An ex officio board in action: Construction of public buildings by the Montana Board of Examiners

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AN EX OFFICIO BOARD IN ACTION:
CONSTRUCTION OF PUBLIC BUILDINGS BY THE MONTANA BOARD OF
EXAMINERS

by

DAVID ALLEN LEUTHOLD

B. A. Montana State University, 1954

Presented in partial fulfillment of the requirements
for the degree of
Master of Arts

MONTANA STATE UNIVERSITY

1960

Approved by:

[Signature]
Chairman, Board of Examiners

[Signature]
Dean, Graduate School

AUG 18 1960

Date

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Chapter I
The Board of Examinees as a Montana Executive Agency

The Montana Board of Examinees has been justly described as the "most powerful executive and administrative agency of the state."¹ The Constitutional Convention of 1889 established the Board, providing that:²

Sec. 20. The governor, secretary of state and attorney general...shall constitute a Board of Examinees, with power to examine all claims against the State, except salaries or compensation of officers fixed by law, and perform such other duties as may be prescribed by law. And no claim against the State except for salaries and compensation of officers fixed by law, shall be passed upon by the Legislative Assembly without first having been considered and acted upon by said board. The Legislative Assembly may provide for the temporary suspension of the State Treasurer by the Governor, when the Board of Examinees deems such action necessary for the protection of the moneys of the State.

The three officers on the Board are elected simultaneously for four-year terms, with elections being in the same years as presidential elections. Appendix A lists the officials


who have served on the Board of Examiners.

Since 1889 the powers of the Board have been greatly expanded by statute. In addition to examining and approving claims against the state, the Board has been given the power to fix the number, compensation, term and tenure of office of employees of executive agencies, to authorize the printing of official reports, and to construct buildings. The Board has the power to authorize expenditures of funds appropriated for a succeeding year, to fix the amount of bond for state officers if it is not specifically designated by the legislature, and to authorize out-of-state travel by state employees.

The Board acts as Board of Supplies and Furnishing Board, and has the responsibility for the care of the State Capitol and for the allocation of offices in the Capitol.

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1. Montana, Revised Codes (1947), sec. 59-901. Hereafter cited in this chapter as Codes.
2. Codes, sec. 59-703.
3. Codes, sec. 82-1146.
4. Codes, sec. 6-102.
5. Codes, sec. 25-508.
6. Codes, sec. 82-1126.
7. Codes, sec. 78-102.
8. Codes, sec. 78-104.
The legislature usually authorizes the Board of Examiners to issue bonds for the state. The Board supervises and controls the Montana State Tuberculosis Sanitarium. From 1919 to 1951 the Board prepared the State's budget. Early in the state's history the Board of Examiners exercised the power of reducing or eliminating appropriations voted by the legislature. This power was later abated by a Supreme Court ruling. The consolidation of these powers into one agency has made the Board of Examiners extremely powerful. In addition, the same three officers act also as the Board of Commissioners for the Insane, Board of State Prison Commissioners, and the Carey Land Act Board.

This thesis will examine the administration of the construction of public buildings by the Board of Examiners. Consideration is first given to the organization of the executive department of state government, the origin of the Board of Examiners and opinion about the Board. The other state agencies authorized to construct public buildings are then briefly examined and the manner in which the Board of Examiners has received power to construct buildings is considered. The procedures and methods employed by the

1. Codes, sec. 80-203.
2. State ex rel. Jones v. Erickson, 75 Mont. 429, 244 P. 257 (1924)
Board in the construction of buildings in the last few years are related in detail. Finally, a detailed case study is presented of a state-wide dispute, involving the Board, over the allocation of construction funds. The case study includes the actions of the Board and its adversaries, the Board's response to public opinion, and the effect on the construction of buildings.

**Organization of the Executive Branch of State Government**

The reader should be familiar with the organization of Montana state government, and especially the organization of the executive department, to comprehend the position and influence of the Board of Examiners. The Montana constitution provides that the supreme executive power of the state is vested in the Governor, who shall see that the laws are faithfully executed. However, like the Governors of many other states, the Governor of Montana holds limited executive power. Much of the executive power of the state has been given by statute to the Board of Examiners. Two other institutions, the long ballot (election of many executive officials), and the use of boards and commissions,

have reduced the powers of the Governors of Montana and of other states.

The Long Ballot

In the 1830's Jacksonian democracy presented a new mode of political thought, decreeing that government would be more responsible if more of the officials were elected by the people themselves. Previously, administrative officials had often been appointed by the legislature. Bosses had stepped in and secured control of patronage. The long ballot was advocated as a method of eliminating boss control. All of the important state officials were to be elected by the people.¹

By the time of the 1889 Montana Constitutional Convention, the long ballot was well-accepted. At the same time the economy was undergoing change, and there was demand for expanding and strengthening of state activities. The constitutional conventions, believing that they represented the wishes of the people more truly than the legislatures which would succeed them, established commissioners, boards, and bureaus to protect the rights of the people. These

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constitutional boards, usually part of the long ballot, were
to be responsible to the people and outside the corrupting
influence of the three normal branches of government.¹

An excellent illustration of the prevailing desire for
elected rather than appointed officials is provided by the
address of Governor Joseph K. Toole to the legislature in
1903. Governor Toole, who had been a member of the consti-
tutional convention, recommended that the following offices
be elective rather than appointive: State Examiner, State
Inspector of Mines, State Coal Mine Inspector, State Boiler
Inspector, Commissioner of Agriculture and Labor, State
Veterinarian, Register of the State Land Office, State Land
Agent, and Game Warden. Toole argued that these were all
offices of high rank, having to do with most important parts
of the public service. He stated that the system of ex-
cecutive appointments was reprehensible, an attempt to fuse
together disagreeing elements of a democracy and a monarchy.²

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1. John D. Hicks, The Constitutions of the Northwest States
("The University Studies of the University of Nebraska,"
Vol. XXIII, No. 1; Lincoln, Nebraska: University of Nebraska

2. Messages of Governor Joseph K. Toole to the Eighth
Legislative Assembly of the State of Montana, January 5,
Toole, surrounded by state officials of his own, the Demo-
cratic party, also recommended that if any new offices were
created and a vacancy was to be filled, the legislature
should assume responsibility by designating by name the
His suggestions were not adopted but the long ballot is a part of Montana political life.\(^1\)

Arguments presented for the retention of the long ballot include the possibility of dictatorship from concentrating power in one office, the ability of numerous officials to act as a curb on the excesses of one improper official, and the desirability of keeping government democratic by keeping it close to the people. Opponents of the long ballot point out that divided power curbs good as well as evil, and that the attempt to keep government democratic is often ineffective because voters rarely know the qualifications of the candidates for lesser office. The long ballot also obstructs responsible party government by encouraging the growth of personal political machines.

\begin{quote}

person to hold the temporary office. Two years later in 1905 Toole changed his tune when the Republicans won complete legislative control and all of the executive offices except Toole's gubernatorial office and the Lieutenant Governorship. In that session Toole vetoed a Railroad Commission bill, with his first reason being that the legislature had invaded the province of the executive in assuming to name the commissioners. Message of Governor Joseph K. Toole to the Tenth Legislative Assembly of the State of Montana, January, 1907 (Helena, Montana: State Publishing Co., 1907), p. 12. Messages of the Governors hereafter are cited as Governor's Message by year.

1. A study at the University of Missouri found in 1943 that only nine states had more constitutional offices and agencies than Montana. (This study, however, includes appointive as well as elective agencies.) Manual on Executive Article for the Missouri Constitutional Convention of 1943 (Columbia, Missouri: University of Missouri, n.d.) cited by University of Oklahoma Government Department Administrative Organization in Oklahoma ("Constitutional Studies," No. 3; Oklahoma City, Oklahoma: Oklahoma State Legislative Council, 1947), p. 2.
\end{quote}
Boards and commissions

A second institution reducing the power of the governor is the use of a board or commission to head an administrative agency. Several arguments are advanced for the establishment of boards and commissions. It is argued that the use of boards to head agencies, by reducing the control of elected officials, keeps politics out of the administration of the agencies. This reduction of political control allows the establishment of professional staffs and experts. If members have long, overlapping terms, continuity is provided. The use of multi-member boards allows representation of various interest groups or representation of localities or sections. A final advantage claimed for boards and commissions is that many heads are better than one.

Political scientists have found many faults with boards and commissions in operation. They argue that the use of boards does not necessarily keep politics out, but rather may introduce political pressures, as members are forced to trade votes and patronage. Members who represent various groups or localities are forced to assume political attitudes. The use of long, overlapping terms allows a defeated political party to retain control over administration long after it is out of office.
Those people who argue against commissions say that because the members are usually free from removal once they have been appointed, the boards are not responsible to the people, to the Governor, or to the legislature, and in effect become a fourth branch of government. Policy is decided not by officials who were elected by the people and are responsible to them, but rather by officials responsible to no one. Boards do provide continuity, but too often it is a continuity of ineffectiveness. Members are able to shirk responsibility by pointing out that they have only one vote. The problems of modern government are often too complex for proper consideration by a part-time lay board. Boards do not always employ competent experts and professional staffs; board members may be as subject to the temptations of patronage as governors. It is alleged that boards and commissions are often slow to act. Lastly, it is argued that the independence of the boards results in a lack of coordination among departments and a failure to subordinate the departmental requests to the overall needs of government.¹

Ex officio boards

One of the most soundly berated boards is the ex officio board on which the members serve as a result of holding some other office. (The Montana Board of Examiners is an ex officio board). Reasons urged for establishing ex officio boards include the savings from not hiring other officers, the desire to give all factions a voice in administration, and the desire to place responsibility with elected officials rather than with appointed officials, (although these boards may and often do include appointed officials). It is claimed that the use of ex officio boards forces the Governor to keep himself advised of board activities if he is appointed to the board. The designation of influential officials to an ex officio board lends an air of importance and distinction to the agency. The association with popular officials may bring public support to an agency. Designation as an ex officio member increases the importance of a minor official; the Secretary of State of Montana would have little power were it not for his position on ex officio boards.

Arguments against the use of ex officio boards include the factors of time and efficiency. It is argued that board members are usually busy with their own important duties, while the matters considered by the board may be minor in
character. Thus important officials are forced to concern themselves with trivia. Busy officers may give only casual or perfunctory attention to board duties, or if they conscientiously perform their board duties, they may have to neglect their basic responsibilities. Generally the board is forced to hire an executive director, losing the desired fiscal savings, and the real guidance is left to the director. Rarely is efficiency achieved by an ex officio board. The members are not chosen because they have special abilities to handle the problems of the agency, but because they have been selected to hold some other official position. Executive officials are able to avoid responsibility and to hide behind the actions of the board. It is claimed that often the members approach their duties with a view to promoting their own political advantage. The governor, supposedly the chief executive, may be a minority of one, forced to logroll with minor officials in order to secure his program. Minor officials often desire to achieve recognition themselves rather than add to the success of the governor's administration. If a governor or any other busy member absents himself from ex officio board meetings because of the press of time, he loses his voice in administration of the agency. Requiring members to give attention to a wide variety of unrelated activities does not add to the general efficiency of the administrative process. Generally ex officio boards
have established poor administrative records.¹

Attempts at reorganization

The desire to centralize authority and responsibility has led to campaigns in many states for the reorganization of the executive departments of state government. These campaigns have been generally unsuccessful. The first general wave of studies of state government came at the close of World War I, following the adoption of an administrative code in Illinois. The second extensive group of surveys came in the decade of the thirties, when emphasis was laid on practices of financial management. The third group of surveys, by what were commonly called "Little Hoover Commissions," followed World War II and concentrated on structural reorganization. The surveys have been made by outside firms of management consultants, by legislative investigating committees, and by citizen commissions appointed by the governor. However, the weak governor and poor administrative structure provided in most constitutions have persisted over the years because the popular suspicion of a

strong governor never died out, except in a very few states. The significance of the office of governor has grown mainly as a result of the personal characteristics and influence of the governors elected.¹

Montana has had a reorganization study during each of the three national waves and has used each of the three types of study groups. The first study was conducted in 1919 by the three-man Efficiency and Trade Commission. This citizen body was established by the legislature and charged with the investigation of financial and business policies of state government, for the purpose of making recommendations for consolidation of agencies and efficient administration of government. The Commission was also instructed to investigate wholesale and retail prices and unfair trade practices.² The Commission submitted a reorganization report to

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the special session of 1919. Their principal recommendation was the creation of a Board of Administration, which would relieve the Board of Examiners of nearly all the duties assigned to it. The three members of the Board of Administration were to be appointed by the governor. The proposal would have centralized the control of the state government, for the board would have had control over the audit of claims against the state, the purchase of supplies, the erection of buildings, the preparation of the budget, and the charitable and penal institutions of the state. The bill passed the Senate 29 to 0 and the House 66 to 19, but as a Constitutional amendment was rejected by more than a 20,000 vote margin, 51,072 to 72,870.

In 1941 the legislature authorized the Governor, with the aid of an advisory committee and consultants, to study the organization and structure of state government. Griffenhagen and Associates of Chicago were hired to conduct the study. Fifty-nine separate reports were made covering the various aspects of state government and the state

2. Ibid., p. 67 (Senate Journal)
3. Ibid., p. 145 (House Journal)
4. State of Montana Reorganization Report Submitted to the Twenty-eighth Legislative Assembly by Governor Sam
institutions. A fairly complete reorganization of state government was proposed. Griffenhagen and Associates recommended that the constitution be amended to abolish all ex officio boards except the Board of Pardons. It was suggested that the state provide for an appointed Board of Finance in place of the Board of Examiners. Only minor recommendations were adopted by the legislature.

The “Little Hoover” Commission, a reorganization commission composed entirely of legislators, was created by the 1951 legislature. The Commission noted that the people of Montana hold the Governor responsible for state administration, but that the Governor's position had been weakened (1) by failure to give the Governor general powers of direction and supervision over state administration, (2) by the granting of powers to a multi-headed executive, the Board of Examiners, (3) by the growth in the number of state agencies, and (4) by the use of boards and commissions with


long, overlapping terms. The Commission recommended that various powers be transferred from the Board of Examiners to the Governor, such as the power to let contracts for buildings, to employ architects, to approve purchases, and to approve printing of official reports.\(^1\) None of the powers were transferred, however. A personnel commission was established but was scuttled by the succeeding legislature, and the Board of Examiners retains legal control over the establishment of positions and the compensation of personnel. The Commission submitted fifty-one bills to the 1953 session and all but seven were adopted. Little was accomplished in reorganization.

**Present organization of Montana executive branch**

Despite three reorganization commissions and repeated gubernatorial pleas for reorganization,\(^2\) Montana's government is far from centralized. The long ballot is in effect and voters elect ten executive officials, including the

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2. Every Governor since 1916 has requested that the legislature provide for some reorganization of state government. The intensity and authenticity of the requests has varied, of course.
governor, lieutenant governor, attorney general, secretary of state, treasurer, superintendent of public instruction, auditor, and three railroad and public service commissioners.

There is an extensive use of boards and commissions. In 1953 David W. Smith, Montana State University political science instructor, found that Montana's executive branch had expanded from a total of twenty offices, commissions, and boards in 1890 to a total of 135 such agencies.\(^1\) Dr. Roland R. Renne, president of Montana State College, reported in 1958 that six boards and one commission are charged with duties that are primarily financial. Twenty-one boards and commissions are engaged in various ways in carrying out some phase of educating the youth and citizens of the state. Twenty boards and commissions are charged with developing, maintaining, and improving the state's natural resources.\(^2\) As will be pointed out later, thirteen agencies have the power to construct buildings.

Montana is embarrassingly rich in its number of ex

\(^1\) David W. Smith, "An Outline of the Development and Growth of State Administration in Montana 1890-1953" (Department of Political Science, Montana State University, September 1, 1953), p. 2. (Mimeographed).

officio boards. Five such boards were set up by the constitution and eight more had been added by statute by 1895. Today there are so many that counting is difficult. David Smith listed eleven in 1953, while the Montana Taxpayers' Association chart of the units of the executive branch listed twenty-four ex officio boards in 1953. Appendix B is a list of the ex officio boards on which the state's elective officers sit.

Montana has consistently followed national trends in the organization of its executive branch. As was common in the nineteenth century, Montana established an executive branch which emphasized the long ballot and many boards and commissions. Montana participated in each of the national waves of reorganization and, like most other states, accomplished little. The state has so many agencies, both constitutional and statutory, that a governor could not exercise effective control even if all the agencies were directly responsible to him. As it is, few are.

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1. Smith, Table No. 1.
2. Ibid., Table No. 10.
3. Montana Taxpayers' Association, "Units of Executive Branch Montana State Government" (Montana Taxpayers' Association, Helena, Montana, April, 1958), chart. (Mimeographed.)
History of Boards of Examiners

A Board of Examiners has been established not only in Montana, but also in four other Western states, California, Nevada, Idaho, and Utah.

California statute

So far as is known to the author, the first Board of Examiners, consisting of the Governor, Attorney General and Secretary of State, was established in California in 1856 by legislative enactment, in a law entitled "An Act for the Better Protection of the State Treasury." The law gave the Governor, Secretary of State, and Attorney General power to examine the books of the Controller and the Treasurer and to count the money in the treasury. An affidavit of the money in the treasury was to be published each month. The Board was to examine and approve or disapprove all claims against the state, including claims for which appropriations had been made.¹

The law was clarified and strengthened in 1857 and 1858. An additional clause was added: no claim was to be entertained by the legislature unless recommended by the Board of Examiners or upon appeal from the action of the Board.²

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¹ The Statutes of California Passed at the Seventh Session of the Legislature Begun on the Seventh Day of January, One Thousand Eight Hundred and Fifty-six, and Ended on the Twenty-first Day of April, One Thousand Eight Hundred and Fifty-six, At the City of Sacramento (Sacramento: James Allen, 1856) c. 85.

² The Statutes of California Passed at the Ninth Session of
Nevada Constitutional Convention

The Nevada Constitutional Convention met in 1864. Thirty-four of the thirty-six delegates had lived in California, averaging more than nine years there. The convention established a Board of Examiners, employing phrases which would later be copied word for word by Idaho, Montana, and Utah. The section establishing the Board of Examiners also provided for a Board of State Prison Commissioners, which was a constitutional board in California. In the debate on the section, a question was raised as to the meaning of the phrase requiring all claims against the state to be examined by the Board of Examiners before being passed upon by the legislature. It was explained that California had established such a board by statute, with a tacit understanding that the legislature would not consider claims unless previously considered by the Board. Sometimes, however, individuals, rather than going to the Board of

the Legislature, 1858, Begun on Monday, the Fourth Day of January, and Ended on Monday, the Twenty-sixth day of April (Sacramento: John O'Meara, State Printer, 1858), c. 257.

Examiners, would secure legislative approval of claims "by means of lobby influence." This constitutional provision was to protect the Nevada legislature from such temptation. One delegate questioned the inclusion of the Attorney General, who might not be a resident at the capitol, suggesting that the Controller, who would always be at the capitol, be named to the Board. The president of the convention took the floor to point out that meetings would be held at stated times, and that even if the Attorney General were absent, a quorum would still be present for the trans- action of business. Neither the Controller nor the Treasurer would be proper members of the Board, for the Board would be passing upon their accounts. The Controller would have to issue and the Treasurer would have to pay the warrants drawn by the Board.\(^1\) In 1865 the Nevada legislature passed an act defining the powers of the Board of Examiners. Much of the act was copied word for word from the California law of 1858.\(^2\)

In 1872 California recodified its laws. By then the Board of Examiners had been given increased power, including

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2. *Statutes of the State of Nevada Passed at the First Session of the Legislature 1864-5 Begun December 12th, 1864, and Ended March 11th, 1865* (Carson City, Nevada: John Church, State Printer, n.d.,) c. 32.
the power to appoint a printing expert who would check up on the state printer, and the power to invest proceeds from the sales of school lands. ¹

Idaho Constitutional Convention

In 1889 the Idaho Constitutional Convention adopted without change the section of the Nevada constitution establishing the Board of Examiners. The chairman of the committee on judiciary objected to the inclusion of this section on the grounds that the section on the judiciary had given the Supreme Court original jurisdiction to hear claims against the state and make recommendations to the legislature. The Chairman of the Committee on the Executive Department took the floor to explain that the Governor, Attorney General, and Secretary of State were to act like a board of claims. If the claims were rejected by the Board of Examiners, the claimant could go into court and press his suit. Thus the chairman proved there was no conflict, although the objection had been to duplication. The delegates sided with the executive committee chairman, and the objection

was dropped.\(^1\)

**Montana Constitutional Convention**

The Montana Constitutional Convention, meeting at the same time as the Idaho convention, copied into the constitution the provision for the Board of Examiners which had originally appeared in the 1884 proposed constitution for Montana, having been copied word for word from the Nevada constitution.\(^2\) In committee of the whole, the only discussion of the section revolved around a proposed additory amendment to allow the Governor to suspend the state Treasurer upon recommendation of the Board of Examiners. The amendment was passed.\(^3\)

The law prescribing the duties of the Board of Examiners was enacted in 1891 at the second legislative session, (the first session had been unable to conduct business because of the dispute over the election of the U. S. Senator). The

\footnotesize{\begin{align*}
2. \text{See above, p.1, for the constitutional provision.} \\
\end{align*}}
law was essentially a detailed directive implementing the constitutional provision. The Board was given power to examine claims, subpoena witnesses, prohibit the Treasurer from paying warrants, examine the books of the state Auditor and Treasurer, and count the money in the treasury.¹

Many sections were taken word for word from the California Code of 1872.

Idaho also adopted an implementing law in 1891. The Idaho law was very short and general, differing in wording from both the Nevada and California codes.²

Utah Constitutional Convention

The Utah Constitutional Convention met in 1895 and adopted a provision establishing a Board of Examiners. The wording was the same as that of the Nevada and Idaho constitutions. (The Montana constitution differed in providing for the suspension of the Treasurer). Floor discussion centered around three sections establishing ex officio


boards, one of which was the Board of Examiners. Protests were made that the provisions were legislation and that lay people should be on some boards. Everyone agreed that the work load of the state officials would not keep them occupied. The chairman of the executive committee argued that the system of ex officio boards was working satisfactorily in Idaho, Montana, and other states. This system required the state officials to perform extra duties without any increase in salary. He argued that since state officials knew the financial situation they were better able to supervise the institutions, such as the insane asylum and the prison. Finally it was agreed to include the provision "until otherwise provided by law," so that the legislature could change the system if need be.¹

In Montana in the same year, 1895, the legislature gave the Board of Examiners the duties of the Board of Supplies and Furnishing Board, which furnished rooms and supplies to state officials and to the legislature.² The


next year, 1896, the Utah legislature, meeting in its first session, copied almost word for word the Montana codes pertaining to the Board of Examiners, going so far as to give the Utah Board the powers of the Board of Supplies and Furnishing Board.¹

In 1911 California abolished its Board of Examiners, establishing instead a State Board of Control consisting of three members who were to serve at the pleasure of the Governor. The Board was given broad financial powers.² This board was abolished in 1927 and a Department of Finance was created.³

Public Assessment of Horttena
Board of Examiners

During its seventy years of existence the Board of Examiners has served as an important part of Montana state laws of the State of Utah Passed at the Special and First regular Sessions of the Legislature of the State of Utah Held at Salt Lake City, the State Capital, in January, February, March and April, 1896 (Salt Lake City: Deseret News Publishing Co., 1896). c. 35. Two minor provisions of the Montana code were omitted.

2. The Statutes of California and Amendments to the Codes Passed at the Thirty-ninth Session of the Legislature, 1911, Begun on Monday, January Second, and Adjourned on Monday, March Twenty-seventh, Nineteen Hundred and Eleven (Sacramento: W. W. Shannon, Superintendent State Printing, 1911), c. 349.


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government. As such it has received its share of criticism.

The State Efficiency and Trade Commission of 1919 was one of the first critics of the Board. The Commission found that the Board was required to examine 1200 to 1400 claims per month and that, since a personal audit of the claims was out of the question, the work was delegated to a clerk, who had neither the time nor facilities for ascertaining whether the money was being judiciously spent. The Commission stated simply that the members of the Board were physically unable to perform many of their duties. As a substitute for the Board of Examiners, the Commission proposed a Board of Administration. In detailing the advantages of the proposed board, the Commission rather severely criticized the Board of Examiners, albeit in an oblique manner. The Commission claimed that the proposed board would promote efficiency and result in the saving of large sums of money. Greater supervision over fiscal affairs would be obtained and the business of the State would be handled in a more efficient and business-like manner.

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A special Senate committee was appointed to investigate the Board of Examiners in 1923. This committee criticized the Board sharply for laxness of duty. The Senators said that the Board had no system of accounts, that months elapsed before claims were approved, that claims were lost in the Board's office and never found again, that the Board was not following statutory requirements, and that Board minutes were not written up for months at a time. The State Examiner had not examined the Board's books for two years because they were so poorly kept they did not make sense. The Committee charged that the Board had allowed improper claims, had lost interest money by failing to invest funds, and had answered practically none of its correspondence.

The Little Hoover Commission reported in 1953 that the Governor bore the public responsibility for administration of legislative policies, yet the authority to fulfill that responsibility had been given to the Board of Examiners. The Commission declared that the other two members of the Board of Examiners—the Attorney General and Secretary of

2. Ibid., pp. 568-71.
State—had little if any responsibility in the public mind for administration of state affairs, but nonetheless, possessed the management authority. 1

A committee appointed from the 1959 House of Representatives to investigate the construction of the Governor's Mansion stated that the project got beyond the control of the Board of Examiners, and that the Board failed to take decisive steps to force the architect to bring the cost of the proposed building into a realistic range. The committee declared that no satisfactory explanation had been given as to why the Board had approved expenditures so far in excess of the amount intended by the legislature. 2

Despite the criticism from investigating groups, the Board has had its advocates, often including the Governor. One of the first to praise the Board was the Northwest Magazine of St. Paul, Minnesota. The magazine commented in 1895 that the Board was really appreciated by the people of Montana, for it reduced legislative appropriations after the end of each session. This Board checked the natural disposition of legislatures to spend more money than the


2. "Report of Special Committee to Investigate the Governor's Mansion," Montana Special House Committee of the 36th Legislative Assembly, 1959, pp. 1-2. (Mimeographed.)
taxpayers desired to have spent.¹

Governors have asked that the Board be given various powers. Governor Rickards in 1895 asked that the powers of the State Furnishing Board be transferred to the Board of Examiners.² Governor Smith in 1897 recommended that the Board of Examiners be allowed to fix the limits on salaries of deputies and the number of deputies to be employed by any official.³ He also recommended that the Board be given the authority to direct and superintend printing for the state,⁴ and he renewed this request in 1899.⁵ In 1901 Governor Toole asked that the Board be given the power to direct and regulate the amount and cost of printing.⁶ Governor Norris in 1909 strongly urged that direct control of the financial management of all educational institutions be given to the Board of Examiners.⁷ The authority was

¹ "An Effective Brake," The Northwest Magazine (St. Paul, Minnesota, May, 1895), copy of clipping in author's possession. The Board no longer has the power to reduce appropriations.


³ Ibid., 1897, p. 11.

⁴ Ibid., p. 12.

⁵ Ibid., 1899, p. 51.


⁷ Ibid., 1909, pp. 17-18.
granted and two years later he recommended that this authority be extended over the Soldier's Home and the State Fair. Governor Ford recommended in 1945 that $50,000 be appropriated for the use of the Board of Examiners for architectural and engineering services for the state buildings program. No Governor has ever spoken a word against the Board of Examiners per se in his opening message to the legislature.

In October 1956 Governor Aronson stated that the Governor had sufficient executive power and that he didn't think that the Board of Examiners had been given too much executive power. However, the Governor said in the same breath that under no circumstances should the Governor be a minority member of the Board. Evidently the Governor favored the use of the Board so long as he was able to control it.

Attorney General Arnold H. Olsen, after eight years on the Board, when campaigning for Governor in 1956 stated that he saw no need for a change in the Board of Examiners.

1. Ibid., 1911, pp. 21-22.
He stated that the Board of Examiners had little power over governmental policy and its main function was to pay bills incurred by the state government.¹

¹ Ibid., p. 2.
CHAPTER II

STATE CONSTRUCTION AGENCIES

To understand the importance of the state building program in Montana, one must have a concept of its size. State-owned public buildings are located at the six units of the University system, and at the ten eleemosynary and correctional institutions maintained by the state. Buildings housing the operating agencies of state government are located throughout Montana.

A complete list of buildings owned by the state is maintained by the Board of Examiners in connection with the state's fire and damage insurance. This list includes the appraisals for insurance purposes, last compiled in 1937. The appraisal is based upon expected replacement cost; excluded from the replacement cost figures are numerous items which the state does not consider insurable.¹

¹ These items or exclusions include: land values, lawns and landscaping, architects' fees for plans and specifications, excavations, grading, filling, foundations and piers below the level of basement floors, concrete and steel bridges, outside water mains and fire hydrants, and buried conduits.
Appendix C contains a list of the state institutions and building groups, the total number and total insurance value of buildings at these institutions, and names of the major buildings and their insurance value at each institution. These figures are based on the Board of Examiners' appraisal list, the only readily available value estimate of the state's buildings.

The replacement value of the buildings owned by the state on August 23, 1959, was $91,744,500. The state owns approximately 1,600 buildings.¹

The Board of Examiners has constructed some or all of the buildings at most of the state institutions. All of the buildings at the Montana State Tuberculosis Sanitarium at Kalen, and at the Home for Senile Men and Women at Lewistown were constructed by the Board of Examiners. All of the Employment Service offices of the Unemployment Compensation Commission were constructed by the Board. Some of the buildings in the following institutions were constructed by the Board: State Capitol group, Helena; School for the Deaf and Blind, Great Falls; Montana State

¹ Not insured by the state are all buildings located at the State Fair Grounds at Helena, the stone and masonry yard walls at the State Prison, underground tunnels at the State Capitol, State Hospital, School of Mines, and Montana State University, and sand bins and other storage containers owned by the Highway Commission. Specific insurance is carried on Jumbo Dormitory at Montana State University.
Training School and Hospital, Boulder; Montana State Orphans' Home, Twin Bridges; Montana State Hospital, Warm Springs; Montana Soldiers' Home, Columbia Falls; Vocational School for Girls, Helena; Montana State Industrial School, Miles City; Montana State Prison, Deer Lodge; Montana State University, Missoula; Montana State College, Bozeman; Western Montana College of Education, Dillon; Montana School of Mines, Butte; Eastern Montana College of Education, Billings; and Northern Montana College, Havre. The Board has also constructed some of the state armories, at least one building for the Forestry Department, some of the buildings at the state parks, the grain inspection laboratory at Great Falls, and the petroleum field station at Billings.

 Authorities Which Construct Buildings

Several other agencies have the power to construct buildings for the state. To comprehend the position of the Board of Examiners, the power of these other boards must be understood.

Board of Education

Except for the Board of Examiners the most important construction authority is the Board of Education. The power of the Board of Education comes especially from
Section 75-201 of the Montana Revised Codes, which allows the Board to construct self-financing buildings at state institutions of higher education under its control. In 1929 the Board of Education was authorized to erect self-financing residence halls, and since then the power has been extended to include dining rooms or halls, refectories, commons, health service buildings, student unions, armories, gymnasiums, auditoriums or theatres, field houses, game and entertainment properties, classroom or laboratory buildings, libraries, shops, storage buildings, and livestock or other arenas, or display or exhibition areas, or pavilions. Most of these extensions have been granted by the legislature since 1951. This power has become especially important in recent years because the Board of Education has turned to revenue bonds and student fees to finance expansion programs.

**Highway Commission**

The Highway Commission is authorized to spend up to


2. Montana, Revised Codes (1947), sec. 75-201.
8 per cent of its revenues (gas and road taxes) for administration. The Supreme Court has ruled that the highway Commission has sufficient authority to use these funds for the construction of buildings. Acting on this ruling the Highway Commission has constructed numerous buildings. At present the Highway Commission, after deciding to construct a building, advises the Board of Examiners that it intends to employ an architect and requests approval. The Highway Commission also requests approval of the payments made to architects. At times the Board of Examiners has demanded the right to approve the architect's plans, but this is evidently not done now. As ex officio members of the State Park Commission, the members of the Highway Commission have control over the state parks, where tourist facilities occasionally must be constructed.

State armories

At the time of Montana's admission into the Union, the state had two buildings, the penitentiary and the state


2. Interview with Arnold Olsen, August 8, 1959.
armory in Helena. The armory was destroyed in the 1935 earthquake. In 1939 the Montana Armory Board was established as a body corporate and politic for the purpose of constructing armories with federal aid. The Board constructed only three armories, at Helena, Bozeman, and Poplar. In 1943 the legislature required that the contracts of the Armory Board and the employees hired by the Armory Board be approved by the Board of Examiners. In 1953 the legislature appropriated money to redeem outstanding bonds of the Armory Board, dissolved the Board, and provided for the disposal of the buildings. The Poplar armory was to be given to the city of Poplar, which had paid more than one-third of the cost of construction. The Supreme Court ruled that such a gift was unconstitutional; consequently the

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Board of Examiners directly administers this building.

In 1935 the legislature declared that a shortage of armories existed and authorized the Adjutant General to act as "contracting officer" for the state in the construction of armories.¹ Financial assistance is provided by the Federal government. Since the contracts are subject to the approval of the Board of Examiners the Board appoints architects and exercises some control.

Miscellaneous Boards

The State Fish and Game Commission was authorized in 1921 to procure plans and specifications for buildings, and to let contracts to erect the buildings.² In 1937 the Commission was specifically given power to construct an office building at the Capitol, "upon the approval of the Board of Examiners."³ In recent years the Commission, after receiving bids for construction, has sent the bids to the Board of Examiners, asking that the Board approve a recommended bid.

The Water Conservation Board, established in 1933, was authorized to construct any public work within its scope.

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financing to be by revenue bonds. The purpose of the Board was to construct and operate irrigation and water conservation projects.\textsuperscript{1} The Board has constructed several small buildings, but in contrast with their apparent authority, has on at least one occasion asked the Board of Examiners for permission to make payment in full to a contractor on a completed project.\textsuperscript{2}

In 1937 the State Board of Public Welfare was given the power to acquire by purchase, lease, or gift any land or property needed to achieve its objectives.\textsuperscript{3} The Board owns one building in Helena.

The Board of Managers of the Soldiers' Home has statutory power to let contracts for the erection of buildings.\textsuperscript{4} Nevertheless, the Board of Examiners has constructed all buildings which have been erected at the Home in recent years.

The Unemployment Compensation Commission is allowed to purchase equipment and real property, subject to the approval of the Board of Examiners.\textsuperscript{5} The Board of Examiners

\begin{itemize}
\item[1.] \textit{Montana Session Laws, Extraordinary Session, 1933-34}, c. 35.
\item[2.] Board of Examiners Minutes, January 28, 1950.
\item[3.] \textit{Montana Session Laws, 1937}, c. 82.
\item[4.] \textit{Montana, Revisé Cédés, (1947)}, secs. 80-304, 80-319.
\item[5.] \textit{Ibid.}, sec. 87-130.
\end{itemize}

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gives its approval to purchases so long as it is allowed to construct any buildings on the land. The Montana Liquor Control Board is authorized to lease and equip any buildings or land needed and to buy or lease all plant or equipment necessary. When the Liquor Control Board recently considered erecting a new warehouse in Helena, its members asked the Board of Examiners for approval.

The 1939 legislature provided that the moneys collected for the care and maintenance of patients could be used for the construction of buildings at the State Training School and at the State Hospital. In each case the act specifically provided that the funds were to be expended by the superintendent of the institution, who was to select and employ the architect and let the contracts.

**Summary**

While there are thirteen agencies which have some building powers, power has been concentrated in the Board

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1. Ibid., sec. 4-112.

2. Board of Examiners minutes, May 16, 1937.


4. These thirteen would be the Board of Examiners, the Board of Education, the Highway Commission, the State Park Commission, the Adjutant General, the Fish and Game Commission, the Water Conservation Board, the Board of Public Welfare, the Board of Managers of the Soldiers' Home, the Unemployment Compensation Commission, the Montana Liquor Control Board, the superintendent of the State Training School, and the
of Examiners except for the significant authority retained by the Board of Education and the Highway Commission. The latter two agencies have had extensive building programs in recent years, so that in actuality the power to construct buildings is lodged in three different boards. As might be expected, each board jealously guards its power. The Highway Commission supervises its own construction, but the Board of Education, which does not have a construction staff, delegates supervision to the unit presidents and to the architects. Since the Board of Education meets only monthly, it asks the Board of Examiners to perform some routine tasks such as the opening of bids.

The construction of state-owned buildings is big business. The state has about 1,600 buildings valued at more than $90,000,000. In value the largest percentage of the state's buildings has been constructed under the authority of the Board of Examiners. The next chapter will discuss the development of the power of the Board of Examiners to construct buildings.

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superintendent of the State Hospital. In a number of these cases the power possessed is the power to purchase real property, which may have the same effect as construction and can be interpreted as being the power to construct.
CHAPTER III
DEVELOPMENT OF THE BUILDING CONSTRUCTION
POWERS OF THE BOARD OF EXAMINERS

The constitutional provision which established the Board of Examiners provided that the Board should have the power to examine all claims against the state\(^1\) and to perform such other duties as might be prescribed by law. The legislature has utilized this latter phrase extensively, establishing, by statute, many and varying duties for the Board. One of the most important of these statutory duties has been the construction of buildings.

The constitutional section which established the Board of Examiners also provided that the same three officers should act as a Board of Prison Commissioners. When Montana attained statehood the Board of Prison Commissioners received from the federal government the buildings of the territorial prison at Deer Lodge. In 1892 this Board announced that it

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1. The Supreme Court has declared that the constitutional power to approve claims applies only to unliquidated claims and not to those the amounts of which have been fixed specifically by contract or by any department of the government having the authority to fix them. Those "fixed specifically" would include all purchases by state departments. State ex. rel. Schneider v. Cunningham 39 Mont. 165, 101 P. 962 (1909). However, the legislature has by statute given the Board power to examine all claims against the government.
had already constructed at the prison a tier of wooden cells (with a capacity of 42), a brick building for the kitchen, a small log building for the prison physician, a milk house, and a root cellar. These were probably the first buildings constructed by the members of the Board of Examiners.

Statutory Powers

The legislature has given building construction powers to the Board of Examiners by various statutes over a period of years. In 1893 the legislature authorized the Board of Prison Commissioners to construct an Eastern State Prison at Billings. After an expenditure of about $85,000, the project failed and the legislature authorized the removal of the usable materials for construction at the Western State Prison at Deer Lodge.

In 1891 the legislature established the Board of Commissioners for the Insane, consisting of the Governor, Secretary of State, and Attorney General. This board was


3. Laws, 1897, p. 257.
authorized to award contracts for the keeping and custody of the insane, but the contractor was required to have a secure and suitable building. The contract for the care of the insane was awarded to Doctors Mitchell and Mussigbrod, who ran a health spa at Warm Springs.

In 1895 the Board of Examiners was designated as the Board of Supplies and Furnishing Board, which previously had been composed of the Governor, Lieutenant Governor, and Speaker of the House of Representatives. The Furnishing Board was given the power to rent and furnish all offices for the state and to rent and furnish rooms for the Legislative Assembly. In 1901 the Furnishing Board was given $60,000 to complete, equip, and furnish the Capitol, which had been constructed by a building commission.

The Board of Examiners per se had no power to construct a building, but did have power to stop the construction of buildings. In 1893 the Board disallowed building appropriations of $15,000 each for the State University, State

College, Normal School, and School of Mines. Buildings at the various state institutions were being constructed by local building commissions and executive boards with generally unsatisfactory results. The Capitol building was constructed by a lay Capitol Building Commission. Construction of the Capitol and some of the buildings at the institutions was tainted with corruption.

In 1909 definite statutory powers of construction were given to the Board of Examiners. The Board was given supervision and control of all expenditures of money at the units controlled by the Board of Education, including the University.

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2. The Board of Examiners had little control over the construction of any of these buildings. After the Board had disallowed the legislative appropriation for construction of buildings at the University units, the legislature had authorized the financing of these buildings with receipts from the land grants. The Supreme Court declared that the Board of Examiners had no authority to pass upon the claims of the Capitol building fund State ex rel Bickford v. Cook 17 Mont. 529, 43 P.928 (1896) or upon the claims of the University building fund State ex rel. Dildine v. Collins 21 Mont. 448). In 1895 the legislature increased the Board of Examiners' power slightly by providing specifically that the Board should audit the claims for the construction of buildings at the School of Mines. (Montana, Codes, 1895, I, sec. 1597).

3. See Dorothy M. Johnson (ed.), "The Graft That Failed," Montana, The Magazine of Western History, IX (October, 1959), 2-11. This article was drawn from the journals of Fred Whiteside, onetime state legislator.
system, the Orphans' Home, the Montana School for the Deaf and Blind at Boulder, and the State Reform School (now the State Industrial School). Later the Vocational School for Girls at Helena and the School for the Deaf and Blind at Great Falls were added to the list. With this power went the power to award all contracts, to approve bonds for any and all buildings (bonds had previously been issued by the Board of Land Commissioners), and to audit all claims.¹

The same legislature authorized the Board of Examiners to issue a total of $500,000 in bonds to build the wings of the Capitol. The Board was empowered to select the architect and to award contracts.² The Board of Examiners found it impossible to complete the wings for the allotted amount and still use Montana stone, so a special session of the legislature was called. This session provided for additional bonds of $150,000 for purchase of the Montana stone.³

The Board of Examiners was given complete control of the Montana State Tuberculosis Sanitarium when it was established in 1911. The legislature authorized the Board to construct and equip all necessary buildings for the institution.⁴

The same legislative session authorized the Board of Examiners to purchase the property of Doctors Mitchell and Mussigbrod at Warm Springs for not more than $650,000,\(^1\) and to pass upon claims for the construction of a fish hatchery in Flathead County by the Montana State Fish Commission.\(^2\) The Furnishing Board was authorized to purchase an executive residence for the Governor in 1913. The appropriation was $30,000.\(^3\)

A bill, providing for bonds totaling $250,000 for construction of a state terminal-grain elevator at Great Falls passed the Legislative Assembly in 1917.\(^4\) The referendum required was approved by the people, but the Board of Examiners was evidently unable to find buyers for the bonds so that the elevator was never constructed.\(^5\) The legislature

\(^1\) Laws, 1911, c. 143. The bond issue provided by chapter 144 was approved by the people in 1912. The location of the insane asylum has since plagued the state. The use of basements is almost out of the question and the soil is too alkaline to produce crops for the institution. A 1943 legislative investigating committee stated, "Had a thorough search beforehand been made from end to end of this great state for the express purpose of finding the poorest piece of soil... that particular farm close to Warm Springs would undoubtedly have been chosen as the place sought." House Journal of the Twenty-eighth Legislative Assembly of the State of Montana, Held at Helena, the Seat of Government of Said State, Commencing January 4th, 1943, and Ending March 4th 1943 (Helena, Montana: State Publishing Co., n.d.), p. 380.

\(^2\) Montana Session Laws, 1911, c. 18.  
\(^3\) Laws, 1913, c. 51. 
\(^4\) Laws, 1917, c. 150. 
\(^5\) Interview with Sam C. Ford, March 24, 1959.
appropriated $18,000 for a combination dormitory, library, and assembly hall at the Soldiers' Home, with construction to be by the Home's Board of Managers, but approval of all accounts to be by the Board of Examiners.¹ In 1919 the Board was empowered to construct an annex to the Capitol for the Board of Health.²

In 1920 the people approved an initiative providing $5,000,000 for buildings at the state institutions under the control of the Board of Education. The initiative provided that the Board of Education should determine the necessity for the issuance of the bonds but that the Board of Examiners should issue the bonds. Since there was no specific delegation of construction authority, the Board of Examiners had the power to construct under the 1909 law.³

The law establishing procedures to be followed in the awarding of contracts for the construction of buildings was passed in 1927. Under this law the Board of Examiners, or any other agency constructing buildings, was required to advertise for bids if contracts were let for construction involving more than $500. At least two bids were required

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2. Laws, 1919, c. 194.
if the contract was for more than $2,000. Cost-plus contracts were declared void. An appropriation of $60,000 was made to the State Board of Entomology to erect a laboratory in which could be conducted research on the control and eradication of Rocky Mountain spotted fever. The contract was to be let by the Board of Examiners on plans and specifications approved by the Board of Entomology.

The twenty-first Legislative Assembly in 1929 authorized the Board of Examiners to construct a show barn at the State Fair Grounds at Helena. A bill providing for the construction of a state historical library by the Board of Examiners was passed, but it was to be years before the building would be constructed. The Board of Examiners found that the revenue from the Capitol land grant was insufficient for the issuance of the bonds for the library.

In 1931 the Board of Examiners was authorized to sell to the federal government the State Board of Entomology

1. Laws, 1927, c. 149.
2. Laws, 1927, pp. 559-60.
Laboratory at Hamilton.¹ The Legislative Assembly allocated the proceeds of a voter-approved $3,000,000 bond issue for buildings at the state's institutions. The Board of Examiners was authorized to transfer funds if buildings could be constructed at any institution for less than planned. Largest allocations were made to the Prison and the State Hospital. Constructing authority was not specifically designated, so the Board of Examiners had the authority to construct the buildings by virtue of previous laws.²

A special session of the legislature in 1933-34 gave the Board of Examiners $615,000 to construct buildings at Warm Springs and at Galen.³ The federal government created a Montana Civil Works Board, and one of its projects was the repair of the Capitol. The state contributed $55,147 to this project, requiring that the money appropriated for equipment and supplies be disbursed by the Board of Examiners.⁴

In 1939 the legislature authorized the Board of Examiners to issue, after voter approval, $500,000 in bonds for construction of buildings at Warm Springs.⁵ The bond issue

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1. Laws, 1931, c. 92.  
2. Laws, 1931, c. 186.  
4. Laws, Extraordinary Session, 1933-34, p. 175-76.  
was approved by the people in 1940. The 1943 legislature authorized the Unemployment Compensation Commission to purchase real property, but required Board of Examiners' approval, a power the Examiners were to use in later years to control the construction of buildings.

In 1945 the Board of Examiners was authorized to employ an architect to prepare plans for an office building at the Capitol. The Postwar Planning and Construction Commission and the State Laboratory Commission were established by the 1945 Legislative Assembly to prepare plans for buildings which were eventually constructed by the Board of Examiners. The Board of Examiners was authorized to construct the Montana Veterans and Pioneers Memorial Building, which included the state historical library.

The 1947 legislature appropriated more than $4,000,000 from the Postwar Planning and Construction Reserve Fund for buildings at every state institution except the State

2. Laws, 1945, c. 2.
4. Laws, 1945, c. 78.
The Board of Examiners was authorized to construct the buildings. For the State Hospital at Warm Springs the people had approved a $2,000,000 bond issue for buildings. The Board of Examiners was authorized to construct an office building at the Capitol and also to construct the State Laboratory Building.

In 1949 the Board of Examiners was authorized to issue $5,000,000 in bonds for the University units and to construct the buildings at the units. The Board also allocated the money to the units, precipitating a struggle with the Board of Education which is described in Chapters V and VI. The legislature appropriated $900,000 for the construction of a Home for Senile Men and Women. The Board of Examiners was authorized to pick the site and to construct the building. An appropriation of $600,000 was made to aid in the building of federally financed construction at the Tuberculosis Sanitarium. The Board of Examiners was to construct the building. By these measures taken between 1945 and 1951, Montana established a vast postwar construction.

2. Laws, 1947, c. 98.  
program, giving the Board of Examiners the power to construct almost every building.

In 1951 some powers were taken from the Board, partially as a result of the two year fight with the Board of Education. To the Board of Education were transferred the power to determine the need for all expenditures and the power to control the purposes for which all funds should be spent at the institutions it supervised. The Board of Examiners was given authority that year to construct a grain inspection laboratory at Great Falls. The 1953 legislature authorized the Board of Examiners to construct a Governor's Mansion and to repair the Capitol.

In 1955 the legislature authorized another $50,000 in bonds for the construction of the Governor's Mansion, and authorized the Examiners to issue $173,400 in bonds for buying land around the Capitol, airconditioning the laboratory building, excavating rock and equipping the Board of Health Laboratory. The Board was authorized to issue $750,000 in bonds for renovation of the Capitol, $2,000,000

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1. Laws, 1951, c. 82. 2. Laws, 1951, c. 195.
7. Laws, 1955, c. 278. Evidently this group of bonds was not issued.
in bonds for construction of buildings at the State Hospital,¹ and $1,500,000 in bonds for the construction of buildings at the State Training School,² with all construction to be by the Board of Examiners. The legislature authorized the Adjutant General to contract for the construction of armories, but required that all contracts be approved by the Board of Examiners.³

The 1957 legislature authorized the Board of Examiners to issue $1,000,000 in bonds for Capitol renovation.⁴ The legislature also appropriated $47,500 to the Board of Examiners, rather than to the Board of Education, for the immediate renovation and repair of the heating system at Western Montana College of Education.⁵ The Fish and Game Commission was authorized to erect or purchase a building at the seat of state government, subject to the approval of the Board of Examiners.⁶

The 1959 legislature authorized the Board of Examiners to construct a diagnostic laboratory at Bozeman for the Livestock Sanitary Board,⁷ and an office building at Helena.

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7. Laws, 1959, c. 262.

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for the Unemployment Compensation Commission. However, the legislature, dissatisfied with the building procedures followed by the Board of Examiners, authorized specific buildings at the State Training School and at the State Hospital, but provided that the superintendent of the institution should select the architect, and let the contracts.

In summary, the Board of Examiners per se had no statutory powers to construct buildings before 1909, although the Board did use its other powers to prevent the construction of buildings. As the Board of Prison Commissioners, the three members constructed several buildings. In 1909 the legislature transferred construction powers from local executive boards to the Board of Examiners. Since then the Board of Examiners and the Board of Education have struggled for the power to construct buildings at the units which were under Board of Education supervision. Generally the Board of Examiners has exercised more powers, but since the 1949 fight over the $3,000,000 allocation, the legislature has tended to transfer powers to the Board of Education.

1. Laws, 1959, c. 196.
2. Interview with Representatives Dorothy Page and Clyde Hawks, members custodial institutions subcommittee of Appropriations Committee of House of Representatives, March 2, 1959.
Education. The Board of Examiners exercised immediate supervision over the Tuberculosis Sanitarium and constructed all buildings there. As the Board of Commissioners for the Insane, the three members constructed all buildings at the State Hospital after 1912. The people have approved bond issues giving a total of $5,594,500 to the State Hospital for buildings since 1911. The legislature gave the Board of Examiners a general grant of power in 1909 and since then has delegated to the Board the power to construct individual buildings.

Non-Statutory Powers

At various times the powers of the Board of Examiners to construct have been influenced by non-statutory events. Decisions of the Supreme Court have affected the powers of the Board of Examiners. The Court has declared that the Board's claim approval power applies only to unliquidated claims\(^1\) and that the Board has no power to pass upon the claims for buildings being constructed from land grant funds at the Capitol\(^2\) or the State University.\(^3\) The Court has ruled that the Board of Education rather than the

\(^1\) State ex rel. Schneider v. Cunningham, 39 Mont. 165, 101 P. 562 (1909)

\(^2\) State ex rel. Bickford v. Cook, 17 Mont. 529, 43 P. 928 (1896)

\(^3\) State ex rel. Dildine v. Collins, 21 Mont. 448, 53 P. 114 (1898)
Board of Examiners has power over the revenue from the agricultural college land grants.¹ The Board of Examiners has been restrained from reducing appropriations,² a power once used to stop the construction of buildings by other agencies.

Generally the Board of Examiners has sought to secure and keep the power of construction. The Board has used its other powers to acquire construction powers. For example, the Unemployment Compensation Commission is allowed to secure necessary real property, subject to the approval of the Board of Examiners.³ The Board of Examiners has refused to give its approval to the purchase of real estate until the Unemployment Compensation Commission has agreed to allow the Board to select architects and to construct any buildings to be situated on the property.⁴ In other cases boards and commissions turn to the Board of Examiners for assistance in construction because the Board of Examiners is familiar with construction procedure and has at

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2. State ex. rel. Jones v. Erickson et al., 75 Mont. 429, 244 P. 287 (1926)
3. Montana, Revised Codes (1947), sec. 87-130.
4. Special legislation was passed for the UCC office building in Helena, authorizing the Board of Examiners to construct the building. Montana Session Laws, 1959, c. 196.
least a skeleton staff to supervise the construction. Thus the board of managers of the Soldiers' Home is authorized to construct buildings, but the managers ask the Board of Examiners to supervise construction at the Home. The Board of Education occasionally asks the Board of Examiners to inspect buildings at the University units, since the Board of Education has no staff.

By administrative directive the Board of Examiners has extended its power over construction. In 1957 the Board members unanimously approved a motion directing the heads of all institutions and state departments that,

no matter where they are or under what circumstances, they must first get approval of the Board of Examiners before employing an architect or engineer, whether it be to prepare preliminary or final plans or specifications for public buildings.¹

Montana's emphasis on ex officio boards gives the Board of Examiners additional control, for the Board of Examiners' members are three of the four members of the State Board of Land Commissioners, which controls the Forestry Department. As such, the Board of Examiners has taken charge of the construction program of the Forestry Department.

¹ Board of Examiners Minutes, July 29, 1957. Also see below, pp. 84-85.
The power of the Board of Examiners to construct has come from the legislature. The important law approved by the 1907 Legislative Assembly has been buttressed time and again as the legislature has given the Board of Examiners power to construct various individual buildings. Intermittently the legislature has transferred some of these powers to other groups. The Board of Examiners has also attempted to extend its powers by non-statutory means, so that today the Board of Examiners controls the construction of buildings for several departments and agencies over which it has no statutory power.
CHAPTER IV

THE ADMINISTRATION OF CONSTRUCTION

BY THE BOARD OF EXAMINERS

The procedures used by the Board of Examiners vary with the membership of the Board; each member brings his particular talents and methods to the Board. Source material for this chapter includes a detailed study of the Board of Examiners minutes since 1954, interviews with several past and present Board members and with present employees of the Board, and personal attendance at various Board of Examiners meetings between December 1958, and March 1959. The discussion of procedures will deal essentially with the procedures of the Board from 1954 to August 1959, and may or may not be applicable to previous or succeeding Boards. During this period the Board had one governor, two attorneys-general, and three secretaries of state. The members in 1959 were Governor J. Hugo Aronson, Attorney General Forrest Anderson, and Secretary of State Frank Murray.

Procedure and Staff

The Board of Examiners is required by law to meet on the third Monday of each month. In practice the Board meets
much more often, usually at least once or twice a week. The present Board meets each Wednesday morning for regular meetings. The three members gather in the office of the Board of Examiners, sitting behind an oblong, glass-topped table, with the Governor in the center, the Attorney General on his left, and the Secretary of State on his right. Facing the elected officials are employees of the Board, including the clerk, assistant clerk, and stenographer. Three or four chairs are placed at the side for the use of visitors or the press. Usually there are few visitors, but the Board rarely goes into executive session, so visitors are always welcome.

Frequently matters are presented to the Board orally by its staff or visitors but on the other hand much of the material presented to the Board is in the form of letters. The procedure followed by the present Board is to refer controversial matters to the Attorney General's office for a legal opinion. Only routine matters are acted upon if the Attorney General is absent from the meeting. Previous Boards have been more inclined to take action on controversial matters when they arose.

The Board has a staff of ten employees, three in the engineering division and seven in the auditing and insurance division. Board employees evidently are hired as a result of a personal acquaintance with a Board member or with a
friend of a Board member, but the positions are not regarded as political plums to be changed with each new Board membership. William Fitzsimmons and Garnet Bryant each worked for the Board for more than thirty years, serving under many different Board members.

The Clerk of the Board is William McEnany. He was hired as assistant clerk on May 27, 1957, by the present Board of Governor Aronson, Attorney General Anderson, and Secretary of State Murray. McEnany's previous position was Deputy State Auditor. He was originally offered the position of assistant clerk by the Board of Governor Aronson, Attorney General Olsen, and Secretary of State Mitchell, and was offered the position again by the Board of Aronson, Olsen, and Secretary of State Arnold. He was promoted to clerk when Garnet Bryant retired in the summer of 1959.

Assistant clerk is Dan McCarthy, who was hired on July 8, 1959, after McEnany had been promoted. He was hired as a World War II veteran with more than twenty years of business experience. Before being employed by the Board of Examiners, he worked for the Adjusted Compensation Division.

1. The staff of the Board is described as it was August 23, 1959.
2. Interview with William McEnany, August 23, 1959.
3. Board of Examiners Minutes, July 8, 1959. Hereafter referred to as Examiners by date.
of the state government. McCarthy supervises the office routine and aids in the bookkeeping.

Lester Hansen, the Board's insurance clerk, began working for the Board in 1946 as a disabled veteran under an on-the-job training program. Hansen supervises the Board's insurance policies, appraisals, and adjustments for losses.

Five clerical employees serve the Board, four on the auditing staff and one in the engineering division. Mrs. Jane Carlson serves as the stenographer for the Board. Her duties include the preparation of the Board minutes. Mrs. Agnes Taylor and Mrs. Edith Longmaid serve as account clerks, handling the flow of claims which the Board must approve. Their responsibilities include auditing, approval and recording. Any unusual claims are brought to the attention of the Board members. Mrs. Beverly Kain serves as receptionist for the Board. Miss Doris Shepherd is stenographer for the engineering division of the Board and also handles the duties of the consolidated boards, keeping the records of the inmates at the Prison and State Hospital.

Supervising engineer for the Board of Examiners is Martin Kelly. Kelly supervises all construction projects,

1. Board of Prison Commissioners and Board of Commissioners for the Insane, which have the same membership as the Board of Examiners.
and inspects and approve all plans and specifications. Mr. Kelly, an elderly man in ill health, is a licensed civil engineer, having graduated from Montana State College. Previously Kelly was employed by the federal government as supervisor for the Public Works Administration and for government war projects. He was hired by the Board of Examiners in 1949.¹

Henry Evans serves as state building inspector. As such, his duties include the supervision of construction, including periodic inspections of construction and of physical plants.² Evans was hired in June 1955, by Governor Aronson and Attorney General Olsen.³ Evans owned a construction company for twenty years before being employed by the Board of Examiners. Minutes of the Board of Examiners show that Evans was awarded several state construction contracts, indicating that he is familiar with public building procedures both from the standpoint of the contractor and of the state.

Attorney General Forrest Anderson feels that the Board seriously needs professional advice on construction but has

2. Interview with William McEnany, August 28, 1959.

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not been given sufficient appropriations to employ professional people. Anderson admitted, however, that during his term of office the Board had not asked either Legislative Assembly (1957 or 1959) for an increased appropriation. Governor Aronson recommends that the Board hire qualified engineers and architects to help supervise construction. However, the minutes of the Board between 1954 and August 1959 indicate no attempt by the Governor to hire any personnel other than those presently employed. The Board did interview architects in 1950, but the successful candidate decided to enter private practice and no subsequent Board has made any effort to hire an architect.

Planning For Buildings

There has been little emphasis in the past on long range planning for buildings except for the planning done by the presidents of the state institutions. An exception occurred in 1946, when the Board of Examiners hired John Paul Jones, a Seattle architect, to draw long range plans for

1. Interview with Attorney General Forrest Anderson, June 12, 1959.
2. Interview with Governor Hugo Aronson, March 24, 1959.
3. Examiners, April 21, 1950.
four of the educational institutions. Otherwise, impetus came mainly from individuals or institution heads.

More long range planning is being done now as the result of financial loans from the federal government. In 1950 the Board of Examiners applied to the Department of General Services Administrative Community Facilities Service for a loan of $48,000 for planning the State Laboratory Building. The federal government program has since been transferred to the Federal Housing and Home Finance Agency which, under Public Law 560, 83rd Congress, is authorized to make advances to public bodies to aid in financing the cost of preparations for the construction of public works. Under this program the Board of Examiners has requested funds for long range planning for the Capitol area, Prison, the State Orphans' Home, the State Hospital.

2. Examiners, February 20, 1950.
4. Examiners, May 29, 1958. This application was made after the action was requested by the Legislative Council.
5. Examiners, May 29, 1958. This application was made after the action was requested by the superintendent of the Home.
the Vocational School for Girls,\textsuperscript{1} and Western Montana College of Education.\textsuperscript{2} The Board has also requested funds for planning an administration building for the Board of Health.\textsuperscript{3} At one time the state had submitted so many requests for advance planning that the Housing and Home Finance Agency objected, stating that requests were evidently far in excess of the amount of money that the 1959 legislature would appropriate for construction. The agency was properly anxious, for if the buildings are never constructed, the loan need not be repaid. Attorney General Anderson replied that his interpretation of the building program was that the Board of Examiners should hire architects to make plans which would be presented to the legislature. Having the plans, the legislature being the policy agency, would decide which buildings should be constructed. The federal agency agreed to this interpretation on the condition that the Board of Examiners recommend to the legislature the construction of all buildings which had been planned.\textsuperscript{4}

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1. Examiners, January 13, 1939.
4. Examiners, October 9, 1958.
Such advance planning has definitely strengthened legislative power. When presented with plans for a new office building for the Unemployment Compensation Commission, the 1959 legislature changed the Board of Examiners-designated site of the building and faced the building north instead of south.\(^1\) Previously it had been only coincidence when the legislature could examine plans for new buildings.\(^2\)

Arranging for Finances

The legislature usually designates the source of the funds for financing buildings. Various sources may be used, including legislative appropriation, bond issues against a general property tax, bond issues against revenues, earmarked funds, and funds from the federal government. The simplest method of financing is the legislative appropriation of sufficient funds from general tax revenues. The Montana

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legislature has not favored this policy except for the notable exception of the expenditure of funds from the general fund surplus after World War II.

The bond issues which are financed by general property tax must be submitted to the people for approval. Ten building bond issues have been submitted to the people, and seven of these have been approved. Two initiatives for building bonds have been proposed, with one being approved and one being defeated.¹ In 1958 state property taxpayers were paying two and one-half mills for the redemption of state building bonds, one mill being for university buildings, one mill for the state hospital, and one-half mill for the state training school.²

The legislature may authorize bonds to be issued against revenue, such as the revenue from land grants or the revenue expected from the building itself. The federal government gave to the state of Montana several grants totalling 668,080 acres of land for the State University, the Agricultural College, the School of Mines, the State Normal School, the State Reform School, public buildings at the state

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capital, and the Deaf and Dumb Asylum. Unlike many states, Montana has kept much of this land, so that on June 30, 1958, the state still had 446,185,75 acres from these land grants in addition to a permanent fund of $4,820,703,22. To redeem bonds used to finance the construction of buildings the state may pledge the income from the land grant or the interest from the permanent fund established from sales of land. Unfortunately, portions of these land grants have not been properly preserved. Of the 72,000 acres of timber land given to finance the construction of capital buildings, 62,000 acres have been stripped so completely that very little, if any, timber has grown back.

The capital land grant fund has had in recent times an occasional surplus for it has been impossible to sell bonds against the irregular income. Since the Board of Examiners has been given power by the legislature to spend borrowed money but not cash on hand, the board has invented a procedure of selling bonds to the State Board of Land Commissioners in order to utilize the cash. The bonds are immediately


2. Examiners, March 1, 1957.
retired, without incurring an interest charge.\(^1\)

Certain earmarked tax funds and receipts may be used to construct buildings. The Highway Commission is authorized to use 3 per cent of its tax revenues for administration, including the construction of buildings.\(^2\) The receipts from patients at the Training School and State Hospital were earmarked for building construction by the 1959 legislature.\(^3\)

Montana has constructed many buildings using federal funds. During the 1930's the federal government contributed funds for public buildings under the Public Works Administration. Federal "Reed Act" funds have been used by the state for the construction of Employment Service offices in Billings, Butte, Kalispell, Miles City, Bozeman, Havre, and Shelby. These funds will also be used for the construction of the building in Helena, which will house the office of the Unemployment Compensation Commission.\(^4\) Many

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1. Examiners, March 28, 1955, and April 11, 1955, give an example of such a sale.
2. See above, p. 36.
3. See above, p. 56.
of the buildings constructed by the Forestry Department have been financed from the funds which the federal government gives the state to encourage fire protection. These funds are given as a percentage of the amount spent by the state for fire protection. The federal government has contributed 75 per cent of the funds necessary for the construction of state armories at Whitefish, Hamilton, Billings, Plentywood, Chinook, Miles City, Sidney, Glendive, and Kalispell.

**Purchase of Buildings**

Once the Board of Examiners has secured funds for buildings it may, depending upon policy and legislative instructions, either purchase or construct the necessary buildings. The state has purchased some buildings generally residences. In 1913 the Furnishing Board (Board of Examiners) purchased the old Governor's Mansion. The 1911 Legislative Assembly authorized the Board of Examiners to purchase the holdings of Doctors Mitchell and Mussigbrod at Warm Springs for use as the state insane asylum. In 1957 the Board of

1. Interview with Otha Isaacs, Assistant State Forester, August 25, 1959.
2. Examiners, July 29, 1957.
Examiners authorized the business manager of the State Hospital to bid on five buildings containing eighteen residential units owned by the Housing Authority of Anaconda.  

The Prison has received numerous buildings as it purchased various ranches. The State University has evidently purchased at least seven residences.  

Construction with Resident Labor  

If the Board of Examiners decides not to purchase, but rather to build, the construction may be by a contractor or by resident laborers. Two types of resident labor may be employed, maintenance crews or inmate labor.  

Maintenance crews  

Use of maintenance crews for construction work has been fairly common. Because of money shortages institution presidents have turned to maintenance crews for construction work, thus eliminating architects' fees and contractors' profits. In 1954 the Board of Examiners instructed its engineering department to prepare plans and specifications for the conversion of a loading ramp area at the Veterans'  

1. Examiners, August 8, 1957.  
2. Insurance list, compiled by Board of Examiners, July 1, 1957.
Mr. Eric Wilson, a member of the staff at the experiment station, prepared plans and specifications for an experimental dairy center at the State College. The building was estimated to cost between $105,000 and $120,000.2

The Board of Examiners approved a request in 1955 from Dr. Westwell, superintendent of the State Training School, for permission to procure day labor to complete small projects "without resorting to costly contract-letting and architect's services." Two projects that Dr. Westwell wanted to start on immediately were a refrigeration plant and some employees' quarters. He estimated that these projects would show savings comparable to those he had achieved with an equipment garage which cost $6,000 instead of $30,000.3

The State Hospital received permission in 1956 to construct several buildings, using their maintenance department plus temporarily employed craftsmen, and purchasing material through the state purchasing department or using government surplus material. Projects approved included

2. Examiners, July 29, 1957.
$10,000 worth of hog farrowing houses and feeding and housing facilities for the hog ranch, $7,500 worth of steel garages, and a $10,000 steel building to house state motor vehicles. ¹

The Forestry Department has constructed twenty-three buildings, using departmental personnel during the off-season. ²

The colleges have also utilized maintenance personnel when possible. Dr. Steele, president of Western Montana College of Education, received permission to employ maintenance crews and union labor for a $23,000 renovation for a men's dormitory. ³ In 1957 when the low bid of $13,763 for nurses training facilities at Northern Montana College was about $1,000 more than the funds available, the Board rejected all bids. President Brockman was allowed to use his maintenance crew plus skilled labor to finish the Cowan Hall project. ⁴ The Board also approved the finishing of the west wing of Cowan Hall through the use of campus labor. ⁵

Disapproval by unions and contractors

The use of maintenance labor for construction work, while possibly providing a saving for institutions, also

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2. Interview with Ctha Isaacs, Assistant State Forester, August 23, 1959.


5. Examiners, June 6, 1957.
eliminates profits for private business, so it is not surprising that contractors and unions have protested strongly against the use of maintenance crews at the institutions.

After it had approved the use of maintenance crews at Northern Montana College, the Board received a letter from John H. Risken, attorney, representing the National Electrical Contractors Association, the Associated Plumbing and Heating Contractors, and the Associated General Contractors of Montana regarding the use of maintenance personnel at the College. The letter was referred to the office of the Attorney General "for further study and recommendations."\(^1\) The contractors took their case to court but failed to get a legal prohibition against the use of maintenance personnel.\(^2\)

After permission was granted in 1955 to Westwell to complete his projects at Boulder, the Board received a protest from the Plumbers' Union, Local Number 41 of Butte, because union labor was not being used on new construction work. The Board informed the union that all new plumbing was being installed by union plumbers employed by Reber Plumbing and Heating Company and that all carpenters were union carpenters. A local of the Structural Iron Workers also

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protested, asking for union workers on reinforcing steel for the refrigeration plant at Boulder. The Board asked the union agent to inform Dr. Westwell where a local or nearby supply of union iron workers could be secured when needed for this work.¹

The Butte Local Number 41 of the Plumbers Union also protested against plumbing work and repair work on plumbing being done at the State Orphans' Home. They protested against the use of maintenance men and the institution's engineer for the installation of a pump in the new well at the Home. It was explained that the budget of the Orphans' Home would not permit the cost of hiring plumbers to come all the way from Butte for a few hours work.²

The Montana Trade Council of Carpenters objected to the use of Forestry Department fire fighters for construction work. The Forestry Department was using these men during the off season to construct an office building in Kalispell, costing approximately $10,000. The representative of the carpenters claimed that this was in violation of a state statute requiring that construction over $300 be advertised for bids. The Board directed Gareth Moon, State

¹. Examiners, September 1, 1955.
². Examiners, March 6, 1953 and March 20, 1953.
Forester, to work out with the representative of the carpenters an equitable solution for completion of the building with union supervisors. At this point the building was more than half completed. Eventually an architect was hired to prepare plans, bids were called for, and the building, which had been expected to cost $10,000, was finished for slightly less than $20,000.

Inmate labor

Where possible, the heads of state institutions have attempted to use inmate labor for construction. This program has been tried especially at the Prison, where construction work is believed to aid in rehabilitation. There is little objection to the use of prison labor for construction. Legislative committees have recommended it, and the Board of Examiners has approved the use of funds for construction "in such a way that it provides industry for the inmates at the institution." The Board has approved the use of inmate labor at the Prison for construction of a ladies' rest room, a $50,000 milking parlor and loafing

2. Interview with Ctha Isaacs, Assistant State Forester, August 25, 1959.
shed,\(^1\) and a minimum security building.\(^2\) The unions have assisted in the rehabilitation program at the prison by providing instruction in the skilled trades for the inmates.\(^3\) The Board of Examiners approved a request by the superintendent of the State Industrial School to use resident labor for the construction of a concrete walkway and concrete stairway, costing about $350.\(^4\)

**Stricter policies by Board**

In the last two years the Board of Examiners has moved to stop much of the construction by resident labor. There are undoubtedly occasions when the work performed by unskilled mechanics is done less perfectly than it should be.

The Board refused to allow the Forestry Department to construct buildings with maintenance labor, though the Governor admitted that he had examined the buildings and that they were well built and much less expensive than if they had been advertised for bids.\(^5\) The Board disapproved a request to have architectural drawings made by Prison inmates for certain buildings at Fort Harrison, because the law required architectural work to be done by certified architects.\(^6\) A request from the Prison warden to use

\(^1\) Examiners, May 16, 1957.  \(^2\) Examiners, June 17, 1958.  
\(^3\) Interview with James Umber, State President AFL-CIO, August 7, 1959.  
ember 23, 1958.
inmate labor to remodel the guards' quarters into an apart-
ment and to remodel a basement into an employee's lounge
at an expense of $5,000 was denied as contrary to law.\textsuperscript{1}

The Prison used inmate labor for three years to construct
a minimum security building. Progress was slow because the
prisoners were not skilled artisans, reliable men became
eligible for parole and the requirements of maintaining
the prison farms drained the construction crew. As a re-
sult of the loss of Cell House Number 2 in the August 1959
earthquake, the need for the minimum security building be-
came imperative and the remaining work was let on contract.\textsuperscript{2}

\begin{center}
\textbf{Selection of Architects}
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The Board of Examiners selects the architects for most
of the state's construction. The architect selected has the
responsibility of designing the building, preparing the
plans and specifications, and supervising the construction.
He must approve all change orders. Since the Board relies
so much on the architect's ability and integrity, the selec-
tion of the architect is a crucial item. To the architects,

\begin{enumerate}
\item Examiners, April 29, 1959.
\item \textit{Great Falls Tribune}, January 28, 1960.
\end{enumerate}
selection by the Board can mean continued work and a resultant steady income, even prosperity. Records in the Board of Examiners' office indicate that from 1948 through 1952 J. G. Link and Company of Butte received nineteen architectural contracts, with total architectural fees being $463,959.10.

The law requires that all architects hired to prepare plans for public buildings must be certified by the Board of Architectural Examiners.1 The State Board of Architectural Examiners published a list of registered architects as of January 1, 1956, which included 164 architects, 90 of whom lived in Montana.

The methods used by the Board of Examiners to select architects varies according to the Board's membership. On the present Board the criteria for selection of architects include capability and proximity to the construction, according to Attorney General Forrest Anderson. All architects are selected by Anderson and Secretary of State Frank Murray, the Democratic majority. According to Anderson, Republican Governor J. Hugo Aronson has not been given any voice in the selections in the last few years because he makes the selections for the self-financing buildings at

the University units as president of the Board of Education.¹

Other Board members have indicated that they used different criteria. Governor Aronson vehemently declares, "I don't have any friends among the architects. I don't favor any of them."² Arnold Olsen said that when he first became Attorney General much work was given to J. C. Link and Company of Butte and to van Teylingen of Great Falls because they were doing good work and were also excellent salesmen. Later in his term other architects began to ask for work and then the Board would often ask the heads of the institutions for suggestions.³ John Bonner stated that while he was Governor, the Board had hired architects on the basis of their ability and in an effort to spread the work around. The Board had also used state contracts to try to help young architects who were just getting started. The Board had given Link a great deal of work because Link had a good, well-established firm and was a good Democrat. Bonner mentioned that some Boards made selections on the basis of political support, including campaign contributions.⁴

Architectural selections have usually been unanimous.

¹. Interview with Attorney General Forrest Anderson, June 12, 1959.
². Interview with Governor J. Hugo Aronson, March 24, 1959.
³. Interview with Arnold Olsen, August 8, 1959.
⁴. Interview with John Bonner, August 13, 1959.
Between 1954 and August 1957 there were only three votes cast against any architectural selections. Governor Aronson voted against the selection of J. G. Link for an assembly and classroom and a dormitory at the Training School on December 27, 1954; against the selection of Link as architect for personnel housing at the State Hospital on February 7, 1957; and against the selection of Link for construction at the Orphans' Home on March 28, 1957.1

Occasionally the heads of institutions have suggested an architect when requesting that plans be prepared.2 This procedure was changed in 1957. Adjutant General S. R. Mitchell requested that Witter and Price of Missoula be appointed as architects for an armory at Hamilton. The Board demanded that the General meet with them as soon as possible and he arrived in about ten minutes. His request was approved "after some discussion" but Attorney General Anderson then stated "that since it was the duty of the Board of Examiners to appoint architects on all state construction, that this function of government must be left to them alone without recommendation or direction from heads

of departments and institutions." The board then directed
the heads of all state departments and institutions to ob­
tain Board of Examiners approval before employing archi­
tects.1

Since the appointment to public projects can be a
steady source of income for an architectural firm, the
architects do attempt to present themselves for consider­
ation. The minutes of the Board of Examiners are replete
with communications from architects asking that they be
considered for appointment for various projects. An ex­
ample of salesmanship is the letter which the Board received
from J. G. Link and Company on October 8, 1954. Link stated
that he had made preliminary drawings for a new hospital
and dormitories at the Montana State Hospital, taking into
consideration information gained when he and Doctor Freeman,
then superintendent, had made a trip East in 1950 to in­
spect personally some of the latest asylums and mental
institutions. Link requested permission to carry on with
his drawings and to consult with the present superintendent,
the state not being obligated to him for any work done if
the projects should fail to materialize due to lack of
funds or other reasons. The Board rejected Link's request,

stating that they would wait until after the November election when they would know if the necessary bonds had been approved by the voters. They would then let all interested architects have an opportunity to participate and gain the information desired in order to enter into proposals to present to the Board.\footnote{Examiners, October 8, 1954.} Despite these high-sounding plans, when J. van Teylingen submitted preliminary proposals for the same hospital two weeks later on October 21, along with a prepared statement setting forth the advantages of the building proposed, the Board approved his preliminary sketch and plans, subject to the approval of the bond issue by the electorate in November.\footnote{Examiners, October 21, 1954.}

Architects are free to contribute to the political campaigns of officials who award architectural contracts, although John Bonner stated that their contributions, on the whole, were "a little below average."\footnote{Interview with John Bonner, August 13, 1959.} Since the cost of a gubernatorial campaign in Montana varies from $60,000 to $140,000, contributions—even a little below average—can be very important.
Under the present Board the selection of architects is often referred to the Attorney General's office for consideration;\(^1\) it takes some time for appointments to be made. Appointments of architects for several projects were made on June 5, 1957, "after having been considered by the Attorney General's office."\(^2\) Attorney General Anderson was absent when Doctor Brockmann, president of Northern Montana College, requested that the Board appoint an architect for finishing some rooms in Cowan Hall. "After much discussion it was decided to discuss this matter in the afternoon when Attorney General Anderson could be present."\(^3\) The appointment of the architect for the Employment Service building at Billings is an excellent example of the length of time taken to make appointments. The chairman of the Unemployment Compensation Commission made four separate requests for the appointment of an architect; the matter was referred to the Attorney General's office for study, upon his request, and the appointment was made more than two months after the original request.\(^4\) Another example was the request for

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1. No indication is given in the minutes of the reason for asking for consideration by the Attorney General. Presumably it is for the purpose of insuring that the legal obstacles to construction have been overcome.

2. Examiners, June 5, 1957.


appointment of an architect for the livestock sanitary board diagnostic laboratory at Bozeman. The request was first made on February 20, 1958, but Attorney General Anderson was absent and the Board agreed to discuss the matter when they had a full Board.\(^1\) On May 9, 1958, the State Veterinarian sent an urgent request to the Board. The appointment was made on June 17, 1958.\(^2\) Some architects after being appointed have been advised by the Board to contact the Attorney General's office for legal advice on preparation of the architect's contract.\(^3\)

**Architects selected**

Of the eighty registered architects listed with Montana addresses in 1956, only a minority have received state contracts. The Commission on Reorganization of State Government noted in 1953 that, over a three-year period, one firm of architects had received 41.5 per cent of the amount paid out for all architectural work, or nearly $288,000 of the $693,000 total.\(^4\) Records in the Board of Examiners' office,  

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2. Examiners, June 17, 1958.  
3. Examiners, April 16, 1959. However see below, p. 93.  
of architectural contracts awarded for school and institution building construction during the period from 1943 to August 5, 1955, (which would include contracts awarded by other boards besides the Board of Examiners) indicate that J. G. Link and Company received about 33 per cent of all architectural fees, and that Brinkman, Lenon and Associates of Kalispell received approximately 15 per cent of all architectural fees. During these seven and one-half years, two firms had almost half of the state work.

From January 1957, when the present Board took office until August 1959, a total of fifty architectural contracts were awarded. Of these, J. G. Link and Company of Butte received fifteen contracts and Norman Hamill of Butte received ten contracts. One contract for two million dollars was jointly awarded to the two firms, but was later withdrawn. Thus half of the contracts during the period went to two firms. Taylor, Thon, Swartz, and Kirkpatrick of Kalispell received four awards, Knight and van Teylingen of Great Falls received three contracts, and Gehres D. Weed of Kalispell received three contracts. Five firms got two contracts each and five firms received one contract each.¹

The present Board has been forced to rescind several

¹. Examiners, January 1, 1957 to August 10, 1959, passim.
architectural awards. The two million dollar contract which was awarded to Link and Hamill was withdrawn upon the request of Adjutant General Mitchell, who told the Board that he felt that further study was necessary before employing an architect. The Board was obviously disappointed at Mitchell's request. The Board rescinded an architectural award at the State Orphans' Home given to J. C. Link and Company after Moyle and Kestle, architects of Butte, had protested that they had been engaged to do the preliminary work on the project. The Board rescinded the appointment of Norman Hamill for a sketch of the Capitol grounds after H. C. Cheever, Secretary of the Montana Chapter of the American Institute of Architects, objected that the tentative work had been offered free of charge.

Legislative criticism of architectural selection

In recent years legislative criticism of the selection of architects by the Board of Examiners has been rather pointed and scathing. The 1953 Reorganization Commission recommended that there be a wider distribution of work among the state's

architectural firms, as a matter of good public policy."¹

In a letter to the Board the 1959 Senate Finance and Claims Committee called the Board's attention to the poor condition of certain buildings which had been constructed for the State under the supervision of architects J. G. Link and Company and Norman Hamill. They stated that these buildings were far below the standards that should have been maintained by the proper supervision of an architect and recommended that these architects "never be granted another contract by the State of Montana under any conditions whatsoever." The letter was signed by all members of the Senate committee. The Board acknowledged receipt of the letter and decided unanimously to make its own separate investigation at a later date.² No investigation had been reported by August 1959, however. In a meeting with the Board of Examiners, members of a 1959 joint House and Senate subcommittee of the Appropriations Committees sharply criticized some of the architectural work that had been done. Representative George Cleed referred to some of the buildings designed by J. G. Link and Company as "folly." Senator William McKay stated

that "Mr. Link has not done...good designing." ¹

The criticism has had little effect on the Board of Examiners. As observed before, these two firms have received half of the state's projects. Two days after receiving the letter from the Senate Committee, the Board unanimously appointed Elmer Link of J. C. Link and Company to prepare plans for the Veterinary Research Center and Diagnostic Laboratory on the State College campus.² Three weeks later, on April 16, J. G. Link and Company was given another contract when Elmer Link was awarded the contract for alterations to the Employment Service office at Billings.³

On May 13, 1959, Norman J. Hamill was authorized to prepare plans for a boys' cottage and a girls' cottage for the State Orphans' Home. He was also authorized to continue with preparation of plans for the multi-purpose activity and recreation building and central food service facility for the State Hospital. All of the awards were approved

¹. Examiners, February 24, 1959.
². Examiners, March 25, 1959. In the meeting with the sub-committee just one month earlier, a member of the subcommittee had mentioned that funds for this project would soon be available and specifically objected to the possibility of giving the job to J. G. Link and Company. Examiners, February 24, 1959.
unanimously. ¹ On June 3, 1959, with Lieutenant Governor Cannon sitting for Governor Aronson, Hamill was unanimously awarded a contract to prepare specifications for replacement of a roof at Western Montana College of Education.²

The Architect's Duties

The Board signs a contract with each architect it appoints. Despite the fact that architects are occasionally advised to contact the Attorney General's office for legal advice on the preparation of the architect's contract, all architects' contracts are the standard form agreement issued by the American Institute of Architects, Form A-102.³ The contract is on a standard printed sheet, three pages in

1. Examiners, May 13, 1959. Hamill had been appointed on May 29, 1958, to prepare long range plans for the Orphans' Home, under the Federal Housing and Home Finance Agency program. On October 9, 1958, the Board applied to the federal agency for $2,694 for plans for the two cottages which it was estimated would cost $196,000. Presumably Hamill had done sufficient planning to have an idea of the cost of the cottages, but the May 13 item is the first notice that Hamill had been awarded the contracts for these specific buildings. As will be noted later, the architectural contract for the cottages was signed June 4, 1959. On July 29, 1958, Hamill had been appointed to prepare preliminary plans for the multi-purpose activity and recreation building and the central food service facility. On October 9, 1958, the state had requested $6,846 for advance planning for these two buildings, which were estimated to cost $520,000.

2. Examiners, June 3, 1959.

3. For purposes of description the author was given a copy of a contract selected at random from the files of the Board of Examiners, this being a contract between the state and Norman J. Hamill and Associates for Boys' and Girls' Cottages at the Orphans' Home at Twin Bridges, dated June 4, 1959,
length. It is very evident that it has been drawn for a group of architects. The architect's services include the necessary conferences; the preparation of preliminary studies, working drawings, specifications, and large-scale and full-size drawings for architectural, structural, plumbing, heating, electrical, and other mechanical work; assistance in the drafting of forms of proposals and contracts; the issuance of certificates of payment; the keeping of accounts; the general administration of the business; and the supervision of the construction.

The owner, (State of Montana, State Board of Examiners, in this case) in addition to the regular fees, agrees to reimburse the architect for all transportation and living costs incurred by him and his assistants while traveling in discharge of their duties, for the cost of all reproductions of drawings, for the cost of special consultants, and for the cost of the services of engineers for normal plumbing, heating, electrical, and other mechanical work. If the architect is caused extra drafting or other expenses due to changes ordered by the owner or as a result of damage by fire, he is to be equitably paid for such expense. If any work designed or specified by the architect is abandoned or suspended, the architect is to be paid for the service rendered. No deductions are to be made from the architect's fee on account of penalty, liquidated damages, or other sums.
withheld from payments to contractors. If the owner furnishes labor or material below market cost, the cost of the building shall be computed upon the market cost. The ownership of all drawings and specifications remains with the architect, whether the building is constructed or not, and these drawings are not to be used on other buildings without the permission of the architect. The owner is required to furnish a complete and accurate survey of the building site and full information as to sewer, water, gas and electrical service. He also pays for borings or test pits and for chemical, mechanical, or other tests when required. The owner provides all legal advice and services required for the operation.

The architect agrees to endeavor, by general supervision, to guard the owner against defects and deficiencies in the work of the contractors, but he does not guarantee the performance of their contracts. The general supervision of the architect is to be distinguished from the continuous on-site inspection of a clerk-of-the-works. If the owner desires to pay the salary of a clerk-of-the-works, the architect will hire him. When requested to do so, the architect will furnish preliminary estimates on the cost of the work, but he does not guarantee such estimates.

After preparing his preliminary plans, the architect forwards them to Martin Kelly, who reviews the plans and
presents them to the Board. The Board approves the pre-
liminary plans and the architect prepares final plans and
specifications. These final plans and specifications are
first reviewed by Kelly, then presented to the Board. The
Board perfunctorily approves the plans and specifications,
often not bothering to open them. The specifications in-
clude a listing of special restrictions or requirements
which will be imposed on the contractor.

Payments to architects

The 1953 Reorganization Commission compared Montana
architect fees for public buildings with those of other
states, and found that the Montana architects were being
paid fees "substantially higher than those paid elsewhere." The Commission recommended that a fee of not more than 5.6
per cent be paid, based on the actual cost of constructing
the public buildings.¹ As a result of this recommendation, the legislature established maximum rates of compensation
for public buildings. The law was amended in 1957 raising
the maximum rates. Architects are paid a percentage fee
which varies with the cost and type of structure. The
highest fee of 8 per cent of the construction cost may be
paid for buildings requiring individual design and detail

¹ Report of the Commission on Reorganization of State
Government Pursuant to Chapter 185, Laws of 1951, pp. 33-34.
and costing less than $50,000. The lowest fees are paid for structures of simple utilitarian construction. For such a building costing one million dollars, an architect could receive a maximum fee equalling 5.14 per cent.¹ Payments are to be made to the architects on the basis of 20 per cent on completion of studies and preliminary drawings, 55 per cent on completion of working drawings and specifications, and 25 per cent during construction, based on contract payments.² Previous to the passage of this law, the architects of the state had set the rate at 6.50 per cent for all buildings, with 1.50 per cent being for preliminary studies, 3.00 per cent for plans and specifications, and 2.00 per cent for supervision.³

Requests for payment are submitted by the architect to Board Engineer Martin Kelly, who checks the claim and sends it to the Board. From time to time, there are variations in the claims submitted. For example while the old plan of payment was in effect J. G. Link and President Carl McFarland disputed over the amount of the architect's fees for the Liberal Arts Building at the University after several

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1. Montana, Revised Codes, (1947), sec. 66-114. Attorney General Forrest Anderson, in an interview June 12, 1959, stated that he felt that architects were not paid enough money for their services.
2. Ibid., sec. 66-115.
3. Examiners, September 13, 1946.
change orders had lowered the cost of the building. Link contended that for plans and specifications he was entitled to 4.50 per cent of the amount for which contracts were awarded—$620,064 and, for supervision, 2 per cent of the estimates paid to the contractors—$609,451. McFarland figured that the fee should be based on 6.50 per cent of the cost of the building—$609,451. Link wrote to the Board of Examiners, who ordered the University to pay the difference of $477.59 without hearing from McFarland, a noted lawyer.1

Extra payments have also been made to architects when their plans were so disproportionate that bids far exceeded the money provided and the architects were required to prepare new designs. For example on June 20, 1957, Knight and van Teylingen submitted an extra claim for $26,000 for redesigning the Receiving and Intensive Treatment Building at Warm Springs, and on July 15, 1957, the Board of Examiners approved the claim. Bids, when first called for, had totaled $1,300,000 and only $1,500,000 was available. The architects redesigned the building to bring the plans within the $1,500,000 available.2 Senator Mahoney (Garfield), a

1. Examiners, October 8, 1954.

2. Examiners, July 15, 1957. This is the same hospital for which the Board approved preliminary plans before the people had approved the bond issue. See above, pp. 85-86.
member of the legislative subcommittee which met with the Board of Examiners in 1959, objected strongly to paying for two sets of plans for this building, "because the architects were unable to design a building which could be built with the money provided." Vincent E. Walsh, architect for the State Laboratory Building, submitted an extra claim for redesigning the building more than three years after the building had been accepted by the state. The claim of $20,686.34 was justified on the basis that the first bids of $1,530,571 had far exceeded the money available; Walsh revised the plans and the bids submitted totaled $1,461,191, still more than the money available. Walsh revised the plans again and the bids were opened for a third time, approximately one year after the badly needed laboratory building had first been advertised. This time a contract for $320,455 was awarded. Walsh had submitted a claim for redesigning the building to a previous Board which had disapproved the claim on the advice of the Attorney General, who had stated that the fee was to be based on the contract award only. The 1953 Board checked with the Controller, found that there was $20,696.56 left in the fund ($10.22 more than Walsh had requested), and unanimously approved the claim.²


2. Examiners, December 29, 1958. The Controller was evidently in error for it was later reported that payment of the claim overdrew the account $228.57. Examiners, January 8, 1959.
After plans are approved, Martin Kelly recommends to the Board newspapers in which the call for bids shall be advertised. Advertisements must be run in at least one issue each week for three consecutive weeks in two newspapers published in the state, one of which must be published at the seat of government, the other in the county where the work is to be performed.\(^1\) The Board must specify in the advertisement the amount, kind, and general character of the buildings to be constructed, and must refer to the place where the plans will be available to any prospective bidder.\(^2\) One bid advertisement is included in the *Helena Independent Record* or *The People's Voice*, which is also published at Helena. The number of other papers in which a project will be advertised depends upon the size of the project. For a large project the Board will advertise in most of the large daily papers in the state. In advertising for bids for cleaning and waterproofing the Capitol, the Board also advertised in Seattle and Minneapolis trade publications.\(^3\)

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1. *Montana, Revised Codes*, (1947), sec. 82-1131.
2. Ibid., sec. 82-1132. See example of invitation for bids, *Examiners*, April 25, 1957.
All but one of the bidders for this job were out of state firms.1

If there is an imperative, immediate need for the work, the Board will declare an emergency, dispense with the advertising for bids, and instruct its staff to secure several bids from local contractors. Such an emergency was declared when renovations were needed for the armory at Poplar; the Board had an opportunity to rent the building to officials of the Montana Military District thirty days hence. The Board awarded contracts of $9,339 on bids obtained by its staff.2

**Bid awarding**

The bids must be opened by the Board at 10:00 A.M. of the day specified in the advertisements and the contract must be awarded to the lowest responsible bidder. The Board has the power to reject all bids. If the contract is for more than $2,000, there must be bids from at least two responsible bidders. The law requires that all bids must be accompanied by a bid bond, money, or bank instrument

2. Examiners, July 2, 1956. See also April 30, 1954, for another example.
for 5 per cent of the amount of the bid.¹

At 10:00 A.M. the Board members meet and either the clerk of the Board or the architect opens the bids and reads them aloud. After all bids have been opened, the Board takes them under advisement, giving them to the architect and Martin Kelly, who ascertain the low bidders and check their contractors' licenses and certified checks. Bidders are often requested to submit addition and deduction alternates, so that the contract will be within the money available, but will include as many desirable extra features as possible.

The Board has met the rigid requirements for bid openings in varying ways. A bid which was submitted late, at 10:20 A.M., has been returned unopened,² but the Board has also accepted a bid submitted twenty minutes late as a result of an auto accident.³ The Board has ruled that if only two bids are received and one is faulty, the other cannot be considered.⁴ When the Board has received only one bid on the general contract for a building, the Board has returned it and all

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1. Montana, Revised Codes, (1947) secs. 82-1133, 6-501.
2. Examiners, August 26, 1957.

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the bids for the plumbing and electrical contracts unopened.\(^1\)

The Board has been quite strict in rejecting bids which were not accompanied by the required 5 per cent. The Board ruled in 1957 that the certified check or bid bond must be for 5 per cent of the highest possible total, including addition alternates, and not just for the basic contract.\(^2\)

An earlier Board rejected a bid of Walford Electric Company of Missoula when the company's certified check was in excess of 5 per cent of the base bid, but short $66.55 when alternate number one was added to the base bid. Since the second low bid was $1,255 higher, the Board rejected all bids and readvertised.\(^3\) Walford Electric Company took the case to court and the Supreme Court upheld a district court decision requiring the Board to award the contract to the company.\(^4\)

The requirement to accept the bid of the lowest responsible bidder has sorely puzzled Secretary of State Frank Murray, who complained to a legislative committee, "we are supposed to take the lowest and best bidder but the lowest

\(^1\) Examiners, November 10, 1953.
\(^2\) Examiners, August 19, 1957.
\(^3\) Examiners, February 1, 1952.
\(^4\) Examiners, March 27, 1952.
bidder is not always the best bidder.\textsuperscript{1} Despite the problems
the state has had with some contractors, there are no indica­
tions in the minutes of any rejections of a bid for lack
of responsibility between 1954 and August, 1959.\textsuperscript{2}

The Board has the right to reject all bids if it de­
sires. This right was evidently exercised fairly often under
the Board composed of Governor Sam C. Ford, Attorney General
R. V. Bottomly, and Secretary of State Sam Mitchell, especially
if the bids exceeded the architect's estimate. For example,
on July 2, 1943, this Board rejected all the plumbing bids
for the construction of the administration building at
Northern Montana College, because they were above the archi­
tect's estimate. Upon readvertising, the contract was awarded
for a sum some \$7,000 below the lowest original bid.\textsuperscript{3} The
procedure the past few years has been to reject all bids
only if they are greater than the sum available. Occasion­
ally if bids are greater than the sum available, the Board
will ask the low bidder to eliminate some items. For example

\textsuperscript{1} Examiners, February 24, 1953.
\textsuperscript{2} See Examiners, June 9, 1955, for what might be an ex­
ception but is not explained.
\textsuperscript{3} "Havre Report of Senate Special Investigating Committee,"
Montana Legislative Assembly, Adopted March 1, 1951, p. 3.
(Dieographed.) Hereafter called "Havre Report."
in 1955 when bids for renovating the "en's Hospital at the Tuberculosis Sanitarium far exceeded the $22,000 available, the Board first rejected all bids, then six days later decided to accept the low bid of Parrot Construction Company of Butte of $23,939, which had been revised downwards by the elimination of alternates and some items of special equipment to $71,439. The Board unanimously accepted the bid, despite the fact that the contract for $71,439 was quite different from the one which the competitors of the Parrot Company had been able to bid on.¹

Cost-plus contracts are invalid,² but the Board has found at times that bidding was impractical. This happened in 1954 when the Board awarded a contract on a labor and materials basis to remove a concrete floor and partitions in some rooms in the Capitol. It was emphasized that the job had to be done at once and it was impossible to get firm bids because of unknown conditions that would be encountered.³ The 1959 Senate Finance and Claims Committee protested the awarding of a cost-plus contract for repair work to the heating system at Western Montana College of Education. The Board explained that the work, which cost

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1. Examiners, August 18, 1955.
2. Montana, Revised Codes (1947), sec. 82-1135.
$48,000, had been done as an emergency request and the cost-plus contract had been let for this reason.¹

Bids may not be accepted if a contractor does not have a current Montana public contractor’s license. The licensing is essentially a revenue-producing permit, but the law provides a procedure whereby a license may be denied.² Any out of state contractor who has posted security bonds in the state may legally bid on and be awarded contracts. Secretary of State Frank Murray once objected to giving contracts to out of state bidders when many Montana tax-paying contractors needed the jobs for themselves and laborers who would be used on the work. Governor Aronson replied that he was always glad to award the contract to the lowest bidder, thus saving the state and taxpayers money.³

Mistakes may be made either in the specifications or in the bids. In one case in which there was a possibility of misunderstanding in the specifications prepared by the architect, the Board allowed contractors to consult with the architect and withdraw their bids if they desired. Several

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2. The licenses for construction on public buildings are granted by classes; Class A, costing $200 per year, entitles the contractor to hold a public contract without limit; Class B, costing $100 per year, entitles a contractor to hold any public contract up to $50,000; Class C, costing $10 per year, entitles the contractor to hold any public contract up to $25,000. Montana, Revised Codes (1947), sec. 84-3505.

contractors did withdraw their bids.\textsuperscript{1} The Board has also rejected all bids on the grounds of a possible misunderstanding.\textsuperscript{2} If the contractor makes a mistake in his bid, he may refuse to accept his contract. When a contractor did refuse to accept his contract, the Board at one time approved the forfeiting of bid security and acceptance of the lowest remaining bid;\textsuperscript{3} in another case the Board required the contractor to pay a minor sum for "liquidated damages," returned his bid security, and accepted the lowest remaining bid;\textsuperscript{4} on another occasion the Board awarded the contractor a change order, increasing his contract price.\textsuperscript{5}

Contracts for construction

Three contracts are awarded for each building, a general contract, a plumbing and heating contract, and an electrical contract. The federal government normally awards only one contract to a general contractor, who then subcontracts the plumbing and electrical work. The 1951 reorganization Commission, after considering the problem,

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1. Examiners, December 12, 1951.
4. Examiners, June 20, 1954.

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stated that the decision of one or three contracts should be left to the Board of Examiners. The Board decided in 1956 to award only one contract on the basis of a recommendation by J. G. Link, who stated that his experience had been that contracts were completed in much less time under one prime contractor than under several prime contractors.

A hasty reversal in policy was made when members of the Associated Plumbing and Heating and Electrical Contractors of Montana protested.

The form of the contract which is prepared by the architect is very simple. The contractor, for the amount bid, agrees to complete the building according to the plans and specifications within a certain number of days. There is no penalty clause if the work is late, although the Attorney General suggested in April 1959 that all contracts for state buildings, including architectural contracts, be submitted to his office for drafting, so they might include a penalty clause.

On one occasion when a request for an extension of time was made the Board denied it, telling the contractor

to "get the building completed as soon as possible," but since there was no penalty clause, the denial of the extension meant nothing. At times superintendents of institutions and departments have asked the Board to invoke penalty clauses which they have had included in the contract. When the dormitory at the State Training School was some seventeen months over the contract period of 400 days, Dr. Westwell, president of the school, urged the Board to take advantage of the penalty clause, but the Board did not do so.

To receive the contract the contractor must include a performance bond. Contractors are required by law to give preference to the employment of "bonafide Montana residents" and they must pay the "standard prevailing rate of wages."

Certain non-statutory specifications are required by the Board of Examiners. The Board has declared that the Polson Plywood Company, largest single employer of "citizens, voters and property owners in Lake County, Montana...should

2. Examiners, July 23 and August 19, 1957.
4. Montana, Revised Codes (1947), sec. 6-401.
5. Ibid., sec. 41-701.
be given preferential treatment in all buildings constructed under the auspices of the state government." Therefore all contracts calling for interior plywood sheathing must contain a provision that "prices being equal, the erecting contractor and successful bidder must use the product produced by Montana union labor for the Foison Plywood Company in such building or structure." All architects preparing plans are directed to include in their plans and specifications "materials made by the Foison Plywood Company of Montana where such materials may be reasonably satisfactory for the purpose for which they are proposed." The Board has approved a similar resolution requiring that copper be given preferential treatment.

Change orders

Change orders after the contract is issued are the cause of much concern. Governor Bonner stated that it was especially important to look carefully at change orders, for it was here that the state lost money and that the contractors made their extra money. The original contract is awarded on the basis of competitive bidding, but a change order is the result of

2. Interview with John W. Bonner, August 13, 1959.
bargaining in a closed market. Changes in his original plans are always costly to the contractor, so he passes the extra cost on to the owner. If a deduction is made, the contractor still bargains to keep the profit he would have made if the change order had not been issued. Contributing to change orders are such factors as insufficient consideration by institution heads, architects, and supervisory personnel; changes in equipment and placement (sometimes resulting from the development of new equipment); and the architect's omissions and errors.1

Certainly the desires of the various people connected with the construction of a building tend to increase the number of change orders. The president of an institution is desirous of seeing a building as well equipped and well adapted to his needs as possible. If the president has extra funds, he may find it to his advantage to request a change order, even if the cost is higher than it would have been if included in the original contract. The contractor receives a profit from the increase or retains the profit

despite the decrease, so he does not object to change orders. The architects receive a percentage of any increase, but their contract requires payment for service rendered, even if plans are later abandoned by the owner.

Consequently, the Board receives many change orders. The orders, usually signed by the contractor, architect, and a representative of the institution, are given to Martin Kelly, who checks them and passes them on to the Board. The change orders for the State Laboratory Building amounted to $155,000 or 18.9 per cent of the original contract.1 The Board on one occasion approved change orders which were originally bid on as alternates, but not accepted at the time the contract was awarded. Some of the change orders were for amounts greater than the original alternate bid, due to increased costs.2 However, recently the Board denied a request for change orders which were originally bid as alternates. The change orders were requested at the same price as the original alternate bid. The Board ruled that since the bids had been opened approximately five months earlier too much time had elapsed to allow the acceptance.


2. Examiners, May 12, 1954.
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and the projects would have to be readvertised even though it might cost more money.¹

Except for this denial of alternates, there is only one instance of the denial of a change order by the Board between 1954 and August 1959. The Board disapproved a change order which would have substituted wooden windows for aluminum windows in duplex housing at Warm Springs, allowing the state a credit of $2,300. A week later the contractor met with the Board to protest the denial. The contractor pointed out that the aluminum windows cost $2,300 more and also required the contractor to furnish the trim for the windows at a personal cost of $2,531.30. The State Hospital business manager and the architect had agreed to the change, but the Board preferred the aluminum windows because there would be no need to paint or to maintain them.²

Payment to contractors

The contractor is paid on the tenth of each month. He receives 90 per cent of the value of labor and materials incorporated in the work and of materials suitably stored at the site, less the aggregate of previous payments. Upon

1. Examiners, April 8, 1959.
substantial completion of the work, the contractor is paid the 10 per cent which has been withheld. The Board has willingly approved payment of more than 90 per cent whenever requested by the contractor, so long as the bonding company agreed to the payment.\textsuperscript{1} If the contractor is operating on borrowed money, he may assign his payments to his creditors. Before receiving final payment, the contractor must submit evidence satisfactory to the architect that all payrolls, material bills, and other indebtedness connected with the work have been paid.

If the contracting company defaults on the contract, the bonding company is required to finish the construction. In such a case all remaining payments, including the final payments, are made to the bonding company as it completes the project.

\textbf{Supervision of Construction}

The architect is often regarded as the agent of the state for supervision, but as is stated in his contract, his supervision is only general and is definitely distinguished from the day to day supervision received from a clerk-of-the-works. The Board of Examiners has not hired a clerk-of-the-

\textsuperscript{1} See for example, Examiners, October 5, 1950, April 28, 1955, and August 30, 1956.
works for some time.  

Concerning the clerk-of-the-works role, the Massachusetts Governor’s Committee to Study School Construction Costs observed in 1955 that:

This continuous inspection is especially important for the pouring of concrete foundations, walls and floors, the replacement of reinforcing steel, the laying of brick and block and all other processes where improper workmanship and materials can be concealed in such manner as to prevent subsequent detection.  

The losses likely to be suffered if a public building project proceeds without a qualified clerk-of-the-works were described by the 1953 Massachusetts “Little Hoover Commission” as follows:

In such circumstances a contractor working under a lump sum contract is inevitably tempted to cut many corners during the course of construction; further, he is invited to take his chances as low bidder with knowledge that, in the absence of adequate supervision, he can probably add to the contract’s profit from change-order requests approved while the project is going along. Sometimes the designer too is an indirect beneficiary of these circumstances, since he is not required to give the project the same supervisory time and attention demanded for the same fee in the case of private projects on which a competent clerk-of-the-works is employed and the supervision is exacting.  

1. Under Governor Ford the Board of Examiners hired superintendents of construction for particular jobs. Interview with Sam C. Ford, March 24, 1959.


3. Commonwealth of Massachusetts, House of Representatives No. 2575 of 1953, p. 26, quoted in Commonwealth of Massachu-
The Board of Examiners itself supervises little. Attorney General Anderson explains that neither he nor any other member of the Board, nor any member of past Boards, had any experience in construction, so there was no sense looking at the buildings because the members could not tell whether the building was being properly constructed or not. Governor Aronson stoutly maintains that he has a better knowledge of the problems of constructing buildings than anybody who has ever been on the Board of Examiners. In the last five years the Board has made only nine inspection trips to state institutions.

Supervision of construction is thus left to the Board of Examiners' staff. Henry Evans is the state's building inspector. The 1955 Board asked Evans and Martin Kelly to make regular reports to the Board on building construction. Evans made many inspections and the Board adopted his recommendations. The present Board is not entirely in agreement as to his duties. Attorney General Anderson states that the duties of the staff of the Board of Examiners are not to

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setts, Report Submitted by the Legislative Research Council Relative to School Construction Methods and Costs and Unit Architectural Plans, p. 197.

1. Interview with Attorney General Forrest Anderson, June
2. Interview with Governor J. Hugo Aronson, March 24, 19
inspect construction of new buildings, but rather to inspect the plants of institutions and recommend repair or replacement. The Attorney General states that the building inspector is just a "screen door carpenter" who does not have the qualifications for inspecting buildings.¹

Evans, a building contractor for twenty years, was hired in 1955 and the improvement in the Board's inspection procedure was immediately reflected in the minutes. Evans traveled widely around the state, inspecting construction work. Time after time, he reported to the Board examples of poor construction which the architects had not supervised. For more than three years (1955-1958), the Board accepted Evans' suggestions without question. Evans recommended several times that payments to contractors and architects be withheld until corrections had been made in the construction. Each time, the Board withheld the payments and Evans reported later that the construction was being done properly and that the architect was supervising closely. On two recent occasions the Board has rejected Evans' recommendations.

In September, 1958, Evans reported that the Dining Hall Building at the Orphans' Home at Twin Bridges was not being properly constructed. Interior walls and partitions

¹. Examiners, February 24, 1959.
were in bad shape, tile was not laid properly, the terras
data was cracked, the outside walls were cracked, and the
laminated beams were scarred. Evans recommended that pay-
ments to the construction company be withheld until the con-
ditions were corrected. The Board approved the recommen-
dation; however, twelve days later the Attorney General
stated that after calling the architect by telephone, he
satisfied that there was a misunderstanding, and moved that
payment not be stopped as recommended by Evans. The Boar
d approved the motion without discussing the matter with
Evans.2

The construction of a dormitory at the State Trainin
School at Boulder has also caused many problems. Evans en-
several reports of poor work on the building. Finally, in
November 1957, a meeting was held with Evans and L. J. Ka
representative of the architectural firm of J. G. Link an
Company. Evans recommended that some floors in the build-
ing be torn out and replaced, because the concrete was crack
and broken. Karau advised the Board that this type of ma-
terial is expected to crack and that a bonding is put ove
the concrete before the tile is laid. Governor Aronson

admitted that after looking over the floor he would recommend that the floor be torn out. Evans also advised the Board that the belltower was not well constructed, being held together only by "a few screws." Karau replied that the material used was called for in the architect's specifications and that nothing could be done to remedy the situation. The discussion ended without the Board accepting Evans' recommendation. Later, a legislative committee reported that they had found the building very unsatisfactory, mentioning that the unevenness in the floors could be seen without a straight edge.

In regard to inspection of construction by its staff the Board has definitely adopted the philosophy of Attorney General Anderson, who states, "I pay attention to the architects," and "I would not take the word of a maintenance engineer who knows no more about buildings than I do and that isn't much."

Public Building Management

After the building is constructed and accepted, the Board of Examiners still has various responsibilities. The

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1. Examiners, November 27, 1957.
2. Examiners, February 24, 1959.
Board must accept the building, and arrange for landscaping, insurance, and repairs. In some cases the Board retains control of the building.

Before a building is accepted, the Board has Henry Evans inspect it. Evans makes a minute inspection of the building with the architect and contractor. After Evans reports, the Board accepts the building. The formal acceptance may be at a dedication ceremony.

The Board has taken the responsibility for the landscaping around the Capitol and at some of the institutions. Herman Krogman, Helena landscaper, was hired by the Board to draw plans for landscaping around the Mitchell building, the Tuberculosis Sanitarium, and the Orphans' Home. Mr. Krogman was under contract to do the landscaping of the St. Laboratory Building and the regular spring planting of flowers on the Capitol grounds when he passed away on May 1959. The work was assumed by his widow.

The Board of Examiners insures the state's buildings against fire and damage. Before 1954 the entire policy was carried by stock companies. The state had one co-insurance.

1. Examiners, February 1, 1954.
2. Examiners, February 24, 1954.
policy, giving 90 per cent coverage. The insuring company reinsured with all stock companies licensed in the state in proportion to the amount of premium and license taxes that they paid. The earned commission was divided equally among the stock company agents of the state. In 1954 after a long, protracted discussion, lasting more than a month, the Board decided that instead of taking one policy, it would take two policies, one with the stock companies and one with the mutual companies, on a ratio of nine to one respectively—this being the ratio of taxes paid by the two types of companies. Attorney General Arnold Olsen had argued strongly for this plan and eventually Governor Aronson agreed with him. Secretary of State Sam Mitchell consistently opposed the change of policy.1

These policies were renewed in 1957 for three more years. The agent's commission is divided equally among all licensed fire insurance agents in the state, amounting to about fifteen dollars per agent per year. At the present time, the premium paid by the state for the stock company policy is $.546 per $100 of insurable value; that for the mutual companies is $.439 per $100 of insurable value. The stock company rate, set by a standard rating bureau, is based

on all the buildings owned by the state. The rate for the mutual companies is the same, but the mutual companies allow a deviation in the rate rather than making their usual rebate at the end of the year. The state has been using a three year prepaid policy in the past, but is now shifting to a five year annual deferred premium payment plan. The prepaid policy provided the state with 3 years of insurance coverage for 2.8 years of premium payments. Under the annual deferred premium payment plan there is no reduction in premium but legislative appropriation problems are eased, since the Assembly must appropriate at any particular session only money sufficient to pay the premium for two years rather than three. From 1948 to 1957 the state paid out $765,921.96 in premiums and collected $309,517.35 in losses, a 40 percent collection ratio. The state had a total of 138 losses during this period.\(^1\) William Fitzsimmons, former clerk of the Board, estimated that from 1930 to 1954 losses had been about one-third of premiums.\(^2\)

Appraisals on state property are made by E. J. Decker of the Intermountain Appraisal Company of Helena. Decker,

\(^1\) Examiners, June 2, 1954 and interview with Lester Hansen, Board of Examiners insurance clerk, August 28, 1959.

\(^2\) Examiners, June 2, 1954.
formerly vice-president of McKinnon-Decker Construction Company, receives $.75 per every $1,000 of replacement costs as his fee for appraising.\(^1\) Decker was first hired in 1954 by Governor Aronson and Attorney General Olsen.\(^2\)

The Board of Examiners has accepted the problem of building repair and renovation -- a time-consuming matter, since the state has so many buildings. The same procedure is followed as for original construction, with an architect being appointed, bids being invited, and contracts being awarded. One of the primary problems in connection with public buildings has been the failure of any agency to take responsibility for the repair of the buildings. For quite some time after Henry Evens was hired, the minutes indicate that he checked state buildings and found many repairs needed. Much of the problem of repair and maintenance has revolved around boilers for heating systems. The Board now has a contract with E. J. Mueller, of Mueller Engineering Company of Butte, covering inspection of all heating equipment at state institutions with the exception of the State University and the State College. The Board pays Mueller $5,000 a year.

\[^1\] Interview with Lester Hansen, Insurance Clerk, Board of Examiners, August 28, 1959.

\[^2\] Examiners, June 11, 1954. Secretary of State Mitchell was absent.
The Board of Examiners directly controls the Capitol Building, Sam Mitchell Building, and Poplar Armory, and exercises indirect control of the remaining buildings in the capitol group with the exception of the Highway Commission Building. The Board is responsible for maintenance, renovation and assignment of office space in the buildings they control. The Board members personally assign the office space. Since there are numerous offices in the Capitol and frequent changes, the Board members occupy much of their time inspecting office space and refusing or granting requests to move into new offices.

**Summary**

The Board of Examiners as a construction authority suffers from most of the faults attributable to ex officio boards. The board members, who have sufficient duties to keep them busy, are forced to sit through tedious bid openings, in which the technical decisions are made by others, and to assign office space. As busy officials they give only casual attention to their ex officio duties, approving some plans and specifications without opening them. The Board obviously desires to control the selection of architects, but has little interest in exercising close supervision over construction. The members are not chosen because they have special abilities in constructing buildings, but
because they received the highest number of votes for a political office. As some of the members frankly admit, they know practically nothing about construction.

Executive officials avoid responsibility by hiding behind the actions of the Board. Governor Aronson maintains publicly that he is hamstrung by the two-member Democratic majority, but rarely is a 'NO' vote recorded in the minutes. Attorney General Anderson describes the Board as seriously in need of professional advice, but admits that the Board has never asked the legislature to appropriate the money needed to hire such personnel.

Without question, the members of the Board approach their duties with a view to promoting their own political advantage. The Board has declared that the Tolson Plywood Company, the largest employer of voters in Lake County, should be given preferential treatment. Selection of architects is based, at least to a certain extent, on partisan political support.

The Governor, who is supposed to be the chief executive, has no power whatsoever if the Attorney General and the Secretary of State agree upon matters. Architects for state buildings are selected without considering the Governor's opinion. Confronted with such solidarity, the Governor is not even in a position where he can "log-roll" with the
other members.

Legislative criticism has been bipartisan and frequent. A 1951 Legislative Assembly special investigating committee noted the "highly irregular" procedure in the construction of the Administration building at Northern Montana College. The Reorganization Commission suggested that there be a wider distribution of work among the state's architectural firms. A bipartisan committee in 1955 found supervision of the construction of the Pioneers' and Veterans' Memorial Building "sadly lacking." A 1959 committee investigating the Governor's Mansion found that the Board of Examiners had approved "grandiose plans" and expenditures "far in excess of the amount intended by the Legislature." Such constant criticism and the condition of the state's buildings leads one inevitably to the conclusion that the Board of Examiners has established a poor administrative record.


3. Montana, Legislative Assembly, House of Representatives, Special House Committee of the 36th Legislative Assembly, 1959, "Report of Special Committee to Investigate the Governor's Mansion," p. 2. ( Mimeographed.)

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Some observers may claim that the solution is the selection of more qualified administrators. It appears, however, that a good administrative record would be established in spite of the ex officio board, rather than because of it.
CHAPTER V

THE $5,000,000 BOND DISPUTE—

The Allocation of Funds

Because state buildings are usually constructed to serve educational, eleemosynary, and correctional institutions, or to house the operating agencies of state government, their functions are to serve the people and various economic interests. A strong public or economic interest inevitably leads to political pressures in the location and construction of buildings. Any state agency constructing buildings must be aware of these economic interests and must be capable of handling public pressures.

The division of the executive branch of state government into various semi-independent agencies results in the representation of differing political interests and, often a loss of coherent policy. If two state agencies, each representing strong interests, differ on decisions regarding public buildings, a struggle for power results. The 1949-1951 battle between the Board of Examiners and the Board of Education over the allocation of $5,000,000 for buildings at the various University units is an excellent example.
of such a struggle. This account of the battle shows the effect of public and political pressures placed on the Board of Examiners and also illustrates the difficulty of action in a divided executive department. The problems of building design and finance and the importance of control of a physical plant are also explained. Lastly the account illustrates in detail the preparations necessary before bids may be called for construction of a building.

Briefly, here is the story of the fight. In November 1948, voters approved a $5,000,000 bond issue for construction of buildings at the six units of the University of Montana. The Board of Education recommended a division of the moneys among the units. The Board of Examiners adopted a different allocation, increasing the amounts for Northern Montana College and Eastern Montana College of Education and reducing the amounts for the State University, the State College, and Western Montana College of Education. Before construction of any buildings had begun a taxpayer's suit enjoined the Board of Examiners from spending the money. Strong public pressures were exerted against the two boards. The struggle continued until the 1951 legislative session, when a compromise was finally adopted. A chronology of the dispute is included as Appendix D. The results of the fight were serious; the president of Northern Montana College was
fired; the Chancellor of the University system resigned and the Chancellorship was abolished; inflation reduced the number of buildings that could be constructed; expected foundation grants for research were cancelled; units of the University system were threatened with removal of accreditation and the state was divided into warring sections. This chapter and chapter VI will be devoted to a detailed discussion of this struggle.

Enactment of Bill

On February 9, 1947, House Bill Number 406 was introduced by Representative Cry Armstrong (R-Flathead) and Representative David James (D-Liberty), the majority floor leader and minority floor leader respectively, of the House of Representatives. The bill would have authorized a bond issue of $7,500,000 for constructing and equipping necessary buildings and other permanent improvements at all of the state institutions, including the educational, penal, correctional, administrative, and custodial institutions.¹

The bill passed the House by a vote of seventy-two to four on February 21.\(^1\) After being amended by the Senate Judiciary Committee the bill provided for a bond issue of $5,000,000 for constructing and equipping necessary buildings and other permanent improvements at the six units of the University of Montana.\(^2\) The amended bill passed the Senate forty-five to four.\(^3\) Since the bond issue was to be financed by a property tax levy, an affirmative vote of taxpayers was required.

Referendum 52, as the bond issue came to be known, was approved by the people on November 2, 1943, by a vote of 73,601 for, to 49,621 against. Strongest support for the bill came from the High Line,\(^4\) a group of twelve counties east of the continental divide and north of the Missouri River, served and traversed by the Great Northern Railroad and U.S. Highway 2. Northern Montana College is located on the High Line at Havre in Hill County. The High Line

\[^1\text{Ibid.}, \text{p. 483.}\]
\[^3\text{Ibid.}, \text{p. 563.}\]
\[^4\text{Also spelled Hi-Line.}\]
counties of Glacier, Pondera, Toole, Liberty, Hill, Blaine, Phillips, Valley, Daniels, Sheridan, and Roosevelt gave the bond issue a 65 per cent affirmative vote; in the rest of the state only 59.5 per cent of the voters approved the bond issue. The seven counties in the state which approved the bond issue by a margin of approximately two to one or better included the High Line counties of Blaine, Glacier, Hill, Pondera, Toole, and Valley, plus the county of Yellowstone, site of Eastern Montana Normal School. The bond issue lost in ten counties including Ravalli, Mineral, Sanders, and Granite, four of the seven counties which border Missoula County, home of the State University.\(^1\) The other six counties in which the bond issue failed were in the southeastern part of the state, Carter, Fallon, Garfield, McCone, Powder River and Wibaux.\(^2\) Referendum 32 became effective by virtue of the Governor's proclamation on December 3, 1943.\(^3\)

\(^1\) The other three counties bordering Missoula County, Flathead, Lake, and Powell, all had narrow margins in support of the bond issue. The bond issue passed in Missoula County by a margin of only 60.6 per cent, surprisingly low in view of the fact that the State University was expected to receive the largest amount for buildings from the bond issue.


\(^3\) *Montana, Legislative Assembly, Laws, Resolutions, and Memorials of the State of Montana Passed by the Thirty-first*
Board of Education Action

The State Board of Education, consisting of three elective officials, Republican Governor Sam. C. Ford, Democratic Attorney General R.V. Bottomly, and Republican Superintendent of Public Instruction Elizabeth Ireland, and eight appointive lay members, met in Helena on December 13 and 14, 1948. The presidents of the six units of the University system had presented to Chancellor George A. Selke a total of twelve million dollars in requests for building funds. Meeting with the Chancellor, the presidents cut their requests to their "minimum" figures, which still totalled over eight million dollars, three million more than the bond issue provided. 1 Chancellor Selke recommended that the Board of Education divide the money in the following manner: 2

<table>
<thead>
<tr>
<th>UNIT</th>
<th>LOCATION</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Montana State University</td>
<td>Missoula</td>
<td>$1,750,000</td>
</tr>
<tr>
<td>Montana State College</td>
<td>Bozeman</td>
<td>1,600,000</td>
</tr>
<tr>
<td>Montana School of Mines</td>
<td>Butte</td>
<td>300,000</td>
</tr>
<tr>
<td>Montana State Normal College</td>
<td>Dillon</td>
<td>200,000</td>
</tr>
<tr>
<td>Eastern Montana Normal School</td>
<td>Billings</td>
<td>550,000</td>
</tr>
<tr>
<td>Northern Montana College</td>
<td>Havre</td>
<td>600,000</td>
</tr>
</tbody>
</table>


2. Tribune, July 8, 1949. Since many different allocations
Since the requests were so high the Board of Education decided to ask the 1949 Legislative Assembly for an appropriation of over three million dollars for capital outlay from the surplus in the state's general fund. The Board recommended the following allocation of funds for the six units from the bond issue and from the surplus in the general fund:¹

<table>
<thead>
<tr>
<th>UNIT</th>
<th>BOND ISSUE</th>
<th>GENERAL FUND</th>
</tr>
</thead>
<tbody>
<tr>
<td>Montana State University</td>
<td>$1,900,000</td>
<td>$1,150,000</td>
</tr>
<tr>
<td>Montana State College</td>
<td>1,700,000</td>
<td>1,050,000</td>
</tr>
<tr>
<td>Montana School of Mines</td>
<td>325,000</td>
<td>150,000</td>
</tr>
<tr>
<td>Montana State Normal College</td>
<td>275,000</td>
<td>150,000</td>
</tr>
<tr>
<td>Eastern Montana State Normal School</td>
<td>300,000</td>
<td>200,000</td>
</tr>
<tr>
<td>Northern Montana College</td>
<td>500,000</td>
<td>400,000</td>
</tr>
</tbody>
</table>

The Board of Education felt that the Missoula and Bozeman campuses were already woefully short of facilities as measured by modern accrediting standards and would be called upon to handle new peaks in enrollment about 1960.²

The legislature, meeting in January and February of 1949, appropriated one million dollars of the more than three million dollars requested by the Board of Education. The were proposed, a summary of all allocations is included as Appendix E.

1. Board of Education Minutes, December 13, 14, 1943. Hereafter referred to as Education by date or page number.
money appropriated was designated for specific repairs, the purchase of special equipment, or the improvement of grounds. The amounts appropriated were as follows: 1

<table>
<thead>
<tr>
<th>UNIT</th>
<th>BOARD OF EDUCATION REQUEST</th>
<th>AMOUNT APPROPRIATED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Montana State University</td>
<td>$1,150,000</td>
<td>$300,000</td>
</tr>
<tr>
<td>Montana State College</td>
<td>$1,050,000</td>
<td>$320,000</td>
</tr>
<tr>
<td>Montana School of Mines</td>
<td>150,000</td>
<td>43,000</td>
</tr>
<tr>
<td>Western Montana College of Education</td>
<td>150,000</td>
<td>114,000</td>
</tr>
<tr>
<td>Eastern Montana College of Education</td>
<td>220,000</td>
<td>138,000</td>
</tr>
<tr>
<td>Northern Montana College</td>
<td>400,000</td>
<td>85,000</td>
</tr>
</tbody>
</table>

Board of Examiners Action

On January 23, 1949, the Attorney General, replying to a request from the clerk of the Board of Examiners, gave an official opinion concerning the procedures to be followed regarding the $5,000,000 bond issue. 3 He stated that it would be necessary for the Legislative Assembly then meeting to pass some executing legislation before any bonds could be issued by the Board of Examiners. The Attorney General


2. The name of Montana State Normal School was changed to Western Montana College of Education and the name of Eastern Montana State Normal School was changed to Eastern Montana College of Education by the 1949 legislature.

3. Montana, Attorney General, Report of the Attorney General of
said that the legislature had plainly intended a complete delegation of the responsibility of the issuance of the bonds to the Board of Examiners. He concluded that the determination of the need and the computation of the amount needed was the sole responsibility of the Board of Examiners. He quoted from a section of the bond issue act which stated in part:

All monies derived from the issuance and sale of the bonds...shall constitute a special fund for the construction and equipping of necessary buildings...as in the opinion of the Board of Examiners is necessary for the proper maintenance and support of the said state institutions. Such moneys...shall be disbursed by the State Treasurer...pursuant to the orders of the State Board of Examiners.i

The Attorney General compared the bond issue act with Initiative Measure number 19, 1920, which concerning the distribution of funds for the construction of buildings, had specifically provided that the Board of Education should make the determination of necessity. He concluded that whereas previous measures had specifically stated that allocations should be made by the legislature or by the Board of Education; in contrast this measure provided only for the opinion of the Board of Examiners, and that therefore,


1. Ibid., p. 19.
the Board of Examiners had full power of allocation. The House Appropriations Committee subsequently introduced the necessary executing legislation and it was adopted in the house by a vote of sixty-seven to one and in the Senate forty-nine to zero.

"Friendly" test case

The Board of Examiners, on April 21, 1949, with Governor Bonner and Secretary of State Mitchell present, selected Russell Smith, Missoula attorney, to take charge of a lawsuit to establish the legality of the issuance of the bonds for the $5,000,000. Bond buyers refuse to bid on bonds until the state Supreme Court has declared the enacting law constitutional. Mr. Smith worked with Mitchell and Pershing, bond attorneys of New York, regarding the bond issue test suit. Smith arranged for a taxpayer's suit which was brought by E. W. Thomas against the Board of Examiners and submitted to the Supreme Court on June 15, 1949. Mr. Smith argued the case orally for the taxpayer, and assistant

3. Board of Examiners Minutes, April 21, 1949. Hereafter referred to as Examiners by date.
Attorney General H.D. Carmichael argued for the Board of Examiners. The case was decided on June 24, 1949, with all five members of the court agreeing that the bonds were legal and proper.\(^1\) Mr. Smith's fee of $750 for conducting the case against the state was evidently paid out of the Chancellor's funds.\(^2\)

Long range planning

The Board of Examiners met with architect John Paul Jones of Seattle, Washington, on April 8, 1949. Mr. Jones had been employed by the Board of Examiners in 1946 to prepare plans for the campuses of the various units of the University of Montana. He had made a two-year study of the needs of the institutions, conferring with the various presidents and building committees.\(^3\) The Board approved his plans, which called for fifty new buildings at four of the units of the University system. The cost of the program was estimated at $25,000,000 to $30,000,000 in the next twenty-five to thirty years. Plans were presented for the State University, State College, Eastern Montana College of Education, and Northern Montana College. No plans were

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1. Thomas v. Board of Examiners et. al., 122 Mont. 564.
2. Examiners, June 20, 1949.
presented for the School of Mines or Western Montana College of Education because no great change in enrollment or equipment was anticipated for either of these schools.¹

**Board of Education Reaffirmation**

The Board of Education held its regular quarterly meeting in Helena on April 11 and 12. Because there were four new members on the Board, it was rumored that the Board might change its recommendations for the distribution of the building fund. Governor John W. Bonner, Attorney General Arnold H. Olsen, and Superintendent of Public Instruction Mary M. Condon, all Democrats, had been elected in November, 1948. Governor Bonner had appointed Mrs. F. H. Petro of Miles City to replace Carl L. Brattin, whose term had expired.² Other members of the Board were Dr. E. J. Kiley, Helena; Victor Weber, Deer Lodge; G. M. Brandborg, Hamilton; Mrs. Agnes Ullman, Big Timber; Charles S. Baldwin, Kalispell; G. A. Bosley, Great Falls; and George Lund, Reserve. Governor Bonner requested that the Board of Education make recommendations to the Board of Examiners. After lengthy discussion, the Board of Education concurred in the December, 1948, Board of Education allocation, adding a proviso that

¹ Tribune, April 9, 1949.
² Tribune, April 9, 1949.
the Board of Examiners might take not more than $100,000 from Western Montana College at Dillon for use where it would do the greatest good for the greatest number. The record shows that this motion was approved by all members of the Board except Mary Condon and Victor Weber. Arnold Olsen stated in 1959 however, that he voted "No" on this motion.

Board of Examiners Allocation

Montanans were anxiously awaiting the action of the Board of Examiners regarding the allocation of the $5,000,000. Chancellor Selke was in Europe, having been granted a vacation of six to eight weeks and having accepted a special mission for the U. S. War Department. In a letter to the members of the Board of Education he stated,

The Board of Examiners have the responsibility of determining the improvements that are to be made by the funds obtained from the sale of these bonds. The amounts allocated to each unit...may [be] announced by...July.

The three Democratic members of the Board of Examiners made their allocation on June 30, 1949; the Board considered

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1. Education, April 11 and 12, 1949.
2. Interview with Arnold Olsen, August 5, 1959.
the recommendations of Chancellor Selke to the Board of Education and the allocations recommended by that board. The Examiners discussed these allocations, but concluded that inasmuch as the legislature had decided that the Board of Examiners should make the distribution to the six units, neither of the recommendations was binding. The Examiners’ unanimous allocation was:

<table>
<thead>
<tr>
<th>UNIT</th>
<th>BOARD OF EXAMINERS ALLOCATION</th>
<th>BOARD OF EDUCATION RECOMMENDATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Montana State University</td>
<td>$1,500,000</td>
<td>$1,900,000</td>
</tr>
<tr>
<td>Montana State College</td>
<td>$1,300,000</td>
<td>$1,700,000</td>
</tr>
<tr>
<td>Montana School of Mines</td>
<td>$325,000</td>
<td>$325,000</td>
</tr>
<tr>
<td>Western Montana College of Education</td>
<td>$75,000</td>
<td>$275,000</td>
</tr>
<tr>
<td>Eastern Montana College of Education</td>
<td>$600,000</td>
<td>$300,000</td>
</tr>
<tr>
<td>Northern Montana College</td>
<td>$1,200,000</td>
<td>$500,000</td>
</tr>
</tbody>
</table>

The net effect of the action of the Board was to take $400,000 each from the recommendations for the State University and the State College and $200,000 from the recommendation for Western Montana College of Education and to raise the recommended allocations for Eastern Montana College of Education by $300,000 and Northern Montana College by $700,000. Board members explained that the increase for the Havre institution was to permit completion of the

new classroom and administration building, on which $400,000 in work was then under way.¹

Two sets of minutes

The events which transpired at that meeting have since been in dispute. Two accounts of the meeting are included in the minutes of the Board of Examiners. The first account, signed by Arnold Olsen and Sam Mitchell, was prepared by Clerk William Fitzsimmons, who had been writing the minutes for more than twenty years. This account indicates that the Board discussed the allocations and that the Board was unanimous in its agreements. The second account is entitled, "Minutes Prepared by Governor Bonner and Submitted for Copying in Minutes, Sept. 2, 1949," (the meeting took place on June 30) and is signed by Governor Bonner. This account of the minutes indicates that there was no discussion of the allocation and that Governor Bonner voted "NO" on the allocation for Northern Montana College, "AYE" on the allocation for the School of Mines, "AYE" on the allocation for Eastern Montana College of Education, "NO" on the allocation for Western Montana College of Education, "NO" on the allocation for the State College, and "NO" on the allocation for

¹. Independent Record (Helena), June 30, 1949.
the State University. After the votes had been taken, this account states that, "the Governor then said to let the record show that the vote of the Board be considered unanimous as to the allocations." Governor Bonner later stated that when he asked for discussion on the allocations, Secretary of State Mitchell reached in his pocket, pulled out a piece of paper and, using figures written thereon as a basis, made the motions for the allocations.

Attorney General Olsen stated in 1959 that the allocation was arrived at during the meeting and that the Board discussed the allocations. He stated that Secretary of State Mitchell wanted to cut the School of Mines allocation while he (Olsen) felt that the School of Mines should receive more. Mr. Mitchell wanted to cut entirely the allocation to Western Montana College of Education, but finally an agreement was reached. Olsen stated that Governor Bonner didn't know what he wanted to do, but that essentially he didn't want to hurt anyone's feelings. According to Olsen the first set of minutes are correct.

Governor Bonner stated in 1959 that he was taken completely by surprise by the fact that Olsen and Mitchell had already reached an agreement and that he voted for their

2. Interview with Arnold Olsen, August 8, 1959.
recommendations in order to be able to move for reconsideration at a later time.\textsuperscript{1} While flaws can certainly be found in the various explanations, it is sufficient to say that the decision of the Board on June 30 was unanimous. Soon thereafter Governor Bonner stated that he felt that the Board would reconsider its action,\textsuperscript{2} and two months later he suggested that the Board of Examiners follow the recommendations of either Chancellor Selke or the Board of Education.\textsuperscript{3} Attorney General Olsen and Secretary of State Mitchell, comprising a majority of the Board, continually adhered to the original allocations.

\textbf{Interpretations of Examiners Allocations}

Why had not the Board accepted the recommendation of either Chancellor Selke or the Board of Education? On what basis did the Board of Examiners make its allocation? Each member of the Board of Examiners has given a different reason for the decision. In assessing the following explanations which Governor Bonner and Attorney General Olsen give today, more than ten years later, it is important to

1. Interview with John Bonner, August 13, 1959.
remember that Bonner and Olsen opposed each other in 1956 for the Democratic nomination for Governor, which Olsen won 55,269 to 51,306 after a hotly fought primary campaign. The dispute over the $5,000,000 bond issue also tended to alienate the two men. The explanations credited to Mitchell, who died in 1955, were those reported in the press of 1949.

Explanation by Attorney General Olsen

Attorney General Arnold Olsen stated in 1959 that presidents of all the units of the University of Montana talked with him about the allocations that were to be made by the Board of Examiners. Before the Board made its allocation, he visited each of the units of the University system, being the only member of the Board to do so. Representatives of the various units were eager to impress members of the Board of Examiners with their need for buildings. Olsen was selected as the Charter Day speaker at the State University, and as the commencement speaker at the State College that year. Governor Bonner gave the commencement address at Eastern Montana College of Education. Olsen was especially impressed with the need for a plant at Northern

1. Interview with Arnold Olsen, August 8, 1959.
Montana College. Northern Montana College had been established by the Legislative Assembly in 1913, but it was a "phantom college," without faculty or students until 1929. That year the legislature provided an appropriation for operation of the school. Senator W. T. Cowan of Hill County led the fight for the appropriation, telling the legislature:

"We are asking for only what is our due...Since the creation of our school, which has not been able to function...the people of the district in Northern Montana which it will serve have paid $3,000,000 in taxes for the support of higher education in this state....Our boys and girls, graduating from our Northern Montana high schools, are entitled to higher education advantages such as are given the boys and girls in Western Montana."

The president of the school since its beginning in 1929 was Dr. Guy H. Vande Bogart. The first classes were held in the Havre Junior High School. In 1932 an abandoned brick pumping station was remodeled and a frame second story was added to give the school its first building, East Hall. In 1933 three-story John J. Pershing Hall was constructed after Havre residents hauled more than 200,000 bricks from Ft. Assiniboin to the campus. Students raised money by popular subscription to finish the work. The Women's Residence Hall

1. Interview with Arnold Olsen, August 8, 1959.
was constructed in 1936, financed by a Public Works Administration loan and grant. An abandoned dormitory on the county farm was converted into the Men’s Residence Hall in 1941. The Havre Chamber of Commerce donated $2,000 for this building and local workers contributed labor for remodeling. An industrial arts building was opened in 1945; a veterans’ housing project was completed in 1946, and the Student Union Building opened in 1949. In 1949 the physical plant was appraised at approximately one-half million dollars, of which the State of Montana had provided approximately $32,700. The administrative offices of the college were housed in the Havre High School Building in 1949, and some classes were conducted there. The library and some classrooms were in the basement of the First Presbyterian Church. Students going from one class to another often had to walk more than eight blocks. In 1949 the college did not have a gymnasium, auditorium, or library, and it

1. Ibid.
did not have on its campus any class I fireproof classrooms.\(^1\) As Havre residents pointed out, the University wanted a new women's gymnasium, but Northern Montana College had no gymnasium of its own for either men or women. The State College desired one or two new classroom buildings, but Northern Montana College had never had one such building. Western Montana College of Education wanted a new auditorium but Northern Montana College did not have even an old one.\(^2\)

In its twenty years of existence the college at Havre had been largely neglected by the rest of the state. The college was controlled by the Board of Education, but this board had met at Havre only once during the entire twenty year period.\(^3\) Nevertheless, enrollment at Northern Montana College for the year 1943-1949 was 394 students, and for the year 1949-1950, 462 students.\(^4\) Attorney General Arnold Olsen maintained that since Havre had no physical plant, enough money should be allocated to establish a plant.\(^5\)

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1. Second Amended Complaint in Intervention, Case of Dorothy Overturf v. State Board of Examiners, Case No. 21912, Filed in Office of Clerk of Court, Lewis and Clark County, Helena, Montana.
4. Second Amended Complaint in Intervention, Case of Dorothy Overturf v. State Board of Examiners.
5. Interview with Arnold Olsen, August 8, 1959.
Explanation by Governor Bonner

To understand the explanation given by Governor John W. Bonner, it is necessary to review the building situation at Northern Montana College. A general contract for construction of an administration-classroom building at Havre was awarded to McKinnon-Decker Construction Company, the lowest of three bidders, on July 2, 1948. The contractors were obligated to furnish all materials and erect a completed building within 360 calendar days. Governor Sam C. Ford, Attorney General R. V. Bottomly, and Secretary of State Sam Mitchell were members of the Board of Examiners at that time. Fred Brinkman of Kalispell was the supervising architect. The contract called for the construction of two floors of one wing of a building which would eventually be enlarged to a four-story building with an auditorium attached.

Governor Bonner stated that the McKinnon-Decker Construction Company wanted to construct the entire four-story building. The larger the allocation given to Northern Montana College, the larger would be the contract on which McKinnon-Decker could bid. Representatives of McKinnon-Decker, eager to increase the size of the allocation, talked

1. Havre Report, p. 3.
to the Havre Chamber of Commerce and to President Vande Bogart of Northern Montana College, convincing them of the desirability of requesting a large allocation. President Vande Bogart, who had championed the plan of having all the college facilities under one roof,¹ was anxious to see the building completed to full size. The Chamber of Commerce was dedicated to improving business conditions in Havre. Governor Bonner states that as part of the plan to secure such an allocation, Attorney General Arnold Olsen was asked to give the commencement address at Northern Montana College.² In Havre, according to Bonner, the thirty-two-year-old state official, serving in his first public office, was warmly congratulated on his speech, lauded for his accomplishments, and easily convinced of the need for improved facilities at Northern Montana College.³

Explanation by Secretary of State Mitchell

Secretary of State Sam Mitchell, like his fellow members of the Board of Examiners, had lived in Butte much of his life. Mitchell had acted as a grocery clerk and as business

1. Interview with Sam C. Ford, March 24, 1959.
2. As noted above Olsen had also given the commencement day address at the State College and the Charter Day address at the State University.
3. Interview with John W. Bonner, August 13, 1959.
agent for the Butte Local of the International Union of Retail Clerks until 1932 when he was first elected Secretary of State, an office to which he was reelected thereafter until his death in 1953. In 1909 Mitchell had homesteaded on the High Line at Sunburst, (Toole County) and had farmed there for ten years, until he suffered crop failure in 1918. He returned to Butte but maintained his ranch at Sunburst until his death. Mitchell's slogan was, "An even break for everybody, but Montana jobs for Montana people."¹

Mitchell said that 60 per cent of the state's population was in Eastern Montana and people in that area paid two dollars in taxes for every one dollar in Western Montana. Nevertheless, the Board of Education would have given two-thirds [actually 84 per cent] of the money to institutions in the western part of the state. The eastern district, he added, gave the bond issue a majority of 17,000, compared with a 7,000 majority for the western district. He warned that unless the east got a better break in distribution of funds it would be impossible ever again to float a bond issue for University purposes.² If the Board of Education allocation were adopted, Mitchell contended that people in

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² Tribune, September 10, 1949.
eastern Montana would say, "Hell, what's the use of paying taxes if we have to send our children to the University of Minnesota."¹

To understand Mitchell's terms of eastern and western Montana, one must realize that the state was not divided in half but the division was generally considered to be on the basis of the congressional districts.² The division was approximately along the line separating the mountainous western part of the state from the flat eastern section. Much more area is included in the eastern part of the state, and today many more people are included in the eastern congressional district. When the sites of public institutions were being selected, all of the population was in the western section of the state, so that in 1949 only four of the state's fifteen public institutions were in the eastern congressional district—Eastern Montana College at Billings, Northern Montana College at Havre, School for the Deaf and Blind at Great Falls, and Montana State Industrial School at Miles City. Since then, the Home for the Senile Men and

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¹ Montana Standard, September 10, 1949. High Line students often found it easier to catch a Great Northern Railroad train for a direct trip to Minnesota colleges than to take the long circuitous route to the State University or State College.

² The state was divided into congressional districts after Miss Jeannette Rankin and John M. Evans, both of Missoula, were elected as Montana's two Congressmen-at-large in 1916.
Women has been located at Lewistown.

**Arguments About the Allocations**

Numerous arguments were presented by those who supported the allocation of the Board of Education. Chancellor George A. Selke argued that although the Board of Examiners had the authority and responsibility to determine the amounts to be allocated, the Board of Education had been assigned the duties and the powers of determining the educational program that was to be offered at each of the several units. He stated that the Board of Education would not be able to control the educational program if it could not determine the physical plant for each of the units. Secondly, the Chancellor spoke of a formula used to determine the amount of money needed to provide building space at institutions of higher learning. The usual minimum floor space needed per student at four-year colleges and universities was 150 square feet, and at junior colleges 130 square feet. At that time, according to the Chancellor, the cost of construction per square foot was between twelve and thirteen dollars. The total amount needed per student was, therefore, approximately $2,000. Figured on this basis, the Examiners' allocation for Northern Montana College would provide facilities for an additional 600 students. The school would have had
facilities for a thousand or more students counting the Examiners' allocation, the buildings then under construction at a cost of $400,000, and the facilities then available. The Chancellor pointed out that such an enrollment exceeded by a considerable margin the enrollment that the Board of Education anticipated for the college within the next eight to ten years. Thirdly, the Chancellor felt that the action taken by the Board of Examiners would tend unnecessarily to increase the cost of higher education in Montana and would tend to make the solution of overlapping and duplication much more difficult. Proponents of the Board of Education allocation pointed out that Montana was a large state with few resources and that it could not afford a resort to sectionalism. A college was not just something that a state contributed to improve business in a given area but rather an institution which, when adequately financed, could provide all the students of Montana with the facilities and instructors needed for an adequate education. The proponents stated that students living at a distance from the state institutions of higher learning could receive a refund of a portion of their bus or train fare to and from their homes. At the

1. Education, pp. 5391-5395. All figures quoted were given by Chancellor George A. Selke.
time of the battle, 700 students from the High Line area were attending the two major units of the University system.¹

On the basis of enrollment at that time the expenditure, according to the Board of Examiners' allocation, would have given $3,658 per student to Northern Montana College, $440 to the State University, and $438 to the State College. Under the Board of Examiners' allocation the State College would have had 108 square feet of floor space per student, the State University 111, School of Mines 222, Western Montana College of Education 223, Eastern Montana College of Education 378, and Northern Montana College 391.²

Political pressures on the two boards

A storm of protest arose immediately after the allocations were announced. An alumni group of the College came to see the Governor very soon.³ The Governor received many protests saying certain schools would not get enough money from the Board of Examiners' allocations.⁴ Chancellor Selke cabled from Stuttgart, Germany, that the Board of Examiners' allocation:

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2. Tribune, July 12, 1949. 3. Havre Report, p. 34.

allocation to Northern Montana College "exceeds present building needs and is not compatible with currently authorized unified state program of higher education." He urged reconsideration.¹

In addition to the cable from Chancellor Selke in Germany, a deluge of letters and telegrams rained on the Board of Examiners after their allocation of the $5,000,000. At a meeting on July 7th, the Board stood firm on its allocation.² The Board of Education met on July 11th. Charles Baldwin moved to reaffirm the Board's recommendations relative to the allocation of the money and to notify the Board of Examiners that the allocation of $1,200,000 to Northern Montana College far exceeded the needs of the school and was contrary to the plans and policies of the Board of Education. Five members of the Board voted "AYE" on the motion; Miss Condon voted "NO," stating that she was in favor of the recommendations of Chancellor Selke. Governor Bonner and Attorney General Olsen, both members of the Board of Examiners, did not vote.³

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1. Independent Record (Helena), July 7, 1949.
Political pressure on the two boards began to build up as pressure groups swung into action. On July 28, it was announced that alumni groups of major units of the greater University system were inaugurating a campaign to attempt to get the Board of Examiners to reconsider its allocation. Meetings were planned at strategic points throughout the state in the hope that sufficient pressure would be brought to bear upon the Examiners. In the absence of Chancellor Selke, the campaign strategy was directed by the heads of the units which had suffered most as a result of the allocations made by the Board of Examiners.\(^1\) Joseph Kinsey Howard, noted Montana author, made a state-wide radio address\(^2\) on July 29th on behalf of the alumni of the University and the State College. The Montana State College alumni group for Lewis and Clark County launched an all-out campaign to force the Board of Examiners to reconsider its action.\(^3\)

**Montana newspaper comment**

The editors of Montana newspapers, normally silent in state disputes, spoke out loudly against the Board of Examiners

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from July to September, 1949. The Harlowton Times stated
that it had received a veritable deluge of mail from widely
scattered parts of Montana, with every correspondent being
violently opposed to the action of the "Examiners". Later,
the same editor pointed out that the Chancellor of the greater
University system and the State Superintendent of Public
Instruction were in agreement on the allocation but were
being ignored by the Board of Examiners. (He failed to men­
tion that they were also being ignored by the Board of
Education). The Lewistown Daily News charged that Dr. Guy
H. Vande Bogart, President of Northern Montana College, had
gone too far in trying to make his school the same size as
the State College and the State University. The Hungry
Horse News advised that the state ought to have another
half-million people before one of the state boards tried to
establish another university. The Big Timber Pioneer called
the proposal of the Board of Examiners "one of the worst
political grabs that has been attempted in Montana for a
good many years." The Beaver County News predicted that
the next time Montana people voted money for building pur­
poses they would demand that the measure state definitely
where the money was to be spent. In the same vein the Miles
City Star wrote that in any future election they wanted no
part of a referendum that would let two men take "the
unbridled, unjustified and unsanctioned action in frittering
away the people's money on white elephant castles, that the two so-called and supposedly public servants [Olsen and Mitchell] took." The paper also noted that for once it was in agreement with Joe Howard, who normally was too liberal for the paper. The Montana Farmer-Stockman predicted that if available funds were scattered around in the fashion of the Board of Examiners' allocation, Montana would wind up without any first-class educational institution. The Great Falls Tribune said that the reasons of the Board of Examiners appeared ill-founded. The Choteau Acantha, published in Teton County, stated that the Board of Examiners' proposal was ridiculous. The editor recommended that readers write to the Board of Examiners in order to "straighten out a situation which hints of politics and possibly just bad thinking." Especially vociferous were newspapers published near University units whose allocation had been reduced by the Board of Examiners. The Missoula Times, published at the site of the State University, wrote that it was unfortunate that men like Sam Mitchell and Arnold Olsen controlled the entire educational system of the state. Stated the editor,

Sam Mitchell's only claim to fame is that he is an old war-horse politician who succeeded in living at least 10 years longer than anyone expected he would. Arnold Olsen, Mitchell's colleague in the scholastic chaos, is a young Butte attorney who [can't be expected]...to know too much, but it is indeed unfortunate that he has reconciled himself to being a stooge of Sam Mitchell.
The Bozeman Chronicle, published at the home of the State College, stated that the Board of Examiners had set Montana higher education back many years, and with one swoop had endangered the accrediting of the various University units. The same paper applauded a later statement by Bonner that the Board of Examiners had not the right to lay down any policy of education as that was a matter for the legislature and the Board of Education. The Bozeman Courier stated that Clsen and Mitchell had set a pattern "through ignorance, mulishness, corruption, or a combination of the three," that would in a short time reduce the greater University system into faintly super-charged high-schools. The paper charged that "the little handful at NMC can study the echoes of their own voices as they reverberate in the cavernous unfilled chambers of the house that fatheadedness built." The editor suggested that, since Northern Montana College would need 800 more students to properly utilize the space it would gain, the school might start by educating Arnold Clsen and Sam Mitchell. The Dillon Daily Tribune, published at the home of Western Montana College of Education, asked why the Board of Examiners was giving a $700,000 bonus to a "little college at Havre no larger than ours." The Dillon Examiner pointed out that the local college had long been in need of rehabilitation of its plant, "longer by 30 years than Northern Montana, which, according to its president, has suffered
from 'conditions which have existed for 20 years.' Even on the High Line the Board of Examiners was excoriated.

The Phillips County News took issue with an editorial in a Havre newspaper. The Malta editor stated that he thought the Board of Education was in a good position to judge which unit needed the money.¹

**High Line opinion**

Supporters of the Board of Examiners' allocation were quick to organize. A meeting of a large group of local alumni of the State University and the State College was held at Havre on July 28, and a resolution commending and supporting the action of the Board of Examiners was signed. The group elected as president Bernard F. Haley, a State College graduate and son-in-law of H. Earl Clack, founder of the H. Earl Clack Company of Havre, an independent petroleum company covering the Northwest.² The Northern Montana Democratic Association met in Glasgow on July 30 and commended the Board of Examiners for its foresight in its equitable distribution of funds for the University of Montana building.

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1. All editorials are quoted in a sheet prepared by the Montana Council on Higher Education, P.O. Box 350, Great Falls, entitled "The Press Protests Sectionalism in Montana's Higher Education." n.d. Copy in personal files of Miss Dorothy Green, Executive Secretary, University of Montana.

program. Dr. C. C.芬ette of Cut Bank, former state legislator, was chairman of the committee which prepared the resolution. Businessmen, farmers, ranchers, and labor representatives met in Havre on September 13 and 14 to support, "with every means possible," the decision of the examiners. A number of speakers addressed the meetings, including Claude K. Erickson, Vice-President of the Citizens' Bank of Montana, Havre, and the Liberty County Bank, Chester; James G. Holland, Chairman of the Hill County Democratic Central Committee; Jack Vickery, President of the Havre Chamber of Commerce and manager of the J. C. Penney Store; and Stanley C. Snyder, Montana State University alumnus.

Preparations for Construction

Meanwhile, the Board of Examiners continued to prepare for the construction of buildings at the University system. A resolution was approved by the Board providing for the issuance of the bonds on July 22, 1949, and one week later the Board accepted the bid of the Columbian Bank Note Company of $1,100 for the printing and delivery of 5,000 one-thousand

dollar bonds.\textsuperscript{1} Sealed bids for the bonds were opened on
August 15 and the bonds were awarded to the Chase National
Bank of New York City and Associates, who bid $5,028,950
with the interest to be paid by the state to be 1.60 per
cent per annum.\textsuperscript{2} Members of the Board of Examiners and State
Treasurer Neil Fisher, in his hospital bed suffering from
pneumonia, started signing the 5,000 bonds on August 26,
1949. The job was expected to take five days.\textsuperscript{3} Four
days later Mr. Fisher passed away,\textsuperscript{4} but Deputy State
Treasurer Thomas Ferguson was authorized to sign the remaining
bonds by agreement of Mitchell and Pershing, New York bond
attorneys, and Attorney General Olsen.\textsuperscript{5}

Having allocated sufficient funds for the completion
of the Havre building to very liberal proportions, the Board
of Examiners decided to eliminate the provisional portions
of the building and substitute permanent sections. On
July 23, 1949, the Board unanimously approved change order
number one in the contract held by McKinnon-Decker.\textsuperscript{6} The
change order eliminated the temporary roof, framing and

\textsuperscript{1} Examiners, July 29, 1949.
\textsuperscript{2} Examiners, August 15, 1949.
\textsuperscript{3} Tribune, August 27, 1949.
\textsuperscript{4} Tribune, August 31, 1949.
\textsuperscript{5} Tribune, September 1, 1949.
\textsuperscript{6} Examiners, July 23, 1949.
insulation, the temporary parapet wall, terra cotta coping, certain windows and sashes, and the brick walls of the first unit, making a credit to the state of $25,956. Added to the contract was the installation of stairways, closing of openings, cutting openings in existing concrete walls, excavating for the new wing, increasing the size of the foyer, providing glazed tile for the partitions, and other changes, totaling an additional cost of $51,063. The contractor was allowed $7,000 for additional item number one, excavation for the new wing. Chinnon-Lecker subcontracted this excavation for $1,240, realizing a profit of $5,552 on this item of the change order. On the change order for the electrical contract there was a total credit to the state of $2,097, and a total addition to the contract of $3,099. Later the Board approved change order number two for the electrical contract, involving a decrease in the contract of $117.50.

The Board approved the first architectural contract for buildings from the $5,000,000, on August 5, employing Fred F. Willson to prepare plans and specifications for a


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service shop at the State College. Requests for consideration for architectural work were received from Arnold and Hammill, architects of Butte, G. D. Weed, architect of Kalispell, J. G. Link and Company, architects of Butte, and Orr Pickering and Associates, architects of Billings. The Board hired Pat C. Sullivan of Butte as supervising plumber for the state building program. As the state entered into its extensive program of building and repairing, it was expected that all the work of studying and approving contracts, approving change orders, checking and approving claims and estimates, general supervision of the construction, and final approval of the work would have to be carried on by the Board of Examiners and its staff. The Legislature had not appropriated any funds for these purposes, so the Board of Examiners decided to authorize an allocation of 1 per cent of all contracts to cover the cost of salaries of

2. Examiners, August 19, 1949.
supervisors and clerical hire.¹

Selke requests reconsideration

Chancellor Selke returned from Germany and appeared before the Board of Examiners on September 9. The Chancellor took the better part of an hour to present his statement in support of a reconsideration of the allocation.² After his presentation Governor Bonner suggested that the Board reconsider its action and follow the recommendations of either Chancellor Selke or the Board of Education. When his suggestion was not adopted the Governor urged a compromise, proposing the following allocation:

<table>
<thead>
<tr>
<th>Institution</th>
<th>Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Montana State University</td>
<td>$1,600,000</td>
</tr>
<tr>
<td>Montana State College</td>
<td>$1,400,000</td>
</tr>
<tr>
<td>Montana School of Mines</td>
<td>$325,000</td>
</tr>
<tr>
<td>Western Montana College of Education</td>
<td>$275,000</td>
</tr>
<tr>
<td>Eastern Montana College of Education</td>
<td>$600,000</td>
</tr>
<tr>
<td>Northern Montana College</td>
<td>$800,000</td>
</tr>
</tbody>
</table>

No second was received for the Governor's motion.³ The battle lines were clearly drawn. The Board of Education had recommended an allocation; the Board of Examiners had adopted a different one. Political pressures and persuasion had been tried from July to September in an effort to convince

¹. Examiners, September 7, 1949.
². Education, p. 5391.
the Board of Examiners to change its allocation; however, the Board remained steadfast in its decision. The Attorney General had ruled that the power to make the allocation was vested in the Board of Examiners, but educators had assumed that in making the allocation, the Board would follow the recommendations of the Board of Education. The Attorney General's opinion was soon to be tested in court.
CHAPTER VI

THE $5,000,000 BOND DISPUTE--SEVENTEEN MONTHS OF STALEMATE

Immediately after Chancellor Selke's unsuccessful meeting with the Board of Examiners, he contacted members of the Board of Education. Some members were reported anxious for a showdown through the courts, legislature, or perhaps both.¹ Suggestions were made that the Governor call a special session of the legislature.² The Governor refused, believing that the cost of the legislative session would be excessive.³ In Helena, it was rumored that a taxpayer's suit would be brought against the Board of Examiners. It was also expected that a state-wide committee would be organized to assist in efforts to seek re-allocation of the available funds.⁴

Taxpayer's Suit

The taxpayer's suit was brought on September 15. Mrs. Dorothy Overturf, Helena housewife, voter and taxpayer

2. Tribune, September 13, 1949.
3. Interview with John W. Bonner, August 13, 1959.
requested an injunction prohibiting the Board of Examiners from spending any of the disputed money. District Judge George W. Padbury, Jr. granted a temporary order restraining the Board of Examiners from in any manner spending or disposing of the proceeds of the $5,000,000 University of Montana building bond issue or any part thereof; or from in any manner committing said funds or any part thereof for expenditure without the prior authorization and direction of the State Board of Education.

Mrs. Overturf's complaint alleged that Olsen and Mitchell, as the majority on the Board of Examiners, had acted arbitrarily and capriciously, conferring only with the president of Northern Montana College before making their allocation. She charged that the Examiners had no lawful authority to determine how or when any of the bond funds should be spent. The complaint stated the question submitted to the electors was only whether they were for or against incurring an indebtedness in excess of the constitutional limit. The question of giving power over funds to the Board of Examiners was not properly presented to the people. Mrs. Overturf argued that if the referendum law were construed to give the Board of Examiners power to allocate the proceeds of the bond issue, it would be void in that it would be an

1. Case of Dorothy Overturf v. State Board of Examiners, order to show cause and temporary restraining order.
attempt to decrease the scope of the powers of the Board of Education. Unless the education board had control of the allocation of the funds it was impossible for this board to perform effectively its duties as provided by the constitution and statutes. Numerous other legal points were included in the complaint. Attorneys for Mrs. Overturf were Albert C. Angstman, son of the Associate Justice of the Supreme Court, and Edward C. Alexander and H. C. Hall of Great Falls. The temporary restraining order issued by Judge Padbury was continued in force until February 26, 1951, so that all work under the $5,000,000 bond issue was held up for more than seventeen months. The Board of Examiners had scheduled the opening of bids for a service shop building at Montana State College for September 16. This would have been the first construction financed by the $5,000,000 bond issue. After the injunction was issued, the Board returned all bids to the bidders unopened.

**Bonner's Case**

The taxpayer's injunction was instigated by Governor

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John W. Bonner. Governor Bonner asked Myles J. Thomas, his campaign manager in the 1948 election and subsequently attorney for the State Highway Commission, to arrange the suit. Mr. Thomas asked his close friend, Cloyse Overturf, a Helena insurance salesman, to serve as taxpayer for the suit. However, the papers were prepared hastily in order to file the action in time to stop the bid-letting, and when Mr. Overturf's signature was needed, he was in Butte. It was decided to have Mrs. Overturf serve as the plaintiff. As a result of this action, Mrs. Overturf received congratulatory letters from throughout the state. Many women's clubs and individual women praised her for her action. Although all of the sessions were held in Helena and were widely reported around the state, Mrs. Overturf did not visit the court during the proceedings. Myles Thomas prepared the legal papers and directed the court strategy.


2. Interview with Myles Thomas, March 25, 1959. Governor Bonner denies this and states that the suit was brought by Myles Thomas in an effort to discredit the Governor, because the Governor had removed Thomas from the office of attorney for the Highway Commission, charging that a company of which Thomas was a director had sold windows to the State Highway Commission; however, Thomas was not removed from office until April 1, 1950, more than six months after the suit was brought.

3. Interview with Mrs. Dorothy Overturf, March 24, 1959.
Albert C. Angatman, a junior lawyer in Mr. Thomas' firm, appeared in court as the attorney for Mrs. Overturf.¹

Delay

Mr. Thomas decided to attempt to prolong the case until the 1951 legislative session, hoping that the legislature would agree with the Board of Education.² Attorney General Olsen stated in 1959 that he felt the other side had been attempting to delay the proceedings, but that he himself wanted the case sent to the Supreme Court for a decision as soon as possible.³ In the court session itself, Olsen was much more successful in delaying the case than was Thomas. Olsen secured the first delays on October 2, and on October 30, 1949.⁴ The third delay was secured by Thomas on November 14.⁵ Olsen secured delays in December⁶ and January.⁷ By this time the case had been set for hearing on September 23, October 3, October 10, November 7, November 21, December 15, December 22, and January 30 and

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1. Interview with Myles Thomas, March 25, 1959.
2. Ibid.
3. Interview with Arnold Olsen, August 8, 1959.
delayed each time for one reason or another.¹

In March Joseph Kinsey Howard charged that the dispute would have been decided but for the delaying tactics employed by Olsen. Howard stated,

Olsen has sought repeated extensions of time from the court, has filed several motions whose only purpose appears to have been to delay, and has shown no disposition to get the case decided. Even the intervening interests in Havre, who entered the case a month after it was filed, have been ready for three months.²

At the time of Howard's statement no action could proceed because District Judge George W. Padbury, Jr. was on a trip to California.³ The case finally came on for hearing on September 8, 1950,⁴ one year after it was filed. Judge Padbury gave his decision on February 26, 1951, more than five months later. By this time the 1951 legislative session had met and an agreement had been reached.

Court action

Action in the case essentially revolved around legal points. On October 3 Judge Padbury permitted Bernard P. Haley, Jack A. McLean, and Danny O'Neill of Havre to intervene in

1. Calendar, Case of Dorothy Overturf v. State Board of Examiners.

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the case. The three Havre residents were represented by some of the best legal and political talent on the High Line. Their attorneys included James A. Harrison of Malta, Burns and Thomas of Chinook, Cedar B. Aronow of Shelby, and Jess Angstman, Oscar C. Hauge and Max P. Kuhr of Havre.

On January 23 Attorney General Arnold Olsen successfully requested that the Board of Education be brought into the dispute so that any judgment of the court would apply to that board. The Board of Education held a special meeting on February 10, 1950, discussing the selection of a lawyer to represent the Board. Dr. McCain, president of the State University, stated that he would be happy to make available the services of the dean of the law school, C. W.

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1. O'Neill, operator of a livestock yard in Havre, was a candidate for the Democratic nomination for Governor in 1956 against Bonner and Olsen. He finished a poor third.

2. Tribune, October 4, 1949. Mr. Harrison has since been an unsuccessful candidate for Republican nomination for U.S. Representative and a successful candidate for the position of Chief Justice of the Supreme Court. Harry Burns had served in the Legislature, as County Attorney of Blaine County and as a member of the State Board of Public Welfare. He has since been selected as Chairman of the State Highway Commission. Jess L. Angstman, brother of the Supreme Court justice and uncle of Mrs. Overturf's attorney, was a member of the state Senate. Max P. Kuhr had extensive business interests in and around Havre in addition to his law practice. Mr. Kuhr and Mr. Burns generally argued the case for the interveners.

3. Calendar, Case of Dorothy Overturf v. State Board of Examiners.
Leaphart, and members of the law faculty. The Board authorized the Governor to confer with Leaphart relative to the lawsuit, to employ him and to determine the fees which would be necessary. The Board approved a motion to let Dean Leaphart decide whether to enter the case as party plaintiff or defendant.  Dean Leaphart was appointed special assistant Attorney General and represented the Board of Education as party plaintiff in the dispute.

The hearing was held on September 8. Seven attorneys sat at the counsel table. The only witness called was Chancellor George A. Selke, who testified that in his opinion, control of the investments and physical plant was a necessary part of general control and supervision of educational institutions. Attorney General Olsen objected strenuously to his testimony and asked the court if he could bring in 200 witnesses to give their opinions." The Judge replied that he had no objection Later Olsen referred to Selke as "this stranger with an opinion." The University Chancellor had testified that while his adult life had been spent in

1. Board of Education Minutes, February 10, 1950. Hereafter referred to as Education by date or page.
3. Ibid.
education he had been on his Montana job only since May 1946. After the hearing, Judge Padbury took the case under advisement.

Political Pressure, September to April

The restraining order issued by the court prohibited the Board of Examiners from spending the $5,000,000 without prior recommendation and direction of the Board of Education. Immediately after the order was issued political pressures were applied to force the Board of Examiners to adopt the allocations recommended by the Board of Education.

"Have-not" schools

The schools whose allocations had been reduced worked hard to influence public opinion. Dr. R. R. Renne, President of Montana State College, called the refusal of the Board of Examiners to reconsider its allocation a serious blow to Montana's standing in higher education. Dr. James A. McCain, President of the State University, charged that,

the board of examiners' allocation was made originally without according so much as a five-minute hearing to the chancellor or the presidents of the state college and the state university. Obviously, this allocation was determined by considerations other than educational. 1

President Rush Jordan of Western Montana College of Education declared that the Board of Examiners was "making a political football" of Montana's higher education system. 2 On November 9, Dr. Renne and Dr. McCain pointed out that the Board of Examiners had not visited their campuses in recent years. 3 Speakers toured the state. Chancellor Selke spoke to the Missoula Rotary Club, 4 and President McCain was listed as speaking to the Sidney Kiwanis about the bond issue dispute. 5 Milton C. Simpson of Volborg, President of the State Stockgrower's Association, gave a press release at Bozeman, site of the State College, attacking speeches by Secretary of State Mitchell as showing "why educators and not politicians should administer higher education." 6

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5. Tribune, February 6, 1950.
Bill Smurr, editor of the *Montana Kaimin*, student paper at the University, resigned on September 23 rather than remove a front-page cartoon as requested by student body officials. Faculty members thought that the three rodent figures in the cartoon might be regarded as representing the members of the Board of Examiners. The faculty felt this would be a factual error as they believed Bonner had supported the State University in the allocation dispute. The original edition of the *Kaimin* was taken out of circulation at the suggestion of President McCain and his advisors, members of the Law School faculty. Smurr had rewritten his original accompanying editorial, which had called for the defeat of Olsen and Mitchell at the next election, but resigned rather than remove the offending cartoon.

**Group action**

Joseph Kinsey Howard, Great Falls writer, announced the formation of the Montana Higher Education Council on September 14. This council had a long-range objective of "keeping sectional politics out of the administration of

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the University system.¹ Kenneth P. Byerly, publisher of the Lewistown Daily News, was chairman of the Council, which was a non-partisan body and included as members H. B. Landoe and George Gosman, Democratic and Republican state chairmen, respectively.² The organization was formed by Howard and Byerly, who had mailed out about 200 or 300 letters to people throughout the state. By April the Council, now called the Montana Council on Higher Education, was composed of 125 members from sixty-three communities and forty counties.³ The Council endorsed the allocation of the Board of Education.⁴ On May 27, 1950, Joseph Kinsey Howard resigned as secretary of the Council when he was selected to direct the State University-Rockefeller Foundation regional arts roundup.⁵

The executive board of the Montana Division of American Association of University Women adopted a resolution protesting the action of the Board of Examiners, following a

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2. Landoe lived at Bozeman, site of the State College, while Gosman lived at Dillon, site of Western Montana College of Education.
report by Mrs. Robert Line of Missoula, the organization's State Education Chairman. The Butte alumni of the State College and the State University adopted a resolution calling for allocation of the building funds as recommended by the Board of Education. The Executive Council of the Montana State University Alumni Association adopted a resolution concurring in the allocation made by the Board of Education.

The Rockefeller Foundation decided against a grant for financial assistance to the University of Montana for a humanistic extension program because of "the disturbed state of affairs related to education in Montana."

Governor Bonner called a meeting of Democratic legislators on November 9 and 10. Speaking before the group the Governor admitted that there had been differences of opinion within the Democratic administration at the Capitol, but stated, "There has been no enmity or dissension."

1. Tribune, October 9, 1949. As Northern Montana College was not eligible to grant Bachelor's Degrees, no graduate of NMC was eligible for membership in the AAUP. Mrs. Line was the wife of a State University professor.


Democratic officials were listed as speakers for the conference, but the list did not include either Democratic Attorney General Arnold Olsen or Democratic Secretary of State Sam W. Mitchell.

Wage taunted President Vande Bogart with exaggerated stories of a state college with "5,000 feet of floor space per student, five drinking fountains [per student], three desks per student, everything on a grand scale—per student."

Northern Montana College support

Supporters of Northern Montana College were not quiescent. President Vande Bogart stated that the allocation to Northern Montana College was "thrilling news." In Havre a large delegation of northern and eastern Montana businessmen, farmers, ranchers, and labor representatives met again on September 18 to discuss further plans for the conveyance of information on reasons for leaving the allocation to Northern Montana College intact. Uncle Bailey, President of the Havre Trades and Labor Council, stated that without Northern Montana College "hundreds of young people from laboring families never would have the opportunity to get...

1. Montana Kitzin, September 23, 1949
Labor leader Walter Hoyt said that the Trades and Labor Council was "making every effort to inform other laboring groups and unions that the people of Northern Montana have no ambitions toward NMC being a four-year school or duplicating the courses in the sister institutions." Later Mrs. B. M. Phillips of Landusky, Phillips County State Senator, promised the "strong support" of Phillips County residents for the $1,200,000 allocation for Northern Montana College. Mrs. W. W. Hamilton of Dodson, Montana Democratic National Committeewoman, said that "because NMC has received very little for a physical plant in the past, it is entitled to consideration now." On October 10 the Associated Northern Montana Commercial Club was organized at Malta with representatives of commercial clubs and chambers of commerce from Shelby to Wolf Point in attendance. The organization pledged its strong support to the Board of Examiners' allocation to Havre.

2. Ibid.
4. Ibid.
Compromise Attempts

Many attempts were made to reach a compromise between the allocations of the Board of Education and the Board of Examiners. The Board of Education decided that before compromising, it must attempt to re-establish in the eyes of elected officials, appointed administrators, and the people the view that the Board of Education was paramount when it came to determining educational policies.¹ To carry out this policy, the Board directed presidents and business managers of the six units of the University of Montana to channel through the office of the Chancellor all matters of business which were to be transmitted to other departments or agencies, including the submission of all plans for new construction contemplated under the $5,000,000 bond issue.²

Members of the Board of Education felt that they represented the interests of the entire state. In answer to a statement by Olsen, that he and Sam. W. Mitchell represented the will of the people in this conflict, Victor Weber, member of the Board, retorted, "I wonder who he thinks the Board of Education represents?"³

¹ Tribune, September 25, 1949.
² Education, September 23, 1950.
³ Tribune, September 24, 1950. Members of the Board of
At a Board of Examiners meeting on November 8th, Acting Governor Paul Cannon asked the Board to rescind its allocation of the building money and to hold public hearings in the case. No action was taken on his suggestions.

**Attempted funds release**

Arnold Olsen announced on November 21 that he would ask the District Court for permission to segregate the sum of $325,000 which had been allocated to the School of Mines by both boards. This request, however, was never made.

Four months later Ed C. Vawder of the Silver Bow Trades and Labor Council, asked the Board of Examiners to segregate the $325,000 School of Mines' allocation, as 450 union mechanics in Butte were unemployed. Mitchell moved that the Attorney General be requested to ask the District Court to dissolve the restraining order so far as the School of Mines' allocation was concerned. The motion passed by unanimous vote of the Board—Acting Governor Cannon, Attorney General Olsen, and Secretary of State Mitchell. This request was not made of the court either.

Education, of course, are appointed and do not have to worry about reelection, while the members of the Board of Examiners are elected by the people.

Senator George W. Wilson (D-Toole) of Shelby, minority floor leader, appeared before the Board of Examiners on March 16 and suggested that the Board ask for a meeting of interested persons to discuss the release to each institution of the smaller allocation, or the amount of money which was not in dispute between the two boards. This would mean the release of $4,000,000 of the $5,000,000 bond issue. Such a meeting was held on March 20 with over thirty interested people present. Chancellor Selke approved the proposition and stated that he had recently met with the presidents of the University system. The presidents of the State University, State College, School of Mines, and Western Montana College of Education had voted to approve the release of the $4,000,000. President Vande Bogart had been present and abstained from voting and President Peterson of Eastern Montana College of Education had been absent from the state.

Each president rose to explain his position. President McCain announced that the release of $1,500,000 to the University would permit the construction of the music building and the building for classrooms and offices. President Renne stated that the State College would be able to erect a service shop building and an engineering laboratory building.

President Thomson of the School of Mines announced that his school would be able to proceed with the proposed petroleum laboratory. President Rush Jordan of Western Montana College of Education advised that he had approved the proposal with the other institutions in mind, rather than his own, inasmuch as the minimum amount allocated to his institution would not permit him to do any work whatever. President Vande Bogart announced that the minimum amount of $500,000 allocated to him would not be of use, but he had no objection to unfreezing that amount. He stated that the $500,000 "wouldn't even enclose our planned building against the weather." Grover C. Cisel of Billings, representing the Executive Board of Eastern Montana College of Education, stated that the minimum amount could not be used at the present time; inasmuch as it was insufficient for the construction of the building planned. Lieutenant Governor Cannon stated that he felt the best interests of the University system, the students of Montana, and the skilled labor of the state would be served by some sort of compromise or the unfreezing of a portion of the funds. Ed C. Vawders, publisher of the


2. Independent Record (Helena), March 21, 1950. When construction was stopped, the building had no roof and much of the structure was not enclosed.
Montana Labor News, speaking on behalf of labor, said that his group was very much in favor of some arrangement whereby the building program could be started without further delay, inasmuch as a large number of skilled workers were unemployed in the state. The rosy prospects for agreement were suddenly smashed when Harry Burns of Chinook and Claude Erickson of Havre took the floor. Burns announced that as counsel for the interveners he could not agree to releasing any of the funds under the plan presented, except the $325,000 for the School of Mines. Erickson suggested that the following amounts be released to the schools:

- Montana State University $1,500,000
- Montana State College 1,300,000
- Montana School of Mines 325,000
- Western Montana College of Education 175,000
- Eastern Montana College of Education 600,000
- Northern Montana College 1,100,000

He then proposed that the next legislature should be asked for $400,000 each, for the State College and the State University, $100,000 for Western Montana College of Education, and $100,000 for Northern Montana College. This additional $1,000,000 would permit the schools to proceed with their maximum program. Governor Bonner was quick to squelch this.

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move, indicating that he would not sign such an appropriation if it were passed. Senator David F. James of Liberty County, co-author of the original act, stated that he was not in favor of the release of any of the money with the exception of the $325,000 for the School of Mines. He was in favor of letting the court action take its due course and settling the question as to whether the Board of Examiners or the Board of Education had control over the allocation of the funds.

Acting Governor Paul Cannon suggested the following compromise on March 23:

- Montana State University: $1,675,000
- Montana State College: $1,475,000
- Montana School of Mines: $325,000
- Western Montana College of Education: $175,000
- Eastern Montana College of Education: $500,000
- Northern Montana College: $850,000

He suggested that with these amounts the schools could get a good start on their building programs and that they could then go to the legislature for $1,000,000 more, if needed.

On April 11 the Board of Education concurred in the recommendation of Dr. Selke that the contract of President

1. Tribune, March 21, 1950. Governor Bonner's position was in contradiction to his statement reported in the Tribune March 17, 1950, when the Governor was reported as having suggested that if a compromise could be reached where another $1,000,000 or so was needed to meet all the demands it probably would be possible to get such an appropriation from the 1951 legislature and thus end the whole controversy.


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Vande Bogart of Northern Montana College not be renewed. The vote was six to four, with "NO" votes being cast by Governor Bonner, Attorney General Olsen, Superintendent of Public Instruction Mary Condon, and Horace J. Dwyer of Anaconda, who had just been appointed by Governor Bonner to replace Victor Weber, a staunch opponent of the Board of Examiners' allocation. It was reported that three of the presidents of the University units had threatened to resign if Vande Bogart were rehired. 

On July 11 Senator Wilson (D-Toole) appeared before the Board of Education and suggested the following figures as a basis for compromise:

- Montana State University $1,700,000
- Montana State College 1,500,000
- Montana School of Mines 325,000
- Western Montana College of Education 175,000
- Eastern Montana College of Education 450,000
- Northern Montana College 850,000

The Board of Education appointed a committee to meet with the Board of Examiners, and agreed to hold a special joint meeting in August at Havre to see if a compromise could be reached. 

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1. Education, April 10 and 11, 1950.
2. Tribune, April 12, 1950.
The special committee was forced to come to Helena twice; at the first scheduled meeting the committee waited all afternoon without seeing the Board of Examiners, who were meeting, but did not find time to meet with the committee.¹

Havre joint meeting

The special joint meeting of the Board of Education and the Board of Examiners was held in Havre on August 11, 1950. The two boards toured the facilities of Northern Montana College² and interviewed E. J. Decker and Fred Brinkman, contractor and architect for the administration classroom building, who revealed to the Board that it would cost $2,000,000 in all to complete the building as now planned. This would give a four-story building twice the length of the present structure, which had been built only two floors high, and would provide a combined auditorium and gymnasium as an attached wing. The building could be enclosed to the contemplated final length without the gymnasium or finishing of one wing for $800,000 to $850,000.³

Horace Dwyer of Anaconda moved that the Board of Education

². Education, August 11, 1950.
allocate the money in the following manner:

<table>
<thead>
<tr>
<th>Institution</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Montana State University</td>
<td>$1,600,000</td>
</tr>
<tr>
<td>Montana State College</td>
<td>$1,450,000</td>
</tr>
<tr>
<td>Montana School of Mines</td>
<td>325,000</td>
</tr>
<tr>
<td>Western Montana College of Education</td>
<td>175,000</td>
</tr>
<tr>
<td>Eastern Montana College of Education</td>
<td>600,000</td>
</tr>
<tr>
<td>Northern Montana College</td>
<td>850,000</td>
</tr>
</tbody>
</table>

The Board of Examiners agreed to adopt this recommendation if the Board of Education approved it. A recess was then called from 6:45 P.M. until 9:00 P.M. After the recess Dwyer's motion lost five to six with Bonner, Olsen, Condon, Riley and Dwyer favoring the figures. George Lund and Mrs. F. H. Petro stated that they voted against the motion because the allocation to Montana State College was too low. At that point Superintendent of Public Instruction Mary Condon moved that the following figures be accepted as the basis for compromise:

<table>
<thead>
<tr>
<th>Institution</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Montana State University</td>
<td>$1,450,000</td>
</tr>
<tr>
<td>Montana State College</td>
<td>$1,600,000</td>
</tr>
<tr>
<td>Montana School of Mines</td>
<td>325,000</td>
</tr>
<tr>
<td>Western Montana College of Education</td>
<td>175,000</td>
</tr>
<tr>
<td>Eastern Montana College of Education</td>
<td>600,000</td>
</tr>
<tr>
<td>Northern Montana College</td>
<td>850,000</td>
</tr>
</tbody>
</table>

This motion lost three to seven, with Olsen abstaining. At

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1. These figures were almost the same as a compromise proposed earlier in the day by Governor Bonner. The Bonner proposal would have given the State University $25,000 more and the State College $25,000 less. *Tribune*, August 12, 1950.
At this point Governor Bonner recognized the thoroughly riled Secretary of State Mitchell, who stated that he felt that the six victorious members had violated their oaths of office. He wanted the Board of Education to know that he was going to stick by his original allocation of $1,200,000 for Havre and that he would not consider another compromise. The Board then adjourned at 9:30 P.M.¹

Selke resignation

On October 17 the resignation of Dr. George A. Selke, Chancellor of the University of Montana, effective December 1, was revealed. Dr. Selke, whose position had been insecure since the firing of Vande Bogart, announced that he had accepted an appointment with the foreign service of the State Department; he was to be assigned to cultural relations and education in Germany. The departure of Chancellor Selke had been rumored for some time. The Chancellor was credited with blocking the acceptance of the compromise proposal at the Havre meeting.² The Chancellor had engineered the release of Vande Bogart without consulting the elected members of the Board of Education and he had been on the

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¹ Education, August 11, 1950.
² Tribune, October 18, 1950.
wrong side of the University allocation as far as the
majority of the Board of Examiners was concerned, so that he
was not especially endeared to either group. Selke also
had sufficient investments to permit him to retire and he
had standing invitations from the Federal government to
engage in foreign education work.¹

By this time new faces were appearing, as many of the
principals departed from the scene. Dorothy Green acted as
executive secretary of the University of Montana after the
departure of Selke; R. H. Jesse was acting president of the
State University, succeeding Dr. McCain who had become presi­
dent of Kansas State College, and E. A. Morgan was acting
president of Northern Montana College. Dean A. E. Adami
had taken the place of Dr. Thomson who had retired as presi­
dent of the School of Mines on the advice of his physician.²

Compromise achieved

Governor Bonner requested that Leif Erickson, former
Associate Justice of the State Supreme Court and one-time
federal labor mediator, and Miss Dorothy Green meet with
the presidents of the six university units to attempt to
reach a compromise. On November 30, the presidents, each

² 2. Education, September 11, 1950.
accompanied by an associate from his campus, met for more than eight hours behind closed doors. E. J. Decker, representing the firm that had the contract for construction of the building at Havre, was also present. The presidents unanimously agreed upon the following allocations:

<table>
<thead>
<tr>
<th>Institution</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Montana State University</td>
<td>$1,700,000</td>
</tr>
<tr>
<td>Montana State College</td>
<td>1,550,000</td>
</tr>
<tr>
<td>Montana School of Mines</td>
<td>300,000</td>
</tr>
<tr>
<td>Western Montana College of Education</td>
<td>212,500</td>
</tr>
<tr>
<td>Eastern Montana College of Education</td>
<td>500,000</td>
</tr>
<tr>
<td>Northern Montana College</td>
<td>737,500</td>
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</tbody>
</table>

The approval of the figures by President Renne of the State College was expected to eliminate the negative votes of Lund and Mrs. Petro. The presidents' recommendations were generally considered a victory for the departed Chancellor, as the final figures came closer to Selke's recommendation than to any other.

The Board of Education discussed the allocation at its meeting on December 21. During the discussion the Board of Examiners was invited to attend. A committee was appointed to escort Secretary of State Sam W. Mitchell to the meeting. Mitchell, however, declined to meet with the Board of Education.

The Board of Education adopted the recommendations of the college presidents.

The Board voted down, five to six, the last of a series of attempts to rehire Vande Bogart. Dr. Riley, who had been absent when Vande Bogart was fired, voted with Bonner, Olsen, Condon, and Dwyer in the many efforts to rehire Vande Bogart. The Board immediately hired L. O. Brockman as president of Northern Montana College.1 The slim majority was undoubtedly aware of Miss Condon's reported statement in October that the Governor would soon be able to make another appointment to the Board and that then there would be a one-member majority of the Board who would "get along well together."2 The statement was reportedly made in Havre. As soon as it received state-wide coverage, it was denied by Miss Condon, who said that she had been talking about professional ethics and academic freedom.3

Board of Examiners as Stewards

During this long struggle, the Board of Examiners continued to exercise necessary housekeeping functions

1. Ibid.
relating to the bond issue. The bonds were sold and the money received, but the injunction prohibited expenditures from the funds. While administering the funds the Board tried several plans in efforts to secure interest. The Board wrote to the State Treasurer on September 19, requesting that the $5,000,000 proceeds of the bond issue be invested in the Montana Trust and Legacy Fund. In January it was decided to withdraw the five million dollars from the trust and legacy account without interest. The Board of Examiners recommended to the State Depository Board in February that the $5,000,000 proceeds be invested in U. S. Treasury Certificates of Indebtedness at 1-1/8% interest, maturing January 1, 1951. This action was evidently taken, for the Board later recommended that the State Depository Board invest the funds in United States Government "D" Bonds, as the certificates of indebtedness were being called for payment on January 1, 1951. By June 30, 1952 interest on the funds from these various investments totaled $86,650.

2. Examiners, January 9, 1950.
3. Examiners, February 6, 1950. The state was paying 1.6 percent for the money. See above, p. 163.
5. Letter from Dorothy Green, Executive Secretary of University of Montana to Presidents of University units, September 11, 1952.
Change order number two for McKinnon-Decker Company, contractors for the administration building at Northern Montana College, was approved on November 4, 1949.\(^1\) Construction on the building crept along until March 17, 1950, when the Board of Examiners, on the recommendation of the architect, stopped work until sufficient funds were available to put a roof on the building and proceed with construction. The contractors agreed to resume work and to complete their contracts within one year at no additional expense to the state. The Board of Examiners then approved for payment the semi-final estimates of the contractors, including the 15 per cent that had been withheld. The contracts provided that this 15 per cent would be paid within ten days after substantial completion of the work. Substantial completion meant that the work was to be fully completed and the contract fully performed.\(^2\) Despite the fact that total payments of $430,980.85 on the $435,000 building had been made to the contractors\(^3\) and that the architect estimated the building as 90 per cent complete,\(^4\) the building stood unfinished.

3. Ibid., p. 6.
4. Ibid., p. 5.
unroofed, and exposed to the elements with no part completed to a point where any use could be made of it.¹

Mr. Don McKirnon and Mr. Ed Decker of the McKirnon-Decker Construction Company appeared before the Board on August 28, 1950, and informed the members that several items in storage at the Northern Montana College administration building had disappeared by theft. The Board instructed Acting-President E. A. Morgan of Northern Montana College to employ a night watchman at once to patrol the premises.²

On September 7, Chancellor Selke was informed by the Board of Examiners that the watchman must be paid from college funds. President Morgan asked the McKirnon-Decker Construction Company for an inventory on September 14 and on September 26, but received none. On September 30, President Morgan questioned the necessity for continuing to keep the guard because McKirnon-Decker trucks had hauled nearly everything from the building.³ Later, a legislative investigating committee found that materials paid for by the state were missing but that it was impossible to estimate the value of

1. Education, p. 5795.
2. Examiners, August 28, 1950.
these missing materials.¹

Finally on March 23, 1951, the Board of Examiners terminated its contract with McKinnon-Becker by paying the firm $11,569. The payment was for $7,829 worth of materials on hand for which McKinnon-Becker had not been paid, and $5,800 worth of materials which were missing. From this total was deducted $2,060 for materials purchased for the building but which the contractor said he had used on other construction projects in the vicinity.² The payment, when added to the total of previously reported statements, brought the cost of the building over $440,000. Originally, for $435,000 the state had contracted for a completed building; eventually for more than $440,000 the state settled for an unroofed, unusable hulk plus several thousand dollars worth of lumber. When bids were opened on June 21, 1951 for the addition to the building, McKinnon-Decker Construction Company was once again the low bidder.³

**Political Pressure. April to January**

After the firing of President Vande Bogart without a hearing, public interest shifted from the allocation toward

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the Vande Bogart case. Officials outside Montana became strongly interested in the state's politics. The executive secretary of the Northwest Association of Secondary and Higher Schools announced on June 23 that a fact-finding committee from the Association would investigate the Montana situation. The committee investigated but took no action. The Board of the Directors of the American Association of Junior Colleges labeled the dismissal of Vande Bogart without specification of charges against him and without being heard as a "deplorable wrong."2

A meeting was called at Havre by the Chamber of Commerce on April 14, 1950, to protest the removal of Dr. Vande Bogart. Speakers included Vande Bogart, Harry Burns, Claude Erickson, John Lesslyong, Superintendent of Schools at Malta, Cedar B. Aronow, Shelby attorney, District Judge C. B. Elwell of Havre, a member of the Northern Montana College executive board, Claude Dowen, Havre merchant, Mrs. W. W. Hamilton, former legislator, and Harold Ebaugh, manager of the Hill County Electric Co-operative.3 A public meeting to discuss Vande Bogart's dismissal and the disputed $5,000,000 bond

3. Tribune, April 15, 1950.
fund was held at Havre on April 25 with more than two hundred Hill County residents in attendance.\textsuperscript{1} Several of the commercial and labor leaders who had strongly supported the Board of Examiners' allocation nine months earlier were not listed among the speakers protesting the removal of Vande Bogart. These leaders who had strongly supported a building program for Northern Montana College, had seen few contributions from the state and part of those were now blocked by a sectional dispute. Havre opinion was openly divided regarding Vande Bogart. Dr. Selke announced on April 20 that he had received a letter signed by fifteen of the twenty-three faculty members at Northern Montana College supporting the action of the Board of Education in firing Vande Bogart.\textsuperscript{2}

Montana farm organizations generally favored the Board of Education allocation. The Montana State Grange wrote the Board of Education, commending its actions.\textsuperscript{3} The Montana Stockgrowers Association endorsed the Board of Education in its controversy with the Board of Examiners.\textsuperscript{4} On December 1, 1950, the Montana Woolgrowers' Association reiterated

\begin{enumerate}
\item \textit{Tribune}, April 27, 1950.
\item \textit{Tribune}, April 20, 1950.
\item \textit{Education}, July 10 and 11, 1950.
\item \textit{Tribune}, May 28, 1950.
\end{enumerate}
its stand that distribution of the $5,000,000 University bond issue should be in keeping with the original allocation of the Board of Education. The Woolgrowers, noting that inflated costs would allow only partial development of the original plan, also recommended that the legislature provide additional money to complete the original building program.\footnote{1}

Montanans began to prepare for the legislative session. The State Young Republicans recommended that the Governor, Attorney General, and Secretary of State \footnote{sic] be removed from the Board of Education in order to abolish politics from the state educational system.\footnote{2} The Montana Council on Higher Education met to formulate recommendations to the 1951 legislature to put control of the state University system in the hands of a single board.\footnote{3}

\textbf{Legislative Session}

The long-awaited legislature met in January, 1951 with Republicans regaining control of the House, forty-nine to forty-one and of the Senate, twenty-eight to twenty-six,

\begin{itemize}
\item \textbf{1.} \textit{Tribune}, December 1, 1950.
\item \textbf{2.} \textit{Tribune}, September 29, 1950.
\item \textbf{3.} \textit{Tribune}, October 5, 1950.
\end{itemize}
with two independents. One of the issues in the campaign had been the university building fund fight.\(^1\) A bill to vest power in the State Board of Education to superintend expenditure of the $5,000,000 was introduced in the House on January 19. The money was to be divided according to recommendations of the unit presidents. Authors of the bill were three important Republicans: Representatives Joseph A. McElwain of Powell, House majority floor leader; George W. O'Connor of Carbon, Chairman of the Ways and Means Committee; and Neil Taylor of Daniels, Chairman of the Appropriations Committee.\(^2\) The bill passed the House by a vote of seventy seven to five,\(^3\) and the Senate by a vote of thirty-nine to four.\(^4\) Most of the opposition votes came from the High Line with a scattering of votes from other eastern counties. After receiving the bill, Governor Bonner called a meeting of the Board of Examiners and told

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the other two members that if they would agree to the allocation proposed by the legislature that he would veto the bill. Otherwise he would sign it. The Board of Examiners adopted the legislative allocation "as an indication that the Board has accepted the advice of the legislature as being the will of the people of the state in reference to the allocation of these funds." Governor Bonner then vetoed House Bill Number 75 as being unnecessary. His veto was over-ridden in the House by a vote of sixty-one to twenty-eight—twelve Democrats, including five Silver Bow Representatives, joined with the Republicans. In the Senate, the Governor's veto was sustained on a straight party-line vote, with twenty-six for the Governor and twenty-eight against him.

A second bill, House Bill Number 150, introduced by the Committee on Education, took the control and supervision of expenditures for the educational institutions from the Board of Examiners and gave it to the Board of Education.

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1. Interview with John W. Bonner, August 13, 1959.
2. Examiners, February 24, 1951.
Subject to this control, however, the Board of Examiners was still required to let all contracts, to issue all bonds for the buildings and improvements, and to audit all claims to be paid. The bill passed the house sixty-eight to fifteen and the Senate thirty-three to nineteen. Practically all votes against the bill were cast by legislators from the High Line or from the eastern section of Montana. House Bill Number 460, introduced by the Appropriations Committee, eliminated the possibility of another Chancellor by specifically providing that none of the appropriations should be used for the salary and expenses of the Chancellor. Two years later the legislature abolished the office of Chancellor. The Senate, in an amendment to an appropriations bill, transferred from the Board of Examiners to the Board of Education the power of approval of travel requests from


The transfer of approval power, which lasted for the duration of the appropriation only, passed both houses without a dissenting vote. To placate the home voters the two state representatives from Hill County, site of Northern Montana College, introduced a bill to appropriate money to increase the building fund for the University units. This bill was killed in committee. The House Committee on Constitutional Amendments and Federal Relations introduced a constitutional amendment to change the membership of the Board of Education by dropping the elective members. Needing two-thirds approval, the bill failed, receiving only forty-three "AYE" votes and thirty-nine "NO" votes. A Democratic representative from Gallatin County, site of Montana State College, was the only Democrat to favor the bill. Three Republicans joined with the Democrats in voting "NQ".

The representatives of the people were quite willing to adopt the compromise prepared by the unit presidents despite the fact that fifty-four of the ninety Representatives and thirty-nine of the fifty-six Senators came from the eastern Congressional district. The move to eliminate the

4. Ibid., 1951, pp. 422-23.
Chancellor received little opposition. Legislators representing sectional interests had always distrusted efforts to shift power from local university units to a central controlling agency and had eliminated the Chancellor in 1933 by the same process. The political maneuvering of Selke, which had offended some of the elected state-wide officials, had undoubtedly offended other politicians also. Suspicious anti-Vande Bogart partisans were also probably fearful that the new appointment by the Governor to the Board of Education would bring into the majority those members who had been trying hard to find a place in the educational system for Vande Bogart. The proposal to eliminate the three elected officials, all Democrats, from the Board of Education was stopped by the minority party. Eight years later, in 1959, the proposal passed when the Democrats controlled the legislature and the Republicans controlled two of the three elective Board of Education seats.

**Court Decision**

After the issue had been settled by the legislature, Judge Padbury gave his court decision on February 26, 1951. The Judge decided in favor of the Board of Education and

1. The five-man committee selected to find a new Chancellor was dominated by three members who had consistently voted to rehire Vande Bogart. Board of Education Minutes, July 10, 11, 1950 and March 5, 1951. Reporters noted that Vande Bogart was
stated that any statute which attempted to confer on the Board of Examiners the power to allocate the proceeds of the bond issue would be unconstitutional, since the constitution vested general control and supervision of the university system in the Board of Education. The judge perpetually enjoined the Board of Examiners from spending any of the funds without the prior authorization and direction of the Board of Education. Since there was now no dispute, the case was not taken to the Supreme Court.

**Summary**

Thus the entire dispute ended, "not with a bang, but a whimper." The Board of Education and the Board of Examiners had disputed for almost two years. In the end, the elected representatives of the people, the legislators, decided that power was more securely reposed in the appointive Board of Education than in the elective Board of Examiners. Even so, the state was left with an anomalous situation whereby the Board of Education was to determine the needs for all

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a frequent visitor at the Capitol before the legislative session. *Tribune*, December 19, 1950.

1. Findings of Fact and conclusions of Law, Case of Dorothy Overturf v. State Board of Examiners.
expenditures and control the purposes for which all funds should be spent, but the Board of Examiners was to let all contracts, issue bonds for any building and improvements, and audit all claims to be paid as a result of expenditures. Accepting their new duties, the Board of Education began to meet monthly instead of quarterly.

The construction of buildings at the state educational institutions had been held up for almost two years during a period of rampant inflation. Building costs had increased more than 12 per cent between 1949 and 1951, meaning that the 1951 $5,000,000 would buy only $4,400,000 in 1949 buildings. Irretrievably lost to the University system was a building of the value of the Women's Center at the State University. The Chancellor had resigned and Montana quietly dropped the Chancellorship system. Guy H. Vande Bogart was dismissed after twenty-one years in which he had built a well-rounded school from nothing. Hoped-for foundation grants were refused because of Montana's educational problems. The threat of loss of accrediting lowered Montana's standing in the academic community.

The statute clearly gave the powers of allocation to

the Board of Examiners. Utilizing these powers the Board had approved an allocation which, if properly spent, would have established in the town of Havre a college with facilities for approximately 1,200 students. The reasons for desiring the allocation varied. A contractor who had the inside track for constructing a large building in Havre urged the allocation. A politician saw an opportunity to gain strong support from an area where two-thirds of the voters lived. A chamber of commerce desired to reduce the outflow of students. No matter what the motives, the Board made its allocation and steadfastly stood by it. The publicly reported political pressures appeared unusually strong as organizations and newspapers assailed the Board of Examiners, yet the Board refused to reconsider in the face of such apparently definite public opinion. At one point the Board agreed to reconsider on its own terms. The Board of Education rejected the terms. Thereafter, the Board of Examiners, led by the intransigent Secretary of State, returned to its original position and refused to compromise, claiming to represent the will of the people. In the face of strong legislative expression, however, the Board relented and compromised. The legislature viewed the administrative proceedings of the Board of Examiners and proceeded to transfer powers from the Board.
Public officials, beset by the pressures of strong economic interests, twisted and turned in an effort to find a comfortable solution. Governor John Bonner voted in April for the Board of Education's allocation; in July he voted for the Board of Examiners' allocation. He switched back to the side of the State University and State College supporters in September as he instigated the court suit. The following April he switched again, strongly supporting Northern's deposed president, Vande Bogart. In August, 1950 he voted for one compromise allocation at a Board of Education meeting and in December he voted for a different one. In March, 1950 the Governor was quoted as suggesting that the legislature be asked for an additional one million dollars. Three days later he said he would veto such a bill if it were passed.

According to the records Attorney General Olsen voted for the Board of Education's allocation in April 1949, then voted for the Examiners' allocation in July. In August, 1950, he supported a compromise proposal suggested by Horace Dwyer and in February 1951, he voted for the compromise approved by the legislature.

Secretary of State Mitchell voted for the Examiners' allocation and then supported the August 1950 compromise. When the Board of Education failed to accept the compromise he said that he would never again vote for less than
$1,200,000 for Havre, but in February 1951, he accepted the legislative compromise. The fight seemed to have little effect on individual political careers. Governor Bonner was defeated by J. Hugo Aronson at the next election. Ex-Governor Ford stumped the state against Bonner, displaying pictures of buildings completed during Ford's administration on the Billings, Missoula, and Bozeman campuses and comparing them with a picture of the unenclosed, unfinished, unprotected hulk at Northern on which the same amount of money had been spent. However, this was not the only issue in the campaign and the other prominent issues were undoubtedly influential. Attorney General Olsen was elected by a lower margin than in 1948 and was subsequently defeated in a campaign for governor in 1956. By then other issues had become important. Secretary of State Mitchell was reelected and died in office.

A key figure who played an unpublicized role was the private contractor, Ed Decker, whose firm, according to Governor Bonner, having the contract for construction of the building at Northern Montana College and desiring to receive a much larger contract, convinced the Havre Chamber of Commerce and President Vande Bogart that they should request a

1. Interview with Sam C. Ford, March 24, 1959.
considerably larger allocation than that allotted by the Board of Education. Decker spoke at the compromise meeting in Havre, estimating that it would cost $2,000,000 to complete the planned building but that the building could be enclosed against the weather for $850,000. The $850,000 figure was then proposed as a compromise by Horace Dwyer. At the compromise attempt mediated by Lief Erickson and called at Bonner's request, the University presidents met at length with Decker, who estimated that a four-story building could be constructed for less than $700,000. The Board of Examiners granted McKinnon-Decker large change orders on their original contract, including $7,800 for an excavation which cost $1,248. Decker informed the Board of Examiners that items in storage at Northern Montana College had been stolen. A guard was posted but later removed after McKinnon-Decker trucks had hauled nearly everything from the building.

From the moneys received from the $5,000,000 bond issue, the University constructed a music building, a women's center, and a liberal arts building; the State College constructed a math-physics building, a veterinary research laboratory, a greenhouse, and the Ryon Engineering laboratory. The School of Mines constructed a petroleum engineering and physics building. At Western Montana College of Education an auditorium-shop building was constructed; an education
building was constructed at Eastern Montana College.

Work was continued on the administration building at Northern Montana College. The original contract for $435,000 had called for construction of a two-story building. The Board of Examiners settled the contract on March 23, 1951, by paying McKinnon-Decker $11,569. Previous payments to all contractors had amounted to $430,980.85. Since the suspension of the work one year before, the building, on which the contract was now settled, had stood unfinished, unroofed and exposed to the elements with no part completed to a point where any use could be made of it. The contractor, Ed Decker, informed the presidents of the University units that for less than $700,000 the portion of the building under construction could be completed to four stories and the rest of the building could be completed to two stories with an enlargement of the contemplated women's gymnasium to a standard size gymnasium. The presidents suggested an allocation of $37,500 in addition to the $700,000 to insure the completion of a usable building. The Board of Examiners awarded a second contract to McKinnon-Decker which was completed in 1953. At that time the building had two floors mostly completed with the third floor enclosed and roofed.

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1. Education, p. 5795.
The building included eighteen offices, eight classrooms, the library, a few storage rooms of various sizes and an area which was used as a small gymnasium. This small amount of usable space had cost the state more than $1,100,000. In contrast, the same amount of money, with contracts being let at approximately the same time, was sufficient to construct both the Business-Education building and the Liberal Arts building at the State University.

Since 1953 work has continued on the building. In 1957 campus labor was used to finish the west wing and to complete nurses training facilities. On July 8, 1959, eleven years after the awarding of the first contract which had called for two completed floors, the Board of Examiners accepted bids for the completion of the second floor of the building, using a $90,000 legislative appropriation.

The reader should be aware that this account is still incomplete. The account presented here is essentially taken from public records. It is hoped that someday an historian utilizing private papers will be able to fill in much of the missing material. Still to be answered are such

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2. Examiners, July 8, 1959.
questions as the one posed by Chancellor Selke who asked why it cost so much to build at Havre. 1

CHAPTER VII
CONCLUSION

The inclusion of the Board of Examiners in the Montana Constitution appeared to be almost an afterthought, for the Board was established in Section 20 of Article VII, the last section in the article on the executive department. The section was accepted almost without discussion, for the political thought of the period demanded that safeguards, many of them, be established. Since the subject was not discussed on the convention floor, it is difficult to determine what the delegates intended for the duties and powers of the Board of Examiners. California had established its board to protect the treasury and to examine all claims against the state. When Nevada had established a similar board in 1864, delegates had clearly explained that the Board of Examiners was to examine unliquidated claims which would then be presented to the legislature. Thirty-one years later, when the Utah Constitutional Convention met, the chairman of the executive committee argued that the use of ex officio boards would be economical, for state officials who had to be paid their salary anyway would be required to assume many extra duties, thus eliminating extra
employees. The Montana convention met between the Nevada and Utah conventions, and the constitutional provision was evidently regarded as not only desirable but also obviously self-explanatory for there was no discussion on the floor. Subsequently the Montana Supreme Court ruled that the Constitutional provision applied only to unliquidated claims, thus restricting the Board of Examiners to the purpose for which the Nevada Board was established. Since the Supreme Court is charged with the duty of interpreting the meaning and intention of the Constitution, we shall conclude that the original purpose of the Board of Examiners was to review unliquidated claims before they were presented to the biennial sessions of the Legislative Assembly. However, the Board was also given the power "to perform such other duties as may be prescribed by law."

The second legislative session, held a year and a half after the Constitutional Convention, clearly provided the Board of Examiners with "other duties." Section six of the act prescribing the duties of the Board of Examiners provided that any person having a claim against the state "for which an appropriation has been made" could present his claim to the Board of Examiners, and the Board might allow, postpone, or reject the claim.¹

¹ Montana, Legislative Assembly, Laws, Resolutions and Memorials of the State of Montana Passed at the Second Regular
The same legislative act gave the Board other financial powers, including the right to prohibit the treasurer from paying warrants, to examine the books of the auditor and treasurer, and to count the money in the treasury. The same Legislative Assembly, impressed with the possibilities of ex officio boards, appointed the Governor, Attorney General, and Secretary of State as Board of Commissioners for the Insane.

Gradually the power of the Board of Examiners developed. In 1893 the Board disapproved the legislative appropriations for construction at the units of higher education. The 1895 Legislative Assembly transferred the powers of the Board of Supplies and Furnishing Board from the Governor, Lieutenant Governor, and Speaker of the House to the Board of Examiners. This Board was to hire and furnish halls and offices.

The 1909 Legislative Assembly transferred to the Board of Examiners the power to construct buildings at every state institution except the Soldiers' Home and the State Fair. The Tuberculosis Sanitarium was established in 1911 and placed under the control of the Board of Examiners. The Board of Examiners was given power of approval over the

accounts for construction at the Soldiers' Home in 1917. As Eastern Montana Normal School, Northern Montana College, the School for the Deaf and Blind and the Vocational School for Girls were placed under the control of the Board of Education, the Board of Examiners gained the power to construct at each institution.

The power to construct thus comes from the legislature. The legislature has transferred some of this power to other boards, most notably the Board of Education. During the 1930's the legislature gave the Board of Education the power to construct numerous buildings at institutions that it controlled. During the 1950's the legislature allowed the Board of Education to construct self-financing buildings of many types, a power that proved to be quite important. The Supreme Court has strengthened the power of the Board of Education by several important rulings. The Court also declared that the Highway Commission had the power to construct buildings without the approval of the Board of Examiners or the legislature. Besides the Board of Examiners, Board of Education, and Highway Commission, several agencies have had the power to construct public buildings in the state. The number and value of the buildings constructed by these latter groups has been small.
Given most of the powers of construction, the Board of Examiners has attempted to insure for itself all the lucrative powers, such as the power to apportion funds and the power to appoint architects. Not nearly so appealing to the Board has been the consequent responsibilities such as the duty to supervise construction.

In execution of its constructing powers, the Board of Examiners has shown almost every fault which political scientists usually ascribe to ex officio boards. Board members have been forced to leave their important duties to concern themselves with trivia. The Board members have not been selected because they were architects or engineers, but because they were politicians.

The state has now had a half century of experience with the Board of Examiners as its public construction authority. More than 1,600 buildings, valued at more than $90,000,000 are owned by the state. Yet after fifty years, members of the Board of Examiners admit that they have not established a system whereby they can adequately supervise the construction of buildings.

The practices of some of the other states in regard to the planning, design, and construction of buildings are worth considering. Certain states, notably California and
Kansas, have created an office of state architect, or in South Dakota and Wisconsin a state engineer, to design and oversee the construction of buildings. In certain other states, building commissions, or divisions of architecture, design and construct or supervise the construction of state buildings.

In the other states which have Boards of Examiners, various procedures are followed. The construction, operation, and maintenance of state-owned buildings and improvements in Idaho are under the supervision of the Department of Public Works. General overall planning and construction for state buildings in Nevada is the responsibility of the State Planning Board. The operation of buildings is by the governing boards of state institutions and by the state departments. In Utah the Building Commission, which is composed of the same personnel as the State Road Commission, and a superintendent of construction have supervision over the construction of new state buildings and major repairs. State institutional buildings are administered by their respective heads. 1

1. Council of State Governments, "The Administration of State-Owned Buildings" (Preliminary Survey by Council of State Governments, November, 1944), passim. (Mimeographed.)
No constitutional requirement restricts Montana's construction authority to an ex officio board. In practice, the ex officio board has a poor administrative record. A careful study of the principles of good administrative organization and the practices of other states will undoubtedly reveal systems which would be more effective.
## APPENDIX A. MEMBERS OF THE MONTANA BOARD OF EXAMINERS 1889-1960

<table>
<thead>
<tr>
<th>Term</th>
<th>Governor</th>
<th>Secretary of State</th>
<th>Attorney General</th>
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</thead>
<tbody>
<tr>
<td>1889-1893</td>
<td>J.K. Toole (D)</td>
<td>L. Rotwitt (R)</td>
<td>H.J. Haskell (R)</td>
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<tr>
<td>1893-1897</td>
<td>J.E. Rickards (R)</td>
<td>L. Rotwitt (R)</td>
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<td>1897-1901</td>
<td>R.B. Smith (D)</td>
<td>T.S. Hogan (D)</td>
<td>C.B. Nolan (D)</td>
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<tr>
<td>1901-1905</td>
<td>J.K. Toole (D)</td>
<td>G.M. Hays (D)</td>
<td>J. Donovan (D)</td>
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<tr>
<td>1905-1909</td>
<td>J.K. Toole (D)</td>
<td>A.N. Yoder (R)</td>
<td>A.J. Galen (R)</td>
</tr>
<tr>
<td>1909-1913</td>
<td>E.L. Norris (D)</td>
<td>A.N. Yoder (R)</td>
<td>A.J. Galen (R)</td>
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<tr>
<td>1913-1917</td>
<td>S.V. Stewart (D)</td>
<td>A.M. Alderson (D)</td>
<td>D.M. Kelly (D)</td>
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<tr>
<td>1917-1921</td>
<td>S.V. Stewart (D)</td>
<td>C.T. Stewart (R)</td>
<td>S.C. Ford (R)</td>
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<tr>
<td>1921-1925</td>
<td>J.M. Dixon (R)</td>
<td>C.T. Stewart (R)</td>
<td>W.D. Rankin (R)</td>
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<td>1925-1929</td>
<td>J.E. Erickson (D)</td>
<td>C.T. Stewart (R)</td>
<td>L.A. Foot (R)</td>
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<tr>
<td>1929-1933</td>
<td>J.E. Erickson (D)</td>
<td>W.E. Harmon (R)</td>
<td>L.A. Foot (R)</td>
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<tr>
<td>1933-1937</td>
<td>J.E. Erickson (D)b</td>
<td>S.W. Mitchell (D)</td>
<td>R.T. Nagel (D)</td>
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<tr>
<td>1937-1941</td>
<td>R.E. Ayers (D)</td>
<td>S.W. Mitchell (D)</td>
<td>H.J. Freebourn (D)</td>
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<td>1941-1945</td>
<td>Sam C. Ford (R)</td>
<td>S.W. Mitchell (D)</td>
<td>John W. Bonner (D)</td>
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<td>1945-1949</td>
<td>Sam C. Ford (R)</td>
<td>S.W. Mitchell (D)</td>
<td>R.V. Bottomly (D)</td>
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<td>1949-1953</td>
<td>John W. Bonner (D)</td>
<td>S.W. Mitchell (D)c</td>
<td>Arnold H. Olsen (D)</td>
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<td>1953-1957</td>
<td>J. Hugo Aronson (R)</td>
<td>S.W. Mitchell (D)c</td>
<td>Arnold H. Olsen (D)</td>
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<td>1957-1961</td>
<td>J. Hugo Aronson (R)</td>
<td>Frank Murray (D)</td>
<td>Forrest H. Anderson (D)</td>
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aD. M. Kelly, January 1, 1913, to May 31, 1915. J. P. Poindexter, June 1, 1915 to January 1, 1917.

bJ. E. Erickson resigned and F. H. Cooney(D) became governor March 13, 1933. He died December 15, 1933, and W.E. Holt(D) President Pro Tempore of the Senate, succeeded him December 16, 1935, serving out the term until January 1, 1937.

cSam W. Mitchell died June 26, 1955. On June 30 Governor Aronson appointed S.C. Arnold(R) to serve the rest of the term.

## Appendix B

### MONTANA EX OFFICIO BOARDS WHICH INCLUDE ELECTIVE OFFICERS

<table>
<thead>
<tr>
<th>Board Name</th>
<th>Governor</th>
<th>Attorney General</th>
<th>Secretary of State</th>
<th>Auditor</th>
<th>Treasurer</th>
<th>Superintendent of Public Instruction Board of Railroad Commissioners</th>
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<tr>
<td>Depository Board</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Board of Canvassers</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bd Trustees State Law Library</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Insurance Commission</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Laboratory Commission</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>State Board of Hail Insurance</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Teachers Retirement Board</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Library Extension Committee</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Service Commission</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

APPENDIX C, LIST OF STATE INSTITUTIONS AND BUILDING GROUPS, WITH TOTAL NUMBER OF BUILDINGS, TOTAL INSURANCE VALUE OF ALL BUILDINGS, MAJOR BUILDINGS AND THEIR INSURANCE VALUE, AT EACH INSTITUTION

<table>
<thead>
<tr>
<th>Major Buildings</th>
<th>Insurance Valuation</th>
<th>July 1, 1957</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>STATE CAPITOL GROUP</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Capitol</td>
<td>$3,415,600</td>
<td></td>
</tr>
<tr>
<td>Sam W. Mitchell Building</td>
<td>938,900</td>
<td></td>
</tr>
<tr>
<td>State Laboratory Building</td>
<td>841,800</td>
<td></td>
</tr>
<tr>
<td>Veterans' and Pioneers' Memorial Building</td>
<td>720,900</td>
<td></td>
</tr>
<tr>
<td>Total number of buildings: 12</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total insurance value of all buildings: $6,289,400</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>SCHOOL FOR THE DEAF AND BLIND, GREAT FALLS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Main Building</td>
<td>$424,600</td>
<td></td>
</tr>
<tr>
<td>Total number of buildings: 9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total insurance value of all buildings: $576,900</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>MONTANA STATE TRAINING SCHOOL AND HOSPITAL, BOULDER</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Main Building and Addition</td>
<td>$386,000</td>
<td></td>
</tr>
<tr>
<td>Griffin Hall</td>
<td>376,600</td>
<td></td>
</tr>
<tr>
<td>Hospital and Infirmary</td>
<td>319,000</td>
<td></td>
</tr>
<tr>
<td>Boys' Dormitory No. 7</td>
<td>291,600</td>
<td></td>
</tr>
<tr>
<td>Girls' Dormitory No. 6</td>
<td>291,600</td>
<td></td>
</tr>
<tr>
<td>Total number of buildings: 66</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total insurance value of all buildings: $3,283,200</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. Insurance valuation is not the true value of building but rather 90 per cent of the replacement value, not including excavations, some foundations and other exclusions.

2. The Governor's Mansion was not completed until after this list was compiled.
<table>
<thead>
<tr>
<th>Major Buildings</th>
<th>Insurance Valuation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>July 1, 1957</td>
</tr>
<tr>
<td><strong>MONTANA STATE ORPHANS’ HOME, TWIN BRIDGES</strong></td>
<td></td>
</tr>
<tr>
<td>Gymnasium</td>
<td>$100,000</td>
</tr>
<tr>
<td>Total number of buildings: 41</td>
<td></td>
</tr>
<tr>
<td>Total insurance value of all buildings: $781,700</td>
<td></td>
</tr>
<tr>
<td><strong>MONTANA STATE HOSPITAL, WARM SPRINGS</strong></td>
<td></td>
</tr>
<tr>
<td>Female Department Unit No. 1</td>
<td>$515,000</td>
</tr>
<tr>
<td>Warren Building</td>
<td>359,700</td>
</tr>
<tr>
<td>Bolton Building</td>
<td>338,000</td>
</tr>
<tr>
<td>Mussigbrod Building</td>
<td>327,100</td>
</tr>
<tr>
<td>Total number of buildings: 170</td>
<td></td>
</tr>
<tr>
<td>Total insurance value of all buildings: $5,781,200</td>
<td></td>
</tr>
<tr>
<td><strong>MONTANA STATE TUBERCULOSIS SANITARIUM, GALEN</strong></td>
<td></td>
</tr>
<tr>
<td>Receiving Hospital, Annex and Wings</td>
<td>$2,340,000</td>
</tr>
<tr>
<td>Employees Dormitory Building</td>
<td>645,200</td>
</tr>
<tr>
<td>Employees’ Apartment Building</td>
<td>395,600</td>
</tr>
<tr>
<td>Combination Heating Plant, Laundry, Garage, Greenhouse, and Apartment</td>
<td>211,600</td>
</tr>
<tr>
<td>Total number of buildings: 36</td>
<td></td>
</tr>
<tr>
<td>Total insurance value of all buildings: $4,311,400</td>
<td></td>
</tr>
<tr>
<td><strong>MONTANA SOLDIERS’ HOME, COLUMBIA FALLS</strong></td>
<td></td>
</tr>
<tr>
<td>Women’s Building and Annex</td>
<td>$103,000</td>
</tr>
<tr>
<td>Main Building and Addition</td>
<td>95,000</td>
</tr>
<tr>
<td>Total number of buildings: 26</td>
<td></td>
</tr>
<tr>
<td>Total insurance value of all buildings: $402,500</td>
<td></td>
</tr>
<tr>
<td><strong>VOCATIONAL SCHOOL FOR GIRLS, HELENA</strong></td>
<td></td>
</tr>
<tr>
<td>Cottage No. 2 (Canaday)</td>
<td>$117,300</td>
</tr>
<tr>
<td>Administration Building (Stewart Hall)</td>
<td>104,400</td>
</tr>
<tr>
<td>Total number of buildings: 19</td>
<td></td>
</tr>
<tr>
<td>Total insurance value of all buildings: $442,600</td>
<td></td>
</tr>
</tbody>
</table>
## Major Buildings

**Insurance Valuation**

*July 1, 1957*

### MONTANA STATE INDUSTRIAL SCHOOL, MILES CITY

- New Administration Building: $143,200
- Cottage "F": 143,700
- Gymnasium: 112,900

**Total number of buildings:** 39

**Total insurance value of all buildings:** $1,080,100

### HOME FOR SENILE MEN AND WOMEN, LEWISTOWN

- Main Building (only building): $861,400

### MONTANA STATE PRISON, DEER LODGE

- Cell House No. 1: $261,100
- Cell House No. 2: 161,000
- Theatre: 106,600
- Guards' Quarters: 105,800
- Administration Building (Registrar of Motor Vehicles): 102,300

**Total number of buildings:** 161

**Total insurance value of all buildings:** $1,459,600

### MONTANA STATE UNIVERSITY, MISSOULA

- Field House: $1,091,100
- Craig Hall and Addition No. 1: 885,500
- Lodge: 856,000
- Women's Center Building: 739,400
- Music Building: 722,700
- Library and Addition No. 1: 692,000
- Arts and Crafts Building: 665,400

**Total number of buildings:** 144

**Total insurance value of all buildings:** $14,397,500
### Major Buildings

**Montana State College, Bozeman**

- Lewis and Clark Hall
- Student Union and Addition
- Hannon Hall
- Roberts Hall

Total number of buildings: 205  
Total insurance value of all buildings: $11,784,100

**Western Montana College of Education, Dillon**

- Residence Hall, Dining Room and Kitchen
- Library
- Gymnasium
- Main Building
- Auditorium and Shop

Total number of buildings: 10  
Total insurance value of all buildings: $1,406,100

**Montana School of Mines, Butte**

- Residence Halls
- Metallurgical Building
- Library-Museum
- Petroleum Engineering and Physics Building
- Main Building

Total number of buildings: 16  
Total insurance value of all buildings: $2,532,900

**Eastern Montana College of Education, Billings**

- College Building
- Teachers Laboratory Building
- Science Hall
- Dormitory

Total insurance value of all buildings: $1,928,000

---

*The field house was not completed until after this list was compiled.*
Major Buildings

Insurance Valuation
July 1, 1957

EASTERN MONTANA COLLEGE OF EDUCATION, BILLINGS (continued)

Total number of buildings-9
Total insurance value of all buildings-$1,795,000

NORTHERN MONTANA COLLEGE, HAVRE

Cowan Hall $1,143,800
Donaldson Hall 421,100
Armory Gymnasium 196,200
Automotive Shop Building 101,300

Total number of buildings-23
Total insurance value of all buildings-$2,491,400

AGRICULTURAL EXPERIMENT STATIONS

Huntley Branch Experiment Station, Huntley
31 buildings Total insurance value- $240,200
Northern Montana Branch Experiment Station, Fort Assiniboine 24 buildings Total insurance value- 168,300
Central Montana Branch Experiment Station, Moccasin 19 buildings Total insurance value- 77,500
Fort Ellis Agricultural Sub-Station, Bozeman 16 buildings Total insurance value- 58,400
Eastern Montana Branch Experiment Station, Sidney 9 buildings Total insurance value- 37,400
Horticultural Experiment Station, Corvallis 7 buildings Total insurance value- 34,400
Northwestern Montana Branch Experiment Station, Creston 8 buildings Total insurance value- 31,200

FISH AND GAME DEPARTMENT

136 buildings at 36 different locations.
Total insurance value- $629,500

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Insurance Valuation
July 1, 1957

MONTANA STATE HIGHWAY COMMISSION

Major Buildings

Headquarters Building - Helena $301,300
Havre Shop and Office Building 197,800
Missoula Shop and Office Building 126,500
Wolf Point Shop and Office Building 122,100

Total number of buildings-258
Total insurance value of all buildings-$2,834,200

STATE ARMORIES

Helena Armory $492,200
Bozeman Armory 343,800
Poplar Armory 164,400

Total number of buildings-12
Total insurance value of all buildings-$1,443,200

STATE PARKS

Twelve buildings located at Bitterroot Lake Park and Lewis and Clark Caverns State Park.
Total insurance value of all buildings-$106,600

STATE WATER CONSERVATION BOARD

42 buildings at nine different locations
Total insurance value of all buildings-$90,200

UNEMPLOYMENT COMPENSATION COMMISSION

Office buildings in Bozeman, Havre, and Shelby
Total insurance value of all buildings-$57,100

1. The addition to the Headquarters Building was not completed until after this list was compiled.

2. At least five more armories have since been constructed.

3. At least five more employment service buildings have since been constructed.
STATE LAND OFFICE

Four buildings in Hill County
Total insurance value for all buildings—$2,000

MISCELLANEOUS BUILDINGS

Department of Public Welfare Building,
Helena
Grain Inspection Laboratory, Great Falls
Oil and Gas Conservation Commission
Building, Billings

$97,300
35,000
13,800

TOTAL NUMBER OF STATE-OWNED BUILDINGS—Approximately 1600

TOTAL INSURANCE VALUE OF ALL BUILDINGS, JULY 1, 1957—
$65,837,900

Source: List of state buildings compiled by Board of Examiners for insurance purposes, July 1, 1957. Copy of list in my possession. Microfilm copies at State Historical Library, Helena, and Montana State University Library, Missoula, with microfilm reels of Board of Examiners minutes.
# Appendix C. Chronology of the $5,000,000 University Bond Issue Dispute

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 1947</td>
<td>Thirtieth legislative assembly passed $5,000,000 bond issue. (HB No. 406)</td>
</tr>
<tr>
<td>November 2, 1948</td>
<td>Voters approved referendum 52.</td>
</tr>
<tr>
<td>December 13, 1948</td>
<td>Chancellor Selke recommended allocation.</td>
</tr>
<tr>
<td>December 13, 1948</td>
<td>Board of Education made allocation.</td>
</tr>
<tr>
<td>March 1949</td>
<td>Thirty-first legislative assembly passed enacting legislation and appropriated over $1,000,000 for University unit buildings.</td>
</tr>
<tr>
<td>April 11, 1949</td>
<td>Board of Education reaffirmed December allocation.</td>
</tr>
<tr>
<td>June 24, 1949</td>
<td>Legality of bond issuance determined by Supreme Court in &quot;friendly&quot; test case.</td>
</tr>
<tr>
<td>June 30, 1949</td>
<td>Board of Examiners made allocation of bond issue funds.</td>
</tr>
<tr>
<td>July 23, 1949</td>
<td>McKinnon-Decker Change Order Number 1 on Administration Building, NMC, approved.</td>
</tr>
<tr>
<td>September 9, 1949</td>
<td>Board of Examiners sustained allocation in spite of Selke protest. Bonner recommended compromise.</td>
</tr>
<tr>
<td>September 14, 1949</td>
<td>Montana Council on Higher Education formed.</td>
</tr>
<tr>
<td>September 14 and 18, 1949</td>
<td>Havre meetings in support of NMC needs.</td>
</tr>
<tr>
<td>September 15, 1949</td>
<td>Mrs. Overturf filed and received temporary injunction, freezing use of bond funds.</td>
</tr>
<tr>
<td>October 3, 1949</td>
<td>Havre residents intervened in suit.</td>
</tr>
<tr>
<td>March 21, 1950</td>
<td>Harry Burns and Havre interveners refused to agree to distribution of $4,000,000 in undisputed funds.</td>
</tr>
<tr>
<td>April 12, 1950</td>
<td>Vande Bogart fired at Board of Education meeting.</td>
</tr>
</tbody>
</table>

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July 11, 1950

Motion to reinstate Vanda Eogart failed by one vote at Board of Education meeting.

August 12, 1950

Joint Board of Education-Board of Examiners meeting at Havre. Dwyer allocation proposal defeated.

September 8, 1950

Hearing of injunction suit in district court.

October 17, 1950

Chancellor Selke resigned as of December 1, 1950.

November 30, 1950

Presidents of University units met with Leif Erickson and agreed on compromise.

December 20, 1950

Board of Education agreed to unit presidents' compromise allocation.

January 19, 1951

Republicans introduced bill embodying compromise allocation.

February 1951

Thirty-second legislative assembly passed allocation bill.

February 24, 1951

Board of Examiners agreed to unit presidents' allocation.

February 26, 1951

Judge Padbury gave decision granting Board of Education allocation power.

February 26, 1951

Bonner vetoed allocation bill; veto was upheld by Senate.
<table>
<thead>
<tr>
<th>Proposer and Date</th>
<th>University Units and Allocations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>MSJ</td>
</tr>
<tr>
<td>Chancellor Selke</td>
<td>$1,750,000</td>
</tr>
<tr>
<td>December 13, 1948</td>
<td></td>
</tr>
<tr>
<td>Board of Education</td>
<td>1,900,000</td>
</tr>
<tr>
<td>December 13, 1948</td>
<td></td>
</tr>
<tr>
<td>Board of Examiners</td>
<td>1,500,000</td>
</tr>
<tr>
<td>June 30, 1949</td>
<td></td>
</tr>
<tr>
<td>Governor Bonner</td>
<td>1,600,000</td>
</tr>
<tr>
<td>September 9, 1949</td>
<td></td>
</tr>
<tr>
<td>Claude Erickson</td>
<td>1,500,000</td>
</tr>
<tr>
<td>March 20, 1950</td>
<td></td>
</tr>
<tr>
<td>Paul Cannon</td>
<td>1,635,000</td>
</tr>
<tr>
<td>March 23, 1950</td>
<td></td>
</tr>
<tr>
<td>Senator Wilson</td>
<td>1,700,000</td>
</tr>
<tr>
<td>July 11, 1950</td>
<td></td>
</tr>
<tr>
<td>Governor Bonner</td>
<td>1,625,000</td>
</tr>
<tr>
<td>August 11, 1950</td>
<td></td>
</tr>
<tr>
<td>Horace Dwyer</td>
<td>1,600,000</td>
</tr>
<tr>
<td>August 11, 1950</td>
<td></td>
</tr>
<tr>
<td>Mary Condon</td>
<td>1,450,000</td>
</tr>
<tr>
<td>August 11, 1950</td>
<td></td>
</tr>
<tr>
<td>Unit Presidents</td>
<td>1,700,000</td>
</tr>
<tr>
<td>November 30, 1950</td>
<td></td>
</tr>
</tbody>
</table>

California. The Statutes of California Passed at the Seventh Session of the Legislature Begun on the Seventh Day of January, One Thousand Eight Hundred and Fifty-Six, and Ended on the Twenty-First Day of April, One Thousand Eight Hundred and Fifty-Six, at the City of Sacramento. Sacramento: James Allen State Printer, 1856.

California. The Statutes of California Passed at the Ninth Session of the Legislature, 1858, Begun on Monday, the Fourth Day of January, and Ended on Monday, the Twenty-Sixth Day of April. Sacramento: John O'Meara State Printer, 1858.

California. The Statutes of California and Amendments to the Constitution Passed at the Extra Session of the Thirty-Eighth Legislature 1910 Begun on Tuesday, September Sixth, and Ended on Friday, September Ninth, Nineteen Hundred and Ten, at Twelve O'Clock Noon. Sacramento: W. W. Shannon, Superintendent State Printing, 1911.


Montana. Constitution.


Montana. Governor. Messages to the legislatures. 1891-1959. (Copies e.a file in documents section of Montana State University Library.)


Montana. Reports of Cases Argued and Determined in the Supreme Court of the State of Montana. Vols. 17, 21, 26, 39, 75, 93, 97, 102, 110, 122, 128.


Montana. Revised Codes (1947).


Books


Hicks, John D. The Constitutions of the Northwest States. Published in vol. XXIII, no. 1 of the University Studies of the University of Nebraska, 1924.


Articles and Periodicals


Great Falls Tribune. 1949-1959.


"Querying the Candidates," Montana Opinion, I, No. 2 (October, 1956), 1-23.

Reports


A State Department of Administration. Published by Council of State Governments, 1957.


Smith, David W. "An Outline of the Development and Growth of State Administration in Montana 1890-1953." Department of Political Science, Montana State University, September 1, 1953. (Mimeographed.)

Unpublished Material


Green, Dorothy, Executive Secretary of the University of Montana. Letter to President McFarland, Acting-President Gaines, President Van Felt, President Jordan, President Peterson, President Brockmann, September 11, 1952. Copy in my files.


Montana Board of Education. Minutes. December, 1948-June, 1951. Copy in office of Executive Secretary, University of Montana. (Typewritten.)

Montana Board of Examiners, Minutes. 1897-August 10, 1959. Original copy in Board of Examiners office. (Typewritten.) Microfilm copy 1897-1958 in Montana Historical Library, and in Montana State University Library.

Montana Board of Examiners. Various office records, including list of buildings insured by the state.


Other Sources

Interview with J. Hugo Aronson, Governor. March 24, 1959.

Interview with John W. Bonner, Former Governor. August 13, 1959.


Interview with Sam C. Ford, Former Governor. March 24, 1959.


Interview with William McEnany, Clerk, Board of Examiners. August 28, 1959.


Interview with Dorothy Overturf, Plaintiff in court suit. March 24, 1959.


Interview with Myles Thomas, Attorney. March 25, 1959.

Interview with James Umber, State President American Federation of Labor-Congress of Industrial Organization. August 7, 1959.