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## THE NORTH DAKOTA BAR BOARD

J. H. NEWTON\*

For many years subsequent to the admission of North Dakota to the Union there was no statutory Board of Bar Examiners, although provision was made for the examination of applicants for admission to the Bar. Sec. 422, Rev. Codes of 1895, provided that applicants be examined in open court either by the judges or by a committee of not less than three members to be appointed by the court. No examination fee seems to have been required but legend has it that it was the duty of the successful candidates to entertain the examiners in a fitting manner. Chapter 50, S. L. 1905, provided for the appointment by the Supreme Court of a Board of Bar Examiners. No appropriation was made for such Board but per diems and expenses of the Board were paid for out of the examination fees.

Pursuant to the 1905 statute the Supreme Court on February 18, 1905, entered its order appointing Andrew A. Bruce, Grand Forks, Emerson H. Smith, Fargo, and John Burke, Devils Lake, as the first Board of Bar Examiners. This Board, with changes in membership, functioned until 1919. At that time Chapter 69 S. L. 1919 was enacted. This act took the power of appointing the State Bar Board away from the Supreme Court and lodged the same in the Governor. This act also placed in the hands of the State Bar Board the duty of investigating complaints against attorneys, after the same had been referred to the Board by the Supreme Court, and to prosecute disciplinary proceedings when so directed by the Supreme Court. The act also, for the first time in the State's history, imposed a \$15.00 annual license fee on all attorneys actively engaged. Such act, as did the previous act providing for a State Board of Bar Examiners, made the Clerk of the Supreme Court Ex-Officio Secretary-Treasurer of the State Bar Board.

Acting under the power granted, Honorable Lynn J. Frazier appointed the first State Bar Board. They were: R. Goer, Devils Lake; S. E. Ellsworth, Jamestown; and George H. Moelling, Ray. The Board met for organization purposes on August 5, 1919, and elected R. Goer as President. George H. Moelling resigned in December 1920 having been elected one of the Judges of the Fifth Judicial District at the November 1920 election. H. C. De-

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\* Clerk of the North Dakota Supreme Court; Ex-Officio Secretary-Treasurer of the North Dakota State Bar Board.

Puy, Grafton, was appointed to fill the vacancy thus created. Upon the resignation of Mr. DePuy the then Governor, Honorable R. A. Nestos, appointed C. J. Fisk of Minot. The Board was so constituted until September 24, 1923, when the power of appointment having been by Chapter 134, S. L. 1923, again vested in the Supreme Court, the Court appointed C. J. Fisk, Minot; Sidney D. Adams, Lisbon; and C. L. Young, Bismarck, as Bar Board members. This Board met at Bismarck on October 2, 1923, and Honorable C. J. Fisk was elected President of the Board.

At the January 1925 meeting Mr. Sidney D. Adams was elected as President of the Board for a two year term.

At the January 1927 meeting of the Board Mr. C. L. Young was elected as President for a two year term. On November 10, 1926, the Supreme Court reappointed Sidney D. Adams for a six year term to expire on January 1, 1933.

Honorable C. J. Fisk having resigned as a member of the Board, the Supreme Court on May 7, 1927, appointed Honorable John Knauf to fill the unexpired term of Judge Fisk which term would expire on January 1, 1931. On January 15, 1929, Judge Knauf was elected President for a two year term.

The term of John Knauf having expired, the Supreme Court on January 10, 1931, appointed C. J. Murphy, Grand Forks, for a six year term expiring January 1, 1937. On January 14, 1931, Mr. Sidney D. Adams was elected President for a two year term.

Mr. Sidney D. Adams having retired as a member of the Board the Supreme Court on January 9, 1933, appointed Mr. W. A. McIntyre, Grand Forks, for a six year term expiring January 1, 1939. Mr. McIntyre served but a short period as he died on June 23, 1934. The vacancy was filled by the appointment of J. P. Cain, of Dickinson, his term running until January 1, 1939.

Mr. C. L. Young was reappointed on December 13, 1934, for a six year term expiring January 1, 1941. On January 27, 1937, Mr. C. L. Young was reelected President of the Board for an additional two years.

Mr. J. P. Cain having left the State and his term of office being due to expire on January 1, 1939, the Supreme Court entered its order appointing Honorable Herbert G. Nilles for a six year term expiring on January 1, 1945. Successive six year appointments of Mr. Nilles were made in 1945, 1951 and he is now a holdover with a new appointment soon to be announced.

The term of C. L. Young having expired on January 1, 1941, the

Court on January 20, 1941, entered its order appointing Honorable George F. Shafer for a six year term to expire on January 1, 1947. On February 12, 1941, the Board elected Governor Shafer as President for a two year term. On September 7, 1943, Governor Shafer was again elected President for the ensuing two years and continued as President until the date of his death which occurred September 13, 1948.

On January 18, 1943, C. J. Murphy was reappointed for another six year term ending January 1, 1949. On January 21, 1947, Governor Shafer was reappointed for another six year term which would expire January 1, 1953. As stated above Governor Shafer having died on September 13, 1948, the Court on December 18, 1948, appointed Charles L. Foster, Bismarck, for the unexpired term of Governor Shafer. On September 24, 1954, he was reappointed for a six year term expiring January 1, 1959. Judge Foster later was appointed and subsequently elected as Judge of the Fourth Judicial District but is still a member and President of the State Bar Board.

The term of C. J. Murphy having expired on January 1, 1949, the Court on February 21, 1949, appointed Charles H. Shafer, Hillsboro, for a six year term which would expire on January 1, 1955. Charles H. Shafer died on August 8, 1954, and on September 24, 1954, the Supreme Court appointed Mr. Mack V. Traynor, Devils Lake, to serve out the unexpired term of Charles H. Shafer. Mr. Traynor was reappointed on October 26, 1955, for a six year term to expire January 1, 1961. This brings us up to date with the Bar Board now consisting of Honorable Charles L. Foster, President; Honorable Herbert G. Nilles and Honorable Mack V. Traynor as members.

Throughout the years the Bar Board has been composed of men of high calibre. There have served as members three former Supreme Court justices, one who served both as Attorney General and Governor, another who served as an Assistant Attorney General for a long period of time. At least nine members have been President of the North Dakota State Bar Association. They have served for a nominal per diem and at a financial loss whenever they have left their lucrative practices to discharge the duties of their office, either in the conduct of bar examinations or to carry on investigations where charges have been lodged against attorneys and referred to the Board by the Supreme Court. In the conduct of examinations they have been eminently fair, and I am sure it is

with a feeling of reluctance when they have been compelled to fail a candidate. During the past forty years in the neighborhood of twelve hundred have been admitted to the Bar of this State. Some have died, some have gone into other fields of endeavor; but something over six hundred are still licensed and engaged in practice in North Dakota, carrying on with ability and justifying the judgment of the Bar Board in recommending them for admission.

In carrying on their investigations where lawyers have been charged with unethical, unprofessional and, in some instances, dishonest or criminal acts, they have given the accuser and the accused an opportunity to present their complaints and defenses. In not too many instances has it been necessary to recommend severe disciplinary action; but when the facts have warranted such action they have not shirked their duty.

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