



1954

## Law School News

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Douglas Birdzell

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### Recommended Citation

Thormodsgard, O. H.; Birdzell, Douglas; Lewis, Bayard; and Benson, Paul (1954) "Law School News," *North Dakota Law Review*: Vol. 30 : No. 3 , Article 14.

Available at: <https://commons.und.edu/ndlr/vol30/iss3/14>

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## BENCH AND BAR LAW SCHOOL NEWS

The fifty-fifth law school year began on September 21, 1953, with 86 enrolled students. The first semester enrollment by classes was as follows: First year — 42; second year — 21; and third year — 23 students. The second semester enrollment by classes was: First year — 45; second year — 21; and third year — 22 students.

The North Dakota Chapter of the Order of the Coif held its thirtieth annual dinner program on May 4, 1954. The Chapter elected Attorney Milton K. Higgins of Bismarck as an honorary member. The students-elect were Harold O. Bullis of Robinson, N. D., Edward E. Dessert of Bemidji, Minnesota, and Robert H. Lundberg of Regan, N. D.

At the Honors Day Convocation, May 4, 1954, Philip R. Bangs, Past President of the North Dakota State Bar Association, presented the North Dakota State Bar Association Legal Research Awards to the following students: Edward J. Bosch of Knox; Harold O. Bullis of Robinson; Edward E. Dessert of Bemidji; Robert M. Fair of Grand Forks; Robert H. Lundberg of Regan; Robert N. Opland of Anchorage, Alaska; Christopher U. Sylvester of Hatton; and Gordon C. Thompson of Fargo. Through the efforts of these men who are on the Law Review staff in devoting a great deal of time in legal research and legal writing, it was possible to supply case notes, case comments and book reviews for the *North Dakota Law Review*.

Kenneth M. Moran of Jamestown, a second-year law student, received the Phi Alpha Delta Legal Writing Award. This award is given annually to the student who, in the judgment of the Law Faculty, produces the best piece of legal writing published by a second year student in the *North Dakota Law Review*. Robert N. Opland, a third-year law student, was given a one year's subscription to the United States Law Week for making the most satisfactory scholastic progress during his final school year.

The Will Contest Prizes, as donated by the Merchants National Bank and Trust Company of Fargo, were awarded to Don L. DeHut of Ontonagon, Michigan, Louis R. Moore of Devils Lake, and Roy A. Olson of Hillsboro. The Charles E. Dahl Award in Law was presented to Norbert B. Auer of Grand Forks by Attorney T. I. Dahl of Grafton.

On June 5, 1954, the following students were granted the degree of Bachelor of Law: Edward E. Dessert of Bemidji, Minnesota; James J. Granner of Fargo; James L. Hanson of Kenmare;

John C. Homme of Grafton; Vincent A. LaQua of Hankinson; William J. Murray of Grand Forks; Robert J. Salaba of Cavalier; Alphonse J. Sevigny of San Pablo, California; Thomas H. Skodje of Bismarck; Donavon K. Stetson of Beulah; Christopher U. Sylvester of Hatton; and Ray H. Walton, Jr., of Williston.

Law students who have previously earned an acceptable college degree and who have maintained a high scholastic average and have prepared and published law review materials are entitled to the degree of Juris-Doctor. The following students met these requirements and were awarded the Juris-Doctor degree on June 5, 1954: Norbert B. Auer of Grand Forks; Edward J. Bosch of Knox; Harold O. Bullis of Robinson; Robert M. Fair of Grand Forks; Robert H. Lundberg of Regan; Douglas B. McClellan of Lompac, California; Robert N. Opland of Anchorage, Alaska; and Gordon C. Thompson of McIntosh, Minnesota.

Mr. Robert L. Helland, who has received the Bachelor of Science in Law and Bachelor of Laws degrees from the University of Minnesota School of Law, has been given a one-year appointment to the University of North Dakota Law Faculty, replacing Associate Professor Charles L. Crum. Professor Crum has been granted a leave of absence for the academic year 1954-55, having been awarded the Hughes Fellowship by the School of Law of Columbia University. The Hughes Fellowship was established in honor of Charles Evans Hughes, Governor of the State of New York (1902-1910), Associate Justice of the Supreme Court of the United States (1910-1916), Secretary of State (1921-1925), and Chief Justice of the United States (1930-1941), who graduated from the Columbia School of Law in the Class of 1884 and taught in the Columbia Law School from 1884 to 1887.

Mr. Helland was on the Law Review Staff at the University of Minnesota School of Law for two years. During the year 1953-1954 he has served as law clerk for Justice Frank T. Gallagher of the Supreme Court of Minnesota.

The Honorable Luther W. Youngdahl, Judge of the United States District Court for the District of Columbia, was the commencement speaker on June 5, 1954. Upon recommendation of Dean Thormodsgard on behalf of the University Faculty, Judge Youngdahl was awarded the honorary degree of Doctor of Laws. The citation in his honor read at the commencement program is reprinted hereafter.\*

O. H. THORMODSGARD, *Dean.*

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\* See pp. 277, *infra.*

## CITATION

Minnesota born, this son of a Minneapolis merchant whom we are honoring today has been a lawyer, a municipal judge, a Justice of the Minnesota Supreme Court, Governor of the State of Minnesota, and is now a Federal Judge. His success in a large measure may be due to his compliance with the motto of his parents, "Religion, Work, and Education."

Luther W. Youngdahl was a college student when World War I was in progress. He enlisted as a private and was a first lieutenant when the war ended. He then re-enrolled in Gustavus College and graduated in 1919. In 1922 he graduated from the Minnesota College of Law. He served as assistant city attorney of Minneapolis from 1921 until 1923 and practiced law in Minneapolis from 1923 to 1930. From 1930 to 1936 he served as judge in the Municipal Court of Minneapolis. From 1936 to 1942 he was a judge in the District Court of Hennepin County. He served as Associate Justice of the Supreme Court of Minnesota from 1942 to 1947 and as Governor of the State of Minnesota from 1947 to 1951. On July 5, 1951, he was appointed Judge of the United States District Court of the District of Columbia and was sworn in on October 1, 1951, in which capacity he is now serving.

Among his gubernatorial accomplishments may be listed a program of vigorous law enforcement, the establishment of a Youth Conservation Program and the sponsorship of a program providing for better care and treatment of the mentally ill, the blind, and dependent children. His accomplishments on the level of national affairs include the setting up of a program for resettlement of displaced persons and the formation of the Governor's Inter-State Council on Indian Affairs. Governor Youngdahl's extraordinary services to his native state and to the nation have been a great public benefit and have earned him the respect and admiration of the people of the State of North Dakota, as well as of his native Minnesota.

The Faculty and students of the University of North Dakota are pleased to welcome this statesman to our campus. On behalf of the University Council, I recommend that Luther W. Youngdahl be awarded the degree of Doctor of Laws, *Honoris Causa*.

O. H. THORMODSGARD, *Dean*.

## PHI DELTA PHI NEWS

Phi Delta Phi began the 1953-54 academic year under the able leadership of Christopher Sylvester, Magister, Robert Lundberg, Exchequer, Harold Bullis, Clerk, and Edward Bosch, Historian.

Activities in both the academic and social realms got off to a rapid start with the annual orientation session for the first year law students where such topics as how to brief a case, use of law books, and other subjects of interest to the novice law student were discussed. Next on the list of functions was an informal smoker held in the banquet room of the Riviera Lounge. All freshmen were cordially invited to attend, and get acquainted with the members of Bruce Inn.

Dinner meetings were held at frequent intervals throughout the first and second semesters where the members and guests listened to talks given by lawyers and men in allied fields, concerning their work and its legal ramifications.

Initiated into the fraternity in the first semester were Robert Opland, third year law student from Anchorage, Alaska, and Clinton Ottmar, second year student from Wishek, North Dakota.

The second semester began with the usual rushing activities which resulted in the pledging of nine freshmen. Pledged were Ralph Koenig, Charles Mindemann, Edward Lentz, Robert Eckert, George Brekke, Lowell Lundberg, Romaine Thorfinnson, William Greenagel and Eugene Kruger. The initiation ceremony was conducted on May 12, at which time George Brekke, William Greenagel, Eugene Kruger Lowell Lundberg, Charles Mindemann, and Romaine Thorfinnson were initiated into the fraternity. Bruce Inn's honorary initiate for 1954 was the Honorable A. J. Gronna of Minot, North Dakota. Mr. Charles Shafer of Hillsboro, North Dakota gave the main address at the banquet following the initiation.

Shortly after the initiation, officers were elected for the coming academic year. Officers elected were Eugene Kruger, Magister, Clinton Ottmar, Exchequer, Lowell Lundberg, Clerk and Douglas Birdzell, Historian.

Other facts worth of note are that Phi Delta Phi men held a majority of the positions on the editorial staff of the North Dakota Law Review with Harold Bullis as editor-in-chief, and Robert Opland and Christopher Sylvester as associate editors. It is also noteworthy that two out of the three seniors elected to Order of the Coif were members of Phi Delta Phi. These were Harold Bullis and

Robert Lundberg. Thus, the primarily academic tradition of Phi Delta Phi was ably carried forth in 1953 and 1954.

Graduating members of Phi Delta Phi are Harold Bullis, Christopher Sylvester, Robert Lundberg, Douglas McClellan, Alphonse Sevigny, Edward Bosch, Charles Shure, James Hanson, Robert Opland and Robert Fair.

DOUGLAS BIRDZELL, *Historian*.

### PHI ALPHA DELTA NEWS

Phi Alpha Delta got off to a good and a fast start with a smoker three days after the first semester began. The members kept the ball rolling with an intensified campaign which resulted in the election of Vincent LaQua as King of the Law School, Richard Wicka as Queen and Charles Feste as Chancellor.

After several more smokers and a considerable amount of campaigning the fraternity membership, which had been depleted by some 20 odd members as a result of the graduation of the class of '52, was more than restored to its former status by the pledging and initiation of members of the class of '55 along with three upper-classmen.

The annual mock trial created a great deal of interest within and without the fraternity and can be counted a great success. The use of motion pictures of accident scenes upon which the trial is based makes the entire proceeding a great deal more realistic and therefore a great deal more interesting than fictional stipulation of facts. A further touch of realism at this particular trial was the presence of Judge Burtness as presiding judge. Mr. Atwood, who usually sits in that capacity, was unable to be in attendance and the judge kindly consented to perform.

Kenneth Moran received the fraternity's annual Legal Writing award as a result of his outstanding works which were published in the Law Review.

The highlight of the year was the accomplishments achieved by a team sent to the District Conclave at Des Moines, Iowa, with Justice Neil Thompson as its leader. Not only was this delegation successful in electing Richard Wicka as District Student Justice (a post never before held by a member of this chapter) but they arranged to have the District Conclave here at U.N.D. next spring

as well. This will be the first time such a Conclave has ever been held at our University and we are looking forward to it with a great deal of interest.

All in all this has been a very successful year for Phi Alpha Delta and we hope and expect next year to be even more successful.

BAYARD LEWIS.

### OPINION OF THE ATTORNEY GENERAL

Mr. Ronald N. Davies  
Executive Director  
State Bar Association  
Grand Forks, North Dakota

Dear Mr. Davies: Re-Anna Killmer v. Bruno Duchscherer

Your file 115

You have written to us with reference to Section 39-1703 of the 1953 Supplement to the Code.

This section provides in part as follows: "The provisions of Section 39-1703 shall not apply in the case of any judgment *entered by default* \*\*\*." (Underlining ours.)

A note following Section 39-1704 as printed in the 1953 Supplement states: "Page 796 of the house journal and 757 of the senate journal deletes the words 'entered by default' from section 39-1704, but such deletion is not shown in the enrolled and engrossed bill. An opinion of the attorney general's office dated August 22, 1953, holds that the law should be read with the words 'entered by default' deleted."

In the district court case of Killmer v. Duchscherer Judge Lundberg in a memorandum decision held in effect that the statute as printed in the Supplement is correct and that the words "entered by default" should not be deleted. It is our opinion that Judge Lundberg is correct in his interpretation of the statute and this office will hereafter interpret the statute to give effect to the words "entered by default."

Very truly yours,  
PAUL BENSON  
*Attorney General.*

## 1954 CONVENTION PROGRAM

The State Bar Association of North Dakota will hold its annual convention at Grand Forks on August 5, 6, and 7, 1954. The schedule follows:

*Thursday Morning, August 5*

- 8:30 a.m. Red Mass, St. Michael's Church.  
 9:00 Registration, Central High School.  
 9:30 Call to Order, Vernon M. Johnson, President,  
 presiding.  
 10:30 Committee Reports and Announcements.

*Thursday Afternoon, August 5*

- 1:30 p.m. Sectional Meetings.  
 1. Measure and Proof of Damages in Automobile Cases,  
 John F. Lord, Mandan, N. D.  
 2. Theory and Practice of Requesting Instructions in Civil  
 Cases, Roy A. Ilvedson, Minot, N. D.  
 3. Testamentary Effects and Tax Consequences of Joint  
 Tenancy, Judge Obert C. Teigen, Devils Lake, N. D.  
 3:00 Intermission.  
 3:30 Sectional Meetings  
 1. The Technique of Will Drafting and Expediting Probate  
 Matters, Lynn G. Grimson, Grafton, N. D.  
 2. The Scope and Effectiveness of Title Standards,  
 Henry G. Ruemmele, Grand Forks, N. D.  
 3. Problems in Connection with the Sale or Purchase of a  
 Small Business, Robert Q. Price, Langdon, N. D.

*Thursday Evening, August 5*

Tentative plans indicate a cocktail hour for lawyers and their wives.

*Friday Morning, August 6*

- 8:30 a.m. Breakfast meeting, States Attorneys of North  
 Dakota; Breakfast meeting, Junior Bar.  
 9:30 Business Session, Central High School Auditorium,  
 President Vernon M. Johnson, presiding.  
 1. Report of Executive Director Ronald N. Davies.  
 2. Election of officers.  
 3. Unfinished business.



- 12:00 Luncheon, North Dakota Law School Alumni, Hotel Dacotah.  
Luncheon, Minnesota Law School Alumni, place to be announced.

*Friday Afternoon, August 6*

- 1:30 p.m. Sectional Meetings
1. The Technique of Will Drafting and Expediting Probate Matters, Lynn G. Grimson, Grafton, N. D.
  2. Measure and Proof of Damages in Automobile Cases, John F. Lord, Mandan, N. D.
  3. Theory and Practice of Requesting Instructions in Civil Cases, Roy A. Ilvedson, Minot, N. D.
  4. Testamentary Effects and Tax Consequences of Joint Tenancy, Judge Obert C. Teigen, Devils Lake, N. D.

3:00 Intermission.

- 3:30 Sectional Meetings
1. Distinction in Mineral and Royalty Holdings. Effect of Tax Sale in Prior Severed Mineral Estates, Gordon V. Cox, Bismarck, N. D.
  2. Check Lists for Probate, Quiet Title and Foreclosure Actions, Norman G. Tenneson, Fargo, N. D.
  3. Problems in Connection with the Sale or Purchase of Small Business, Robert Q. Price, Langdon, N. D.

*Friday Evening, August 6*

- 7:00 Convention Banquet: (Place to be announced).  
President Vernon M. Johnson, Toastmaster  
Principal Address: Jerry Giesler, Esq., Beverly Hills, California.

*Saturday Morning, August 7*

- 8:30 a.m. Breakfast Meeting, Phi Alpha Delta.  
Breakfast Meeting, Phi Delta Phi.
- 9:00 — 10:30 Central High School Auditorium  
Debate on the Doctrine of Comparative Negligence.
- 10:30 Final Business Session.
- 12:00 Adjournment.

## Memorials

The following tribute to the memory of those members of the Bar of North Dakota who have passed away have been prepared by the Committee on Memorials of the North Dakota State Bar Association. The Committee is under the chairmanship of the Honorable J. H. Newton, Esq., Clerk of the Supreme Court of North Dakota, and consists of Messrs. A. W. Aylmer, A. W. Cupler, T. I. Dahl, J. A. Hyland, Thomas G. Johnson, Joseph G. Forbes, and L. R. Nostdal.

### THE HONORABLE ALOYS WARTNER

The Honorable Aloys Wartner, a Past President of the North Dakota State Bar Association, passed out of this life at Harvey, North Dakota, on Saturday, April 3, 1954, after a long illness. He was buried in the Harvey Cemetery with Masonic Services.

Judge Wartner was born at Okee, Wisconsin, on December 29, 1870, and grew to manhood on a farm. He received his law degree from the University of Wisconsin and then located at Graceville, Minnesota, where he practiced for five years. In 1899 at Graceville he was married to Lillian May Fitch. Mrs. Wartner died some years ago. In 1900 Judge Wartner moved to North Dakota and was admitted to the North Dakota Bar on October 2, 1900. He immediately located at Harvey and continued in practice there until the time of his death, constituting a total of 59 years of practice of law.

Judge Wartner was elected County Judge of Wells County in 1906 and served for four years. He was elected State Senator from his district in 1912 on the Bull Moose ticket. He helped organize and was first mayor of the City of Harvey. He was also active in promoting the organization of Harvey's National Guard Company during World War I. Judge Wartner was Past President of the Harvey Kiwanis Club and a past Lieutenant Governor of that organization. He was also a member of the Harvey School Board and Park Board for many years. He was always active and a constant attendant at meetings of the State Bar Association and served as its President in 1938.

Aloys Wartner was a patriotic, lovable citizen and an able and dependable counselor, admired and respected by all who knew him. He was one of the many "Old Timers" of our young state whose life lives in our memories and whose example as a lawyer and all-around good citizen we love and respect.

Besides Mrs. Wartner, one daughter who died in infancy preceded Judge Wartner in death. There survives Aloys Wartner, Jr., engaged in the practice of law at Harvey.

#### HENRY B. SENN

Henry B. Senn, for many years an attorney at Rugby, North Dakota, passed away February 22, 1954, at Enumclaw, Washington, where he was living in semi-retirement.

Mr. Senn was born at Fond du Lac, Wisconsin, February 17, 1883, the son of Burkhardt and Mary Riedel Senn. He attended public schools in Minnesota, graduating from Kasson, Minnesota, High School in 1902. After teaching in rural schools for two years he entered Drake University with an ultimate view of entering the ministry. He abandoned this idea, however, and entered the University of Minnesota College of Law, graduating with the degree of Bachelor of Laws in 1908. He was admitted to the Bar of Minnesota on June 12, 1908. He subsequently took the North Dakota Bar Examination and was admitted to practice in the Supreme Court of North Dakota on December 5, 1908. Following his admission to the North Dakota Bar, Mr. Senn practiced at Towner, North Dakota, for one year. He then moved to Rugby, where he continued his practice until 1952, when he retired from active practice in North Dakota. However, he retained membership in the Bar Association of North Dakota and had been licensed in 1954.

On June 27, 1912, Mr. Senn married Henrietta McIntosh, who survives. Two children were born to this union: a son, Howard B. Senn, San Bernardino, California, and a daughter, Mrs. John J. Stratte, Enumclaw, Washington. Also surviving are one brother, Dr. E. W. Senn, Owatonna, Minnesota, and two sisters, Mrs. E. W. Denneson, Austin, Minnesota, and Mrs. Alma Gilleland, St. Paul, Minnesota.

Mr. Senn served two terms as State's Attorney of Pierce County and one term as Assistant State's Attorney of Pierce and Wells counties respectively, as well as several terms as City Attorney of Rugby.

Mr. Senn was active in civic and community affairs and greatly interested in music. He was past president of the Rugby Athletic Association, the Rugby Commercial Club, and the Rugby Lions Club of which he was a founder. He was also active in Masonic

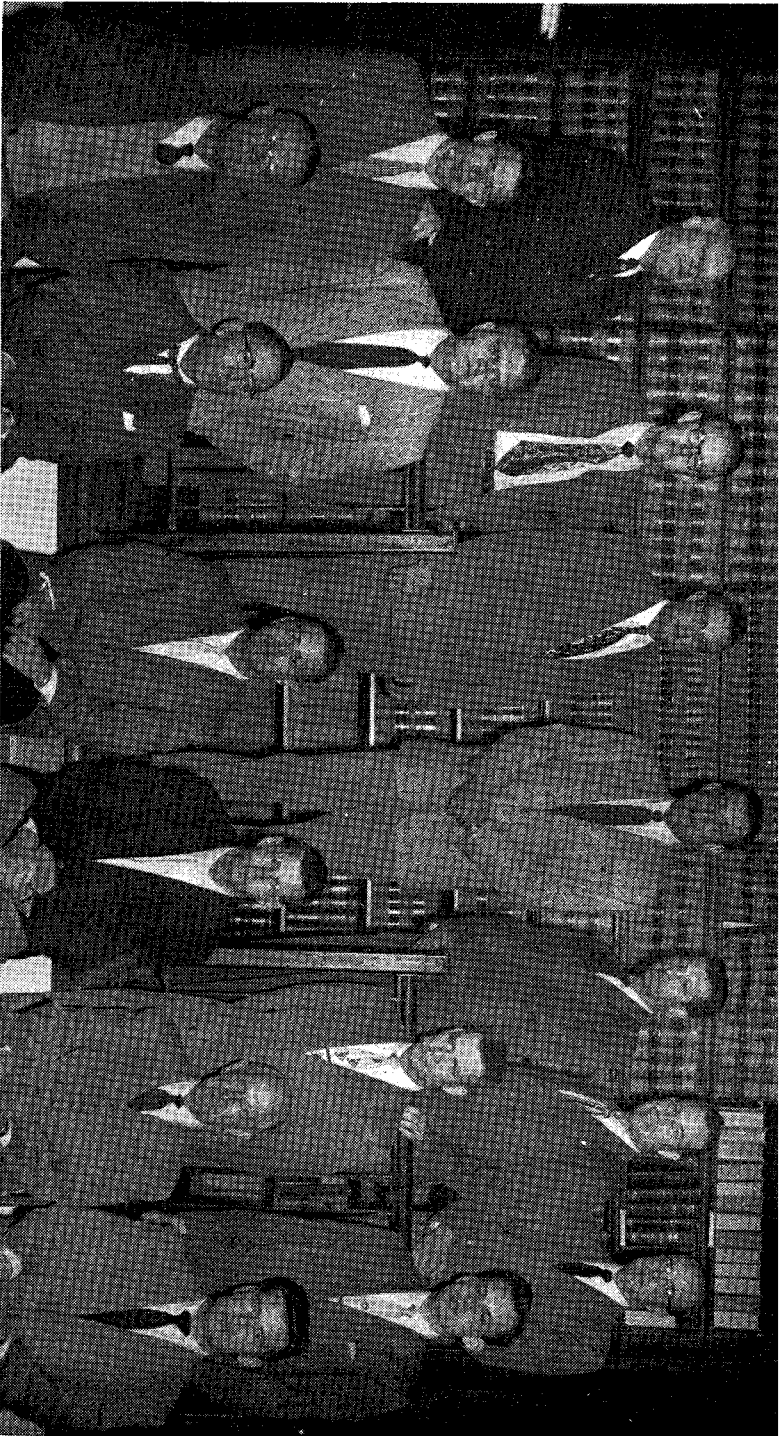
fraternal organizations in North Dakota and in 1932 was elected Grand Master of the Royal Arch Masons of North Dakota and held other offices of distinction in that body.

Funeral services were held at Enumclaw, Washington, with interment at Hillcrest Memorial Park in Kent, Washington.

#### LEON W. HALVORSON

Leon W. Halvorson, son of Mrs. Halvor L. Halvorson and the late Halvor L. Halvorson, Sr., died at Minot on November 9, 1953, after a long illness. Mr. Halvorson was born at Esmond, North Dakota, October 1, 1907. Shortly thereafter the Halvorson family moved to Minot where the father engaged in the practice of law. Mr. Halvorson was educated in the Minot schools and graduated from the College of Law of the University of North Dakota in 1931 and was admitted to the North Dakota Bar on July 17 of that year. He spent the major portion of his years of practice with his father at Minot, although he was for a time located at Velva. In 1946 ill health caused his retirement from active practice but he resumed practice in 1952. His ill health greatly hampered a promising legal career.

Mr. Halvorson, who never married, is survived by his mother, residing at Minot, two brothers, Halvor L. Halvorson, Jr., Minot, and Glenn W. Halvorson, Concord, California, both attorneys, and one sister, Mrs. Clifford Colliton, Niagara Falls, N. Y.



(From left to right) First row: Professors Paul C. Matthews and Ross C. Tisdale, Kenneth M. Moran, Richard V. Wreka, Professor Theron W. Atwood, and Harold O. Bullis; Second row: Louis R. Moore, Professor Charles L. Cunn, Robert N. Opland, and Douglas Birdzell; Third row: Dean O. H. Thornodsgard, Gordon C. Thompson, Edward E. Dessert, Clinton R. Othmar, Edward J. Bosch, Bayard Lewis, and Christopher U. Sylvester.