



1952

President's Page

Eugene A. Burdick

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



Part of the [Law Commons](#)

Recommended Citation

Burdick, Eugene A. (1952) "President's Page," *North Dakota Law Review*: Vol. 28 : No. 1 , Article 14.
Available at: <https://commons.und.edu/ndlr/vol28/iss1/14>

This Note 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.

BENCH AND BAR

PRESIDENT'S PAGE

ALL COMMITTEE appointments have been made for the current year and work schedules are being completed. All committee chairmen are urged to submit a preliminary progress report by February first. The Federal Tax Law Institute, sponsored by the American Law Institute and our able Committee on Continuing Legal Education, was held in Bismarck, November 15, and 16, as scheduled. Its success was assured by 73 paid registrants. Those attending were enthusiastic about the "Bread and Butter" topics discussed by the very able lecturers in charge. The lawyers participating will long remember Jack R. Miller, James Fitzgerald and Dean Edmund Belsheim. Those who missed their splendid talks should plan to attend next year. Special thanks are also extended to P. W. Lanier, Sr., and Harry Lashkowitz for their illuminating refresher on practice in federal court.

Plans will be announced soon for another institute. We may well call it the first Annual Institute on Oil and Gas Law and Taxation in the Williston Basin. Again, every effort will be made to present practical material. The fast tempo of developments in the vast Williston Basin has created for many of us an entirely new field of law. We must be prepared to meet the challenge and gear our practice to cope with the new as well as the old familiar problems. It behooves the lawyers of our state, who are working with mineral law, to attend this institute. A special invitation is cordially extended to our brother practitioners in South Dakota and Montana to join in the launching of this institute and to share its fruits with us.

Sincerely yours,

EUGENE A. BURDICK,

President.

STATE BAR BOARD

The State of North Dakota complies with the standards of The American Bar Association as to legal education and admission to the Bar. One of its standards is that every candidate for admission to the Bar "should be subjected to an examination by public authority to determine his fitness." The State Bar Board of North Dakota is the law examining board. The present members of the State Bar Board are: Mr. Charles L. Foster of Bismarck, Mr. Herbert G. Nilles of Fargo and Mr. Charles H. Shafer of Hillsboro.

Mr. Foster was appointed a member of the State Bar Board on December 18, 1948 to fill the unexpired term of George F. Shafer. Mr. Foster is now President of the State Bar Board. He is a graduate of the St. Paul College of Law. He is a past president of the North Dakota Bar Association and has served for several years and is now serving as City Attorney of Bismarck and other North Dakota municipalities.

Mr. Nilles was born in Everest, North Dakota. He took his preparatory and law training at the University and was graduated and admitted to the Bar in 1917. While in Law School he was a member of Phi Delta Phi legal fraternity. In 1932, he was elected to membership in the North Dakota Chapter of the Order of The Coif. He was first appointed a member of the Board for a six year term beginning December 1, 1938 and has served continuously since that date. From 1947 he has served continuously as State Delegate to the American Bar Association. He is also a member of the International Association of Insurance Counsel. Following the death of the late Hon. Geo. F. Shafer in 1948, Mr. Nilles was elected President of the North Dakota Law School Alumni Association and has since served as President.

Mr. Charles H. Shafer was born at Oakdale, North Dakota. He graduated from the Law School in 1926 and was admitted to the Bar the same year. While at the University he was a member of Delta Sigma Rho and in 1951 was selected for honorary membership in Phi Delta Phi legal fraternity. He was States Attorney of Traill County from 1936-1940 and is now City Attorney of Hillsboro. He has been prominent in the activities of the North Dakota League of Municipalities. He is a brother of the late Hon. Geo. F. Shafer.

Members of the State Bar Board devote a great deal of time each year in the preparation and supervision of examinations.

Their public duties are of special merits to the Bench and Bar and to the public in general.

TREASURY DEPARTMENT RELEASE

The Treasury Department has inaugurated a new procedure concerning those enrolled to practice before it. 31 CFR 10.6 was amended by addition of paragraph (d) which declared that all enrollment cards issued before January 1, 1952 shall be void after March 1, 1952. Void cards shall promptly be surrendered. Application for renewal shall be filed with the Committee on form 23A between January 1, 1952 and June 30, 1952. Information regarding personal income taxes, professional disciplinary action, and conviction of a crime will be required. Form 23A is available at the offices of:

Committee on Practice
Collectors of Internal Revenue
Internal Revenue Agents in charge
Special Agents in charge

If applicants are eligible in accordance with 5 U.S.C. §261 and make timely application, a new enrollment card will issue.

The announced purpose of the new procedure is to maintain closer supervision over enrollees. This is in addition to improved methods of obtaining current reports on cases of disbarments and convictions.

Individual notice will not be given, but the information will be publicized in the Federal Register and will also be circulated to interested professional societies, and by other means.

MEMORIALS

ALEXANDER G. BURR

Death came to Hon. Alexander G. Burr, for more than forty years a member of the Judiciary of North Dakota, at Bismarck on February 8, 1951. Judge Burr was stricken in December of 1947 and never again actively participated in the business of the Supreme Court. In September, 1949 he requested that he be relieved of his judicial duties, thus ending a period of almost forty-one years of judicial service.

Judge Burr was born at Perthshire, Scotland on February 25, 1871, the son of a Presbyterian minister. He lived for a time on the Island of Trinidad and then the family moved to Ontario, finally emigrating to Dakota Territory in 1883, where his father served as a Presbyterian missionary. Most of his preliminary education was private tutoring by his father. He received his legal training at the University of Michigan, graduating therefrom in 1894. He was admitted to the Bar of North Dakota on October 3d of that year. He commenced the practice of law at Bottineau and served three terms as State's Attorney of that County. He was elected to the District Bench of the then Ninth Judicial District in 1908 and re-elected at succeeding elections until when in 1926 he was appointed by Governor Sorlie to the Supreme Court to fill a vacancy caused by the resignation of Judge Sveinbjorn Johnson. He was re-elected in 1928, 1934 and 1942.

Judge Burr was an indefatigable worker. His opinions are contained in the North Dakota reports from volumes 54 to 75 inclusive. He probably wrote in the neighborhood of 500 opinions during his membership on the Court. In several years he prepared as many as forty opinions. His opinions were thorough, without being unduly long, and are regarded with respect by the members of the Bench and Bar.

In 1900 Judge Burr was married to Roberta Carothers of Grand Forks, North Dakota. She died in 1915. Surviving are one son, Dr. Alex C. Burr, Grand Forks, and two daughters, Roberta Cameron Burr, Bismarck, and Mrs. Kenneth Wells, wife of a Presbyterian Missionary, until lately stationed in Siam. One son, Robert, preceded Judge Burr in death. In his memory Judge Burr established the Robert Burr medal for debate at the University of North Dakota. One sister, Flora Cameron Burr, Bottineau, also survives.

Judge Burr took a keen interest in religion and education. He served for many years on the Board of the Presbyterian Churches in the cities where he resided. He took a leading part in the re-activation of Jamestown College and served for many years as a member of the Board of Trustees of that School. Judge Burr was a member of the Bottineau Lodge of the I. O. O. F. and the various Masonic orders, having held many of the high offices in the latter fraternity. He was interested in young people and encouraged and assisted many in their attempt to secure an education.

In the passing of Judge Burr, North Dakota has lost one of

its most distinguished jurists, but the results of his labors are indelibly inscribed on the records of the Courts of the State.

Committee on Memorials

J. H. NEWTON, *Chairman*

ROBERT A. CASE

RAY R. FRIEDRICH

ERNEST PAUL

W. F. REICHERT

BERT L. WILSON, JR.

PETER B. GARBERG

Peter B. Garberg, First Assistant Attorney General of the State of North Dakota, was stricken on the streets of Minot on October 26, 1951 and died before medical aid could be had.

Peter B. Garberg was born at Revillo, South Dakota on December 25, 1882. His preliminary education was received in that state, after which he attended Red Wing Seminary, Red Wing, Minnesota. He also attended Valparaiso University, Valparaiso, Indiana, and the University of Minnesota, receiving his law degree from the latter institution in June, 1909. He was admitted to the Bar of Minnesota on June 11, 1909. In 1910 he removed to North Dakota, locating at Reeder. Was admitted to the Bar of North Dakota December 10, 1910 and practiced law in Adams County until his removal to Fargo in 1923, at which time he was appointed assistant United States District Attorney. Mr. Garberg was State's Attorney of Adams County from 1915 to 1921, State Senator from the 49th District from 1921 to 1923, Assistant U. S. District Attorney from 1923 to 1929 and U. S. District Attorney from 1929 to 1933. He was Assistant Attorney General of the State of North Dakota from 1942 until the time of his death. He was married in 1910 to Sophia Borgen of Montevideo, Minnesota. She, as well as two sons and two daughters, survive. The sons are Phillip and Rollo, both of Los Angeles, and the daughters Mary (Mrs. Mike Penovich of Fargo,) and Virginia (Mrs. Thomas Hagen) of Aberdeen, South Dakota.

Besides filling his various public offices with honor and distinction, Mr. Garberg was well known as a toastmaster and after dinner speaker par excellence.

No more fitting memorial to the life and character of Peter Garberg can be rendered than that prepared by Judge P. O. Sathre, a long time friend and associate, for presentation and adoption by the Burleigh County Bar Association. We quote in part from such memorial:

"On Friday morning, October 26, 1951 came the unexpected message, as startling as a flash of lightning from a clear sky, that Peter B. Garberg, a respected member of our profession had suddenly passed to the Great Beyond. Yesterday he was engaged in the honest discharge of his duties as a servant of the state wherein he had developed in his profession and reached the full strength and vigor of his manhood. Today his remains are resting in the stilly shades of death. But he left behind a record of able and conscientious service to the people of his state in which he spent the best years of his life. His record as a public servant marks him as a man of keen and honest conviction of right and justice with a high sense of responsibility to the discharge of the trust reposed in him by the people of his community and state. He was a man of integrity, honest of purpose, lofty patriotism, and love for his country and its institutions.

In private life he was genial and kindly, deeply sympathetic with his fellowmen. While he always had the courage of his convictions he was never offensive to those who might differ with his views, but respected their opinions and accorded them the same rights which he enjoyed as a man and upright citizen.

In his passing the state has lost a faithful servant, an upright citizen, whose memory will be cherished by all who knew him and had the benefit of his kindly advice and friendly associations."

Funeral services were held at Bismarck on October 29th, with burial at the place of his birth on October 30th.

Committee on Memorials:

J. H. NEWTON, *Chairman*

ROBERT A. CASE

RAY R. FRIEDRICH

ERNEST PAUL

W. F. REICHERT

BERT L. WILSON, JR.

HALVOR L. HALVORSON

Halvor L. Halvorson, a member of the Bar of North Dakota for almost half a century, died at Minot on October 3d, 1951 after an illness of several months' duration. He was born August 15, 1881 at Henning, Minnesota. His early education was received in the public schools of that State and he also studied law in the offices of C. L. Hilton, N. F. Field and George W. Downing of Fergus Falls, Minnesota, and thereafter put in one year of law study at the University of Minnesota. He removed to Grand Forks and entered the University of North Dakota and graduated from the Law Department of that institution, working at the same time in the law office of George A. Bangs. His graduation from the law Department took place before he was 21 years of age and for that reason he was not immediately eligible for admission, such admission to the North Dakota Bar taking place on September 16, 1902. After practicing a short time in Grand Forks he removed to Benson County and was Assistant State's Attorney at Minnewaukan for a short period, later removing to Esmond, and finally moving to Minot in 1907, where he was destined to spend the rest of his days.

Always a staunch Democrat, Mr. Halvorson was the candidate of that party for many State and Federal offices, including those of Governor, Attorney General, Congress and United States Senate. In 1924, when he was a candidate for Governor, he was defeated by only a small majority, considering the preponderance of Republican voters in the State an index to the respect and esteem with which he was held by the voters of North Dakota. A similar showing was made in 1949, at which time he was a candidate for Attorney General. He was elected to the State Legislature in 1930 and served in the lower House during the 1931 Session. He served as President of the Minot City Commission from 1913 to 1916 and was City Attorney of Minot from 1929 to 1931. He was a long time Director of the North Dakota State Fair Association at Minot.

Always active as a champion of irrigation he worked untiringly on the Missouri River Diversion Project and was appointed by Governor John Moses to the Missouri States Committee. His ability was recognized by Governor Aandahl who reappointed him to the Committee in 1945. He also served three terms as President of this Missouri-Souris Project. Mr. Halvorson interested

himself in the Alcan Highway and largely through his efforts the present route was selected and completed. He was interested in oil development in North Dakota and gave unstintingly of his time and money in that behalf many years prior to the discovery of oil in northwestern North Dakota.

Mr. Halvorson was married in 1904 to Nina Knudsen of Fisher, Minnesota, who survives him. To this union were born five children, four of whom, beside the widow, survive; they are Halvor L. Halvorson, Jr., now State's Attorney for Ward County, Glen, also an attorney, and now living at Berkeley, California, Leon Halvorson, also an attorney living at Minot, but prevented by poor health from practicing, and Mrs. Vivian Coliton, Niagara Falls, N. Y. Four sisters and three brothers also survive.

Mr. Halvorson's law practice was varied. His clients were usually of the middle class or underdogs, in whose behalf he could always be depended on to wage a valiant battle. He fought long and courageously for various Indian tribes in connection with their claims against the Federal Government for payment of lands taken from them. He also took an active part in the lawsuits of many of the landowners whose lands were taken by the Federal Government in connection with the construction of the Garrison Dam.

Halvor L. Halvorson was long interested in the affairs of the State Bar Association, and a regular attendant upon its meetings. His presence will be missed in the councils of the Association as it will be in the civic life of Minot. Burial was had at Minot on October 6th.

Committee on Memorials

J. H. NEWTON, *Chairman*

ROBERT A. CASE

RAY R. FRIEDRICH

ERNEST PAUL

W. F. REICHERT

BERT L. WILSON, JR.

J. V. McCORMICK

J. V. McCormick, prominent Morton County attorney, died in his sleep at his home in New Salem on September 10, 1951. Mr. McCormick, son of Mr. and Mrs. Samuel McCormick, was born

at Mendota, Illinois on December 12, 1878. He received his early education in that state and was graduated from the Dixon Law School of Dixon, Illinois. He came to North Dakota in 1903 and for a time was engaged as a school teacher before branching out into the practice of law. He was admitted to practice in North Dakota April 28, 1905. He served one term as State's Attorney of Oliver County and then engaged in private practice at New Salem. In addition to his law business he was interested in numerous business ventures, including the establishment of the Deep Vein Coal Mine and Chevrolet Garage at New Salem. He held various city offices in New Salem, serving two terms as Mayor, several terms as City Auditor and as City Attorney, which last position he held at the time of his death. He was instrumental in the establishment of the New Salem golf course and was an enthusiastic golfer, participating in many area tournaments.

Mr. McCormick was married March 31, 1907 to Miss Lydia Richman. In addition to Mrs. McCormick he is survived by four daughters, Mrs. Clarence Dettman, Mrs. Robert Burian, Mrs. Herbert Sarsten and Mrs. H. M. Stone, as well as two sons, Chester and James. James McCormick is a lawyer located at Bellflower, California and is now a captain with the armed forces. One brother, George McCormick of Galt, California, also survives.

Mac, as he was familiarly known, was a civic minded citizen and gave liberally of his time and resources to further the interest of his community. As evidence of his popularity it was necessary that the funeral services, which occurred September 13, 1951, be held in the City Auditorium of New Salem.

Committee on Memorials

J. H. NEWTON, *Chairman*

ROBERT A. CASE

RAY R. FRIEDRICH

ERNEST PAUL

W. F. REICHERT

BERT L. WILSON, JR.

GEORGE D. SMITH

Mr. George D. Smith, one of the pioneer attorneys of North Dakota, passed away at Grand Forks, on October 4, 1951, at the age of 71.

He is survived by his wife, Amy W. Smith, and his two children, Mrs. John H. Vold, Jr., and Marshall D. Smith.

Mr. Smith was born at Baraboo, Wisconsin, March 29, 1880. He attended grade and high school at Redwood Falls, Minnesota, and the University of Minnesota where he received his LL.B. degree in 1906. He was admitted to the North Dakota Bar July 3, 1916.

Before coming to Grand Forks in 1920, Mr. Smith practiced law at Breckenridge, Minnesota, where he was City Attorney and a member of the City Charter Commission. He was also Assistant County Attorney of Wilken County, Minnesota.

Mr. Smith maintained law offices in Grand Forks from 1920 on, and was actively engaged in his practice and community affairs until the date of his death. In addition to the general practice of law Mr. Smith specialized in representing foreign heirs and the counsels of foreign governments, notably those of Germany, Denmark, the British Isles, and Sweden. In the past he also served as Municipal Court Judge of Grand Forks.

He was an active Mason, and a Past Master of Acacia Lodge Number 4 in Grand Forks. He was also prominent in the Scottish Rite and Shrine and was a 32nd degree KCCH.

The death of Mr. Smith is a great loss to his community and to his profession, both of which he served generously and unstintingly. He will long be remembered by the bar and by his fellow citizens for his ability, sincerity, and unselfishness.

Committee on Memorials

J. H. NEWTON, *Chairman*

ROBERT A. CASE

RAY R. FRIEDRICH

ERNEST N. PAUL

W. F. REICHERT

BERT L. WILSON, JR.

CLAYTON O. STOCKSTAD

Clayton O. Stockstad, an attorney at Forman, North Dakota passed away on the 20th day of October, 1951 at Fond du Lac, Wisconsin. Mr. Stockstad was born in Milnor, North Dakota on

August 27, 1905. In June of 1928 he graduated from the University of Minnesota law school, and was admitted to practice in North Dakota July 13, 1928. In November of 1928 he was elected State's Attorney of Sargent County, and served in that capacity until February, 1933 when he resigned to enroll in the Harvard Graduate School of Business. During the following years he was recognized as a promoter of unusual ability, and acted as counsel for several large corporations. Because of ill health Mr. Stockstad returned to Forman, North Dakota in the spring of 1951, at which time he established a private practice of law until the time of his death. His untimely death was a great loss to the community.

Committee on Memorials

J. H. NEWTON, *Chairman*

ROBERT A. CASE

RAY R. FRIEDRICH

ERNEST PAUL

W. F. REICHERT

BERT L. WILSON, JR.

NORTH DAKOTA LAW REVIEW

JOURNAL OF
THE STATE BAR ASSOCIATION



A Review of Oil and Gas Lease Forms T. Murray Robinson

NOTES—

Courts — Federal Jurisdiction — Pendent Jurisdiction Rule.....	104
Negotiable Instruments — Limitation on Actions — The Statute of Limitations Applied to Actions Against Drawers of Bank Drafts.....	113

Recent Cases
Book Reviews

Law School News
Bench and Bar

Opinions of the Attorney General

VOLUME 28

APRIL, 1952

NUMBER 2

