



1950

## President's Page

F. J. Graham

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## BENCH AND BAR

## PRESIDENT'S PAGE

**M**Y YEAR'S term as President will expire during the Minot meeting. At that time I will make a report to you covering the period of my service and the operations which have been carried on by the Bar Association.

This will be my last open letter to the membership. I desire to thank the membership for the help and encouragement which has been given to me and to the other officers during the past year. Several new plans were inaugurated during the term of George A. Soule, my predecessor. We have tried to carry on the policies which were inaugurated and we hope we have made some progress that will benefit not only the members of the Bar but be for the good of the people at large as well.

If we are to continue as a nation and keep our democratic form of government the Attorneys must be willing to devote a substantial amount of their time for continuing our form of government. Commencing with the birth of our country and prior thereto the members of the Bar have always taken a prominent part in the development of our country and we must continue along that line.

The study of the constitution and the awards made to the students of the schools by the North Dakota Bar has been extended and a great deal more interest has been taken in the study during the past year. I believe that this has been a very worthwhile project.

I have enjoyed the meetings of the Executive Committee and the different ideas which have been presented. It has been a pleasure to me to work with the committee all of whom have given of their time and efforts which I believe have been for the benefit of the Association and the citizens of this State.

I know it has been a very fine experience for myself and of great value. I suggest that all of you make a special effort to attend the annual meeting in August. Everyone of you should be present so that you may hear the reports which will be submitted and help to determine the policy for the ensuing year. Anyone who does not come, if it is at all possible, has no just ground for complaint on any action taken. We will again have the sectional meetings and trust that all of

you will take part in some of them. It is also a very fine place to meet the members and renew old acquaintances.

This issue carries the tentative program and remember Minot will be especially pleased to have all of our ladies attend the convention.

President Harold J. Gallagher of the American Bar Association will address the convention on the morning of August 25th. Robert W. Palda, General Chairman of the Ward County Bar Association, is in charge of the annual meeting and his numerous committees have been working since mid-winter to make this a profitable and pleasant convention; and all of us will look forward to seeing all of you in Minot on August 24, 25, and 26.

Sincerely,

F. J. GRAHAM, President.

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#### ANNUAL MEETING

Minot, North Dakota  
August 24, 25, 26, 1950

**P**RESIDENT Robert W. Palda of the Ward County Bar has appointed O. B. Herigstad, a former State Bar Association President, as General Chairman of the Convention Committee for our annual meeting at Minot, August 24, 25, and 26, 1950.

For months the members of the Ward County Bar have been preparing for this State Convention and have a program, which, with that provided by the Executive Committee of the State Association bids fair to be one of our very finest.

One of the highlights of the Convention will be an address by Harold J. Gallagher of New York, President of the American Bar Association and the principal speaker at the Convention banquet will be William C. Green, former member of the Cass County Bar, and now a leading attorney in St. Paul.

Among the distinguished lecturers who will appear at the Convention in the Sectional Meetings, are included Professor Allison Dunham of Columbia University and Professor Grant Gilmore of Yale. The bar was distinctly fortunate to be able to secure the services of these very well known Law Professors.

Minot, always an excellent host city, is providing us with a sight seeing trip to Garrison Dam which should be very entertaining, and very thoughtfully included the wives of lawyers who desire to make this trip. It is also contemplated that on the night of the banquet, sessions will cease early enough to permit our golf playing members to get in a round or two prior to the banquet which will be held at the Minot Country Club. Incidentally, they have a very beautiful golf course:

The ladies, of course, will be very well taken care of as is usually done at our annual gatherings. Be sure and bring your wives. If you do not already have hotel accommodations and cannot get them readily, it is suggested that you write Mr. C. A. Waldron of Minot, Chairman of the hotel reservation committee, who will do every thing possible to place you. Be sure to indicate which nights you desire reservations and the type of accommodations.

It is sincerely hoped that we will have one of our largest and best Conventions in Minot. Remember the dates August 24, 25 and 26, 1950.

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**PROGRAM**  
**OF ANNUAL MEETING**  
**NORTH DAKOTA BAR ASSOCIATION**

Minot, North Dakota  
August 24, 25, 26, 1950

Thursday Morning, August 24

CENTRAL HIGH SCHOOL AUDITORIUM

- 9:00 Registration in High School Auditorium.  
Registration entitles members to Annual Banquet and Thursday noon luncheon as guests of Ward County Bar. It admits ladies to banquet and participation in ladies program.
- 9:45 Call to Order, F. J. Graham, President, presiding.  
Invocation: Reverend John Hogan.
- 10:00 President's Address: F. J. Graham.
- 10:15 Committee Reports.
- 11:25 Announcements.
- 11:30 Luncheon.  
Lawyers only, as guests of Ward County Bar Association. Clarence Parker Hotel. No program and no charge.

Thursday Afternoon, August 24

CENTRAL HIGH SCHOOL AUDITORIUM

- 12:30 to 2:00 Sectional Meetings.  
 Uniform Commercial Code  
 Professors Allison Dunham, Columbia University  
 and Grant Gilmore of Yale University  
 Trial of Automobile negligence cases  
 Theodore C. Kellogg  
 Conditional Sales, rights and remedies  
 Roy A. Ployhar  
 Oil and Gas leases  
 Coleman, Jameson and Lamey, Billings.
- 2:00 to 2:15 INTERMISSION.
- 2:15 to 3:15 Sectional Meetings.  
 Uniform Commercial Code  
 Professors Dunham and Gilmore  
 New Probate Code . . . . . Paul N. Paulsen  
 Real Estate Mortgage Foreclosures . O. B. Herigstad
- 3:15 Luncheon.
- 4:00 Tour of Garrison Dam as Guests of Ward County Bar.  
 For planning purposes, please advise registration desk if you  
 wish to make this tour.

Friday Morning, August 25

CENTRAL HIGH SCHOOL AUDITORIUM

- 9:30 Business Session.  
 Election of Officers.  
 Unfinished Business.
- 11:15 Address: Honorable Harold J. Gallagher, President  
 American Bar Association.
- 12:00 Luncheon. Phi Alpha Delta. Clarence Parker Hotel.  
 Luncheon. Phi Delta Phi. Clarence Parker Hotel.  
 All former members of either of these legal fraternities are  
 cordially invited.

Friday Afternoon, August 25

CENTRAL HIGH SCHOOL AUDITORIUM

- 1:30 Business Sessions.
- 3:00 to 4:30 Sectional Meetings.  
 Uniform Commercial Code  
 Professors Dunham and Gilmore  
 Trial of Automobile Negligence Cases  
 T. C. Kellogg

## Conditional Sales, rights and remedies

Roy A. Ployhar

Oil and Gas leases . . . Coleman, Jameson &amp; Lamey

Friday Evening August 25

MINOT COUNTRY CLUB

7:15 Convention Banquet.

F. J. Graham, presiding.

Invocation: Reverend Jack Zerwas

Awarding of Convention Prizes.

Address: William C. Green, St. Paul.

Saturday Morning, August 26

CENTRAL HIGH SCHOOL AUDITORIUM

9:30 to 11:00 Sectional Meetings.

Uniform Commercial Code

Professors Dunham and Gilmore

New Probate Code . . . . . Paul M. Paulsen

Real Estate Mortgage Foreclosures . O. B. Herigstad

11:00 Final Business Session.

12:00 Adjournment.

12:30 North Dakota Law School Alumni Association  
luncheon, Clarence Parker Hotel.

## HARVEY ATTORNEY MARKS

## 50TH YEAR OF PRACTICE \*

**O**N THE 16th day of April of this year, Aloys Wartner, Sr., veteran attorney of Harvey, North Dakota celebrated his fiftieth year of practice in this state. A reception in the form of an open house was held at the Wartner home with many dozens of friends attending.

Universally known as "The Judge," Mr. Wartner maintains his office in the same building where he began his practice in Harvey. Though he has handled many cases and appeared in many courts, he recalls the first lawsuit here when he appeared in justice court at Manfred on an eviction case.

Aloys Wartner was born on December 28, 1870 in Westpoint Township, Columbia County, Wisconsin. He spent his early

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\* Reprinted in modified form from the Harvey Herald, Harvey, North Dakota. — Ed.

years on a family farm and after working for some time in the harvest fields went into elementary school teaching. After varied experiences including teaching he entered the University of Wisconsin Law School and graduated in 1895 and was on the same day admitted to practice in the state and federal courts in Wisconsin.

He returned home after graduation and in the later part of October, 1895, went to Graceville, Minn., where he opened a law office and practiced for five years.

It was on April 17, 1900 that Aloys Wartner as a young attorney arrived to look over the situation at Harvey. He was impressed with the possibilities in the struggling prairie community and formed a partnership with attorney John O. Hanchett. At that time Harvey was unincorporated and not until three years later was it organized as a village. In 1906, the community had progressed to the point where it was appropriate that it be organized as a city. As chairman of the village board of trustees, Mr. Wartner automatically became the first mayor of Harvey.

Continuing what was to become an influential civic career, in the fall of 1906 Mr. Wartner was elected county judge, which office he held for four years. At the November election in 1912 he was elected state senator as a member of the "Bull Moose" progressive Republican faction. He held this office for a four year term and was one of the proponents of the woman suffrage movement.

The Judge was again elected mayor in April, 1916 and served one term. During 1916 and 1917 he assisted in promoting the establishment of Co. H of the North Dakota National Guard and the enlistment and appointment of the Harvey band which was inducted into federal service.

Mr. Wartner was president of the Harvey School Board for 23 years, and has been a member of the Harvey Park Commission since April 15, 1920 and was just re-elected for another term. At the last city election he was also elected justice of the peace.

For more than a quarter century he acted as city attorney for Harvey. Recognition as a jurist came with his elevation to the presidency of the North Dakota Bar Association in 1938. Among the many groups with which he has been associated are the Kiwanis Club, the Harvey Commercial Club and its successor, the Civic and Commerce association, the De-

votion Lodge A.F.A.M. and Signet chapter of Royal Arch Masons and the Eastern Star.

The Judge had three children, one of them, a son, Aloys Wartner, Jr. who is now living in Harvey where he is engaged in the practice of law.

Always a lover of sports, Judge Wartner is still an enthusiastic baseball fan and for years umpired ball games in this section. He is a consistent golfer and wields a wicked spoon. Hunting was always a favorite pastime and it takes unusual weather to keep him from his enjoyment of this sport. His fondest tales are those of memorable hunting expeditions in the days when game abounded in this section.

Mr. Wartner's accomplishments bespeak his ability but the friends in the community, the county and the state tell more of his character and integrity.

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#### BOOK NOTICE

**BASIC ACCOUNTING FOR LAWYERS**, by Barton E. Ferst of the Pennsylvania Bar. Published by the Committee on Continuing Legal Education of the American Law Institute collaborating with the American Bar Association, 133 South 36th Street, Philadelphia 4, Pennsylvania. 1950. \$2.00. Pages 127.

This is the sixth in a group of concise, practical texts for general practitioners published by the Committee on Continuing Legal Education of the American Law Institute collaborating with the American Bar Association.

This deals not with any specific field of law but rather with basic accounting. No lawyer can practice successfully in any field of the law without the ability to read the accounting papers of his average clients. Without that, he can hardly file an account of an estate, participate in a bankruptcy proceeding, organize a partnership or corporation, prepare income tax returns, or assist in financial transactions. It is a fact that some knowledge of accounting is essential for every lawyer.

This pamphlet attempts to provide the average lawyer with such knowledge. It is an elementary text and does not deal with any specific field of law but rather familiarizes the lawyer with the elements and terminology of accounting pro-



cedures and statements. It starts off with the theory of accounts, books of original entry, methods of accounting and accounting periods. Thereafter the reader is taken on a simple but detailed tour of the balance sheet and the earnings statement. These two basic accounting statements are thoroughly examined and the content discussed in considerable detail, so far as that is possible in a brief space. Finally, attention is given to simple analysis of the accounting statements so that the average lawyer will be able to appreciate more fully the meaning thereof.

The text concludes with an illustrative appendix of financial statements and an analysis thereof, with a brief bibliography. The text will not make a lawyer into an accountant. It will give him a basic knowledge of accounting which is essential to him. It could be followed with a subsequent text dealing with specific fields of the law where accounting problems are met, such as probate proceedings, bankruptcy, corporate matters, etc. This text is based on the premise that basic accounting for lawyers is generally no different from basic accounting for businessmen, insurance men, engineers and others who need to become familiar with such matters in their own professions.

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Information regarding changes in listing in the Martindale-Hubbell Law Directory (1951 edition) for subscribers as well as non-subscribers including the address of a former member or associate, if known, should reach the publishers at Summit, New Jersey, not later than September 20th. If so requested, this information will be held in confidence until the publication date which will be about January 1, 1951.

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For Sale — A set of Pacific Reporter, First Series, 1 to 300 and Second Series, 1 to 145. Also miscellaneous forms, books, including North Dakota Reports volumes 1 to 58. These books may be inspected in the office of W. L. Eckes, Attorney at Law, Beach, North Dakota. Mr. Eckes also has for sale two roll top desks, a typist desk and 21 book cases.

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Lyle E. Huseby, Attorney, 11 Broadway, Fargo, N. D. is interested in purchasing volumes 84, 88, 241 through 248, 250

through 257, and 263 to 276 of the Northwestern Reporter, First Series. Anyone interested in selling these volumes is requested to contact Mr. Huseby at the above address.

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#### CORRECTIONS IN THE DIRECTORY

The directory of faculty members and graduates of the University of North Dakota School of Law published in the April, 1950, issue of the *Bar Briefs* contained the following errata:

The name of John Hjellum, LL.B., of Jamestown, N. D., who graduated in 1934, was omitted.

In the list of graduates for the year 1943, the name "Gordon Fulton Murnett" should read "Gordon Fulton Burnett."

In the list of graduates for the year 1926, Mr. William A. Jacobsen was listed as deceased, as was Mr. Emil E. Johnejack of the 1941 graduates. These listings were in error, the result of typographical mistakes which were not caught in the proof-reading process. Any further errors should be reported to the *North Dakota Bar Briefs*, School of Law, University of North Dakota, Grand Forks, N. D.

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#### LA ROY BAIRD

**T**HE MISSOURI Slope lost another of its pioneers and prominent attorneys in the passing of La Roy Baird. He was unexpectedly stricken with a heart attack and passed away in St. Joseph's Hospital at Dickinson on March 5, 1950. La Roy Baird was the second oldest attorney in point of service in the City of Dickinson and his period of membership in the Bar was exceeded by only four other lawyers in the Sixth District, he having been admitted to the North Dakota Bar June 8, 1907. He was born February 27, 1881 in Pierce County, Wisconsin, the son of M. J. and Anna (Winger) Baird. He attended the public schools of St. Croix County, Wisconsin, the River Falls Wisconsin Normal School and the University of Minnesota, finishing his law course at that institution in 1907.

General Baird came to Dickinson in 1907 and entered the abstract business and later formed a law partnership with F. C. Heffron, the firm being known as Heffron & Baird. He later entered the banking field and was for a number of years President of the First National Bank of Dickinson. In the

early twenties, at the time of the banking debacle, he was appointed General Receiver of the Insolvent Banks for the State of North Dakota and did an outstanding job in the liquidation of such banks. He returned to the active practice of law at Dickinson in 1941, although he continued to devote some portion of his time to receivership matters until the final winding up of such receivership in 1945.

Long affiliated with the North Dakota National Guard, General Baird retained that association until the time of his retirement therefrom in 1941. He had enlisted in Company "K", First North Dakota Infantry in 1907 and worked his way through the ranks until in December, 1928 he was promoted to the rank of Colonel commanding the 164th Regiment. His active service included the Mexican Border Campaign and the Federal Mobilization of the National Guard of North Dakota in February, 1941. At that time he was Commanding Officer of the 68th Infantry Brigade, composed of Minnesota and North Dakota National Guard, retiring with the rank of Brigadier General in the Army of the United States. Upon his return to North Dakota the State promoted him to the rank of Major General, Retired.

The late Governor Moses appointed General Baird as State Chairman of the Committee for Civil Defense during the recent war and he served in that capacity until the agency was abandoned.

General Baird served two terms as State Senator from Stark County and during his incumbency in the Senate rendered valuable service to the Bar in fostering many measures having to do with judicial procedure and was one of the "strong men" of the Senate in matters of general legislation.

Long active in the affairs of the Bar Association and a regular attendant upon its annual meetings, General Baird served for a number of years on the Executive Committee of the Association, and at the time of his death was President of the Sixth District Bar Association.

General Baird was a member of the Spiscopal Church, a 33d Degree Mason, a Past Exalted Ruler of the Dickinson Elks Lodge, Charter member and Past President of the Dickinson Rotary Club and a Director of the State Historical Society.

In October of 1911, at Minneapolis, Minnesota, General Baird was married to the former Anna Hubert, who survives him, as do two sons, Robert B. Baird, associated with his fa-

ther in the practice of law at Dickinson, La Roy Baird, Jr., of Minneapolis, Minnesota, one daughter, Mrs. Harriet M. O'Loughlin of Omaha, Nebraska, and three grandchildren.

Funeral rites were had at the Masonic Temple in Dickinson on March 8th, with full military honors being paid by the North Dakota National Guard.

E. T. CONMY  
RAY R. FRIEDRICH  
J. H. NEWTON  
E. J. McILRATH, *Chairman*

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EDWIN E. BOTHNE

**E**DWIN E. Bothne, who died at Jamestown, North Dakota on March 27, 1950, was born at Elbow Lake, Minnesota, on December 3, 1909, the son of the late N. J. Bothne. He moved with his parents to New Rockford, North Dakota in 1913 where his father engaged in the practice of law. He attended the public schools at New Rockford and graduated from the High School of that City in 1927. He received his pre-legal education at the University of North Dakota and was a graduate of the College of Law of the University of Minnesota in 1932. That same year he participated in the North Dakota bar examination and was admitted to the Bar of North Dakota on July 15, 1932. At such times as he was not acting as court reporter or in military service he engaged in the practice of law at New Rockford. Mr. Bothne acted as court reporter for Judge R. G. McFarland, Judge of the Fourth Judicial District from 1933 to 1939. He was a veteran of World War II and served on the personal staff of General Douglas MacArthur in the Pacific Theatre, retiring with the rank of Second Lieutenant. After the conclusion of his military service he was employed by Judge John A. Hurley, at Glasgow, Montana, as court reporter. Just prior to his passing he was preparing for admission to the Bar in the State of Montana, intending to set up practice at Roundup, Montana.

Mr. Bothne was a past member of the North Dakota and Stutsman County Bar Associations. He was also a member of the American Legion and Jamestown B.P.O.E. He is sur-

vived by his wife and mother. Funeral services were held at Jamestown on April 1st with burial at New Rockford.

E. T. CONMY  
RAY R. FRIEDRICH  
J. H. NEWTON  
E. J. McILRATH, *Chairman*

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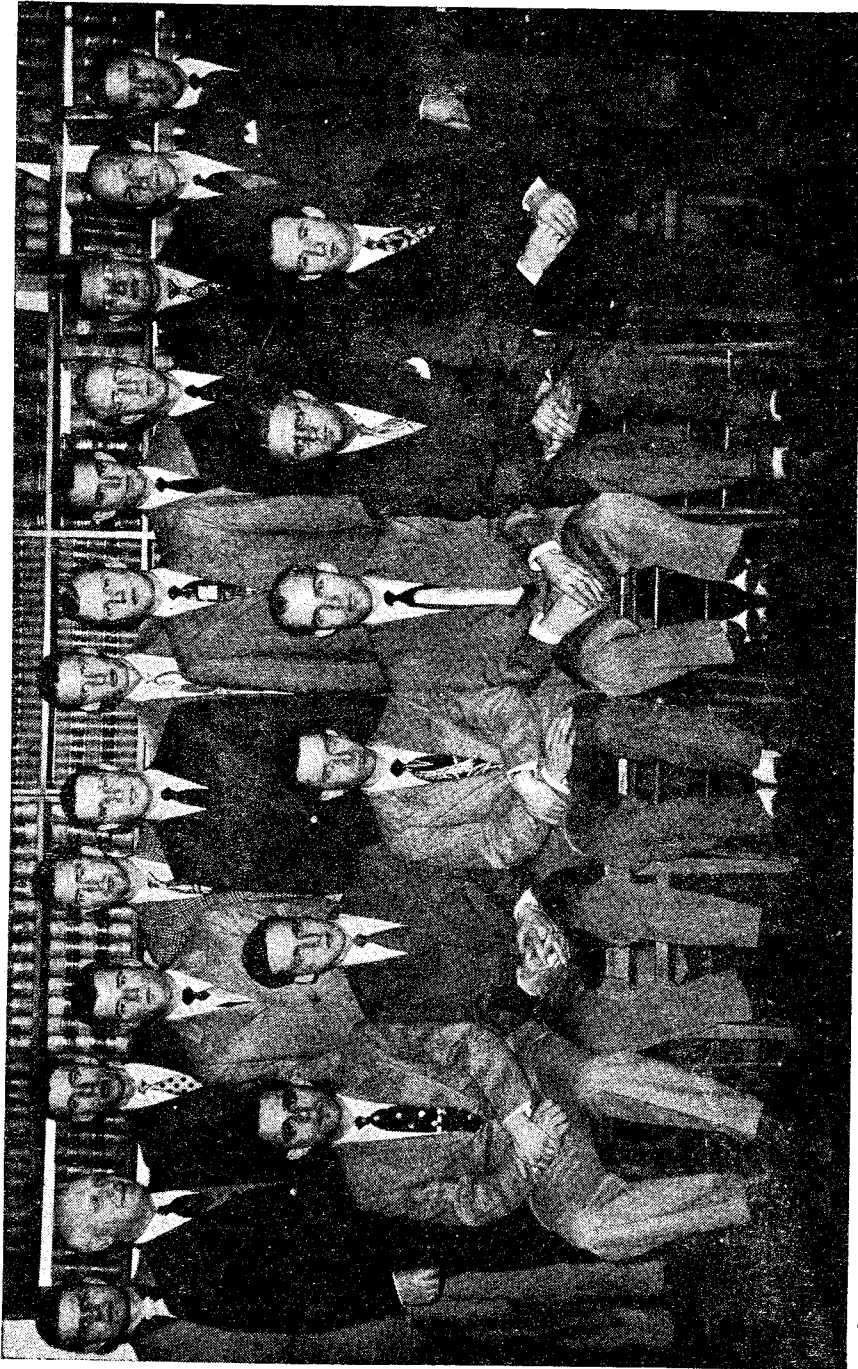
#### ORVILLE W. DUELL

ORVILLE W. Duell, formerly of Devils Lake and New Rockford, died at Spokane, Washington, on March 20, 1950. Mr. Duell was the son of the late Judge Dallas G. Duell and Mrs. Duell, his father being long prominent in North Dakota legal circles and in the G.A.R. in which he held many national offices. Orville W. Duell was born August 16, 1887, on a farm near Starkweather, North Dakota. He attended grade and high school at Devils Lake, graduating from the Devils Lake High School. He secured a B.A. degree from the University of North Dakota and graduated from the law department of Georgetown University, Washington, D. C. He was admitted to the Bar of North Dakota on June 22, 1914.

In 1914, Mr. Duell was married to Juliette Shortridge, the daughter of former Governor E. C. D. Shortridge. Both prior to and after his admission to the Bar he acted as court reporter to the late C. W. Buttz, being located at Devils Lake. In 1916 he resigned to enter private practice at New Rockford, at which point he was assistant state's attorney. In 1918 he removed to Spokane and continued in practice there until the time of his death.

Mr. Duell is survived by his wife and two daughters, Mrs. William Smallin, Eureka, California, and Carol, of Spokane, as well as four sisters and three brothers. Funeral services were held at Spokane on March 22, 1950.

E. T. CONMY  
RAY R. FRIEDRICH  
J. H. NEWTON  
E. J. McILRATH, *Chairman*



Left to right, front row: Harry G. Poulson, Clair M. Ghylin (Associate Editor), Ward M. Kirby (Associat Editor), Robert H. Ford (Faculty Advisor), Charles L. Crum (Editor), Edward J. Kirschenman. Back row: Duane R. Nedrud, Dean O. H. Thormodsgard, Thomas W. Benson, Michael W. Gaughan, David R. Lowell, Edward M. Peterson, Harvey L. Knauss, Kermit S. Peterson, Lyle W. Selbo, Robert Burke, Aurel L. Ekvall, Alfred A. Thompson, Donald J.