

Father : Patrick McFarland

Mother: Rebecca McCrae

**John McFarland** (bachelor)

Born 20<sup>th</sup> February 1838, Omagh, County Tyrone Ireland

Died 6<sup>th</sup> April 1884, Melbourne

John was the 2<sup>nd</sup> son of Patrick and Rebecca, he arrived with his parents in 1853 at the age of 15. He commenced his education in Armagh before attending the Victoria Grammar School in Collins Street Melbourne before completing his matriculation at Melbourne University. His parents lived at 5 Lonsdale Street.

John attended the University of Melbourne from 1855 where he was the twelfth student to enrol. In 1858 whilst studying for his honours examination in the School of Social Science he was awarded a Scholarship. Whilst at University he lived at Argyle Square, Lygon Street.

He completed his B.A on 10<sup>th</sup> April 1858 and M.A on 14<sup>th</sup> April 1860 and graduated with 1<sup>st</sup> class honours, he was ranked 16<sup>th</sup> on the list of those holding that degree.

He was admitted to the bar in 1862 and for a short time afterwards practised his profession in Melbourne, afterwards in Creswick and Woods Point the latter where he laid the foundation of his book “digest of MiningLaw”, where he gained a both a practical and theoretical knowledge of mining and mining law which made his services of great value and much sought after in that class of cases all over the colony of Victoria.

After the decline of mining in Gippsland John returned to Melbourne in 1868 and resumed practise with much success devoting his practise to common law. He was recognised by his peers as a singularly accurate and sound lawyer with great powers of accurate research.

In early 1882 he was offered the appointment to the county court but declined but was again offered the position after the selected judge died and reluctantly accepted the position.

*Extract from The Story of the Bar of Victoria*

On the 6<sup>th</sup> April, 1884, a Sunday set apart by the Government of Victoria as a day of mourning for the death of Prince Leopold, Duke of Albany, there at East Melbourne John McFarland, a judge of the County Court, after a short judicial career of twenty one months. He was the son of a business man in Melbourne, and read for the Bar at Melbourne University. He was the author of "A Digest of the Law of Mining in Victoria," published in 1881, and "A Digest of Mining Cases, 1869-70," which appeared in the last named year-both now standard books.

Mr. McFarland was a mining lawyer of undoubted authority, but on one occasion, during the hearing of an important mining case in the Supreme Court at Melbourne, Mr. Justice Stephen, who had the infirmity of saying unhappy things that afterwards regretted, said, as an "obiter dictum," that Mr. McFarland's business had been chiefly in the country, and he was not familiar with the practice of the court in Melbourne. Mr. McFarland was one of the best liked men at the Bar, and his brethren in the case, and all his friends in Temple Court, were sorry to hear his status disparaged from the Bench.

A few mornings later, a body of barristers, headed by Mr. Holyrod, bearing a tray covered by a serviette, made a surprise party to McFarland's chambers. "Mac" greeted them with: "Well, what the dickens do you fellows want?" Mr. Holyrod laid down his tray, and removing the napkin, disclosed a superb silver snuff box, bearing a number of quotations from Scripture and Shakespeare, conciliatory of McFarland's recent humiliation, among them the words, "Friend, go up higher". He went up higher. I recall, with pleasure, having had many a "pinch" from that remarkable snuff- box.

Later on, Mr. Justice Stephen expressed, from the Bench, his regret for the words he had used, and his desire that they should be considered as never having been said.

John was a Councillor of the University of Melbourne from 1881 and was one of the first councillors elected by the senate, to the university council. He was also an elected member of the board of examiners for barristers, a position he held until he had to relinquish when he accepted the judgeship. He was also a member of the Supreme Court library committee.

He was also noted for his artistic and literary tastes and would take every opportunity of buying a rare volume or work of art which attracted his attention. He had an excellent library and possessed a choice collection of paintings.

He was a member of the Yorick Club, of which for one year he was a committee member and was also a member of the Athenium Club and the Australian Club from 1878 until his death in 1884 where he was the honorary librarian. A photograph of John hangs in the library.

He was a good sound lawyer who declined to be tied down by legal quibbles when he could take a common-sense view of matters. John was an accomplished scholar and skilled lawyer and as a judge he dared to bring to the bench the innovation of setting justice before law.

Tragically he died at the age of 46 he was seized with a bout of inflammation, which was not thought serious but this later developed into further complication and he died from exhaustion at 5.00am on Sunday April 6.

His funeral took place on Monday afternoon and was largely attended by members of the bar, his private friends, professors of the university and students in their academic robes.

He is buried at the family grave at the Kew Cemetery.

Sources: Information death notice Argus April 7 1884  
University of Melbourne Archive Section.  
Library of Victoria Genealogy Section.  
J.L Forde "Story of bar of Victoria (Melb.1913)