



1967

Memorials

North Dakota Law Review

Follow this and additional works at: <https://commons.und.edu/ndlr>

Recommended Citation

North Dakota Law Review (1967) "Memorials," *North Dakota Law Review*. Vol. 43 : No. 3 , Article 14.
Available at: <https://commons.und.edu/ndlr/vol43/iss3/14>

This Memorial is brought to you for free and open access by the School of Law at UND Scholarly Commons. It has been accepted for inclusion in North Dakota Law Review by an authorized editor of UND Scholarly Commons. For more information, please contact und.common@library.und.edu.

MEMORIALS

BISMARCK, NORTH DAKOTA

JANUARY 10, 1967

The Supreme Court of the State of North Dakota convened at 10 A. M. this day

Present: Honorable Obert C. Teigen, Chief Justice; Honorable Alvin C. Strutz, Honorable Ralph J. Erickstad, Honorable Harvey B. Knudson, Associate Justices; Luella Dunn, Deputy Clerk.

Now the following proceedings are had:

CHIEF JUSTICE TEIGEN: It is altogether fitting and proper to devote a part of the opening session of this Court to honoring two of our former colleagues who have stepped down from the Bench to join those whose tasks are ended and who now rest in eternal peace.

Judges Gudmundur Grimson and Thomas J. Burke for many years held high the scales of justice with steady hand, and in order that the legal profession which they followed and served with such distinction for many years may have an opportunity to appropriately express and record their love, esteem and great regard, we sought and secured the cooperation of the North Dakota Bar Association and some of its members upon this occasion. I now call on Mr. R. J. Bloedau, who is Chairman of the Committee on Memorials of that Association.

MR. R. J. BLOEDAU: May it please the Court and Ladies and Gentlemen: I speak as Chairman of the Committee on Memorials, and as a representative of the State Bar Association, in tribute to the memory of Judge Grimson and Judge Burke, who have joined the solemn ranks of the honored dead. A brief outline of portions of their lives includes the following:

HONORABLE GUDMUNDUR GRIMSON

Judge Grimson was born November 20, 1878, in Iceland, and

was brought to the United States by his family in 1882. His father homesteaded near Milton in Cavalier County, North Dakota, where the son attended school, and later he taught school in that area. He attended the University of North Dakota in 1898 and at various times thereafter, earning his way, and receiving a B. A. Degree in 1904, and an M. W. Degree in 1905; after attending the University of Chicago, he returned to the North Dakota University and received his LL. B. Degree in 1906.

Also in 1906 Judge Grimson was married to Ina V. Sanford, who preceded him in death. He is survived by two sons, Dr. Keith S. Grimson of Durham, North Carolina, and Lynn G. Grimson, an attorney of Grafton, North Dakota.

He began the practice of law in this State in 1906, and in addition published a weekly newspaper for about four years. From 1910 to 1924 he served as State's Attorney of Cavalier County.

The Honorary Degrees of Doctor of Laws were awarded to Judge Grimson in 1930, both by the University of North Dakota, and the University of Iceland; and in 1938 he was elected to Honorary membership in the Order of the Coif.

In 1926 he was appointed Judge of the District Court for the Second Judicial District. He held this position until 1949, at which time he was appointed to the Supreme Court of North Dakota, where he continued to serve with honor until his retirement in 1959.

After a long career, filled with accomplishment, on June 22, 1965, he answered the final summons.

HONORABLE THOMAS J. BURKE

Judge Burke was born at Rolla, North Dakota, on October 24, 1896, the son of John and Mary Burke. Most of his lifetime was spent in his native State. During World War I he served in the United States Navy. He graduated from Harvard College in 1920, and thereafter studied law and was admitted to the Bar of North Dakota in 1925. Later he was also admitted to the Bar of the United States Supreme Court, and in June, 1962, he received the honorary degree of Doctor of Laws from the University of North Dakota. Beginning in 1928 he served four years as Assistant Attorney General of this State, and for one term commencing in 1935 he was a member of the House of Representatives from Burleigh County.

In 1936 he was married to Mary Louis Copenhaver, now residing in Bismarck. He is also survived by two daughters, Mary Louise Anderson, Elizabeth Anne Lucas, and by a son, John Arthur Burke.

Judge Burke was first elected to the Supreme Court of North

Dakota in 1938, for the unexpired term of his father who had died the previous year. He continued as a Judge of this Court for twenty-eight years. While serving as Chief Justice, and after brief periods of illness, his earthly life came to a close on March 20, 1966.

The members of the Bench and of the Bar of North Dakota share in the loss of these two eminent jurists, and join in a salute to their memory.

CHIEF JUSTICE TEIGEN: Thank you, Mr. Bloedau.

The Court now recognizes Mr. Clyde Duffy of Devils Lake, North Dakota, a long-time practitioner, who will give a memorial for the late Honorable Gudmundur Grimson.

MR. CLYDE DUFFY: May the Court please.

It is a privilege to participate in a memorial observance for a distinguished jurist and a noble man. Gudmundur Grimson was a true pioneer of North Dakota and a worthy representative of that race of Norsemen who in the eighth century fled their native land to seek greater freedom on the rocky shores of Iceland. Judge Grimson made his own war on poverty.

Judge Grimson was born in Iceland in 1878, and four years later he emigrated with his parents to the United States. His father homesteaded near Milton and here young Gudmundur attended country school where he learned to speak English as well as to read and write. Later he attended the school at Milton, graduating from the eighth grade in 1895. Obtaining a second grade teacher certificate at 17, he taught rural schools for three years, earning the then current wage of \$30.00 a month.

With the money saved from teaching, he entered the University of North Dakota as a preparatory student. Six years later, in 1904, he received his BA degree and in 1906 his LLB. His experiences at the University are legendary.

With two other Icelandic students, one of whom was Vilhjalmur Stefanson the Arctic explorer, he set up light housekeeping in a shack across the railroad tracks from the University. During the winter months the boys were kept busy feeding the wood stove to keep the place habitable. The second year, Gudmundur got a job as janitor at Budge Hall and more habitable quarters. During his third year, he became postmaster at the University and was given charge of the book store. With industry and frugality, young Gudmundur not only paid all of his own expenses but came out his senior year with a cash balance of \$750.00. He also gained Phi Beta Kappa. Taking advantage of a scholarship, he spent two quarters at the University of Chicago, studying political economy,

but returned in time to graduate with the Law Class of 1906.

He then opened a law office at Munich, North Dakota, and established a newspaper at that point. A few years later he was elected State's Attorney of Cavalier County, a position in which he served for fourteen years.

While at the University, Gudmundur was particularly active in two organizations. He helped found the Varsity Bachelors Club, which eventually became the Phi Delta Theta fraternity. As a member of that organization I knew that it encompassed the brain and brawn of the University but it was not until I read the history by Professor Robinson that I realized that for thirty years the alumni of that organization dominated the political history of North Dakota.

The other organization was the Icelandic Association in which he collaborated with Sveinbjorn Johnson, who also became a member of this Court, and with such men as Bardi G. Skulason and Professor John Tinglestad of the Scandinavian Department of the University of North Dakota.

Judge Grimson and Judge Johnson were both members of the Library Committee. Which of them penned the statement appearing in the 1908 Dacotah remains undisclosed but undoubtedly it expressed the sentiment of both.

When in the 8th Century Harold the Fair Haired was consolidating the petty kingdoms of Norway under his personal rule, there were many liberty loving Vikings who would not bend under his yoke. They chose voluntary exile from the land of their fathers and after rolling across many seas found refuge from oppression on the rock-bound shores of Iceland and they kept fresh the memories of Norse valor and achievements and recorded the sagas which in our day are the fountainhead of Norse literature and the one source of northern history. Even before the Renaissance broke in upon the medieval darkness of Europe, this island of the north was an area of unparalleled intellectual activity. Her great men were then doing the work that was destined to make them immortal. To bring these and other Icelandic books within the reach of the student and the scholar is the aim of this Icelandic Association.

In 1926, Gudmundur Grimson was appointed a Judge of the Second Judicial District where he served until he was appointed to the Supreme Court in 1949. He served until his retirement in 1959.

During the early 1920's, Gudmundur Grimson gained national attention by virtue of his activities against the penal system in Florida. In 1922 a neighbor came to Mr Grimson with some evidence indicating that his son had been flogged to death in a Florida lumber camp. Mr Grimson investigated and found evidence that a system existed in that state whereby sheriffs were paid a bounty

for delivering to slave camps prisoners who were without funds to pay their fines. The North Dakota boy was one of the victims of that system and while his parents had wired the sheriff the money to pay the fine, the sheriff returned the money and retained his bounty. The boy fell prey to a sadistic boss who apparently enjoyed flogging his victims of excessive labor. The North Dakota boy died under these floggings. Mr. Grimson's extensive investigation which lasted more than two years, led to publicity in a New York newspaper, action by the Legislature of North Dakota and eventually action by the authorities in Florida. The result was that the penal system of Florida and other states which had similar oppressive procedures, was modified. The sadistic boss was indicted and convicted although upon a subsequent re-trial was acquitted, and the boy's family received a substantial monetary settlement.

Judge Grimson was also interested in social welfare and historical activities, having served as president of the North Dakota Conference on Social Welfare and as vice president of the North Dakota Historical Society.

Judge Grimson received unusual recognition both within and beyond the confines of this country. In 1930, he was granted an LL.D. degree by the University of Iceland and in 1939 by the University of North Dakota. He was made an honorary member of the Order of the Coif. He was the North Dakota representative at the millennial celebration of the Icelandic Parliament. He was counselor to the Icelandic exhibit at the New York World's Fair of 1939 and was made a Knight Commander of the Order of Falcon.

For a month in 1949, together with his former roommate Vilhjalmur Stefanson, he was a guest of the Icelandic government.

In the Florida incident, as throughout his life, Judge Grimson exemplified the spirit of justice, fair play and humanity.

CHIEF JUSTICE TEIGEN: Thank you, Mr. Duffy.

At this time the Court recognizes the Honorable James Morris, a former member of this Court, now retired, who will give a memorial for the late Honorable Thomas J. Burke.

JUDGE JAMES MORRIS. May it please the Court.

I stand before the Court this morning with a twofold purpose in mind: to pay humble tribute to the memory of one who was a close personal friend and fellow laborer in the field of jurisprudence, and to assist as best I can in the commemoration of his enduring contributions to better government through better law, as a lawyer, a teacher, a legislator, and a judge and chief justice of this Honorable Court.

Thomas J Burke chose the law as his life work. After completing his academic education with a degree from Harvard College, he returned to North Dakota where he studied law and was admitted to the Bar in July 1925. He also became a member of the Bar of the Supreme Court of the United States. He was later honored in his chosen profession by having conferred upon him the honorary degree of Doctor of Laws by the University of North Dakota on June 3, 1962. He also was the recipient of honorary memberships in two law fraternities, the Order of the Coif, and Phi Delta Phi.

Upon being elected to the office of Attorney General in 1928, I immediately sought the services of Thomas J Burke as an assistant. He was practicing law at that time as a member of the firm of Dullam, Young & Burke of Bismarck, but consented to enter the field of public service. For the next four years he was a most valuable member of the Attorney General's staff. He displayed a remarkable aptitude for analyzing the perplexing legal questions and solving the enigmas of human behavior with which the office was frequently confronted.

On leaving the Attorney General's office, he returned to private practice of the law. But public service again called. This time it was the State Legislature. He was elected to the House of Representatives from Burleigh County, and was a member during the 1935 Session. He was chairman of the State Board of Appeals of the Selective Service System from 1943 until his death, a period of some 22 years.

As a lawyer, Tom Burke, as he was known to his host of friends, was an able and honorable practitioner, earnest and effective in the presentation and the preservation of the rights of a client, be it an individual, a corporation, or the State. His arguments and briefs in cases before this Court were concise, lucid and persuasive. As Assistant Attorney General his attitude toward the public and those with whom he worked was one of kindly helpfulness. He displayed the same attitude in his work in the Legislature, where his advice and assistance were sought by the members of the five committees on which he served, and by many other legislators as well.

Chief Justice Burke was first elected to the Supreme Court in 1938, for the unexpired term of his father who had been the first three-term Governor of the State, Treasurer of the United States, and a judge and Chief Justice of the Supreme Court, and had died the previous year. He was twice re-elected to ten-year terms, without opposition. Justice Burke was a great technician of the law. He had a proper respect for precedent, but believed in realities, not

mere legal formulas. On rare occasions when an obviously spurious argument would be made to the Court, he would indicate by sharp questioning of counsel that he would brook no trifling with the law or the Court. He brought to the Court a brilliant and active mind. That great gift he shared freely with his fellow judges by whom he was greatly admired for his remarkable capacity to reason and remember. The opinions that he wrote were noted for being logical in thought and rich in expression. They were marked by his clarity in the use of the English language and the accuracy of its application. He was skilled and creative in the employment of his vast legal knowledge, much of which was acquired by diligent research leading to the solution of intricate legal problems. He was an eager participant in the conferences of the Court. Many times he lay aside his own work to pursue diligently and thoroughly difficult questions of law involved in an assignment of another member of the Court. The more difficult the question, the greater was its appeal to the sense and depth of his interest.

He was an instructor for many years at Bismarck Junior College. His lectures to students on Constitutional History, as it related to both the United States and England, were not dryly historical, but were enlivened by incidents of the times that pointed out the reasons for constitutional development or the lack of it. He was a scholar of literature, as well as law. He taught a "Great Books" course which brought him much gratification and the students both knowledge and pleasure.

He was fluent in thought and conversation. He was a master of the apt phrase, the appropriate remark, the jest that relieved dull conversation without wounding sensitive feelings. His humor could be pointed without pricking tender sensibilities. These attributes, as well as his kindly affability, endeared him to members of the Bar and to the general public as well.

Justice Burke was a true native of North Dakota. It is fitting that he now sleeps in the bosom of the State of his birth, not far from the scene of his greatest achievements and the archives that house his magnificent written contributions to its law and the law of the land.

CHIEF JUSTICE TEIGEN: Thank you, Judge Morris.

The Court will now recognize Mr. Frank Jestrab, President of the North Dakota State Bar Association.

MR. FRANK F. JESTRAB: I move that copies be made of the proceedings and of the memorials had here this morning and that the said copies be transmitted to the families of Judge Grimson and Judge Burke.

CHIEF JUSTICE TEIGEN: This Court orders that the memorials that have been given this day be spread at length on the records of this Court, and that copies thereof be printed and furnished to the members of the families of the respective judges memorialized here today

Recess until 2 P M.

INTENTIONAL BLANK

INTENTIONAL BLANK

INTENTIONAL BLANK