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John Burke and the North Dakota Progressive Movement (1906-1912)

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JOHN BURKE AND THE NORTH DAKOTA 
PROGRESSIVE MOVEMENT (1906-1912)

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This thesis, submitted by Charles N. Glaab in partial fulfillment of the requirements for the degree of Master of Arts, is hereby approved by the Committee of Instruction in charge of his work.

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CHAPTER I
INTRODUCTION

When John Burke was at the height of his career, many people compared him with Lincoln, and the general outline of his life does fit somewhat the pattern of the poor boy of the rural Midwest, who rises to political prominence largely through his own efforts. He was born February 25, 1859, on a farm in Keokuk county, Iowa, near the present site of the town of Harper.¹ Southeastern Iowa at the time of his birth was just beginning to emerge from the frontier period of development. The state had opened to large scale settlement after 1852, but in 1859 the area was still almost entirely rural. Land, fertile with black drift soil, was plentiful; acres of virgin forest surrounded sparsely settled farms; and Indians occasionally raided scattered settlements in the western part of the state.²

His father and mother, John Burke and Mary Ryan, natives of Tipperary county, Ireland, had migrated to America in 1848, part of the wave of peasantry which left the country after the great famine of 1846. Although they had come from the same area at about the same time, they did not meet until after their arrival in New York. The next year they married, and as many Irish immigrants did, settled in the city.³ But John's father, throughout his life affected by an

¹ "John Burke," North Dakota Magazine 1 (February, 1907), 26.
² Benjamin F. Gue, History of Iowa I (New York, 1903), 273 ff.
³ John Burke to A. O. Halversen, Rolla, North Dakota, August 21, 1936, Burke Papers, University of North Dakota, Grand Forks, North Dakota; hereafter cited as Burke Papers.
urge for adventure, was dissatisfied and wanted to go West. Consequently, in April, 1854, the Burkes with their first son Thomas moved to Linn county in east central Iowa. After a disastrous growing season in 1858 in which crop failure was complete in the eastern part of the state, the Burkes with a second son, Richard, who had been born in Linn county, moved again, this time only a few miles south to Keokuk county where John was born the next winter.

John's childhood differed little from that of any boy reared in the rural Midwest of the 1860's. Altogether the 230-acre farm, considerably larger than the average, the trips his father made to Chicago, and the good education all the children received would seem to indicate that the Burkes were more prosperous than most farmers. Still, life on any western farm was hard and isolated and varied little from one place to the next. Their small, log house roofed with shakes was typical. All the children began working in the fields at an early age, and Thomas recorded that John never saw a girl who was not fully grown until he entered the local school. Entertainment was simple. Occasional trips to the woods to gather nuts or berries, with the possibility of encountering friendly Indians, were adventures for the three brothers to anticipate and remember.

Burke's parents were devout Catholics who fostered strictly orthodox beliefs in their children. His brother many years later

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4 Excerpt from *History of Keokuk County* (Des Moines, 1880), 744, Burke Papers.

5 Sue, I, 369.

6 *History of Keokuk County*, 744.

recounted a vivid experience of their childhood which illustrates their religious training. Once, when John was only a few months old, his mother had placed him in a rocking chair before the fireplace while she went about her work. Thomas, playing near him on the hearth, removed a prop from under a rocker of the chair, and John pitched forward into the fire. His mother immediately snatched him from the flames, but he had been burned badly. It was several days before his recovery was certain, and the accident left lifelong scars.

Thomas writes of the period when John was recovering:

I recall the days and nights that followed when as a culprit, I heard with anguish of heart and terror of hell, the cries of distress... that came from a roll of cotton, carried in relays by my father and mother. I knew, even then of that terrible fire in which the wicked, unable to die, burn forever and ever, and, often at night, I would start up in bed, dumb with terror, because a devil was coming to get me.

After that long agony subsided and the baby again smiled at me through the red scars, which mother's hand was caressing, that dear hand was laid in loving forgiveness on my head and my boyish heart was restored; but, in the prayers we said to the Blessed Virgin Mary for preserving the eyes of my little brother, I was not unmindful of the awful fate I escaped.

On November 25, 1866, when John was seven, his mother died. His father attempted to rear the children for a time, but in 1869 he left them with neighbors, the Lucas Dohl family, and went West. With a friend he drove a six-mule team and a supply wagon across Indian-occupied territory from Leavenworth, Kansas, to Virginia City, Nevada, where the provisions were sold. It seems a little strange that he would abandon his family, but in his account of the adventure John

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9 History of Keokuk County, 744.
seems not to have thought the episode anything out of the ordinary, although he did consider the undertaking dangerous and foolhardy. The elder Burke worked in the mines of Nevada for about two years, then with nineteen other men purchased a boat in western Montana and travelled to Yankton, South Dakota, by way of the Gallatin, Yellowstone, and Missouri rivers. With enough of western adventure he returned to the farm, remarried, raised another family of six children, and died in 1907 at the age of eighty-three.

Meanwhile, John was growing up on the farm. Thomas, his oldest brother, remembered him as a quiet but quick tempered child, studious, and more interested in reading than in more vigorous forms of entertainment. As he attended school, he developed great interest in the literary societies, spelling schools, and dramatic groups which provided a large share of the entertainment for young people in the rural Midwest, and he often served as a leader of these gatherings. When he was young, he hoped to become an actor and remembered as high points of his youth, occasional business trips with his father to Chicago where he was allowed to attend plays. Acting as a career for a Midwestern farm boy was an impractical goal, and he soon settled on law as a substitute which might offer some rewards for dramatic talent. Whenever he had the opportunity, John attended trials in the nearby county seat of Sigourney and very nearly decided

10 John Burke to Harry E. Burke, nephew of John Burke, July 23, 1932, Burke Papers.
11 History of Keokuk County, 744.
12 Bismarck Daily Tribune, October 29, 1907, hereafter cited as Bismarck Tribune.
to attend law school. He retained his interest in acting and the stage into adulthood, often participating in community theater projects; and his flair for dramatic and often purely theatrical presentation of himself and the issues he advanced served him well as a lawyer and a political leader.¹³

One of Burke's favorite anecdotes of his youth concerned helping a neighbor, Chester Ferry, harvest a late crop of corn. After a weekend of work Ferry gave John fifty cents for his assistance telling him that it was not much for the amount of work that John had done, but that it was all that he could afford. However, Ferry told him that if he ever received any money with John's name on it he would give it to him. It was a common enough remark to make, but one which Ferry probably regretted when Burke, Treasurer of the United States after 1913, had his name on all American currency, and Burke good-humoredly reminded him of his promise.¹⁴

After finishing the eighth grade in the local rural school, John stayed on the farm helping his father. When he neared his majority, his father gave him forty acres to farm on his own provided he stayed at home. His father had agreed to Thomas' attending college, but he failed to sympathize with John's desire to do so. He probably felt one boy should remain on the farm, for Richard, too,

¹³ Thomas E. Burke to the Reverend J. L. Connolly, October 29, 1937, Burke Papers. Interview with Justice Thomas J. Burke of the North Dakota Supreme Court, son of John Burke, September 13, 1951.

had left home. John tried farming on his own for a time, but he soon grew tired of it, sold the team of horses his father had given him for $300, and in the fall of 1884 entered the law school of Iowa State University at Iowa City. A classmate thought that Burke was possibly the "greenest student in the class," but he was studious and hard working and finished the course in the normal two years. Burke had never attended high school, but he had probably read some law in preparation before leaving for the University. His ability to pass the entrance examination, even though it was probably fairly simple, and to complete the course in the normal time demonstrates his superior intelligence and a good deal of self-acquired knowledge.

After graduation Burke went into partnership with his brother Thomas, who had graduated from the law school of Drake University at Des Moines, Iowa, six months before and had begun practicing in that city. In 1880 it already had a population of 22,408 and was still growing rapidly. There was wide opportunity for new business ventures, but the Burke firm did not prove very successful for some reason, at the start; John, who may have had some of his father's adventurous blood, the next year decided to go West, saying that he did not believe there was enough work for both of the brothers in the partnership. Thomas remembered that John told him before leaving,

15 Interview with Justice Thomas J. Burke, September 13, 1951.
16 Frank L. Macomber to the Reverend J. L. Connolly, October 26, 1937, Burke Papers.
17 Thomas C. Burke to the Reverend J. L. Connolly, October 26, 1937, Burke Papers.
"Don't worry about me, Tom; if I can't make it at the law, I have two strong hands that can guide a plow or use a pick and shovel."

He first settled at Henning, Ottertail county, in west-central Minnesota and practiced law there for a few months before leaving for Dakota Territory. Burke later enjoyed telling of an incident that occurred there when the attorney general of Minnesota, Moses Clapp, later an United States Senator from that state, came to the area to take part in a case and mistook Burke for the murderer the latter was defending. This was probably a normal enough mistake to make as in his later years Burke was never noted for careful dress. Long, straggly, untrimmed hair; a threadbare suit; a necktie, poorly tied, which often tended to work around toward his ear; and a well-worn "sheepskin" coat became characteristics of a usually disheveled appearance.

Burke's practice in Henning could not have been very successful, as he arrived in Dakota Territory in the summer of 1888 nearly penniless. Harvest labor in the fields near Hillsboro, Traill county, gave him some money and he worked his way north to Cando. Hearing that he might find work forty miles north in St. John, Rolette county, Burke decided to go there. He had twenty-two dollars at the time and in order to avoid paying for transportation, he walked the distance to the town. He slept along the road when he grew tired during the night, probably not a pleasant experience on an ordinary

18a Thomas C. Burke to the Reverend J. L. Connolly, October 26, 1937, Burke Papers.

19 Frank L. Macomber to the Reverend J. L. Connolly, October 26, 1937, Burke Papers; Usher L. Burdick, present United States Representative from North Dakota and a one time law partner of Burke's to Sister Helen Angela, August 3, 1937, Burke Papers.
August night in North Dakota, and he arrived in St. John less than twenty-four hours later. In 1888 St. John was a new town of about 200 people, mostly French-Canadians, located near the Turtle Mountains in the northeastern part of the territory. The Turtle Mountain Indian Reservation was only a few miles away, and the frequent appearances of Indians on the streets added to the frontier-like aspect of the settlement.

Burke worked at several jobs in order to earn a living. He taught at the local school; with a friend started a newspaper, the Saturday Review, which lasted only a few months; and practiced law over the desk of the hotel where he stayed. In this rough community Burke's legal work naturally consisted largely of criminal cases, and he proved very successful at defending those accused of robbery, murder, or brawling. His homespun appearance, simple sincerity, and effective wit impressed both juries and his neighbors, and he became a well-known and popular man in the county. It was probably natural that he should turn to politics. In 1889 he was elected as a Democrat to fill out a short term as county judge, and the next year the community sent him to the lower house of the state legislature.

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20 Interview with Justice Thomas J. Burke, September 13, 1951; John Burke, "Outline of the Life of John Burke," MS., 1, Burke Papers.

21 Clyde L. Young, law partner of Burke's who knew him at St. John, to Sister Helen Angela, August 25, 1937, Burke Papers.

22 John Burke to A. O. Halversen, August 21, 1936; Interview with Justice Thomas J. Burke, September 13, 1951; Memorial Services Held in the Supreme Court Chambers in the State Capitol Building at Bismarck, North Dakota, on January Fifth A. D. 1938 for the Honorable John Burke, n.p., n.d., in the Library of the North Dakota State Historical Society, Bismarck, North Dakota; hereafter cited as Memorial Services.
In 1891 when Burke arrived at the legislature, the Midwestern Farmers' Alliance movement, which had developed also in North Dakota, was making itself felt in state politics. It was a reflection of the agricultural problems and grievances which had appeared in the post-Civil War period when organized agrarian protest became common in farm areas throughout the nation, especially so in the Midwest. The reason for the farmer's difficulties lay partly in the changing nature of agriculture. During the period the amount of land under cultivation increased greatly as did the number of bushels of crop per acre. This new agriculture was more mechanized and more capitalistic than in the ante-bellum era and had lost its self-sufficient basis. Prices were depressed because of greater production, and the farmer relied on the raising of a staple money crop which he had to sell in a free, competitive market while he had to buy the machinery and other goods he needed in a tariff-protected market. These conditions placed him in a decidedly unfavored position in the nation's economy.

Besides the problem of unfavorable prices there were a host of related problems. Commercialized farming required large outlays, but capital was extremely short throughout agricultural areas, and loans could be obtained only from Eastern capitalists at extremely high interest rates. The farmer had no control over changes in money values as did Eastern business interests although he was deeply hurt by these fluctuations. The development of a national railroad network which consolidated into the hands of a few men produced high rates, long and short haul discriminations, rebates, pools, railroad control of state government, and other practices which caused hardship for the farmer, who was forced to rely on the railroad for
transportation of his produce.

Moreover, the Civil War had broken the alliance of the agricultural regions of the South and the West, which had been the basis of the Democratic party's control of the government for so many years before the war. Now national policies seemed to be largely dictated by the union of banks, railroads, and tariff-protected industry. Neither major party would accept the demands of the farmer. As a result he turned to organized independent action to improve his lot, and faced by the fact that his problems were partly political, he was led a step further to political insurgency.

After 1870 these movements of agricultural protest periodically flamed up in the Midwest. The Grangers, the Greenback Party, and the Farmers' Alliance with their programs intended to benefit the farmer—currency inflation, railroad regulation, and reformation of the banking system—all enjoyed brief periods of success. But in general their gains coincided with a downswing in the business cycle, and returning prosperity usually caused their collapse. The Populists came closest to real victory, organizing a national party which polled nine per-cent of the vote for President in 1892, did even better at least as far as total votes were concerned in 1894, and in 1896 in combination with the Democrats, who took over much of the Populist program, set the stage for one of the most dramatic campaigns in American history. However, the defeat of their standard bearer, William Jennings Bryan, and the victory of William McKinley ensured the triumph of conservatism, a continuing deflationary money policy, and a high tariff. The alliance of eastern business interests and the government was stronger than ever, and nation-wide independent,
agrarian political movements, although the programs they had formulated would continue, passed out of the political picture.23

Fundamental farm problems deeply affected North Dakota during the period of agrarian protest, as it was a state thoroughly dependent on agriculture.24 From statehood in 1889 down to 1920 it was the most rural state in the Union; in 1890, for example, it had a population of 190,983, only five and six-tenths per-cent of which was urban.25 Habit, the nature of the soil, and climate largely restricted the North Dakota farmer to the raising of the one staple, spring wheat. A great amount of land and machinery, which required large-scale credit, was needed to raise the crop, but wheat-raising in the prairie area, subject to many climatic variations in temperature and rainfall, was even more risky than general staple farming, and the gamble involved made credit extremely difficult to obtain. In the nineties and down to 1915 the legal interest rate in North Dakota was twelve per-cent, but in actual practice was very often higher, in the case of small loans often from twenty-eight to forty-eight per-cent.


However, the North Dakota farmer, probably considered the railroad a greater enemy than the money-lender. The high freight rates charged in a largely non-competitive area absorbed a good share of the profit of a bushel of wheat. The North Dakota Board of Railroad Commissioners in 1891 made a study of the grain marketing problem with Grand Forks, North Dakota, as the initial marketing center. During the period from May 5, 1884, to November 2, 1891, the freight rate on a bushel of wheat from Grand Forks to Duluth, Minnesota, according to this report, varied from 13.8 to 10.8 cents per bushel, which was often over a fourth of the amount paid for a bushel of number one wheat at a local elevator. During the same period the cost of shipping a bushel of wheat from Duluth to London varied from 10.25 to 24.5 cents which, considering the fact that Grand Forks is less than half the distance of many points in North Dakota from Duluth, would support the conclusion that it often cost more to ship a bushel of wheat to a lake port than it did to ship it from the lake port to London.26

In addition to charging high freight rates the railroads of North Dakota were very closely tied to the elevator monopoly. Very early the railroads started building their own elevators in the state, and those that were independently owned were linked to the railroads by pooling arrangements. Until after 1891, when legislation was passed requiring the railroad to build platforms where the individual farmer could load his grain and ship it to grain center, the farmer

26 Second Annual Report of the Commissioners of Railroads to the Governor of North Dakota, 1891, 459.
was forced to sell his wheat locally. Even after loading platforms were built most farmers, hard pressed by high production costs and debt payments, were still forced to sell their wheat to the buyer in the area rather than directly at a terminal market. At the local elevator fraud was common in the classifying of wheat into grades one, two, or three, and the top rating was almost never given. The farmer knew that much of his wheat was of a higher grade than for which he was paid, but the purchaser had his own system of classification, and the farmer could either take his price or leave it.

The Board of Railroad Commissioners account (1891) revealed considerable information about the profits of marketing. On June 3, 1889, a day picked at random, a bushel of number one wheat sold for $.71 at Grand Forks, the most favorable market center in the state, at Duluth for $.91, and at London for $1.26. The difference in price between Grand Forks and Duluth was 20 cents. Freight rates, miscellaneous charges, and commission expenses between the two cities totalled 15.9 cents, which left an elevator profit of 6.1 cents. The difference in price between Duluth and London was 35 cents; 19.5 cents of this variation was expense; the remaining 15.5 cents elevator profit for a total elevator gain between Grand Forks and London of 21.6 cents a bushel. Moreover, the Railroad Commission estimated that elevator return on dockage for dirt averaged 6 cents a bushel, that grade lowering added 3 cents, and false weighing another 3 cents for a total of 12 cents more, making in all a grand total of 33.6 cents profit per bushel. This the railroad commission considered a conservative estimate at the most favorable marketing point in the state. 27

27 Second Annual Report of the Commissioners of Railroads to the Governor of North Dakota, 1891, 458-461.
The farmer who shipped his wheat directly to a terminal grain center was little better off than the farmer who sold directly to the buyer near him. The railroad forced him to pay the toll charge of the local elevator whether his wheat passed through it or not, and at the grain center his wheat was kept at railroad controlled warehouses where high storage rates were charged. Furthermore, the terminal elevators followed practices similar to those of the purchasers in North Dakota in the grading and mixing of grain. On November 23, 1906, a committee of the North Dakota Bankers Association, which had investigated the grain trade at Duluth, made the following report on one elevator in Duluth which is probably fairly typical of central elevator practices throughout the period:

<table>
<thead>
<tr>
<th>Grade</th>
<th>Bushels Received</th>
<th>Bushels shipped</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. 1 Northern</td>
<td>99,711.40</td>
<td>196,288.30</td>
</tr>
<tr>
<td>No. 2</td>
<td>141,455.10</td>
<td>467,764.00</td>
</tr>
<tr>
<td>No. 3</td>
<td>272,047.20</td>
<td>213,459.30</td>
</tr>
<tr>
<td>No. 4</td>
<td>201,267.20</td>
<td>none</td>
</tr>
<tr>
<td>No Grade</td>
<td>116,021.10</td>
<td>none</td>
</tr>
<tr>
<td>Rejected</td>
<td>59,742.30</td>
<td>none</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>890,245.10</strong></td>
<td><strong>877,512.00</strong></td>
</tr>
<tr>
<td><strong>On hand</strong></td>
<td></td>
<td><strong>12,733.10</strong></td>
</tr>
<tr>
<td><strong>890,245.10</strong></td>
<td></td>
<td><strong>890,245.10</strong></td>
</tr>
</tbody>
</table>

The farmer viewing these practices and failing to understand the mechanics of marketing knew only that somewhere along the line he was being cheated. As a result, the effort to modify the entire system of marketing became an issue in North Dakota politics which periodically flared up from territorial days down through the rise of the Non-Partisan League in 1915.

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28 There is a discrepancy of four-tenths of a bushel in the bushels shipped column of the above figures. These figures were taken from the text of the report as published in the Grand Forks Herald, November 23, 1906, and agree with Bruce, 39. Fossum, 74, has an even larger discrepancy.
In view of these many reasons for agricultural discontent in North Dakota, it is evident that the state should have been profoundly affected by agrarian unrest, and up to a point it was. By 1890 a Farmers' Alliance organization had developed which was able to secure some farm legislation. In 1892 a Fusion ticket of Populists, Farmers' Alliance men, and Democrats swept the state offices and caused a split of the state's three electoral votes among the Democratic, Populist, and Republican candidates for President after the national Peoples Party nominee, James Weaver, had narrowly defeated the Republican, Benjamin Harrison, in the state 17,700 to 17,506. In 1896, a former president of the Farmers' Alliance was elected governor. Still, the movement was not as strong as it might seem it should be. In a state so completely agricultural as North Dakota it could be expected that organized farm movements would have been able to control consistently the state government, to enact legislation in the farmer's interests, and to send representatives to Congress who genuinely represented North Dakota. But such was not the case. Organized farm groups elected only a few members of the legislature directly and were able to secure only a few laws, most of them deliberately weakened by clever anti-reform legislators. Casual examination of the newspapers accounts of the legislative sessions leaves the impression that agrarian legislation was not considered very important even at the height of Fusion strength in

Moreover, the farm movement never elected a member of the United States House of Representatives or the Senate, and those who were elected were usually more sympathetic to corporate interests than to the farmer. From the beginning North Dakota agrarianism labored under certain handicaps, some of them common to the Midwest in general and others peculiar to the state, which lessened its strength and made its accomplishments slight.

One condition which weakened the movement was the high ratio of foreign-born in the state, over forty-three per-cent in 1890, a far higher percentage than any other state in the country. These immigrant farmers, often settled in colonies where they retained the characteristics of their homeland, were largely unaware of political currents, and, if they voted at all, tended to vote in blocs susceptible to domination by the prominent men in the community. Furthermore, because of its late period of settlement, North Dakota was affected only lightly by the earlier farm movements and had failed to develop the agrarian tradition of longer-settled Midwestern areas.

Reform was handicapped also because North Dakota, like most of the Midwest was passionately loyal to the Republican party with its heritage of the Union, Abraham Lincoln, and the Homestead Act. The political leaders, largely from Wisconsin and Iowa, were influenced by the Republican tradition, and the immigrant had little sympathy
for the pre-Civil War pro-slavery doctrines of the Democratic party and tended to associate Democrats with disunion and disloyalty. In North Dakota the Republican party was tied very closely to the farmer's enemies, the eastern corporate interests. It is paradoxical that a state so completely agricultural should support leaders diametrically opposed to its best interests. However the contradiction can at least be partly explained. The political directors of the state were in most cases men who had come to the area in territorial days and had been influential in developing the territory and bringing it to statehood. For the most part they were of native stock, well liked and accepted by the immigrant, unfamiliar with issues and techniques of politics, as natural rulers. Although their welfare was clearly joined to that of the farmer, these leaders—lawyers, bankers, and businessmen in the small towns of the state—tended to reflect the view of their professional groups and their powerful eastern counterparts, that is, the general conviction that governments should be conducted in the interest of the corporation, the railroad, and the moneylender. The uneducated farmer did not entirely understand his problems and failed to associate his difficulties with the type of state government he had, and if he did understand enough to protest, lack of organization prevented his dissent from being effective. Then, too, there was seldom any open corruption in the conduct of state government; the rule of the business minority was generally rather benevolent; and the farmer was more interested in harvesting his crop and meeting payment on his mortgage than in establishing a state government genuinely in his interest.
The career of Alexander McKenzie illustrates this paradox very clearly. From territorial days he was the strongest man in the area and during much of the time in the 1890's, along with a few associates, came very close to being the Republican party in the state. It was generally understood that he was in the pay of the railroads and his actions were entirely in the interests of the eastern capitalists who were exploiting the North Dakota farmer. Yet McKenzie, certainly one of the most unusual and colorful figures in the history of the Northwest, was respected and admired not only by his associates but by the average farmer as well.

McKenzie, like many men of the post-Civil War period who built industrial or political empires, was a man well liked personally, even by his political enemies, passionately loyal to his friends, and with many admirable personal traits—kindness, modesty, and courage. Stories of this career illustrating the good side of his nature are legion. He would sit with a sick friend for hours ministering to his needs whatever the occasion, help an associate in difficulty with an anonymous gift, or protect a man who had exposed one of his pet schemes from a hostile crowd of his followers which was threatening to kill him. George B. Winship, editor of the Grand Forks Herald until 1911, who was one of the most important leaders...
loosening McKenzie's hold on North Dakota and certainly one of his
greatest political enemies, wrote during the bitter campaign of 1906
in which McKenzie's domination of the state became the central issue
of the election:

He is a man who inspires warm friendship and is broad enough
to forget political differences when personal relations are
concerned. The Herald regards his political ideals as wrong
and his political practices are fraught with the greatest
danger to the state. But it has never made a personal
matter of its opposition to him, and it shares the feeling
of many more of his most vigorous political opponents, who
would go a long way out of their road to do him a personal
favor. 33

However, in spite of his good side, McKenzie was a man motivated
by a powerful urge toward power, and he was brutal and unscrupulous
in how he achieved it. His projects were on a grand scale, stealing
a territorial capitol, harnessing a state with a national lottery,
looting the gold mines of Alaska, or controlling the policies of a
state government, and they were carried out with imagination, al-
though their very largeness of scope sometimes defeated them. He ad-
mitted in connection with the Alaskan affair, "I am no nickel thief .
... I am not stealing pennies;" 34 his thefts were on a larger
scale, and in many respects McKenzie merely conformed to the "robber
baron" pattern of post-Civil War society, but at this date he can
hardly be admired as he was by many of his contemporaries.

McKenzie was born in New York, April 13, 1850. Little is known
of his early life, but he was apparently very poorly educated as he
later needed assistance to figure his mileage allowance as sheriff and

33 Grand Forks Herald, June 9, 1906.

34 Lillo, 56.
learned to write a business letter only with a great deal of difficulty in later life. Although he had been in the territory earlier, he came permanently as a spiker on and later foreman of a construction gang as the Northern Pacific was being built across the state. When the railroad reached Bismarck in 1873, McKenzie stayed, sold a carbonated beverage which supposedly combatted the effects of alcoholic intoxication, speculated in real estate and securities, and soon became wealthy. After the sheriff of Burleigh county drowned in 1874, McKenzie took his place. He was elected to the office in 1876 and served five terms, acting at the same time as deputy United States Marshal. A huge, powerful man with marked courage, he proved an able sheriff in a lawless, frontier community and he became a well-known and admired figure in the area. When a movement developed in the northern part of the territory to move the capital from Yankton, in what is now South Dakota, McKenzie got himself appointed to the Capital Removal Commission in 1883, and by shrewd political maneuvering, succeeded in getting it transferred to Bismarck, which then seemed an unlikely place to put it. From then on his strength in western North Dakota was assured, and he began playing an active roll in politics. With his chief lieutenant, Judson LaMoure from Pembina county, a French-Canadian who had come to Dakota territory in 1860 and who had served in the territorial legislature from 1872 to 1899, he began building a political machine which largely dominated the Republican party until 1906. Through personal popularity, 

shrewd knowledge of the techniques of political favors, and often open bribes, he was able through much of the period to direct the policies of the state in a direction generally opposed to its best interests.

All of these factors operated against the reform movement in North Dakota, but still in a state almost entirely rural, dependent on agriculture, and affected by so many grave agricultural problems, agrarian protest could be expected to rise and to have considerable influence. At the time of the state constitutional convention in July, 1889, the Farmers' Alliance forced some minor concessions from the constitution-makers, including a provision establishing an elected Board of Railroad Commissioners, although the powers of the agency were very limited. At the first session of the legislature which convened on November 19, 1889, some measures aimed at regulating the grain trade were passed, among them a law to require the railroads to build grain loading platforms and an act to force them to stop discriminating in granting elevator sites on their right-of-ways. However, these laws were badly drawn up and contained clauses, deliberately inserted by the astute railroad legislators which made them unenforceable. For example, the law requiring platforms was so worded that the railroads were required to build them within sixty days; after the two months passed, it was ruled that, since the railroads had not been ordered to build platforms during the period, they could no longer be required to do so. Moreover, reform in the first legislature was blunted by its preoccupation

36 Fossum, 31-33.
with the question of licensing the so-called Louisiana Lottery, a national gambling syndicate which had lost its charter in Louisiana, and was attempting to secure one in North Dakota. The scheme was largely McKenzie's, and through the judicious use of bribes and by promising the representatives of agrarian interests a bill to provide free seed to needy farmers in return for support of the lottery, the plan was almost carried. The proceedings were kept virtually secret, but an able reporter, Conde Hamlin of the St. Paul Pioneer Press, who was backed by Governor John Miller, exposed the effort. Once it came out in the open the project was defeated.

In 1891 when Burke went to the legislature, the exposure of the Louisiana Lottery scheme and the failure of the grain and railroad legislation had produced sharp dissatisfaction among farmers. There were only three Farmers Alliance representatives in the lower house of the legislature, and two in the senate, along with two Independents in the house who directly represented farm groups, but many Republicans and Democrats supported their program, as could be expected in a state so predominately agricultural as North Dakota. In the opening days of the session several bills aimed at corporation regulation were introduced. "Railroad legislation is prolific," observed one paper; but most of this legislation died in committee.

37 For an account of Populist efforts to prevent the re-charter of the lottery in Louisiana see Melvin J. White, "Populism in Louisiana," Mississippi Valley Historical Review V (June, 1918), 3-19.
and never came to a vote. However, a bill which made effective the earlier law preventing railroad discrimination in leasing elevator sites, at that time the leading demand of the Farmers' Alliance, did pass on the last day of the session by a unanimous vote in the House and with only three dissenting votes in the Senate.\(^{41}\) The law provided that for a fee of $1.00 anyone could erect a warehouse or elevator on a railroad right-of-way and provided penalties for railroad failure to observe the legislation.\(^{42}\)

There is little reason to believe that Burke as a legislator sympathized with agrarian demands. He voted against most regulatory measures which came to a vote, among them a bill to regulate grain warehouses and the inspection, weighing, and handling of grain.\(^{43}\) The Grand Forks Plaindealer recognized him as a leader of the fight against a bill which would have required the licensing of credit and guarantee companies within the state.\(^{44}\) It is not known what arguments Burke used, but in the absence of reports assumptions are reasonable. Throughout his career Burke was strongly affected by the legalistic aspects of problems and was often to oppose legislation which might conceivably be considered unconstitutional or an infringement of property rights. His concern with legality was undoubtedly sincere, not a rationalized defense of the status quo or of narrow self interest, but it may have been one reason for his

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\(^{41}\) House Journal, 1891, 490; Senate Journal, 1891, 541.

\(^{42}\) Grand Forks Plaindealer, March 26, 1891.

\(^{43}\) House Journal, 1891, 602.

\(^{44}\) Grand Forks Plaindealer, January 31, 1891.
consistent opposition to agrarian measures during the period. The Democratic Grand Forks Plaindealer considered the alliance demands as proposals designed to favor only one class in the community, and Burke may have shared the view.

The 1891 session of the legislature was responsible for electing an United States Senator, and a controversy resulted which took several days and seventeen ballots to settle. Finally, five Democratic senators and nine Democratic representatives, including Burke, deserted their candidate to elect a Republican, Henry C. Hansbrough, a newspaperman from Devils Lake who was backed by McKenzie. The story was later told that the leading railroads in the state, the Great Northern and the Northern Pacific, were backing opposing Republican candidates in the election, and that in order to elect Hansbrough, McKenzie, who then represented the Northern Pacific alone, obtained the Democratic votes by having his candidate promise to support free silver and approve Democratic appointments in the Senate. Whatever the truth of the story, Hansbrough did endorse free silver in 1896 and nearly lost his position within the Republican party by doing so. In the absence of any conflicting evidence it is reasonable to assume that some such concession was made. The Democrats had no hope of electing their candidate, and were probably willing to support the Republican aspirant who was willing to make some sort of offer, in order that the legislature might get on with other business which was naturally pretty heavy in a brand-new state.

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45 Grand Forks Plaindealer, January 23, 26, 1891.
As did many North Dakota legislatures of the 1890's, that first session spent much of its time debating the questions of women's suffrage and resubmission. When the constitution had been placed before the people for ratification, a liquor prohibition clause was voted on separately. The constitution carried 27,441 to 8,107, but the prohibition clause passed only by the narrow margin of 18,522 to 17,393, which seemed so indecisive that a new vote was constantly demanded. It became a persistent issue in North Dakota politics, but one that often obscured more fundamental problems. It was often charged that the McKenzie machine used resubmission to defeat railroad legislation. A machine leader would have the measure introduced, and in return for killing it would demand a vote from prohibitionists against unfavorable railroad legislation. Women's suffrage was used in a similar manner. The Democratic party generally supported resubmission, and Burke, perhaps an unwitting tool of the enemies of reform (at least he was indifferent or naive) was credited with doing "valiant service" on behalf of those who wanted a new vote.46 This was often to prove embarrassing at a later date, when, as governor, he was supported by the state's prohibitionists. In this session the bill passed the house but died in the senate.47 Burke's vote against the women's suffrage resolution, which passed the senate seventeen to fourteen but was killed in the house twenty-seven to twenty-nine, certainly gives no indication of liberal ideas.48

46 Grand Forks Plaindealer, February 11, 1911.
48 Ibid., 801; Senate Journal, 1891, 483.
Burke did receive some favorable attention in the legislature by his introduction and advocacy of a bill which would have required lawyers who desired to practice in the state to pass a qualification test before the state supreme court, but this was the only bill of importance that he introduced. The *Plaindealer* called it an "excellent measure in that it exacts of the applicants test of scholarship and training in school and office, now sadly wanting." The bill passed the house forty-six to five but never came to a vote in the senate. Moreover, Burke took an active part in the debates of the legislature and by the end of the term was recognized as one of the leaders of the Democratic minority in the house. In his first session he had revealed political ability, but he had clearly demonstrated his lack of sympathy for the reform movement in the state. The measures he advanced were insignificant; he voted against most of the bills intended to regulate the power of corporations; he had opposed women's suffrage and marketing legislation; and in advancing resubmission he had played directly into the hands of the McKenzie organization. Burke reflected the sentiments of his party. The Democratic legislators were no more committed to the reform movement than were the members of the Republican machine. Actually, the parties spent most of their time in debating issues—such as resubmission that were of no real significance.

Shortly after the close of the session, Andrew Burke, the

49 *Grand Forks Plaindealer*, February 3, 4, 1891.
51 *House Journal*, 1891, 222.
52 No relation of John Burke.
machine governor, vetoed the bill to compel the railroads to lease sites on their right of way for elevators and warehouses. This veto incensed the Farmers' Alliance, which voted to put an independent ticket in the field in 1892. A special session of the legislature called because of the absence of electoral legislation for the coming presidential election gave an opportunity for reform issues again to be presented. One historian of the North Dakota agrarian movement has maintained that the special session was called because of demands of the Farmers' Alliance, but it seems more reasonable that the stated reason for calling the session was the real one as a presidential election could not have been held without legislation providing for it. However, the legislative meeting did give an opportunity for the Alliance to reassert its demands, and with the sentiment of the state being what it was, the legislature was compelled to make some effort to pacify the unrest. As a result, the weaknesses of the law requiring the railroads to build loading platforms were remedied, and the measure was approved by the governor. But it was not enough. The discontent was still so great that the next year an Alliance-Populist-Democrat Fusion ticket, with Eli C. B. Shortridge of the Farmers' Alliance as the nominee for governor, swept the state offices. The Fusion did not extend to legislative or local candidates, and Burke running as an independent Democrat was elected to the state senate. It is perhaps a tribute to his
personal popularity in Rolette county that in a year of agricultural
disatisfaction he should again be elected in spite of his record on
agrarian issues, although it is doubtful if a great deal was known
about his activities in the legislature considering the inadequate
accounts of the sessions which small local newspapers carried.

The 1893 legislature, still in Republican control, although by
a very narrow margin in the house, spent much of its session in a
long, complex senatorial fight. Had the Republicans been united
they could have elected a candidate, but a temporary disagreement
between LaMoure and McKenzie split their votes. The Democrats
supported William N. Roach, of Grand Forks, and the Alliance-
Populist members endorsed Walter Muir, president of the North Dakota
Farmers' Alliance; however, they pooled their votes, voting for each
other's candidates on successive ballots and set about wooing the
divided Republicans. Enough of them were finally won over after a
month of voting and sixty-one ballots to elect Roach. Burke, who
ominated him, was generally given credit for pushing through his
election, and he later told the story of uncovering a Democratic
member who had taken a bribe to cast his vote against the party's
candidate and forcing him to return the money at the risk of ex-
posure. Burke's success made him a prominent figure in the state

57 Bahmer, 377.
58 House Journal, 1893, 127-144.
59 Grand Forks Herald, January 6, 1907.
60 Interview with Justice Thomas J. Burke, September 13, 1951.
Democratic party, for Roach was the only Democrat from North Dakota to serve in Congress until, as governor, Burke himself had the opportunity of appointing a Senator.

Shortridge's message to the legislature, phrased in Populist terms, had called for vigorous control of monopolies, trusts, and railroads, but the long senatorial fight and the revival of the women's suffrage and resubmission questions prevented very much consideration of agrarian issues. However, the legislature did pass resolutions asking for a national income tax, the direct election of senators, government control of the telegraph, and the removal of duty on imported binder twine. Moreover, it passed a law appropriating $100,000 for the construction of a terminal grain elevator to be built at Duluth or Superior, but the law was badly drawn up and contained clauses which later proved to make it almost unworkable.

In the 1893 legislature Burke again clearly demonstrated his opposition to the agrarian reform movement. Although the votes on the resolutions passed by the legislature are not recorded in the senate and house journals, he joined three conservative senators to oppose the session's most significant law, the terminal elevator measure, which passed both houses by large majorities. In addition, he introduced a bill which would have eliminated completely the regulatory powers of the State Board of Railroad Commissioners.

61 House Journal, 1893, 31-33.

62 Senate Journal, 1893, 530; House Journal, 1893, 735; Fossum, 38; Nye, 64, 77.

63 Senate Journal, 1893, 272.
and unsuccessfully attempted to amend a salary bill so as to reduce the salaries of the commission members to $1.00 a year. His railroad bill passed the conservative senate, but the house voted it down. Alone with Jud LaMoure in the upper house he voted against a new platform law which remedied some defects in the earlier legislation. In short, in his two sessions in the legislature during which North Dakota politics were affected by a spirit of reform, Burke's record was decidedly that of a conservative, and there is no evidence of the views that were later to make him the leader of the state progressive movement.

The difficulty of building and operating the terminal elevator under the unworkable law and the advent of the panic of 1893 discredited the Fusionists, and in the 1894 election the Republicans were returned to power. In the election the Fusion ticket split, and the Independent party (Populist) and the Democrats failed to support the same candidates for all offices. They agreed on most but split over the offices of governor, supreme court justice, and attorney general; the latter is of some significance as Burke had been nominated for that office by the Democrats at their convention. The Democratic platform of 1894 endorsed Cleveland, Roach, and

64 Senate Journal, 1893, 182.
65 Ibid., 466; House Journal, 1893, 577.
66 Senate Journal, 1893, 437.
67 Grand Forks Plaindealer, July 27, November 2, 1894.
Shortridge, favored a lower tariff, free coinage of silver, and re-submission. Although Burke formally endorsed free silver, in a speech at Grand Forks he actually devoted his entire address to a discussion of the effects of a high tariff and proved a poor prophet. Apparently taking at face value the definition of the fundamental problems of the day advanced by the national organization of the party, still in the hands of Cleveland conservatives, he said: "The tariff question is the great issue of the present time between the Republican and Democratic parties, and it will be, I believe, in the next presidential campaign, the great issue on which the battle is to be fought." Shortly before the election the Democratic Plaindealer made a statement about Burke which reveals that it was probably the man himself rather than his voting record which was his greatest political asset:

Hon. John Burke, of Rolette County, is one of the most popular men in the state. He was elected to the legislature in 1890 and soon won a place in the front rank of that body . . . . He is an effective speaker, and a man of irreproachable character. We doubt whether there is a man in public life in North Dakota, who so universally enjoys the respect and confidence of everybody, regardless of politics.

This is typical campaign praise, but it illustrates in the mention of Burke's "irreproachable character" and the respect he enjoyed from both parties, comments that were to be applied to him throughout his career. In the election Burke, with the rest of the Fusionist, Populist, and Democratic candidates was defeated, although he ran well considering the tenor of sentiment and the split in the parties.

68 Grand Forks Plaindealer, October 13, 1894.

69 Ibid., July 27, 1894.
"North Dakota has gone back to the Philistines," the Plainedealer asserted, the first phase of the agrarian movement in the state was ended.

With the reform movement beaten, the 1895 session of the legislature was quiet as Burke returned for his second term as senator. The legislature concerned itself with essential but ordinary business, and little agrarian legislation was considered. Burke introduced few bills and does not seem to have taken a very active part in the session. He voted against one of the few reform bills which came to a vote in the senate. The bill which would have designated certain mills within the state as public enterprises and fixed maximum grinding and toll charges lost by a vote of ten to fifteen. He also voted against a law which was passed to encourage the manufacture of binder twine in the state by giving bounties to state producers. His delivery of a memorial address, a typical, flowery oration of the period, in honor of Senator Hansbrough's wife, who had died the year before, showed that he was already beginning to acquire some recognition as an orator.

In 1896 Burke was named by the Democrats to run for the United States House of Representatives. The Populists and the Democrats agreed to join on July 31 after the nomination of Bryan, and each named half the ticket. The willingness of the Populists to accept

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70 Grand Forks Plainealer, November 7, 1894.
71 Senate Journal, 1895, 151.
72 Ibid., 595.
73 Ibid., 53-54.
Burke to head the state ticket in spite of his record on farm issues would seem to indicate that fusion in North Dakota was a marriage of convenience, not the union of principle it was the level of the national parties, and is also something of a tribute to the character of Burke. That he was beginning to gather favorable recognition from the opposition, something he was able to make great use of in his later campaigns, was already apparent at this time. The Republican Cando Herald wrote:

In nominating Hon. John Burke for Congress the fusionists make a good hit, and one which cannot help making their ticket a few thousands stronger, as Mr. Burke is so well known throughout the state, and respected for his ability and honesty. He is a born statesman, and the only fault we find with "Honest John" is his political views, but they are a mere triviality beside his qualifications as a man. 74

Neither Bryan nor the Democratic campaign created any enthusiasm in the state. McKinley won decisively, 26,335 to 20,686, and the other Republican candidates were victorious by similar large majorities. Burke, although losing to M. N. Johnson 25,333 to 21,172, did better than anyone else on the ticket and carried several eastern counties, in spite of his running for the office for which Democrats usually made the worst showing in elections. 75

As Burke stayed active in the Democratic party in the years before 1906, the regular Republicans dominated the state. In 1900

74 Quoted by Grand Forks Plaindealer, August 25, 1896.

75 State of North Dakota Legislative Manual, 1897, 104-109; hereafter cited as Legislative Manual. The figures on the Presidential election are approximate. They were obtained by selection of the candidate's elector with the highest number of votes as each elector had a different total. A similar policy will be followed throughout this account.
he ran for district judge of the second judicial district and was again defeated by John Cowan of Devils Lake, who had beaten him for the office of attorney-general in 1894. During the years 1894 to 1906, as the Republican majorities grew larger and larger, service in the Democratic party was not a rewarding task. Burke acquired little state-wide recognition in politics and devoted most of his time to building his steadily growing law practice.

In the meantime, on August 22, 1891, Burke had married Mary Elizabeth Kane of Waukesha, Wisconsin. Miss Kane met Burke during the summer of 1889 when she came to visit a friend who had married an acquaintance of Burke's. She stayed and taught at the St. John school during the 1889-1890 term, went back to Wisconsin, and returned to teach again the next summer. Shortly after the close of the session they were married at Devils Lake.76

A few months after their marriage the Burkes moved to Rolla, the new county seat of Rolette county, seven miles from St. John. Here Burke devoted himself exclusively to the practice of law. His practice grew steadily, and he was soon trying cases across the northern half of the state all the way west to Williston. After he won a rather spectacular alienation of affection case for a prominent Minneapolis man at Cando in 1901, he received an offer of a partnership with Henry G. Middaugh of Devils Lake, one of the states prominent lawyers, and in July 1902 the Burkes moved to Devils Lake. The partnership proved a success, and by 1906 Burke was making $15,000 a year, a considerable sum for the time, and his success as a lawyer had brought him wide recognition.77

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76 John Burke to A. O. Halverson, August 21, 1936, Burke Papers; Interview with Justice Thomas J. Burke, September 13, 1951.
77 Henry G. Middaugh to the Reverend J. L. Connolly, January 24, 1938, Burke Papers.
CHAPTER II

"THE REVOLUTION OF 1906"

In the years from 1896 to 1906 as Burke practiced law at Rolla and Devils Lake and North Dakota more or less passively submitted to the domination of the McKenzie machine, at work throughout America and throughout the world were forces of reform that produced sharp repercussions in North Dakota, repercussions so important that one historian of the state has referred to the result as "the revolution of 1906." 1 The wave of reform of the last decade of the nineteenth century and the first of the twentieth, commonly termed the Progressive Movement, affected in one way or another all phases of American life. 2 It was not only a political movement but a social, philosophic, and economic movement as well. The ranks of the progressives included political reformers, social workers, prohibitionists, journalists, authors, and scholars, personalities as diverse as Robert La Follette, who turned the state of Wisconsin into

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1 Bruce, 28.

a laboratory of progressive democracy; Jane Addams, who established settlement houses amid the slums of Chicago; and Lincoln Steffens, who exposed the iniquities of city and state governments. The many manifestations of the movement were tied together by a common thread, a belief in democratic reform—reform conducted on a high moral level, reform that asserted the perfectability of man, and reform that attempted to fulfill to the greatest possible extent the potentialities of American life. It was upheaval entirely in the American tradition, which had had its beginning in earlier efforts and was but one phase of a continuous American reform movement which has strived through democratic means to build the good society in America. In spite of its high moral fervor the movement was practical, attempting to meet individual problems with individual solutions; in spite of its romantic view of society and human nature, it was realistic in its consideration of economic issues. It marked a turning point in American life, and through pragmatic, undogmatic methods it was at least partially successful in adjusting the government, the economic system, and the social structure of the nation to the new problems that threatened to overthrow the fundamental bases of the American system.

The Progressive Movement was a result of the same changing conditions of the Post-Civil War era that had produced the earlier agrarian movements, the growth of industry, the rise of the large corporation, and the concentration of wealth and power in the hands of business interests. The growth of large cities, the unequal distribution of wealth, the breakdown of ethics through corporate diffusion of responsibility, the creation of a class structure based on wealth, and the breakdown of honesty in government were all problems
of the post-war era, and all these problems had grave social, political, and economic consequences. However, since this study is mainly concerned with politics, discussion of the Progressive Movement will be confined mainly to its political phase.

The post-war alliance of the state and business groups affected all levels of government. On the national level the Senate became known as the "millionaires' club" and was a stronghold for the protection of economic privilege. The House of Representatives, bound by rigid procedural rules which concentrated authority in a few hands, was largely conducted in the interest of the wealthy. The presidents of the post-war era were, for the most part, dominated by Congress, and none showed any disposition to challenge the alliance. With the election of William McKinley in 1896, organized conservatism reached its peak of influence. Mark Hanna, McKinley's friend who came close to being a national political boss, provided the contact between business and government, which was largely centralized in the hands of a small minority in the Senate. This cabal was led by Nelson Aldrich of Rhode Island, who Senator Hansbrough once said had an influence like chloroform. The highest tariff in history, the Dingley Tariff of 1897, and the Gold Standard Act of 1900 were passed with virtually no opposition. Business consolidation during the McKinley administration reached new proportions as fifty-three ten million dollar corporations were organized from 1898 to 1900 in contrast to twenty before that time, and in 1900 the United States Steel Corporation, the first billion dollar enterprise, was formed.

Business classes also controlled state governments, dominating legislatures and nominating conventions. The city machine with its
political boss tied closely to financial interests became an inevitable accompaniment of city growth. Corruption was open or suspected at all levels of government, particularly on the state and municipal level, a corruption shared by many business establishments.

It was inevitable that opposition should develop toward this Hamiltonian type of government as the farmer, laborer, and small businessman were being exploited by it. The agrarian movements were an attempt to restore the Jeffersonian system, but the Progressive Movement was founded on a much wider basis of opposition than these earlier protests, for it included the working men of the cities and the middle class reformers as well as the farmers. These divergent strains in the Progressive Movement altered its character from one area to another, but in all its phases and on all levels it was dominated by the controlling idea of reform.

Although no real line can be drawn, the Progressive Movement is generally considered as having begun with the muckraking articles of the late 1890's. However, there had been earlier dissents from the pattern American society was assuming. The new economists—Thorstein Veblen, Henry C. Adams, Richard T. Ely, John R. Commons—pointed out the fallacies in laissez-faire; Henry George's Progress and Poverty, Edward Bellamy's Looking Backward, and Henry Demarest Lloyd's Wealth Against Commonwealth were solid works aimed at social change. But the muckrakers attacked the abuses of industrial civilization in a sensational, colorful fashion that acquainted a large share of the public with the need for reform. B. O. Flower, an Illinois radical, who was editor of the Arena magazine from 1899 to 1906, might be considered as the first of the muckrakers, and the
new inexpensive magazines of the turn of the century—Munsey's, Cosmopolitan, McClure's, American, Everybody's, Review of Reviews, and Outlook—produced a flood of widely circulated protests against corruption and exposures of business and government practices. Lincoln Steffen's revelation of municipal misrule in several cities and Ida M. Tarbell's study of Standard Oil were two of the most famous muckraking efforts, but the muckrakers turned their attention to most phases of American life. Charles E. Russell wrote of the beef trust, Ray Stannard Baker of the railroads, Thomas Lawson of Wall Street, Jacob Riis of the city slums, and Upton Sinclair of the food industry, to name only a few of the most important efforts. The muckrakers drew public attention to many existing abuses of American society and served as a powerful impetus to reform.

In 1901 the death of McKinley put Theodore Roosevelt in the White House, this seemed to offer great hopes for the progressive cause, as Roosevelt was recognized as sympathetic with the reform movement. However, in retrospect, his administration is disappointing, and Roosevelt's progressivism has been open to debate. At least, it did not go very deep, and aside from the field of conservation, his six years in office did not produce a great deal of solid achievement. His "trust-busting" program had only a very limited success; the Hepburn Act, (1906), which extended government control over the railroads, failed to solve the problem of railroad rate-fixing; and pure food and drug legislation, although important, was concerned with a fundamentally minor problem. Still, Roosevelt did do service for the liberal cause by providing an emotional climate in which change could take place on state and local levels. Roosevelt always identified himself with the progressives; through his
colorful and powerful personality, he dramatized their issues—although he did very little about them; and by his advocacy of many progressive tenets and in his attitude toward business and labor he made the movement respectable. In this atmosphere established by Roosevelt the greatest gains of the Progressive Movement probably occurred on the state and city level, although much of this reform had begun before Roosevelt took office.

The philosophy of the movement was basically Jeffersonian, but the progressives were willing to curtail individualism in the interest of social and economic control, to enlarge the scope of government in order to protect the individual. This willingness to abandon the philosophy of weak government—one of the distinctive features of the movement—was not caused by the urge to abandon liberty in favor of order, the characteristic often assumed by European social movements. On the contrary, the reformers had complete faith in the rule of the people, and part of their answer to the problems they faced was the extension of democracy through more direct participation by the voter. The initiative, referendum, and recall, home rule, the direct primary, and the direct election of Senators were characteristic demands which were attempts to extend the principle of democratic control. The progressives sought to extend government in two ways. Negatively, they wanted to use it to restrain the power of business and concentrated capital. This attempt took the form of demands for railroad control, anti-trust legislation, banking and insurance regulations, public utility acts, corrupt practice laws, and conservation programs. Positively, they wanted to extend government to protect the social and economic welfare of the individual. This aim took the form of demands for
educational expansion, child and female labor laws, workmen's compensation acts, wage and hour laws, and widow's pensions, demands that have since become associated with the concept of the "welfare state." Much of the program was carried over from the agrarian radicals, but the progressives added new features and gave it a broader basis.

It was on the level of city government that the need for reform was most obvious, and it was in the cities that the first progressive battles were fought. Corruption, crime, and boss government were common to cities in all sections of the country, but for a few years forward looking mayors were able to alter this picture in many areas. One of the most outstanding of these city leaders was Tom Johnson, mayor of Cleveland from 1901-1907. Johnson, a wealthy industrialist who had been converted to the single-tax principles of Henry George, gave Cleveland one of the best city governments in the nation. A clever politician and a realistic thinker, he broke the domination of the city machine controlled by the public utilities, equalized taxes, established municipal ownership of several utilities, and fought for home rule and efficient administration. Samuel "Golden Rule" Jones, the Christian-Socialist mayor of Toledo from 1897-1899 and from 1901-1905, was not as practical as Johnson, but his effort to administer the city according to the principle of the Golden Rule provided an example of an enlightened city administration. These are only two examples but city corruption was being fought elsewhere. Joseph Folk attacked the corrupt Edward Butler machine in St. Louis; Mark Fagan fought a utility gang in Jersey City; Fremont Older exposed a ring in San Francisco tied to the president of the Northern Pacific Railroad;
and Lincoln Steffens moved from one city to another relentlessly expos- 
ing corruption wherever he found it.

Reformers eventually operated on the state level in all sections of the nation. Woodrow Wilson in New Jersey, Charles Evan Hughes in New York, Charles B. Aycock in North Carolina, Charles A. Culbertson in Texas, Hiram Johnson in California, and William S. U'ren in Oregon were all progressive leaders. But it was in the Midwest, and more exactly in the western Midwest, in the states of Wisconsin, Illinois, Iowa, Missouri, Minnesota, Kansas, Nebraska, South Dakota, and North Dakota, that progressivism as a state program achieved its greatest gains. The Progressive movement in heavily populated states was affected by the middle class ideal of reform, which aimed at honesty in government and the elimination of corruption but did not strike at the deeper economic problems. Southern progressivism was often associated with a reassertion of white supremacy. It was Midwestern progressivism, arising in the area of agricultural discontent, a progressivism based on the earlier agrarian programs of the Grangers, Farmers Alliance men, and Populists, that supplied the main strain of the Progressive Movement, and the Midwestern progressives carried out a realistic program of reform with greater vigor than in any other section.\(^3\)

The leader of the Midwestern progressives was Robert La Follette of Wisconsin, who unquestionably represents the Progressive Movement more thoroughly than any other reformer. As a member of the United States House of Representatives from 1884 to 1890 he had been a Republican regular and had not demonstrated any capacity for liberal thinking. However, his conversion came shortly afterwards, and La Follette never departed from progressive principles. In 1896 he made a campaign for governor and was defeated. But, he had formulated a program of reform which he continued to bring to the people of the

\(^3\) For further discussion of this view see Saloutos and Hicks, 3-56; Nye 182-241.
state, and in 1900 he was finally elected governor. He was unable
to carry out much of his program until after he was re-elected in
1902. In 1906 he went to the Senate, but his successors continued
his policies down to 1914, and Wisconsin became a model of pro-
gressive reform. The direct primary, the initiative and referendum,
a corrupt practices act, an anti-lobby law, a merit system for minor
officials, a state income and inheritance tax, women and child labor
laws, pure food legislation, an industrial safety law, a workmen's
compensation act, and establishment of a tax commission were all
established. Railroads and other utilities were brought under con-
trol; specialized commissions made up of experts helped to provide
efficient government. In his devotion to government in the interests
of all the people La Follette inspired progressives everywhere.

Wisconsin was the outstanding example of Midwest progressivism,
but other states differed only in detail. In Iowa Albert B. Cummins,
a former railroad lawyer and governor from 1902 to 1908, led the
movement. Cummins vigorously attacked the state's railroads and
corporations, advocated a lower tariff, and succeeded in getting a
program of progressive legislation although it fell short of the
Wisconsin program. John A. Johnson of Minnesota, like Burke a
Democrat in a normally Republican state, served as governor from
1904 to 1910, and under his leadership freight rates of railroads
were lowered ten per-cent, an anti-pass law and a two cent passenger
fare law were passed, insurance was regulated, and cities were per-
mitted to operate utilities, although the direct primary was not
enacted until 1912 after Johnson had left office. In 1904 Joseph
W. Folk, who had exposed the corrupt bosses of St. Louis, was elected
governor of Missouri, and during his four years in office Missouri
enacted legislation establishing more effective regulation of railroads and public utilities, a direct primary law, an anti-lobby act, a child labor law, a constitutional resolution for the initiative and referendum, and other progressive legislation. Reform programs were enacted in South Dakota after the election of Geo Crawford in 1906, in Kansas after the election of Walter Stubbs in 1908, in Nebraska after the election of George Sheldon in 1906, and in Illinois after the election of Charles S. Deneen in 1904. All followed the general pattern set by Wisconsin.

Before turning to John Burke and the North Dakota progressive movement, a few general characteristics of these Midwest programs should be considered. First, they were all marked by adoption of the measures intended to extend democracy and ensure democratic control. The direct primary was adopted and became a permanent institution in the area. In most cases the initiative and referendum, a preferential vote for Senator, and the presidential preferential primary were added features. Anti-lobbying and corrupt practices acts, which were attempts to protect the operation of democracy, were often adopted. Second, the programs aimed at controlling the power of big business. In addition to legislation against the hated railroad-rate fixing, expansion of the power of railroad commissions, two cent fare laws, and anti-pass acts—measures regulating light and power companies were enacted. Third, the reformers of the Midwest carried their program over into national affairs. It was the Senators and Representatives of this area who led the fight against the Payne-Aldrich tariff in 1909 and limited the power of the Speaker of the House, Joseph Cannon, who controlled the House of Representatives in the interests of the business classes. It was they who
formulated and advocated a program of national reform to include postal savings, conservation, the income tax, and stronger railroad regulation. Finally, it was these Midwest insurgents who led the movement which split the Republican party in 1912, and to a large extent it was their program, which had been developed through the long years of agrarian struggle, which provided the basis for Woodrow Wilson's New Freedom and Franklin Roosevelt's New Deal.

Meanwhile, in North Dakota in the years from 1892 to 1906 the McKenzie machine had increased its control of the Republican party and had tied itself more closely to the Eastern capitalists. McKenzie no longer merely represented the Northern Pacific. His new clients included the Great Northern, the state's other leading railroad, Minneapolis grain elevators, and eastern banking interests. Although he usually appeared in the state before nominating conventions or sessions of the legislature, he generally lived in a suite of rooms at the Merchants Hotel in St. Paul, Minnesota. When campaigns rolled around, there was an exodus of politicians to the "throne room," which McKenzie's residence came to be called, where the decisions as to Republican candidates and issues were usually made. McKenzie, Republican national committeeman for North Dakota, also had considerable influence on the national scene; he was a personal friend of Mark Hanna, and although his activities were largely secret, he was generally recognized as one of the strongest Republicans.

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4 An example of McKenzie's secretiveness is the fact that not until after his death was it known that he had remarried in 1890 after he had divorced his first wife. His second wife had lived in New York during the period of McKenzie's prominence in the state, and the union produced three children. Even McKenzie's closest friends knew nothing of the marriage. Cary, 50.
in the Northwest. The leadership of the machine still included Judson LaMoure, perennial state senator and chairman of the appropriations committee of the North Dakota State Senate, and H. C. Hansbrough, who had been re-elected United States Senator in 1902. New leaders included Porter J.McCumber, a lawyer from Wahpeton, who had been elected to succeed Roach in the Senate in 1899. McCumber, originally from Illinois and a graduate of the University of Michigan, had served in the territorial legislature and had earned McKenzie's support by his aid in the capital removal. Others were E. G. Patterson, proprietor of the McKenzie Hotel in Bismarck; C. B. Little, a banker from Bismarck and chairman of the judiciary committee in the state senate from 1899 to 1909; C. A. Johnson, a lawyer from Minot; Edward Pierce, a lawyer from Ransom County; James Kennedy a contractor from Fargo; and M. H. Jewell, editor of the Bismarck Tribune. It is of course difficult to know exactly how much personal control McKenzie exerted over the Republican organization. It was often said that no one could successfully run for city dogcatcher without his permission, and his enemies thought his control absolute. The degree of McKenzie's personal authority, which appears to have been considerable, is unimportant. What is significant is that North Dakota was a state

5 Bruce, 25-26; Usher L. Burdick, History of the Farmer's Political Action in North Dakota (Baltimore, 1944), 58-60.

6 Hennessy 47a-47b.

7 Bahmer, 376.

8 Bruce, 25.
controlled in the interest of eastern capitalists, and McKenzie was the symbol of that control.

Before 1906 the Republicans had encountered little opposition from the Democratic party. Since the Fusion of 1892 the Democrats had not elected a state official, and in 1904 they reached a low point of influence. Their candidate for governor lost 48,026 to 16,144, and in the next legislature only five out of forty senators and only one representative out of a hundred members of the lower house were Democrats. There was no reason for Democrats to suspect that 1906 would be any better. The wheat crop of 1905 had been the largest in the history of the state, and the price had been fair. The Democrats usually did better in lean years of discontent.

Although the Democrats presented virtually no opposition to the domination of the McKenzie machine, a reform movement had developed within the Republican party, which, although unsuccessful in naming any candidates, had succeeded in securing a considerable number of progressive laws. These reform acts were grudgingly won from the "old guard" leaders, and although they were important, they did not strike at the real problems of the state, and represented only slight concessions which failed to satisfy the demands of the liberal element of the party. Nothing was done that significantly weakened either the power of the machine leaders or the corporations they

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9 Legislative Manual, 1911, 226.
10 Ibid., 178-181.
11 For statistics on the general level of prosperity during the period see Table I.
represented, but the large amount of this minor reform legislation indicates that sentiment for change was developing and was becoming important, and that the Republican organization felt compelled to go along with it to a limited extent in order to retain its control.

The greatest gains made were in securing legislation designed to ensure purity in manufactured products, and in this one small phase of social reform North Dakota led the nation. Chiefly because of the ability and endless efforts of Professor Edwin F. Ladd, a chemist at the North Dakota Agricultural College after 1890, a pure food law was enacted in 1903 which served as a model for national legislation on the subject. The law, in addition to setting up standards, established a Food Commissioner to be in charge of enforcement, and Ladd was named to the office. It proved to be an excellent choice, and Ladd, through extraordinary persistence, was successful in carrying out the law. He continued to agitate for further legislation, and in 1905, pure drug, paint, and formaldehyde acts were enacted. Ladd continued to serve as Food Commissioner down to 1912, and throughout the period a large amount of social legislation which he had advocated was passed. Ladd is recognized

12 Laws of the Session, 1903, 9-12.


14 Formaldehyde was important to the North Dakota farmer as it was used to treat wheat in order to prevent smut. Valentine, 19.

as a leading figure in the establishment of the national Pure Food and Drug Act of 1906, and similar laws in other states and one biographer has called him, "North Dakota's greatest citizen." 16

The reformers had also secured other progressive laws, many of which were attempts to begin the regulation and control of business interests in the state. The 1899 legislature had established a twine plant at the penitentiary and had adopted a resolution calling for national grain inspection. 17 In 1903 some minor railroad regulatory regulation had been passed probably the most important of which was a provision against long-and-short-haul discriminations, 18 and a group of laws were enacted which controlled the organization and operation of insurance companies in the state. 19 The year 1905 was even more productive of reform legislation. The passage of pure products acts has already been mentioned. In addition, the "bucket shop", where trading in margins on grain and other agricultural produce was carried on, was outlawed; insurance legislation was expanded; an inspection system for oil and gasoline shipped into the state was established; a state banking board with regulatory powers was set up; and an anti-trust law was enacted which defined

16 Sigerseth, 23.


18 Laws of the Session, 1903, 194.

19 Ibid., 145-151.

20 Ibid., 1905, 88-89.

21 Ibid., 228-232.

22 Ibid., 248-253.

23 Ibid., 283-296.
trusts and conspiracies in restraint of trade and imposed a $2000 fine for violation. Although these were important laws as long as they were administered by officials controlled by the McKenzie organization, there was little danger that measures curtailing the operation of corporations would be stringently enforced.

The progressives were far from satisfied with these accomplishments. They had made a beginning in a reform program, but what they really wanted was control of the government, partially, no doubt, because they wanted in office, mainly, however, because they were convinced that it was the only way a full program could be achieved, for they realized that any concessions they might win from the "old guard" could be removed at the first weakening of progressive fervor so long as these leaders remained in power. The device upon which they pinned their hopes was the direct primary. Each session after 1896 demands for the measure were presented to the legislature, and in 1904 the progressives succeeded in getting a direct primary plank into the Republican platform. It appeared that the law would be adopted in 1905, but after a bitter fight in the legislature the machine leaders succeeded in modifying the proposal so that it would be applied only to county officials and to members of the state nominating conventions and not directly to state officials.

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25 The term "progressive" did not come into general usage until 1911. Before this time the members of the reform faction of the Republican party generally called themselves "insurgents". However, in order to avoid confusion of terminology the later term has been used throughout this study. Whenever the term "insurgent" appears in quotation it may be considered as meaning a Republican progressive.

26 Laws of the Session, 1905, 207-216.
progressives were badly disappointed, but they were nevertheless determined to make a fight to control the nominating convention in 1906. Late in the year the Republican Good Government League was established to organize their efforts.

The head of the State Good Government League and the leader of the progressive revolt against the McKenzie machine was George Winship, editor and owner of the Grand Forks Herald. Winship, born in Maine in 1847, had moved to Minnesota with his parents at the age of ten. Before coming to Grand Forks in 1874 he had worked in a stone quarry, served in the Civil War, and learned the printing trade. In 1879 he established the Grand Forks Herald which became the most influential paper in the state. As a state senator after 1889 he had been closely associated with the machine, but he broke with McKenzie, and in 1898 and 1900 was the unsuccessful reform candidate for governor. Winship after 1900 became a convert to the La Follette experiment in Wisconsin, and in his vigorous editorials, frequently reprinted throughout the state and widely circulated, he called for changes in the nominating system, control of the railroads, and overthrow of McKenzie and corporation control of the state. Winship’s progressive views were undoubtedly sincere, but two other important leaders of the movement could hardly be classed as having liberal ideas.

Burleigh F. Spalding, a lawyer and banker from Fargo, and Martin N. Johnson, a farmer from Petersburg, were both dissatisfied with the machine but largely from personal reasons, and neither of

27 Bruce, 29; Hennessy, 626-627.
them proved by their later action that they were in sympathy with the objectives of the movement. Progressivism was becoming a popular cause, and they probably saw it in an opportunity to advance their ambition for office without ever accepting the principles for which progressives were fighting. Nevertheless, they did supply leadership to the movement which was badly needed at the beginning.

Spalding, who was influential in organizing the Good Government League, like Winship, had been very closely tied to the old guard at one time. He had been a member of the Capital Removal Commission with McKenzie, a member of the state constitutional convention in 1889, and during the 1890's was high in the councils of the Republican party of the state as a member of the state central committee of the party for five years. In 1898 he was elected to Congress, but although very conservative in his views, he resented machine dictation, and in 1900 was dropped in favor of Thomas Marshall of Oakes. When the state got a second Representative in 1902, he was once more elected, but was dropped again in 1904 in favor of Asle J. Gronna of Lakota in order to pacify the large Norwegian vote in the state. This left Spalding resentful, and he actively joined the campaign against McKenzie, without being a progressive at all.

Johnson's story is similar. He was a member of the United States House of Representatives from 1890 to 1898, but he always wanted to be United States Senator. In 1898 he was an active candidate for the Senate and received a majority of votes for the office in the Republican caucus in the 1899 legislature, but because of the opposition of the McKenzie-LaMoure forces when the election came to the floor,

28 Bruce, 29-30; Hennessy, 161b-161a; Bahmer, 379-380.
he was defeated by McCumber. From that time on Johnson became a bitter enemy of the machine. Another prominent leader of the movement was John Sorley, a lawyer from Grand Forks and a former state senator, who organized the state Scandinavian League in the fall of 1905 in an effort to draw the Norwegian vote from the machine.

As the pre-primary agitation got under way late in 1905 and early in 1906, the progressive press concentrated on the general issue of corporation control of state government, "McKenzieism", as it was most generally called, and more specifically on two acts passed by the 1905 legislature, the Streeter Libel Law and the Capitol Commission Act. The Streeter Libel Law so narrowly defined libel that it appeared that if the law was enforced it might suppress press attacks on the machine. The Capitol Commission Act, declared unconstitutional shortly after its passage seemed to have presented an opportunity for corruption in the building of a new capital. Instead of requiring the commission to make a plan and then to solicit bids on it, the law would have allowed contractors to submit any plan they desired with a bid on their own plan. If not an attempt to let the contract to some predetermined builder, it was at least highly irregular. Under the leadership of Spalding, the measure had been carried to the state supreme court, which supported the progressive's arguments and nullified the law.

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29 Hennessy 61b-61a; Bahrer, 378.
30 Bruce, 29.
31 Laws of the Session, 1905, 207-216.
32 14 North Dakota Reports, 532-541.
With the publication in January, 1906, of the first installment of Rex Beach's "The Looting of Alaska" in *Appleton's Booklover's Magazine* the progressives were presented with a ready made issue much more colorful and effective than anything they might have devised in state politics. 33 "The Looting of Alaska" told in typical muckraking fashion a sensational tale of a gigantic conspiracy on the part of McKenzie, assisted by Senator Hansbrough, to gain control of the gold mines of Alaska. The story as told by Rex Beach, who had been in Alaska at the time of the conspiracy, although written in melodramatic fashion, was very close to the actual facts, and, if anything, McKenzie's part in the scheme was darker than 34 Beach portrayed it. In 1900, after the discovery of gold in Alaska, McKenzie had organized the Alaskan Gold Mining Company to buy and speculate in Alaskan mining claims. Many of these gold claims had been established by aliens, and under the existing mining laws of the United States their claims were largely protected. Only the government could bring suit in dispute of an alien claim; at any time the alien declared his intention of becoming a citizen his claim became valid; and an alien claim sold to a citizen could not be disputed. McKenzie had first tried to gain control of the mines by attempting to secure a change in these laws. When a territorial


34 Lillo, *passim*; the following material on the conspiracy is based on this account.
code for Alaska was being considered in the United States Senate, Senator Hansbrough introduced an amendment to the mining laws which would have permitted an individual litigant to bring suit for an alien claim and which would have declared invalid all sales of a claim by an alien. The attempt failed chiefly because of the opposition of Charles D. Lane, a millionaire from California who had bought up alien holdings, and the resistance of two Senators, William A. Stewart of Nevada and Henry M. Teller of Colorado, who were experts on the mining laws and saw through the scheme. However, McKenzie was not deterred. Apparently through his influence with President McKinley he secured the appointment of a personal friend, Arthur H. Noyes of Grand Forks and Minneapolis, as judge of the Alaskan Second Judicial District, where the valuable properties were located. In Judge Noyes' court, with the backing of the army, all disputed claims were thrown into the receivership of McKenzie, and he began working the claims. The scheme almost succeeded, but Lane got an injunction against the action in the Federal Circuit Court of Appeals of California. Despite the court order, McKenzie refused at first to return the gold he had mined, although he was eventually forced to by the arrival of troops to carry out the injunction. He was tried for contempt of court, convicted, and was sentenced to a year in jail. Noyes was removed from office and fined $1,000, the court declaring that his high-handed procedure was without "parallel in the jurisprudence of this country."35 If it had not been for friendly officials in the Department of Justice,

both men would probably have been tried for conspiracy against the United States, but McKenzie consistently had influence when and where it was needed. Shortly after he entered jail, he was pardoned by President McKinley on the grounds of ill health through the recommendation of the Department of Justice and the efforts of Senator McCumber. In spite of the supposedly serious condition of his health, McKenzie was able to sprint to the railroad station after his release from jail and to live without serious illness until 1922.

Little attention had been paid in North Dakota to McKenzie's adventure at the time it had occurred. Alaska was a long distance away, and conviction for contempt of court seemed like a not too serious technical matter. Not until Rex Beach's series of articles was the story fully known in the state. But in 1906 the progressive and Democratic papers in the state were quick to familiarise every possible voter with all details of the plot. The Appleton company released its copyright on the articles; several newspapers issued supplements reprinting them; and editorial columns day after day were filled with comment on the conspiracy. The Towner Democrat had a typical statement:

'The Looting of Alaska'...is a remarkable and almost unbelievable revelation of political jobbery and highway robbery perpetrated by a gang of unprincipled scoundrels, chief among whom are the republican leaders of North Dakota.'

The articles were wonderful campaign ammunition full of quotable comments which were often repeated. Beach stated that McKenzie was "in fact the Republican Party of North Dakota," and called him "the biggest 'hidden' politician in the whole Northwest." He quoted McKenzie as saying "Give me a bunch of Swedes and I'll drive them like sheep," a statement which could not help but alienate a large share of the Scandinavian voters of the state if they could be persuaded to believe McKenzie had said it.

With this concrete example of corruption before them the progressives could enlarge the large general issue of corporation control of government, "McKenzieism", "bossism", or "gang rule", as it was variously called. The progressive press pointed out that in view of these revelations the time had come to make a choice between continuance of this type of government or complete reform. There was no middle ground; the voter must either be for McKenzie or against him. "Purity in Politics" became the frequent motto of county Good Government Leagues. The Grand Forks Herald, which took the lead in formulating progressive sentiment declared:

There is just one issue before the people of North Dakota this year; and that is whether the people are ready to take charge of their own government or will permit three or four bosses to manage in their own interest and according to their own caprice . . . . The people know that the political

37 Beach, loc. cit., (January, 1906), 11.
38 Ibid., (March, 1906), 294.
39 For identification of progressive state newspapers see bibliography.
40 Bottineau Courant, quoted in Grand Forks Herald, April 22, 1906.
government of this state has been an atrocious scandal, and they are earnest in their desire for better things.

In addition to attacking the McKenzie machine, the progressives took other action. Spalding made a tour of the state attempting to line up the party leaders in support of the movement, apparently without much success. In several counties of the state where progressive sentiment was strong, Good Government Leagues were organized to actively campaign for delegates to the nominating convention. Spalding and Johnson went on a speaking trip, attacking McKenzie, Gronna, and other machine leaders. The former in one speech quoted McKenzie as saying that his reason for opposing a direct primary law was that the measure "would give all the offices to the d-----d Norskes", which indicates the tenor of their campaign. The progressives also attempted to woo Congressman Thomas Marshall, who had considerable independent strength, away from the machine. Marshall had sponsored a law passed by Congress removing the tax on industrial alcohol. The measure was popular in North Dakota and had brought Marshall considerable recognition. The Oakes Times said that Marshall had thereby aroused the jealousy of McCumber and Hansbrough, who feared that he might have his eyes on the Senate. Winship reported in the Herald that the machine had been unable to control Marshall in Congress, and that he had aroused the anger of the organization

41 Grand Forks Herald, April 8, 1906.
42 Bahmer, 381.
43 Grand Forks Herald, June 9, 1906.
44 Cited in Grand Forks Herald, May 19, 1906.
leaders by refusing to contribute to the establishment of a "gang organ" in Grand Forks. The progressives also attacked the two Senators, McCumber was denounced for opposing the Hepburn Act, (1906) and Hansbrough for his general tie-up with the corporate interests in the Senate. The latter had been badly muckraked by Marion E. Pew in a series of articles on the Senate in the St. Paul Daily News. She had branded Hansbrough as a generally undesirable Senator, and her protest was given wide circulation in North Dakota. The controlling issue of the pre-primary campaign, however, was McKenzie and the state machine.

The stalwart press during the early part of the year failed to comment on the "Looting of Alaska", although Hansbrough denied the allegations in a campaign document called the "Looting of Men's Characters". However, the progressives could effectively point out, which they persistently did, that the logical answer to the articles, if they were untrue, was to institute a libel suit. The silence the stalwart newspapers observed was probably the best policy they could have followed since the accusations could be substantiated. In regard to the progressive campaign the regular Republican press followed one often repeated line—that the progressive leaders were merely a group of disappointed office seekers who were using reform principles to advance their selfish desire for political gain. The Bismarck Tribune, for example, said of Winship:

45 Grand Forks Herald, May 29, 1906.
46 Article reprinted in Grand Forks Herald, January 28, 1906.
47 For identification of the stalwart newspapers see bibliography.
Having long sought political preferment unsuccessfully at the hands of the 'machine' Editor Winship has come through the fire purged and cleansed and, conscious of the happiness that comes through a simple desire for the elevation of the whole human race, is anxious to spread the good tidings and let others be glorified as he has been. 48

The Fargo Forum observed "that the sincerity of the motives of the "insurgents" may well be questioned when its ranks include so many, so very many, who are disappointed aspirants for political favors." 49

There was perhaps a good deal of truth in the accusation. The stalwart press failed to consider the issues advanced by the progressives, and the leaders relied on tradition and a well developed organization to bring victory in the primary.

Two mayoralty elections of April 2, 1906, showed the sentiment of the state and indicated that the Democratic party was not entirely dead. In Grand Forks George E. Duis, a farm machinery dealer who had purchased the Grand Forks Evening Press during the year, beat the incumbent Republican Mayor, J. A. Dinnie. Duis, a progressive Democrat was soon to develop into one of the leading figures in the state party. In Minot Dank C. Greenleaf, another Democrat, beat R. H. Emerson. Both campaigns were conducted on the issue of "McKenzieism", and the Republican progressives supported the Democratic candidates in both cities. The progressive press viewed the elections as "the first battle of the campaign" 50 in which was shed "the first

48 Bismarck Tribune, May 7, 1906.

49 Fargo Forum and Daily Republican, January 10, 1906; hereafter cited as Fargo Forum; for other typical comments see Bismarck Tribune, April 7, 1906; Goodrich Citizen quoted in Daily Ward County Reporter (Minot), June 7, 1906.

50 Grand Forks Herald, April 1, 1906.
blood of the impending struggle against the rule of McKenzie's bunch."

"The issue was McKenzieism," observed the Valley City Times-Record, "and the result shows the people have no more use for the looters of Alaska." The LaMoure Chronicle thought the results meant that the "awakening of the people" which was sweeping the nation had finally reached North Dakota and believed it marked the "beginning of the end of McKenzieism." The Democrats saw good reason for optimism. Duis' Grand Forks Evening Press, considered the election "the renaissance of the democratic party of the state..."

On June 19, North Dakota held the first primary election in its history to name candidates for local offices, the legislature, and to elect delegates to the Republican and Democratic state nominating conventions. There was almost no contest for the Democratic convention seats, but the spirited Republican campaign had produced sharp fights within the party. However, with so many candidates in each county it was almost impossible to know who represented the stalwarts and who the progressives. A voter's opinion of the results depended on which paper he read. The Grand Forks Herald gave 199 seats to the progressives, 176 to the stalwarts, and called 92 doubtful. The Fargo Forum gave 324 seats to the progressives.

51 Lidgerwood Broadaxe, quoted in Grand Forks Herald, April 8, 1906.
52 Quoted in Grand Forks Herald, April 8, 1906.
53 Quoted in Grand Forks Herald, April 15, 1906.
54 Grand Forks Evening Press, April 4, 1906.
55 Grand Forks Herald, June 24, 1906.
stalwarts and 143 to the progressives, and the Bismarck Tribune gave 340 out of 467 seats to the stalwarts. These estimates varied a good deal from one day to another during the next month.

However, by the time of the Republican convention at Jamestown, July 12, it was reasonably certain the stalwarts would dominate the gathering. Their leaders had got to work, and delegates whose position had been uncertain were swung into line by the old techniques which had been successful many years. The Minneapolis Journal commented two days before the convention: "Peace reigns over the ranks of the North Dakota stalwarts, and as far as the state organization is concerned, the convention at Jamestown will be nothing but a ratification."\(^{58}\) Such proved to be the case. The progressives had attempted to line up Marshall with their faction, but he had refused to break with the organization. After E. A. Williams of Burleigh county, the machine candidate for convention chairman, defeated R. M. Pollock of Cass county, 306 to 160, it was clear they had no chance. Elmore Y. Sarles was renominated for governor over M. N. Johnson, 292 to 174, and the rest of the machine slate went through without a hitch.\(^{59}\)

The progressives did secure a concession in the adoption of a resolution by the convention favoring the direct primary for state officers and Congressmen, including an expression of senatorial

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\(^{56}\) Fargo Forum, June 22, 1906.

\(^{57}\) Bismarck Tribune, June 21, 1906.

\(^{58}\) Quoted in Fargo Forum, July 10, 1906.

\(^{59}\) Grand Forks Herald, July 13, 1906; Bismarck Tribune, July 13, 1906.
preference, but they were far from satisfied. Two of the nominations particularly aroused their discontent, that of Sarles and that of John Knauf for judge of the State supreme court. Sarles, a banker and farmer of Hillsboro, did not have a bad record as governor, but he was doing little to disguise his close connection with McKenzie, and, he had used his control of the state patronage to fill offices with McKenzie supporters. He had also antagonized the progressives by his advocacy of the capitol commission law. The nomination of Knauf was even more distasteful. The progressives wanted a non-partisan judiciary and had gone to the convention pledged to the support of Charles J. Fisk of Grand Forks, who was a well known and respected district judge, but a Democrat. However, the stalwart leaders had ignored their demands and had pushed through the nomination of Knauf, a local boss of Stutsman county, who had no experience as a judge and little as a lawyer, but whose ability to deliver the German-Russian vote in Stutsman county, which he had been doing for years, put him in line for a political plum. The progressives went home discouraged and angry, and, what is probably more significant, convinced that they had been beaten unfairly. The Grand Forks Herald claimed that the stalwarts had controlled the convention through the use of free railroad passes, observed: "The campaign was a corporation campaign, and the victory represented in the nomination of the ticket was a corporation victory." 60 The Democratic Bathgate Fink

60 Grand Forks Herald, July 15, 1906.
Paper considered the progressive campaign a complete failure. In spite of the progressives' vigorous pre-convention efforts, "the same old methods prevailed at the convention; the same class of candidates received nomination . . . . Seemingly the old gang did not know there had been a protest."61

Meanwhile, the Democrats, viewing the troubles within the Republican party, were optimistic as to their own chances. On May 2, 1906, the Grand Forks Evening Press declared: "The bosses say that the reform movement is playing into the hands of the democrats. Sure it is. A democrat can get out in the state now and tell the people what he stands for with some chance of being heard . . . . They are willing to judge him by what he is and what he stands for,"62 and told the party that "It's about time that our nap was over."63 Although the Bismarck Tribune thought that the Democrats had about as much chance of carrying North Dakota as "the republicans of carrying Texas," their meetings before their convention were reportedly more enthusiastic than they had been in years. Several possibilities were mentioned as candidates for governor, the only major office where they might have a chance: George Duis and D. C. Greenleaf, who had won the mayoralty elections; John L. Cashel of Grafton, a banker, state senator, and a prominent figure in the party; and Burke.65 The latter appeared to be the leading candidate, and

61 Quoted in Devils Lake Journal, July 26, 1906.
63 Ibid., May 4, 1906.
64 Bismarck Tribune, July 24, 1906.
newspapers frequently predicted that he would be named. The Fargo Forum, for example, thought he had the best chance of gaining the nomination if he would "consent to be slaughtered." Burke apparently had no ambition to run for the office. He was willing to accept the nomination for judge of the supreme court, but Charles Fisk, who had been supported by the progressive Republicans at their convention, had dissuaded him from seeking that position. However, leading Democrats seemed to have no doubt that he would agree to run for governor if he was given the nomination, and considerable work had been done for him before the convention. He had proved a good vote-getter in earlier elections; he was identified with the liberal wing of the party so that he might draw disgruntled progressives votes from the Republican party; and he had established a state-wide reputation as lawyer. Since 1906 might conceivably be a year in which the Democrats could win, they wanted as strong a candidate as possible, and knowing Burke, they realized that even though he might accept reluctantly he would put up a vigorous fight for election once he had accepted. His name was presented to the convention held at Minot on August 2, and he was nominated unanimously on the first ballot. He later told the story that when his name was presented, he started to rise from his seat to decline, but that two friends sitting near him held him in his seat until after the balloting. Ten years later Burke wrote of the convention:

66 Fargo Forum, July 18, 1906.

67 Interview with Justice Thomas J. Burke, September 13, 1951.
I never asked for an office but once in my life. That was in 1906 when I told my friends in Minot that if they were bound to nominate me for something, to nominate me for judge of the supreme court and they turned it down. I went out to Minot in self defense to prevent the convention nominating me for governor. I felt as though I could not afford to take the office, even if I was elected, for I had at that time as good a practice as any lawyer in the state.

J. B. Eaton, a Democratic leader from Fargo, asserted after the convention: "Burke accepted the nomination . . . with great reluctance . . . He had a lucrative law practice and was obliged to sacrifice his personal interest when he accepted the nomination. He only consented when we told him that he was the only man we could hope to elect. Although Burke may have agreed to run under protest, there is no reason to believe that he regretted the decision. Burke, an extrovert, was at home in the political arena, and he loved the controversy and color of campaigns and political battles. Not a complex man, the distinction and popularity he won as a political leader probably more than compensated him for his economic loss in serving in public office. The Democrats nominated Fisk for the state supreme court post and drew up a set of resolutions which put them in the mainstream of progressivism and which were designed to appeal to dissatisfied progressive Republicans. Since 1896 under the influence of Williams Jennings Bryan, who was extremely popular among North Dakota Democrats, the state party had gradually turned into a party which advocated reform and by 1906 it was almost entirely controlled by liberals. In addition to endorsing Bryan for


69 Fargo Forum, November 9, 1906.
President in 1908, the resolutions called for the equal taxation of property in the state, the direct primary for all elected officials, the senatorial preferential primary, expanded powers for the state railroad commission, the initiative and referendum, and an affective anti-pass law. They also requested the state of Minnesota to amend her unpopular grain grading law, condemned the capitol commission law, and demanded repeal of the Streeter libel law. The resolutions concluded by asserting: "The political affairs of the state of North Dakota are controlled by the railroads. We call upon the citizens of the state to assist in relieving the state from such domination."^0

In a statement to the press after his nomination Burke did not comment on issues but voiced his objections to being compared to Lincoln and to the prefixing of "Honest" before his name. "Everybody is supposed to be honest until he is proven to be otherwise. There has been only one Lincoln and there will probably never be another. I do not wish to be compared with him."^1 Nevertheless, the public role he assumed was that of a simple, homespun man who believed in the eternal verities, was thoroughly honest, and was pledged to enforcement of the law and to government in the interests of all the people, but with no complex, specific program of reform. He looked the part of the simple but honest leader. Over six feet tall, thin, angular, and slightly stooped, he could not be called

70 Grand Forks Herald, August 3, 1906.
71 Fargo Forum, August 3, 1906.
handsome. His face was slightly scarred, his features rough-hewn, and his nose and ears large. Nor did he dress well, but his generally homely, gaunt appearance contributed to an impression of honesty and sincerity. Although not a spectacular speaker he could evidently convince people of the genuineness of his views by simple, straightforward presentation. He had an effective sense of humor which he employed to advantage as a speaker although much of the humor in his speeches seems heavy-handed and outdated when read today. His friends remembered that he was an excellent story teller and always ready for a quick reply for a heckler.

To comment on Burke's personality and character is difficult. Burke had very few enemies, and even during bitter political campaigns he was seldom attacked very vigorously by his opposition. People who knew him, even those who opposed him politically, remember him with great admiration and respect, and he seems to have been a man who inspired deep feeling in people he met even casually or those he spoke to from the platform. In the eyes of many he seems to have become a symbol of the best qualities of men in public office and in life: uncompromising honesty, high convictions, and devotion to duty. If there were less commendable sides to his character, they were never revealed. The correspondence of his later years, which has been preserved, does not reveal a great deal about his personality. His letters were usually terse and businesslike, and if they were occasionally personal, the feeling revealed is generally conventional. Occasionally his letters demonstrate that he was rather boastful and at times slightly vindictive. More often, however, they indicate a man who was deeply sympathetic toward people and their problems, and a man who never compromised
with principles of conduct which he considered valid.

Burke's high moral principles were probably conditioned by the religious views which he had learned as a child. People who knew Burke thought that he was deeply religious, although he made no show of it, but that his religious views were the result of training and were seldom submitted to intellectual inquiry. That his beliefs were rather conventional is indicated by his approval of William Jennings Bryan's familiar story to prove the existence of God. William Langer, present United States Senator from North Dakota, has told of a time when he and Burke were returning from a funeral and fell into a discussion of the immortality of the soul. Langer remembered that Burke said:

I haven't any patience with men who are atheists. I discussed that matter with William Jennings Bryan, and Mr. Bryan said, 'How can anybody doubt when yonder black cow eats green grass that turns into white milk, that yields yellow butter.'

Burke one time made the statement that he thought religion essential to popular government. "The people must have religion. There has been no greater saving force in the life of the American nation than pure religion." 73

Burke was not an intellectual man who analysed problems very deeply, but he read widely and showed considerable knowledge of history and politics. He had an excellent memory for what he read, which contributed to his success as a lawyer and judge. In writing legal opinions and handling cases he did not rely on legal analysis

72 William Langer in Memorial Services.
73 Grand Forks Herald, November 4, 1910.
but rather depended on remembering an enormous background of legal precedents. He had no real hobbies aside from reading, and he was ardently fond of classic drama, poetry, and novels. Shakespeare's plays were among his favorites, which he often re-read, and he was able to quote large sections of them from memory. His favorite book was Victor Hugo's *Les Misérables*, which he re-read several times during his life; other favorite authors were Dickens, Balzac, and Dumas. His favorite poet was Robert Burns; he became something of a local authority on Burns' work and life and frequently gave speeches and wrote papers about him. Burke was impressed by this Scot's humanitarianism and seems to have had a genuine love for him. Burke's son, Thomas, remembered that his father would often sit late into the night reading poetry or plays aloud in his study.

During the years 1895 to 1906, Burke's political views had undergone a definite transformation. From a very conservative legislator (1891-1895) he had changed into a leader who was sympathetic to the cause of progressive reform. The switch was not unusual; many progressives, La Follette, for example, made it and there are many reasons for Burke's conversion. It was partly the result of coming to an understanding of the problems American society faced, as the need for change became more and more evident. Burke was a humanitarian, and in view of the kind of man he was, it was, after all, almost a foregone conclusion that he would never defend selfish interest against the interests of the whole people. It was partly a result of the change in the Democratic party after 1896. Under the influence of its great leader, Williams Jennings Bryan, the Democrats had become, for the most part, a party of reform, and Burke had a strong sense of party loyalty. The change is not as
striking as it might appear at first glance. Progressivism was
different in many respects from the programs of the farm movements.
There is no evidence that Burke ever sympathized very strongly with
agrarianism, but social and election reforms were something for
which most people who were not completely blinded by narrow interest
could understand the need. Burke never showed much comprehension
of the economic problems of the state or the economic basis of pro­
gressivism, and this failure probably weakened his career as a re­
former.

Burke's excessive concern with legality also reduced his effec­
tiveness. Although later in life as a State supreme court justice
he revealed a liberal approach to the law, he still held it in great
veneration. To him the problem of reform was largely a matter of
instilling respect for the law and providing for its adequate en­
forcement. Concerning Burke's theory of government, the Grand Forks
Herald commented in 1910:

Burke's theory of government is simple and commonplace.
It involves no fine-spun casuistries, no quibbles, no
evasions. It includes, chiefly, the elements of simple,
common, honesty, a recognition that the obligation of an
official are to the people of the entire state, and in­
dustry and energy in the performance of duty. 74

As governor he gave several speeches a year on the need for obedience
to and respect for the law. The following from a speech to the Man­
dan High School graduating class in 1907 is a typical example of
his views:

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Grand Forks Herald, October 21, 1910.
No matter whether we think it is unjust, no matter whether we believe in the principles of the law, it is our duty so long as it is the law to respect it and to use our influence to enforce it, because it is the law; because only by enforcing the law is your life, your liberty and your property safe.\textsuperscript{75}

The problems that North Dakota progressives faced could not be resolved by the simple solution of better law enforcement; and Burke as a reformer can sometimes be criticized; but as a man and as a public official he must be admired.\textsuperscript{76}

Although Burke had reluctantly agreed to accept the nomination, once the step was taken he was determined to put up a vigorous fight for election. The task of the Democrats in the campaign was to persuade the dissatisfied Republicans to vote for some of their candidates. They did not expect to elect their entire slate, so they concentrated on the governorship and the supreme court justiceship, offices for which candidates particularly displeasing to the progressives had been nominated by the Republicans. The platform was designed to appeal to reform sentiment, and Burke, who shouldered the burden

\textsuperscript{75} Bismarck Tribune, June 6, 1907.

\textsuperscript{76} The above general material on Burke is based partially on interviews with Justice Thomas J. Burke, September 13, 1951; Mr. Thomas Hall, North Dakota Secretary of State, September 13, 1951; and Mr. Charles Liesmann, Deputy North Dakota Secretary of State, September 13, 1951. For other material see the following: For appearance, Fargo Forum, November 9, 1906; Grand Forks Herald, January 6, 1907; St. Louis Post Dispatch, November 30, 1924, clipping Burke Papers. For character and personality see Burke Letters; Memorial Services, especially addresses of Governor William Langer, Justice Wiley Rutledge, and Justice A. M. Christianson. For religious views see Francis Murphy to Sister Helen Angela, August 16, 1937, Burke Papers; Usher L. Burdick to id., July 26, 1937, Burke Papers; Governor William Langer in Memorial Services. For literary interests see C. L. Young in Memorial Services; Grand Forks Herald, January 28, 1912; untitled speech on Burns by John Burke, Burke Papers. For Burke as a lawyer see George F. Shafer in Memorial Services, C. L. Young in Memorial Services.
of the campaign, shaped his speeches accordingly. He avoided nation­
al issues, leaving those to candidates who had no chance to win, and
concentrated on attacking "McKenzieism" and the railroads, and on
advocating the measures proposed by the Republican progressives.

The Democratic campaign opened in Grand Forks on September 12,
with Burke the main speaker. Tracy R. Bangs, a lawyer from Grand
Forks who introduced Burke, noted that the crowd was small, but he
put the best face on the matter by saying that he thought it a good
sign as it would be better for the party to have a chance to grow
than to make a good show at first and then fade out later. In his
address Burke advocated the direct primary, the initiative and re­
ferendum, and the abolition of railroad passes to public officials.
He denounced the St. Paul bosses of the state, and drew attention to
the examples of Missouri, Massachusetts, and Minnesota, normally
Republican states which had elected Democratic governors in an effort
to rid the states of corporation domination of government. He charg­
ed that the Republican ticket had been named and was controlled by
the Great Northern railroad. He pointed out that the major rail­
roads in the state were taxed on only $9,000 a mile in North Dakota,
while in Montana, for example, they were taxed on $16,000 a mile,
and he called for equal taxation of all property in the state. He
concluded by a direct appeal for progressive Republican votes:

It seem to me that the people whom you deal with politica­
ly, who believe in these principles here, whatever they may
be called, whether you call them republican or democrat; if
you believe in these principles it seem to me that you ought

77 Burke's example was incorrect, for Missouri had been a
Democratic state since the Reconstruction era.
to get under the same common banner and support them at the polls. 78

Burke's campaign was very poorly covered by the state newspapers. None of his speeches are reproduced in full. The stalwart press, which included a large majority of the state newspapers, largely ignored the fact that Burke and the Democrats were even campaigning, and in a sparsely populated state all the papers were small and did not have facilities for anything but perfunctory coverage of a campaign. Even the Democratic papers failed to mention the addresses of Burke very often. However, certain consistent threads are revealed in the scattered reports of his speeches. He regularly praised progressive reformers whether they were Republicans or Democrats—Roosevelt, who was extremely popular in North Dakota at this time, La Follette in Wisconsin, Cummins in Iowa, Folk in Missouri, and Johnson in Minnesota. He consistently attacked McKenzie and railroad control of the state government, pointing out that the existing laws regulating railroads were not enforced, that the railroads dictated the appointment of officials, and that the property of the Great Northern and Northern Pacific was grossly undertaxed in the state. The stalwart Bismarck Tribune in one of its few comments on Burke during the campaign observed:

John Burke's political tune is pitched for the railroads. That's the burden of his song. About all the ills the people are heir to, in Mr. Burke's opinion, are railroads, and their influence through the bosses, over the people. 79

Burke proved to be an excellent campaigner. He was apparently

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78 Quotation from Devils Lake Journal, September 20, 1906; see also Grand Forks Herald, September 13, 1906.

79 Bismarck Tribune, November 3, 1906.
indefatigable, covering most of the towns in the state and speaking seven and eight times a day with only occasional weakness in the power of his voice. It was as spirited an effort as the state had yet seen and attracted wide interest. After his initial address at Grand Forks, which had been poorly attended, Burke drew large crowds wherever he spoke, and there were indications from the beginning that he might have a chance to win. His audiences were enthusiastic, and newspapers began reporting considerable grass roots sentiment developing for him. On the other hand, the Republican campaign seemed to be falling flat. Sarles, Gronna, and Hansbrough made a few speeches stressing the general Republican issues that had always been effective in the past—the tariff, Grover Cleveland, the Civil War, Lincoln, and the slave question, but their addresses aroused little excitement. The Grand Forks Herald, for example, reported that only 130 people had attended a Republican rally at Hatton, and that the only cheering of the evening occurred when Burke's name was mentioned. The Winship organ also asserted that only 41 people had turned out to hear Hansbrough speak at Edmore, and that most of Sarle's audience of 70 adults at Portland had left before his speech was over. The accuracy of these reports can be questioned, but they do supply some indication of the feeling that was beginning to develop in the state. Republican voters were already dissatisfied, and Burke was an ideal candidate to persuade them

80 Grand Forks Herald, September 1, 1906.
81 Ibid., September 1, 1906.
82 Ibid., November 2, 1906.
that the way to express their discontent was to vote for a Democrat. He fitted the role of the simple man of the people perfectly. Poorly dressed and homely in appearance, he looked poor but honest. Opposed by most of the papers in the state and faced by a powerful Republican organization, he was nevertheless willing to go directly to the people with his message, and a voter could sympathize with his underdog effort regardless of his party. The contrast between Burke and Sarles added color. Sarles was handsome, always immaculately dressed, and looked the wealthy man he was. The vigorous campaign of Burke and the interest it aroused unquestionably had a large effect on the outcome of the election.

There were other signs that Burke might have a chance. Shortly after he began his whirlwind tour of the state, the Grand Forks Herald came to his support, and the smaller progressive papers followed suit. Although the progressive leaders did not openly come out for him, Winship's endorsement indicated their policy. The Herald generally approved the test of the Republican ticket, however, with the exception of Knauf; although it did observe occasionally that it might be a good idea if a Democrat or two were elected to the railroad commission, which being under machine control, had failed for many years, to do anything to control the railroads in the state. The controversy during the campaign over the nomination of Knauf also demonstrated the feeling among progressives. On August 15, shortly after the nomination of the Republican ticket, N. C. Young of the state supreme court resigned. Young had wanted to retire to private practice for some time, but he had waited for a successor to be named. Sarles immediately named Knauf to fill out
the remainder of his term. It was a mistake on the part of the stalwarts as the appointment drew attention to the controversy that had accompanied his nomination. Immediately a storm of protest arose. Petitions signed by leading lawyers who questioned Knauf's fitness to serve were circulated in several cities, and Edward Engerud, a progressive member of the court, refused to sit as long as Knauf was a member and said he would resign if Knauf were elected.

In the closing days of the campaign this controversy attracted more attention than Burke's campaign, for it seemed an excellent example of the result of the control of government by a political machine.

Another indication of Burke's possible victory was the open support of his candidacy by the prohibitionists. Prohibitionist sentiment in the state was important, and the drys, although they frequently named an independent ticket, generally supported the Republicans, who had opposed resubmission. However, Sarles, although not a heavy drinker, occasionally went on drinking parties, and a tale of a recent adventure in Winnipeg had particularly aroused their ire. As a result they endorsed Burke who, despite his advocacy of resubmission as a legislator, was known to be a man of high moral character. The state convention of the Women's Christian Temperance Union, held at Fargo, September 26, adopted a resolution in support of Burke. At the meeting Mrs. Elizabeth Preston Anderson of Park

83 Grand Forks Herald, October 13, 1906.
84 Ibid., November 13, 1906.
85 Burdick, 58-60; interview with Justice Thomas J. Burke, September 13, 1951.
River, the fiery president of the organization, denounced Sarles:

Whatever a man's personal habits may be, when he becomes governor of a great state it is expected that he will have respect for the laws of the commonwealth and the sentiment of the people. Governor Sarles has openly defied both of these by serving wine at his official dinners at the executive mansion. His intemperate habits at home and abroad are well known, and have made not only himself, but the prohibition state he represents, the subject of well-merited criticism.

Various Protestant church groups in the state also announced their support of Burke during the campaign for the same reasons. It was significant that Burke, although he was a Catholic, was nevertheless able to attract the support of these organizations. He himself, like a later much more famous Catholic political leader, Al Smith, was extremely tolerant toward other faiths and did not consider religion a political consideration. It is a personal tribute that during his six years in office he did nothing that might have aroused the hostility of Protestants, and the Catholic issue was never raised until Burke became a figure in national politics, and then it was not by North Dakotans. Although this support was important in 1906, prohibition did not figure as strongly as an issue in this election as in later campaigns, and Burke made no direct appeal to the dry vote other than to repeat his stand on vigorous law enforcement.

The stalwart Republicans, in spite of the many indications that there might be danger to their continued domination of the state, apparently did not realize that once again they had opposition. The comments of their press reflected general optimism. They occasionally warned the progressives "to get back in line," apparently

86 Devils Lake Journal, October 4, 1906.
believing they would, but there was no well organized program of attacks on Burke or the other Democratic candidates as were to be advanced in later campaigns. For example, Senator Hansbrough returned to Fargo after his speaking tour highly optimistic:

I have been over the state in the past week and have seen many people. I find there is no serious opposition to the Republican ticket.

I have heard of almost no opposition to Governor Sarles or any other candidate on the ticket and have no reason to doubt that the usual republican majority will be given on election day.87

This statement is typical pre-election oratory, but it does reflect the general tenor of stalwart sentiment. Apparently the many years of large majorities had made them complacent.

The election returns on November 10 were a shattering blow to the stalwarts as the early results from the more densely settled eastern part of the state gave both Burke and Fisk large majorities. Their leads were diminished as outlying districts in the western part of the state came in, but when the final returns were totalled, Burke had beaten Sarles by 5,115 votes (34,434 to 29,309) and Fisk had beaten Knauf by the even larger margin of 8,114 (34,821 to 26,707). The progressive Republican and Democratic strength was concentrated in the large eastern counties of the state with the exception of Cass county, where a strong city machine controlled by James Kennedy existed in Fargo, although the wide margin of victory in these areas was diminished by solid stalwart strength in the thinly populated western counties. In Grand Forks county, the strongest progressive county in the state, partially because of the influence

87 Fargo Forum, September 18, 1906.
of Winship and the Herald, Burke won 3,020 to 1,050 and Fisk 3,459 to 618. This general sectional voting pattern, a direct reversal of the present conservative-liberal sectional division in the state, is of considerable significance. It continued through the period Burke was in office, and it indicates a good deal about the nature of the North Dakota Progressive Movement. The program of the reformers was not agrarian in nature and was made up of demands which frequently had no relation to the problems of the farmer in the state. As strange as it may seem in rural North Dakota, it was somewhat of an urban movement. It naturally had some strength among farmers and it eventually was influenced by agrarian demands, but the main progressive issues—election reform, more efficient government, and law enforcement—never aroused much interest among farmers. The leaders of the movement were businessmen from the towns of the state, and it was there that the cause of progressive reform appeared to be important. The voting pattern illustrates this characteristic. Progressivism never became strong in the sparsely settled western part of the state with one exception—Ward county with its comparatively large town of Minot. It was the eastern counties, where the cities of the state were located, that gave the movement its strength.

For the remaining state offices and the United States House of Representative the Republican pluralities of 30,000 to 40,000 of two years before had been cut to 11,000 to 18,000, which, although decisive, showed that voter dissatisfaction was widespread. It will be recalled that the progressive leaders had made no effort to defeat the entire slate. They felt the election of a Democratic governor would be enough to check the power of the machine, and they
did not wish to wreck their party in the state. The Democrats recognized this and had directed their campaign toward electing only Burke and Fisk, but many Republicans were evidently willing to turn down the entire ticket, so great was their discontent with the McKenzie organization. That the election had attracted considerable attention is shown by the large vote; 64,711 ballots were cast for governor only slightly less than the 66,868 cast for president in 1904. Although cutting deeply into the state offices, to a limited extent the Democrats also made inroads into the legislature no doubt assisted by progressive Republican votes. They elected six senators which with one hold-over gave them seven in contrast to five in 1904 and twelve state representatives in contrast to one in 1904. All these Democratic legislators were from the eastern half of the state. Moreover, several new progressive Republican legislators had been elected. The negligible third party Socialist and Prohibition vote remained relatively constant in the two elections. An obvious but a very important conclusion that can be drawn from the election is that Burke was elected by progressive Republican votes. He was pledged to a program of reform designed to attract these votes, and the result indicated that the belief in reform among many Republican voters was stronger than party loyalty. North Dakota had shown little dissatisfaction thus far with the policies of national Republicanism, but many Republican voters felt that the state Republican party was tied to the corporations, especially the hated railroads, and that

88 Legislative Manual, 1907, 156-157, 190-206.
the state government was no longer representative of the broad public interest. The main issue of the campaign had been "McKenzieism," a single term which came to symbolize something progressives across the nation were fighting: unrepresentative government in the hands of a few men, and government conducted in the interest of powerful business corporations. "The Looting of Alaska" supplied an excellent example of "McKenzieism" and the attempt to elect John Knauf, a local boss of the machine, to a distinguished position provided additional evidence of the character of this type of government. Although the revolt within the Republican party began before his nomination, the election was also a personal triumph for Burke. In spite of the extent of progressive Republican dissatisfaction, not just any Democrat could have won. Burke, an extremely effective campaigner, was able to convince voters that he represented the broad interest of the people, not just the interest of the Democratic party and was able to inspire people with belief in his integrity, honesty, and genuine concern with progressive government.

The letters and telegrams that were sent to Burke after his election demonstrated that many people understood the real issues of the election. In addition to congratulating Burke, one writer congratulated the people of North Dakota "on their success in shaking the shackles of the 'Gang' from their limbs." Another thought Burke's election meant "the downfall of gang rule in North Dakota."

... You expressed the opinion that what North Dakota needs is

89 R. A. Stuart to John Burke, November 9, 1906, Burke Papers.
another La Follette. I think we have found him . . .”

Another knew that Burke would be "the people's Governor" and would give the state "a new era in politics." These are only a few of the many comments that expressed the view that his election meant the overthrow of machine government and the beginning of a government genuinely in the interests of the state. The comment of the newspapers that had supported him expressed the same sentiments. They recognized that the victory was not a party victory but a victory of the people over the bosses. One expressed the view that the Democratic party had merely been an "instrument in the hands of the people."  

On November 17 after the campaign Burke returned home to Devils Lake in a driving early winter blizzard, but in spite of the weather he was greeted by a large and enthusiastic crowd. In the statement he made to the gathering he demonstrated that he was willing to cooperate with the progressive Republicans in his coming administration. He declared that his "victory was not a personal or a party victory, but a victory in which the people of the state had fought a battle for political independence and won." At a dinner in his honor at Fargo he said much the same thing: "This is not a party victory, but a victory of the people of and, God help me, I

90 James Yegan to id., November 12, 1906, Burke Papers.
91 Ben W. Hormer to id., November 12, 1906, Burke Papers.
92 LaMorce Chronicle, quoted in Grand Forks Herald, November 11, 1906.
93 Grand Forks Herald, November 18, 1906.
will stand by the people." At the end of the year Burke reflected the hopes of the progressives, but whether he could live up to their hopes depended partly on conditions outside his control, on the character of the legislature and the laws it passed, and on the actions of other members of the administration who had been named by and were committed to the former policies of the Republican stalwart organization. Only the first battle of the "revolution" had been won, and the next seven years would see a constant struggle to establish the progressive principles which seemed to have been achieved with the election of Burke, a struggle complicated by battles of personality and by issues that had no connection with the fight to gain representative government. But the spirit of reform which had been so important in 1906 was destined to continue through the period.

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94 Grand Forks Herald, December 13, 1906.
CHAPTER III
A PROGRESSIVE GOVERNOR (1906-1908)

After the November election, North Dakota was soon concerned with a more immediate problem than politics, for the close of the year saw the beginning of the most severe winter in the history of the state. Snow storms which slowed or stopped railroad movement struck early before winter coal and food reserves could be built up in outlying areas. Early in December the shortages began to be felt, and they grew worse through January. If no deaths could be directly attributed to the lack of provisions, extreme hardship was nevertheless felt around the state. Newspapers, railroads, and public officials were bombarded with telegrams and letters asking assistance or demanding action. On January 4, for example, the Mohall Commercial Club sent an urgent appeal to James J. Hill, president of the Great Northern Railroad: "No coal, bitter cold, business places closing up. Farmers burning straw and lumber. No wood, no railway coal in the yards ... The situation is desperate." 1 The village of New Rockford telegraphed the Interstate Commerce Commission on January 23 that Lawton, Plaza, and itself were in peril because of lack of supplies: "Must have aid at once. No fuel for ten days. No groceries for three weeks. Cars of fuel for six weeks not received. People are suffering." 2 Accounts of families forced to leave their homes because of the cold, of freight trains ambushed by bands of farmers

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1 Grand Forks Herald, January 5, 1907.
2 Ibid., January 24, 1907.
before they could reach their destination, of railroad property seized and burned for fuel, and similar stories were frequently reported by the state newspapers.

The farmer blamed his normal enemy the railroad for these hardships, and indeed, the railroads were partly responsible. The Interstate Commerce Commission investigated the situation in the state and issued its findings on January 2. Although the report declared that combination between coal dealers to maintain prices did exist, there was no evidence to justify the contention that these producers in collusion with the railroads had caused the lack of coal. Yet, the commission believed that the shortage had been directly created by railroad inefficiency, especially their failure to provide for movement of the large grain crop which had been harvested in the fall and which still clogged shipping facilities. Already angered by the inability to get his harvest to market, the farmer was embittered all the more by the scarcity of food and fuel, and sharpened hostility toward the railroad unquestionably influenced the deliberations of the legislature as it met during the worst period of the coal famine.

When the legislature convened on January 7, it was evident that the session would be heated. The night of the eighth M. A. Hildreth, a prominent Democrat from Fargo, and Alexander McKenzie had a vigorous argument in the lobby of the Grand Pacific Hotel in Bismarck over McKenzie's Alaskan adventure. Several blows were struck before bystanders separated the two men. The fight had begun after McKenzie

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3 Grand Forks Herald, January 3, 1907.
had reportedly called Hildreth a liar, followed by "a string of expletives so rapid and so forcible as to fairly raise the hair of the bystanders. The language was unprintable in several respects although ladies were present in an adjoining room."^4

A spirited quarrel also developed in the organization of the legislature. The Republican progressives in coalition with the Democrats hoped to organize both the house and the senate. The Grand Forks Herald reported that railroad lobbyists, hard at work to ensure stalwart control, were forced to send several messages to St. Paul calling for reinforcements. The reform coalition was successful in the house as fifty-two out of the eighty-six Republican members joined by the twelve Democrats elected Treadwell Twichell speaker and organized the house committees. Twichell, a farmer from Mapleton in Cass County, was a good progressive, even though he was later to become a symbol of the forces opposing the state farm movement; it was he who is said to have advised a group of farm representatives in 1915 to "Go home and slop the hogs."^5 The stalwarts did manage to organize the senate, however, but only by making concessions to the progressives in committee assignments. It was to prove enough to make major reform measures difficult to pass.

Burke was inaugurated governor on January 9, one of the few

^4 Grand Forks Herald, January 10, 1907.

^5 Ibid., January 11, 1907.

^6 Saloutos and Hicks, 151.

^7 Grand Forks Herald, January 8, 1907.
fair and sunny days of the winter. His message to the legislature was a simple, straightforward presentation of the most important progressive demands that he had urged in his campaign. He called for the direct primary for state offices including an expression of senatorial preference; a nonpartisan judiciary and school system; revision of the pure food law to include a provision against "short weights," a measure which had been urged by the North Dakota Food Commissioner, Professor Edwin F. Ladd; and the initiative and referendum.

Burke devoted much of his address to the problem of the railroad and the need for legislation to control its power. He first pointed out the evil of the free ticket system for public officials and asked for a comprehensive anti-pass law, declaring:

The corporation understands human nature and knows that it is natural to return favors and the public official, honest, as the world goes, remembers the favor and is inclined to be inactive in the passage of and in the enforcement of laws regulating and controlling railroads. A public official ought to be in a position where he can enact, enforce or interpret all law for the common good and general welfare of the public without embarrassment to himself, and this he will find hard to do while his pockets are full of railroad passes.

Turning to railroad tariff regulation, Burke demonstrated that he had changed his stand a good deal since the time he was a member of the legislature. However, he still seemed to have doubts concerning commission regulation, and his position was not entirely unequivocal. He pointed out that railroad rates were much too high and should be

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8 Bismarck Tribune, January 10, 1907.
9 House Journal, 1907, 61-70.
10 House Journal, 1907, 65.
But the method left to the legislature. He thought that the use of the Board of Railroad Commissioners might be all right if ways could be found to require it to take action and to enable it to enforce its decisions. Should the legislature decide to lower rates directly, he emphasized that great care must be taken to ensure a fair return to the railroad.

Burke also called for a reciprocal demurrage law, which would impose penalties for the failure of the railroads to furnish cars to a shipper who needed them. As he had done in his campaign, he pointed out the need for raising the evaluation of railroad property so that it would be uniform with other property in the state; accordingly, he asked for a law which would give the State Board of Equalization power to subpoena any property owner to appear and to place before the board all books and records necessary to determine value.

The message was short, contained little that was new, and advocated only the most important reforms that had been urged by progressives in both parties. The Grand Forks Herald made the most perceptive comment concerning the address:

It has been charged that the independents [i.e., progressives] were sensational and visionary, that they would propose and pass, if possible wild legislation on all sorts of subjects.

... Nothing of that sort can be found in the governor's message. That document is a calm and dignified presentation of the conditions which confront the legislators, and its recommendations are conservative in tone and temperate in language. While it is conservative, it is not colorless, as it is full of important recommendations touching on subjects having an immediate bearing on the welfare of the state. 11

11 Grand Forks Herald, January 10, 1907.
The speech probably disappointed those who had looked for a comprehensive program although it did contain the proposals Burke had advanced before the fall election.

Bills introduced in the opening days of the session reflected the general sentiment against the railroad. "Laws . . . affecting the railroads," the Grand Forks Herald asserted, "evidently have an uppermost place in the minds of the legislators." Of over 350 bills introduced, approximately one-sixth were directed against the carriers. However, under the leadership of McKenzie, able lobbyists, many of them sent directly from St. Paul especially for the session, went to work and were able to check or modify much of this legislation. An anti-pass bill passed both houses but it never came out of the conference committee to which it had been sent for reconciliation of the minor variations between the house and senate versions.

Congressman Usher L. Burdick, who was then a progressive member of the lower house of the legislature, wrote years later that the railroads used every method possible to beat the bill, even going so far as to photograph a nude woman, who had been hired for the purpose, with a progressive representative in his room and then forcing him to vote against the measure at the risk of exposure. Two cent rate bills for passenger fare, passed both the house and the senate, but when the senate bill was returned to the house, largely through the efforts of R. N. Stevens, a representative of the Northern

12 Grand Forks Herald, January 30, 1907.

13 Ibid., March 9, 1907.

14 Burdick, 62-63.
Pacific from Bismarck, the basic rate was raised to two and one-half cents.\textsuperscript{15}

In spite of these defeats several important regulatory railroad laws were enacted: a reciprocal demurrage act which penalized the carriers ten per-cent of the freight charge for each twenty-four delay in shipping produce;\textsuperscript{16} a law which enacted the fellow servant doctrine of common law into the statute books;\textsuperscript{17} an act reducing the rates on native coal shipped within the state; and several minor regulatory measures—requiring railroads to report accidents, to build cattle guards, to illuminate platforms, to post time schedules of passenger trains, to give their employees eight hours rest in every twenty-four day; and forbidding them to make prior agreements to avoid liability.\textsuperscript{18}

One of the most exciting events of the session was the house investigation of the Board of Railroad Commissioners. In the words of its chairman, C. J. Diesen from LaMoure, who had come into the state with the same Northern Pacific construction gang that McKenzie had and was the accredited representative of the old guard machine in LaMoure county, the commission was "roast [ed] to a turn."\textsuperscript{21} The inquiry revealed that the report books that the law required the board to keep were completely blank. Under the prodding of Twichell

\textsuperscript{15} Grand Forks Herald, March 9, 1907.
\textsuperscript{16} Laws of the Session, 1907, 328-331.
\textsuperscript{17} Ibid., 333-334.
\textsuperscript{18} Ibid., 73-77.
\textsuperscript{19} Ibid., 331-341.
\textsuperscript{20} Grand Forks Herald, May 25, 1906.
\textsuperscript{21} House Journal, 1907, 1440.
and John Sorley, who had now become floor leader of the house progressives, Diesen was forced to admit that the commission, though it had power to do so, had never considered a rate unreasonable enough to attempt to lower it, had never brought suit against any railroad to force it to desist from illegal practices, and had never made a recommendation to the legislature except to ask for an increase in salary. Angered by the questioning, Diesen stated that if the voters of the state had wanted rate regulation they should have elected lawyers experienced in rate making instead of "us know nothings or monkeys." Yet the inquiry produced no legislation expanding the power of the commission. Many progressives believed the existing powers were sufficient if they were used. But the revelations had demonstrated quite plainly how badly railroad acts had been administered and how the commission had become an arm of the machine. This investigation supplies an excellent example of how railroads avoided regulation, even when they were unable to check the passage of legislation designed to control their power.

The legislature added several general laws to the existing regulatory corporation legislation: one prohibiting trade discrimination and defining unfair competition, another outlawing pools and trusts, a third preventing corporations from contributing to political campaigns, and several insurance laws which rounded out

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22 *House Journal, 1907, 1440.* Diesen's complete testimony is contained in *Ibid., 1433-1441.*

23 *Laws of the Session, 1907, 412-413.*

24 *Ibid., 413-418.*

25 *Ibid., 83-84.*
the earlier legislation on the subject. The legislature also set up Public Service Inquiry Commission, to consist of the governor, president of the senate, and the speaker of the house, to find out everything they could on corporations within the state as a basis for future legislation.

Other progressive legislation found easier going than the railroad laws. Passed without too much opposition were a direct primary law with a provision for senatorial preference, a joint resolution providing for the initiative and referendum which had to be passed by another session of the legislature and then submitted to the people for ratification before it could become law, and an act permitting the commission form of government for cities of over 2000 population. Nor did a limited social welfare program run into much opposition. Pure food, drug, and feed legislation was expanded. A livestock Sanitary Board to control cattle disease, a Public Health Laboratory, and a Public Library Commission to institute a system

26 Laws of the Session, 1907, 199-253.
27 Ibid., 313-315.
28 Ibid., 151-165. The provision for senatorial preferential voting varied somewhat from the rest of the law. The percentage of votes required for nomination was forty per-cent instead of the twenty-five per-cent for other officials. There was to be no run-off in the fall between the opposing party candidates. The members of the legislature were expected to vote for their candidate named in the primary when the United States Senator was actually elected during the legislative session.
29 Ibid., 451-453.
30 Ibid., 38-61.
31 Ibid., 315-319.
32 Ibid., 269-274.
33 Ibid., 376-377.
of traveling libraries and to assist public libraries were all established. Inspection and safety standards for hotels, part of Ladd's program, were set up. Several laws aimed at enforcing prohibition were adopted, including an act establishing the office of temperance commissioner, who was to be concerned solely with enforcing prohibition laws and was to be empowered to appoint special enforcement officers throughout the state to carry out the program.

The 1907 session of the legislature saw the re-emergence of the grain marketing question which was to remain a latent issue throughout the Burke administrations and was eventually to lead to the establishment of the Non-Partisan League in 1915. The problems faced by the North Dakota farmer had not changed greatly since the nineties, nor had the practices of the elevators. The early years of the century had been prosperous, but the farmer still felt that he was losing much of his normal profit through elevator methods. It was natural that sentiment for change should crystallize in 1906 when a general spirit of reform sharply affected the state. The report of the committee of the North Dakota Banker's Association which had investigated grain marketing at Duluth late in 1906 drew the attention of the legislature to the problem and gave the demand for modification the respectability of some backing from the naturally conservative elements in the state. As a result the legislature

34 Laws of the Session, 1907, 381-383.
36 Laws of the Session, 1907, 303-305.
37 For the details of their report see above p. 14.
passed considerable legislation affecting state elevators, including a requirement that elevators take out state licenses and an act compelling them to issue a certificate of inspection and weight to the seller of grain. Most importantly, the old Populist plan for a state-owned terminal elevator was revived. The governor was authorized to appoint a three-man non-partisan board to "investigate the feasibility and practicability of the state of North Dakota buying or leasing or building an elevator to be used as a terminal elevator for the use and benefit of the people of the state . . . ."38 This board was to determine the best method of establishing an elevator and the approximate cost and was to make recommendations to the next session of the legislature.39

Burke approved all the important legislation and vetoed only a few minor laws mainly concerned with legal procedure. He did little openly to try to affect the actions of the legislature, sending only one message on February 15 to urge economy in appropriations.40 The admonition must have been observed to his satisfaction as he did not veto any appropriations, something he was to do later, particularly in the 1909 session. Aside from the anti-pass law, his major recommendations were carried into law, and indeed, considerably more than he had urged had been accomplished. And the progressive press was generally pleased. The Grand Forks Herald, for example, believed

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38 *Laws of the Session, 1907*, 183.


40 Grand Forks Herald, February 15, 1907.
no session since statehood had been so productive of legislation for which there was a general popular demand, and which will be so beneficial to the public." The stalwart newspapers were generally silent after the session, observing their normal policy of not commenting on popular legislation which they disliked.

It is interesting that such a generally comprehensive program could be carried out in spite of control of the upper house of the legislature by men who largely represented the interest of the machine. Partly, the explanation lies in the consistent ability of the McKenzie organization to swim with the tide of public sentiment. An anonymous political leader who had been interviewed by the Grand Forks Herald during the 1906 campaign had declared that the machine, "has no inflexible purpose and can tack. The moment that the leaders are convinced that there is something in the movement, they will get in front of it . . . . They will do so in this case if the movement seems strong enough to warrant." The conservative legislators had killed some reform bills by stifling them in committee and had weakened others through minor amendments, but once the laws came to a vote and their action would be recorded, they generally cast their ballot in favor of the measures. The explanation also lies in the general nature of much of the progressive program of reform. As long as progressives concerned themselves with election changes, making

41 Grand Forks Herald, March 10, 1907.

42 Ibid., May 25, 1906.
government more democratic, or social legislation, they were attacking problems which were only manifestations of deeper problems. But when reformers tried to solve economic questions, as North Dakota progressives did to some extent in attempting to control the railroads, or to much a greater extent as the Non-Partisan League did in attempting to carry out its agrarian program, all the forces of economic privilege were martialed against their efforts. To a large degree the American reform movements have always found the least success in the economic sphere.

One of Burke's first important acts as governor was the appointment on January 30 of Burleigh Spalding to the state supreme court seat vacated by the resignation of Edward Engerud. Although Knauf had not been elected, Engerud resigned anyway, which indicates the progressives had merely used his resignation to further the election of Fisk, in spite of their admonition to keep the supreme court out of politics. In appointing Spalding, Burke went against the sentiments of the leading democrats in the state, but by so doing he strengthened his position with the progressive Republicans. Throughout his administrations Burke continued the policy of appointing more Republicans than Democrats to office, which was a wise course politically. Burke much later wrote of his methods in making appointments:

One of my first appointments was Judge Spaulding as judge of the supreme court. Judge Spaulding was always a partisan Republican, always connected with the organization. I do not know whether he ever supported me or not. I do know that Judge Young, whom I appointed as the trustee of the University vigorously opposed me in two campaigns. I appointed Judge Ellsworth

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Bismarck Tribune, January 31, 1907.
in the supreme bench and I do not know whether he ever even supported me. The appointments were made because, in my opinion, the men were well qualified for the position and certainly I did not ask them to surrender their independence as American citizens and vote my ticket.\footnote{John Burke to W. E. Byerly, August 9, 1934, Burke Papers.}

For Burke to be unaware of Spalding's part in the campaign of 1906 would indicate a naivete he did not possess. Furthermore, that Burke never made an appointment because of political considerations also is unlikely. However, his appointments were generally well-received, and he probably was influenced by an ideal of non-partisan-ship in making them.

On March 14, 1907, Burke announced that he was beginning a vigorous campaign to enforce the prohibition laws.\footnote{Hennessy, 229.} The acts had been laxly administered in the past, and "blind pigs", where liquor was sold, existed in many towns especially in the western part of the state. Burke was no prohibitionist; he would sometimes take a drink socially or on a special occasion, and he had not abandoned his position that the prohibition amendment should be resubmitted. However, he was pledged to vigorous law enforcement and felt that as long as prohibition legislation was on the statute books, it ought to be enforced.\footnote{The term, which was commonly used during the period, had its origin in the anecdote of the man who in order to evade the prohibition law charged to see his blind pig and then served the customer "free" alcoholic drinks.} Furthermore, the prohibition movement was another manifestation of the general spirit of moral reform which was a part of the Progressive Movement. In attempting to establish

\footnote{Interview with Judge Thomas J. Burke, September 13, 1951.}
and to enforce prohibition, progressives carried an optimistic view of human nature to an extravagant extreme, and they allowed a superficial problem to obscure fundamental problems. Burke and the North Dakota progressive's fight against the "blind pigs" now seems futile and unimportant, but the progressive spirit that motivated their struggle retains meaning.

Burke's campaign started well with the appointment of George Murray, a young lawyer from Sherbrooke, as temperance commissioner. Delegations of liquor men visited Burke asking him to allow time for disposal of their stocks, but, according to the Grand Forks Herald, Burke stood firm in his intention of immediate enforcement. A new law passed at the 1907 session allowed liquor to be taken without a search warrant, and the first seizure of thirty cases of whiskey and three cases of beer was made at Minnewauken, on April 9. Murray personally made his first raid in Bismarck two weeks later. In a cave south of the city he and the Bismarck chief of police found fully a carload of liquor valued at over $1000. Another carload was uncovered in a Great Northern Freight house at Minot April 26, and similar raids were made throughout the western part of the state. It appeared that the campaign might be fairly successful, but the next month action financed by the state liquor interests was brought in the state supreme court to test the act establishing

48 Grand Forks Herald, March 14, 1907.
49 Bismarck Tribune, April 9, 1907.
50 Ibid., April 25, 1907.
51 Grand Forks Herald, April 27, 1907.
On May 29 the court in the case of Ex Parte Corliss declared the law unconstitutional. Fisk, who wrote the two-to-one majority opinion, stated that the act violated rights of local self government by doing away with the legitimate powers of sheriffs, states attorneys, and county courts, and that it substituted an appointed official for elected officials. The decision was a blow to prohibition enforcement as Burke had no power, now that the office was eliminated, to force local officers to carry out the laws.

The "blind pigs", most of which had closed down, reopened, but Burke continued his campaign. During the summer he spent a good deal of time writing to local administrators and making speeches on law enforcement. On August 4, 1907, he wrote an open letter to Attorney General T. F. McCue pointing out that the prohibition law was being violated in Morton, Stark, Billings, McIntosh, and Emmons counties. He stated that he had written to officials in these counties but was "getting tired of writing to sheriffs and states attorneys, as it seems to be a waste of time, and I therefore call upon you as the attorney general of this state to take such action in the said counties as may be necessary to enforce the law therein."

But McCue, a machine regular from Carrington, showed no enthusiasm whatsoever for enforcing the law. In consequence, on November 8, 1907, Burke, along with the assistant attorney general, Andrew

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52 Grand Forks Herald, May 24, 1907.
53 16 North Dakota Reports, 470-546.
54 Bismarck Tribune, August 15, 1907.
Miller, went personally to Dickinson, which was one of the worst areas of violation, to serve injunctions closing down the "blind pigs" in the city, and made a vigorous speech on law enforcement. McCue fired Miller for taking part in the venture, and this action produced an open feud between Burke and the attorney general. Their battle, conducted largely through the columns of the state newspapers, carried over into the next campaign and grew more bitter as time went on. For example, on September 11, 1908, Burke, in a letter to the Democratic Fargo Daily News, accused McCue of failing to make any efforts at all to enforce either prohibition or railroad laws.

McCue answered the next day in the regular Republican Fargo Forum, and his letter supplies an interesting, dissenting opinion on Burke's personality and character:

In his public utterances he had always made it a point in his own peculiar sarcastic, insinuating manner to belittle some official and at the same time never misses an opportunity to laud himself. In other words, he wishes to impress upon the public mind that he is the only, honest competent official at the capital, in fact the only 'Simon pure' official that has been there.

Toward the close of his term McCue even went so far as to appoint a special assistant to enforce the law in Rolette and Ramsey counties, the two counties where Burke had lived, which McCue reported to be the two most lawless areas in the state. On the whole, Burke's prohibition fight during his first term produced much sound and fury.

55 Grand Forks Herald, November 8, 1907.
57 Fargo Forum, September 12, 1908.
58 Ibid., September 31, 1908.
but little solid accomplishment, although its failure could not be attributed to lack of effort on the governor's part.

In his campaign Burke had pledged himself to attempt to raise railroad taxation, but here he again encountered opposition from the stalwarts in his administration. With McKenzie, LaMoure, and Senator Hansbrough on hand to see that everything went all right, the State Board of Equalization, an ex-officio body made up of the governor, the state auditor, the state treasurer, the attorney-general, and the commissioner of agriculture and labor, met in Bismarck in August, 1907, and left the railroad assessment unchanged.59 The provision passed without a dissenting vote. Burke's failure to go on record against an unchanged assessment proved to be a mistake, for the stalwarts were able to charge that he had backed down on his program. And his own defense did not offer a really satisfactory explanation:

After we had heard the arguments of the railroad attorneys I was in favor of raising the assessment or at least talking the matter over but the vote was taken without any talk and as four of the seven members of the board voted for the old rate, I as presiding officer, did not see any good could be obtained by making a grand stand play so did not put the nays it not being necessary. I could have made a protest against railroad taxes being too low, and gone on record against the action of the board, but I don't believe in grand stands. I am going to do what I think is right as governor of this state, and if the people do not want me, all they have to do is say so at the polls. I have a better job awaiting me at Devils Lake.60

This may have been the real reason, but it seems more likely that at the time of the proceedings, Burke was unaware of the possible

59 Proceedings of the State Board of Equalization, 1907, 14-39; Grand Forks Herald, August 7, 1907.

60 Ibid., May 23, 1908.
repercussions and made a political mistake in failing to register his protest. The next summer he rectified the error by himself proposing a $1500 per mile increase and actually got the basic assessment raised $1000 per mile. The imminence of the election may have had something to do with his success, of course.

During Burke's first term the railroad commission was still in the hands of machine supporters, although the discredited Diesen was no longer a member. Still, it was more active than it had ever been in the past, no doubt a result of the legislative investigation of the body. It forced the railroads to issue two-cent one-thousand-mile family rate books which had been a requirement of the basic two and one-half cent rate law enacted in the 1907 session, but which the railroads had refused to provide until the following October. Its success was soon nullified, however, for the railroads took legal action and succeeded in getting the state supreme court to declare the provision of the law unconstitutional in April, 1908. The commission also was able to force the railroads to lower the rates on binder twine hauled in the state and acted favorably on a large number of individual complaints. The Grand Forks Herald reported late in 1907:

The North Dakota railroad commission is a busier body this year . . . busier, in fact, than any railroad commission in the history of the state. Until recently the people of the state have looked upon the commission rather in the light of a joke.

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61 Proceedings of the State Board of Equalization, 1908, 14-33.
62 17 North Dakota Reports, 370-374.
63 Nineteenth Annual Report of the Commissioners of Railroads to the Governor of North Dakota, 1908, 1-121.
64 Grand Forks Herald, October 30, 1907.
However, another phase of railroad regulation was not enforced. Because of McCue's refusal to prosecute, no action was taken until Burke's second term on railroad failure to observe the new lignite coal rates.

Very early in his first term Burke began making frequent public speeches, a policy which he was to continue throughout his time in office. At holiday gatherings and at all types of state conventions he frequently made the main address. He also began speaking outside the state. This activity acquainted him with national politicians and brought him some recognition outside the area. His subjects on these occasions were normally non-political. A favorite topic was law enforcement, but he also became very interested in conservation and often spoke on the need for soil protection, for diversified farming, and for a national forest preserve in the Badlands in western North Dakota. Burke also became an enthusiastic supporter of the development of the Missouri and Mississippi rivers for navigation, and one of his first important addresses outside the state was delivered at the National Waterways Convention at Memphis, Tennessee, on October 5, 1907. On the topic of "The Advantage to the Northeast of River Improvement," the speech was apparently well received, and N. G. Larimore, a Democrat from Larimore who had attended the conference, reported that Burke "through his wit, sarcasm and hard sense talk, placed North Dakota at the top of the list of northwestern states."65 Burke had asserted that the railroads were no longer able to handle the transportation of the country and had

65 Grand Forks Herald, October 10, 1907.
pointed out the need for national action to improve the rivers:

"If we are to have river improvement we can only get it by a broad, comprehensive, liberal, unselfish policy, not in the interest of any stream, not in the interest of any state, but in the interest of the navigation and transportation problem of the nation." 66

Burke continued to attend various waterways conferences, and at Sioux City, Iowa, on July 8, 1909, was elected head of the Missouri Navigation Congress which consisted of representatives from the states of North Dakota, South Dakota, Iowa, Montana, Nebraska, Kansas, and Missouri. 67 He delivered the main address at the next session of the congress held in Omaha, December 14, speaking on the need for an integrated program of river development and conservation:

If we are to harness and control the great Missouri river it will be necessary to have a system of dams and locks, and great reservoirs near its headwaters to prevent the floods that devastate the country. From these great dams there will be water power for mill and factory. If our forests are being devastated, plant new forests on either side of the Missouri river. They will assist in holding back and keeping the water in the river, and not only restore in a measure our forests, but it will add to the beauty of the country and the improvement of the river ... 68

One of the more human stories of Burke as a speechmaker concerned a speech he failed to make. On his way to attend President Roosevelt's National Conservation Conference at Washington in May, 1908, he was scheduled to address the National Manufacturer's

66 John Burke, "The Advantage to the Northeast of River Improvement," North Dakota Magazine II (December, 1907), 9; entire speech is reproduced 9-15.

67 Fargo Forum, July 9, 1909.

Association at Chicago, but as no time was mentioned, Burke assumed he was to talk in the evening. It turned out the speech was supposed to be at noon, and Burke failed to appear. As a result he was attacked facetiously by the stalwart Grand Forks Evening Times for not knowing the conventional hour for luncheon. The Grand Forks Herald observed in like vein:

This is a serious matter, and the state is deeply humiliated. It is well enough among ourselves to have it understood that the meals of our glorious state are breakfast, dinner and supper of which our people partake morning, noon and evening. But it is atrocious that when our highest official goes abroad he should make the state ridiculous by showing that up here we do not know that the conventional hour for luncheon is—hang it, what is the conventional hour for luncheon, anyway?

And Burke, in not letting the situation pass without a comment, succeeded only in displaying lack of humor:

When I got the invitation to address the Manufacturers' Association at Chicago, I failed to notice that I was to speak at a luncheon. Of course I know that a luncheon is served at noon, so I supposed that it must be in the evening, and as I wasn't hungry I didn't go to the luncheon. It seems that in Chicago the only way they can get a business man to sit down and listen to some talk is to have him talk when they eat lunch...

Although he acquired considerable recognition as an orator in North Dakota, most of his speeches read today contain little that seems important. He confined himself to generalities, and his addresses could suit any type of audience—the North Dakota Educational Association, the Society of Equity, the North Dakota Banker's Association, or the Women's Christian Temperance Union. An interesting account of the such effort which differs greatly from the normal

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69 Cited in Grand Forks Herald, May 12, 1908.
70 Ibid., May 22, 1908.
71 Minot Daily Reporter, May 25, 1908.
comments in North Dakota papers was written by Frank M. Eddy in the Minneapolis Tribune in July, 1902. It perhaps supplies a more sophisticated point of view than those generally expressed by local reporters:

On July 4 Governor Burke was orator of the day and delivered an oration to an audience of 6,000 people [at the Devils Lake Chautauqua] (North Dakota estimate). At any rate, when the governor, commanding in stature, and swart of countenance, arose to speak every seat in the large auditorium was occupied and remained occupied by the same people during his entire speech. They say that the governor "looks like Lincoln." If he does the comparison ends there. His address was declared by his friends and the press to be a "magnificent effort." But it was not; it was decidedly commonplace, it did not contain a single thought or original idea, but was full of platitudinous declarations of the obligations resting upon citizens to obey the law and the duty of public officials to enforce the law. In fact, the oration was so ordinary that it was really extraordinary, for when a man, without any attempt at oratorical embellishment or the slightest tinge of humor can hold the rapt, undivided attention of a large audience for nearly two hours, uttering the variest [sic] commonplace that everyone is so familiar with that most of them have long ago forgotten them, there must be something remarkable about the speech or the man. Perhaps it is the intense earnestness, [sic] simple honesty and genuine sincerity of the man, for if the governor is not earnest, honest and sincere he does the imitation act so well as to fool the very elect.72

The new primary election law drew attention to politics even earlier than usual during Burke's first term. It was apparent early in the summer of 1907 that there would be a vigorous fight for Hansbrough's Senate seat when several Republican candidates filed for the office: Hansbrough; C. B. Little, another close associate of McKenzie's; M. N. Johnson, one of the main leaders in the 1906

72 Quoted in Grand Forks Herald, July 20, 1909.
revolt; Congressman Marshall, who had openly broken with McKenzie and was trying to gain progressive support; and Andrew Bruce, a progressive who was dean of the University of North Dakota Law School.

At Grand Forks on November 27, 1907, progressive Republicans held a large informal conference made up of the leaders of the local Republican Good Government Leagues which had been organized throughout the state before the 1906 campaign. The conference endorsed Marshall for the Senate and approved a partial list of candidates for other offices, including Twichell for governor and George N. Young of Valley City, for United States Representative. When Johnson failed to get the progressive endorsement, he and his delegates walked out and the former Congressman immediately began making an independent campaign. The remaining majority of the delegates at the meeting selected a state executive committee to direct the pre-primary campaign, and this group endorsed progressive candidates for the remainder of the state offices at Grand Forks, January 9, 1908.

Meanwhile, late in 1907 the stalwart Republicans held their usual secret meetings in Minneapolis and St. Paul during which McKenzie reportedly decided to support Little instead of Hansbrough for the Senate. Hansbrough supposedly had promised much earlier to retire in favor of Little after having served two terms, but with the adoption of the direct primary, he thought he saw a chance to regain his seat without the support of the regular organization. It was

73 Grand Forks Herald, November 28, 1907; Bismarck Tribune, November 28, 1907.

74 Grand Forks Herald, January 10, 1908.
generally believed at the time that the stalwarts would direct their campaign against Marshall (which they did) hoping to throw enough progressive votes to Johnson to enable Little to win.\textsuperscript{75} The stalwarts did not openly endorse a Senatorial candidate before the primary, but candidates were approved for the rest of the state offices. A statement of some interest from McKenzie which indicates the trend of the times came shortly after these meeting. On February 7 he announced that he was not a candidate for national committeeman of the party, the position he had held for eight years. However, no one doubted that he would continue to play his usual active role in state politics.

The Democratic executive committee met at Grand Forks, January 3 and 28, 1908, and endorsed Bryan for the presidency in spite of Burke's personal preference for John Johnson of Minnesota, who was making a campaign for the nomination.\textsuperscript{77} The committee also endorsed Burke for a second term and scheduled the Democratic state convention for naming delegates to the national convention to meet at Grand Forks on March 25. There the Democrats again endorsed Bryan; named William Collins of Bottineau for national committeeman; and elected Burke as a delegate at large to the national convention. A series of resolutions was adopted which later formed the basis for the official platform drawn up at Bismarck, September 4, 1908. The

\textsuperscript{75} Grand Forks Herald, December 1, 4, 1907, March 15, 1908.
\textsuperscript{76} Ibid., February 8, 1908.
\textsuperscript{77} Helmes, 254.
\textsuperscript{78} Grand Forks Herald, January 4, 29, 1908.
resolutions called for bank regulation and a bank deposits guarantee, an income tax and inheritance tax, national grain inspection, a non-partisan state judiciary, abolition of the pass to public officials, the initiative and referendum, and a law to give the governor removal power of local officials not subject to impeachment for neglect of duty. The state Democratic party was by now in the hands of progressives, or, at least, its leaders were endorsing a popular cause, and the resolutions contained most of the important reform demands which had developed in the state as well as calling for the enactment of the measures proposed by the liberal faction of the national party. Burke addressed the meeting on the necessity of law enforcement and sharply attacked McCue for not enforcing the prohibition law and for his failure to take action against the railroads when they failed to observe the lignite coal freight rates.79

The Republicans also met at Grand Forks (May 14) to select national delegates. It was plain that the stalwarts controlled the meeting when they named James Kennedy of Fargo, a machine leader, to succeed McKenzie as national committeeman, by a vote of 260 to 183. No specific platform demands were possible until after the primary, but the general resolutions indicated the policy the stalwarts would follow in regard to Burke. In addition to endorsing President Roosevelt's administration and approving William Howard Taft as his successor, the resolutions denounced Burke for his "failure to redeem his pledges made on the stump to the people in the last campaign," especially for not registering his vote on the

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79 Grand Forks Herald, March 25, 1908.
question of railroad taxation as a member of the State Board of equalization in 1907. The latter is a nice bit of cynicism in view of the stalwarts own part in the matter.

There was a spirited campaign before the primary, most of it centering on the race for the United States Senate. The progressives concentrated on the same issues as in 1906—Wall Street, "McKenzieism," and "boss rule," but with only limited success; neither faction won a clear-cut victory in the election held June 24. Marshall received the highest number of votes for Senator, but since the law required another election if no candidate received forty per-cent of the total vote, a run-off was necessitated in the fall between Marshall and M. N. Johnson, who had run second, both nominal progressives. The stalwarts nominated the candidates for the United States House of Representatives, L. B. Hanna of Fargo and Geronna, Charles A. Johnson of Minot for governor, L. B. Lewis of Fargo for lieutenant governor, Alfred Blaisdell of Minot for secretary of state, and D. K. Brightbill of Canio for auditor. The progressives nominated Andrew Miller for attorney general, W. L. Stockwell of Grafton for superintendent of public instruction, Spalding for judge of the supreme court, G. L. Bickford of Bowbells for state treasurer, and two of the three railroad commissioners. The progressive leaders must have been extremely disappointed; for years they had considered the direct primary the entire answer to the problem of machine control; and yet the first time it was tried the same old leaders had maintained control of most of the important offices.

80 Grand Forks Herald, May 15, 16, 1908.
The results are complicated and difficult to analyze. The vote was large, greater even than in 1906. For example, 75,263 people cast their ballots for the gubernatorial candidates in contrast to 64,711 in 1906. The Senatorial race was a clear victory for the progressives as their candidates outpolled the two stalwart candidates, 38,980 to 26,332. The congressional races were close, but the appearance of five independent candidates, all of whom polled a substantial number of votes, makes any conclusion open to question. The election of Hanna and Gronna cannot, however, be taken as an indication of the defeat of reform principles, for it seems likely that the stalwart leaders with a well developed organization would be more able to concentrate their faction's votes than the progressives, whose group naturally contained the more independent voters. But the governorship was a definite victory for the stalwarts, as Johnson defeated Twichell, 39,169 to 23,702. The progressives won six of the ten minor state offices, and for one other won by the stalwarts, that of auditor, the progressive votes were split between two candidates. Therefore, only for the office of governor is there any indication of defeat of reform principles, and here, too, there is a mitigating factor. Although Burke, who was unopposed and whose race consequently attracted little interest, received only 12,063 votes in the Democratic primary, many Republicans probably intended to vote for him in the fall regardless of who won the Republican nomination. At least, 324 of them saw fit to write his name in on the Republican ticket. Although no real defeat of reform principles can be observed, nevertheless, the direct primary had not proved the panacea the progressives thought it would be.81

Most of the Democratic candidates were unopposed in their primary. Burke was renominated; and only one other race has any importance: for the nomination for United States Senator, John L. Cashel of Grafton, defeated William E. Purcell of Wahpeton, a result which was to have a bearing on future events. 82

During the summer a series of "harmony" meetings were held among the leaders of both Republican factions, and the conflict between the two groups was generally postponed until after the fall election. The stalwart press asserted that "harmony" meant destruction of Burke's chances for re-election. The Bismarck Tribune commented:

The harmony that exists in the Republican ranks in the state is not encouraging to the Democrats, who appreciate that it is only by some sort of political miracle that they may hope to draw any prizes out of the political lottery this year. 83

But the stalwarts achieved reasonable unity only by making extensive concessions to the progressives in the drafting of a party platform. The Republican state central committee met at Bismarck September 3 and drew up a set of proposals which contained almost all of the progressive demands. The platform went considerably beyond the national program of the party, and in one plank urging the guarantee of bank deposits took a position directly opposite that of their presidential candidate, William Howard Taft. The platform also endorsed Roosevelt's administration and Taft as his successor, demanded a stringent anti-pass law, the direct election of United States Senators, retention to the

83 Bismarck Tribune, September 17, 1908.
direct primary, residence of state officials at the capitol (a policy
inaugurated by Burke), and revision of the tariff; praised the action
of the State Equalization Board in raising railroad assessments; and
recommended both state and national physical evaluation of railroads
and other public utilities for rate-making purposes.84

The Democratic papers of the state called the platform a re-
pudiation of Republican principles. The Fargo News reported that:

After one of the most exciting of meetings the Republican
state central committee . . . went Democratic. It com­plete-
ly flopped from the Republican platform, turned turtle and
is now practically in the Democratic column.85

On September 1, the day before the Republicans drew up their
platform, Williams Jennings Bryan, again the Democratic candidate
for president, spoke at Fargo and Grand Forks, which the Fargo News
professed to believe was one reason for the Republican's liberal
platform. Burke introduced Bryan in both cities "as the greatest
man since the days of Jefferson." Bryan had equally high praise for
Burke:

The art of government is simply the art of being honest,
and Governor Burke has illustrated how easy it is to be
honest.

I am sure that I need make no plea in his behalf, for your
sense of justice and your understanding of your own interests
will plead for him more eloquently than I could. The best
reward—aye, the only reward that a grateful people can give
to a faithful servant is to show that they appreciate what
he has done. And I am sure that you who know his splendid
record and his sterling qualities and fine and upright
charactered [sic] will give him the reward that he has earned
by your votes for his reelection.86

84 Grand Forks Herald, September 3, 1908; Bismarck Tribune,
September 3, 1908.

85 Fargo News, September 3, 1908; for further comment see
Devils Lake Journal, September 10, 1908; Fargo News, September 10, 1908.

86 Quoted from Grand Forks Herald, September 2, 1908; see also
Fargo Forum, September 1, 1908, Fargo News, September 2, 1908.
The state Democratic campaign started a few days later, and Burke, as in 1906, began a whirlwind tour of the state. He undoubtedly realized he was in for a tough fight. Taft was acceptable to both factions of the North Dakota Republican party, and the "harmony" on state issues lessened Burke's support among progressives who believed in the value of organization and unity. Most of the progressive papers were neutral on the question of his re-election.

It is significant that the Grand Forks Herald, the leader of reform sentiment, had almost nothing to say about him during the campaign, and the few comments it did make were vague. For example, it declared:

The only question which Republican voters have to consider is whether they will stand by the party nominee for the sake of strengthening the party lines, or will they overlook the matter of party alliance in order to re-elect Governor Burke because of a record in office which appeals to them as satisfactory, and which they are willing, on that account, to have continued.

Burke did have advantages in the campaign, however. The senatorial fight between M. N. Johnson and Marshall detracted attention from the governorship race and prevented the stalwarts from concentrating their attacks against Burke as they would be able to do in 1910. Moreover, the stalwart candidate for governor, Charles A. Johnson, a lawyer from Minot, was not a candidate who could arouse any enthusiasm whatsoever among progressives, for he was clearly tied to the McKenzie machine. In the 1907 legislature he had been the regular candidate for speaker of the house and had opposed much

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87 Grand Forks Herald, October 25, 1908.
of the progressive legislation. As a one-time mayor of Minot, he had made himself highly unpopular in Ward County, \(^{88}\) and the progressive Minot Reporter, which was an influential paper in the western part of the state, continually attacked him during the campaign.

Burke confined himself entirely to state issues and to defense of his first term. He pointed out his stand on the anti-pass law and explained what had happened to the bill in the legislature. He justified his record on the State Board of Equalization in attempting to raise railroad taxation, attacked McCue for his failure to do anything about prohibition enforcement and for his refusal to prosecute the lignite coal rate cases, and explained the need for a law which would give the governor removal power over local officials.

Late in the campaign Burke was forced to counter a series of Republican attacks largely carried on by the Fargo Forum, probably the most intemperate of the many newspapers which opposed him. The stalwart organ especially criticized him for not enforcing prohibition at the same time he posed as a champion of the movement. According to the Forum, Burke was a demagogue whose "bluff at the enforcement of the prohibition law to secure the votes of the cold water people is one of the most open efforts to array classes against each other ever made by an executive of this state." \(^{89}\) The paper also quoted an anonymous letter circulated to Republican papers which asserted that Burke as city attorney of Devils Lake had failed to enforce the laws in the city. The letter stated:

\(^{88}\) Hennessy, 464; Grand Forks Herald, October 23, 1908.

\(^{89}\) Fargo Forum, September 12, 1908.
During all the time Mr. Burke held office, *as city attorney*, Devils Lake was openly violating the prohibition law on almost every street corner. Some of the restaurants sold beer openly, sold it to everybody and everybody knew about it.

Poker games of the most vicious kind and other kinds of gambling were carried on . . .

Houses of prostitution were allowed to run wide open and the notorious *hacks*, which were used to carry the patrons of these houses *were* stationed only a block from John Burke’s office . . .

At one time or another, it was charged that Burke had appointed Spalding to office because he owed the latter money, that on one occasion he and C. A. Johnson had been offered a drink and only Burke had accepted, and that he was so busy making speeches outside the state that he had no time to attend to the duties of his office.

Burke was not a man to wilt under attack, and in his speeches he began defending himself against these charges point by point. He was held in such high respect by the people of the state that probably few voters believed the stories, but his character dictated that they be proved false in every detail. He was at his most effective as a stump speaker, and his defenses were well received.

One example will serve to indicate their style and tenor. On November 1, 1908, he answered the charge that he had given so many addresses that he had failed to attend to his job as governor. He asserted that he thought it was the duty of a governor to "do what he can for the upbuilding of the state," and continued:

> I went down to the great waterways convention at Memphis Tenn., and delivered an address at that convention, and so far as I know it is the first time that any man in public life in this state ever said a word in behalf of

90 Fargo Forum, October 21, 1908.
our waterways although we have got one of the greatest rivers in the world running diagonally through our state, and I must have made some little impression upon the great men who attended that convention, because when I went to the next one at Sioux City they made me chairman of that convention. And when I was called to the great conference of governors in Washington, a conference presided over by the president of the United States, I was made honorary secretary of that great convention, and that is no reflection upon a young state and a governor during his first term.

The fight between Johnson and Marshall for the Senate probably attracted more attention than Burke’s campaign. Although Johnson had a good deal of personal popularity in the state and Marshalls campaign was expected to give some indication as to the strength of the two factions of the Republican party, however, there were complications. Both men claimed to be reformers; Johnson was especially popular among the Norwegian voters of the state; and Marshalls progressivism, like Johnson’s, was suspect because of his long association with the McKenzie machine. In general, though, the established press supported Johnson, and the progressive papers endorsed Marshall.

The comment of the Milton Globe reflects the sentiments of the latter group:

M. N. Johnson, supported by practically every gang politician in the state from Alex McKenzie and Jud. LaMoure down, and endorsed by every gang paper in the state from the Fargo Forum to the Hannah Moon, is posing as the reform candidate for senator. Oh, rats.

The election was held on October 2, 1908, and Burke again won a narrow victory (49,398 to 46,849) in spite of a general Republican sweep, and won by 32,885. The Grand Forks Herald, November 1, 1908.
Republican candidates had majorities of nearly 30,000 votes. In the senatorial runoff, open only to Republican voters, Johnson narrowly defeated Marshall 39,304 to 36,432, the large total of votes indicating that many Democratic voters disobeyed a ruling of the state supreme court issued October 29 that they were not to vote in the election.

In the national elections Taft decisively defeated Bryan, polling 51.58 per-cent of the popular vote and winning by 321 to 162 electoral votes. But there were signs that the Republican party was losing some of its strength. Its 1904 lead in popular votes for President was cut in half, and Taft lost several normally Republican western states, Colorado, Oklahoma, Nevada, and Nebraska. In addition to North Dakota, other states, Ohio, Indiana, and Minnesota, all of which had supported Taft, elected Democratic governors. Progressives were generally willing to vote for Taft, a candidate personally vouched for by the popular Roosevelt, but discontent which so far extended mainly to state offices had definitely begun to develop throughout the heartland of progressivism. The North Dakota story is an excellent example.

M. N. Johnson's victory over Thomas R. Marshall, although their race created the greatest excitement, offers no general conclusion about the reform movement in the state. Both men were nominal progressives, although the genuine progressivism of either could be

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94 The supreme court upheld the principle of the senatorial preferential primary and ruled that Democrats could not vote in the Republican run-off. The legislation had left considerable doubt on this point. 18 North Dakota Reports, 55-75.

95 Mowry, 31-32.
doubted. Johnson's stalwart backing offered a disadvantage, but he was able to overcome the handicap through his great personal strength among the Norwegian voters. His margin was so narrow that no definite indication of progressive or stalwart strength can be read in the election. But one thing is clear. Johnson, who was later to show that he was an outright conservative, felt that it was necessary to pose as a progressive in order to win.

Burke's victory in 1908 was largely an endorsement of his first administration and a personal tribute to his popularity in the state. The stalwart concessions to the progressives had partially and temporarily sealed the breach within the Republican party, and the progressive fervor which had been so important in 1906 had temporarily been quieted. The election had not been fought on questions of specific progressive demands as had been the case in 1906, and Burke's campaign was fought over acts of his first term. In spite of this slackening of the reform spirit, it could not be denied that Burke had been a good governor. He had attempted to carry out the program he had promised; his appointments had not been solely in the interest of the Democrats; and he had done nothing to destroy the conviction that he was a sincere, honest man who had attempted to fill his office to the best of his capabilities and in the interests of the whole people of the state. All things considered, he presented a marked contrast to the succession of machine governors who had preceded him.

Most progressives were no longer intensely discontent with the state Republican party. They had elected some officials in the primary that they had demanded for so long, and there was no danger of return to the nominating conventions dominated by the "steamroller"
tactics of the McKenzie organization. The party had adopted a platform containing most of the progressive measures, and it appeared that the next session of the legislature would continue the program which had begun well in 1907. However, many Republicans still felt that Burke, who had served as the instrument of the "revolution of 1906", deserved a re-endorsement of his policies and activities as governor, and considerations above party loyalty dictated their votes for him. An additional motivation for voting for Burke was probably distrust of his opponent, C. A. Johnson, definitely a regular machine politician tied to McKenzie. Although the stalwarts had pledged themselves to the cause of progressive reform, there was still enough popular distrust to cause the belief the election of a McKenzie lieutenant might see the state returned to the hands of McKenzie, and many Republicans were again willing to go outside their party to prevent that from happening.

The results of the elections of 1908 appeared to indicate some weakening of the spirit of reform in the state. Actually, they did not. But conservative leaders were quick to interpret them to mean the movement was dead, and the 1909 session of the legislature saw new attempts to check demands for liberal legislation. Yet, here, too, the abatement of reform would be only on the surface. The election of 1910, the legislative session of 1911, and the election of 1912 would demonstrate that actually the North Dakota Progressive Movement had been really acquiring new vigor and strength.
CHAPTER IV
THE TRIUMPH OF REFORM

On January 6, 1909, Burke was inaugurated for his second term as governor. His message to the legislature was long, and much of it was concerned with minor matters, but he did call for passage of most of the recent demands of the progressives: a non-partisan tax commission; a non-partisan supreme court; a requirement that state officers should be required to live at the capital; and a law to permit the governor to remove local officers for neglect of duty. He also referred to the report of the grain commission appointed to determine the feasibility of acquiring a terminal elevator. Their report had recommended leasing of elevators at Minneapolis and at the head of the lakes, but Burke thought a constitutional amendment would be necessary for the state to own an elevator outside North Dakota. Aside from pointing out this legal consideration, he said he was submitting the report without recommendations.¹ This indifference toward the marketing problem indicates a fundamental characteristic of the state reform movement, for neither Burke nor other progressives ever showed much concern with the economic problems faced by the North Dakota farmer.

It was evident from the beginning of the session that the progressive measures would be difficult to pass for the conservatives had once again been able to organize the senate on January 5 although

¹ House Journal, 1907, 29-55.
the progressives still controlled the house. Moreover, stalwart confidence was restored by the victory of their faction in the primary; yet, if they had been more astute they might have understood that perhaps they had mis-read the sentiment of the state, for there were definite signs that the old guard organization was beginning to crumble.

After the 1908 election persistent rumors had developed that the vote in the senatorial preferential run-off would not be observed in the next session of the legislature. The supreme court's ruling on the matter had held that the legislators could not be legally bound by the senatorial election results and were only morally obligated to respect the vote. The decision produced a sharp disruption of the stalwart faction. Immediately after the election Senator Hansbrough, who had lost his seat, openly announced that he did not consider the results as binding on the legislature, and soon there were frequent reports of secret deals to elect a stalwart candidate. The Minneapolis Journal asserted that both Congressmen, Gronna and Marshall, had agreed to support Hansbrough in order to defeat Johnson, a story confirmed by Senator McCumber. However, McCumber, who throughout his long career in the Senate would demonstrate remarkable ability for embracing popular causes, said the results should be observed. On the other hand, Gronna denied the rumors and stated

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2 Bismarck Tribune, January 6, 1909.
3 18 North Dakota Reports, 55-75.
4 Grand Forks Herald, November 10, 1908.
5 Cited in ibid., November 15, 1908.
6 Ibid., November 21, 1908.
that the real agreement was between McKenzie, Johnson, and McCumber. He said that at a meeting in Minneapolis on November 11 and 12, Johnson had agreed to line up with the stalwart faction and that their scheme was to discredit him and to give McCumber a chance to pose as a friend of the people.7 The Neche Chronotype, viewing these and similar charges and counter-charges, rather wisely observed:

There is a whole lot of truth, even if not the whole truth, in all that the distinguished gentlemen allege concerning each other. Everyone of them owe at least their first election to Alexander McKenzie. As long as he remained in power they looked to him for reelection. Now... they are beginning to look to the people for support... It all amounts to this: The distinguished gentlemen are all playing politics. They are trying to get right with the people. They are leaving McKenzie like he were a leper and their earnest endeavors to show a clean pair of heels— at the same time wiping their hands on each other— is one of the most amusing spectacles ever furnished by state politics.

With the announcement of Congressman Marshall on December 5 that he would abide by the results the rumors stopped, and it was generally agreed that his statement would assure the election of Johnson.9 Such proved to be the case, for Johnson received an unanimous vote from the members of the legislature on January 19. The controversy did have an important result, for Congressman Gronna from this time on became an open enemy of the stalwart faction and an important progressive leader, for he was one of the best vote-getters in the state and would later establish a national reputation as a progressive in the United States Senate.

Johnson, in spite of his part in the revolt of 1906, proved a

7 Grand Forks Herald, November 25, 1908.
8 Quoted in ibid., December 3, 1908.
9 Grand Forks Herald, December 5, 1908.
complete disappointment to the state progressives. The Fargo News predicted after his election that he would prove to be a very con-
servative Senator and asserted:

Johnson will sink into his natural corner in the Senate
trust club, where some buy their seats, others have their
seats bought for them, and where a few honest men in an
overwhelmed minority struggle vainly against the charac-
ter of a body ruled by characterless men. 10

It proved an accurate prediction. Johnson lined up with the Aldrich
faction in its battle with La Follette's progressives in the 1909
session of the United States Senate; as the Minneapolis Tribune
observed, Johnson's "insurgency at home and his subserviency at
Washington was the banner political joke of the year in these
parts." 11 That summer Colliers magazine was to report that Johnson
already had voted with Aldrich 110 times, against him 13 times, and
had abstained 6 times; by contrast La Follette had voted with
Aldrich 18 times, against him 106 times, and had abstained 5 times. 12

In spite of the signs that progressivism was beginning to
capture the state, the conservative legislators in the 1909 session
went ahead and ignored the progressive recommendations that had
been contained in both the Democratic and Republican platforms. The
initiative and referendum resolution, which had to be passed by two
successive sessions of the legislature and then had to be submitted
to the people before it became law, failed to reach a vote in either
chamber. The bank guaranty bill was killed in the house. The
anti-pass law died in the senate, and no regulatory railroad legisla
tion

11 Quoted in Grand Forks Herald, July 20, 1909.
13 Grand Forks Herald, February 18, 1909.
was enacted.

The session probably spent more time in investigating state offices than in passing laws. The most important of these inquiries was into the conduct of the state penitentiary. F. O. Hellstrom, a Democrat who had been appointed warden in 1907, told in his annual report of mismanagement and corruption in the former administration of the institution. As a result, the senate investigated and found that two million bricks made there had not been accounted for and that bricks had been sold at special low rates to McKenzie, Little, and other residents of Bismarck. They also found evidence of the padding of expenses, the honoring of illegal claims for relatives of prison officials, and the inflicting of cruel punishments. The report praised Hellstrom for changing these practices and for his efficient administration but recommended no action against former officials and actually seemed to condone the mismanagement they had found:

While it is regretted that any dishonest practices or irregularities have existed in connection with the management of the state institution, yet the committee believes that the state is to be congratulated upon the fact that out of the great mass of serious charges that have been circulated for years past, so few facts of positive corruption have been found to exist . . . . 14

In addition to making this rather commendatory statement, the senate also expunged part of the report from the public records, which gave credence to the many charges similar to the following comment from the usually angry Fargo News:

14 Grand Forks Herald, March 7, 1909.
That North Dakota politics have been rotten, are rotten and will be rotten till the people of this fair commonwealth rise up and call a halt is clearly evidenced from the 'whitewash' sure and simple report submitted yesterday at Bismarck by the investigating committee.

The investigation by a house committee of all the state offices handling funds revealed a good deal of bad business practice and many irregularities, but nothing serious enough to institute action except in one case. W. L. Stockwell, superintendent of public instruction, was eventually forced, after his case went through the courts, to return several thousand dollars in examination fees which he had collected and which he claimed were legally his. This became a source of considerable embarrassment to the progressives and somewhat weakened their arguments against machine corruption, for Stockwell had lined up with their faction in the 1908 election.

Although the major reform demands were ignored by the legislature, which consumed most of the session with the generally inconclusive investigations, minor laws were passed which indicated that progressive sentiment was still strong and that the conservatives had at least made some concessions to the reformers. Most of this liberal legislation was in the social rather than the economic or political sphere. Laws were passed establishing pure seed standards, sanitation requirements for food producing establishments and their

15 Fargo News, March 5, 1909.
17 Ibid., March 9, April 15, October 1, 1909, February 8, 1910, October 13, 1911.
employees, a state game and fish board, a state tuberculosis sanitarium, and a serum institute at the North Dakota Agricultural College to manufacture animal vaccines. An act regulating child labor was enacted. Furthermore, one minor but significant law in the economic field was carried through. Sponsored by George E. Duis, Democrat of Grand Forks, the act allowed organized cities to regulate heat and light rates and was the first attempt in the state to control the rates of public utilities other than railroads.

During the years 1907 to 1909 the agitation for state owned or controlled terminal elevator facilities which had affected the 1907 legislature had continued through the activities of the North Dakota Banker's Association and the Society of Equity, a national organization of farmers intended to advance cooperative marketing practices, a chapter of which was organized in North Dakota in February, 1907. As a result of their activities and the recommendations of the grain commission two laws were passed affecting grain

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20 Ibid., 138-154.
21 Ibid., 162-163.
22 Ibid., 52-53.
23 Ibid., 181-185.
24 Grand Forks Herald, March 10, 1909.
26 Report of the Board of Grain Commissioners to His Excellency John Burke Governor of North Dakota, 1908, 1-56.
marketing—one, an act empowering the railroad commission to designate certain junctions within the state as grain terminals where all grain would have to be inspected; and another which allowed the cooperative form of organization, permitted the distribution of profits according to patronage, and sanctioned the one vote per member plan. The purpose of the latter was to authorize the establishment of farmer's cooperative elevators. Most significantly, the legislature passed Duls' constitutional resolution which would allow the state to own and operate terminal elevators outside the state in either Wisconsin or Minnesota. This was the first step in amending the constitution to permit the elevator and began a chain of events which were to become more and more important as time went on.

Yet, the social and marketing legislation passed by the legislature received almost no attention from the state press, and the Democratic and progressive newspapers considered the session a complete failure. The Fargo News, for example, commented:

The house broke a record in finishing up its business, but all the reform legislation, all the fairness which it had planned in proposed legislation met a foul and unprecedented death at the hands of the senate members who, like revelers at night, killed reform measures one after the other, 'whitewashed' certain probes, and cruelly killed the cream of the legislation which has been pending for from five to fifty days. In riotous splendor and singing and confusion of merry-makers instead of state legislators, the senate closed its doors at an hour after midnight last night, and all the hopes of the residents of the state die with the clamorous echoes of the passing

28 Ibid., 54.
29 Ibid., 344.
The conservative Bismarck Tribune agreed that little had been done
but thought it a good thing: "A legislature can do well by the things
it refrains from doing, and in refraining from radical legislation
the legislature just adjourned did pretty well."  

At the close of the session Burke vetoed approximately $100,000
in appropriation bills, the most important being a $35,000 appropri-
ation for a dairy barn at the North Dakota Agricultural College.
He also vetoed two major bills passed by the legislature—one which
would have established a state board of control for penal and chari-
table institutions and another which would have set up a legislative
drafting bureau. He considered the board of control act so indefinite
and uncertain that it would allow double boards to have supervision
over many of the establishments. He killed the legislative draft-
ing bureau law on the grounds that there was no room in the capitol
building for the bureau, and, moreover, he thought there were enough
lawyers in each legislature capable of drawing up bills. Burke's
extensive vetoes reveal that the close harmony that had existed in
1907 had vanished. Influenced by his legal training, Burke believed
strongly in a definite division of governmental powers and wide
legislative discretion in enacting laws. As a result, he seldom
made any open attempt to influence the deliberations of the sessions

30 Fargo News, March 6, 1909.
31 Bismarck Tribune, March 14, 1909.
33 Ibid., 346-349.
34 Ibid., 350-351.
and he had not done so in this case, but he quite apparently was
dissatisfied with the results.

Despite the failure of the legislature to continue much of the
reform program, Burke's second term was more successful than his
first. Andrew Miller, the new progressive attorney general, imme-
diately carried the lignite coal rate cases into the state supreme
court where the legislation was upheld, and on April 27, 1909,
Miller announced that the new rates, which reduced the old charges
twenty to thirty per-cent, were in effect. The railroads argued
that the new rates were confiscatory, and the case eventually reach-
ed the United States Supreme Court (July 28, 1910), where the state
was finally upheld on the grounds that even though the railroads
might lose money on hauling lignite coal, their overall rates en-
abled them to make a profit.

The progressive-controlled railroad commission was also motivat-
ed to take more vigorous action than even the reinvigorated machine
commission of two years before. On January 1, 1909, the state's
main railroads declared a minimum charge on freight shipments
equivalent to the rate on 100 pounds, but by April 29 the commission
had lowered the rate back to its former level. The commission also
took other action: forbidding the railroads to close stations with-
out application, compelling them to add extra trains west of the

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35 19 North Dakota Reports, 45-56.
36 Grand Forks Herald, April 28, 1910.
37 Ibid., July 29, 1910.
38 216 United States Reports, 579-581.
Missouri river, and acting on more than 500 individual complaints by June 11, 1910.39

Miller, in close cooperation with Burke, waged a steady fight throughout 1909 and 1910 against the "blind pigs" and houses of prostitution in the state. The struggle was long and complicated and could never be completely won, but Miller showed extraordinary persistence in serving injunctions, carrying cases through the courts, and coercing local officials into enforcing the law. The battle probably reached a climax on June 4, 1910, when three of the biggest "piggers" in Bismarck, "Coxey" Albertson, William Empling, and George Robide, were sentenced to 100 days in jail and fined $300 plus costs.40 By the end of the summer of 1910 the campaign was pretty well completed, and for the remainder of Burke’s time in office, the western slope, where prohibition had been most openly violated, remained reasonably dry, and little more was heard of prohibition enforcement during the period.

With a progressive majority on the State Board of Equalization, the administration was able to raise railroad taxation substantially. The board met on August 5, 1909, and for the first time in its history sessions were opened to the public. The overall valuation of property was increased twelve and one-half per-cent and that of

39 Nineteenth and Twentieth Reports of the Commission of Railroads to the Governor of North Dakota, 1909, 1910, 1-130.

40 Bismarck Tribune, June 5, 1910.

41 The area along the Missouri River in Western North Dakota.
railroads an additional $3,000 a mile. This meant the carriers would now pay taxes on an assessment of $14,625 instead of $1,000 per mile. Railroad valuation stayed at this level through Burke's second and third term, fulfilling one of his and the progressives leading demands.

On October 21, 1909, Senator M. N. Johnson died suddenly from Bright's Disease at the Gardner Hotel in Fargo, and his death presented Burke with one of the most difficult problems of his entire time in office. John Cashel, who had been the Democrat choice for Senator at the primary, should have been the logical choice for his successor since Burke had enthusiastically supported the direct primary principle. The progressive press urged Burke to appoint a progressive Republican; Marshall's name was most frequently mentioned, but Burke was under immediate, strong pressure from his own party leaders to keep the office within their ranks. If he had made an immediate appointment, he probably could have checked much of the controversy, but he waited, and a steady stream of prominent Democrats came to Bismarck to urge that their candidacy be considered. By the first part of November, several names had been mentioned, but the most likely possibilities seemed to be William Purcell or George Duls, who were probably the strongest men in the two factions of the Democratic party. Purcell, a banker from Wahpeton, as a state senator in 1907 had been a leader in stifling the anti-pass

\[42\] Proceedings of the State Board of Taxation Equalization, 1909, 52-63.

\[43\] Fargo Forum, October 22, 1909.
bills, had voted against the initiative and referendum, and was generally reported to have little sympathy with progressive doctrines.

Duis, on the other hand, as mayor of Grand Forks and also as a state senator in 1907, had established a reputation as one of the most liberal men in his party.

However, Burke surprised everyone by appointing a relatively unknown personal friend, Fountain L. Thompson, of Cando, on November 4th.

Thompson, a county judge in Towner county, had always voted the Democratic ticket but had opposed the free silver doctrines of Bryan. He announced shortly after his election, however, that he would vote with the progressives in the Senate. Burke had hoped that by appointing a compromise candidate he would quiet the dissension, but the effort was a failure; no one was very well satisfied with the selection. C. D. Rittenhouse, a Democrat from Wahpeton, had the most critical comment:

The governor evidently did not want to send anyone to Washington who would come back a bigger man than he is. He is trying to build up a Burke party rather than a Democratic party.47

Joseph Devine, a prominent progressive Republican said:

Governor Burke has accomplished two things by the appointment, disgruntled the democrats and failed to make friends among the republicans. It is his death knell politically.48

44 Towner Tribune, cited in Grand Forks Herald, March 14, 1909.
45 Devils Lake Journal, November 11, 1909.
46 Grand Forks Herald, November 11, 18, 1909.
47 Ibid., November 12, 1909.
48 Ibid.
Shortly after the selection Burke went on a tour of the East with several western governors, and the New York Herald told an interesting story of the trip which concerned the appointment:

It took the governors a long time to discover why it was that Governor John Burke of North Dakota looked behind so quickly and searchingly when someone whistled and played the air America. It was close to the end of the session when the joke came out.

When Senator Johnson died Governor Burke delayed the appointment of his successor until the state was bristling with candidates. His difficulties grew greater as the delay lengthened, and finally Governor Burke turned to his friend and neighbor Senator Fountain L. Thompson and made him a senator over night. Some of the disappointed—and they were many—got out a card purporting to bear Governor Burke's favorite song. They sung it to the air of "America" and if you don't see the point in reading it just sing it to yourself:

'Owatona Siam, Owatona Siam, Owatona; 49
Owatona Siam, Owatona Siam, Owatona. 49

The senatorial story had a second chapter. Late in January, 1910, the Fargo Forum reported that Thompson was resigning because of ill health and that Purcell would be appointed in his place.

Both Burke and Thompson categorically denied the story. Burke said, "No, I have no knowledge of the resignation and, by the way, did you ever hear of a senator resigning." But the rumor proved to be true, nevertheless. On February 1 Thompson announced that he had given up his seat because of the affect of Washington weather on a lung ailment, and Purcell was in the capitol the same day with Burke's commission for the office in his pocket ready to take Thompson's place. 51

49 Quoted in Fargo Forum, January 28, 1910.
50 Grand Forks Herald, January 28, 1910.
51 Bismarck Tribune, February 2, 1910.
The appointment satisfied some of the party, but Duis and his followers did not like it. If Burke had appointed Purcell in the first place, there might not have been much dissatisfaction, but at this late date his action only further angered the Duis faction.

The Minneapolis Journal offered a reason Burke had not originally named Purcell. The paper declared that Burke personally did not like his conservative political views and that he felt the appointment would alienate the Republican progressives. However, it seems reasonable that the same considerations would hold true at this later date. The Democratic party was committed to progressive principles, and Burke had been twice elected because of his stand on these reform issues. It therefore appears that in order to validate his progressivism he should have appointed Duis, who better than any other candidate stood for reform. Why he did not is unknown, but it was probably largely a matter of personal friendship. Purcell had been active in the state Democratic party since territorial days, having served as a member of the state constitutional convention, in 1889, while Duis was a much younger man who had only lived in the state a short time. Burke probably felt that Purcell, who had worked for so many years in a usually hopeless cause, was the more deserving. Moreover, Purcell probably had stronger support among the active organization of the party, for Duis had not become politically important until after his victory in the Grand Forks mayoralty election in 1906 and had had little time to build support among the leaders. That the decision probably satisfied the strong party men

52 Cited in Grand Forks Herald, February 2, 1910.
was borne out by the next Democratic primary election in which John Bruegger of Williston decisively defeated Duis for one of the Senatorial nominations. Furthermore, Purcell proved to a pretty good Senator. Burke in his statement after the appointment seemed a little afraid that he might line up with the conservatives: "Purcell pledged to stand with the progressive democracy of the country and his future political career will depend on fulfillment of this pledge."

However, Purcell got off to a good start in his first speech in the Senate by violently attacking President Taft for his attitude on the railroads and the tariff, and during the brief time he was in the Congress, he consistently voted with the progressives. Surprisingly little criticism was aroused, and little more was heard of the appointment. By the next election the quarrel within the party was well patched up.

Meanwhile, McKenzie had asserted that he was through with politics in September, 1909:

Why should I stay in the game, I have been in it for 40 years and have never wanted an office in my life. I have worked for my friends and for the party. There is nothing in it for a man of my age. From now on I am going to devote myself to the business of handling real estate.

Such announcements from the old boss were becoming annual affairs.

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54 Ibid., April 21, 1910.
55 When the appointment was announced, Duis immediately wrote a presumably angry letter to Burke. Instead of reading the letter, Burke told his secretary to return the letter unopened and enclosed a note to the effect that he realized Duis was angry, but that after he had time to think things over, he would probably want to change some of the sentiments he had expressed in the letter, which is what Duis actually did. The story is an interesting example of Burke's generally successful political methods. Interview with Justice Thomas J. Burke, September 13, 1951.
56 Grand Forks Herald, September 10, 1909.
which few people believed, and it was generally understood that he and the stalwart organization were ready to devote a good deal of effort to defeat Burke in 1910, provided he ran again. The Fargo Forum, probably the most intemperate of the machine organs, was calling for the faithful to "get Burke's scalp." But Burke was still the only man that the Democrats could hope to elect, and by January, 1910 it was generally understood that he would run for a third term. He was officially endorsed along with the remainder of the party candidates by the Democratic State Central Committee on April 28, 1910, at Grand Forks.58

The progressive Republicans had organized on March 10, 1910, also at Grand Forks. There were two Senate seats at stake in the fall, McCumber's, which would be for a full six years, and Purcell's, which would be for four. The progressives again supported Marshall for the long term, and Congressman A. J. Gronna, who had broken with McKenzie and got on the progressive's bandwagon late in 1908, was endorsed for the short term. They approved H. T. Helgesen, a businessman from Milton who had been a commissioner of agriculture and labor in the early 1890's, and W. S. Lauder, from Richland County, for United States Representatives; and James Buchanan, an early settler and farmer from Buchanan, Stutsman County, for governor. The resolutions adopted by the faction contained little that was new. They announced their opposition to Aldrich, Cannon, and

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57 Fargo Forum, May 18, 1910.
58 Grand Forks Herald, April 29, 1910.
other representatives of special interests; praised Gronna for his stand on the Payne-Aldrich tariff; endorsed the direct election of Senators; commended the Burke administration for its law enforcement; asked for more power for the railroad commission; and called for a non-partisan tax commission, an anti-pass law, and a state board of control.

The stalwarts, as usual, met secretly before the primary and announced that they were supporting no one besides L. B. Hanna for United States Representative, but their candidates had filed petitions, and there were few doubts as to whom the faction was endorsing. It is worth noting that the primary principle had become so well established that the stalwarts now found it convenient to avoid open endorsements before the election on the grounds that it was a violation of the whole idea of the direct primary and were therefore able to criticize the progressives for approving a list of candidates.

The primary election held June 29 resulted in another divided victory. The two factions split the seats in Congress. McCumber won by a very narrow plurality over Marshall for the long term in the Senate, but for the short term, Gronna defeated Edward Engeurud, who had reversed the usual procedure and deserted the progressives to join the stalwarts. Helgesen and Hanna were nominated for the seats in the House of Representatives. C. A. Johnson was renominated.

59 Bismarck Tribune, March 11, 13, 1910.
60 Grand Forks Herald, June 9, 1910.
over Buchanan for governor, but if it had not been for the independent candidacy of a popular progressive, H. H. Aaker, who owned business colleges in Grand Forks and Fargo, Buchanan would almost certainly have won. The progressives nominated Usher L. Burdick for lieutenant governor; P. D. Norton, a lawyer from Adams County, for secretary of state; Brightbill for auditor; Miller for attorney general; W. C. Taylor, a newspaperman from LaMoure, for commissioner of insurance; and all three of the railroad commissioners. The stalwarts nominated Gilbreath for commissioner of agriculture and labor; Gunder Olson, a businessman from Walsh County, for state treasurer; and E. J. Taylor, from Grand Forks, for superintendent of public instruction. The progressives had won an important victory in the minor state offices, but the stalwarts had nominated three of the five candidates for the major offices. As had been the case in 1908, the primary was complicated by the appearance of a great number of candidates for some offices, especially the major ones. McCumber narrowly defeated Marshall 26,441 to 25,288, but two independent candidates polled 5,555 votes. For the short term Senate seat, for which there were only two candidates, Gronna beat Engerud 34,081 to 21,565, a clear victory for the progressives. For Congress there were three independent candidates although Hanna won very decisively (28,822 to 18,257) over his nearest opponent. The vote for governor was badly split: Johnson, the stalwart, 20,591; Aaker, the independent progressive, 11,890; and Buchanan, the regular progressive, 16,056; and two other independent candidates polled a total of 7,839. The progressives won eight of the eleven minor offices where the races were less complicated. The election results demonstrate considerable growth in progressive sentiment as only one stalwart, Hanna, won a
decisive victory, and he was the strongest conservative candidate. He had made a good record during his first term in Congress and in spite of his machine ties could pose as something of a progressive, because of his sponsorship of pure food and drug legislation. In the Democratic primary where there were only a few contested candidacies, Burke, who was again unopposed, polled 9,770 votes which is roughly comparable to his strength in the 1908 primary, since the total vote was somewhat smaller. 61

The progressives had made important gains over 1910, and it might seem that they should have been reasonably satisfied with the results. The stalwart Bismarck Tribune declared that a real basis for Republican harmony now existed and asserted that: "the rank and file of the republicans in this state should notify the leaders that it is time for them to get in line or to stand aside—to be republicans or democrats, for there ought now to be no stalwarts or insurgents." 62 Despite reasons for unity, the progressives could never be enthusiastic over a ticket which had C. A. Johnson heading the state offices. To some extent, the leaders of the movement had supported him in 1908, but his re-nomination by the stalwarts after he had once been defeated and in the face of obvious progressive disapproval, seemed to be a deliberate attempt to return the state to the hands of McKenzie. During the summer, rumblings of discontent were heard from the progressive press, and on July 12 the Minot Reporter became one of the first Republican papers to announce openly


The Democratic state central committee met at Bismarck September 7 and adopted a platform which denounced Representative Hanna and Senator McCumber for supporting legislation in behalf of the special interests and for voting to continue the control of Aldrich and Cannon. It also called for the initiative, referendum, and recall; an anti-pass law; the direct election of Senators; a national grain inspection act; a law to give the governor power to remove local officials for non-performance of duty; and better terminal elevator facilities for the state. This was a reform platform but the Republican proposals drawn up the next day at Fargo by the Republican state central committee still in the hands of the stalwarts actually went much further in advocating progressive legislation. It too called for an anti-pass law; the initiative, referendum, and recall; but it also urged a corrupt practices act; physical evaluation of railroads; publicity for campaign expenses; a non-partisan tax commission; and more power for the state railroad commission. The stalwarts had not undergone a change of heart but were quite clearly attempting to defeat a proved reformer by the simple expedient of having his discredited opponent promise a program that offered more, for they knew that once he was in office the proposals would not have to be carried out. At least, the stalwarts had begun to recognize the strength of the movement in the state and were attempting to regain their power by incongruously trying to head it.

63 Minot Reporter, July 12, 1910.
64 Fargo News, September 8, 1910; Grand Forks Herald, September 7, 1910.
65 Fargo Forum, September 9, 1910.
A few days after these meetings, "that grim spectre of the north, the Grand Forks Herald, arose, waving a menacing finger and beckoning the parcellers of North Dakota politics and offices back into the light." This was the Democratic Williston State's way of reporting that the Herald had announced its support of Burke. Winship's endorsement indicated that he along with many other progressive editors had seen through the stalwart plan to return the state to the hands of the McKenzie machine. By the end of October the Herald printed a partial list of seventeen progressive papers that were advocating Burke's re-election.

Burke's campaign of 1910 was probably the most exciting of his political career. The stalwarts were no longer complacent about Burke as had been the case in 1906, and there were no other races than the governorship really at stake to complicate the picture as in 1908. All the attention of the campaign centered on Burke and Johnson, and the issue, even more clearly than in 1906, was progressivism versus conservatism.

The stalwarts directed all their efforts against Burke. McKenzie made several trips from St. Paul to Bismarck, and it was consistently rumored that he was personally directing the campaign. For example, the Fargo News, Burke's most vigorous supporter, asserted:

That Alex McKenzie is at Bismarck and the real manager of the fight which is being directed to the defeat of John Burke for governor, is not denied in any quarter. McKenzie

66 Quoted in Grand Forks Herald, September 20, 1910.

67 Grand Forks Herald, October 27, 1910.
has thrown off the mask and has boldly thrown his hand on the table and defied the people of the state who have been fighting him for years. He seeks vindication by the defeat of John Burke. He is here to demonstrate the fact that he is boss, primary or no primary, insurgents or no insurgents.

The News also reported large out of state contributions from the interests McKenzie represented and quoted him as saying that "enough money would be put into this campaign in the last three days to swing the state." The progressive press considered the liberal platform one of McKenzie's clever deceptions. The Oakes Times, for example, saw "the smooth work of the 'Big Boss'... all the way through. What cares he for the platform so long as he can get a few putty men for officials."

The stalwart press kept a steady stream of Burke criticism flowing throughout the campaign. The papers attacked Burke for not appointing Cashel, the victor in the 1908 Democratic primary, to the Senate seat of M. N. Johnson, and for finally naming Purcell "a democrat of the reactionary and corporation sort." They accused Burke of building a Democratic machine, which the Forum asserted was "already a full fledged institution, here in this republican state, and John Burke is its patron saint and party prophet." They also denounced him for vetoing a $1,500 appropriation, which he considered unconstitutional, for publishing the bulletins of the Farmers Institutes.

68 Fargo News, October 26, 1910.
69 Ibid., November 1, 1910.
70 Quoted in Grand Forks Herald, September 18, 1910.
71 Minot Optic, quoted in Fargo Forum, September 16, 1910; also Fargo Forum, October 7, 1910.
72 Fargo Forum, October 29, 1910.
in the state, thus throwing a "harpoon into the soil tillers and their interests." 73 Burke, at one time or another, was also accused of appointing only Irishmen and only Democrats to office, attacked as a supporter of McKenzie, and denounced as an enemy of the Grand Army of the Republic.

Burke began his usual whirlwind campaign on September 18, and during the next month and a half visited most of the towns in the state. The Fargo News called it "the most strenuous campaign in the history of the Northwest, if not in the entire nation." 74 As in 1908, he spent much of his time in defending himself against the stalwart attacks. In Grand Forks, for example, he admitted the charge that he appointed only Irishmen to office, and then began naming several of these "Irishmen": "Heldstrom, Knudsen, Anderson, Bjerke, Telgesen, Spoonheim, Hegge, Christiansen, Olson, Torgerson, Strodness, Hendrickson, and Nelson . . . ." A roar of laughter prevented him from finishing the list. 75 Still, he did not ignore the issue of "McKenzieism" and much of his time was spent defending the general progressive cause. For instance, at Minot on October 1 he declared: "This is McKenzie's last stand. If he does not win this election, he understands that the great wave of progressivism which is sweeping over this country from Maine to California will submerge McKenzie and McKenzieism forever." 76

73 Fargo Forum, October 19, 1910.
74 Fargo News, October 29, 1910.
75 Grand Forks Herald, October 16, 1910; Interview with Justice Thomas J. Burke, September 13, 1910.
76 Devils Lake Journal, October 22, 1910.
Burke reportedly met with enthusiastic receptions all over the state, even in Bismarck, which he referred to as the "citadel of stalwartism ... within the shadow of the palace of the king McKenzie." The Fargo News commented: "His tour of the state this year has been a revelation. It has shown that the people not only respect and admire John Burke, but they love him." Burke completed his campaign and arrived home November 7 to be met by a huge, enthusiastic crowd. The Devils Lake Journal reported that:

One of the most magnificent spectacles that ever took place in Devils Lake was the welcome and reception given last night to Governor Burke on his arrival here. Four bands, preceded with torches commenced the parade at the Great Northern Station and marched up Kelly Avenue to the opera house amid the blowing of whistles and shooting of fireworks and flaming Roman candles that ascended high in the sky lighting it up with a flaming scarlet that could be seen for miles around. It was a beautiful sight.

Although most of the party ticket endorsed Johnson, at least officially, several prominent Republicans announced their support of Burke, among them: attorney-general Andrew Miller; state treasurer G. L. Bickford; and H. H. Aaker, who had campaigned as an independent Republican in the primary. The progressive newspapers steadily campaigned for Burke, defending the actions of his administrations, and countering the charges of the stalwarts. They consistently pointed out that party labels no longer had meaning, that the battle had assumed much larger proportions and had become part of a national struggle of conservative versus liberal and of

77 Fargo News, November 6, 1910.
78 Ibid., October 30, 1910.
79 Devils Lake Journal, November 8, 1910.
reaction versus progress. The Grand Forks Herald probably phrased it best:

The issue in Tuesday's election in North Dakota differs in detail, but not at all in principle, from the issue in every state in the Union where a contest is being waged this fall. It is a contest between good government and bad, between government by the people and in their own interest and government by a self-constituted oligarchy in the interests of business corporations seeking unequal advantage and ambitions individuals seeking political control . . . .

It is not a contest between political parties. It is a contest in which, in spite of traditional differences progressive republicans and progressive democrats are working together on one side, and reactionary republicans and reactionary democrats work together on the other. On the one side we have active, aggressive, militant leaders like Roosevelt, and Bryan, and Folk, and La Follette, and Cummins, and Beveridge; and on the other men like Aldrich and Hale, and Cannon, and Burrows. It is a contest between the people on the one hand and the predatory interests on the other. 80

On election day, November 8, Burke won a narrow victory by a plurality of 2,450, defeating Johnson 47,005 to 44,555. It was actually a minority victory as I. S. Lampman, the Socialist candidate, polled 2,524 votes. The increase in the Socialist vote is probably explained by partial crop failure in the fall, which produced some discontent among farmers. But the dissatisfaction must not have extended very deep as the Republican pluralities, with the exception of the governorship, averaged nearly 30,000 votes. 81

Most newspapers considered the victory Burke's greatest. He had been elected for a third term thereby breaking a state political tradition and had won in spite of a well-financed and well-organized

80 Grand Forks Herald, November 6, 1910.

campaign, directed almost entirely against him by master politicians. Like the most progressive papers the Democratic Devils Lake Journal thought the election meant the final end of "McKenzieism" and affirmed: "McKenzie's defeat last Tuesday is the greatest defeat he has ever suffered. It was the first time he was ever defeated when he made up his mind to wind... . It was the first time the republican corruption fund did not reach far enough."  

The comment proved to be generally true. Although McKenzie remained active in politics for a few more years, 1910 might be taken as marking the end of the power of the machine that he had established. Even the election of a stalwart governor in 1912 did not result in any ebbing of the tide of reform, and the rise of the Non-Partisan League after 1915 saw a complete new set of leaders take over the reigns of government for many years. By the time organized conservatism recovered in the state, entirely different men had replaced the old guard which had led the settlement of the territory and had ruled the state for so long in the interests of outside corporations.

In addition to marking the practical end of the McKenzie organization, the election was a triumph for progressivism as Burke's campaign had been fought squarely on the issue of conservatism versus reform even though the stalwarts had unsuccessfully attempted to obscure the real consideration by adopting a liberal platform. Although it was in part a personal success, as all Burke's political

82 Devils Lake Journal, November 14, 1910.
victories were, nevertheless, organized progressive strength was joined against organized stalwart strength in a battle in which there were few complicating factors, and the progressives won. The Republican progressives had been strong enough to name a majority of the state offices in the primary and dictate the planks in the Republican platform, but this had not been enough. The spirit of reform had grown so strong in the state that they were still willing to go outside their party to elect a candidate who represented the ideals in which they believed.

Throughout the nation a similar rise in liberal sentiment was evident in the 1910 elections. In the East where conservatives still dominated the party, Republican progressives in several states had deserted their party to elect reform Democrats, such as Woodrow Wilson in New Jersey and Eugene N. Foss in Massachusetts. The Democrats also won control of the United States House of Representatives, and progressives would hold the balance of power in the next United States Senate. Only in the West, where progressives had gained control of the party, did the Republicans maintain their majorities. From the results it was clear that the Democratic party had revived and that Republican progressives, who had lost faith in President Taft because of his defense of the Payne-Aldrich tariff and his part in the Pinchot-Ballinger affair, would be encouraged to go to great lengths to defeat him for the re-nomination in 1912.

The strength of the reform movement in North Dakota was even more apparent in the actions of the 1911 legislature than from the

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83 Mowry, 155-156.
election of 1910. The session put North Dakota in the front rank of progressive states, albeit a little late. The progressives and Democrats were easily able to organize both houses on January 2 for the first time. Burke in a long detailed message called for many of the liberal reforms not yet enacted: revision of the Senatorial election law to provide for a run-off in the fall between the Republican and Democratic candidates who won their respective primaries; expanded power for the state railroad commission; anti-pass legislation; a commission on uniform legislation to consult with other states; better roads legislation; a non-partisan tax commission; the initiative, referendum, and recall; a corrupt practices act; a demand which had been included in the Republican but not the Democratic platforms; and power for the governor to remove local officials not subject to impeachment.

The legislature went further in passing advanced legislation than either Burke or the leaders of the parties had proposed. The laws passed by the session read like a catalogue of nearly every demand which had ever been urged by a progressive anywhere, and these acts were carried through with virtually no opposition. The intensity of the demands for change in the 1911 legislature indicates the strength which progressivism had acquired at the grass roots level. Many legislators formerly indifferent to public demands now became vigorous advocates of the new laws. It was soon evident that while state candidates still had talked about the anti-pass law and a non-partisan tax commission, nominees for the legislature

84 House Journal, 1911, 35-53.
whose campaigns and activities were unreported in the state papers had been forced to go much further and propose demands that never reached the higher echelons of the parties.

The session was probably most fruitful in passing legislation aimed at ensuring democratic control of government. Constitutional resolutions approving the initiative, referendum and recall including a provision for the initiative in regard to constitutional amendments were adopted. Laws were passed which defined and outlawed corrupt election practices; improved the system of voter registration; provided for the publication of state publicity pamphlets containing the announcements of candidates; permitted the commission form of government for cities of over 500 population; allowed the initiative, referendum, and recall in cities with the commission form of government; prohibited personal lobbying except before regular legislative committees; and probably most significantly, established the presidential preferential primary, an important measure which had not been mentioned in the party platforms or in the state campaign. However, no action was taken on Burke's request.

86 Ibid., 210-215.
87 Ibid., 208-209.
88 Ibid., 318.
89 Ibid., 126-149.
90 Ibid., 110-114.
91 Ibid., 282.
92 Ibid., 315-317.
for a fall election between the party nominees for the United States Senate, although the percentage of votes required for nomination in the primary was reduced from forty per-cent to twenty-five per-cent to make it conform with the rest of the offices.  

The legislature also finally enacted the anti-pass law, expanded the powers of the railroad commission to control rates, and passed several minor measures instituting sanitation and safety requirements for trains.

In the field of social welfare the following were approved: a law establishing juvenile courts based on the plan of Judge Ben Lindsay, the famous pioneer in juvenile delinquency prevention at Denver, Colorado; several acts regulating the practice of medicine and surgery; expansion of pure food legislation to prevent "short weights", a measure urged by Burke in 1907; codification of school laws; and an act establishing a State Employee's Compensation Commission to gather date and to make a report to the next session on which to base a workmen's compensation law.

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93 Laws of the Session, 1911, 314.
94 Ibid., 222-224.
95 Ibid., 359-360.
96 Ibid., 357-373.
97 Ibid., 266-276; Burdick, 66.
98 Laws of the Session, 1911, 288-295.
99 Ibid., 355-356.
100 Ibid., 399-491.
101 Ibid., 15-16.
The use of state boards and commissions, a typical progressive technique, was also expanded. The legislature established a board of control for charitable, reformatory, and penal institutions; a non-partisan tax commission; and a state hail insurance department to institute a system of state insurance for crop damage, a significant law which foreshadows the Non-Partisan League's program of state socialism.

The grain marketing question also reappeared. The 1909 session had authorized Burke to appoint two grain inspectors who were to be permitted by the Minnesota legislature to sit on the Minneapolis and Duluth Boards of Grain Appeal in a non-voting capacity in order to gather information on the practices of terminal elevators in that state. The report which they presented to the 1911 legislature contained the usual bitter indictment of the system of grading grain on physical appearance. It estimated that the annual loss on the North Dakota grain crop because of classification and other elevator practices totalled $8,325,000, an amount which the inspectors thought would buy and equip a hundred state elevators. Their report pointed out the need for state grain warehouses as well as for terminal elevators outside the state. As a result, the legislature repassed the earlier resolution of 1909 approving an amendment to the

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102 Law of the Session, 1911, 86-104.
103 Ibid., 542-547.
104 Ibid., 26-30.
105 Report of State Grain Commissioners Appointed by the Governor To Serve on the Minnesota Board of Appeals, 1910, 1-12.
Dakota, the first state in the Union to hold a presidential preferential primary, during the next two years was an important battleground for the political giants who fought for the presidency in the next election.
In 1913 after Burke had left the governorship and was serving as United States Treasurer, the *Saturday Evening Post* commented on the Burke presidential boom: "It was a neat compact movement, rather local in extent. It did not ramify much. Indeed, there was no difficulty in confining the wild, tumultuous outburst for John Burke for president to the state of North Dakota." It is true that Burke was very definitely a minor contender for the Presidency in 1912. He probably had no chance of gaining the Democratic nomination, coming as he did from a sparsely populated state, and his candidacy attracted only slight interest outside of North Dakota. Nevertheless, the campaign is of interest and of importance. It created considerable interest in the region; it had some influence on the outcome of the elections in the state; and it came very close to gaining Burke the Vice-Presidency or a position in Wilson's cabinet.

One of the first intimations that Burke might be a possibility for national office occurred during the summer of 1908, when at Valley City he met Joseph Folk, the reform governor of Missouri, who had his eyes on the Presidency. The two men reportedly spent considerable time talking politics. The Bismarck *Tribune* commented: "Governors Folk and Burke hobnobbed at Valley City this week, took in the ball game and appeared together at the state normal auditorium.

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1 "Who's Who and Why--Serious and Frivolous Facts About the Great and the Near Great," *Saturday Evening Post* (November 22, 1913), 23; copy of article in Burke Papers.
This may be a forecast of the next national democratic ticket—Burke and Folk—or Folk and Burke."^2 After Burke was re-elected governor in the fall, X. O. Pindell, governor of Arkansas, telegraphed his congratulations and added: "You have solved a problem for us. In nineteen twelve the south will nominate you for vice president. Harmon [Judson Harmon of Ohio] and Burke could not possibly lose."^3

However, it was not until after the death of Governor John Johnson of Minnesota on September 21, 1909, that Burke's chances received any serious attention. Johnson, who had been the first Democratic governor to be elected for three terms in a normally Republican state and who had contended with Bryan for the Presidential nomination in 1908, had been the leader of Northwest Democrats, and after he died Burke assumed his role. It was natural that he should. He had acquired some recognition through his speeches outside of the state and because of his activities on behalf of navigation development; he had been a warm, personal friend of Johnson and knew Bryan and other leading Democrats well; and he had demonstrated well enough his own vote-getting ability. At a Jefferson Day dinner at St. Paul, April 13, 1910, he was mentioned as a possibility for the Presidency. Although it is doubtful if he ever considered himself a candidate, Burke, speaking on the subject of the "West's Unrest", talked something like a man running for office,

^2 Bismarck Tribune, July 30, 1908.

^3 Ibid., November 8, 1908.

^4 Fargo News, September 21, 1909.
attacking Speaker Cannon and the Payne-Aldrich tariff and asserting
that the spirit that motivated the progressive revolt in Congress
was the same feeling that led the English to wrest Magna Charta
from King John. During the next summer a meeting of North Dakota
Democrats took official action favoring Burke and adopted a slogan:
"For president in 1912, Governor John Burke, of North Dakota."5 The
action was approved by the Democratic State Central Committee a
few days later on July 26.7

The Democratic papers of the state were enthusiastic over the
endorsement and pointed out in long, laudatory editorials why he
would make an excellent candidate.8 But Burke's persistent enemy
the Fargo Forum sarcastically observed:

He is in more magnificent proportions than ever before
imagined. His stupendousity is unrealized by the people
of North Dakota. His brilliancy of intellect--his classic
beauty and Adonis-like figure make him an imposing national
character--compelling homage and adulation.

He is no waning comet--with its tail pulled out--too
aged to create more than a dim shadow across the skies.
Burke is the real thing--the brilliant luminary--the
shining sun of the national democracy.

'Rah for Burke for president.'9

Throughout the remainder of the year, especially after Burke dup-
licated Johnson's feat by being elected for the third time, there
was considerable mention of his potential nomination. The Valley
City Times-Record reported that Folk, again speaking in the state,

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5 Fargo News, April 14, 1910; Grand Forks Herald, April 14,
1910.

6 Devils Lake Journal, July 14, 1910.


8 See Devils Lake Journal, July 21, 1910, August 4, 1910.

approved Burke's candidacy:

He paid a tribute of high praise to Governor Burke. He declared that the people of the state could not have selected a more honest, sincere and fearless governor and that he was esteemed and revered the nation over by those who knew him personally or by reputation. He compared him to Lincoln and said that the fitting reward his for public service would be his elevation to the presidency.\(^{10}\)

James Gray, the Democratic nominee for governor of Minnesota in 1910, announced that he would like to see John Burke's name at the head of the ticket. Similar stories of prominent Democrats who would support Burke were frequently reported.\(^{11}\)

The boom drew some limited comment from outside the state. For example, the New Haven Connecticut Union, in an article entitled "Look Out for Dark Horses" said:

Governor John Burke of North Dakota! Again we repeat, it is a name to be conjured with in democratic circles . . . . nobody ought to be given a mortgage on the democratic presidential nomination so far ahead, and it may be that in the end the party may best serve its own and its country's future by turning to such a man as John Burke in much the same way as the republican party turned to Lincoln in 1860.\(^{12}\)

And the Minneapolis Standard asserted: "Mr. Burke is among the most prominent politicians in the middle west . . . . His record of victories in North Dakota and his reputation as a progressive statesman will make him a prominent figure in the next campaign."\(^{13}\)

But this attention was by no means widespread, and there was little mention of his candidacy during 1911. There is no reason to believe

\(^{10}\) Quoted in Grand Forks Herald, August 4, 1910.

\(^{11}\) Fargo News, October 4, 1910.


\(^{13}\) Quoted in Devils Lake Journal, August 4, 1910.

\(^{14}\) Quoted in Devils Lake Journal, November 21, 1910.
that either Burke or leading North Dakota Democrats took the talk for him very seriously as they certainly could not have been unaware of the obvious consideration which was pointed out by the stalwart Cottonwood Call: "Some of the democratic editors insist that Governor Burke is presidential timber. Well, what of it if he is? There is lots of timber fitted for one thing and used for another. There was a time when fences were built out of walnut rails. It depends largely where the timber is located." Although it was probably apparent to the initiate that Burke had no chance of gaining the Presidential endorsement, many people in the state may have felt that by playing up his presidential possibilities he might have a chance for the Vice-Presidential endorsement or at least a cabinet position if the Democrats won in 1912. However, Burke did nothing in his own behalf, and his actions before and during the Democratic convention would seem to indicate that it really did not matter to him much whether he gained high position or not.

Before turning to the election of 1912, national political developments should be briefly summarized. As has been mentioned, President Taft's attitude on the tariff and conservation had alienated the progressives within his party during the early part of his term. Roosevelt, after his return from his African hunting trip during the summer of 1910, soon began drifting away from Taft and his administration, and shortly after the disastrous Republican showing in the elections of 1910, the progressives in the party, led

15 Quoted in Fargo Forum, September 1, 1910.
by Senator La Follette, organized the National Progressive Republican
League (January 21, 1911). Their organization grew rapidly, and it
appeared that La Follette would be its unanimous choice for President.
But Roosevelt, although coming closer to an open break with Taft,
layed outside the movement. After La Follette allegedly collapsed
while making a speech at Philadelphia, February 2, 1912, there was
a mass exodus of his supporters, and Roosevelt openly came forward
and announced his candidacy. His action placed three major candidates
in the field—Roosevelt, Taft, and La Follette—when North Dakota
held the first presidential preferential primary in the nation on
March 19, 1912.

The story of the elections of 1912 in North Dakota has been
well-told elsewhere and only their significance in the development
of the state Progressive Movement need be considered here. Although
the state would have only ten delegates in the convention, victory
in the presidential preferential primary was important as the result
might set a precedent for the rest of the country. North Dakota be­
came a battleground for the factions of the Republican party as
candidates and their supporters vigorously campaigned in the state.
It was evident from the beginning that the real battle was between
La Follette and Roosevelt which testifies to the strength of re­
form sentiment. The progressive newspapers and leaders supported

16 Mowry, 36-283; Norman, 8-22.

17 Norman, 1-172.
La Follette; Senator Gronna and Congressman Helgesen, for example, were two of his leading advocates. On the other hand, McKenzie's old backers, the stalwart faction, realizing they would have no chance with the conservative Taft, endorsed Roosevelt, and Congressman Hanna became the spokesman for the Rough Rider. The progressive newspapers once again revived the issue of "McKenzieism", asserting that it was behind the Roosevelt movement. According to the Minot Reporter "to vote for Roosevelt in the state is to put the old McKenzie machine back in power." Charges and counter-charges similar to those of Burke's campaigns were voiced throughout the period before the election.

The results showed conclusively how powerful progressivism had grown in North Dakota. Although Roosevelt had been looked upon as a sort of "native son" because of his ranching days at Medora, the voters were willing to accept neither the vague reform program the ex-President was advancing as progressivism nor the men who were working for him in the state. Instead they elected La Follette, who was very clearly a progressive. The Wisconsin Senator received a 8,578 majority over the combined votes of both Roosevelt and Taft, the final vote being La Follette 34,123, Roosevelt 23,669, and Taft a mere 1,876. The election was a triumph of principle over personality.

18 Norman, 38-39.
19 Ibid., 45-46.
20 Minot Reporter, March 2, 1912.
21 Norman, 24-64.
As the Minneapolis Tribune observed, the voters of North Dakota "saw through these big names (Roosevelt, La Follette, and Taft) and shining personalities for the shadows they were and voted through them for the solid realities of objects they wished to accomplish." Although there were at least a dozen active candidates for the Democratic nomination throughout the country, by agreement the aspirants agreed not to invade the territory of favorite sons, so consequently Burke's was the only name on the Democratic primary ticket; he received a total of 9,357 votes in the election. It was evident to most everyone by this time that he had no chance of gaining the top place on the ticket, and it was generally understood that North Dakota Democrats would support Wilson. However, Burke's name had been placed on the ballot in order that he might have control of the delegates of the state in the hope that he would be able to use them for trading purposes to obtain the Vice-Presidency or a cabinet post.

The Republican presidential preferential primary indicated that North Dakota voters would support only a progressive for President, and the June primaries brought further signs of the strength of the reform movement in the state. Although the stalwart-Republican Hanna defeated the progressive-Republican Buchanan for governor, in

23 Quoted in Norman, 54.


the election held June 26, the Republicans nominated progressives for the three Congressional seats and for the remainder of the state offices.

At the Chicago convention of the Republicans held a week earlier, the North Dakota delegation had also demonstrated the sentiment of the state. The delegates had refused to desert La Follette before the convention even though they realized that failure of the La Follette supporters to go along with the Roosevelt movement would ensure the renomination of the unpopular Taft. Primarily because of his control of the party machinery, Taft had been named on the first ballot of the convention. Roosevelt refused to abide by the verdict and announced that he would be willing to accept the nomination of a new party. Beginning its convention at Chicago, August 5, in an atmosphere charged with the emotion of hymn singing and flag waving, the Progressive Party named Roosevelt as its standard bearer and adopted a reform platform. However, in its support of the protective tariff and its failure to say anything about the trusts, the new party revealed the influence of wealthy conservatives who were backing Roosevelt.

In the meantime, the Democrats met at Baltimore June 25, confident that the split in the Republican party would ensure their victory. The leading candidates were Wilson, Bryan, and Speaker

26 North Dakota had gained a third seat in the United States House of Representatives after the 1910 census.

27 Norman, 90.

28 Ibid., 84-86.

29 Mowry, 256-273.
of the United States House of Representatives, Champ Clark of Missouri. Other important secondary contenders were Oscar Underwood of Alabama and Judson Harmon of Ohio; and there was also a group of dark horses, among them Folk, Burke, and the governor of Massachusetts, Eugene N. Foss. Of these minor candidates, Burke was the least known. The Review of Reviews, in commenting on lesser aspirants, said of him: "Governor Burke of North Dakota is understood to be progressive and courageous, a man of native strength of mind and will. But he is not yet widely enough known to be regarded as a national figure." A historian of the pre-convention presidential campaign has observed that Burke's campaign had attracted no attention outside the state, as he had not entered the contests of other states, nor has he sought to obtain the support of other delegations.

The Baltimore meeting of 1912 was probably the most exciting convention in the history of the Democratic party. As had been true at the Republican convention, a basic conservative-liberal division was evident among the delegates at the gathering. The conservative faction had named Judge Alton B. Parker in 1908 and had lost overwhelmingly, but because of the Republican cleavage their confidence had been revived. Before the convention got underway the two conservative groups within the party, the Bourbon Democracy of the South, which was supporting Underwood, and the summay Hall faction, which was endorsing Harmon, seemed prepared to unite behind Clark.

30 Goss, 481.
31 "Four Less Prominent Candidates," Review of Reviews, XLV (June, 1912), 648.
32 Goss, 484.
No candidate had a pledged majority of delegates, but Clark seemed to be the leader with his support from the party regulars and William Randolph Hearst; Wilson had generally united the progressives; and Bryan stood apart, possibly hoping to gain the nomination for the fourth time in case none of the leaders could secure the necessary votes. To get the two-thirds vote essential for nomination, Wilson or Clark would have to line up the votes of the many favorite sons. If Clark could secure the Tammany and Bourbon factions, he would have a majority of the delegates. This would almost ensure his getting the nomination, for not since 1844 had a candidate who had received a majority failed to obtain the nomination.

However, Bryan was determined to prevent the selection of a conservative. Before the convention he had sent a telegram to all the candidates asking for their support in defeating the conservative leader, Parker for the temporary chairmanship of the convention.

Governor Foss, Governor Thomas R. Marshall of Indiana, and Governor Simeon E. Baldwin of Connecticut, all favorite sons, declined to support his efforts, but not so Burke. According to Bryan's Memoirs:

Governor Burke of North Dakota sent the only explicit acceptance of the challenge of the Wall Street crowd. Governor Marshall was willing to support Parker, while Clark's answer was a straddle. Governor Wilson's telegram, while not as direct as I would have liked,

began with a sentence that led the delegates to accept it as a promise to oppose the Parker candidacy, which his delegates did.  

By his forthright answer, Burke had blasted any hope of gaining Eastern support for any attempt he might have intended to make for the Vice-Presidential endorsement.

Bryan's effort to defeat Parker for the chairmanship failed by a vote of 519-508 which made it clear that the Clark-Underwood-Harmon leaders controlled the convention in spite of the tide of reform sentiment that was sweeping the nation. However, the naming of Parker produced a storm of protest throughout the country and greatly strengthened Bryan's position. Looking toward the general public, and not the convention, in the next session he introduced his famous resolution against the reactionary elements in the party:

Resolved, that in this crisis in our party's career and in our country's history this convention sends greeting to the people of the United States, and assures them that the party of Jefferson and Jackson is still the champion of popular government and equality before the law. As proof of our fidelity to the people, we hereby declare ourselves opposed to the nomination of any candidate for President who is the representative of or under obligation to J. Pierpont Morgan, Thomas F. Ryan, August Belmont or any other member of the privilege-hunting and favour-seeking class.

Be it further resolved, that we demand the withdrawal from this convention of any delegate or delegates constituting or representing the above-named interests.

The resolution struck the convention like a bombshell and caused a tremendous uproar. Josephus Daniels of North Carolina, a Wilson

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35 Daniels, 53.

36 Baker, 343-344.
leader and later his Secretary of the Navy, wrote that he "feared Bryan would be killed. Never have I seen such hate." But Bryan demanded a roll-call vote and got it with the second part of the resolution withdrawn. With the sentiment of the nation what it was and the loaded nature of the resolution, the motion naturally carried by a vote of 883 to 201; its passage served to dramatize the issues of the convention to the people. The next session the balloting for candidates began.

Burke was non-committal when he arrived at the convention on June 25: "I cannot say whether I will accept the nomination for the presidency as a compromise candidate. I came to see the fun and my hat is not in the ring . . . . I cannot say who I am for. I came to Baltimore to attend the convention, not fight." However, it was generally known in North Dakota that he would support Wilson, and it was reported that there was considerable sentiment for Burke for the Vice-Presidency among Wilson men, and that if the New Jersey progressive were nominated for the presedency Burke had a good chance of gaining the second spot. According to Thomas C. Burke, John's brother, who was chairman of the Oregon delegation at the convention, Bryan had twice promised him that he would support John for the Vice-Presidency--once at a Democratic dinner in Portland in the spring

37 Daniels, 54.
38 Ibid., 54.
39 Devils Lake Journal, June 26, 1912.
With the North Dakota Democrats ready to back Wilson, the problem arose as to whether Burke's ten delegates should be shifted to the New Jersey Governor before or during the balloting. Thomas Burke wrote in his account of the convention that he persuaded John to make the transfer on the first ballot so that Wilson would have as much strength as possible at the beginning. This was the policy followed, and Burke announced the release of his delegates before the balloting got under way:

I am greatful for the compliment paid me by our fair State in urging my candidacy for the high office of President of the United States. At this time, however, when the cause of the people is at stake, the strength of Progressive Democracy should not be divided. I therefore release the North Dakota delegation from its pledge to me, with full confidence that you will act together in the interest of true Democracy and in accordance with the progressive spirit of the age.

On the first ballot Clark had the greatest number of votes (440½) as was expected, and Wilson was a strong second (324); other votes were: Underwood 117½, Harmon 148, Marshall 31, and Baldwin 22. Though the early voting, there were no significant changes.

However, on the tenth ballot New York, which had been solidly backing Harmon, who had no chance for the nomination after the Bryan resolution, switched its votes to Clark. This brought Clark's total to

41 Thomas C. Burke to the Reverend J. L. Connolly, October 29, 1937, Burke Papers.
42 Ibid.
43 Memorial Services.
44 Link, 448.
556 and gave him a majority of the delegates. It looked to be the
signal for a Clark landslide. Wilson was ready to give up, and
Clark was confident. But the expected avalanche failed to materialize.

Arthur S. Link, Wilson's latest biographer, writes of what followed:

The Clark delegates were naturally besides themselves with
joy; they shouted, sang, and marched for almost an hour.
It was a discouraging hour for the Wilson managers . . . .
What would the states following New York do? As soon as
the Clark demonstration had subsided, North Dakota was
called. An expectant silence fell over the great crowd.
When the steady response, "Ten For Wilson," followed, the
Wilson delegates let out a wild yell . . . . (They) Oklahoma
stood firm and the Wilson men began a wild counter-demon-
stration that lasted fully fifty-five minutes.

As successive ballots were cast, Wilson's strength grew slowly.

On the fourteenth ballot Bryan transferred Nebraska's vote, which
had previously been pledged to Clark, to Wilson. William F. Mc-
Coombs, who directed the Wilson campaign in the convention, eventual-
lly obtained the support of two state political bosses, Roger Sullivan
of Illinois, and Thomas Taggert of Indiana; the transfer of the
Illinois delegation to Wilson on the seventh day of the session mark-
ed the beginning of the end. On the forty-third ballot Wilson re-
ceived a majority, and on the forty-sixth ballot he won the nomination,

A last minute deal made which brought the important Indiana delegation
over to Wilson helped to assure his nomination, but it probably cost
Burke the Vice-Presidency. At the time Burke had shifted the North
Dakota delegation to the New Jersey governor, it was believed by

45 Link, 449.
46 Baker, 335.
47 Ibid., 361.
North Dakota newspapers that Burke had been promised the office for his action. Although Burke denied throughout his life that any agreement had ever been made, he possibly deserved the endorsement. His early support was important, for it helped Wilson to make a good showing at the beginning which enabled him to retain his strength through the balloting. Moreover, he had actively continued to support the New Jersey governor throughout the convention. But in order to gain the support of Taggart, McCoombs had been forced to promise that the Wilson forces would endorse Marshall for the second spot on the ticket. 49

Bryan and many other progressive leaders were not satisfied with Marshall as a candidate, and Daniels reported that both he and Bryan were ready to support Burke. Marshall had refused to go along with Bryan in his fight against Parker; in his answer to Bryan's telegram he had said: "Parker came to Indiana in 1908 to advocate your election and mine. I do not see how his selection as temporary chairman will result in a reactionary plank in 1912." 50

On the other hand, Burke had been an active worker throughout the convention for Wilson and Bryan, "a tower of strength" for the progressive cause, Daniels called him, and many felt he should have the nomination. Burke wrote of a hotel room meeting at Baltimore that he had heard about at which his possibilities were discussed:

48 Devils Lake Journal, June 28, 1912; Fargo Telegram, cited in Devils Lake Journal, July 5, 1912.

49 Link, 463; Baker, 362.

50 Daniels, 551.

51 Ibid., 62.
"Bryan said 'He is my candidate.' Someone said 'He is a Catholic' and Bryan replied 'If that is going to make any difference this is a good time to find it out.'" 52 Bryan has been said to have prepared to make a fight for Burke on the floor of the convention, and during the balloting to have actually rose from his seat with the intention of protesting against Marshall's nomination, but for some unexplained reason thought better of it and sat down again. 53 As a result, Marshall was named with little difficulty or opposition. On the first ballot he led Burke 389 to 305 2/3, and on the second 645½ to 367¼ as the Wilson forces swung into line. Burke withdrew and on the third ballot Marshall was nominated. 54

In spite of his defeat, immediately after the convention, Burke enthusiastically approved the results of the meeting: "It was a great convention, one that will go down in history for what it accomplished. It was the return of the democratic party to fundamental principles, a declaration that was heard around the world. The ticket is a splendid one; and the platform could not be beaten."

However, the Bismarck Tribune in an article entitled "Was Burke Sold Out" reported that Burke and Bryan were extremely disappointed over Burke's failure to gain the endorsement. The story stated that as soon as Burke had arrived at the convention, the Wilson managers had persuaded him to withdraw before the first ballot in return for the second place on the ticket, and then during the convention had

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52 John Burke to the Reverend John Cavanaugh, December 15, 1924, Burke Papers.
53 Daniels, 551.
54 Devils Lake Journal, July 3, 1912.
55 Bismarck Tribune, July 5, 1912.
had made the same deal with the Illinois and Indiana delegations by promising the office to Marshall. Burke, however, vigorously denied that he had been betrayed and stated that any agreement that might have been made was against his wishes:

My advice was at all times to use every honorable influence for the nomination of Governor Wilson and let the vice-presidency take care of itself. I am not a disappointed man, as stated in the interview, but on the contrary am highly pleased with the ticket nominated at Baltimore, and I shall use all honorable means to secure the election of both Governor Wilson and Governor Marshall.57

Burke expressed the same sentiments several years later; it is a tribute to Burke's character and his political sophistication that he displayed no bitterness over losing the nomination and quite probably felt none. He vigorously campaigned for the ticket in the fall through the Midwest, and during Wilson's two terms in office Burke was one of his most ardent supporters even though he was sometimes forced to go against the sentiments of his state in approving the President's action. For example, in endorsing Wilson's later policy toward Germany before the First World War, he assumed a position very unpopular in North Dakota.

Burke made two major speeches in the state before the fall election, one opening the state Democratic campaign at Fargo, September 23, and the other at Grand Forks, October 2. He directed his attack against Roosevelt, questioning his sincerity as a progressive. At Fargo he called him, "the most stupendous example of bossism in

56 Bismarck Tribune, July 10, 1912.

57 Ibid., July 11, 1912.
American politics" and denounced him in Grand Forks as the biggest boss in the country, a man completely in league with the special interests. Although he criticized Taft for his stand on the Payne-Aldrich tariff, he professed to be sympathetic toward the President as a sincere man who merely failed to understand the sentiments of the American people. The real fight in North Dakota, as in the nation, was between Roosevelt and Wilson and in directing his attack against the Colonel, Burke followed the policy of leading progressives and Democrats who spoke in the state. As in his own earlier campaigns, Burke again appealed to progressives to come over to the Democratic ticket; this he asserted was the only way of saving the Republican party.

The day after his address in Grand Forks Burke went on a speaking tour of several Midwestern states, South Dakota, Minnesota, Iowa, Kansas, and Nebraska, to urge the election of Wilson and Marshall. The trip was unreported in North Dakota newspapers, but these speeches presumably followed the same pattern as those delivered in North Dakota.

The Bismarck Tribune gave Burke considerable credit for the obvious pre-election strength of Wilson in the state:

North Dakota is claimed by some to be the strongest Wilson state of any in the Republican column in the union, according to population. This is accounted for through the position

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58 Fargo Courier-News, September 24, 1912, cited in Norman, 152.
59 Grand Forks Herald, October 3, 1912.
60 For an account of the state campaign see Norman, 101-165.
61 Bismarck Tribune, September 27, 1912; Devils Lake Journal, November 4, 1912.
which Governor Burke took in the national convention. ... The action of Mr. Burke all through the convention makes Mr. Wilson very friendly to the governor, and every Democrat in the state seems to share the function. 62

Burke had probably done a good deal to popularize the cause of the Democratic party in North Dakota through his six years as governor, but the triumph of Wilson in the state can be attributed more to the general strength of progressive sentiment than to the influence of any individual. On November 5 Wilson won the state's electoral votes with a total of 29,555 ballots. Roosevelt had 25,726, Taft, 23,090; Eugene V. Debs, the Socialist candidate, was fourth with 6,966, and the Prohibitionist candidate polled 1,243. The election was a triumph for the principles of reform. As they had done before on the state level, Republicans again deserted their party to vote for the candidate who most clearly represented their convictions. Although Roosevelt ran as a progressive and had been extremely popular in the state, many voters distrusted the men behind the ex-President, backers such as George W. Perkins of the hated Harvester Trust. Moreover they felt Roosevelt had weakened the progressive cause by undermining the candidacy of La Follette, who state progressives felt most clearly represented the tenents of the movement. Once again North Dakota voters had supported principle above personality.

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The picture of the election for state officers was complicated by the appearance of a Progressive party candidate for governor, W. D. Sweet, mayor of Fargo, who polled 9,406 votes. Since Hanna

62 Bismarck, Tribune, September 3, 1912.

63 Legislative Manual, 1913, 263.

64 For further discussion see Norman, 166-172.
beat Hellstrom, the Democratic nominee, by 8,267 votes, 39,811 to 31,544, it might be presumed that, had it not been for the third party nominee, a Democrat might again have been elected governor. Voters dissatisfied enough with the stalwart Hanna to vote for an almost certain loser might have been expected to vote for Hellstrom if Sweet had not been in the race. The Republicans swept the remainder of the offices by large majorities. The party had won back control of the governorship, but the election demonstrated no real weakening of the reform spirit, for it will be recalled that the progressives had nominated every Republican candidate except Hanna, and he had no black conservative record.

Throughout the nation the election was a triumph for progressivism as well as being a smashing victory for the Democratic party. The Democrats, who had not had full charge of the government for eighteen years, swept both houses of Congress and won twenty-one state gubernatorial contests. Wilson, although polling only forty-two per-cent of the popular vote for President, was overwhelmingly victorious in the electoral college with 435 votes against Roosevelt’s 88 and Taft’s 8. Roosevelt with twenty-seven per-cent of the popular vote carried six states, Taft with twenty-three per-cent only Vermont and Utah. The progressive principles which Wilson, Roosevelt, and Debs advocated had been supported by over three-fourths of the nation’s voters. Coupled with the results of the Republican presidential

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preferential primaries in the spring, which either Roosevelt or La Follette won in every case, the elections of 1912 demonstrate conclusively that progressivism had captured the nation.67

Burke left the North Dakota governorship on January 8, 1913. His final message to the legislature contained a forceful plea for the passage of a workmen’s compensation law, and an argument for the adoption of a securities act to prevent the sale of worthless stock. He again urged the passage of the law to give the governor power to remove local officials, and most of his speech consisted of a long, legal analysis of the feasibility and constitutionality of such a measure.68

Throughout the winter, North Dakota newspapers reported that Burke had a good chance of gaining a cabinet post in the Wilson administration. It was frequently predicted that he would become the Secretary of the Interior because of his activities in behalf of conservation and navigation development.69 However, Burke denied the rumours and announced that he planned on returning to the practice of law in Devils Lake.70

In 1924 Burke wrote a very informative letter to Reverend John Cavanaugh of Notre Dame University on the events of the day of the Wilson inauguration; his letter gives considerable insight into the

67 Norman, 167.
68 Journal of the House of Representatives of North Dakota, 1913, 166-197.
69 Devils Lake Journal, November 12, 20, 1912.
70 Ibid., November 20, 1912.
nature of American politics and reveals a good deal about Burke's character. According to this account, despite the persistent rumours in North Dakota, no mention had ever been made of a position up to the day of the inaugural. After Burke had attended the ceremonies, he was told by Joseph Tumulty, Wilson's private secretary, that the President wished to see him. On his way to the Chief Executive's office, he met Bryan coming out. They stopped to talk briefly. Bryan said that he wished to see Burke later and told him that if he wanted a cabinet position, he could have it.

Burke wrote that, "the president was most cordial," when he entered his office and told him: "You are a very unusual man, I appreciate very much your unselfishness and great assistance in the Baltimore convention and I want you to be connected with the administration." Wilson said that he did not know what might be open, but would let him know in a few days. Burke told Wilson that he was not looking for any position but would just as soon return home and practice law. However, Wilson was insistent that he wanted him in some office.

After he left the President, Burke went along with a party that was calling on cabinet officers who had already been named. They stopped first at the office of William Gibbs McAdoo, who became Wilson's Secretary of the Treasury, and McAdoo told Burke that he wished to see him in private. When they were alone, McAdoo informed

71 John Burke to the Reverend John Cavanaugh, December 15, 1924, Burke Papers.
Burke that all the cabinet officers except the Secretary of the Interior had been selected. He said that he, Bryan, and Daniels were trying to get Burke the position but that the other cabinet officers were fighting his appointment as they thought it would be "bad politics." Later in the day Bryan and Daniels told Burke substantially the same thing. Burke wrote:

I didn't ask them why it would be bad politics to appoint me Secretary of the Interior, and they didn't say, but of course I knew why. It was only a short time before that the President had appointed Tumulty his private secretary.\[72\] and I know there was an awful storm that broke over the President's head, when that appointment was announced. I was a little surprised that as strong a man as President Wilson would pay any attention to prejudice. No doubt the fact that he was acting for the party had a great deal of influence with him.

Burke left Washington the same day without knowing where he stood, but when he reached Minneapolis, he was offered the position of United States Treasurer, and he agreed to accept. A lesser man than Burke might have been discouraged by the appointment and have felt bitter toward Wilson. He had lost the Vice-Presidency because of political considerations and for the same reason had failed to gain a cabinet position which he probably felt he deserved. Now, he had been offered an essentially minor position that offered no hope of gaining recognition. But to Burke it did not seem to matter. He respected Wilson as a great progressive leader and understood and sympathized with his problems. Throughout the period that he served in Washington, the President never had a more loyal supporter.

On March 15, 1913, Burke was appointed Treasurer of the United States. Burke's part in the development of the North Dakota Progressive

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72 Tumulty like Burke was a Catholic.
Movement had ended, and his activities after this point are outside the scope of this account. But the remainder of his career was not undistinguished. After running unsuccessfully for the Senate in 1916, he continued to serve as Treasurer through Wilson's second term, retiring January 5, 1921, and during the period effected several important reforms in the Treasury. His experience on financial matters resulted in several offers to enter business and after leaving office, he joined the brokerage firm of Louis M. Kardos in New York. It proved to be a disastrous association. The firm went bankrupt, and its illegal business practices were investigated by a New York grand jury. Burke had taken no part in the active conduct of the business; apparently Kardos had merely used the prestige of Burke's name to cover his fraudulent activities entirely without Burke's knowledge. Burke was completely absolved of any responsibility for the debts of the business, but he nevertheless turned over all his personal fortune including a paid up insurance policy to help pay them. In so doing, as the Grand Forks Herald observed, he won "the hearts of thousands throughout the nation."  

He returned to the state with virtually no money, so penniless, in fact, that he had to borrow a car in Minneapolis to get himself and his family home to North Dakota. He lived in the house of a friend in Fargo; old associates loaned him money; and at a fairly advanced age he started the slow work of rebuilding his savings.

73 Grand Forks Herald, May 15, 1937.
He practiced law with Usher L. Burdick in Fargo, for a time, and in 1924 ran for the North Dakota Supreme Court. He led a field of five candidates in the primary and in the fall won by a majority of 34,364 votes. He was reelected for six more years in 1930 by a huge majority of 121,555 and in 1936 for a ten year term of 97,581 votes. In the many opinions he wrote from the court, he consistently followed a liberal approach to the law, and in his late years enthusiastically supported Franklin D. Roosevelt and the New Deal.

When he died May 14, 1937, he had become one of North Dakota's most beloved and distinguished citizens. In the words of his close friend and associate on the court, Judge A. M. Christianson, he left behind him, "an enviable record of honorable service honestly performed, and a multitude of real friends scattered far and wide over the nation. No man could leave a greater heritage." 74

The high place John Burke holds in the hearts of many North Dakotans is well-deserved. In this account, only a small portion of his life has been considered in detail and from a special framework, that of his role in the North Dakota Progressive Movement, but the observations that can be drawn about him from the period he served as governor fit his entire career as a public servant. He represented the best qualities of men who hold office, uncompromising

74 Judge A. M. Christianson in Memorial Services; The above material on Burke's later life is from the following: Grand Forks Herald, May 15, 1937; other addresses in Memorial Services; interviews with Justice Thomas J. Burke, September 13, 1951; Mr. Thomas A. Hall, Secretary of State of North Dakota, September 13, 1951.
honesty, devotion to duty, and a belief in the integrity of the
democratic processes of government. Unlike La Follette, for example,
he was impressive neither as a political thinker nor as a formulator
of programs of reform, and at times his approach to problems was
naive or unrealistic. Nevertheless, he was unswerving in the belief
that the duties of a public office should be discharged to the best
of a man's capabilities in the interest of the whole people. In
this respect his record as governor is hard to equal. He was elected
at a time when the prestige of the office had declined to a very
low level in North Dakota, for the machine officials who had pre-
ceded him had seemed to devote most of their time and efforts to
advancing the demands of the state's railroads. Burke changed this
picture completely. Although he was not always successful in his
actions, he consistently followed the policies which he believed
would ensure government representative of the best interests of the
entire state.

With these qualities Burke combined great political ability.
Throughout the time he was in office, the Democratic party was solid-
ly united behind him, going so far as to support him for the Presi-
dency in 1912. He was able to prevent any major disruptions even
after his rather inept handling of the appointment of Thompson and
Purcell to the United States Senate. Moreover, through a general
policy of non-partisan appointments and high standards in the conduct
of his office, he was able to retain the confidence of the Republican
progressive leaders. Finally, he was able to keep the trust of the
people through six years in office, notwithstanding the persistent
efforts to discredit him.

Burke's three administrations left a solid record of achieve-
ment: a legislative program of reform the equal of that of any
other progressive state; enforcement of prohibition; the carrying out of a regulatory railroad program; and a significant increase in railroad taxation. His accomplishments, considerable as they were, are even more significant in contrast with what preceded them. That he was one of the best governors the state has ever had can not really be disputed.

Burke's chief historical significance lies in his role in the North Dakota Progressive Movement. During 1906-1912 the state became firmly committed to the principles of reform that were sweeping the nation, and he became the symbol of this new order in state politics. Although Burke, a Democrat, dramatized the reform issues and was responsible for carrying out the progressive program, progressivism in North Dakota was fundamentally a movement within the Republican party, and much of its leadership came from there. It was the revolt of reformers within the dominant party that caused Burke's election; it was their inability to gain control of the party that kept him in office; and it was mainly their demands that were enacted into law. Still, it was Burke who led the state, and by his actions he did much to ensure the success of the movement.

Historically, the North Dakota Progressive Movement has largely been overshadowed by the dramatic and colorful story of the Non-Partisan League, which rose to power only a few years after Burke left office. If this earlier upheaval has been considered at all, it has been viewed only as part of a continuous state agrarian movement beginning with the Farmers' Alliance and continuing down through the years. Actually, however, the movement does not fit the agrarian pattern. Its demands, more social and political than economic, were largely taken over from similar programs in other
areas and often had very little relation to the agricultural problems of an almost completely rural state. The leading measures advocated by the progressives—the direct primary, better law enforcement, tax equalization, and honesty in government—only indirectly affected the farmer's welfare and aroused little of his interest. The initiative and referendum, a child labor law, and the commission form of government, although important, were no answer to the problem of the low price for a bushel of wheat. The voting strength of the movement lay in the small towns, especially those in the more densely settled eastern part of the state, and it was there that the progressive battles seemed important. It was almost always true that the larger the county and the more towns it contained, the greater the majority for Burke, whose elections supply the best indications of progressive sentiment. The voting patterns of the entirely rural areas were changed very slightly during the progressive era. Moreover, the wide-spread agrarian dissatisfaction present in 1915, after progressives had largely accomplished everything they proposed, would seem to indicate that many farmers felt that their reform program, comprehensive and complete as it was, was not the answer to their needs.

Although many of the leaders were indifferent to them and although they never assumed much importance at the time, agrarian issues did become a part of the movement. In striking at the power of the railroads the reformers were indirectly attacking the farmer's problems; minor marketing legislation was passed; a state hail insurance department was established; the old Populist demand for a state-owned terminal elevator was revived; and the progressives, by large majorities, took the initial steps in the long process of
amending the constitution to make it possible. Moreover, it was not the progressives who sabotaged the terminal elevator plan, the action which served as the immediate cause for the rise of the League. This responsibility lies with the stalwart faction. Although the conservative Hanna, elected governor in 1912, had gone along with reform measures during his first term, in 1914 he was reelected on an economy program which made it clear that nothing would be done in the 1915 legislature to build the elevator, and this realization among farm leaders set off a chain of events that brought the league to power. It was not progressives who were swept into office in 1916 but new leaders who clearly reflected agrarian demands in the tradition of James B. Weaver and Ignatius Donnelly. North Dakota progressivism, in spite of its great accomplishments—removing the government from the hands of a political machine which followed policies in the interests of out-of-state corporations, enacting a program of social economic, and political reform, and providing several years of enlightened administration—had failed to satisfy the demands of the farmer, and the state turned to new, more radical, direct methods to meet its fundamental problems.
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