Deaths

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DEATHS

John A. Gavit, Hammond, age 76. Died October 13, 1937.
Thomas J. Wilson, former Circuit Court judge, Corydon, age 74. Died November 13, 1937.
Franklin McCray, a charter member of the Indiana Bar Association and former criminal court judge, Indianapolis, age 83. Died November 20, 1937.
William S. McMaster, former Superior Court judge, Indianapolis, age 60. Died October 1937.
Clarence W. Dearth, former Circuit Court judge, Muncie, age 65. Died November 15, 1937.
Benjamin F. Harness, former Circuit Court judge, Kokomo, age 89, died October 10, 1937.
Russel McCormack, Indianapolis, age 46. Died 1937.
Charles Herbert Stuart, Lafayette, age 59. Died November 12, 1937.

RECENT CASE NOTES

WORKMEN'S COMPENSATION—CAUSATION IN SUNSTROKE CASES—Decedent, an employee of defendant, died of sunstroke while working in defendant's cemetery, and while occupied in mowing the grass. This proceeding involves an appeal from an order of the Industrial Board denying complainant compensation under the Indiana Workman's Compensation Act.¹ Held—The death of deceased is not compensable as resulting from injury arising out of and in the course of the employment in the absence of evidence that the lawn mower or condition of the grass produced any unusual amount of heat and exposure, or that the employee was subjected to any condition different from that of the other employees.²

¹ There was an additional fact present in the case: the decedent had suffered from the intense heat earlier in the day while serving his own purposes and before entering into the performance of his duties for defendant. It is submitted that this should not be considered an influential factor in the decision rendered in that: (1) it was apparently not deemed of controlling importance by the court; (2) as a basis for refusal of relief, it would tend to conflict with the previously established principle that the employment need not be the sole cause of the death, but it is sufficient if it is a contributing cause: Miami Coal Co. v. Luce (1921), 76 Ind. App. 245, 131 N. E. 824. For analogous causative difficulties, see: Puritan Bed Springs Company v. Wolfe (1918), 68 Ind. App. 330, 120 N. E. 417 (workman rendered susceptible to injury by pre-existing hernia condition); Indian Creek Coal and Mining Company v. Calvert (1918), 68 Ind. App. 474, 119 N. E. 519, 120 N. E. 709 (pre-existing disease of the aorta); Owens v. McWilliams (1926), 85 Ind. App. 92, 152 N. E. 841 (pre-existing heart disease).

² Thompson v. Masonic Cemetery Association (Ind. App., 1936), —, 5 N. E. (2d) 145. There is no difficulty here as to whether the injury is an