars are being expended by the same organizations and under the same direction and by reason of the same influences which tried to put us into the league. Speakers are employed and writers are paid by the same organizations as tried to entangle us directly in all the political affairs of Europe.

"They talk court but they are fighting for the league. The hand is the hand of Esau, but the voice is the voice of Jacob.

HARDING ON COURT

"Here let me quote the words of President Harding in one of his last utterances upon this subject:

'Two conditions are indispensable to our joining the court. First, that the tribunal be so constituted as to appear and to be, in theory and in practice, in form and in substance, beyond a shadow of a doubt a world court and not a league court.' When that statement was made, I declared publicly from my home in Boise that upon that platform I would support the president to the end. When I met him at Pocatello a few days afterward on his fateful trip, he said, referring to my declaration, 'Bill, that is my platform. If the reservations offered do not accomplish that, make them so they will and I will support them.' And then he added, 'We want this court absolutely disassociated with the league.' I will gladly, enthusiastically support a world court which is divorced from the league, uncontrolled by any political and international institution, a court operating under law. That kind of a court will serve the cause of peace. I will not support any other.

"In conclusion, I think we ought to have a body of international law to govern the court, and written into this law a declaration to the effect that war is a crime and that those guilty of planning it and bringing it on are condemned. President Wilson well said that the people do not make war. I say to the nations of Europe: If you are not willing to write this declaration into your code of law, for your court, we'll stay out until you do. The United States ought to say to the nations of Europe: 'Yes, we will help you, but you should punish the men who are plotting for another war.'

WHERE AMERICA'S POWER LIES

"They say that the nations of Europe will not consent to any such thing. I propose to keep this republic on safe ground. We have been for 150 years going on the doctrine of George Washington. We have simply done as he told us we should do. We have not entangled ourselves in the affairs of Europe. This is as essential for the next 150 years as it has been for the past 150 years. It means that we shall never enter into any combination, but decide questions that arise on the basis of justice.

"I suppose every sane man and normal woman wants peace. There is no glory awaiting mortal effort equal to the glory which will come to those who really rid the world of war and all its misery, but what is

the greatest guarantee of peace in the world today? It is this free, uncontracted and untrammeled republic. What is the most powerful balance wheel, the greatest steadying force in this world of tumult and strife? It is this republic uncommitted and independent, free to throw its influence and its moral leadership on the side of order and law, of righteousness and peace. Anything which ties this nation into the policies of Europe and commits it to the politics of Europe, anything which entangles us in European affairs, anything which commits us to the Versailles treaty and its basic principles of imperialism is not only a menace to our people and to our institutions, but make against the peace of the world.

"So far as I am concerned, I shall test every proposition submitted to me by the question as to how it affects the independence and the untrammeled power of this government. I shall do so not only because I believe it to be the best for our own country and our own people but because I believe it to be the best service we can render to the cause of peace."

A STUDY OF JUVENILE DELINQUENCY IN THIRTY COUNTIES OF IDAHO

By Robert D. Leeper, Lewiston, Idaho.

INTRODUCTION

In view of prevalent public discussion, it has occurred to me that an investigation of juvenile delinquency in a rural field would be of interest and benefit to many citizens concerned with the problem. The light of scientific research along this line seldom penetrates into the small communities where the majority of our people live, and a scientific discussion can be of no particular value to those who do not understand it. Therefore, in approaching this work, I have been actuated by a wish to present a study which would be accurate, and at the same time of interest to the average citizen in rural communities.

I have purposely avoided all technical and scientific discussion, in which I realize my field would be extremely limited, and have relied entirely on knowledge derived from non-scientific sources. The statements which I make are based on statistics, records, and opinions of laymen in the thirty counties who happen at this time to be charged with responsibility by law.

The statistics represent a fairly accurate cross section of the entire problem in Idaho. The opinions of the contributors express in homely language what is undoubtedly the trend of thought of the average citizen upon the subject, and will be readily understood and appreciated.

The conclusions which I have drawn are based entirely upon the information received from those non-scientific sources, and from my own observations as a layman. Thus, I have hoped to present an accurate and just exposition of two things—First—the existence of a juvenile delinquency problem in rural communities. Second—the trend of untrained lay thought upon the subject. If I shall have succeeded in doing this, it will be interesting to note whether there is a coincidence with scientific thought along the same line.

In preparing the report I have gone directly to those charged with the enforcement of the juvenile laws in this state, the probate judge of each county. These men are not trained in any sense of the word, as they are elected politically every two years. The information herewith submitted was compiled by them. Each one was asked to submit his views on the subject of child delinquency, and nearly all of them did so. I also have received help from Mr. Vincent, the superintendent of our State Reform School, and several sheriffs and some private citizens. I asked for two typical cases from each county, and have appended hereto many such transcripts. With very rare exceptions I found these untrained political officials deeply interested in child welfare, and ready and anxious to do everything which I required. The demands made on them were very heavy, and were cheerfully met except in one instance. It appeared to me best to go to these sources for information, because it is by these untrained men and others like them that most of our laws are administered.

As far as I know, this is the first compilation of statistics on delinquencies in Idaho. I have made no statements except as shown by the records of the various counties, but in considering these it must be borne in mind that of necessity these records are very incomplete. Some of the small counties have no records of juvenile cases at all, and in some whole years are missing. In the smaller counties a great

many cases are never entered on the docket. All counties were investigated of which thirty out of forty-four responded.

The observations of the judges as to cause and remedy, and the transcripts of the individual cases are compiled in readable form to support the statistics. Lastly, I include some observations of my own gained from my personal investigations and dealing with delinquents and courts. With these explanations I submit the following.

GENERAL SURVEY OF THE FIELD

Idaho is a state supported largely by agriculture. Our total population according to the 1920 census was 450,000 spread over the huge area of 80,000 square miles. Over three quarters of our people are supported directly or indirectly by agriculture and its kindred pursuits. In the state are 889 towns and villages, only 9 of which have over 5000 population. We have only one city, which is Boise, the capital of the state, with 25,000 people. Pocatello is the only other city in the state with over 10,000 population, it being credited with 17,000. The latter is the only railroad center in the state. With the exception of a few small towns in North Idaho supported by lumbering and mining, all of the towns and villages are supported by adjacent agricultural districts. Outside of lumber mills, a few sugar factories and the mines, we have no industries which employ a large amount of labor. Our shipping routes are all through transcontinental lines, and being inland we have no seaports. The population is white, largely native born, and much of it recently emigrated from the middle west.

All religions are represented in the population, the protestants predominating, some Catholics and a few Jews, with the southern part of the state largely peopled with Mormons. Politically the state is normally Republican, but it is not a fixed quantity.

The per capita wealth of Idaho is fairly high being $1108.00. We have a few rather large fortunes in the state, but we have scarcely any genuine poverty as it is known in large cities. As a practical matter, and with rare exceptions there is work for everybody, so that no one need starve. However, during the past four years, Idaho farmers have suffered enormously from the agricultural depression, and times have been difficult.

A complete school system extends into every county of the state, which is under the direct control of the state, with local self government by means of districts. Education of children is compulsory.

Idaho, therefore, furnishes a typical rural field for investigation, with almost a total absence of those elements such as large cities, shipping terminals, and factories, which tend toward excitation to crime. So this survey will undoubtedly apply to other such communities, and will be of interest to those charged with law enforcement in them.

THE MACHINERY FOR THE ENFORCEMENT OF JUVENILE LAWS

The control of juvenile delinquents in Idaho is vested by law in the probate judge of each county, there being 44 counties in the state. These probate judges are elected bi-annually at the general elections, through party politics. In addition to their juvenile jurisdiction, they are charged with the probate of decedents' estates, guardianships, and a limited civil jurisdiction. The power of these judges over delinquents is exclusive, and practically unlimited after the fact of delinquency is established. The Board of Commissioners of each county is also empowered to employ a probation officer, who is the field man acting in co-operation with the probate judge and the school authorities.

In addition all peace officers of the counties and towns assist in the detection of delinquency and in bringing the delinquent before the probate court. In some few of the larger counties a county nurse is employed, and in some the local Red Cross has provided a welfare worker, but this is not common practice.

For temporary detention of juveniles there is provided in all but a few instances only the local county or city jail, where the juvenile must share space with adults convicted of petty offense, or waiting trial for felonies. In most cases the jails are old, poorly lighted, more or less unclean and with but meagre provision for the care of females.

For convicted offenders the state provides the Industrial Training School at St. Anthony, where the delinquent is confined, pending parole, with other delinquents. Some delinquents without homes are sent to the two "Children's Homes," but these latter are primarily for the care of orphans.

The probate judge has the power of commitment, or he may parole the delinquent subject to periodical reporting. He must compel attendance at school of children under 16 years of age. He can take delinquent children away from unfit parents and institutionalize them.

Thus it can be seen that the law has made provision for the detection of delinquency, for its punishment after it happens and for the care of delinquent, but, aside from those communities providing a county nurse or other welfare worker, no attempt is made to investigate physical and social conditions which bring on delinquency. Indeed, most public officials in Idaho look upon such work as an extravagance and a waste of public funds. Except the organizations in a few of the large towns, there are no voluntary associations engaged in the work. The delinquent child is never noticed until he breaks the peace and becomes a public charge.

I am convinced that the probate judges of the state do the very best they can with a difficult problem. But they are untrained men, often along in years, dealing with a problem which trained scientists cannot solve. They are also charged with other burdensome duties, and as a practical matter they are confined to their offices by routine. Their probation officers, when they have one, are subject to the same limitations. The office is entirely political, and many unfit men necessarily are elected. These men are not required, nor do they have the time, to investigate social conditions. Police officers are employed to detect delinquencies and catch the offender, and nothing more. Then, too, the great areas and distances of the various counties, with their widely scattered communities, often precludes any personal contact with the probate judge, who resides at the county seat.

Although required by law, the court records of delinquency in the counties of the state have been carelessly and inadequately kept, in many instances not at all. An accurate check is impossible, much must be left to estimations from known figures.

STATISTICS OF JUVENILE DELINQUENCY IN IDAHO FROM 1914-1923 INCLUSIVE

The statistics obtained on delinquency in Idaho during the past ten years were obtained directly from the probate judges, and embrace all cases of which a record has been kept. The figures are as nearly accurate as can be obtained. Unquestionably in nearly all counties the records are not complete, and as nearly as can be estimated there are two or three times more unrecorded delinquencies in the smaller counties than are reported. However, I believe that these figures represent

the trend of delinquency not only in Idaho, but throughout the nation, and to my surprise correspond rather closely to figures compiled for large cities.

As G. Stanley Hall remarks in his "Adolescence," "Although vice is very different from crime, and although but a relatively small proportion of all offenders are caught and sentenced, the number of convictions affords one of the best indexes of the general state of morality of any age."

I therefore submit the following:

TABLE A

First, as to delinquencies by years, table A gives the annual report for all crimes by counties for the ten-year period ending 1923. From Table A these facts appear.

(1) Juvenile delinquency shows no material increase up to 1918, and a constant increase since 1918, both by county and by state, the figures for the state being:

Year	All Recorded Delinquencies
1914	471
1915	482
1916	370
1917	555
1918	558
1919	1055
1920	816
1921	935
1922	1371
1923	1067
Total for ten years	7786

For the five years ending in 1918 there were recorded 2536 delinquencies.

For the five years ending in 1923 there were recorded 5250 delinquencies.

The per cent of increase is practically 100 per cent as recorded.

Ada County apparently has furnished the only set of complete statistics for all juvenile detentions, it furnishing 5161 cases out of the ten-year total of 7786. But this comparison is unfair, as the total of 2625 for the smaller counties should be at least tripled to care for the unreported cases. So the total should read 10,000 cases to be even approximately accurate. Even at that the percentage of Ada County is astonishingly large. In great part it can be accounted for by better records, extra activity of the probate judge and the use of two trained welfare workers. To my mind, it is a good sign, rather than bad. The small communities show practically the same per cent of increase as does the state at large in recorded cases, and undoubtedly their unrecorded cases correspond. Kootenai County is a typical county with apparently well kept records, its figures showing 142 cases for the five years ending 1918, and 282 for the five years ending 1923, or practically the identical increase.

The years of 1922-1923 produced 2444 cases, or about one-third of the entire ten-year total. For Ada County the year 1922 was the most prolific of delinquency with 999 cases. For the smaller counties the year 1925 was the premier, with a total of 492 cases.

TABLES B AND C

Table B is compiled for different crimes by sex for the five years ending 1918.

Table C is a similar table for the five years ending 1923.

A comparison of these tables shows the following:

For the periods in all of the counties there were committed:

Sex crimes, 1914-1918	149
Sex crimes, 1919-1923	316
Per cent of increase	112 per cent
Property crimes, 1914-1918	521
Property crimes, 1919-1923	1404
Per cent of increase	170 per cent
General Misbehavior, 1914-1918	1837
General Misbehavior, 1919-1923	3347
Per cent of increase	81 per cent
Assaults, 1914-1918	14
Assaults, 1919-1923	14
Per cent of increase	None
Intoxication, 1914-1918	16
Intoxication, 1919-1923	169
Per cent of increase	1000 per cent

Thus, to recapitulate, recorded sex crimes increased 112 per cent, property crimes 170 per cent, general misbehavior 81 per cent, assaults none, and intoxication 1000 per cent.

Other facts can be gleaned from these tables; thus, as to the sexes:

For the period ending 1918 there was committed:

	By Males	By Females
Sex crimes	51	98
Property crimes	478	43
General misbehavior	1503	334
Assaults	13	1
Intoxication	16	0
Total	2061	476

In this period the girls were docketed two times more often than boys for sex crimes. The boys committed 11 times as many property crimes, 5 times as much general misbehavior, 13 times as many assaults and 16 times were intoxicated as against none for girls.

For the period ending 1923 there was committed:

	By Males	By Females
Sex crimes	111	205
Property crimes	1294	110
General misbehavior	2792	555
Assaults	10	4
Intoxication	136	33
Total	4348	907

In this period girls were arrested twice as often as boys for sex crimes—boys committed property crimes 11 times more often, general misbehavior 5 times more often, assaults 2½ times more often, and intoxication 4 times more often.

The percentages are identical as between males and females for the two periods, except as to assaults and intoxication, where females gained.

In the period ending 1918 there were:

Male offenders	2061
Female offenders	476

Or about five times more males than females.

In the period ending 1923 there were:

Male offenders	4348
Female offenders	907

Or about five times more males than females.

Boys increased from 2061 to 4348, or 111 per cent. Girls increased from 476 to 907, or 96 per cent.

TABLE D

Table D is a summary of the ten-year period by kind of crime and sex for the various counties. It has been prepared for the purpose of comparison by counties, and will give a true indicia of comparative delinquency over the state.

TABLES E TO H

These tables are compiled from the record of the State Industrial School, which are accurate and complete. They sustain the county statistics, and strongly verify the conclusions which I have derived, as hereinbefore indicated.

For example—Table E shows a steady increase in commitments from 1914 to 1923, with the high peak in 1922 and 1923. The total number of commitments in the ten-year period is 1140. The total commitments for the period 1914-1918 inclusive were 445; for the period 1919-1923 inclusive were 695, an increase of 250 in number and 56 per cent in percentage.

PERCENTAGE OF INCREASE BY CRIMES

	1914-1918	1919-1923	No.	Per cent
Sexual crime	79	162	83	105
Property crimes	93	146	53	57
General Misbehavior	211	288	77	31
Assaults	22	72	50	227
Intoxication	40	27	13	0

TABLE A

	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923	Totals by Counties
Ada	407	360	231	370	758	708	550	555	641	581	5161
Adams	2	1	2	0	1	0	0	2	0	4	12
Bannock	10	15	23	19	23	12	20	16	19	36	193
Bear Lake	....	....	....	....	....	....	....	....	....	....	....
Benewah	....	....	2	0	8	16	12	16	8	9	71
Bingham	7	13	13	16	16	35	9	22	5	16	152
Blaine	Report no record										
Bonner	....	....	....	....	....	....	....	....	....	....	....
Boise	....	....	....	....	....	....	....	....	....	....	....
Boundary	0	0	3	5	6	4	5	1	6	3	33
Butte	....	....	....	....	3	1	1	1	2	....	8
Bonneville	....	....	....	....	....	....	....	....	....	....	....
Camas	....	....	....	1	1	....	....	1	....	....	3
Canyon	10	13	19	5	20	18	14	25	17	38	179
Caribou	....	....	....	....	....	....	....	....	....	4	4
Cassia	Report no record										
Clark	....	....	....	....	....	....	....	....	....	....	....
Custer	....	....	4	2	1	....	....	....	....	....	7
Clearwater	1	....	....	....	....	....	....	2	2	12	17
Elmore	....	....	....	....	....	....	....	....	....	....	....
Franklin	....	11	....	....	....	....	....	....	....	17	28
Fremont	6	6	10	8	8	9	8	....	6	11	72
Gem	....	....	2	6	1	12	1	7	21	7	57
Gooding	1	1	6	5	5	11	4	6	12	5	56
Idaho	3	1	....	8	4	11	1	2	....	1	31
Jerome	....	....	4	2	1	1	1	....	0	14	23
Jefferson	4	4	6	12	17	14	20	13	23	18	131
Kootenai	13	15	15	41	59	95	32	68	39	48	425
Latah	7	13	3	3	9	15	10	8	7	5	80
Lemhi	....	1	....	7	3	....	....	5	1	3	20
Lewis	2	1	1	7	13	6	6	9	1	1	47
Lincoln	....	....	....	....	....	....	....	....	....	....	....
Madison	8	1	5	3	1	9	4	3	7	19	60
Minidoka	....	....	....	....	....	....	....	....	....	....	....
Nez Perce	....	26	21	25	13	3	18	44	33	30	213
Owyhee	....	....	....	....	....	....	....	....	....	....	....
Oneida	....	....	....	....	....	....	....	....	....	....	....
Power	....	....	....	....	....	....	....	....	....	....	....
Payette	....	....	....	....	....	....	....	....	....	....	....
Shoshone	....	....	....	1	....	....	....	....	....	....	1
Teton	....	....	....	1	....	....	....	....	....	....	1
Twin Falls	....	....	....	....	64	75	83	114	154	175	665
Valley	....	....	....	....	....	....	1	....	2	....	3
Washington	....	....	....	....	....	....	6	15	7	16	44
	481	482	370	547	1035	1055	806	935	1013	1073	7797

TABLE B

(Reported delinquencies by kind, sex and county, for period 1914-1918 inclusive)

County	Sexual Crimes		Property Crimes		General Misbehavior		Assaults		Intoxication		Total by sex and counties		Total
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	
Ada	27	45	214	23	1210	235	....	....	4	0	1455	303	1758
Adams	....	....	1	....	2	3	....	....	....	....	3	3	6
Bannock	5	12	29	....	20	22	....	1	1	....	55	35	90
Bear Lake	....	....	....	....	....	....	....	....	....	....	....	....	....
Benewah	....	....	....	....	7	3	....	....	....	....	7	3	10
Bingham	3	4	26	....	25	5	....	....	2	....	56	9	65
Blaine—No record													
Bonner	....	....	....	....	....	....	....	....	....	....	....	....	....
Boise	....	....	....	....	....	....	....	....	....	....	....	....	....
Boundary	....	0	2	0	10	1	0	0	1	....	13	1	14
Bonneville	0	0	....	....	....	....	....	....	....	....	....	....	....
Butte	....	....	3	....	....	....	....	....	....	....	3	....	3
Camas	....	....	2	....	....	....	....	....	....	....	2	....	2
Canyon	....	....	3	....	16	2	....	....	1	....	49	8	57
Caribou	2	3	30	....	....	....	....	....	....	....	....	....	....
Cassia—No record	....	....	....	....	....	....	....	....	....	....	....	....	....
Clark	....	....	....	....	....	1	....	....	....	....	....	1	1
Custer	....	....	4	....	3	....	....	....	....	....	7	1	1
Clearwater	....	....	....	....	....	1	....	....	....	....	....	1	1
Elmore	....	....	11	....	....	....	....	....	....	....	11	....	11
Franklin	....	....	4	....	30	4	1	....	....	....	34	4	38
Fremont	....	1	....	....	3	....	....	....	....	....	8	1	9
Gem	....	....	4	....	8	2	....	....	....	....	16	2	18
Gooding	....	....	8	....	6	....	2	....	....	....	15	1	16
Idaho	....	....	7	....	7	....	....	....	....	....	12	....	12
Jerome	....	....	5	....	10	3	3	....	4	....	32	11	43
Jefferson	4	4	15	....	79	22	2	....	2	....	114	29	143
Kootenai	2	7	29	1	19	2	4	0	0	0	25	10	35
Latah	1	7	5	1	....	3	....	....	....	....	5	6	11
Lemhi	....	1	5	2	3	3	....	....	1	....	20	4	24
Lewis	2	1	13	1	8	2	1	....	1	....	18	5	23
Madison	....	4	5	....	....	1	....	....	....	....	....	....	....
Minidoka	....	....	....	....	....	....	....	....	....	....	....	....	....
Nez Perce	4	15	30	5	17	14	4	0	0	0	55	34	89
Owyhee	....	....	....	....	....	....	....	....	....	....	....	....	....
Oneida	....	....	....	....	....	....	....	....	....	....	....	....	....
Power	....	....	....	....	....	....	....	....	....	....	....	....	....
Payette	....	....	....	....	....	....	....	....	....	....	....	....	....
Shoshone	....	....	....	....	....	....	....	....	....	....	....	....	....
Teton	1	3	4	....	25	7	0	0	0	0	50	14	64
Twin Falls	5	....	20	....	....	....	....	....	....	....	....	....	....
Valley	....	....	....	....	....	....	....	....	....	....	....	....	....
Washington—No record reported	....	....	....	....	....	....	....	....	....	....	....	....	2546
Total by Crimes	51	108	472	43	1508	334	13	1	16	....	2060	486	

TABLE C
(Reported Delinquencies by kind, sex and county for period 1919-1923 inclusive)

County	Sexual Crimes		Property Crimes		General Misbehavior		Assaults		Intoxication		Total by sex and counties		Total
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	
Ada	39	82	637	51	2174	412	—	—	8	—	2858	545	3403
Adams	—	—	2	2	1	1	—	—	—	—	3	3	6
Bannock	12	6	51	—	27	5	—	—	1	1	91	12	103
Bear Lake	—	—	—	—	—	—	—	—	—	—	—	—	—
Benewah	2	2	9	2	32	14	—	—	—	—	43	18	61
Bingham	2	3	48	2	24	7	1	—	—	—	75	12	87
Blaine—No record													
Bonner	—	—	—	—	—	—	—	—	—	—	—	—	—
Boise	—	—	—	—	—	—	—	—	—	—	—	—	—
Boundary	1	—	8	—	10	—	—	—	—	—	19	—	19
Bonneville	—	—	—	—	—	—	—	—	—	—	—	—	—
Butte	—	1	2	—	1	1	—	—	—	—	3	2	5
Camas	—	—	11	—	—	—	—	—	—	—	11	—	11
Canyon	2	15	51	1	29	11	—	1	2	—	84	28	112
Caribou	—	—	2	—	2	—	—	—	—	—	4	—	4
Cassia—No record													
Clark	—	—	—	—	—	—	—	—	—	—	—	—	—
Custer	—	—	—	—	—	—	—	—	—	—	—	—	—
Clearwater	—	—	10	—	5	1	—	—	—	—	15	1	16
Elmore	—	—	—	—	—	—	—	—	—	—	—	—	—
Franklin	4	—	5	—	8	—	—	—	—	—	17	—	17
Fremont	9	—	5	—	14	6	—	—	—	—	28	6	34
Gem	—	1	10	1	33	3	—	—	—	—	43	5	48
Gooding	1	—	16	—	19	1	1	—	—	—	37	1	38
Idaho	1	—	7	—	7	—	—	—	—	—	15	—	15
Jerome	—	1	1	—	13	1	—	—	—	—	14	2	16
Jefferson	—	1	35	13	20	10	2	—	6	1	63	25	88
Kootenai	2	12	184	7	104	18	2	—	3	—	245	37	282
Latah	—	12	21	3	7	2	—	1	—	—	28	18	46
Lemhi	1	1	1	1	1	1	7	1	—	—	10	4	14
Lewis	—	2	14	—	6	1	—	—	—	—	20	3	23
Madison	—	3	28	1	6	—	2	1	—	—	36	5	41
Minidoka	—	—	—	—	—	—	—	—	—	—	—	—	—
Nez Perce	5	31	42	—	28	7	—	—	9	6	84	44	128
Owyhee	—	—	—	—	—	—	—	—	—	—	—	—	—
Oneida	—	—	—	—	—	—	—	—	—	—	—	—	—
Power	—	—	—	—	—	—	—	—	—	—	—	—	—
Payette	—	—	—	—	—	—	—	—	—	—	—	—	—
Shoshone	—	—	—	—	—	—	—	—	—	—	—	—	—
Teton	—	—	—	—	—	—	—	—	—	—	—	—	—
Twin Falls	—	30	141	26	203	50	—	—	100	21	444	127	571
Valley	—	—	2	—	—	1	—	—	—	—	2	1	3
Washington	—	1	11	—	18	2	—	1	7	4	36	8	44
Total by Crime	81	204	1304	110	2792	555	15	5	136	33	4285	907	6235

TABLE D
Reported Delinquencies by kind, sex and county, for period 1914-1923 Inc.

County	Sexual Crimes		Property Crimes		General Misbehavior		Assaults		Intoxication		Total by sex and counties		Total
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	
Ada	66	127	851	74	3384	647	—	—	12	—	4313	848	5161
Adams	—	—	3	2	3	4	—	—	—	—	6	6	12
Bannock	17	18	80	—	47	27	—	1	2	1	136	47	188
Bear Lake	—	—	—	—	—	—	—	—	—	—	—	—	—
Benewah	2	2	9	2	39	17	—	—	—	—	52	21	73
Bingham	5	7	74	2	49	12	1	—	2	—	131	21	152
Blaine—No record.													
Bonner	—	—	—	—	—	—	—	—	—	—	—	—	—
Boise	—	—	—	—	—	—	—	—	—	—	—	—	—
Boundary	1	—	10	—	20	1	—	—	1	—	32	1	33
Bonneville	—	—	—	—	—	—	—	—	—	—	—	—	—
Butte	—	1	5	—	1	1	—	—	—	—	6	2	8
Camas	—	—	13	—	—	—	—	—	—	—	13	—	13
Canyon	4	18	81	4	45	13	—	1	3	—	133	36	169
Caribou	—	—	2	—	2	—	—	—	—	—	4	—	4
Cassia—No record.													
Clark	—	—	—	—	—	1	—	—	—	—	—	1	1
Custer	—	—	4	—	3	—	—	—	—	—	7	—	7
Clearwater	—	—	10	—	5	2	—	—	—	—	15	2	17
Elmore	—	—	—	—	—	—	—	—	—	—	—	—	—
Franklin	4	—	16	—	8	—	—	—	—	—	28	—	28
Fremont	9	—	9	—	44	10	—	—	—	—	62	10	72
Gem	—	2	14	1	36	3	1	—	—	—	51	6	57
Gooding	1	—	24	—	27	3	1	—	—	—	53	3	56
Idaho	1	—	14	—	13	1	2	—	—	—	30	1	31
Jerome	—	1	6	—	20	1	—	—	—	—	26	2	28
Jefferson	—	5	50	17	30	13	5	—	10	1	95	36	131
Kootenai	4	19	163	7	183	40	4	—	5	—	359	66	425
Latah	1	19	36	4	26	4	—	1	—	—	53	27	80
Lemhi	1	2	6	3	1	4	2	1	—	—	10	10	20
Lewis	2	3	27	1	9	3	1	—	1	—	40	7	47
Madison	—	8	33	1	14	1	2	1	—	—	49	11	60
Minidoka	—	—	—	—	—	—	—	—	—	—	—	—	—
Nez Perce	9	46	72	5	45	21	4	—	9	6	145	68	213
Owyhee	—	—	—	—	—	—	—	—	—	—	—	—	—
Oneida	—	—	—	—	—	—	—	—	—	—	—	—	—
Power	—	—	—	—	—	—	—	—	—	—	—	—	—
Payette	—	—	—	—	—	—	—	—	—	—	—	—	—
Shoshone	—	—	—	—	—	—	—	—	—	—	—	—	—
Teton	—	1	—	—	—	—	—	—	—	—	—	1	1
Twin Falls	35	33	161	30	228	57	—	—	100	21	524	141	665
Valley	—	—	2	—	—	1	—	—	—	—	2	1	3
Washington	—	—	11	—	18	2	—	1	7	4	36	8	44
Total by crimes	162	303	1772	153	4300	889	23	6	152	33	6411	1383	7794

POPULATION BY COUNTIES COMPILED FROM 1920 CENSUS

The State	431,866	
Ada	35,213	9,089
Adams	2,966	876
Bannock	27,532	7,386
Bear Lake	8,783	2,841
Benewah	6,997	1,667
Bingham	18,310	5,861
Blaine	4,473	1,210
Boise	1,822	416
Bonner	12,957	3,328
Bonneville	17,501	5,125
Boundary	4,474	1,115
Butte	2,940	885
Camas	1,730	466
Canyon	26,932	7,632
Caribou	2,191	627
Cassia	15,659	4,807
Clark	1,886	506
Clearwater	3,993	1,319
Custer	3,550	952
Elmore	5,087	1,257
Franklin	8,650	2,892
Fremont	10,380	3,438
Gem	6,427	1,856
Gooding	7,548	2,158
Idaho	11,749	3,257
Jefferson	9,441	3,105
Jerome	5,729	1,555
Kootenai	17,878	4,787
Latah	18,092	5,183
Lemhi	5,164	1,255
Lewis	5,851	1,698
Lincoln	3,446	924
Madison	9,167	3,060
Minidoka	9,035	2,717
Nez Perce	15,253	4,367
Oneida	6,723	2,263
Owyhee	4,694	1,220
Payette	7,021	2,030
Power	5,105	1,454
Shoshone	14,250	3,007
Teton	3,921	1,357
Twin Falls	28,398	7,693
Valley	2,524	731
Washington	9,424	2,816

Total population in 1910 was 325,594.
Total population in 1920 was 431,866.
Per cent of increase 32.6.

Note—Most of this increase came in first eight years of decade. In my opinion Idaho has lost population in the last five years because of financial depression.

Urban population in 1910 was 69,898.
Urban population in 1920 was 119,037.
Per cent of increase 70.3.
Rural population in 1910 was 255,696.
Rural population in 1920 was 312,829.
Per cent of increase 22.3.
Population per square mile in 1920, 5.2.

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