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Digest of Attorney General Opinions

North Dakota Law Review

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the School of Law. He has at times taught courses in Public Utilities, Negotiable Instruments, Evidence and Office Practice. Since 1945 he has taught only Office Practice. The School of Law offers ninety semester credit hours in law; eighty four credits are required for graduation. Of the ninety credits, eighty credit hours are taught by the full-time law teachers; ten credit hours are taught by the three practicing lawyers. There are merits to having courses in Practice Pleading and Procedure taught by lawyers. Mr. Bangs was an excellent and inspiring law teacher. The Law Faculty and the law students deeply appreciate his services to the University in general and to legal education in particular. Congratulations to Phillip R. Bangs on his appointment as Judge in the First Judicial District. Attorney Paul Benson has been selected to succeed him in teaching the course in Office Practice.

O. H. THORMODSGARD, DEAN.

DIGEST OF ATTORNEY GENERAL OPINIONS

COUNTIES — FEES TO BE CHARGED BY THE CLERK OF THE DISTRICT COURT

May 17, 1960

Section 11-1704 of the 1957 Supplement to the North Dakota Revised Code provides that "For the filing of an action, including an action transferred from another county, and for all things in connection therewith which are not hereinafter provided for, seven dollars and fifty cents".

But in an action originally begun in justice court for the violation of a state law and appealed from such justice court to the district court, no filing fee need be paid to enter such criminal case on the docket. This is because Section 33-1240 of the North Dakota Revised Code of 1943 in speaking of appeals to the district court provides that ". . . In other respects, the proceedings shall be the same as in criminal actions originally commenced in the district court and judgment shall be rendered and carried into effect accordingly."

However, an appeal from the justice court to the district court in a civil matter is of a different nature and the regular filing fee is to be charged.

DOMESTIC RELATIONS AND PERSONS — COMMITMENT OF INDIANS

May 24, 1960

Section 14-0905 of the North Dakota Revised Code of 1943 provides that "The mother of an illegitimate unmarried minor is en-

titled to its custody, services, and earnings". In such case the residence of the mother is the residence of the minor.

If the mother has left the reservation and she is not an owner of a trust patent of any land and has not received any benefits from the United State Government, and the child has not received any benefits from the United States Government, then the mother and child are no longer Indians and the county in which they reside is liable for their care in case they are paupers.

HIGHWAYS, BRIDGES AND FERRIES — FEES NOT CHARGED FOR
RECORDING INSTRUMENTS

April 27, 1960

Section 24-0125 of the 1957 Supplement to the North Dakota Code provides in effect that no fees shall be charged for the recording or filing of documents required under the provisions of the highway law.

This provision includes not only the deeds and easements in which the State of North Dakota for the use and benefit of the State Highway Department is identified as the grantee of right of way, but all documents which may be required in order to accomplish the conveyance to the state of lands in fee simple or easements.

MUNICIPAL OFFICERS — EXPELLING MEMBERS FROM BOARD OF
TRUSTEES

April 9, 1960

Where the president of a board of village trustees had been absent for a period of seven months, and a new officer had been appointed by the other board members, the supplanted president was not entitled to resume his duties. (§§ 40-605, 40-0719 N. D. Rev. Code 1943).

The concluding sentence of Section 40-0605 providing: "The governing body may fine or expel any member for neglect of duty or for unnecessary absence from its sessions", does not require that the party expelled be notified or afforded a hearing.

OFFICE OF JUSTICE OF PEACE — LENGTH OF TERM

April 25, 1960

If a person is elected to the office of justice of peace, he is entitled to such office until it is abolished on July 1, 1961. Since another legislative session will be held prior to this date, it is quite conceivable that the legislature might wish to take another look at chapter 268, and make either modifications, additions, or even repeal it.

N O T I C E

The Sixth Annual Rocky Mountain Mineral Law Institute, sponsored by the Rocky Mountain Mineral Law Foundation, will be held July 28, 29, and 30, 1960 at the University of Colorado. The North Dakota Oil and Gas Association is one of the sponsoring industry associations.

The three-day program includes discussions of engineering, legal, and tax problems in the oil, gas and mining industries, and features mineral law experts from industry, law firms; law schools and government.

Included among the twenty speakers are Shofner Smith, Petroleum Engineer, Phillips Petroleum Co., Bartlesville, Oklahoma; Clarence E. Hinkle, an authority on oil and gas titles from Roswell, New Mexico; Joseph T. Sneed, tax expert from the Cornell University law faculty, and George W. Abbott, Solicitor, United States Department of the Interior, Washington, D. C.

For reservations contact:

Rocky Mountain Mineral Law Institute
Fleming Law Building
University of Colorado
Boulder, Colorado.

Memorial

JOHN KENNETH MURRAY

John Kenneth Murray died in a Bismarck Hospital, March 9, 1960, after an illness of several months. He had practiced law in North Dakota for more than fifty years.

In addition to being a most colorful and versatile trial lawyer, he was a great student of the law. His pleadings were artistic. His briefs forceful and persuasive. He knew court procedure, both trial and appellate, as few lawyers know them. He was an expert on the law of evidence. He tried more cases in the Supreme Court of this state than any other lawyer in its history. His appeals have made and clarified many points of law.

He was at his best in oral argument, both before the court and the jury. When "J. K.", as we knew him, was summing up before a jury the courtroom was crowded. He spoke the language of the people, and so dramatic were his periods that his listeners never lacked interest. His favorite client was the underdog, in whose

behalf he used all of his great talents "J. K." was truly a great advocate.

He came from a family of lawyers. His two sisters were admitted to the Illinois Bar, although they never practiced. His brother, Wm. S. Murray, who died in 1957 was a retired Chicago lawyer. His son, Wm. S. Murray, and his son-in-law, Wm. R. Pearce, are both Bismarck lawyers. His cousin's son, Hans O. Helland, practices at Wisconsin Dells, Wisconsin.

J. K. was born May 14, 1882 at Kilbourn, now Wisconsin Dells, Wisconsin, a son of Timothy and Hanore Stanton Murray. He attended the University of Wisconsin and was graduated from the University of North Dakota Law School in 1907. He practiced at Anamoose from 1907 to 1909. In 1909 he moved to Mott, North Dakota where he formed a partnership with Hans P. Jacobsen, who died in 1958. While at Mott he was State's Attorney of Hettinger County for most of the 28 years he practiced there.

In 1937, he moved to Bismarck where he was first State Tax Commissioner, then attorney for the Unemployment Compensation Division, until such office was abolished. He then entered into the private practice of law at Bismarck, in 1939. From 1946 to 1950, he was in partnership with his son, Wm. S. Murray. J. K. retired in 1958, but still kept in touch with the law.

His wife, Paula Emma Wagner Murray, died July 13, 1954. In addition of his son, he leaves two daughters, Mrs. Wm. R. Pearce of Bismarck, and Mrs. H. E. Von Reuden of St. Paul, and nine grandchildren.

His great love, after his family and the law, was good music. He never missed an opportunity to attend concerts, nor to play his violin.

Seldom has there been an attorney who could fight for his client harder, using every trick in the book, and yet never carry a grudge out of the courtroom, whether he won or lost. To those of us who knew him well and liked him, there will never be another "J. K."

*Prepared By Mark H. Amundson,**

* District Judge, Sixth Judicial District.



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1959-60

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