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# **Report Of Memorial Committee**

North Dakota Law Review

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# REPORT OF MEMORIAL COMMITTEE

To the Bar Association of the State of North Dakota in annual convention assembled, the Memorial Committee of your Association makes and files the following as its annual report:

Since the last annual meeting this Association has sustained losses in its membership in the passing of the following named members, to-wit:

J. E. McCarthy, Minnewaukan, North Dakota.

Frank O. Hellstrom, Bismarck, North Dakota.

W. S. Lauder, Wahpeton, North Dakota.

W. A. Burke, Lakota, North Dakota.

Ray O. Miller, Minot, North Dakota.

F. S. Thomas, Lisbon, North Dakota.

# J. E. McCarthy

Mr. McCarthy was born at Luverne, Minnesota, in 1876. He was educated in the schools of Minnesota, and in 1901 he graduated from the Law Department of the University of Minnesota, and soon thereafter moved to York, N. D., where he assisted in organizing the York State Bank, of which he was cashier until 1910.

He then entered upon the practice of law at York, and continued there until he moved to Minnewaukan in 1925, where he remained in practice until his last illness.

In 1902, he was married to Gertrude L. Brown, of Chillicothe, Mo., and there were four children born of this marriage, and the widow and children survive.

The children are Jay, in the drug business at Minnewaukan; H. Preston, a practicing attorney at San Pedro, Calif.; Elizabeth, of Billings, Mont.; and Donald, a junior in the University of North Dakota.

Mr. McCarthy was a successful lawyer, and while at Minnewaukan he built up a very nice law practice, and was honored and respected as a man and as a citizen by all who knew him, and he and his wife and family were loved and respected by all who knew them.

# FRANK O. HELLSTROM

On March 19th, at his home in Bismarck, N. D., Frank O. Hell-strom passed away, at the age of 65 years. His demise was the result of kidney trouble from which he had suffered for a long time, and especially during the last two months of his life.

The death of Mr. Hellstrom brings to a close the career of a man who had long been prominent in legal and political circles in North Dakota.

He was of Swedish parentage and was born in Douglas County, Kansas, June 24th, 1866. He received his early education in the public schools of that State, and then attended the University of Kansas, securing his degree of Bachelor of Law from that Institution in 1892.

Two years later he came to North Dakota, where he became active in the farm implement and machinery business, and it was during the period of time he spent in this work that he made contacts throughout the State which resulted in his becoming quite a factor in the Democratic circles of the State, for he was always a Democrat, and his efforts in behalf of his party led to his appointment as Warden of the State Penitentiary in 1907, when Hon. John Burke was Governor.

At various times he was a candidate for public office, such as Justice of the Supreme Court, Governor, and State's Attorney of Burleigh County. Although never elected to any of these offices, yet in 1912 when a candidate on the Democratic ticket for Governor, he received but 8,000 less votes than his Republican opponent, L. B. Hanna.

Mr. Hellstrom was very fixed and determined whenever his mind became set on any given question.

Surviving him are his widow, and a daughter, now Mrs. Mildred Shaw, of Minneapolis, besides three sisters.

# W. S. LAUDER

On May 17th, 1931, at his home in Wahpeton, N. D., Judge Lauder passed away. He had been an invalid for more than a year, following a stroke of paralysis. Funeral services were held on the following Wednesday afternoon from the Congregational Church in Wahpeton.

Judge Lauder was born at Yates Center, N. Y., February 9th, 1854, and while still a child, came with his parents to a farm near River Falls, Wisconsin. He was educated in the schools of River Falls, and attended the St. Croix Collegiate Institute at the same place.

While still a young man, Mr. Lauder apprenticed himself to Wellington Van Etta, a pioneer Wisconsin lawyer, and studied law under the old system from which so many of the splendid lawyers of this day and age, came. He worked for Dr. Ballard, a banker there, for his room and board, while pursuing his studies.

After completing his primary work, and after having been admitted to the Bar, he came to Wahpeton, N. D., where he opened an office, and after practicing for some time, in 1884 he was elected Probate Judge of Richland County. After serving one term in that office, he became District Attorney, as it was then termed, which office he held for four years.

When North Dakota became a State, Judge Lauder was a member of the Constitutional Convention in 1889, where the State Constitution was prepared, and where arrangements were made for the separation of the States of North and South Dakota.

Judge Lauder was indeed a great fighter, and his political history is one of the most interesting chapters in connection with the State of North Dakota, and its history.

Soon after the Constitutional Convention, Judge Lauder was appointed Judge of what was then the Fourth Judicial District, by the Commission appointed to divide the Dakota Territory property, and set up a system of government for the two States, and one year later Judge Lauder was duly elected as Judge of the Fourth Judicial District, which office he held for 15 years.

He was a member of the Bar Association of North Dakota, and also a member of the American Bar Association.

After his service as District Judge he resumed the general practice of the law at Wahpeton, and in his work as a lawyer he made a great success, and was always recognized as a leader at the Bar of this State.

It is authentically reported that when A. G. Sorlie was Governor of this State, a position on the Supreme Court of North Dakota was tendered to Judge Lauder, but on account of his large and still growing practice, such position did not appeal to him, and it was declined.

Judge Lauder was married twice. Of his first union two children were born, Mrs. Henry Turrish, of Duluth, and Charles W. Lauder, who died in 1911 from troubles contracted while serving with Company "I" in the Philippines during the Spanish-American War.

On December 8th, 1892, Judge Lauder was united in marriage to Miss Nettie McKean, of Wahpeton, and to this union were born four children, Mrs. Harold Ambler, Lake Forest, Illinois; Max W. Lauder, Wahpeton, N. D.; Ray S. Lauder, Chicago, Illinois, and Rose Lauder, Lake Forest, Illinois.

Judge Lauder was closely associated with the history and progress of Richland County for more than half a century, and he not only enjoyed a very lucrative law practice, but had a host of friends, not only in his home city, but throughout North Dakota and Minnesota, where he was so well known as a man and as a lawyer.

As a Judge he was quick, clear and concise, and eminently fair in all his decisions.

When acting in his judicial capacity he did not know nor recognize friend or foe, but his entire thought was to administer the law, and to do justice as best he could.

# W. A. Burke

On July 15th, 1931, Mr. Burke passed away at a Grand Forks hospital. Death was due to a ruptured appendix, and complications followed.

Mr. Burke was born in Oskaloosa, Iowa, 42 years ago. He spent his early childhood there, where he received his early educational training, and then came to Bismarck, N. D.

The Hon. John Burke, now a Justice of the Supreme Court of this State, is an uncle of Mr. Burke, and W. A. Burke, after coming to North Dakota, spent considerable time with his uncle, who was then Governor of North Dakota.

Some time before the recent war, Mr. Burke was in the office of Murphy & Toner, lawyers of Grand Forks, N. D., where he pursued the study of the law.

During the War he was a Captain in the U. S. Army, and stationed at Fort Dodge, Iowa.

When his uncle, the Hon. John Burke, was Treasurer of the United States, W. A. Burke was with him at Washington, and there continued his study of the law, and finally finished, and was admitted to the Bar, when he returned to North Dakota and joined the late Carl Frich, as partner in the law business at Lakota, N. D., where he continued to practice until his last illness.

Mr. Burke was a member of the Lakota Legion Post and Lions Club and was always active in civic affairs in his home town and locality, as well as enjoying a very nice law practice.

In 1918, he was married to Miss Gene Porterfield, former member of the Central High School faculty of Grand Forks, and she survives him.

Mr. Burke was very well and favorably known, not only in the locality of his home town, but in many portions of the State, and he was a man of high character, and considerable promise as a lawyer.

In addition to his wife he is survived by his mother, who resides at Livingston, Mont., and two sisters, Mrs. S. E. Posterick, of Livingston, and Mrs. Earl David, of Moscow, Idaho, and four brothers, Richard, of Livingston, Thomas, of Chicago, Harry R., of St. Louis, and John M., of Vancouver. B. C.

## RAY O. MILLER

On June 30th, 1931, at Minot, N. D., Mr. Miller was stricken and very suddenly passed away. He was engaged in a game of golf on the Minot Country Club grounds, and was apparenty in the very best of health until he was stricken with what the doctors considered was apoplexy, and survived only a few moments after his collapse.

Mr. Miller was a resident of North Dakota during the past 25 years, and practiced law at Plaza and Stanley, North Dakota, before removing to Minot in 1919, since which time he was continuously engaged in the practice of law at Minot.

He served his county as State's Attorney for eight years.

Mr. Miller was born at Plymouth, Iowa, January 14th, 1881, and he attended the public schools at Amboy, Minnesota, and did collegiate work at Carleton College, Northfield, and then took a full course at Hamlin University, and from there entered the law department of the University of Minnesota, obtaining his degree in 1906.

On December 21st, 1914, Mr. Miller was married at Sheldon, N. D., to Ethel Hoff, and the widow and five children survive him, besides his father who resides at San Diego, Cal., and a brother, and some sisters living at distant points.

Mr. Miller was active in the civic affairs of his home city, and was a member of the First Presbyterian church, and had always taken a great interest in not only the affairs of his home city, but those in connection with his church.

He was also a member of the Masonic Order, and always took a great interest in Masonic affairs, and while a resident of Stanley he served as Worshipful Master of the Masonic Lodge, and at the time of his death he was a member of both the York and Scottish Rite bodies in Minot, and also a member of Kem Temple of the Shriners Lodge at Grand Forks, N. D.

He was also a member in very high standing of the Minot Lodge of Elks, and served as an officer in that Lodge.

In the early years of his residence at Minot he served as President of the Minot Auto Club, which played a major part in the road development of the adjacent territory.

He was also a director of the Minot Association of Commerce.

He was also an active member of the Ward County Bar Association, and also of the Northwest Bar Association, and very much interested in the work of such Associations.

Funeral services were held Friday, July 3rd, 1931, at the First Presbyterian church, with Rev. H. E. Bierenfield, Pastor of the church, officiating in the church services, and after which the Masonic

Orders were in charge of the services at Rosehill Cemetery, where burial took place.

# FOREST S. THOMAS

On Sunday afternoon, July 26, 1931, Forest S. Thomas passed away at his home in Lisbon, N. D.

Funeral services were held on the lawn at the Thomas home where hundreds of friends and neighbors gathered to pay their last respect to an old resident and honored citizen.

Rev. A. E. Hook of the local Methodist church, conducted the services, and eulogized Judge Thomas in beautiful and fitting terms.

The musical program was under the Fort Ransom choir, and this service was very appropriate and fitting to the occasion.

The Judge had made a request that "The Bells of St. Mary's" would be sung at his funeral, and Mrs. A. E. Hook rendered this beautiful and inspiring song in a manner that reached the hearts of the entire gathering:

Attorney A. M. Kvello, a friend and associate at the Bar for many years, spoke eloquently of the life of the departed brother, and eulogized that life in a most fitting manner.

Rev. Frank Hollett, of Grand Forks, a former pastor of the Lisbon church, also spoke briefly but eloquently, of the life of Judge Thomas, and all in all, the service was a fitting tribute to the man who had lived so long in their midst.

Judge Thomas was born April 25th, 1879, at South Russell, N. Y., coming to Lisbon with his parents in May, 1882, and resided in Lisbon until his death.

He attended the Lisbon public schools, and in May, 1900, was appointed City Assessor.

In the fall of that year he entered Valparaiso University in Indiana, to pursue a course in the study of law. While attending school he married Miss Grace M. Stockwell, of Neilsville, Wisconsin, on March 20th, 1902, and returning to Lisbon he entered the office of T. A. Curtis, a practicing attorney, and on September 17th, 1902, he was admitted to the North Dakota Bar.

Mr. Thomas was elected County Judge in the fall of 1906 and entered upon the duties of that office January 1st, 1907, holding such office until January 1st, 1923, when he resumed the practice of law at Lisbon, and continued in such work and service until his death.

Judge Thomas is survived by his widow, one son, Cyrus, of Washington, D. C.; one daughter, Ethel, of Lisbon; his mother, Mrs. R. S. Thomas, of Lisbon, and one brother, Fred, of Fargo.

During Judge Thomas' service on the Bench he was thoroughly liked, and highly respected, not only by those who had business in his court, but by the lawyers who had occasion to appear in his court. He was thoroughly fair and honest, and his decisions, as a rule, would compare most favorably with those of the other judges of the State.

We shall not say to these departed brothers "Adieu," or "Goodbye," for, though common, such expressions seem to imply and carry with them something of regret or sadness, which does not belong here, but rather, let us bid them "Good night," for they are not dead—but sleeping in quiet, peaceful slumber, from which there shall be a *Grand Awakening*, when we shall all have the blessed opportunity and privilege of saying "Good Morning," for,

"Where they have gone, adieus and farewells are sounds unknown."

# RESOLUTIONS

NOW THEREFORE, BE IT RESOLVED, That in the passing of these, our brothers and members of this Association, we jointly and severally express our deep appreciation of their service, as they passed in and out among us during the years they spent in this State, and that we mourn their loss, and we here and now express our leepest sympathy for each and all of the members of their families and loved ones, from whom they have parted for a time.

The departure of these brother members is only another reminder of the fact that the old membership of this Bar Association is fast depleting, and that before very many years have passed, all of such members will have passed over into the Great Beyond, and that the affairs of the Association will soon have passed into the hands of the younger generation.

Truly, the Bar of this State within the past few years has lost many of its useful and brilliant members, and the State at large has lost some of its very best citizens.

We truly and fully appreciate these losses, but our memory is still with us, and when we think back over the past, great rejoicing comes to us, collectively and individually, from the fact that we did have the privilege of knowing and mingling with the brothers who have now left us and have crossed the Bar, and we hope and trust that they have all entered into an eternity of life itself, and of rest and peace.

BE IT FURTHER RESOLVED, That a copy of all of these brief biographies and of these resolutions be sent to the families of the departed members, and that a complete copy hereof be filed with the Secretary of the State Bar Association and spread at large upon the records in his office.

Dated at Grand Forks, N. D., this 18th day of July, 1931.

H. A. Libby,
Chairman of Memorials Committee.

In Memoriam

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## 1931-32

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# NORTH DAKOTA BAR ASSOCIATION

1931-1932

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Vice-President, Wm. H. Hutchinson, LaMoure
Secretary-Treasurer, R. E. Wenzel, Bismarck

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C. J. Murphy, Grand Forks C. L. Young, Bismarck

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T. B. Torkelson, Bowman

B. L. Wilson, Bowbells

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H. P. Jacobsen, Mott

A. G. Porter, LaMoure

D. J. O'Connell, Towner

Robert Norheim, Alexander

John Moses, Hazen

F. F. Wyckoff, Stanley

B. S. Wilcox, Center

L. R. Nostdal, Rugby

C. G. Mead, Lisbon

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Torger Sinness, Devils Lake

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C. P. Brownlee, Amidon

Wm. Barclay, Finley

Lloyd D. Stevens, Cando

J. L. Cashel, Jr., Grafton

John A. Layne, Fessenden

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1899-1900 Seth Newman, Fargo (deceased)

1900-1901 Seth Newman, Fargo (deceased)

1901-1902 Seth Newman, Fargo (deceased)

1902-1903 J. H. Bosard, Grand Forks (deceased)

1903-1904 J. H. Bosard, Grand Forks (deceased)

1904-1905 H. A. Libby, Grand Forks

1905-1906 H. A. Libby, Grand Forks

1906-1907 John Carmody, Hillsboro (deceased)

1907-1908 S. E. Ellsworth, Jamestown

1908-1909 F. H. Register, Bismarck (deceased)

1909-1910 Lee Combs, Valley City

1910-1911 A. A. Bruce, Grand Forks

1911-1912 John Greene, Minot (deceased)

1912-1913 A. G. Divet, Fargo

1913-1914 John Knauf, Jamestown 1914-1915 John Knauf, Jamestown 1915-1916 B. W. Shaw, Mandan 1916-1917 R. M. Pollock, Fargo (deceased) 1917-1918 F. T. Cuthbert, Devils Lake 1918-1919 T. D. Casey, Dickinson 1919-1920 Theodore Koffel, Bismarck (deceased) 1920-1921 Chas. A. Pollock, Fargo 1921-1922 Tracy R. Bangs, Grand Forks 1922-1923 Chas. J. Fisk, Minot 1923-1924 L. R. Nostdal, Rugby 1924-1925 A. W. Cupler, Fargo 1925-1926 C. L. Young, Bismarck 1926-1927 W. A. McIntyre, Grand Forks 1927-1928 Aubrey Lawrence, Fargo 1928-1929 John H. Lewis, Minot 1929-1930 Horace Bagley, Towner (deceased) 1929-1930 A. M. Kvello, Lisbon 1930-1931 F. J. Traynor, Devils Lake

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John E. Greene, Sec., Minot W. G. Owens, Williston
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## 1921 - 1922

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L. R. Nostdal, Rugby

W. E. Purcell, Wahpeton
C. L. Young, Bismarck
F. F. Wyckoff, Stanley
W. F. Burnett, Dickinson

## 1922 - 1923

C. J. Fisk, Pres., Minot
L. R. Nostdal, Vice Pres., Rugby
R. E. Wenzel, Sec., Grand Forks
T. R. Bangs, Grand Forks
F. T. Cuthbert, Devils Lake

A. G. Porter, Edgeley
C. L. Young, Bismarck
John H. Lewis, Minot
Thos. H. Pugh, Dickinson

## 1923 - 1924

L. R. Nostdal, Pres., Rugby
A. W. Cupler, Vice Pres., Fargo
R. E. Wenzel, Sec., Bismarck
A. E. Wheeler, Devils Lake
A. M. Kvello, Lisbon

John Knauf, Jamestown
W. A. McIntyre, Grand Forks
G. S. Wooledge, Minot
T. F. Murtha, Dickinson

## 1924 - 1925

A. W. Cupler, Pres., Fargo
C. L. Young, Vice Pres., Bismarck
R. E. Wenzel, Sec., Bismarck
W. A. McIntyre, Grand Forks
A. M. Kvello, Lisbon
John Knauf, Jamestown
G. S. Wooledge, Minot
T. F. Murtha, Dickinson
A. E. Wheeler, Devils Lake

## 1925 - 1926

C. L. Young, Pres., Bismarck W. A. McIntyre, Vice Pres., Grand

R. E. Wenzel, Sec., Bismarck V. R. Lovell, Fargo

Horace Bagley, Towner W. H. Hutchinson, LaMoure John Knauf, Jamestown G. S. Wooledge, Minot T. F. Murtha, Dickinson

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Horace Bagley, Towner

W. H. Hutchinson, LaMoure Aloys Wartner, Harvey O. B. Herigstad, Minot W. H. Stutsman, Mandan

## 1927 - 1928

Aubrey Lawrence, Pres., Fargo John H. Lewis, Minot R. E. Wenzel, Sec., Bismarck F. T. Cuthbert, Devils Lake

J. P. Cain, Dickinson

N. J. Bothne, New Rockford Theo. Kaldor, Hillsboro A. M. Kvello, Lisbon G. S. Wooledge, Minot

#### 1928 - 1929

John H. Lewis, Pres., Minot Horace Bagley, Vice Pres., Towner R. E. Wenzel, Sec., Bismarck Aubrey Lawrence, Fargo F. T. Cuthbert, Devils Lake

Geo. M. McKenna, Napoleon P. W. Lanier, Jamestown Thos. G. Johnson, Killdeer G. S. Wooledge, Minot

## 1929 - 1930

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E. E. Fletcher, Langdon Chas. Coventry, Linton P. W. Lanier, Jamestown L. J. Palda, Minot

## 1930 - 1931

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J. H. Lewis, Minot J. P. Cain, Dickinson

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Brickner, C. F., Fargo Bronson, H. A., Grand Forks Buck, C. S., Jamestown Buck, Sumner, Jamestown Burke, John, Bismarck Burke, Thos. G., Bismarck Burnett, W. F., Fargo Burnham, C. W., Carrington Burr, A. G., Bismarck Cain, J. P., Dickinson Campbell, J. E., Mandan

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Netcher, A. L., Fessenden Meldahl, E. D., Finley Milloy, P. T., Grand Forks Morris, James, Bismarck Murphy, J. A., Jamestown Newton, J. H., Bismarck Nilles, H. G., Fargo Norton, P. D., Minot Nuessle, W. L., Bismarck Olsberg, H. A., Valley City Owens, W. G., Williston Pollock, Chas. M., Fargo Porter, A. G., Edgeley Pugh, Thos. H., Dickinson Robinson, Thos. F., LaMoure Ryan, H. E., Devils Lake Sad, John, Valley City Sathre, P. O., Finley Senn, H. B., Rugby Sgutt, Emanuel, Fargo Shafer, Chas. H., Hillsboro Shaw, B. W., Mandan Sherman, R. H., LaMoure Sinness, Torger, Devils Lake Soule, George, Fargo Spalding, B. F., Fargo Stevens, E. R., Carrington Stevens, Lloyd B., Cando Strutz, A. C., Jamestown Stutsman, W. H., Mandan Swenson, H. W., Devils Lake Paulson, P. M., Fargo Taylor, E. J., Bismarck Temple, Frank I., Fargo Torson, L. N., Rugby Thormodsgard, O. H., University Traynor, F. J., Devils Lake Traynor, Mack V., Devils Lake Viesselman, P. W., University Wartner, Aloys, Harvey Wartner, Aloys Jr., Harvey Wattam, C. C., Fargo Wehe, L. J., Bismarck Wenzel, R. E., Bismarck West, John M., Grand Forks Westlund, G. T., Fargo Wheat, S. D., Devils Lake Whipple, B. F., Fessenden Wishek, J. H., Ashley Wishek, Max A., Ashley Winter, P. A., McClusky Wright, Thurman, Linton Young, C. L., Bismarck Zuger, Alfred, Bismarck

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