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## The Onlooker: August 10-September 4, 1976

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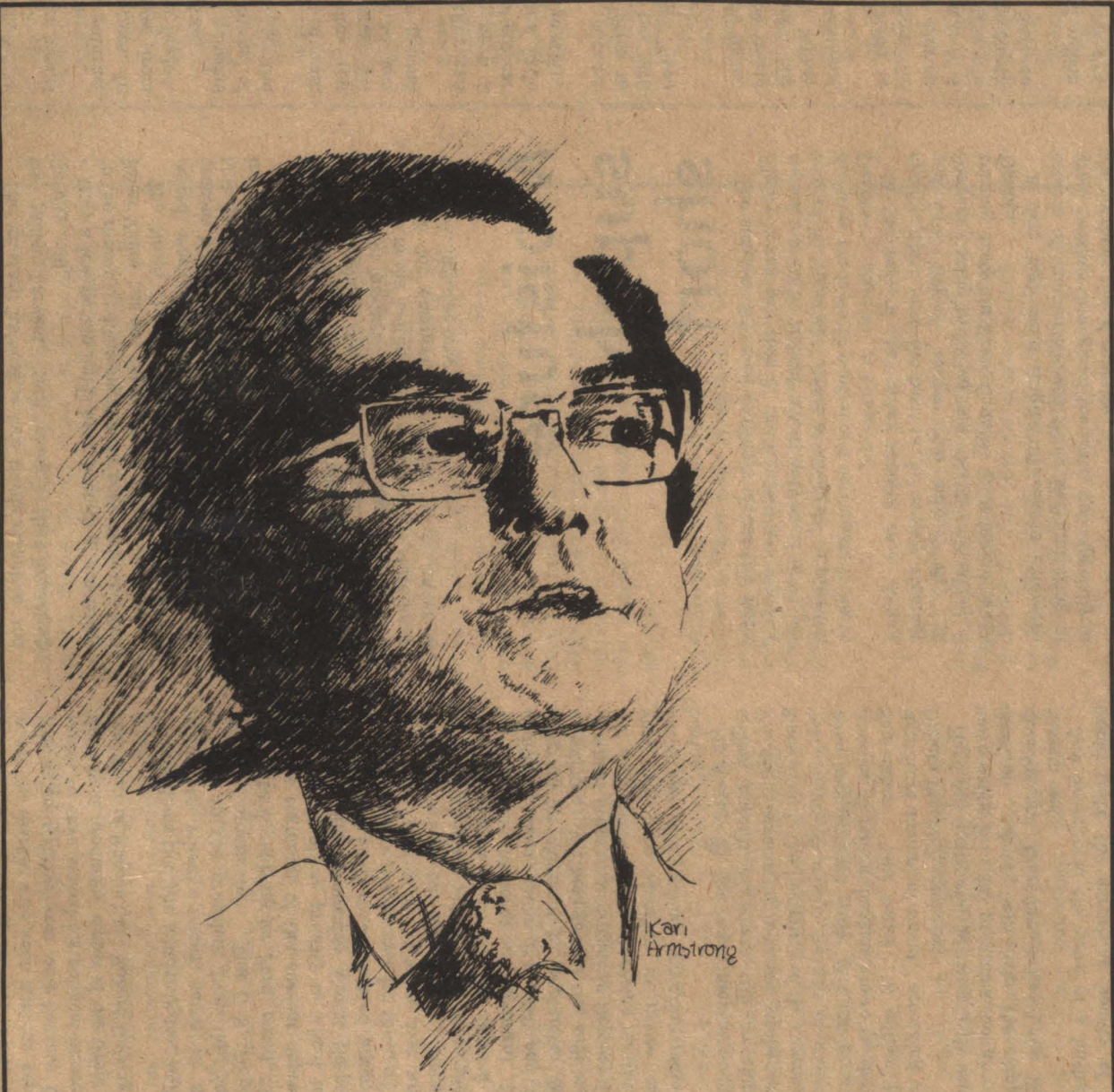
# The Onlooker

a news magazine for North Dakota

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**Robert McCarney: Present at the primary**

# THE PRIMARY ELECTION:

North Dakota's thirty fifth primary election will take place Tuesday, September 7.

Although the ballot is crowded with constitutional amendments, it is almost wholly lacking in personalities. Only one state office is seriously contended, and that is so far down the ballot that many voters may miss it.

This is also the first primary ballot in eight years not graced by the name of Bismarck automobile dealer Robert McCarney, the most controversial political personality of the past decade. In 1968 and 1972, McCarney ran for governor. In 1970, he ran for Congress and in 1974 for the U.S. Senate. But this year, he is not a candidate for public office.

Nevertheless, McCarney haunts the ballot.

Olson believes it is clear, however, that the measure cannot be "an absolute limitation" because the legislature would be authorized--by Section 25 of the state constitution--to "increase (or decrease) that level of spending by amendment or repeal of the initiated measure pursuant to a two-thirds vote of all members elected to each house of the legislature." Olson's opinion came in answer to a query from Rep. Dean Winkjer of Williston, a Republican.

The attorney general has also ruled that the measure will not apply to appropriations for the current biennium. In an opinion for Rep. Earl Strinden, a Republican from Grand Forks and the majority leader of the House of Representatives, and for Director of Institutions Edward Klecker, Olson said, "We do not believe the initiated measure limiting expenditures to \$332 million would apply to

do. Whether such an election could be legal, regardless of the outcome, seems an interesting question which the courts would have to settle--were it ever to be asked. Of course, should the measure pass, an attempt might be made to force its provisions on the 1975 biennial budget, notwithstanding McCarney's agreement that it does not apply. Any citizen could bring an action demanding the law be enforced.

Should a court determine that the law must be enforced as it is written--that is, limiting spending for the 1975 through 1977 biennium--a second snare may trap the state's functionaries.

The constitution provides that only the legislature can make appropriations of the state's money. But the legislature does not meet until January, 1977, three full months after the measure becomes

## McCarney haunts the ballot

With five associates, he initiated a measure to limit state spending. Joining McCarney in the petition drive were Joe Fischer, Stanley Kwako and John T. Cartwright of Bismarck, Ross Cook of Mohall and Jim Connolly of Dunn Center. It is their measure which has drawn the most vigorous activity of the primary election campaign.

### A limit? Or guideline?

Actually, the measure is less than it appears to be. Already, the attorney general has ruled that the measure cannot accomplish what its title claims. And McCarney has backed away from calling the measure a spending limit. Rather, he says, it is a "guideline."

The primary ballots will identify the proposal as "Initiated Measure Number One," but it will occupy seventh place on the ballot, following six constitutional amendments. The measure's full ballot title is "An act to limit the amount of money appropriated from the general fund for the operation of the government of the state of North Dakota to the total sum of \$332 million for each of the biennial appropriations periods beginning July 1, 1975, and ending June 30, 1977; and beginning July 1, 1977, and ending June 30, 1979."

Those who wish to cut state spending in this way should vote yes, to pass the measure. Those opposing the proposal should vote no. A no vote would allow the legislature to continue to appropriate money from the general fund at whatever rate a majority of members see fit. Results of a yes vote are less certain, but at the least, passage of the measure would force the legislature to respond to McCarney's latest political gambit.

The actual effect of the measure's passage is clouded in uncertainty and obscured by the vehemence of the attack on the proposal and its sponsors.

We'll try to examine all this soberly.

First, according to the attorney general, the measure cannot do what it claims for the first biennium, which is now half passed, and the legislature can repeal or amend the limitation for the second biennium, which begins in 10 months, by a two thirds vote of its entire membership.

This means, McCarney has said, that voters are not really being asked to limit state spending to \$332 million, but to suggest that figure as a ceiling. In McCarney's scenario, the legislature would simply appropriate money until the \$332 million figure were reached, then approve additional expenditures by a two thirds vote.

Not all observers accept this suggestion. Instead, they argue, the legislature could repeal the initiated measure by a two thirds vote, thereby effectively removing the limitation. Or, the assembly could amend the limit upward by a two thirds vote. But the legislature could not construe the passage of the measure to require a two thirds vote on each appropriation above \$332 million.

This remains an unsettled question. Attorney General Allen I. Olson said he hasn't had a chance to examine the opposing view points and that his opinion would be only advisory in any case. Any final resolution of the problem would have to come from the state's courts.

appropriation measures and governmental activities during the 1975 through 1977 biennium despite the statements contained therein."

The opinion rests largely on sections of the constitution holding that appropriation of money is a valid function of the legislature and forbidding impairment of contracts. Olson wrote:

"The initiated measure, for the purpose of this biennium, would attempt to affect appropriations bills already enacted and constitutionally effective. If the measure were to be enacted and if the legislature were to meet and attempt to reduce the current appropriations in compliance therewith, it is conceivable that by such time moneys in excess of \$332 million might already have been expended. It seems obvious that those moneys already expended, although in excess of that permitted, could not be recovered if, at the time the expenditures were made, such expenditures were legal as being within the sums appropriated.

"As to those sums which were appropriated and, while not yet actually expended, are committed by contract, we believe there is considerable doubt the legislature could repeal those appropriations. Section 16 of the North Dakota Constitution provides that no bill of attainder, ex post facto law, or law impairing obligations of contracts shall ever be passed. This provision is applicable to initiative measures as well as enactments of the legislature. Thus, if the legislature were to attempt to repeal an appropriation under which a contract by a state agency with another party has been executed, we believe such action might well be considered in violation of Section 16 of the North Dakota Constitution.

"In this respect, an agency has authority to enter into contracts for the expenditure at the time that appropriation becomes legally available. Since the bulk of appropriations were legally available on July 1, 1975, we believe neither the initiated measure nor any future action by the legislature attempting to repeal the appropriation could affect those contracts requiring an expenditure of that appropriations."

McCarney said he "concurs fully" with Olson's opinion. "The measure is not retroactive."

### A misleading question

What this means is that voters will be choosing not whether to cut spending for the current biennium, as the ballot title implies, but whether to impose a limit on appropriations for the biennium beginning July 1, 1977.

Olson said his "impression is that the ballot title is not incorrect. The text of the measure does suggest what the title maintains the measure will do. The text, not the constitutionality of the action, is the basis of the ballot title, Olson said. He added, however, "The courts may ultimately be called upon to resolve this problem." Olson's office approved the title, which was suggested by the secretary of state, after the attorney general had ruled that the measure could not affect appropriations for the 1975 through 1977 biennium.

And so, the people of North Dakota are called to vote upon a measure which cannot do what it's title--as much as many voters will read--claims it will

effective (which, because it contains no other provision for effective date, is 30 days after approval of the voters, or October 7).

Now, under the constitution, only the governor can call a special session. Suppose he chose not to do so. Could the courts direct where cuts in spending should be made? Or could the governor simply order cuts? This is the course which Link's administration appears to be pursuing. Budget Analyst Dale Moug, who is now acting as director of the accounts and purchases department, has said that the administration's philosophy is that if cuts must be made, all departments, agencies, institutions and functions of the state which are supported by money from the general fund would be treated alike. Each would have to reduce its budget 25 per cent. "This office believes each department should suffer equally," Moug said.

### An uncertain result

So much for the muddle which could occur immediately after the election, if the measure is passed. Now, what of the 1977 legislative session? Could departments get the two thirds vote of the legislature necessary to pass their appropriations?

Study of the final bill status report issued by the Legislative Council indicates that nearly all appropriation measures in the 1975 session were passed by at least a two thirds vote. Many passed nearly unanimously. Whatever opposition arose and whatever trimming was done occurred chiefly in the appropriations committees of each house. While this might indicate that funding state government is a *pro forma* legislative function, opponents of the spending initiative are not comforted. Wouldn't passage of the limit be seen as a mandate to cut spending, they ask. Would funding of controversial, but possibly worthwhile, programs be hampered? Couldn't critics of a program simply not vote, thus making two thirds of all legislators more difficult to secure?

And they point to the experience of the state's judges, who in 1932 were the object of an initiated measure limiting salaries. Each time the judges want more money, they must get two thirds of the legislators to appropriate it. Several times, they've failed.

From all this, it's clear that the initiated measure could be a nightmare for the state. It could bring long and confusing court battles; it could result in difficulty funding state programs. Taken at face value, the measure should sharply reduce the state's commitment to a virtually every state service--except road building, which is protected by a special, dedicated fund.

But if the attorney general is right and the measure cannot be made retroactive and if the measure can be amended by a simple two thirds vote of all legislators, as both the attorney general and its chief sponsor agree it can be, then Initiated Measure Number One may be pretty nearly meaningless.

### A bitter campaign

The campaign against Initiated Measure Number One has been unusually intense and bitter. Elected state officials, many legislators, county governments, school boards and state agencies have become involved.

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# McCarney's wraith scares up official rancor

North Dakota State University President Laurel D. Loftsgard, an economist, warned that passage of the measure would precipitate a "statewide recession."

Richard Hill, professor of education at the University of North Dakota, called the measure a "dramatic and romantic intervention" in the state's affairs which would "create enormous pressures for increases in local property taxes." The proposal, he said, "should be defeated and those who offer it should be repudiated."

Deputy Superintendent of Public Instruction Howard Snortland distributed a memorandum suggesting how much money each school district would have to raise locally to offset the loss in state funds if the measure were passed—and enforced. Twenty six districts would have to levy more than 40 additional mills, he said. One, Couture Number 624 in Rollette County, would have to levy 4,388 mills against private property in the district to offset loss of state moneys. The district is on the Turtle Mountain Chippewa Reservation. Most of the land in the district is held by the Bureau of Indian Affairs in trust for the tribe.

Geraldine Clapp, a member of the State Board of Higher Education suggested that her department's budget could be cut 25 per cent by closing North Dakota State University at Fargo and its branch at Bottineau, or by closing the University of North Dakota. The first would affect 7,400 students, the second about 8,500. Neither action is permitted under the North Dakota constitution. "Realistically, the board is obligated to operate these institutions, but this serves to point out the effect of piecemeal reductions" which would be "obviously catastrophic," Clapp said.

"We also encourage the citizenry to fulfill their obligation of participation by direct communication with their legislators."

"Believing in our form of government, we oppose Initiated Measure Number One because it is arbitrary and does not permit the legislature the financial flexibility necessary to be responsive to the people."

plant science research and the production of new superior varieties which are increased by the Agronomy Seed Farm for the farmers of North Dakota."

From the teachers of Riverdale School District.  
"The Riverdale School District received almost \$98,000 in state school money last year."

## A citizens committee

Willis Van Heuvelan, executive officer of the State Health Department, said the effect on the State Hospital at Jamestown would be "devastating." He said he "shudders to think" what would happen if funds for immunization programs were cut. He added, "We can't tolerate a cut back in environmental control." Loss of 25 per cent of state funds would bring a much greater reduction in federal funding of state programs, he said.

Dale Vollmers, financial officer for the Director of Institutions, said his department would cut back services and eliminate 261 positions if the measure were approved and enforced.

George Unruh, a member of the Social Services Board for North Dakota, said average monthly family assistance—to 11,500 families—would be cut from \$243 to \$184.

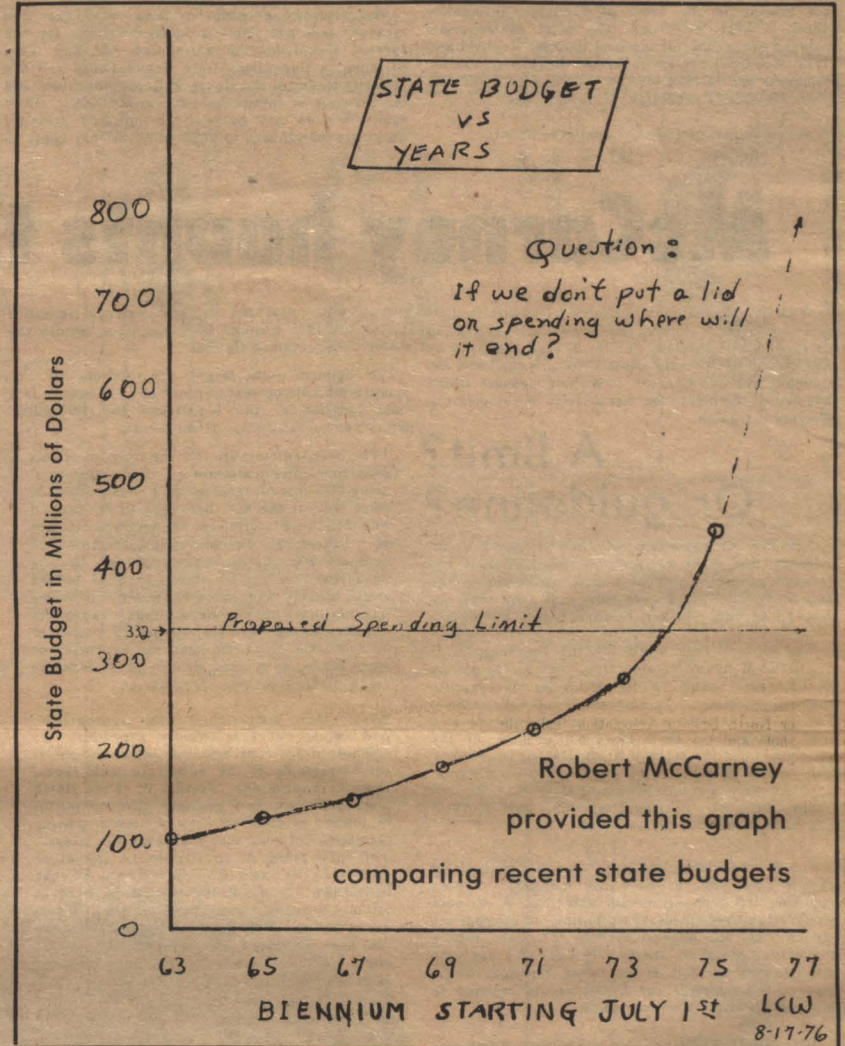
These remarks (except for Loftsgard's which were made in a press release) came at a meeting of a citizens committee examining the proposed spending cuts. The committee was organized by Republican legislative leaders, State Sen. David Nething and State Rep. Earl Strinden. The committee was chaired by former Republican State Sen. John Decker of Minot and included representatives of the Greater North Dakota Association, the North Dakota Bankers Association, the North Dakota Retail Association, the Association of Rural Electric Cooperatives, the Association of Rural Telephone Cooperatives, the State Bar Association, the School Boards Association, the League of Cities, the County Commissioners Association, the North Dakota Hospital Association, the Associated General Contractors, League of Women Voters, the North Dakota Grain Dealers Association, the North Dakota Farmers Union and the North Dakota AFL-CIO. Representatives of the Farm Bureau, the National Farmers Association and the North Dakota Stockmen's Association were invited but didn't appear at the meeting, held August 25, and didn't send regrets or excuses.

For his part, McCarney blasted the committee as "absolutely hand-picked" and "a set-up." The group was chosen, he said, at a "secret meeting" involving both Republicans and Democrats.

The citizens committee meeting appeared to be largely a media event. For most of the day, half a dozen reporters were just about the only audience. "I feel like I've been used," an Associated Press reporter complained as the day ended.

The committee discharged its obligation—to the public applause of Nething and Strinden—by passing a resolution commending the legislature and opposing the initiated measure—but suggesting that some efficiency might be possible.

"We confirm our system of government where the voter speaks through his legislator," the committee declared. But members added the admonition "that greater efficiency needs to be exercised in administering the financial affairs of the state. To this end we would call on both the legislative and executive branches of government to pursue possible avenues to make this a reality."



## Widespread reactions

The campaign against the measure has not been limited to this citizens committee, however. Groups across the state passed resolutions and signed advertisements opposing the measure. Here are three examples, the first from the Oliver County Farmers Union:

Thirty seven per cent of the state's general fund appropriations are returned to local school districts for the support of elementary and secondary education. The proposed arbitrary limit would force school districts to seek higher property taxes or drastically reduce educational opportunities. General state government expenses represents only six per cent of the general fund appropriations. The remainder goes for higher education, personal property tax replacement, health and welfare, and similar services. Initiated Measure Number One does not reduce taxes. Instead it would limit the ability of the state to provide services to the citizen."

From the North Dakota Agronomy Seed Farm Council:

"The Agronomy Seed Farm Council is unanimously opposed to the proposed Initiated Measure Number One...because approval of such a referendum and limit to spending would cause almost certain irreversible damage to agricultural research by the North Dakota Agricultural Experiment Station, especially

If Initiated Measure Number One is passed, the Riverdale School District will be cut by at least 25 per cent and probably more. This means the school district will have to increase its local mill levy by at least 48.9 mills to replace this money if we are to continue operating our school at the same level as last school year. The Riverdale Education Association urges a "no" vote on Initiated Measure Number One. This will mean that our school district funds will not be cut nor will there be an increased tax levy on taxable property."

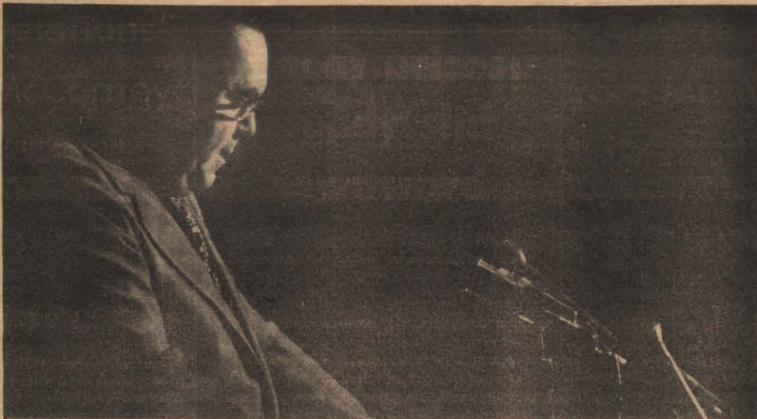
McCarney's reaction to this campaign: "Never in the history of North Dakota has such a fear campaign been carried on."

He limited his own campaign on behalf of the measure to a letter to editors of weekly newspapers and to a half hour television broadcast. Here is the letter:

"There has been more heat than light generated by the possibility of the people voting to limit state spending to \$332 million. Here are some facts to keep in mind.

"Any initiated measure can be amended by the legislature with a two-thirds majority. There are many areas of legislation today that need and get a two-thirds vote. A simple majority won't do because of past initiated measures.

"Will the budget be forever limited? No, it will be in effect for the 1977 to 1979 biennium. Will it actually cripple state government? The legislature could by a simple majority pass



## What makes Mac do it-- as seen by Mac himself

Robert McCauley believes he is involved in a fight to stop "run-away government" and government "by bureaucracy" and that North Dakota's future is at stake.

In an interview, he said the state is governed by a bureaucracy consisting of members of both parties. "It doesn't make any difference if they're Republican or Democrat," he alleged. "It's all the same."

The real power in the state rests with individuals outside the government, McCauley said. "The real governor of this state is Stanley M. Moore." Moore is president of the North Dakota Farmers Union.

The group of behind the scenes leaders, which McCauley said includes Richard Crockett, president of the Greater North Dakota Association "calls the shots and the bureaucrats follow along like a bunch of kids," McCauley said. "The state is following a riderless horse down the middle of the street."

McCauley said he is not re-fighting old battles, like his campaign against the Accounts and Purchases Department and the University of North Dakota. He lost an effort to refer the budget of the Accounts and Purchases Department in 1972. In 1973, the North Dakota Supreme Court ruled that a referral of the UND budget is impossible because the institution is mandated by the state constitution.

During the first election, "I was a sick man. I nearly died," McCauley said. "I just couldn't get the message to the people."

And the second effort--to deny UND its appropriation--was "stolen from us" by a "rigged Supreme Court," McCauley declared. Four of the five members of the court at the time were graduates of UND's law school. The fifth had done undergraduate work there.

The Bismarcker denied that his attack on UND and his concentration on higher education during this campaign has been motivated by anti-intellectualism. "Hell, no," he roared. "I'm a multi-millionaire. I could care less. Intellectualism has nothing to do with it. What have they got that I want? They aren't even teaching common sense or humility up there (at UND)."

McCauley is fond of telling all listeners that he arrived in North Dakota in the Twenties "with 50 cents in my pocket." In half a century, he has become one of the state's most successful automobile dealers.

He said the "rulers" of the state "don't know how to attack me." They can't complain about "my morals. I've got a great family," or "my professionalism. I run a good business," McCauley said.

"So they just nip at me. They never take me on in public."

And he said that most of the state's power brokers won't attack him "because I know too much about them." He wouldn't elaborate.

He refused also to make public the 80 members of his committee which he said has studied the state budget. Nor would he tell who the five "independent experts" who examined the budget were. "I paid them \$9,000," he said. "I'll keep the information."

Former Accounts and Purchases Director Lloyd Omdahl, a favorite McCauley target, said he'd never met any of the special investigators. "They must all be named Harvey," he said--a reference to a mythical rabbit.

McCauley, despite his unpopularity with the state's hierarchy, believes he has been victorious in his fights. He told the citizens committee, during a half hour appearance--he was absent during the state agency presentations--"I want you all to bear in mind that what I have warned and advised you of has always turned out to be the truth..." In the interview, McCauley said, "I've been right from the word go."

A yes vote on Measure Number One "won't be a victory for me," he said. "A no vote won't be a defeat. I've got nothing personally to gain."

Instead, he said--again at the citizens committee--"I have never broken faith with the wonderful people of North Dakota and I do not intend to start now. I am a builder...not a destroyer. I have a very large investment in this state which my wife, Betty, and I worked very hard for. I do not intend to do anything which would put that investment in jeopardy, but at the same time, I do not intend to sit back and allow a few selfish bureaucrats to destroy it and the people of this state."

McCauley told the citizen's committee, "It seems I will have to confess that I have been living in sin because I have questioned government spending. It is very apparent that when you stand up to the bureaucracy form of government we have in North Dakota, you commit a sin, and if you speak out in behalf of the people of this state, you commit the greatest sin of all. Even if you have concrete facts to support your stand, it makes no difference. It's still a sin! I fully realize it would be much easier to just join the crowd, but then one has to live with oneself, and when you know that you are right, sometimes you have to stand alone. And if I have to stand alone, it's worth it to me because I have an obligation to a lot of wonderful people who have done so much for me."

## "Shocking revelations" from Mr. McCauley

spending measures and when the \$332 million limit is reached, it would take a two thirds vote to pass more appropriations bill.

"If the people vote to limit the budget, it will be interpreted as a desire for economy. If the measure fails, you can be confident that some will ask for more than they need and spend all they can get."

McCauley had promised "shocking revelations" during his television broadcast, aired on both statewide television networks. He said the committee of petitioners had chosen the \$332 million figure because it represented a \$70 million increase over the 1973 to 1975 biennium--"the largest increase in the state's history," he said. His presentation detailed budget increases for various state departments: Governors office up 86 per cent in two years, lieutenant governors office up 436 per cent in eight years, elected officials expenses up 512 per cent in 10 years, Legislative Council budget up 585 per cent in 10 years, State Industrial Commission up 1,383 per cent in five years, board of higher education up 441 per cent in 10 years, University of North Dakota up 90 per cent in four years, general government up 143 per cent in two years, planning department up 301 per cent in seven years, agriculture department up 88 per cent in two years, social services board up 65 per cent in two years. Government is cheaper in South Dakota, which spends \$40 million less on higher education and \$1.1 million less on its state penitentiary than does North Dakota, he said.

Where does the general fund  
come from?  
Where does it go?

Next page, please

The broadcast also compared spending in North Dakota to spending by the federal government. "While the North Dakota governor's office budget is up 86.37 per cent in the last two years, the budget for the President of the United States is down three percent. The general government budget in North Dakota has gone up 142.85 per cent in the last biennium while the United States general government budget increased only 17 per cent. The U.S. Department of Agriculture expenses are down in four years by more than 50 per cent, yet the expenses for the Department of Agriculture in North Dakota have gone up 87.65 per cent in the last two years...The elected officials' expense in North Dakota has gone up 512.5 per cent in the last 10 years. Yet the Congressional salaries for our United States senators and representatives have increased only 50 per cent in the same 10 year period," McCauley maintained.

He did not compare the salaries of state and federal officials in actual dollars nor in actual dollars of increase, only in per centage of increase.

## Here's your chance: Amend the constitution

In addition to the initiated measure, voters must decide the fates of six constitutional amendments.

The first establishes qualifications for state legislators. Its major effect would be to lower the age requirement to 18.

Measure Number Two would allow the legislature to lengthen its sessions to 80 days from the present 60 days. If the measure is passed, the assembly could meet every year, rather than every other year as is currently the case, but for no more than a total of 80 days in the two year period.

The third measure is the so-called judicial article which would permit the legislature to reorganize the state's court system. The measure deletes any references to courts other than the Supreme Court and the district courts from the state constitution and allows the legislature to establish other courts. The effect of this measure would be to make possible the consolidation of some lower courts. This would take legislative action, however, and would not be accomplished merely by passage of the amendment because the lower courts are currently part of the state's statutory law. A new constitution rejected by voters in 1972 contained this judicial article. Its presence on the primary ballot is part of the legislature's attempt to bring piecemeal constitutional reform.

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# General fund support of local government displays upward trend in the past decade

*This article was prepared at North Dakota State University by employees paid from the North Dakota general fund.*

State tax revenues for North Dakota's state general fund have increased sharply over the past 10 years, but much of the general fund increase has been used for greatly expanded support of public school districts and other local governmental units, taking the pressure off local property taxes.

These trends were indicated in an analysis prepared by two North Dakota State University economists, Norbert Dorow, extension economist in public affairs, and Tom Ostenson, associate professor in the Department of Agricultural Economics. The analysis was prepared as a public affairs information paper in response to questions being raised about the possible implications of the proposal in Initiated Measure Number One. This measure would limit state general fund appropriations for the next biennium to \$392 million, a 25 per cent reduction from the \$442 million appropriated for the 1975 through 1977 biennium.

About 43 per cent of the 1975-77 general fund, or \$190 million, is transferred directly to local governments, compared to about 14 per cent 10 years ago.

Public elementary and secondary schools receive the largest share of state general fund support of local governments, the study shows. The 43 per cent of the general fund transferred directly to local governments includes 33.8 per cent to public school districts; another 2.2 per cent to school districts for vocational education and aid to local junior colleges; five per cent for personal property tax replacement to local governments and two per cent transferred to local governments for such items as homestead tax credit, health department grants, weather modification grants, water resource project grants and law enforcement.

The state general fund now supports about half of total public school district expenditures in the state. Ten years ago, state funds provided only 20 per cent of public school costs. With school costs nearly doubling during this period, state funds for public schools increased from \$36 million in the 1965 through 1967 biennium to \$150 million in 1975 through 1977. Increased state support for public schools has been aimed at greater equality in education throughout the state and at broadening the tax base to take pressure off local property taxes, the economists indicated.

With 43 per cent of the general fund going to local governments, the remaining 47 per cent is for state services mandated by the state Constitution and provided under state statutes. Highway taxes are not handled in the general fund.

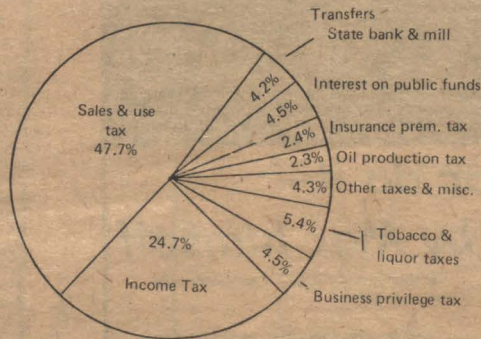
General state government requires only about six per cent of general fund appropriations to support the executive, legislative and judicial branches of state government.

Education and social services are major recipients of general fund appropriations. State colleges and universities receive 22 per cent of the general fund. Over one per cent goes for the schools for the deaf and blind and the State Industrial School.

About 17 per cent goes for health and welfare, including the state hospitals, state soldiers home, vocational rehabilitation, state health department and social welfare services. Social welfare funds are distributed to recipients of medical aid and welfare payments under a coordinated federal-state-local program.

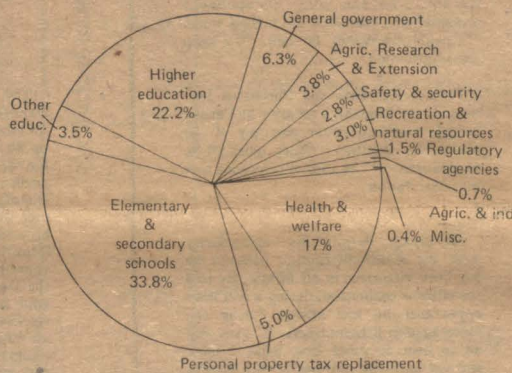
Other categories of state services receiving support from the general fund include agricultural research and exten-

1975-1977 biennium--\$456 million  
Based on 1975-76 receipts of \$228 million



General fund estimated revenue

1975-1977 Biennium--\$442,529,561



General fund appropriations

sion programs at North Dakota State University, public safety and security, recreation and natural resources, regulatory agencies and agricultural and industrial development. These categories account for about 12 per cent of general fund appropriations.

State general fund revenue for the 1975 through 1977 biennium was estimated to be about \$456 million, based on actual receipts of \$228 million for the 1975 through 75 fiscal year. The sales and use tax provides about 48 per cent of the revenue, state income tax sources, primarily earnings from the state bank and state mill and elevator and interest on public funds provide nine per cent.

In 1965, local property taxes were 65 per cent of total state and local tax revenues while sales tax and other state taxes for the general fund accounted for 35 per cent. By 1975, these proportions were almost reversed. Local property taxes were 37 per cent of the total and state taxes made up 63 per cent of total state and local taxes.

Total annual state and local taxes more than doubled from 1965 to 1975, but local property taxes went up only one third from \$90 million to \$120 million. During this period, the legislature replaced the local personal property tax with state funds and greatly increased support of local school districts.

The analysis points out that although public revenue needs more than doubled over the past 10 years, total personal income in North Dakota also more than doubled, from \$1.53 to \$3.72 billion.

Dorow and Ostenson identified several issues to consider when evaluating the question of reducing and limiting general fund appropriations. If state appropriations are limited, the need for sales and income taxes will be reduced, so the burden for maintaining public schools and other local governments will fall more heavily on the local property tax.

"What mix or proportion of state taxes and local property taxes do the people prefer? If public spending is cut, which state and/or local public services should be reduced or eliminated? Real personal income has been rising in the state. As people spend more for private goods and services, do they also want improved state and local public services?"

## Editor's addition

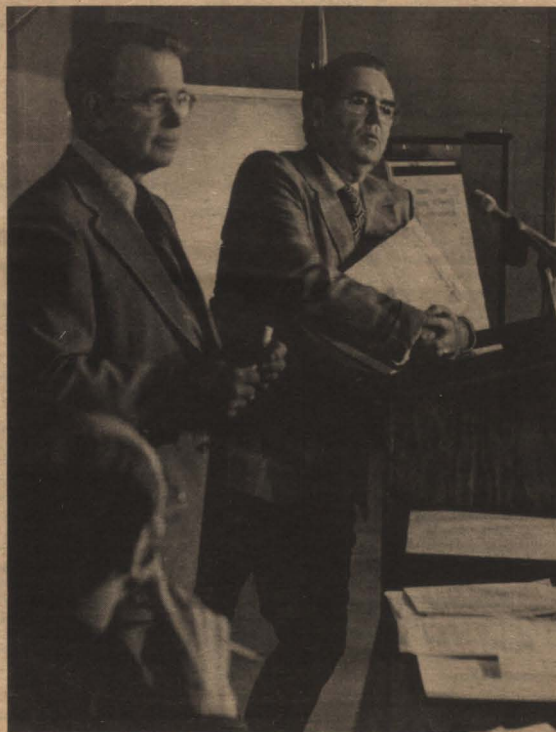
In a presentation to the citizens committee examining state spending, Ostenson credited increases in the general fund appropriations to three causes:

The urbanization of the state has resulted in a higher per capita cost of government because the interdependence of people living in cities is greater than that of those living in the country. Government is called upon to provide services linking people.

The steadily rising incomes of North Dakotans has prompted the state's citizens to demand better government programs, which cost more.

The productivity of government employees is lower than that of industrial employees because bureaucrats must work with people individually. They aren't permitted the luxury of computer replies to letters, for example. So the cost of providing government services is greater than the cost of providing services privately.

Robert McCarney  
and John Decker  
at Citizens Committee



# Amendment campaigns extremely low key

Measure Number Four would permit the legislature to legalize some forms of gambling for charitable purposes. Again, passage of the amendment itself would not allow gambling. The legislature would have to vote to permit gambling. Only *bona fide* non-profit veterans, charitable, educational, religious or fraternal organizations, civic and service clubs and "other public spirited organizations" would be permitted to hold gambling events—and then only if the legislature voted to allow them.

The fifth constitutional amendment would substitute a board of seven members appointed by the governor and confirmed by the Senate for the presently elected superintendent of public instruction. The appointive board would in turn appoint a superintendent. If passed, the elective position of superintendent would end July 1, 1977. If this measure fails, voters will have a chance to make other reforms of the educational bureaucracy in the state on the November election ballot. A measure to change the requirements for membership on the board of higher education will be on that ballot—but only if this amendment fails. The November changes are incorporated in the text of this measure.

Measure Number Five would also modernize the constitution by changing the name of the Railroad Board to the Public Service Commission. Although the body is known throughout the state as the PSC, the constitution still refers to it by its original name.

Measure Number Six updates and clarifies the state constitution's language on apportionment of legislative districts. The amendment provides for not less than 30 nor more than 52 senators and not less than 30 nor more than 104 representatives. Hidden in the measure is a clause repealing the \$5 per day salary limitation imposed on legislators by the state's 1889 constitution. This amendment would permit the legislators to set their own rate of compensation.

These constitutional amendments were discussed in detail in *Outlooker 13*.

In contrast to the Initiated Measure, campaigns involving the constitutional amendments have been low key in the extreme. *Measure Three* was the object of an information campaign conducted by the North Dakota Supreme Court with a portion of planning funds from the federal Law Enforcement Assistance Administration.

Measure Number Four has attracted a great deal of attention statewide. Service clubs and fraternal organizations have campaigned for it; some restaurants and taverns, which have been excluded from the provisions of the measure, have denounced it as "unfair." If a man can gamble at a private club, why not at a pub, they wonder. A group called Committee for Free Enterprise Fairness, based at Jamestown, argued in newspaper advertisements that the measure "is another blow to the guts of free enterprise", questioned whether the entire proceeds of gambling would go the charity and warned that "we may very well become non-profit business ourselves" if the measure is passed. The campaign for the measure has concentrated on the unenforceability of the state's current total ban on gambling.

## Education post becomes issue

Measure Number Five, which would eliminate the superintendent of public instruction as an elective office, has become the sole issue in the race for the superintendency—the only statewide contest to attract a surplus of candidates and attention.

The candidates are Joseph Crawford, superintendent of schools at Hazen, Robert Muhs, who is head of the Towner school system; Gerald Halmrast, a legislator and wrestling coach and assistant principal at Bismarck's Century High School and Howard Snortland, currently deputy superintendent.

Crawford claimed opposition to the amendment as his issue in his statement announcing his candidacy. His campaign has been largely limited to newspaper advertisements proclaiming "Beware of Measure Number Five" and quoting a McLean County (Garrison) *Independent* article praising his stand as "notable and noble."

Crawford is best known in North Dakota politics for his management of Republican election campaigns, including Richard Larsen's gubernatorial effort in 1972. Larsen lost the election and Crawford has been suspect in the party ever since. He did not seek the Republican endorsement for the superintendency.

Muhs is the Republican endorsed candidate. He has said he'll oppose the amendment because an elected superintendent is more responsive to the educational needs of the people. He's limited his campaign to guidecards which stress his working knowledge of education in the state.

Halmrast, the Democratic endorsed candidate, voted for the measure when it passed the legislature in 1975 but says now he will oppose it. His chief reason for support of it 18 months ago, he said, was the length of Superintendent M.F. Peterson's tenure in the job. Peterson's retirement after 27 years created the vacancy these four candidates are seeking.

Snortland, who tried for the Democratic endorsement but lost to Halmrast by two votes, stresses his experience and the current department's record in his campaign. He is the only candidate to say he'll vote for the measure, but he isn't entirely satisfied with it, either. He'd prefer an elected board appointing a superintendent rather than an appointed board. Snortland's major activity this campaign has been his opposition to Initiated Measure Number One, which he maintains would destroy "my lifelong work to achieve equality of educational opportunity" in North Dakota.

## To vote in September

To vote September 7, you must:

*Be a United States citizen at least 18 years old who has lived in his precinct for 30 days. If you are moving within the state of North Dakota, you are entitled to vote in your previous precinct of residence.*

*No pre-registration of voters is required. Simply appear at the polls, accept your ballot and vote.*

*If you're challenged, you will be asked to sign an affidavit swearing that you're who you say you are, that you live where you say you do and that you're old enough to vote. After you've signed the affidavit, no election official can deny you the right to vote. If any official has reason to believe you've perjured yourself, he'll have to present his case to the county state's attorney.*

*Polls in most rural areas of the state will be open from 9 a.m. to 7 p.m. In most cities, the hours are 8 a.m. to 8 p.m. Several variations from these standard hours are possible. Check with your local governing body to be sure.*

*Secretary of State Ben Meier, who has an uncanny ability to predict these things, says about 137,000 North Dakotans will vote in this election. We should have election results from the larger cities, which now use voting machines, by 10 p.m. By midnight, most of the paper ballots will have been counted. A statewide election service, designed to speed election returns, will be in operation, but election inspectors legally have until noon September 8 to deliver their tallies to county auditors—longer in case of insurrection or inclement weather—so, in a tight election, we may not know the winner until supper time the next day.*

The only other statewide no party offices are not contested. Bryon Dorgan has been endorsed by the Democrats for re-election as tax commissioner. Kermit Seahuer is the Republican endorsee.

Although candidates for the superintendency and tax commissioner are endorsed by political parties, their partisan affiliation does not appear on the ballot.

The other statewide no party office is Supreme Court justice. Incumbent William Paulson is unopposed for re-election to a 10 year term.

Two of the state's six judicial districts have primary contests for judgeships. First District Judge Harold Hager of Grand Forks is challenged by Harold

W.E. Anderson and Kirk Smith. In the Sixth District, five men are seeking election to fill the unexpired term of Judge Emil Giese of Hettinger. The candidates are Thomas Ewing, Larry Quast, T.L. Secrest, Orrin Lovell and Lyle Stuart. Two men will advance to the general election ballot in each of these districts. The ballot in the Fourth District will list two candidates, incumbent Alfred Thompson and Gerald Glaser. Both will be on the general election ballot. Other justices are unopposed for re-election. They are James O'Keefe in the First, Robert Eckert in the Third and Norbert Muggli in the Sixth Districts.

On the partisan ballot, which the state identifies as "the consolidated primary election ballot" voters will find two state wide contests; for governor on the Republican ticket and for U.S. Congress in the Democratic column.

Republicans must choose between Richard Elkin, the candidate endorsed for governor by the party's state convention, and Herb Geving, who has mounted an independent campaign for the party's nomination. Elkin owns a farm near Taylor and currently serves as chairman of the North Dakota Public Service Commission. Geving is a farmer and rancher in Mountrail County near Parshall.

The campaign has been low key. Elkin has made a few personal appearances, sponsored a few television commercials and bought some newspaper space. Geving's effort to acquaint voters with him has been largely limited to a tabloid insert in the state's newspapers.

Elkin has said he is confident he'll win. Geving has said an upset is still possible.

## A lack of partisan contests

Democrats will choose between their convention's endorsed candidate for the U.S. Congress, Lloyd Omdahl, former director of the state's accounts and purchases department, and Fargoan Torfin Austin Teigen, a retired farmer who publishes a political newsletter.

Teigen has conducted no noticeable campaign. Omdahl, unruffled by the challenge from a man who has been called a "political jokerster"—by Fargo journalist Bob Kallberg—has printed his bumper stickers and continued his fund raising efforts. All this activity is directed toward the general election and not toward the primary, however.

Other Republican and Democratic endorsees are unopposed.

The Republican ticket is headed by U.S. Senate candidate Robert Stroup of Hazen and incumbent Congressman Mark Andrews of Mapleton. Other Republicans on the statewide ballot are Ernest Pyle for lieutenant governor, Ben Meier for secretary of state, Robert Peterson for state auditor, Bernice Asbridge for state treasurer, Allen I. Olson for attorney general, J.O. (Bud) Wigen for insurance commissioner, Robert Nasset for agriculture commissioner and Edith Kjos for public service commissioner.

Meier, Peterson, Olson and Wigen are incumbents. Asbridge hopes to return to the treasurer's post, which she held from 1968 through 1972.

In the Democratic column, the ticket is headed by U.S. Senator Quentin Burdick and Gov. Arthur A. Link, both seeking re-election. The Democratic lieutenant governor candidate is Wayne Sanstead, also an incumbent.

Other Democratic candidates are Darrell Sorenson for secretary of state, G. Kent Conrad for state auditor, Walter Christensen for state treasurer, Kent Johanneson for attorney general, Byron Knutson for commissioner of insurance, Myron Just for commissioner of agriculture and Bruce Hagen for public service commissioner.

Hagen, Just and Christensen are incumbents.

The American Party, making its first bid for statewide office, will also be represented on the primary ballot. The party had endorsed Clarence Haggard for the U.S. Senate, Russell Kleppe for the U.S. Congress, Martin Vaaler for governor, Truman Wold for lieutenant governor and Berger Rodne for agriculture commissioner.

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# Legislative contests, county races on ballots

Voters in a dozen legislative districts will choose general election candidates from a primary field. Democrats have eight primary contests, Republicans four, according to party officials.

In the Democratic column, races are in Districts 4, 8, 9, 15, 21, 34, 42, and 44. Republicans have contests in Districts 24, 28, 30 and 34.

In District 4, Mountrail and Burke Counties in northwestern North Dakota, Ruth Meiers of Ross, an incumbent Democratic representative, was rejected by the district convention. She is challenging endorsees Larry Tinjum, of Powers Lake, also an incumbent, and Richard Solberg of Stanley. The party establishment is supporting Meiers and Tinjum. Solberg won the endorsement by showing up at the district convention with his friends in tow and by capitalizing on old party rivalries. The contest is really between Meiers and Solberg. Tinjum is considered very popular in this heavily democratic district, which is noted for its volatile politics and its recurrent primary challenges.

## Democratic races

In District 8-McLean County-the Democrats are staging a friendly primary between Larry Ziegler of Emmet, Robert O'Shea of Turtle Lake, Herb Nathan of Coleharbor and Gordon Hill of Roseglen, the district chairman. All have party endorsements and are seeking two spots in the House of Representatives. Republicans now control the district's legislative delegation.

In District 9, another heavily Democratic and primary-prone district, Curtis Rime of Rollette is challenging party endorsees Oscar Solberg of Rolla, the House of Representatives' senior democrat, and Allen Richard of Dunseith.

In District 15, Gordon Berg is challenging Collin Evenson and Charles Mertens for the House of Representatives. Mertens is an incumbent. This district encompasses Ramsey County, including the city of Devils Lake.

In District 34, the city of Mandan, attorney Lester Schirado is challenging Arly Richau, the endorsed candidate, for the Senate seat now held by Republican Emil Kautzmann. Richau works for the North Dakota Tax Department and campaigned for Republican gubernatorial candidate Richard Larsen in 1972.

In District 42, which is the university area in Grand Forks, incumbent Ben Gustafson is challenging Warren Sogaard and Joan McCaffrey. Sogaard is a University of North Dakota law student; McCaffrey a junior high school teacher. They are the endorsees.

Two of the Fargo districts have primary fights. In District 21, incumbent Representative Tish Kelly and Paul DuBord, both endorsees, are challenged by State Sen. Pamela Holand. Her seat in the Senate vanished in the most recent legislative reapportionment and she is trying to move into the House.

In District 44, also in Fargo, four endorsees are staging another friendly primary. The candidates are Stan Hlebechuck, Gary Hofsommer, J. Phillip Johnson-a former state Supreme Court justice-and Steven D. Bolme. All are seeking nominations for two seats in the House of Representatives.

## Republican races

In Republican races, incumbent State Sen. Claire Sandness of LaMoure is vying with Don Moore of Forbes for the Republican Senate nomination in District 28, LaMoure, Logan and part of Dickey Counties. Moore is the endorsee.

In District 24, southern Barnes County, including Valley City, incumbent Theron Strinden of Litchville, the dean of conservatives in the Senate, faces Valley City Mayor Ernest Miedema, a former state representative.

In District 30, Republicans are staging a friendly primary for a Senate nomination. The candidates are incumbent L.L.(Pete) Naaden of Braddock, another member of the Senate's right wing band; William E. Meidinger of Ashley and Jim T. Weisser of Linton. District 30 is in south central North Dakota and includes McIntosh and Emmons Counties.

In District 34, the city of Mandan, Norbert Pressler is challenging Ron Otto, a student, and Howard Nelson, a teacher, for the House of Representatives. The incumbent Republican, Al Roysse, is leaving the state.

Republicans had expected a primary fight in District 26, Sargent and part of Dickey Counties, but E. Gene Lashke, the incumbent representative, did not present petitions to the county auditor. Lashke was passed over by the district convention because he wanted to run for public service commissioner, but the state party nominated Edith Kjos. Lashke said at that time he'd be a candidate for re-election to the House, but the ballot will list only the endorsed candidates, John D. Crabtree and LeRoy Erickson, according to the Dickey County auditor.

A number of counties have contests for spots on their commissions. Perhaps the most interesting is in Mercer County, where the election has become a kind of referendum on coal development. Here is the Hazen Star's report on that race:

## Mercer County Commissionership

"Perhaps the most controversial issue of the day will be the county commission race. An at-large election, county voters will choose between long-time incumbent Ed Schulz of Beulah; Herb Wallender of Hazen or Milton Flemmer, also of Beulah.

"Schulz, of course, is running on his record of long service (22 years) to the county and his familiarity with the issues. Wallender is running under the banner of equal representation to all citizens of Mercer County, hoping to strike geographic balance between Adolph Miller of Stanton and Albert Bauman of Golden Valley, the holdover members on the commission. Flemmer is running on the coal gasification issue, promising a "go-slow" approach to energy development in this coal rich county.

"The commission race will be most interesting. Schulz expects to have people who approve of his policies vote for him, which means his votes will come from people who support gasification, a close watch on the county budget and continued industrial growth in the county.

"Wallender hopes to cut across county lines, picking up votes from the "silent majority" who have not made their wishes known at public hearings. He is also seeking to place a representative on the commission from the Hazen area, which has not had a man on the board for several years.

"Flemmer is the candidate for voters unhappy with Schulz's past record, and unhappy about the handling of the gasification issue by county lawmakers. A farmer, he is a relative newcomer to county politics, but he did attend many of the hearings this spring, he is a student of public opinion, and he promises a "fair shake" to all county residents.

"Only two names will appear on the November general election ballot. The loser Tuesday will be out of the running. Who will win? The two candidates that voters best relate with, long time records and geographical areas adding little influence. There could be an upset."

Mercer County is apparently the only area of the state whose voters will be able to indicate some preference on coal development issues. The question of coal development is notably absent from the primary campaigns of other candidates.

## Absence of choices

This absence of choices is out of character for North Dakota primaries. The state held its first statewide primary election in 1908. In 1912, the first presidential primary in the nation was held here.

In 1916, the Non Partisan League turned the primary election, then held in March, into a battleground between farm populists and the business establishment of the state by filing its agrarian socialist candidates in the Republican column in the primary elections. Some of the ballot battles between Leaguers and regular Republicans were monumental because winning the primary was tantamount to winning the general election. Whatever real choices were to be made were made at the primary election.

This was the rule until 1956, when the NPL moved to the Democratic column and the primary elections became duller. The choices were in the general elections.

A Democratic controlled legislature moved the primary from June to September in 1965. Cynics say that was to forestall any opposition to the party's endorsed slate in the primary by holding the election at the busiest time of the year in North Dakota. Sponsors of the bill argued that the change would reduce the time for campaigning between the primary and the general elections, thus saving the public from hours of television commercials. Besides, they said, a later primary was more convenient for election officials in the state's counties. The last Tuesday in June, after all, was mighty close to the Fourth of July.

In 1975, Gov. Arthur A. Link, a Democrat, vetoed a bill which would have moved the primary back to June. That idea isn't dead yet, however. A committee of the Legislative Council has voted to recommend changing the primary date from the first Tuesday in September to the third Tuesday in June.

Although restoring it is periodically suggested, that idea is not part of the Council's bill draft.

Even with the changes, North Dakota's primary elections provoked contests through the early Seventies. In those years, Robert McCarney tried for nominations for statewide office. In 1968, he defeated endorsee Ed Doherty for the Republican gubernatorial nomination; in 1970, he bested Richard Elkin for the party's nomination for U.S. Congress. McCarney won by just three votes. In 1972 and 1974, his campaigns were unsuccessful.

This year, Elkin's name is on the primary election ballot, as a candidate for governor on the Republican ticket.

But it is McCarney's idea-to limit state spending-and not his name which haunts this primary election ballot.

THE SKYWRITING IS ON THE WALL.





# Power lines affect land and people

A book reports on Ohio experience

by Bill Knudson

**Power Over People** by Louise B. Young; New York, Oxford University Press; 1973, 216 pages.

Louise B. Young's book, **Power Over People** is a story of the struggle a rural community in Ohio undergoes to prevent a high voltage transmission line from scarring the unique beauty of the landscape which has always surrounded them.

The inhabitants of this community turn fruitlessly to the legal system and the regulatory agencies for help, but find little, because a declaration of reasonable necessity allows the electric companies broad discretion in using the right of eminent domain under Ohio state law. The only issue the inhabitants could challenge, which has been established by legal precedent, was the value of the property taken for right-of-way. So, once again, the electric companies prevail in the name of public interest over the rights of the individual to have his own life.

Underneath the story, Mrs. Young has written a well-researched work on the dangers of high-voltage transmission lines; on the abuses of our environment by electrical companies and on the various alternatives to transmission lines. She states that no long term studies have been made to monitor effects of transmission lines on the public and our environment. The little research done has been hasty, poorly controlled and has been regulated by electrical companies (hardly an objective party). "As Rachel Carson pointed out, we urgently need an end to false assurances and the little sugar-coated pills of half-truths," Young writes. "The public has a right to full possession of the facts. We are being asked to assume the biological risks and to pay the hidden costs. In the case of high voltage transmission lines, the electrical companies have the ability to force these risks on all the property owners in their path."

The gravest danger, she argues, is presented by high voltage transmission lines is corona discharge which may produce radiation and ozone, both harmful to the environment and to human beings. Ozone entering an organism through the lungs or digestive tract can cause misprints in the genetic code (mutations), may have carcinogenic properties (causing cancerous or malignant growths), and could speed up the aging process of the total environment. None of the above are completely verified and Mrs. Young admits to a lack of solid evidence. "It may take scientists another 20 years or more to establish firm proof based on experimental tests. In the meantime, thousands of people may die of these causes. In the presence of a considerable body of evidence pointing to the carcinogenic properties of electro-chem-

ical oxidants, it seems only prudent and moral to protect the public against deliberate and unnecessary exposure."

Young goes on to say that the environmental impact of generating and transmitting electricity is one of the chief issues in determining whether to continue down the path chosen for us through the discretionary powers vested in electrical companies or to become more concerned about the quality of life in the United States. By the law of eminent domain, all the decisions regarding siting, routes of lines and fuel types are in the hands of electrical companies. In most cases, their decisions are purely economic. To produce cheap electricity and to induce customers to use more and more power is the sole goal. "They (the electrical companies) have the power to decide how much risk is permissible and who will bear it. By using this power to perpetrate an unequal distribution of costs and benefits, by using it to install equipment that maximizes economy rather than safety, and finally, by sweeping us all into a maelstrom of wasteful consumption, the utility company powers vested in them by the American people," Young argues.

All of these hazards could perhaps be justified if they were indeed necessary, but through research and development technological methods to avoid these dangers could be employed. "Fifty one of the 212 major electrical companies, according to the Federal Power commission, did not spend a cent on research and development in 1968," Young reports. "In the industry as a whole, less than one cent of every dollar of gross revenue was spent on research in 1971."

Young also points out numerous alternatives to generating and transmitting electricity, including underground transmission, power sources to generate electricity at the point of consumption, fuel cell technology (so that energy could be stored), and a change in fuel produced from coal. Along with these alternatives to transmitting electricity there are alternative sources of energy, including geothermal, solar, wind, tidal and hydroelectric, which are constantly being renewed by nature. These alternatives along with improved technology would make much better use of the limited resources we have.

The proper use of these resources is Louise Young's greatest concern. In reading her book, it should become yours, too. The book is not written to scare, but to make people aware of the power being held over them. It is an education as to what is happening to the American people's land and of what will continue to happen unless people take power back into their own hands.

*Bill Knudson is associated with his father in Knudson Appraisal Service. In his work he has dealt both with farmers losing their land to power lines and with companies taking the land.*



## PSC continues reclamation hearings

The North Dakota Public Service Commission has completed its hearings concerning allegations of reclamation law violations by the North American Coal Corporation at the company's Indian Head Mine at Zap.

During the final day of testimony August 5, commissioners heard the personal testimony of the NACCO Indian Head miners, whose initial charges of violations at the mine precipitated the hearing, cross examination and rebuttal testimony by NACCO attorneys and management employees (1).

The August 5 affair was a continuation of the hearing begun June 21.

Essentially, the miners' testimony reaffirmed their earlier public statements that, in the course of their employment with North American, they had been ordered to remove overburden without first removing topsoil, to construct haul roads without removing topsoil and to dump overburden on virgin prairie sod and stockpiled topsoil. All of these, the miners said, are violations of the North Dakota Reclamation law (2).

The miners also argued that, at times, the company has shown a general lack of deep concern to do an adequate job of reclamation.

The miners pointed out places and times where they believed reclamation law violations occurred at the mine. These included construction of a haul road without prior removal of topsoil, burial of topsoil and use of topsoil as fill in the construction of another haul road.

The miners also testified that no management person had been specifically designated to oversee reclamation activities on a full time basis; that they—the miners—had not been given a copy of the North Dakota reclamation regulations in order to better understand the laws and do a better job of reclamation; that they had not been given a copy of the reclamation plan which the company is required to file with the PSC nor a detailed explanation of the plan; and that the company had not held meetings with the miners to discuss what the reclamation laws require or to receive miners' input in carrying out the law (3).

In addition the miners entered testimony refuting the earlier claim by North American Coal that the company has instituted a new company policy of reprimanding workers who violated reclamation laws. The miners testified that none of them had ever received any correspondence from the company informing them of this new policy; that they had never seen a statement of this new policy placed anywhere at the mine; and that none of them had been informed of the new policy at any of the regular safety meetings held between miners and company officials.

After their testimony, the miners were subjected to long, harsh, critical and sometimes personal and hostile cross examination by the NACCO attorneys, Ernest Fleck and Warren Albrecht of the Bismarck firm of Fleck, Mather, Strutz and Mayer.

The central theme of North American's cross examination appeared to be an attempt to portray the miners' charges as a personal vendetta of retribution against the company because of the strike against North American Coal Corporation by their union, the United Mine Workers of America Local 9880, last year.

by Marvin Gardens

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# NACCO and the miners

continued

The miners claimed that ill will toward the company had existed at the time of the strike but that this was a separate issue from their feelings about the importance of accomplishing the best possible reclamation (4).

NACCO witnesses, called after cross examination of the miners, reiterated their earlier contention that some of the charges were false, that other alleged violations took place when the law did not make the alleged activity a crime, and that the company was subject to mitigating circumstance such as bad weather and the strike.

NACCO bosses also introduced aerial photographs, taken in winter, to show that the personal testimony of the miners was false, and that, in the area in question, the topsoil had been removed prior to excavation of overburden.

The PSC attorney and hearing examiner, Ray Walton, was much more involved in the questioning of witnesses at the August meeting than he had been in June (5). At one point in the hearing, Walton asked Larry Beck, a drag line operator, what he felt of a worker carrying out an act that he knew to be in violation of the law and asked Beck if he would do this in the future. This questioning came after the miners had testified that on occasion they had refused to carry out some company orders and that on many occasions they either notified the company, to no avail of bad reclamation situations, or attempted to rectify the situations themselves by moving stockpiled topsoil away from slumping overburden to keep the topsoil from being buried. They said they were ordered to "get back to digging coal" (6).

As the hearing concluded, attorneys for the miners and North American Coal Corporation agreed to make their final arguments in written briefs. Examiner Walton allowed 30 days from the completion of the hearing transcript for both sides to file briefs. Walton said that the transcripts were delivered at the end of August, which means that briefs must be filed before October 1. The earliest date for a decision by the PSC seems to be mid-October.

If the commission rules that violations did take place and hands down some sort of penalty, another hearing must be held before the penalty can be imposed.

## FOOTNOTES

- 1-The PSC didn't have time enough to complete its investigation during its two day hearing June 21 and 22. Walton continued the hearing until August 5. See **Onlooker 13** for details of the first hearing.
- 2-For complete texts of the miners's original charges, see **Onlooker 7**.
- 3-One miner did testify that he was once told what the law required. However, he said, he was informed of the law in the context that he was going beyond it and that he should stick to following it.
- 4-One miner, Frank Bitterman, was specifically asked by NACCO attorneys why he felt so much personal animosity toward the company and if this animosity didn't stem from the strike and the fact that he was convicted of cold-cocking a strike breaker during the strike in early 1975. Bitterman responded that he had worked for NACCO for 19 years, 18 years before the strike, and said he thought they were "18 good years." Attorney Ernest Fleck also accused Bitterman of being against all further coal expansion because he signed a petition opposing the rezoning of land in Mercer County for American Natural Resources Company's coal gasification plant near Beulah. Counsel for the miners, Irvin Nodland of Bismarck, pointed out that the petition opposed a specific site for a specific plant and was not in opposition to all coal expansion.
- 5-Walton did not exhibit the same involvement in questioning the North American Coal Company witnesses at the earlier two day hearing.
- 6-This line of questioning must be understood in the context of the fact that it is the responsibility of the PSC's reclamation division and not the mine workers to insure enforcement of the state's reclamation laws, rules and regulations.

# Conference on preservation

A conference on architectural preservation will be held in Fargo September 17 and 18.

Entitled "Perspectives on the Past: Historical Preservation on the Plains," the conference is sponsored by the Fargo Heritage Society under grants from the North Dakota Committee for the Humanities and Public Issues and the National Trust for Historic Preservation, with additional support from the Red River Historical Society, the Plains Architectural Heritage Foundation and the Dakota States Architects.

Novelist James A. Michener will be the featured speaker at a conference banquet September 17, a Friday. The banquet will be held in the courtyard of Block Six beginning at 7 p.m. It is open only to registered participants in the conference.

The author of some 19 fiction and non-fiction works, inclu-

ding **Hawaii, Centennial and The Source**, Michener first came to public attention after World War Two when he published his first book **Tales of the South Pacific**. His most recent work is **Sports in America**, published this year.

Fargo architect Royce Yeater, who is coordinating the conference, said that with Michener's acceptance, plans for the event are essentially complete. The program is scheduled to get underway at 1 p.m. September 17 at Fargo's Town House Motel.

Mary Means, of Chicago, regional director of the National Trust for Historic Preservation will give the keynote address, "Conservation: Preserving without Pickling." Three shorter addresses dealing with principal issues in historic preservation will be given by Adrian Anderson of

Iowa City, Iowa; Liston Leyendecker, Ft. Collins, Colorado; and Harold Baker, Fort Wayne Indiana.

Two panels are scheduled for Saturday morning. That day's afternoon program will present case histories of historic preservation programs that have been carried on or are underway. The conference will end Saturday evening with a progressive dinner through a series of historic South Fargo homes.

Registration for the conference is \$30 which covers the entire program and all scheduled meals.

*Historic preservation is an emerging issue in North Dakota. Here, from the Mandan News, is the tale of one building someone thought should be saved.*



302 Fifth Avenue N.W., Mandan

## An historical mystery

A small white house in northwest Mandan has been the object of some intensive detective work this month, but the prize—proof that the house once stood on officer's row at Fort Abraham Lincoln—has eluded investigators.

The house is at 302 Fifth Avenue N.W.

Investigators have plenty of evidence that the building was a part of Fort Lincoln, but they do not have the conclusive proof that would establish the building's historical value.

"I can't be too encouraging," North Dakota Park Service Director Gary Leppart said Friday.

"We're going to follow every last lead, but it appears we may have to let it go."

He added, however, "The doors aren't completely closed."

If Leppart finds proof that the building is from Fort Lincoln, he will approach the North Dakota Emergency Commission for funds to buy it, move it to Fort Abraham Lincoln State Park south of town, and restore it.

At this point, however, "I couldn't sell the Emergency Commission on this basis," Leppart said. "The State Historical Society wouldn't endorse the house as a genuine part of the old fort."

Leppart said he hadn't begun negotiating to buy the house, which belongs to Virgil Kuntz of Bismarck, and couldn't say what its price could be. The cost of moving the structure to the fort would be about \$12,000, Leppart said, and the cost of restoration as much as \$50,000.

Those estimates are low, Leppart admitted. Archivist Frank E. Vyzralek of the North Dakota Historical Society said he, though the cost would be closer to \$250,000.

Staff from both the Park Service and the Historical Society have been tracing leads to the house's past.

Leppart said his staff had combed records at the North Dakota Historical Society and in the National Archives, read issues of Bismarck and Mandan newspapers from the 1890s, when the fort was dismantled; examined the building material in the house, crawled around in its attic digging through records kept by the late J.D. Allen, a Mandan taxidermist who lived in the house for many years, and talked with Allen's family.

All this has convinced Leppart. "The house is from Fort Lincoln, in part, at least. I'm convinced of it," Leppart said.

Said Vyzralek, "The house looks right, but the evidence is inconclusive."

The building's floor plan "is

just the way it should be," Leppart said. "The walls are where they should be. The building material is right. The nails are square."

But, the dimensions are wrong. "They just don't match the plans from Fort Lincoln," Vyzralek said. "If this house was at the fort, it was almost completely stripped."

Said Leppart, "That doesn't prove that the house isn't from the fort. It may be a dwelling, it may have been a civilian's house, it may be a quarters for non-commissioned officers or it may be from officer's row, but scaled down."

A possibility which intrigues the park service director is that the house belonged to a Capt. Harmon, who was the post trader. "A trader's house may have been built to a different scale," he said.

Even if the house itself never stood at the fort, it is apparently filled with artifacts from the military post. "The doors, the windows, the staircases—we'll want to buy those things. We're sure they came from here," Leppart said.

It's not unusual to find relics of the old past in Mandan homes. After Fort Abraham Lincoln was abandoned in the early 1890s, the premises were extensively looted. "Many, many homes in Mandan have

Next page, please

# History continued

lumber from the fort," Leppart said. "The post is probably all here, but scattered around."

A long standing tradition in Mandan reports that the house on Fifth Avenue came from Fort Lincoln. Leppart said Allen's grandson told him that the taxidermist moved the house across the Heart River in the winter with horses and wagons. "He's so sure of it, he's willing to sign a statement," Leppart said.

But that alone does not prove that the building ever stood at the fort or even if it did, that it was ever used by the military there.

"This could just as easily have been a very early house," Vyzralek said.

Leppart agrees. "These were very commonly used plans," he said. "Any one could have built a house like it."

Allen, the taxidermist, was involved with the military and "was out at the fort a lot," Leppart said. "He was here while the fort was still very active. He was right there and knowledgeable about what was going on. He would almost certainly have known if and when any buildings at the post were to be sold or dismantled."

And his personal records, found in the attic of the house, indicate that he bought a frame house in 1892 - about the time the post was abandoned, but before it was vandalized.

So the possibility that this house did stand at Fort Abraham Lincoln, one of the most important-and certainly among the most famous--of the frontier military establishments-is strong.

Even if the building isn't from the old fort, however, the building has historical value Leppart said. It was, after all, the home of J.D. Allen, one of the most colorful of Mandan's pioneers.

But the park service isn't in the business of historical preservation, unless the history happened in what became a state park. That's the case with Fort Lincoln.

In an effort to prove that the building is from the fort, Leppart said "I'll follow every last lead while we still have time."

But time is short. The Mandan building inspector has condemned the property. Unless it is remodeled to meet city standards by Jan. 1, it will be demolished.

The owner, Virgil Kuntz, plans to remodel it. "We've talked to the contractors. We're getting the necessary building permits," his wife said. "We want to get started just as soon as we can." (City building inspector Gary Huddleston said the permit is ready except for Kuntz's signature.

She added, though, that she and her husband want to cooperate with the park service, "We'll do as much as we can," she said, "but the city only gave us so much time."

Leppart complimented the Kuntz's on their patience. "We've held them up for over a month," he said. "They've been very cooperative." "We asked them to wait, and they've waited."

Now, however, Leppart has told Kuntz to go ahead with their remodeling. Still, "this bothers me," he said. "We might just be letting something go. We could regret this for a long time."

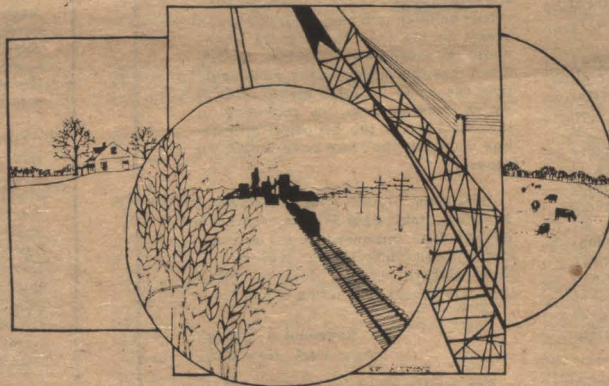


photo by Fred Schumacher

...in the Sheyenne National Grasslands

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Sunflower

## The New Yorker didn't like the Medora Musical

To the editor

As a North Dakotan still rooted in Beach and Jamestown now urbanized in the East, but summering in North Dakota resort areas (which with the state's sky and air are all over the place), I must register my disappointment (not to say disgust) at the 1976 Bicentennial Medora Musical.

Everywhere one travels in the state, he finds small towns like Minto, Beach and Belfield (to name only three) establishing museums, heritage villages and the like, all reflecting a real bicentennial pride in local history, heritage and roots. Meanwhile, at Medora, the seat of some of the state's most exciting, important history, North Dakota's most expensive, most lavish, most promoted, most professionally produced bicentennial show is a sham. It gives only lip service to Theodore Roosevelt--most of what Medora is about--doesn't even mention the Marquis DeMores, makes a narrative mention of settlers moving in, but for the rest titillates us with an excellent but irrelevant selection of American folk songs, some colorful costumes and pretty faces, a novelty act, some jokes and patter and a final explosion of horses, flags, fireworks and bicentennial platitudes.

One might ask Mr. Harold Schafer how this slick and empty show, one of his "many restoration and entertainment projects in Medora" (to quote him from the program) helps in the restoration of a "truly important part of

American history"? If "there is too much here to be lost, too many elements of America's early frontier history to be allowed to decay," how does this show preserve them?

The show is completely out of touch with the deeper pride North Dakotans are showing in their specific past--a reaffirmation of which they are seeking when visiting Medora. The people of this state may sit at home watching Lawrence Welk, the ball game or their favorite TV slick, but next day they will be converting an abandoned garage into a museum, as they are at Beach, or transforming a turn-of-the-century school building into one, as at Minto. It seems to me that the Medora show, under the mandate that Schafer has laid down, has the responsibility and should take the pride in tapping this level of native consciousness, in providing in theatrical terms the historical affirmation people of the state have a right to expect.

Oklahoma, Seven Brides for Seven Brothers, Paint Your Wagon, etc., have already done and overdone the generalized western musical epic. Medora and North Dakota certainly deserve better than this vaudeville version of one.

Raymond A. Stough  
New York, New York

*The writer played Theodore Roosevelt in the 1963 production of Old Four Eyes at the Burning Hills Amphitheatre at Medora. The theatre is now known as the Gold Seal Amphitheatre and is the scene of the Medora musical.*

## Wheat prices: steady slid downward

*This is the North Dakota Wheat Commission's market review dated September 1.*

The week ending August 27 showed the seventh consecutive weekly decline in wheat prices on all major markets, Minneapolis, Kansas City and Chicago. The last week's declines were not as steep as the earlier ones but nonetheless continued the trend. New life of contract lows were reached for all futures months currently being traded while cash prices dropped to points lower than have been experienced since mid 1973.

Due to the large supplies of wheat which appear to be available not only in the United States but worldwide, wheat futures are looking more and more toward corn and soybeans for direction. Even though the 1976 harvest is about complete, this relationship with corn and soybeans places wheat prices back into a weather market since these feed crops are still growing.

There are some weather problems in the corn and soybean belt. These problems were demonstrated by USDA's crop production estimate as of August 1. That report placed corn production at about 6.2 billion bushels, a drop of 366 million bushels from the July 1 estimate due to hot, dry weather. The soybean crop was placed at 1.3 billion bushels compared to 1.5 billion bushels in 1975. If these crops continue to deteriorate and feed prices rise, wheat will be pushed upward by them.

Meanwhile, the lack of significant export business in wheat and what is developing to be a fiercely competitive and aggressive world market has put heavy pressure on prices. To compound the problem, the domestic flour business is largely taken care of for the balance of calendar 1976.

Importing nations seem to be holding off purchases, where possible, waiting to see where market prices will stabilize, thus more or less reflecting a lack of concern over adequacy of supplies. Best buyers continue to be Japan and other countries who purchase on a regular basis almost irregardless of price.

Our best advice perhaps is to watch the corn belt and winter wheat area weather for clues as to possible prolonged price rises. Also, watch export activity as much as possible. Importers will have to purchase sooner or later, the question remains whether the amounts will be large enough. Government expansion of the Public Law 480 programming may help here.

Carryover of wheat on June 1, 1977, is currently estimated at 903 million bushels, plus or minus 125 million. Revised supply and demand estimates place domestic disappearance in 1976/77 at 810 million bushels compared to 726 million bushels last year. Comments in the U.S. Department of Agriculture report were that "with a current favorable wheat-corn price relationship...our feed estimate was increased 75 million bushels. Export wheat projection remained the same at from 950 to 1,150 million bushels.

Aggregate of all wheat exported thus far since June 1 totaled 213.6 million bushels against 255.8 million during the same period last year, thus running about 42.2 million bushels behind last year's pace. Undelivered sales as of August 15 stood at 303.4 million bushels, compared to 415 million on that date in 1975.

Be a winner with the Onlooker

# North Dakota farmers bring in a Bountiful harvest

North Dakotans gathering the harvest have been surprised by its bounty. The wheat crop is the second largest in the state's history.

Many farmers had expected worse, but even in drought stricken areas of the state, yields have been higher than anticipated. In the extreme southeast, subsoil moisture left over from summer deluges in 1975 saved the crops.

In the southwest and across much of the northern half of the state, crops are as good as they've ever been. In the northwest, farmers are calling this a "bumper crop."

The quality of this year's wheat is especially good, as well. Professor L.D. Sibbett of North Dakota State University reported that spring wheat is of better than usual quality. "Preliminary tests show the overall quality of the 1976 hard red spring wheat crop to be very good, and many characteristics are more desirable than was the case last year."

Test weight and protein are both higher this year than last, and moisture content is lower. Sibbett said that based on his preliminary tests, made largely on samples from the southern part of the state, "Ninety five per cent of the 1976 hard red spring wheat crop should grade U.S. Number Two Dark Northern Spring or better. This compares to only 78 per cent last year."

NDSU Professor Brendan J. Donnelly indicated that durum tests are not complete enough to make a precise analysis. Officials at the North Dakota Mill and Elevator, one of the nation's largest durum handlers, said durum coming into that facility is above average in quality.

## Disappointing prices

Despite the large yields and good quality of their crops, farmers are disappointed in the harvest of 1976 because the price is low. The price of a bushel of wheat has descended slowly and steadily since the beginning of the summer. By harvest, it was lower than at any time since the Russian wheat sales of the early Seventies.

On August 31, a bushel of Number One Dark Northern, the highest grade, was worth \$3.18 at Minneapolis. That price is more than \$2 per bushel less than the price of wheat in the boom times of 1972 and 1973.

Durum at Minneapolis was worth \$3.25 per bushel on August 31.

From these prices, elevator managers subtract freight charges to determine the local cash prices. In North Dakota freight to Minneapolis ranges from about a quarter dollar to nearly 50 cents per bushel. Rates are lower in the eastern part of the state.

Farmers' estimates of the cost to produce a bushel of wheat now range up to \$3.50, so each bushel of wheat sold this year represents a loss to the producer.

Low prices have nearly stopped movement of grain to the state's elevators. The North Dakota Crop and Livestock Reporting Service said August 31, "Little grain is moving to market due to low prices...Some grain has been piled on the ground because of a shortage of storage space."

'Plugged elevators'—facilities so full they can purchase and store no more grain—have been a common problem this year, but complaints of box car shortages have been fewer, perhaps because little grain has been shipped to markets outside the state.

The glut at elevators occurred partly because farmers began to move their stored 1975 grain to market at mid-summer to free graneries for the 1976 crop. This increase in selling may also have influenced the downward trend in the market.

North Dakota Wheat Commission analysts blame the declining wheat prices on a very large world supply. The 1976 crop is a record for the planet: 365 to 385 million tons or about eight per cent higher than the 1975 crop, according to the International Wheat Council.

In North Dakota, total wheat production is expected to be 270.1 million bushels or about 7.5 million tons, two per cent more than in 1975. Durum production is expected to be down 17 per cent to 87.4 million bushels, while winter wheat production will be up five per cent to 3.3 million bushels, the North Dakota Crop and Livestock Reporting Service estimated.

Oats production is expected to be only 33.6 million bushels, down 40 per cent. Barley and rye production will also decrease; rye by 21 per cent to

2.4 million bushels and barley by 32 per cent to 51.8 million bushels.

Production of corn is expected to be up 16 per cent, to 7.8 million bushels.

Sunflowers were planted on 488,000 acres, 10 per cent fewer than in 1975. Estimates of sunflower yields will not be made until the end of the season, in late September.

Hot, dry weather during mid-August speeded maturation of the sunflower crop, about 80 per cent of which is harvested for its oil. One fourth of the seed heads had begun to turn yellow as of August 31. Ray petals had dried or dropped from an additional 58 per cent. 17 per cent were still in bloom, the Reporting Service said.

The spring wheat harvest is 88 per cent complete. An additional nine per cent has been swathed and only three per cent remained standing at the end of the month. This is well ahead of the normal harvest pace. In a normal year, just 61 per cent of the crop is harvested by this date, 25 per cent is swathed and 14 per cent is still standing.

The durum crop is 75 per cent combined and 17 per cent in swathes. Combining of oats is 92 per cent complete, six per cent of the oats crop is in swathes and only two per cent is still standing. The entire barley crop has been cut and 97 per cent has been combined, the Crop and Livestock Reporting Service said.

Flax, North Dakota's latest maturing small grain, is 32 per cent combined, 27 per cent swathed and 35 per cent turning to ripe. Flax yields are described as "poor to good but mostly fair," by the Service.

The corn crop is "mostly poor to fair with larger percentages being cut for silage than was anticipated earlier," the Service said. About a sixth of the corn intended for silage has been cut. Nearly two thirds of the corn intended for grain has reached the dent stage.

The soybean crop in the Red River Valley is described as "poor to fair" with 60 per cent of the crop fully podded with lower leaves yellowing and 35 per cent fully podded but still green.

The condition of the Valley's dry, edible beans is called "variable" in the Service's report, with harvest ahead of normal. Twenty six per cent of the dry beans in the state are in swathes.

The mustard harvest is two thirds complete and the millet harvest "well along," the Reporting Service said.

Only a few potato fields have been dug, according to the report, and the sugar beet harvest in the Red River Valley has not yet begun.

The North Dakota Weather and Crop Report is issued weekly during the growing and harvest seasons by North Dakota State University and the U.S. Department of Agriculture's Statistical Reporting Service.

Shortages of feed, especially in drought stricken southeastern North Dakota has forced some additional sales of cattle. Pastures and ranges are reported poor throughout the state. Hay is being fed to supplement pastures in southern counties. Eight counties in the southeastern corner of the state have qualified for emergency feed for cattle under a U.S.D.A. disaster program.

## Moisture supply short

The summer dry spell continues across the state. Eighty seven per cent of the counties are short of topsoil moisture. Subsoil moisture is short in 91 per cent of the counties. Areas of adequate to plentiful moisture are in north central and northeastern North Dakota.

In the rest of the state, reports from county agents, which form the basis of the weekly Weather and Crop Report, range from simply "dry" in Sargent County to "Need rain. So dry pavement is turning dusty" in Sioux County. Both border South Dakota.

A very high wind August 27 caused extensive erosion of summerfallowed fields and scattering of grain swathes throughout the state, but especially in the northern tier of counties.



Wheat

With continued dry weather, the small grain harvest should be finished by Labor Day, about 10 days earlier than normal.

The harvest of 1976 passed rapidly—in part because hot dry weather speeded maturation of crops and provided ideal harvesting conditions and in part because huge equipment has shortened the time necessary to complete the work. When equipment was smaller, neighbors paced their planting and worked together during harvest. This was especially true of threshing which required a large crew to harvest even a small field. Today, a section of land can be harvested with a few men—one to operate the combine and the others in trucks hauling grain.

Despite the frenzy during grain gathering, harvest in North Dakota lasts several months. Harvest begins with haying in June and extends past Thanksgiving, when the last of the sunflowers are brought in. If the winter is early, that job may wait until spring—the sunflower crop is this resilient. Of course, the longer the delay, the greater the losses to birds and the weather.

## Market watching

With the 1976 crop in their bins, farmers will watch the market with keen interest—especially since this is an election year and because Gerald Ford seems to have staked his political future on votes in the wheat producing states of the Great Plains with the choice of Kansas Sen. Robert Dole as his running mate.

Indications that the administration will attempt to stimulate wheat prices came in a reply to a letter to the president from the North Dakota Wheat Commission. The U.S. Department of Agriculture, replying for Ford, noted, "The Department is cognizant of the current depressed wheat price and is giving priority to wheat under Public Law 480 and Commodity Credit Corporation programs. We have an accelerated program for new P.L. 480 wheat agreements for the next fiscal year beginning October 1. We are also working on a budget increase for CCC credit. Recognizing the need to stimulate prices previous to the new fiscal year, additional wheat will be shipped under P.L. 480 programs (to Korea and Pakistan). Several new additional sales under P.L. 480 and CCC credit program for shipment by September 30 are being negotiated. We believe that the additional quantities of wheat programmed prior to October 1, 1976, and the accelerated wheat programs for the new fiscal year will give stability to prices and perhaps encourage other wheat importing nations to start buying."

On August 23, the Department announced that 45 million bushels of wheat will be shipped under P.L.480 programming between October and January. Since June 1, the beginning of the current marketing year, about 30 million bushels of wheat and flour have been shipped under this foreign aid program. Another 37 million bushels are to be shipped during September. This totals 112 million bushels, "a significant amount of wheat," according to the North Dakota Wheat Commission.

Hard red spring and durum wheats usually do not move under P.L. 480 programs, but the sale of any class of wheat "will help the supply/demand situation and, therefore, prices," the Wheat Commission said.

Any increase in the price of a bushel of wheat would make the surprising bounty of this year's harvest even more pleasant.

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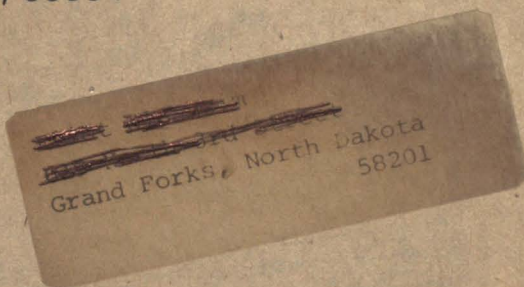
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