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1925

REPORT OF THE SPECIAL HOUSE COMMITTEE

To The Honorable Speaker of the House of Representatives
of the State of North Dakota:

Sir: The special house committee appointed by the house of representatives, pursuant to a resolution duly adopted on the 28th day of January, 1925, presents its report as follows:

INTRODUCTION

AUTHORIZATION.

The Resolution.

WHEREAS, It has been brought to the attention of the members of the House of Representatives, and to the public in general, statements of mismanagement, incompetency, waste and extravagance in the use and expenditure of public funds in connection with the State Highway Commission; and

WHEREAS, There is a demand on the part of the public and the members of this House that an investigation be had of the State Highway Commission to determine the accuracy of said statements which have been made, and to determine whether or not there has been mismanagement, waste and extravagance in the use and expenditure of public funds; and

WHEREAS, The State of North Dakota is about to cooperate and take advantage of the provisions of the Federal Road Aid Act in an extensive program of road construction calling for the expenditure of large sums of public money; and

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WHEREAS, An investigation of the said State Highway Commission, at this time, is deemed necessary to serve the Legislature in the passage of remedial legislation, and to serve as a conservation and a check on expenditures of public moneys in the future.

NOW, THEREFORE, BE IT RESOLVED, That the Speaker of the House appoint a special House committee to consist of five members of this body to consider and investigate the State Highway Commission as to its management, for the purpose of determining whether or not there is or has been any mismanagement, incompetency, waste and extravagance in the use and expenditure of public funds in connection therewith; that said committee is to be authorized and empowered to procure an audit and inventory of all the records and property of and under the control of the said State Highway Commission, and also to procure such other information and data from any and all other sources relating thereto, as the said committee may deem necessary to a full and complete investigation thereof; the said committee to be further authorized and empowered to procure such legal assistance, such accounting experts, and such other experts and other aid and assistance as they shall deem necessary and advisable to make a full and complete investigation thereof, and in the verification and checking of all prior audits made thereof, and to procure any and all further information

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respecting the conditions of the said State Highway Commission; and that such committee shall have the power to summon witnesses and require their testimony under oath, if the committee so desire, take testimony and require the giving of any information that will aid in their work by any official or employee of any department, institution or industry of the state, and from any official or citizen of the state; and such committee shall have the power to require any and all books and records of any department, institution, industry or official of the state, or of any citizen of the state, or any corporation doing business within the state, to be produced before it for examination with respect to any matter concerning the State Highway Commission; and that such committee is hereby further authorized and empowered to have printed such number of copies of all the proceedings had and taken before it, including a transcript of the testimony and records produced before it, if any, together with their recommendations and findings based thereon, as they deem necessary for the use of the members of the Legislative Assembly.

AND BE IT FURTHER RESOLVED, That the necessary costs and expenses incurred by this committee in conducting this investigation shall be defrayed by Legislative appropriation.

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ORGANIZATION

Your Committee convened on the 3rd day of February, 1925, and duly organized.

On the 6th day of February, 1925, your Committee employed counsel, a reporter and such other employees as were deemed necessary, and procured quarters.

In order to facilitate the investigation, rules of procedure were duly prepared and adopted.

On the Ninth (9th) day of February, 1925, at 9:30 o'clock A. M., hearings were commenced at Room 230, in the McKenzie Hotel, in the city of Bismarck, county of Burleigh and State of North Dakota, and such hearings were continued each day thereafter from 9:30 A. M. until 12 o'clock M, except that, part of the time, hearings commenced at 9 o'clock; also, one hearing being held in the evening, with two or three exceptions, which appear in the minutes of the committee. All of the hearings being open to the public, except the first two days, at which the testimony was taken with only the committee's counsel, the witness and the reporter present. All of the public hearings were held at Room 200 in the McKenzie Hotel.

All members of the committee were present at each of said hearings, except once or twice being detained by sickness or other unavoidable causes.

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The work of the committee embraced the examination of a large volume of records and accounts, the examination of a large number of witnesses and the consideration of a large number of exhibits which are referred to in 1148 pages of

testimony, all of which are submitted herewith as a part of this report.

A list of the witness as examined is as follows:

WITNESSES: Dan R. Jones, Isaac P. Baker, Herman Hardt, R. B. McDonald, T. R. Atkinson, J. H. Newton, John N. Smith, R. H. Myhre, Treadwell Twichell, C. H. Lucke, John Gavin, C. F. Mudgett, W. F. Gettelman, C. E. Lounsberry, P. M. Hegdahl, Oliver Knutson, A. W. Leuhrs, Carl Myrhe, David Lieberman, A. D. McKinnon, J. R. Poupore, J. N.

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Roherty, George Shafer, W. H. Robinson, J. A. Wallace, O. B. Lund, O. R. Vold, L. L. Twichell.

J M. Hanley, attorney-at-law of Mandan, North Dakota, appeared at the hearing at the time that J. H. Newton was examined, as his attorney. Mr. Hanley, also, appeared at the first two or three hearings, at which Mr. Black was examined, as his attorney.

W. C. Greene, attorney-at-law, of Fargo, North Dakota, appeared before the committee as counsel for Treadwell

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Twichell at the time that he was examined.

HISTORY OF HIGHWAY COMMISSION

At the session of the legislature in 1917, Chapter 131, was passed, creating the State Highway Commission, consisting of the Governor, who shall be chairman, the state engineer, the commissioner of agriculture and labor and two members to be appointed by the governor. This was the commencement of the present Highway Commission, and under the terms of the act, the appointive members were to receive the sum of Ten Dollars (\$10) per day for time actually and necessarily spent in the performance of their duties; provided, that no member should receive more than Six hundred Dollars (\$600.00) in any one year. In addition, the members of the State Highway Commission were to be allowed actual and necessary traveling expenses incurred in the discharge of their duties.

The State Engineer was to be the chief engineer and secretary of the State Highway Commission and was to receive an annual salary of \$1,000 in addition to his \$2,500 as state engineer.

Under the provisions of this act, it was provided that the State Highway Commission should work in conjunction with the United States Government in the construction of rural post roads under the provisions of the act of Congress, ap-

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proved July 11, 1916.

In addition, the law provided that all monies received from licenses from automobiles and motor vehicles by the state treasurer should be disposed of in the following way; and that, on the 15th day of each month, one-third of the monies, after deducting the expenses, shall be credited to the county treasurer of each county as a special road maintenance fund;

and the remaining two-thirds to the account of the State Highway Fund.

AMENDMENT ON HIGHWAY ACT IN 1919.

Section 5 of this act as amended is quoted: "Any portion of the State Highway Fund that may be expended at the discretion of the Highway Commission for the construction of State Highways, may be expended in such construction without supplementary county funds and with or without Federal aid as the State Highway Commission shall decide or may be expended in the purchase of machinery, tools, supplies, materials, the hire of teams or labor, or the rental of machinery, in the construction, improvement or maintenance of State Highways."

This section has been set out for the reason that there has been and now is considerable dispute as to the meaning of the same and to the authority given for the expenditure of funds belonging to the State Highway Commission.

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At the same session of the legislature, Chapter 182, was passed concerning taxing and licensing of motor vehicles. Under the provisions of this act, it was provided that \$150,000 per annum from the fund shall be set aside to the defraying of expenses of the State Highway Commission in cooperating with the Federal Government, under the act of Congress, approved July 11, 1916.

After this sum had been set apart, the law then provided that the sum not exceeding fifty per cent. (50%) of the balance shall be paid by the state treasurer out of such funds, upon certificate from the commission, approved by the state audit board to the several county treasurers to the account of the special road maintenance fund.

Section 4 of the Act is quoted:

"The remaining fifty per cent shall remain in the State Highway Fund, to be expended by the Commission in the various counties of the state in the improvement, maintenance and construction of state highways. Ten per cent of this portion of the fund shall be expended at the discretion of the Commission for the purposes specified above without regard to the amount of motor vehicle fees collected, and ninety per cent shall be spent by the Commission for the purposes specified above in the several counties in proportion to the

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amounts collected therein."

This section is also quoted as under it: "The State Highway Commission claims the power to expend monies from what is known by them as the Ten Per Cent Fund for the purpose of buying automobiles or any other article for use upon the roads at their discretion."

We are setting forth the financial report of the Motor Vehicle Department from the period of January 1, 1923 to December 31, 1923:

RECEIPTS

Automobile Licenses, Passenger Cars and Trucks	\$743,625.45
Transfer of Ownership	14,507.00
Duplicate Tags	368.50
Motorcycle Licenses	1,943.50
Total	\$760,444.45

DISBURSEMENTS

State Highway Commission, Approp- riation	\$131,925.00
Motor Vehicle Department, Approp- riation	43,075.00
State Bridge Fund, Appropriation....	130,000.00
Apportionment to Counties	227,722.22
Apportionment to State Highway Commission	227,722.23
Total	\$760,444.45

We are also setting forth the financial report of the Motor
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Vehicle Registration Department, for the period of January
1, 1924 to June 30, 1924:

Automobile Licenses, Passenger Cars and Trucks	\$698,206.35
Transfers of Ownership	6,955.00
Duplicate Tags	167.50
Motorcycle Licenses	1,246.00
Total	\$706,628.85

DISBURSEMENTS

State Highway Commission, Approp- riation	\$106,925.00
Motor Vehicle Department, Approp- riation	43,075.00
State Bridge Fund, Appropriation....	130,000.00
Apportionment to Counties	213,314.42
Apportionment to State Highway Commission	213,314.43
Total	\$706,628.85

From these reports it appears that the apportionment to the State Highway Commission averages something over \$200,000 per year, the same amount being apportioned to the counties in accordance with the amounts of fees received from them. In addition to these funds, the money received from the Federal Aid is distributed through the hands of the State Highway Commission, making the total amount receive from July 1, 1922 to June 30, 1923, \$1,306,371.40, and the total disbursements being \$1,082,404.87, leaving a balance

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on hand, under date of June 30, 1924, \$223,966.58.

The total receipts from July 1, 1923 to June 30, 1924, being \$1,955,268.69.

The total disbursements being \$1,844,276.58.

Under the reports submitted by W. G. Black, State Highway Commissioner, it appears that up to December 31, 1924, there has been completed in the state of North Dakota, 1945 miles of roads, but that there was under contract, but not completed up to December 31, 1924, 342 miles, graded earth road; 100 miles gravel surfaced road; 2.6 miles concrete paved road, and that the roads requested by counties January 1, 1924 to December 31, 1924, was 490 miles graded earth road; 278.35 miles gravel surfaced road and .75 miles concrete paved roads.

POLICY OF INVESTIGATION

At the time the Committee began holding its meetings, no charges had been made against the State Highway Commission, or any member thereof, and no charges were preferred by any witness at the hearings. Inasmuch as the resolution which was passed, creating the investigating committee did not make any specific charges, the policy was adopted of hearing all persons who had any information whatever to give concerning any matter pertaining to the State Highway Commission, the way the money was expended, the method of awarding contracts for the building of roads, settlement

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of completed projects and, in fact, all matters which seemed to the committee would be of interest to the public in regard to the road building program being carried on in this state with federal aid.

The Committee has exercised in the conduct of all its hearings the utmost fairness and courtesy in their treatment toward all witnesses, who appeared before it and the Committee has refused no request whatever, made by any witness for the privilege of making additional explanations; the correction of their testimony, either before or after it was transcribed, attention being called to the statement of witnesses appearing at Pages 1083 and 1143 of the transcript hereto attached; and the Committee has been willing and eager at all times to receive from the State Highway Commission and its various members any exhibits or files which might tend to explain or throw any additional light upon any of the matters under investigation. The sole object of the Committee in this investigation is to give to the members of the legislature and to the taxpayers of the state of North Dakota, a plain, unvarnished statement of the facts as they have been developed from the testimony, as to whether or not, full value is being received from the money spent in the building of roads and also as to whether or not there has been mismanagement, waste and extravagance in the use

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and expenditure of the public funds.

Any recommendations made in this report are made with

the object in view only of correcting any abuses, mistakes or errors that may have crept into the management of the State Highway Commission, it being realized that on account of the short time that the State Highway Commission has been in existence and of the large amount of money under its control which has been expended, that it was only natural that certain abuses, errors and mistakes would be discovered.

ACKNOWLEDGMENTS

The Auditing Board, consisting of the Attorney General, George Shafer, John Steen, State Auditor and Robert Byrne, Secretary of State, cooperating with this Committee in at once engaging O. B. Lund as Auditor of the State Highway Commission, and this Committee expresses its appreciation of the many kindnesses extended to them by the Auditing Board, Mr. Lund, and his assistants.

The Committee also expresses its appreciation for the untiring aid and valuable advice and assistance of the counsel employed by this Committee, Messrs. F. J. Graham, of Ellendale, North Dakota, and C. E. Lounsberry, of Wahpeton, North Dakota, and commend them for the faithful and impartial services rendered throughout the investigation.

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The reporters and other employees of the Committee are also complemented for their industry and zeal in completing the large amount of work involved in such a short time.

SENATE INVESTIGATION OF THE HIGHWAY COMMISSION IN 1923

In 1923, a Committee was named in the Senate to investigate the Highway Commission, consisting of J. E. Eastgate, as chairman, together with W. D. Lynch and Robert Byrne. This report is found in the Senate Journal, commencing at Page 1231, and certain recommendations were made at that time, among them the following:

1. "It appears that when final estimates have been made by the engineer in charge of the respective project, the estimate has been afterwards raised by an engineer of higher rank without consulting the engineer who made the original and final estimate. This practice has resulted in a suspicion that the contractors receiving the benefit of those increased estimates were permitted by collusion on the part of the engineer raising the estimate to underbid other competitive contractors and have the increase in the final estimate to add to their original bid, and that this increased estimate has in some manner been divided with the engineer. We have been able to obtain no evidence to support the charge of collusion

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dishonesty or bad faith in increasing these estimates, and because of the seriousness of these charges and suspicions, the Committee is constrained to include findings to that effect herein. The Committee, however, believes that this is a practice which should be discontinued and that hereafter if an increase is made in the estimate the engineers making the adverse estimate should consult with each other and the Chief Engineer or let some other authority decide the mat-

ter after both engineers had been heard. This charge is so serious that the Highway Commission should carefully scrutinize projects where this had been done."

2. The Committee wishes to call attention to the Equipment Department in connection with the Highway Commission investigation. This department has charge of the personal property of a reported value of about \$1,700,000.00. A portion of this property is in the custody of the department at Bismarck and is reported at a value of about \$500,000.00. There is property valued at over \$1,000,000.00 scattered out among the different counties of the state. This property consists of automobiles, trucks, tractors, and automobile repairs, hardware, sundries and supplies which cannot be classified in this report. We were unable to find a complete inventory of the property and the Committee believes that an inventory should be taken by the Equipment Department without any additional expense to the state, that

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is, without engaging any outside help, the work to be done during slack periods. Some of this property has been sold under circumstances which appear to be irregular. The Committee has investigated these sales and believes that the money received therefor has been accounted for to the state. There are no regulations for the sale of this property and it is only sold to counties and contractors and can only be sold in large quantities. There is a vast amount of property that will never be sold unless it is sold at public auction or at private sale or notice to be given the widest publicity. If this property is not sold the state will lose thousands of dollars as this property is rapidly deteriorating in value. The advisability of classifying and selling such property as cannot be used by the state or the Highway Department should be carefully considered.

3. "The computation of the cost of several thousand miles of highway as shown by the attached exhibits, shows the average engineering cost of roads in North Dakota to be as follows:

Engineering cost:

Cost per mile of surveys	\$ 50.00
Cost per mile of designing.....	68.33
Cost per mile of construction	190.61

Total cost of Engineering\$308.94

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Administration cost:

Cost per mile of surveys	\$ 31.53
Cost per mile of designing	43.09
Cost per mile of construction	120.21

Total cost of Administration\$194.83

Total cost per mile, Engineering and Administration\$503.77

4. (Condemns the practice of increasing estimates without full knowledge and cooperation of the different engineers whose estimates disagree.)

This Committee, after reading the report from which the excerpts are quoted, is constrained to congratulate the Senate Investigation Committee upon their careful analysis of the situation. This Committee feels that if the suggestions therein contained had been followed by the Highway Commission since that time, much of the trouble and difficulty herein-after cited would have been obviated.

This report will be considered in the following order:

First, will be considered the surplus war material;

Second, the Richland County Project No. 59;

Third, Sargent County project No. 58;

Fourth, Valley City Paving;

Fifth, Proposed Burleigh County Paving;

Sixth, the farming out of surveying, designing and supervision of roads to private engineers;

Seventh, the amount of gas, oil and tires used;

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Eighth, the report of O. B. Lund, Auditor, as far as completed;

Ninth, other criticisms. This being the order in which the testimony was introduced.

SURPLUS WAR MATERIAL

During the year 1919, after the close of the war, arrangements were made by the United States Government, whereby it would ship to the Highway Commission of the different states, such war material as would in its judgment be of assistance to the states in their road building program. Thereafter, certain war material was shipped to the State Highway Commission of this state during the administration of W. H. Robinson, as chief engineer. From the information available we cannot determine whose fault it was that a large amount of the material shipped was unsuitable for road work and was entirely worthless for any purposes. Under the regulations adopted by the Federal Government, the states were compelled to and did pay the freight and handling charges upon all of this material, consisting of trucks, motorcycles, automobiles, machines for boring aeroplane engines and all kinds of miscellaneous material, consisting of harnesses, picks, pick handles, tents, shoes and other articles too numerous to mention.

Under the regulations as first adopted the States were permitted to loan out the trucks and other articles to municipal

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subdivisions of this state to be used upon the road. These subdivisions to pay a rental charge for the use of the same.

Without any authority from the legislature of this state, money was used to the amount of \$111,602.19 from the funds of the State Highway Commission to November 20, 1923, to pay the freight and handling charges. The property then

being sold to replenish the fund. Later regulations were adopted by the Federal Government so that this property could be sold to private individuals under the directions of the State Highway Commission of each state.

In the opinion of the committee, the distribution of the war material, has at least in North Dakota, been a disadvantage as no roads have been built by the State Highway Commission. The trucks, tractors and other road building equipment has been disposed of below the cost of freight, handling and repairs to private contractors, who thus received a benefit without giving any return in reduced prices of construction. This method has caused the loss of thousands of dollars per year to the taxpayers. The loss now being \$53,283.06, as disclosed by the audit.

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As before mentioned, the Senate in 1923 recommended that all of the war materials then on hand be disposed of at public auction and that no more be secured. However, the State Highway Commission ignored the recommendation and continued the same way as before, the loss in operation from November 20, 1923, to December 31, 1924, being \$19,605.14, as found by the auditor.

No audit had apparently been made of the Equipment Department until November 20, 1923. Mr. Lund, in his report, suggested that a system be installed of issuing receipts in duplicate on all sales; one to be given to the purchaser, the other one to be kept as a permanent record.

W. G. Black testified that a system of issuing triplicate receipts had been installed, one being given to purchaser, one filed at Capitol and one kept at storeroom. (See transcript Page 351, Line 6)

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It now develops that no attention was given to this recommendation and the business is carried on in practically the same way as before according to Mr. Lund's testimony.

The State Highway Commission had shops at the east side of Bismarck, together with large amount of this property. In November, 1923, a fire broke out and burned up a part of the shops and property of the value of about \$13,000.00, most of which was insured. The state's loss being \$8,120.00, on which insurance was not collected. This sum having been placed with the Farmers Insurance Company of Dickinson in defiance of law providing for state insurance. The company being bankrupt at the time of the loss. Large sums of money are due from counties and individuals amounting to about \$20,000.00, no apparent effort being made to reduce this indebtedness.

The Committee has no information as to how much of this is collectible.

The following articles appear on the books as belonging to the State Highway Commission:

One Dodge touring car; one White truck and one Cadillac and one Liberty B truck.

W. G. Black testifies that he sold the Dodge for \$150.00; White truck for \$395.00 and Cadillac for \$150.00 to one T. R. Atkinson, of Bismarck, in 1923, no payment having been made. Since that time Atkinson has drawn thousands of dollars from the Highway Commission for surveying. Atkinson

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says, the reason he didn't pay was because no bill was sent to him. Repairs were put upon the Dodge at the State's expense or \$268.78. The value of the cars sold being at least \$1,200.00.

W. G. Black testifies that the Liberty B Truck was sold for \$395.00 to the Red Trail Oil Company of Mandan in 1924, no pay has been collected. The truck is valued at \$1,250.00. No note or evidence of indebtedness is on hand.

The Committee find that the business of the Equipment department, under the management of W. G. Black, has been carried on in a careless, inefficient and negligent manner, and has caused the state a loss of thousands of dollars, and if carried on in the same manner, the losses will increase.

This department is under the direct charge of W. F. Gettelman, who says, he is hampered in the operations by the fact that Black hires so many men for him that are inefficient and will not let him discharge them. Black says, Gettelman is inefficient and does not properly look after the department. However, Black has failed to discharge Gettelman and refuses to give his reasons for keeping him, saying, "that it is a personal matter and that it is not any business of the Committee. Gettelman is receiving \$250.00 per month.

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The Committee made a trip of inspection out to Fort Lincoln to look over the property. It found dismantled trucks, autos and materials of all kinds scatterel on the grounds. Some tents and supplies were stored inside the buildings; also a few broken down trucks and autos. Then a stop was made at the shops east of town. Here, much the same conditions are found, except that the trucks were placed in a line, being exposed to the elements, and all of this material, both here and at the Fort, were found to be rapidly deteriorating in value. It might also further be said that all of the materials shipped out by the Federal Government were second-hand and many of them were of no particular value when received.

This Committee seconds the recommendation heretofore made by the Senate Investigation Committee made in 1923 that all of the war material now on hand should be sold at public auction, the bills and accounts of the department collected so far as possible, and that no more war supplies and equipment be secured from the Federal Government. That in this way only can the losses which are increasing from year to year, through the careless and inefficient handling of this department be stopped.

It is the earnest hope of this Committee that the Legislature of 1927 will not be called upon to have another High-

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way Investigation to make this same recommendation.

SARGENT COUNTY PROJECT NO. 58

During the summer of 1920 T. Twichell, of Mapleton, North Dakota, was awarded the contract for building Sections A, B and C of Project No. 58, consisting of a trifle over nineteen miles in Sargent County. This work was to have been completed in the fall of 1920, but for some cause dragged along during the years 1921 and 1922, at which time Section C was completed by Stevens Brothers, who had taken over the building thereof. The cost being a trifle over \$19,000.00. Section A and B were not completed until December, 1923, by Mr. Twichell. Mr. Thorberg, engineer in charge, made his final certificate of completion, after the work had been accepted by the Federal Government and the State Highway Commission, which was approved by Gavin, Division Engineer. The total construction cost of Section A, as turned in by the engineers, was \$38,194.49. The total cost of construction of Section B, as turned in by Mr. Thorberg and Mr. Gavin, was \$44,003.43, making a total of \$82,197.92.

This report was sent on to the headquarters at Bismarck. Mr. Twichell complained to the department that he had not received the proper measurements for the work done upon

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this project, claiming a balance due him of \$8,143.85.

Later on, through the orders of Mr. Black and Mr. Myhre, amended and supplemental agreements for extra work was drawn up and signed by Mr. Black and Mr. Twichell, purporting to allow Mr. Twichell the sum of \$8,143.85 for additional and extra work claimed to have been performed by him, and such agreement was signed up on or about the 24th day of December, 1923, and payment made therefor, a copy of the agreement being found on Page 804 of the transcript.

Mr. Black, upon examination, either would not or could not, give any explanation as to why Mr. Twichell had been allowed this additional amount, contrary to the reports of his own engineers as they had been sent in and filed.

Mr. Knutson who had formerly been in charge of the work, testified that no such additional work had been done as was claimed by Mr. Twichell and also that he had made the change from which the supplemental agreement was prepared, at the request and instructions of Mr. Black, the chief engineer. This evidence can be found at Page 660 of the transcript.

This additional work was spread over the final estimates as sent in to the Federal Government and to the county so that it could not be discovered from a casual inspection of the same.

The committee finds that the payment of the sum of

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\$8,143.85 to Mr. Twichell under the orders and instructions of Mr. Black was unwarranted and without justification. The committee bases its conclusions upon the testimony of Mr.

Black himself found at pages 748 and 749 of the transcript; also, upon the testimony of Mr. Myhre, found at page 845 of the transcript.

Mr. Black testified that nothing was done but maintenance by Mr. Twichell upon Sections A and B of Project No. 58 after April 1, 1923; such testimony also was corroborated by Oliver Knutson, engineer in charge.

The Committee believes that it is a fair conclusion to draw from the evidence and from the memorandum T—2 found at page 808 of the transcript, that a portion of the amount paid Mr. Twichell was for maintenance work, which under the terms of the contract it was his duty to perform until the road was finally approved and accepted.

Upon going through the files of Project No. 58 it appears that three supplemental written agreements were entered into between the State Highway Commission, Sargent County and Mr. Twichell for additional work, the amount thereof being specified, and that none of these agreements provided for the work for which Mr. Twichell claimed payment. The recommendation of the Committee in the ab-

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sence of supplemental agreements is that no work shall be paid for. And that the strict terms of the contract shall be enforced and that no extra work shall be paid for, unless written orders be given by the engineer in charge; that if this be not done, it opens the door to fraud and collusion and gives the people at large an opportunity to criticize; it also leaves the door open to the criticism that the State Highway Commission has favorites and that the person receiving work at a low figure by this system may receive more than the next highest bidder would have taken the contract for.

This Committee again calls attention to the recommendation made in the Senate Investigation that the final certificate of completion should be not increased by the Chief Engineer. These examples of increases in Sargent and Richland counties amounting to thousands of dollars. We recommend that no payments be made for changes in work, not made upon written orders, or for extra and additional work for which supplemental contracts are not entered into before the work is done.

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RICHLAND COUNTY PROJECT NO. 59

The original contract for this project was let in the early part of the year 1920, for the total price of \$67,135.26, all of it being awarded to T. Twichell, of Mapleton, North Dakota, except some concrete and culvert work which was awarded to W. H. Noel of Jamestown, North Dakota, amounting to about \$20,000, the entire project to be completed in 1920. This road was divided into two sections, A and B, comprising a distance of fourteen and a half miles. The plans as originally made did not provide for any clay surfacing. After work was commenced it was found that Section A was very sandy and in order to make the road stand up it was found necessary to provide for clay surfacing over a stretch of between four and five miles. After this was

discovered to be necessary a change in plans was made by W. H. Robinson, then the Chief Engineer, and the consent of the Bureau of Public Roads was secured, thus increasing the total estimated cost of the road to \$89,983.98, in March, 1923.

Part of the clay surfacing had been done in the fall of 1922, the balance being completed in the fall of 1923, but it was not in a condition so that it could be accepted by the Federal Government.

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In the fall of 1923, Sections A and B were finally completed and accepted by both the Federal and State authorities. Certificate of Final Completion were issued by Mr. Thorberg, the resident engineer, and approved by Mr. Gavin, the division engineer, for both sections of the road; the total cost of Section A being turned in at \$48,977.94, and the total cost of Section B as turned in being \$33,870.61, making the total amount \$82,848.55; at this time there being a balance due and unpaid, as shown by the records, of approximately \$12,000 to the contractor. After these final certificates had been turned in to the department at Bismarck, Mr. Twichell claimed additional amounts, and that the proper measurements had not been given upon the amount of clay surfacing used upon Section A. Mr. Gavin, the division engineer, and Mr. Wallace, who was the construction engineer, were called into Bismarck in consultation with Mr. Myhre, the assistant engineer, and Mr. Black. They went over the figures of the amount of clay surfacing and in order to avoid any disagreement, Mr. Twichell was allowed a 25 per cent shrinkage on the amount of clay surfacing shown by the figures of Thorberg and Gavin, bringing the amount unpaid to him up to the sum of approximately \$18,000.

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On Section B Mr. Twichell claimed that he had been ordered to change the type of road from a crown top to a flat top road and was entitled to a large amount of additional yardage for said change.

The contracts as entered into between the Highway Commission, Richland County and Mr. Twichell, provided that all work in excess of 125 per cent of the estimated amount should be done only on written orders of the engineer, and supplemental contracts should be entered into for such extra or additional work not provided for in the contract. The contract also further provides that in case the contractor does any work not authorized by the engineer in writing, or extra and additional work for which no supplemental contracts were entered into, that he does so at his own risk.

In violation of the terms of the contract the engineer in charge of this work under both the former administration of W. H. Robinson and the present administration of W. G. Black, did order some changes and did order clay surfacing without any written orders or supplemental agreements.

Mr. Twichell, the contractor, also violated his contract by neglecting to require such written orders and supplemental agreements. As can be noticed from the statement of facts, this work dragged along from the year 1920 until the year 1923, before being finally completed, and at the

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time of its completion the contractor, Mr. Twichell, claimed that he had coming the sum of \$34,000, or \$35,000, as extra and additional work claimed to have been performed by him. The amended reports as turned in by the engineers indicate that Mr. Twichell was, in fact, entitled to about \$18,000 for this extra and additional work.

From the evidence which has been introduced before this Committee, it appears that Mr. Twichell was a frequent visitor to the State Highway Commission at Bismarck, concerning this project, making many claims for the amount which he claimed to have coming; that Mr. Black himself, together with Mr. Myhre, the assistant chief engineer, made a trip down and looked the work over. Prior to this a cross section had been made of Section B under the instructions of Mr. Black, which cross section tallied with the final certificate as issued by Mr. Thorberg and Mr. Gavin. Mr. Twichell claimed that he was entitled to something over \$7,000 for changing that section from a crown top to a flat top road, as by this change in construction he would be compelled to add an additional amount of earth to the sides of the road so as to bring it up to the required height.

In the month of February, 1924, no settlement having
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been made with Mr. Twichell, Mr. Myhre, the assistant chief engineer, was sent down to meet with the County Commissioners of Richland county. He told them that he and the other engineers had checked over the final report as submitted by Mr. Gavin and Mr. Thorberg, and that they had decided that all that Mr. Twichell was entitled to was about \$18,000, Mr. Twichell claiming \$34,000, but that in his opinion Mr. Twichell would eventually settle for \$18,000.

Mr. Myhre in testifying before this committee said that he had never changed this opinion.

Later, no settlement having been made, Mr. Black caused to be prepared and sent to Mr. Twichell a revised statement of work claimed to have been done by Mr. Twichell in the amount of about \$27,000, which said statement was in the form of a supplemental agreement. Mr. Twichell refused to sign it. At a meeting of the State Highway Commission at which Mr. Brown, Mr. Poupore and Mr. Black were present, a resolution was adopted requesting that Mr. Black cause an estimate to be made for the amounts claimed to be due by Mr. Twichell, and that he also request the Bureau of Public Roads to participate in the payment thereof. An estimate was made out in the sum of \$119,179.09, and the consent of the Bureau of Public Roads was secured to the change in the month of October, 1924.

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Sometime in the summer of 1924, and after Mr. Black had caused the figures to be compiled in accordance with Mr. Twichell's request showing the total cost of the road as \$119,179.09, a purported arbitration agreement was entered into between Mr. Twichell and the State Highway Commission. Demands were made upon Mr. Black several times that he bring before the committee the so-called arbitration

agreement, but he has wholly failed and neglected to bring such agreement before the committee, no reason being given for its non-production.

Mr. Bliss, an engineer of Valley City, was asked by Mr. Black to act as arbitrator for the State Highway Commission. Mr. Crabbe, an engineer of Fargo, was asked to act as arbitrator for Mr. Twichell; these two then named Mr. Mudgett, a banker of Valley City, as the third member.

From the evidence, it appears that Mr. Bliss notified the county commissioners that an arbitration hearing would be held on the 28th day of November, 1924, at the State Capitol, and that they could have representatives present if desired. This date was afterwards changed to the 10th of November, 1924, at the request of Mr. Black, who desired to leave for California; no notice being given of the change to the county commissioners of Richland county. A hearing of some kind was held, the only persons being present

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were the arbitrators, a stenographer, L. L. Twichell, as attorney for Treadwell Twichell, and Aubrey Lawrence, as attorney for the Northern Trust Company of Fargo, and the First National Bank of Fargo, who were assignees of the claims of T. Twichell against the State Highway Commission.

None of the engineers who had anything to do with the road were called as witnesses, except Mr. Thorberg, and Mr. Knudson, although Mr. Wallace, the construction engineer, resided in Bismarck, and Mr. R. N. Carroll, formerly division engineer, under whom Mr. Twichell did most of the construction work on this project, lived at Grand Forks, and is now engaged in the contracting business; neither was Mr. Gavin, who had been the resident and division engineer there during 1920, 1921, 1922 and 1923, called.

Mr. Black was sworn as a witness, and testified that he had caused to be prepared statements of the work claimed to have been done by Mr. Twichell, and that he was satisfied in his own mind that such work had been done, and that Mr. Twichell was entitled to the amounts shown in the statements. Mr. Black also testified that he knew that Mr. Carroll had ordered Mr. Twichell to change the surface of Section B from a crown top to a flat top road (see transcript, page 443), and no witnesses were produced by the Highway Commission to refute in any way the claims

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of T. Twichell. Mr. Black also testified before the arbitration board that he knew that Section B was completed as a round top road, and afterwards changed to a flat top road, and that on account of such change Mr. Twichell performed much additional work in placing dirt upon the road to bring it up to the required height. Mr. Black admitted to the committee that he knew nothing whatever about the matter, and that he never had checked the matter over (see transcript, pages 444, 676 and 724).

Mr. Black testified before this committee that he did not know where the board of arbitration secured the information upon which they based their finding that on Section B the change from a round top road to a flat top road was

made in order to qualify for Federal aid. (See Transcript, pages 675 and 691).

Mr. Mudgett testified before this committee that the board of arbitration secured such information from Mr. Black. (See Transcript, page 963).

Mr. Black testified before this committee that he submitted to the board of arbitration the certificates of completion and final estimates rendered by Mr. Gavin, as well as the recross sections of Section B of this project. (See Transcript, page 376, line 12; pages 414, 415). The record of such arbitration hearing does not disclose that this is a

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fact; and the testimony of Mr. Mudgett (see Transcript, pages 974, 976), taken before this committee, squarely disputes Mr. Black on this statement. Neither was Mr. Roherty, who had made the computations on said cross section, called before the board of arbitration, although this committee has been able to develop from the testimony of Mr. Roherty that Mr. Gavin's final estimate on Section B was correct. Mr. Mudgett, who appeared before this committee, testified to the effect that there was, in fact, no dispute between the State Highway Commission and Mr. Twichell on the figures presented before the board of arbitration, which testimony is found on pages 961 to 978 of the Transcript.

The committee finds that no effort was made by W. G. Black or the State Highway Commission to bring before the so-called board of arbitrators any of the witnesses who had actual knowledge of the orders which had been given and the work which had been done upon Sections A and B of Project No 59. As to whether this was done negligently or carelessly this committee does not know (See Transcript, page 376, line 26). Mr. Black also testified before this committee that he depended upon the board of arbitration to investigate the facts for themselves.

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It appears from the evidence of Mr. Mudgett that the said Arbitration Board were never, at any time, requested or required to produce either evidence or witnesses. (See Transcript, page 978.)

This Committee had before it Mr. Wallace, Mr. Gavin and Mr. Kundson, in fact, all the people who, Mr. Twichell claimed had given his orders, except Mr. Carroll; and he was subpoenaed to appear but refused to do so unless his expenses and fees were paid in advance, which demand the Committee was not in a position to comply with. From the testimony of these witnesses it clearly appears that no orders were given for the doing of most of the additional work claimed by Mr. Twichell, and that such work, if it were, in fact, done, was done in violation of the oral instructions and orders given by the Engineer in charge.

It seems very strange, indeed, to this Committee that any arbitration of the Richland County affair should have been desired by Mr. Black (who was, we are advised, the one to suggest such arbitration) when he was satisfied in September, 1924, that the amount of the Twichell claim in the sum of

\$119,179.09 was correct, and that he at that time applied to the Federal Government for an increase in the cost of such road amounting to exactly the same amount as that allowed by the Board of Arbitration two months later.

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The committee can suggest but one reason for this strange and unusual proceeding, and that is the desire on the part of the Highway Commission to divide the responsibility with men who were not interested in the proceeding. We base the above statement upon the evidence in the transcript and the attention of the Legislature is specifically directed to the fact that Mr. Black has at all times maintained before this Committee that he knew nothing whatever about Section B of this road; that he did not know whether an order had been made for a change in type or not; that he did not know whether such change had, in fact, been made and was possessed of no knowledge whatever concerning the matter. With this lack of knowledge he appeared before the Board of Arbitration and as above indicated swore specifically that Mr. Carroll had given the order for the change, and that he knew that the road was first constructed as a round top road, and was afterwards changed to a flat top road. This statement is based upon the further premise that said Section B was recross sectioned by Mr. Gavin at Black's direction; that J. N. Roherty, an engineer in the employ of the Highway Commission, still in the employ of the Highway Commission, made the computations from said recross section; that said J. N. Roherty testified before this Committee on page 662

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of the Transcript) that there was not to exceed 3430 cubic yards of additional yards on this Section of the work, whereas under Mr. Black's testimony before the Arbitration Board, there was allowed Mr. Twichell 13,926 cubic yards of extra and additional excavation, or an increase in price over Mr. Roherty's figures and Gavin's estimate of, at least \$5,877.76. This information given to the Committee by Mr. Roherty was in the possession of the Highway Commission at all times, well known to Mr. Black and was never brought to the attention of the Board of Arbitration.

The Committee believes from the evidence which has been introduced before it that Mr. Twichell was not entitled to the amount which was awarded to him of approximately \$47,000, and that the most he was entitled to was the sum of \$18,000, which had been figured by Mr. Black's engineers. This is substantiated by the fact that in the final certificate as issued by Mr. Black no recommendation was made by Mr. O'Neil or Mr. Myhre, or Mr. Wynkoop that the work as claimed by Mr. Twichell had in fact been done; none of these people making the certificate had any actual knowledge of the matters in dispute and the Committee believes that no court would have allowed the amount which was paid to Mr. Twichell.

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This trouble was caused by the failure and neglect of Mr. Twichell, the contractor, Mr. Robinson during the time he was in office, and Mr. Black during the time he was in office, to

enter into supplemental contracts for all extra and additional work prior to the time of the doing of the work.

The Committee wishes to cite certain testimony on the Richland County Project, to which the attention of the Legislature is specifically directed, to-wit:

1. Black admits that Federal Aid will be given on crown top road. (See Trans., page 691.)

2. Black claims he submitted no figures on Section B to Arbitration Board. (See Trans., page 678.) Mudgett claims he did. (Trans. p. 964.) Black admits that he did and later on same page denies it again (See Trans., p. 690.)

3. Black admits that he asked the Federal Government in September, 1924, to allow exact amount the Arbitration Board allowed two months later. (See Trans., p. 685.)

4. Black testified that clay surfacing was in original contract. (Contracts themselves show that this is not a fact.) (See Trans., p. 338.)

5. Black testified that he went over the ground and could tell by the color of the ground where the clay surfacing had been placed. (See Trans., p. 336.)

6. Myhre testified that he could see no difference in the ground. Was present at the time. (See Trans., p. 868.)

7. Black admitted that Twichell should have been paid the going price for this extra work. (See Trans. p. 340.)

8. (Black) Our engineers never ordered any extra or (41) additional work in 1923. (See Trans. p. 365, line 17) The only changes ordered by me (Black) would mean no additional cost to us. (See Trans., p. 366, 1-5.)

9. Q. (To Black) What gave Twichell orders to do the work in 1923? A. Wallace and Gavin." (See Trans. p. 375, 1. 1.) Gavin testified (Page 985) that Twichell was only ordered to surface half a mile and to do some patching. Wallace testified (page 909) to the same thing.

10. Who gave orders to Twichell in 1923 was asked of Mr. Black. He then testifies that Gavin and Resident Engineers Knudson and Thorberg. (Gavin's testimony as above) (Also see Trans., p. 666) Knudson testified (page 900, 901, 653 of the Trans.) that he only ordered patching and wrote letter to that effect. (Trans. p. 409.)

11. Black's figures were all based on full pit yardage of 20,682 cubic yards of excavation for clay surfacing, deducting nothing for maintenance. (See Trans. p. 401.)

12. Mr. Black admitted that "Some of it would have been maintenance and some it it new work." (See Trans. p. 321 1. 23.)

13. Black swore that Knudson told him that no dirt from the pits were thus used in shouldering. (See Trans. p. 402.)

14. Knudson testified that he never even talked to Black about this matter. (See Trans., p. 900-25 and 901-1.)

15. Twichell testified that he went into the ditches and procured and spread surfacing at Black's orders. Compare with Black's former testimony. (See transcript p. 572.)

16. Wallace testified that he re-figured over-haul on Section A with Black, Myhre, Gavin, and himself, and after allowing Twichell a shrinkage factor of 25 per cent they allowed him \$18,000.00 as a total, which was all that Twichell could possibly have coming and he still thinks that this is correct. (See Trans. p. 909). Gavin testified to the same thing p. 985.

17. Assistant Chief Engineer Myhre testified that Twichell's claims were excessive and still considers them so. (See Transcript p. 867.)

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The Committee desires to direct the especial attention of the legislature to the manner in which Mr. Black when upon the witness stand attempted to evade direct questions and to mislead the committee as to the true state of facts. The recipients of this report can form their own conclusions as to the reason which prompted this attitude on his part.

As one illustration out of many which we might make we mention the following:

Concerning Section B, Mr. Black swore: "I never made any estimate."

"Q. Did you order one made? A. Not that I recall." "Q. Who did order it? A. I do not know that anybody ordered it. Q. Was it made in your Department? A. Not that I know of. Nobody in our Department offered to give anything on Section B." (See Trans. p. 436.)

"A. There never was any such estimate made. I never wished the Department to do anything like that."

"Q. Who made up the estimate on Section B?" Answered in substance: Board of Arbitration. (See Trans, p. 437.)

"Q. Was not this estimate prepared and presented to the Board of Arbitration? A. Not on Section B." (See Trans. p. 437.)

"Q. Was there any estimate made by your Department in writing in regard to Section B? " A. Not that I know of." (See Trans. p. 438.)

Mr. Black said no estimate was made between December 8th, 1923 and November 11th, 1924. After all of the above denials of any knowledge concerning an estimate covering Section B he was shown the revised Detail Estimate made under his direction to accompany Change in Project Agreement signed by him. (See Trans. p. 681.)

Admitted that the Department did make that estimate. (See Trans. p. 679. line 26.)

Again admitted it. (See Trans. p. 681.)

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VALLEY CITY PAVING.

From the evidence introduced before this Committee, it appears that last summer certain paving was done in Valley City which was under the supervision of the State Highway Commission; that under the plans and specifications, as provided, no gravel could be used for the paving unless it had less than four per cent of shale; that in greater quantities than four per cent, it was the judgment of the engineers that the paving would not last, being liable to disintegrate and wear away; that the work was under the supervision and control of John G. Gavin, the District Engineer. The gravel and sand that was used was from a pit near Valley City; that Mr. Gavin sent in several samples for test to the Bureau of Public Roads at Minneapolis, and several samples to the Highway Department at Bismarck; that all of the tests run from seven per cent to twenty-four per cent of shale content, and that upon receipt of these, Mr. Gavin ordered the contractor, the Haggart Construction Company, to procure other gravel and sand for use in the concrete; that thereupon the Haggart Construction Company procured gravel from Mandan, but threw the same into the pit from which they procured their gravel and sand, thus causing it to be mixed together. Soon afterwards, Mr. Gavin received orders from Mr. Black to let

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the Haggart Construction Company go ahead and use the sand which had been condemned, contrary to the plans and specifications and contrary to the test made by the Bureau of Public Roads.

See Page 1005 and 1010 of Transcript.

PROPOSED BURLEIGH COUNTY PAVING

Last summer a contract was let to the Northern Construction Company of Grand Forks, North Dakota, for the construction of about two and one-fourth miles of reinforced concrete paving west of the Mandan bridge and extending towards Mandan at a price of about \$83,000.00. The plans and specifications provided for a concrete slab twenty feet wide, seven inches thick in the center, nine inches at the edges and decreasing to seven inches two feet from the edge. without any gravel sub-base, this being built in accordance with the standard plans and specifications.

This last fall, plans and specifications were made by the State Highway Commission for building a reinforced concrete road from the east side of Bismarck to the Penitentiary, a distance of about two and one-fourth miles. Several different styles of concrete and black top roads were advertised for bids, the specifications for every type of road including a four-inch gravel subgrade, something that had not been called for in the Mandan paving and which, according to the evi-

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dence introduced, is not necessary in this part of the country.

At the opening of the bids, the lowest bid for reinforced concrete paving was about \$90,000.00 for Warrenite bithu-

lithic paving, about \$98,000.00, and, after consideration, the Board of County Commissioners passed a resolution requesting the Haggart Construction Company for the installation of the Warrenite bithulithic pavement, which was a four-inch bituminous concrete base with a two-inch top of Warrenite bithulithic, and did not provide for any steel to reinforce the four-inch base.

The additional cost of having the four-inch gravel sub-base amounted to about \$9,000.00, thus increasing the cost of the road to the State and to the Federal Government in the sum of about \$9,000.00 over and above what it would cost to install a straight-run concrete. It appeared from the testimony that the Warrenite bithulithic pavement is being used to a small extent only, the records of the Bureau of Public Roads showing that something over six thousand miles of reinforced concrete road has been built in the United States and about one thousand miles of asphaltic concrete roads.

Mr. Black's testimony concerning comparison of concrete specifications on the Mandan job and the Bismarck to Penitentiary job, was one continuous attempt to mislead and

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confuse the Committee.

When asked whether the Mandan job had a gravel base, he testified that it had; that it was already there. When it was pointed out to him that the same thing was true of the section between the pavement and the penitentiary, he stated that the gravel would have to come off the road to prepare the surface. When asked if the fact that there was gravel between the paving and the Penitentiary, was taken into consideration in preparing the specifications, he said that it was, and then a few moments later stated that he did not know whether it was or not. When asked what advantage it would be to any contractor to have the gravel on the road if it had to be taken off, he continually dodged the direct answer.

Mr. Black said that he knows of no other State in the Union that requires a gravel subgrade under such heavily reinforced concrete. He claimed that the Bureau of Public Roads requires such subgrade under certain conditions and then a moment later, stated that there were no such conditions imposed by the Bureau of Public Roads. He admitted that no such requirements were made on any other State job, even in Hillsboro where soil conditions are worse. He admitted that this would add to the cost of the pavement, and that this subgrade is only required under soft top pavements with

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bituminous base by the Bureau of Public Roads, and that requirement is for a four-inch rolled stone base to stiffen the flexible base. He does not know whether the Bureau of Public Roads waived the rolled stone base in this case or not.

It is apparent to the Committee, after an analysis of the foregoing testimony, that such subgrade was required only to put concrete on a price basis practically equal to that of

the soft top type and not because it has proven to be of any value under this type of heavily reinforced concrete.

The award of the County Commissioners was, according to copy of the resolution of such Board which was before the Committee, for the soft top type, which fact bears out and strengthens the opinion of the Committee. The Committee are also led to this conclusion by the very evident attempt of Mr. Black to dodge making any direct statements and by the fact that he made direct statements, upon which he reversed himself.

The award, it is true, was made by the County Commissioners, but the approval of the award is up to the Highway Commission. The Highway Commission will have nominal charge of the construction if the job is let, and will, to the usual extent, participate in the payment for the same. The plans and specifications, if not prepared by the Highway Commission, had their approval.

See Transcript, pages 918 to 926.

Also Transcript pages 998, 999 to 1001.

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THE FARMING OUT OF SURVEYING, DESIGNING AND SUPERVISION OF ROADS TO PRIVATE ENGINEERS.

Mr. Black was asked while upon the stand as to what amount of surveying had been contracted out to private engineers during the year 1924, and he said that approximately two hundred miles had been contracted out and about two hundred miles had been one by surveying parties of the State Highway Commission (Trans. p. 310.) Upon investigation it appears either that Mr. Black did not know what he was talking about, or willfully misrepresented the facts to the Committee. It appears from the copy of the page of the Journal introduced in evidence (Trans. p. 1074) that during the year 1924, the Dakota Engineering Company of Valley City, North Dakota, surveyed.....

T. R. Atkinson	90.28 miles
E. J. Thomas	76.59 miles
H. H. Pike	41.22 miles
H. H. Hurning	30.00 miles
E. R. Griffith	26.50 miles
Stevenson, Miller & Lucke	30.75 miles
Ingram & Smith	83.74 miles
	119.63 miles

498.71 miles

Mr. Black makes the following statement in the pamphlet which was submitted to the members of the Nineteenth Legislative Assembly, "440 out of 490 miles requested by counties during 1924 have already been surveyed and plans are being made for an early letting of contracts." If the statement in

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the pamphlet submitted by Mr. Black to be true, then the testimony given by him before the Committee is false. And in either event misleading statements have been made, either to the Committee, or to the members of the Legislature themselves.

It would appear to the Committee from all the evidence introduced that the surveying and designing could have been done much cheaper by the engineering forces sent out under the supervision of the State Highway Commission as has been done heretofore.

The total payments made to private engineers amount to \$43,492.63 for the year 1924.

In looking over this statement it is a significant fact that E. R. Griffin, the former partner of Mr. Black, has received the sum of \$7,004.01, and on checking over the amount it will be discovered that \$1,867.60 is for surveying; \$246.03 is for designing, and some \$4,890.38 is for supervision of the Mandan paving job, known as No. 100 B, C and D, this being drawn during the months of June, August and October, and all of this time the construction engineering force being only five or six miles from where the work was being carried on. It seems very peculiar to this Committee that one of the engineers on duty at the Capitol could not have spared sufficient time to have gone over, supervised this job and saved the state the sum of \$4,890.38.

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Mr. Black has testified to the Committee that the average salary paid to an engineer is \$150.00 per month. Would it not have been much cheaper to have hired an engineer for a year and paid him \$1,800.000 and let him help with the surveying of other jobs when he was not engaged, rather than to pay out this amount of money to the private individual and close friend of Mr. Black?

Mr. Black testified that "We do as much as we can of our own surveying." (Trans. p. 307, 1. 14) He further testified that he had never made any inquiry or investigation to see which system was the cheaper, contracting surveying, or to have the State Highway Commission do it themselves. Would it not be good business for Mr. Black to investigate and find out and see which system was the better, and cheaper for the State, when he is paying out between \$40,000 and \$50,000 per year for contract surveying?

Mr. Black testified that the Highway Engineers in his office could not make designs and plans in the winter as the private surveyors do (Trans. p. 347, line 15-19) If this surveying, designing and drawing of plans can be done cheaper by private engineers who must maintain an office and working force and make a profit, than the State Highway Commission employing engineers whose salaries continue whether they are working or not, and which Department pays no office rent and seeks no profit on the work, then there is a great deal of inefficiency in the conduct of our Highway Commission.

If the work can be done cheaper by the State Highway Commission, as the testimony of some has indicated, and which seems reasonable and which is borne out by the further fact that Mr. Black has failed after many requests to furnish

the Committee with the cost of surveys, then the Department must be censured severely for contracting out the work in such unusual quantities.

AUTOMOBILES, GASOLINE, OIL AND TIRES

The Committee can find no provision in the state laws under which the State Highway Commission or its secretary, Mr. Black, is authorized and empowered to purchase automobiles. The Highway Commission claims that they are entitled so to do under the provisions of the laws passed in 1919, covering the State Highway Commission, and the use of the funds secured from automobile licenses; this position is very questionable, however.

As soon as Mr. Black came into office a resolution was passed by the State Highway Commission authorizing and empowering Mr. Black to purchase a seven passenger auto-

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mobile. This is the only authorization so far as the Committee can find in any record, or in the minutes for Mr. Black to purchase automobiles of any kind or description; notwithstanding this fact, Mr. Black has authorized the purchase of automobiles for practically all of the engineers on the office force at Bismarck, in addition to the automobiles which have been purchased for the engineers in charge of the various projects throughout the state. So far as the minutes show this matter has never been reported to the appointive members of the State Highway Commission, being Mr. Poupore and Mr. Brown.

If Mr. Black has authority under the law to purchase such automobiles it seems to the Committee that this matter should be brought up at the meetings of the State Highway Commission and authority given to purchase automobiles at certain specified prices.

It further appears from the testimony introduced that at the present time the State Highway Commission is the owner of 56 automobiles, part of these being sent by the United States Government. That during the year 1924, automobiles were purchased to the amount of something over \$10,000; that oil and gasoline for the use of the engineers in Bismarck was purchased to the amount of \$7,119.84.

Mr. Gettelman testified on page 1091 of the Transcript that about \$5500.00 of the gasoline and oil purchased was used by the cars, trucks and tractors at Bismarck. He further testifies that automobiles, tires and tubes had been purchased to the amount of \$11,308.23 from the 15th day of April, 1923, to the 31st day of December, 1924. As to whether or not these expenditures were justified in connection with the building of roads, the Committee has not yet had sufficient time to make an investigation, but presents these figures for the consideration of the House of Representatives and taxpayers of the State of North Dakota.

It further appears from the minutes of the State Highway Commission that in the month of October, 1923, authority was given to Mr. Black to purchase five thousand Indian Head markers and standards for use in marking the roads. That later on something like three thousand more were purchased. Mr. Black was asked to furnish an itemized statement showing what these purchases amounted to and the price paid, but

failed and neglected to submit such statement, and from the best information obtainable by this Committee the purchases amounted to from \$8,000 to \$10,000. It was testified to by Mr. Black himself that all of the markers and standards were purchased in the open market and that no advertisement for

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bids was made.

The Committee cannot tell whether or not these goods were purchased at the best prices obtainable, but the Committee does recommend that in the future the State Highway Commission should advertise for bids, and that the purchases be made from the lowest responsible bidder in the same way that bids are called for in purchasing the tags for use upon automobiles each year. By doing this the State Highway Commission will itself be protected from any unjust comments or criticisms.

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REPORT OF O. B. LUND, AUDITOR.

As soon as this Committee was appointed, arrangements were made with the State Auditing Board and O. B. Lund, that he start in, with the largest available force, to make an audit of the State Highway Commission. He commenced but on account of the large number of items to go over, he has been able to complete only a portion of the same. Mr. Lund made an audit covering the period from 1918 down to the 20th of November, 1923, which contains much information concerning the State Highway Commission, and the audit which he is now making, will cover from that period down to date. Under the law, this audit should have been made in the year 1924, but was not done for lack of funds. Some of the figures given by Mr. Lund have already been quoted in connection with the surplus war equipment; also concerning the purchase of automobiles, oil and tires. Mr. Lund's testimony commences at page 1033 of the Transcript and contains much valuable information.

From his testimony, it appears that the sales of surplus war equipment from November 30, 1923, to December 30, 1924, amounted only to the sum of \$18,148.67; that the net sales were, in reality, only \$7,000.00 on account of adjustments made with counties, and refunds; that the sales of trucks, automobiles and tractors and, in addition thereto, mis-

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cellaneous equipment consisting of tents, shoes and saws, were made to the amount of \$30,505.53, making the total amount of sales, \$48,654.20. It further appears that the operating expenses amounted to about \$38,000.00, this including freight and other items on the materials received from the Government; that the total operating expenses, including all items, is \$62,766.12, making the total loss from November 20, 1923, to December 31, 1924, \$19,605.14.

The audit of Mr. Lund, when completed, will undoubtedly give much valuable information concerning the operation and transactions of the State Highway Commission. Mr. Lund also testified that none of the recommendations and suggestions made by him in his former report, had been acted upon by the State Highway Commission. He also says that this surplus war material is rapidly deteriorating in value each year.

OTHER CRITICISMS

It is also suggested that, in the future, before thousands of dollars are paid out to contractors for claimed additional work, the Attorney General of the State of North Dakota be consulted and requested to give an opinion as to whether or not any of these contractors are legally entitled to recover any portion of the amounts which they claim, and whether or not the State has a counterclaim against said contractors for the liquidated damages provided for in the contract.

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See Transcript—Pages 732 and 734.

It is also the belief of this Committee that if W. G. Black had consulted the Attorney General prior to the making of any payments to T. Twichell on the contracts in Richland and Sargent County, the Federal Government and the State Highway Commission of North Dakota would probably have saved from \$30,000.00 to \$40,000.00.

Prior to the letting of the contract for the Mandan paving, known as 100-B, Mr. Black requested an opinion from the Attorney General of the State of North Dakota as to whether or not certain unexpended balances in what is known as the Bridge Fund, amounting to approximately \$31,000.00, could be used for the purpose of paying the State's one-third share of the Mandan paving. The Attorney General gave his opinion that such funds could not lawfully be used without an appropriation from the State Legislature authorizing such use. Thereupon a resolution was passed by the State Highway Commission appropriating \$30,000.00 to pay the State's one-third share. The contract for the paving was let to the Northern Construction Company, work commenced and the job completed along about the first of November, 1924. The Federal Government's one-half share was paid; the county's one-sixth share and none of the State's one-third share amounting to something over \$27,000.00.

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Mr. Black made out warrants upon this unexpended balance in the State Bridge Fund, in defiance of the Attorney General's opinion, to pay the State's share of the paving. Payment of these warrants was refused by the State Auditing Board. Action was then commenced by the Northern Construction Company in the District Court of Burleigh County to mandamus the State Auditing Board to issue warrants in payment of this paving. In January, Judge Jansonius of the District Court rendered an opinion that these funds were not available for use until an appropriation had been made by the State Legislature.

Thereupon payment was made to the amount of \$15,000.00 of the State's share from the Automobile Fund which had heretofore been appropriated, leaving a balance of something over \$12,000.00 still unpaid to the Northern Construction Company, the chief clerk testifying that the reason that the balance was not paid was that the fund was depleted, there being a balance of only about \$3,000.00.

Under the requirements of the Federal Government, before these contracts could be let, a certificate must be signed by the chief engineer that funds for the payment of the State's share are available for use as soon as the contract has been com-

pleted and accepted. It would thus appear that the funds for paying the State's share of the Mandan paving were not
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kept intact for that particular use but that something over \$9,000.00 of them had been expended for other purposes, which were not disclosed to the Committee, or else a false certificate had been made by the Chief Engineer.

Especial attention is directed to the testimony of Mr. Black in which, on page 737, he denied having an opinion from the Attorney General on the Bridge Fund, and, on Page 738, denied that the opinion of the Attorney General was to the effect that such funds could NOT be used on paving project. He further testified "and so in conference with Mr. Shafer I believe it was practically decided that he could use that fund and there isn't anything in the law to prohibit it."

Attorney General Shafer testified that he gave no such advice and had advised, at all times, that funds could not be used without an appropriation from the Legislature. SEE TRANSCRIPT—Page 829.

And while we are on the subject of certificates as to availability of funds, we respectfully direct your attention to the following:

On Page 685 of the Transcript, Mr. Black admits that the Federal Bureau of Public Roads requires that the Chief Engineer certify that county funds are available, which certificate must be filed with said Bureau as a condition precedent to the payment of any amount by the said Bureau, and
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further admits that the certificate of the County Auditor that such county funds are available, is required by the Highway Commission. On Page 943, of the Transcript, Mr. Black admits that he never received such certificate of availability and attempted to rely upon a blanket appropriation made by the Richland County Commissioners for \$150,000.00, which resolution stated that "funds will be available." His attention was directed to the resolution of said County Board repealing an item of \$50,000.00 in such blanket resolution which, even under Mr. Black's construction of the matter, would leave no funds available for this project. Black said he had never heard of it although it forms part of the files on the project. It appears, therefore, from the undisputed testimony that the certificate of the availability of Richland County funds was unwarranted and should not have been executed by Mr. Black.

From the testimony of Mr. J. R. Poupore, a member of the State Highway Commission, it was developed that the Commission had been in the habit of relying entirely upon the Chief Engineer for all information upon which resolutions of the said Highway Commission were based.

According to the testimony of Mr. Poupore appearing at pages 504, and 519 of the Transcript it appears that in referring to Project 59 Mr. Black told the Highway Commission "that he went over this project carefully and had made the proper estimate of the amount of work done on the project and that orders for the extra work were given by the Highway Engineers." A review of Mr. Black's testimony as herein cited will at once demonstrate that he was not conveying correct information to the Commission.

On page 509 the same witness was requested to explain why the Highway Commission had inserted in a resolution the statement: that the former administration had by inadvertance or intentionally made no changes in plans on project 5 when as a matter of fact the change made by Robinson in March, 1923, was in the files of the Highway Commission. The witness advised the committee that he had derived his information from Mr. Black, and on page 510 testified that the resolution was passed relying solely upon the information given to them by Mr. Black.

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On page 506 the witness testified that he had never looked at Twichell's figures. There was a lot of other testimony along the same general line, viz., that the Highway Commission had relied entirely upon information of Mr. Black in the transaction of all of their business.

The committee feels that the State Engineer should, above all things, be a man upon whom his associates could confidently rely and who would not abuse that confidence under any circumstances or to accommodate any person.

The committee also feels that in the settlement of Project 59, involving as it did the expenditure of almost \$50,000.00 of public funds, that the State Highway Commission should each and all participate in such settlement and assure themselves, in every way possible that such a large increase over the contract price is warranted; consulting with the resident and division engineers and, if deemed necessary, by a complete re-survey and re-cross-sectioning of the entire project.

We feel that this is especially true in the instant case because the files of the Highway Commission would have immediately revealed the fact that additional claims had also been made by the same contractor on F. A. P. No. 1 and on F. A. P. No. 58. This fact should have caused the Commission to scrutinize the claims on 59 thoroughly and carefully, themselves.

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The Committee regrets that it was unable to examine Mr. Black further at their Saturday evening session, and had notified Mr. Black to appear and subject himself to further examination. Mr. Black appeared but did not stay until he could be called as a witness.

Mr. Black has failed to produce, for the use of the Committee, the following records, although repeated demands have been made upon him for the production of the same:

See Transcript:

Page

728—Statement from Richland County.

752—Detailed statement on F. A. P. No. 58.

802)

918)—Cost of road markers and standards.

930—Cost of surveys, construction engineering and administration when surveys are made by the Highway Department.

961—Agreement for Arbitration.

936—Statement concerning the amounts paid W. F. Reko.

On account of the limited time at its disposal, the Committee has been able to go into only a small part of the business and affairs of the State Highway Commission and regrets

such fact, as it feels that the taxpayers of the State of North Dakota are entitled to have full knowledge concerning the transactions involved in the spending of nearly two million
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dollars per year in the building of roads in North Dakota.

The Committee, in making this report, have no feelings of ill-will or rancor toward the State Highway Commission or any of its members or employees on account of politics or otherwise. In this connection, the request is respectfully made that each member of the Legislature read the testimony or at least such parts of it as are specifically indicated in this report, so that he or she may be able to form an independent judgment as to whether or not the findings of this committee are sustained by the evidence introduced and not allow himself or herself to be influenced by unfounded and ill-advised charges, gratuitously made by a portion of the daily press and by self-seeking individuals that this investigation was made for political purposes only.

Dated March 3rd, 1925.

Respectfully submitted,

SPECIAL HOUSE COMMITTEE.

By Roy A. Yeater,
Chairman.

Wm. A. Thatcher,
Secretary.

F. A. Vogel,
Member.

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MINORITY REPORT

To the Honorable Speaker and Members of the House of Representatives of the State of North Dakota:

The undersigned, a minority of the Investigating Committee appointed by the House, hereby disagrees with the report of said committee signed and filed by a majority thereof, and disagrees with the conclusions and recommendations made therein and in support of said dissent, files this report as a minority report of said committee.

POLICY OF INVESTIGATION

The majority report recites that the policy of the investigation was to hear all persons who had any information whatever concerning the matter under investigation. We, as a minority of the committee deny that such has been the policy of the committee, and state the fact to be that a large number of persons who might have given testimony relative to the matters under investigation, and whose names were given to the committee, were not called and examined by the committee, and in this regard, we call your attention to the fact that with reference to the work done upon what is known as the Richland County Project, the witness, Treadwell Twichell, gave to the committee the name of C. A. R. Distelhorst, and H. O. Wray, who were well informed concerning the facts under dispute in regard to the Richland and Sargent County projects, and whose testimony was material in determining the true facts with reference to said matters, and that said committee refused and neglected to call such witnesses, al-

though they were available and could have been subpoenaed.

Further, that the policy adopted by the majority of the committee resulted in only one side of the alleged facts under investigation being heard in this:

1. That the committee denied at the beginning of the session, the written request of the Highway Commission and the State Engineer of the right to be represented by counsel, and while it is true that the committee later permitted counsel for the Highway Commission to be present in the room during the taking of the testimony at the hearings, it was specifically ordered by the committee that such counsel should not be allowed to make any statements, or to ask any questions of the witnesses or interpose any objections, or test the story of such witnesses by cross examination.

2. That part of the testimony taken before said committee and upon which the majority of this committee bases its report, was taken at secret meetings of the committee, at which the public was excluded, and at which no opportunity was given to cross-examine the witnesses, and in this, particularly, we call attention to the fact that the witness, I. P. Baker, testified before said committee in secret; and that the committee in open session, through its counsel, assured and stated to the State Engineer and his counsel that the said I. P. Baker would be recalled by the committee and an opportunity given to Mr. Black's counsel to cross-examine him as to the charges that the said I. P. Baker had made, and that the committee wholly failed to recall the said witness or to give counsel for the State Engineer an opportunity to cross-examine him, this in violation of their agreement.

3. That later the committee through its counsel in open session, stated to the State Engineer that the witnesses that had been called and not cross-examined, would be recalled and an opportunity given of a cross-examination of such witnesses. This, the committee wholly failed to do with the result that the statements that such witnesses made concerning the Highway Commission were not testified by cross-examining questions which would have brought out the true facts of the matter and shown the animosities and prejudices of the witnesses, if any.

4. That during said hearings, the said Highway Commission were informed that later they would be given an opportunity to call witnesses of their own with reference to the matters under investigation, but that this has not been done by the committee and that no sufficient opportunity was given to the Highway Commission to call such witnesses. In this particular it may be stated that at the Saturday, February 28, 1925, evening session of the committee, the committee suddenly decided that the taking of testimony by witnesses would be closed that evening, and called the name of Mr. Black.

5. That the transcript of the testimony upon which the report of the majority of this committee is based is incomplete and full of inaccuracies and as proof of that fact we cite that with reference to the testimony of Treadwell Twichell, who demanded that the transcript of his testimony be shown to him after it was transcribed, there were one hundred and thirteen errors and mis-statements in the tran-

script with reference to his testimony as given on the stand, and that all of which errors occurred through the inaccuracy of the stenographer in making the transcript, and many of which errors referred to material statements made by the witness on the stand.

6. That the committee in the conduct of its investigation, engaged first, F. G. Graham as its counsel, and later added another attorney, C. E. Lounsbury, who were active in examining the witness brought before the committee and whose general line of questions were of such nature as to induce witnesses to give testimony unfavorable to the Highway Commission, and that their line of questions were such as to cause the suppression of testimony favorable to the said Highway Commission, and that this policy was carried out throughout the entire hearings.

7. That throughout the hearing the two counsel mentioned continually interrupted the witnesses before the witnesses had finished their answers to the questions put to them, and the transcript is full of incomplete answers due to the answers that they were giving to the counsel, and that the counsel stopping the witnesses in making explanations to there was a continued effort on the part of the counsel to answer questions "yes" or "no" and a continual endeavor to stop the witnesses from giving the true facts and explanations in connection with their answers; and that the witness W. G. Black was continually interrupted in his answers and was assured by the Committee at the time he was interrupted that he would be given an opportunity later to make such explanations as he desired, and still the Committee never at a later time gave him the opportunity to make such explanations.

8. That the witness, W. G. Black, endeavored to produce before the committee all the records that they desired, but that the counsel failed to take and use some of the exhibits that he offered that were explanatory of the charges made and favorable to him, and they took only such exhibits as were detrimental to the Highway Commission; and in this particular attention is called to the fact that the counsel and not the committee selected all the matter, exhibits and other documents that were presented at the hearing, and that in no case was the committee consulted as to what exhibits and documents should be presented.

9. With reference to the Richland County project and the testimony of Treadwell Twichell, it became very material and important to have in the record the testimony that was taken before the Board of Arbitration composed of ex-Senator C. F. Mudgett, the Honorable Sam Crabbe, and former State Engineer Jay W. Bliss, which Arbitration Board finally adjusted and decided the conflicting claims between the contractor and the Highway Commission with reference to the Richland County project, but that the committee, who held and had in its possession the only copy of that testimony that existed, being the copy that was in the files of the Highway Commission, and which had been turned over to the Committee by State Engineer Black, failed to put the said transcript in the record, and refused to show same to witnesses, particularly the witness Treadwell Twichell, who asked to be allowed to

see it: and that the said committee further assured the witness Treadwell Twichell that the transcript of the testimony of said arbitration board would be incorporated in the transcript before this committee, but they have wholly failed to do so, and that such testimony is important and material in that it will disclose the fact that the counsel for this committee in examining the witnesses Twichell and Black misquoted and misstated the testimony that was given before the said Board of Arbitration.

10. That result of such procedure has resulted in a one-sided hearing in which no fair opportunity was given to those who were being investigated, to test the truth of statements or charges made against them, or to present witnesses who could testify to the true facts.

We further report that the statement in the majority report to the effect that the State Engineer and the witness, T. Twichell, were represented by counsel at the hearing, is inaccurate in this, that while it is true that counsel were permitted to be present in the room, yet the rules adopted by the committee and the orders of the committee were such that such counsel became mere spectators and were not allowed to ask questions or interpose objections or to bring out those matters that would be explanatory of the testimony brought out from the different witnesses.

11. The majority report sets out at length the recommendations made by the Senate Investigating Committee which investigated the Highway Commission in 1923, and in this connection we deem it fair to call the attention of the House to the fact that the mass of material mentioned in that report had to do with the mass of war material that was shipped to the State of North Dakota by the Federal government in order to get rid of the accumulations of material that had become useless after the war; that great portions of this war material that was of no use or benefit in any to the State of North Dakota, and the handling of this material presented a serious problem not only to the Highway Commission of the State of North Dakota, but to the Highway Departments of all the States of the Union; and it is only fair to say that this material cost the State of North Dakota not one cent except the freight and handling charges that were paid thereon.

12. The majority of this committee, on their comment in connection with the Senate investigation of the Highway Commission in 1923, with reference to the practice that was then alleged to be in vogue of increasing estimates on road work done, cited with approval the following language used by the 1923 committee:

"The Committee, however, believes that this is a practice which should be discontinued, and that hereafter, if an increase is made in an estimate, the engineers making the adverse estimate should consult with each other and the Chief Engineer, or let some other authority decide the matter after both engineers have been heard." The minority of this committee now respectfully call the attention of this House to the fact that the recommendation of the 1923 committee was the exact procedure adopted by W. G. Black, State Engineer, and the Highway Commission, with reference to the Richland County project in this, that a dispute having arisen between

the contractor and the Highway Commission as to the estimates, a Board of Arbitration recognized by the statutes of the State of North Dakota as a proper tribunal for settling claims was created, and the matter of dispute, together with all the testimony connected therewith, was submitted to said Board of Arbitration and the said Board of Arbitration made the award to the contractor, and said award was not made by the Highway Commission or the State Engineer, and that the effort of the State Engineer to carry out the recommendation made by the committee of 1923 is to be commended rather than condemned. In this connection it is only fair to state that the question of estimates being raised was, so far as the testimony introduced before this committee is concerned, was brought up only as to one project, and that is the project in Richland County; and there is no word of testimony showing that during the entire present administration of the Highway Commission the question of raising estimates occurred on any other project.

13. With reference to the report of the 1923 investigating committee which has been referred to by the majority of this committee, and the recommendations made by the 1923 committee, we find that the State Engineer was only carrying out the recommendations of that committee in disposing of the war material that could not be used on the roads to private individuals, and we find that he has been condemned before this committee for making private sales, whereas it now appears that not only was he authorized to do so by the opinion of the Assistant Attorney General of the United States, but that such course was recommended by the 1923 investigating committee.

14. The majority of this committee in their report call attention to the fact that \$111,802.19 of the funds of the State Highway Commission has been used to pay freight and handling charges on obsolete war material without authority of law shipped by the government of the United States. We find that practically all of this material was shipped to North Dakota by the Federal government long prior to the time when the present Highway Commission took office; and we find that freight and handling charges were the only charges made against the Highway Commission for this material. The majority opinion further states that the audit of the Highway Commission discloses that there has been a loss to the taxpayers by reason of this freight and handling charges having been paid and state in their report that that loss now shows at this time the sum of \$53,283.06. The true facts are that as shown by the records before the committee that at the time W. H. Robinson, the former State Engineer, finished his term of office, the books showed a loss of \$86,000.00 on this same item, and the fact that it now appears there is only \$53,283.06 loss on this item proves the fact that during the administration of Mr. Black and the present Highway Commission there has been saved to the taxpayers of the State of North Dakota the sum of \$32,717.00, being the difference between \$86,000.00 that was charged as a loss during the Robinson administration, and the \$53,283.06 that is now charged; and it is only fair to state in this connection that as this war material is disposed of it is fair to assume that the loss will be materially reduced if not liquidated; and

we find that the present administration of the Highway Commission is not chargeable in any sense with said alleged loss.

15. We find from the records submitted to the committee that the alleged fire loss in November, 1923, that the record discloses that the majority of this committee is in error in stating that part of the insurance in the burned property had been placed with the Farmers Insurance Company of Dickinson, North Dakota. We find it is a fact that no such insurance was ever placed by such company, and that the only thing in the record to uphold such a finding is the fact that an investigation and inquiry was made of said company as to rates.

The true facts are that this property carried about \$4000.00 of State insurance, which sum was paid in settlement of the loss.

16. With reference to the alleged \$20,000.00 that it is claimed by the majority of the committee is due the State from various counties of the State for trucks and other material, we find that the records before this committee showed that all of this indebtedness was contracted and became due and owing from the different counties prior to the time that the present highway commission and W. G. Black took office; and as to whether or not the present administration has made efforts to reduce this indebtedness, no questions affecting this was put to any of the witnesses by the committee, and we are of the opinion that had a proper opportunity been given to the witnesses from the department to testify on this question that it would have been shown that constant effort has been made by the present administration to collect this sum from the counties.

17. With reference to the cars sold T. R. Atkinson of Bismarck, we find that sales to private individuals of this kind of material was not only authorized by the opinion of the Assistant Attorney General of the United States, but was in line with the recommendation of the 1923 investigating committee hereinbefore mentioned; also that the testimony of Mr. Black on the stand, which has not been disputed, discloses the fact that the prices at which these cars were sold were in accordance with the schedule of prices fixed by the previous administration, and were uniform prices and rates, and fair value of the cars; and we cannot understand, as a minority of this committee, how the majority of the committee can find that the value of these old second-hand cars is more than the value of new cars of the same make. Further, with reference to this sale, we find from the statements made by the witness Gettelman upon the stand, that his whole attitude towards Mr. Black, the State Engineer, is an attitude of animosity and ill-feeling, and that a large portion of his testimony was prompted by this feeling and animosity; and we find further, that with reference to collecting for these cars sold the said T. R. Atkinson, it was the duty of said Gettelman as Superintendent of the Equipment Department to make the charges and make the collections, and that if there was any neglect in that particular it was due to the failure of Mr. Gettelman to carry out the orders given to him by the State Engineer, Mr. Black. With reference to the sale of Liberty "B" truck to the Red Traill Oil Company, which the majority of this committee say is valued

at \$1250.00, we find that the price charged to the Red Trail Company of \$395.00 was the price established by the prior administration, and was the regular price charged to everybody for that kind of a truck, and represented the fair value of the same.

18. With reference to the alleged inefficiency in the Equipment Department of the Highway Commission, we find that this department has been under the charge and direction of the above-mentioned W. F. Gettelman, and that the inefficiency there has been due to him; and that we are convinced from his attitude at the hearings that the inefficiency in his department was introduced by him in an endeavor to discredit W. G. Black, the State Engineer; and that the alleged inefficiency amounts to a matter of keeping books and accounts and a lot of detailed duties which under the circumstances could not be expected to be performed by the State Engineer, and must necessarily be left to a subordinate, which particular subordinate in this case was not loyal to his chief.

19. We find it is true, as stated by the majority of this committee, that there is a portion of this old war material now on hand exposed to the elements, but we find that there is nothing unusual in this situation; that this same material was handled the same way and exposed to the elements during the war, and that the State of North Dakota has not sufficient buildings in which to store this junk.

Sargent County Project No. 58

The claim is made by the majority of the committee that a total of \$8,000 was paid over and above the final amount actually due under the terms of the contract. The fact of the matter is, testimony showed that the claim of \$8,000 was for extra work allowed by the resident engineer who was in charge of the project, at the time he had made out his final report of completion of the work based upon a careful recheck of the plan quantities for and the extra work allowed, as indicated on his own copy of the plans. The final settlement was made upon the resident engineer's final estimate and we find that the reasons why additional work was necessary on this project are as follows:

The plans were faulty as claimed by the contractor. The plans were so pronounced by Mr. Luckey, Location Engineer, who swore that he knew the snow conditions prevailed in Sargent County as in Richland County. The claim of the contractor that these plans were faulty is substantiated by Mr. Roherty, who was sent to Sargent County by Mr. Robinson at the instance of the contractor. Mr. Roherty's testimony is to the effect that he found it impossible to build a road according to the states as set; that he run a new line and reset his stakes on approximately five miles. The testimony shows that Mr. Wray, Mr. Gavin present, authorized the replacing of dirt washed out on account of bad engineering, too low riprap, and ordered an increase of approximately 2000 yards of riprap. That he ordered the fills so washed out refilled; that he ordered Mr. Gavin to make an allowance for this extra work; that an order had been made for a connection with the road south to Rutland; that only a part of the work so ordered had been reported by Mr. Gavin. These various conditions, refills, connections, and other things ordered, necessitated more work and a larger cost. An examin-

ation of Mr. Thorberg's testimony will show that he admitted that a portion of the riprap was overlooked because it was covered up with weeds, and Mr. Distelhorst, Mr. Carroll, and Mr. Wray, the engineers who gave these orders who were not called by this committee, who could have testified on these points.

VALLEY CITY PAVING

With reference to the Valley City Paving Project, we find nothing to discredit the Highway Commission with reference to this project. As to the gravel that was used for the paving, the record discloses the fact that this gravel was shipped in and had been approved by both the state and the government engineers, and complied with the specifications. We find, further, that this gravel when it was shipped to Valley City was unloaded by the railroad company on a spur track that led to a local gravel pit, which local gravel pit contained shale, with the result that some persons may have figured that there was shale in the gravel that was used in the paving. The reason that the gravel was unloaded at this point was the fact that it was the only place that was available for the unloading and that the contractor had his screening and mixing plant there. And we find that the gravel that was actually used in this project was gravel that complied with the specifications, and that there was an inspector at the pit from the Highway Commission at all times, and that while it was true there was some dispute as to the gravel at Valley City, yet the record discloses that all the gravel that went into the paving was passed upon by the inspector on the ground and tests made by the Highway Commission, and that no condemned gravel was used and that the gravel portion of the paving was strictly according to specifications.

SURVEYING BY PRIVATE ENGINEERS

We find from the records, with reference to surveying, that it had been the custom of the boards of county commissioners in the different counties to request and insist that the surveying be done by local surveyors, ordinarily the county surveyors, who are necessarily private engineers, as mentioned in the majority report. This comes from the fact that the cost of surveying these projects is paid by the county from their state aid fund.

The report of the majority wholly fails to call attention to the fact that the testimony of Mr. Black on the stand discloses the fact that during the year 1924 some over \$30,000 was saved to the state by reason of the surveying being done in this manner and through the persons selected by the State Highway Commission. In other words, if the system that is now recommended by the majority of this committee had been in force during that year, it would have cost the state \$30,000 more than what was paid for the surveying, for the reason that it would have been necessary in order to carry out the plan mentioned by the majority of this committee, to carry over in the Highway Department through the winter season a full and complete corps of engineers.

The point is also made by the majority of this committee, with reference to the payment to one E. R. Griffin of fees for surveying and supervising the portion of the Man-

dan-Bismarck Bridge Project which consists of the paved road running west from said bridge, and the committee insinuates that it was strange that Mr. Griffin should be employed as he was the former partner of Mr. Black before Mr. Black was appointed state engineer. We find that there is nothing that is wrong about engaging a competent engineer, even though he has been a former partner of the state engineer. Mr. Griffin is the duly elected county surveyor of Morton county and throughout the late war was in the service of the United States as an engineer, as was also Mr. Black. The true facts are that the arrangement under which Mr. Griffin was employed on this work was made at the beginning of negotiations for the construction of the paving on the Mandan side of the Mandan-Bismarck Bridge Project, and that this arrangement was made by Mr. W. H. Robinson, then state engineer, many months prior to the time that Mr. Black became state engineer, and that Mr. Griffin's employment in this capacity was due entirely to the contract that had been made with Mr. Robinson.

The majority of the committee states that during the year 1924, 498.78 miles of proposed road in the State of North Dakota were surveyed by what they term private surveyors. This statement is inaccurate and untrue. The records show that there were only 419.6 miles surveyed during the entire year, and that of that number of miles only 293 were surveyed by what is termed private engineers.

With reference to the cost of surveying during 1924, we find that the cost of surveying during that year was not \$43,492.63, but was \$17,640.00.

RICHLAND COUNTY PROJECT

The testimony produced shows that the greatest trouble was encountered in the actual work of grading this project, and also in arriving at the correct quantities upon which to base final payment to the contractor. This was due to a faulty set of plans based upon a worthless survey made by the former Highway Commission prior to the time of Mr. Black's appointment; and that this faulty set of plans were due to the fact that snow and ice covered the ground, this fact being testified to by the witnesses who were called, and by Mr. Luckey, the engineer who made the original survey. The testimony showed that the plans made from this survey did not fit the ground and no accurate check of plans could be made by any engineer, and that the result of the faulty plans was that it amounted to there being no plans at all. The testimony showed that the additional work necessitated by such faulty plans amounted to the sum of \$2,324.64 on Project No. 59, Section A, and \$3,709.44 on Project No. 59, Section B.

The testimony further shows that the contract was awarded in 1920, and actual work begun, and continued through 1921 and 1922 prior to the time that Chief Engineer Black assumed office, and that numerous changes in the work required of the contractor were made during that time; further, that, because of this faulty survey, incorrect plans, and additional work ordered, neither Mr. Black nor his engineers could arrive at the exact and accurate figures and determine the exact quantities in dispute by the contractor, upon which to base a settlement; and that therefore, in order that settle-

ment might be made and litigation avoided, a board of arbitration was appointed which considered the facts and made its award. The majority report mentions the fact that not all witnesses were called before said arbitration board; but the facts as disclosed by the testimony were that all the plans, change in plans, and all the facts in connection with the work were submitted to the said board, together with the measurements showing the amount of material used, and sufficient testimony was furnished them upon which to determine the question of the amount of material and the overhaul, which were the issues in dispute; and if the committee had included in the transcript the testimony taken before the arbitration board, this fact would have been shown.

With further reference to this matter, we find that the fact that there was a dispute with the contractor as to this project was well known throughout the State of North Dakota for the past two or three years, and that during all of said time the people who are now objecting to the award that was made to the contractor never took any action in the matter, or by court or other proceedings attempted to have the disputed questions litigated, but have waited until this session of the legislature, after this matter has been in dispute for this number of years, and presented this matter to the legislature even after the whole question had been submitted to a competent board of arbitration and settled.

The letter from the contractor, Treadwell Twichell, to H. O. Wray, discloses the basis of the complaint on the part of the contractor.

An intimation is made in the majority report to the fact that the present highway commission should have collected damages from the contractor for delay in finishing this project. This would have been impossible, because the record discloses that during all of the season of 1921 and 1922 and up into 1923, written extensions of time for the completion of the contract had been granted to the contractor for just cause by the previous highway commission, and that the extensions of that time automatically cut off the right to claim penalty.

With further reference to the faulty plans on project No. 59, the testimony developed the fact that the original plans as adopted would have caused the using of unfit material in this, that the soil at the location of the proposed road was largely light, shifting sand, and that after the road was partly completed it was discovered that if the road was finished along the original lines that it would disintegrate and blow away; and therefore it became necessary to cover said road with clay or heavier soil, which was not contemplated in the original faulty plans, with the result that a large amount of clay surfacing was required in order to save this road, and with the result that there was large added expense in the construction of the road, which accounts for the increased cost of the road.

We further find that the delay in the payment to the contractor, Treadwell Twichell, was largely due to the fact that the funds available for this project were depleted prior to Mr. Black's coming into office, by the failure of the former administration to submit to the Federal government the question as to whether or not the extra or additional work should be done.

We wish to cite that the testimony discloses that the original plans of 4½ miles of Section A, Project 59, were abandoned, and a new agreement entered into at the insistence of Richland county commissioners between themselves and Mr. Distelhorst, the division engineer, and that the road was actually built following the changed plans. If this was true, it was a most important fact and covered the entire road controversy, as to both plans and material found.

Mr. Twichell named those acting for Richland county as Commissioners Hoefs and Swank, who are still commissioners of Richland county. The minority cannot understand why these commissioners were not called, they being the best possible and most competent witnesses, especially as it was claimed by counsel that Richland county was a party to this controversy.

The testimony also discloses that all borrows or pits were selected by the Robinson administration; that all abandonments of pits was made by that administration, except that of pit I, ordered by Mr. Black, and a cheaper way found, saving approximately \$2,800.00 to the cost of the work.

AMOUNT OF GAS, OIL AND TIRES USED

With reference to the purchase of automobiles we find on record as shown by the testimony, that of the 56 automobiles which the majority of this committee claims are on hand, only 18 of them are in any way serviceable, the balance being junk. It might be inferred from the report of the majority of the committee that the Highway Commission bought new cars when they had 56 automobiles on hand. The new automobiles that were bought by the commission are included in the 56 which it was stated are on hand; and it was necessary to buy new automobiles because the old ones that had been shipped by the Federal government to the state were not dependable for the use that the Highway Commission intended to put the cars to. With reference to the amount of oil, gas, tires and tubes used, we find that there has been no larger amount of such articles used while Mr. Black has been in office than was used by the former administration, in spite of the fact that the amount of work performed by the present State Highway Commission has increased over 200 per cent from that of its predecessors.

With reference to the "Indian Head" markers purchased by the Highway Commission, the record discloses the fact that there is only one firm in the United States that makes these markers and that they sell them at a fixed price, and that it would have caused unnecessary delay and have been to no advantage to advertise for bids on such markers.

PROPOSED BURLEIGH COUNTY PAVING CONTRACT

With reference to the proposed paving of the road leading east from Bismarck to the penitentiary and the criticisms made thereon by the majority of this committee, we find from the testimony that said proposed paving is only in its preliminary stages and that no contract has been entered into or signed by the State Highway Commission with reference to this proposed paving, nor has any contract been entered into by the county commissioners, so that if there is anything wrong with the proposed paving, those who are

objecting to it have ample opportunity to stop it. As we take the testimony, the whole issue with reference to this proposed contract arises out of the contest between those who are advocating different types of paving, particularly those who are in favor of Portland cement concrete paving are raising an issue because the county commissioners of Burleigh county, upon the receipt of bids, recommended the award of contract for the four-inch Warrenite bitulithic with asphaltic concrete base; and the majority report attempts to decide what is best as between the different types of paving. The true facts as shown by the testimony are that the State Highway Commission did not recommend or require any particular type of paving, but advertised for bids for seven different kinds or types of paving, and left it to the local authorities to determine as to which type was best adapted to their purposes; and that if a mistake was made by the county commissioners in selecting the type of paving that they have selected, it is not chargeable to the State Highway Commission, and the State Highway Commission should not be condemned for it. And we further find that this recommendation by the county commissioners of Burleigh county, in selecting the particular type of paving has not been referred to or been acted upon by the Highway Commission.

MANDAN PAVING PROJECT, NO. 100B.

With reference to the completion of Project No. 100B, being the pavement west of the Mandan-Bismarck bridge, and the criticism that is aimed at Mr. Black with reference to having the state participate in this work and endeavor to pay the state's share of the expense out of the 10 per cent fund, we find that the facts are that the paving of the road leading west from said bridge has, from the very inception of the project, been considered a part of the bridge project in this, that the road leads across the low lands of the Missouri river, and that the bridge project as determined by the Federal government was not confined solely to the erection of a bridge, but also included the approaches across these low lands, and that the Federal government, before they would approve the entire project, required that said road be paved from the first available funds, and later made an order the effect of which was to require that the paving be done within three years, which required that immediate action be taken in the matter or the government would refuse to participate and contribute one-half the cost thereon. The result was that it was necessary to push the work of paving said road in order to complete said project and comply with the Federal requirements; and if such work had not been pushed, the present splendid paved road that is now part of this project for the use and benefit of all the people of the state would not have been completed to this time. We find that no criticism should be attached to the Highway Commission for this work, and we believe that they should be commended for the industry which they showed in endeavoring to find funds for the payment of the state's share on this project and thus avoid the complications with the government that might have arisen and might have caused the withdrawal by the government of their consent to pay one-half of the cost of the project.

REPORT OF O. B. LUND, AUDITOR

The majority of the committee calls attention to the report of O. B. Lund, which has not been completed. We do not understand that they claim that the report is sufficiently completed to base conclusions thereon. In this connection we desire to call attention of the House of Representatives to the fact that during the entire hearings before this committee, there has not been any word of testimony indicating any criminal violations of the laws, embezzlement of funds, or wrong-doing, in connection with the financial matters covered in Mr. Lund's report, and we further find that during Mr. Black's administration he has had the affairs of the Highway Commission audited during the year 1923 as required by law.

The majority report states as a fact that the Highway Commission was not carrying out the recommendations made by Mr. Lund in his previous report. We find that this is a mis-statement, and the majority of the committee failed to point out in what particular his recommendations are not being carried out. As a matter of fact, the testimony before this committee shows that the recommendations made by Mr. Lund in his previous report have been and are being carried out by the Highway Commission.

OTHER CRITICISMS

Among the other criticisms charged to Mr. Black is the statement made by the majority of this committee that all the witnesses who knew about the facts with reference to the Richland county projects were not called before the arbitration board. The testimony of Mr. Black discloses the fact that at the time the arbitration board met, he called the attention to the arbitrator, Bliss, as to who the engineers were who had had charge of this work and knew the facts, and gave them their names and addresses, and told Mr. Bliss to bring them before the arbitration board if the board considered the testimony necessary; and that prior to the meeting of the arbitration board Mr. Bliss was notified by Mr. Black to have all parties who knew about the facts brought before the arbitration board; and that the arbitration board were themselves handling the question of witnesses and as to whom they would hear, and did not look to Mr. Black to furnish witnesses.

Throughout the majority report the committee condemns W. G. Black for alleged lack of knowledge, and states that his answers to the questions put by the committee's counsel were evasive, and claims that his testimony discloses that he was not familiar with matters he was testifying about, particularly with reference to the Richland and Sargent county projects. In all fairness to Mr. Black, we again want to call the attention of this House to the fact that Mr. Black on the stand continually reiterated to the committee and its counsel that almost all of the work in connection with the Richland county and Sargent county projects had been done under the previous administration, and that he was not familiar with the details, and did not know what had been done with reference to those projects; but that in spite of these repeated declarations by Mr. Black, the committee continued to ask him questions that had to do with the details of the former Highway Commission and the former

state engineer, Mr. Robinson, which from the very necessity of things was not within the knowledge of Mr. Black, and any statements that he would make with reference thereto must necessarily have been hearsay; and it is not surprising that there were many questions asked him concerning the former administration which he could not answer and concerning which he did not have that positive knowledge that would qualify him to testify as to those instances. And we further call the attention of the legislature to the fact that continually during the hearing Mr. Black was interrupted and not permitted to make the explanations that he evidently desired to make; in other words, that the attitude towards Mr. Black assumed by the counsel for the committee was that of trying to trap him and ask him unfair questions rather than giving him an opportunity to explain. As far as we observed, Mr. Black was courteous to the committee throughout the entire hearing, and made an honest endeavor to produce all facts and documents requested by the committee.

We find that Mr. Black is an efficient engineer, that he is a graduate in the course of engineering, that he has wide experience in that profession, and has a good record as an engineer in the army of the United States; and we find nothing from the testimony that has been introduced before this committee that can condemn Mr. Black or the Highway Commission; and find that the only matters of any criticism at all are matters of mere irregularities that may and usually do occur in any department of the state government.

We further find that during the years 1923 and 1924, under the administration of the present Highway Commission, 918.25 miles of roads in this state had been constructed and accepted, and that in addition to that during those two years the present commission has graveled 452.52 miles of road in the state, and that during the six years previous to this commission taking office, there was only 928.22 miles of road constructed and accepted in this state, and 67.93 miles of road graveled under the Highway Commission; so that in the last two years the present Highway Commission of this state has caused the construction of more highways than had been accomplished by the prior administration in six years.

The Highway Commission is to be commended for the fact that even though this investigation of their department has been in progress for the length of time that it has during this session of the legislature, that there has not been a single word of complaint which has come before this committee outside of the matters mentioned in the majority report; and there has been no single witness come before this committee who has testified to any specific single act of graft in connection with the operation of said department.

As to the recommendation of the majority of this committee to the effect that the surplus war material now on hand should be disposed of, we agree with this conclusion, and in our opinion this property should be disposed of as soon as possible, and the equipment department of the Highway Commission disposed of.

Respectfully submitted,

JOHN HALCROW,
ALIX ANDERSON,

Minority Members House Investigating Committee.

STATEMENT OF PAYROLL—SPECIAL HOUSE COMMITTEE

Witnesses:

Dan. R. Jones, Wahpeton, North Dakota.....	\$2.10
R. B. McDonald, Solen, North Dakota.....	2.10
T. R. Atkinson, Bismarck, North Dakota.....	4.10
J. H. Newton, Mandan, North Dakota.....	4.70
J. H. McAuliff, Mandan, North Dakota.....	4.70
John N. Smith, Fort Lincoln, North Dakota.....	2.50
R. H. Myrha, Wahpeton, North Dakota.....	41.40
Treadwell Twichell, Mapleton, North Dakota.....	39.00
C. H. Lucke, Moorhead, Minnesota.....	24.00
John Gavin, Springfield, Missouri.....	75.40
C. F. Mudgett, Valley City, North Dakota.....	16.00
J. A. Wallace, Bismarck, North Dakota.....	2.10

Total\$218.10

(A1)

Total Brought Forward\$ 218.10

Reporters:

B. F. Tillotson, Reporter, Bismarck, North Dakota.....	\$214.00
Irma B. Shepard, Reporter, Ellendale, North Dakota.....	700.00
Sigfrid Alfson, Reporter, Bismarck, North Dakota.....	300.00

Total1,214.00

Additional Help Employed by O. B. Lund to Assist in Making the Audit:

A. W. Luehrs, Bismarck, North Dakota.....	\$ 97.50
Ben Martin, Bismarck, North Dakota.....	85.00
Ted Meinhoven, Bismarck, North Dakota.....	37.50
Robert A. Yeater, Bismarck, No. Dak.....	108.00
Glenn Jensen, Bismarck, North Dakota.....	37.50
O. R. Vold, Bismarck, North Dakota.....	82.50
Tom Lauder, Bismarck, North Dakota.....	65.00

Total\$ 513.00

Other Expenses:

Hotel McKenzie, Bismarck, North Dakota, for office and work room for counsel and reporters.....	\$ 45.50
Telephone and telegrams paid by the McKenzie Hotel, Bismarck, No. Dak.....	28.20
Rohrer's Taxi Service, Bismarck, North Dakota, 2 autos for trip to Fort Lincoln by Committee.....	10.00

Total\$ 83.70

Counsel:

F. J. Graham, Ellendale, North Dakota.....	\$1,350.00
C. E. Lounsbury, Wahpeton, No. Dak.....	633.40

Total\$1,983.40

Grand Total\$4,011.90

(A2)

I, the undersigned, do hereby certify that the within bill, claim, account, or demand, as set opposite my name, in the within statement of the payroll, of the Special House Committee, attached thereto, is just and true; That the money therein charged was actually paid for the services therein stated; that the services therein charged were actually rendered and are of the value therein charged; that no part of such bill, claim, account or demand has been paid, and that the goods therein charged were actually delivered and were of the value charged.

Dated March 3, 1925.

F. J. GRAHAM
McKENZIE HOTEL
ROHRER'S TAXI SERVICE, Inc.
T. B. MEINHOVER
C. E. LOUNSBERRY
IRMA B. SHEPARD
SIGRID ALFSON
B. TILLOTSON
GLENN JENSEN
ROBERT YEATER

I hereby certify that the above account was signed in my presence and by the persons whose signatures appear above.

Dated this Third day of March, 1925.

ROY A. YEATER,
Chairman.

SPECIAL HOUSE COMMITTEE CERTIFICATE

I do hereby certify that the within bill, claim, account, or demand is just and true; that the money therein charged was actually paid for the purposes therein stated; that the services therein charged were actually rendered and are of the value therein charged; that no part of such bill, claim, account or demand has been paid; and that the goods therein charged were actually delivered and were of the value charged.

ROY A. YEATER,
Chairman Special House Committee.

F. A. VOGEL,
Member.

WM. A. THATCHER,
Secretary Special House Committee.

CERTIFICATE

I DO HEREBY CERTIFY, That the within bill, claim, account, or demand, is just and true; that the money therein charged was actually paid for the purposes therein stated; that the services therein charged were actually rendered and are of the value therein charged; that no part of such bill, claim, account or demand has been paid; and that the goods therein charged were actually delivered and were of the value charged.

B. C. LARKIN,
Speaker House of Representatives.

J. C. MILLET,
Chief Clerk.

Mr. Borman moved that the House do now recess until 10:00 A. M. tomorrow.

Which motion prevailed.

J. C. MILLER,
Chief Clerk.

FIFTY-EIGHTH DAY AFTER RECESS AND
FIFTY-NINTH DAY

House of Representatives,
Bismarck, North Dakota,
March 5, 1925.

The House re-assembled at 10:00 o'clock pursuant to recess taken.

The Speaker presiding.

The House returned to the Eighth Order of Business.

Hoople moved that the rules be suspended and that House Bill No. 86 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

THIRD READING OF HOUSE BILLS

ROLL CALL

House Bill No. 86. A Bill for an Act to Amend and Re-enact Sections 6, 7, 13, 26 and 27 of Chapter 160 of the Session Laws of 1919 as Amended by Chapter 38 of the Special Session Laws of the Sixteenth Legislative Assembly of the State of North Dakota, as Amended and Re-enacted by Chapter 77 of the Session Laws of North Dakota for the Year 1921, as Amended and Re-enacted by Chapter 232 of the Session Laws of North Dakota for the Year 1923, Relating to State Hail Insurance.

Was read the third time.

The question being on the final passage of the bill, as amended by the Senate, the roll was called, and there were ayes 93, nays 20, absent and not voting 0.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hardy, Mountrail	Plath
Anderson, Sargent	Hartl	Quade
Anderson, Stutsman	Helbling	Quam
Arduser	Hildre	Rabe
Bollinger	Hoople	Rasmusson

Messrs.	Messrs.	Messrs.
Brant	Iverson	Richardson
Brown	Jacobson	Roberts
Bubel	Jodock	Root
Burkhardt	Johnson, Foster	Rulon
Burns	Johnson, McHenry	Sanderson
Butt	Johnson, Traill	Sanford
Carr	Jones	Schmidt
Cart	Kamrath	Shepard
Craig	Keierleber	Shurr
Crocker	Lazier	Skogland
Currie	Leraas	Standley
Dougherty	Levin	Starke
Doyle	Loudenbeck	Streich
Eckert	McCay	Svingen
Elken	McDowall	Swett
Ellingson, Traill	McGauyre	Thatcher
Erickson, Divide	McManus	Thompson, Burleigh
Erickson, Kidder	Martin	Thompson, Sargent
Erickson, Steele	Miller, McIntosh	Tschida
Ferris	Miller, Williams	Tuneberg
Fine	Montgomery	Tweten
Flom	Morton	Vogel
Fox	Muus	Worner
Freeman	Oberg	Yeater
Hanson	O'Neil	Zimmerman
Hardy, Slope	Palms	Mr. Speaker

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Borman	Johnson, Pembina	Slominski
Boyd	Johnson, Ransom	Sproul
Divet	Olafson	Traynor
Ellingson, Ramsey	Peters	Twichell
Frank	Polfuss	Veitch
Halcrow	Radcliffe	Watt
Hempel	Sagen	

So the bill passed and the title was agreed to, and the emergency clause was declared carried.

Mr. Hoople moved that the vote by which House Bill No. 86 was passed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

Mr. Carr:

Mr. Speaker: I wish to explain my vote. I feel that it is a mistake to put in the retroactive features of this bill. I think it will be found that it has been a mistake. Nevertheless, rather than see the bill defeated I vote "aye."

Mr. Divet:

Mr. Speaker: I wish to explain my vote and have it entered in the Journal. As a lawyer who has studied this matter, and become thoroughly convinced that in large measure the proposed act is unconstitutional I, obviously,

could not, under my own constitutional oath, support it, and for no purpose other than making my own record clear and without either intending or desiring to influence any one else, I vote "no."

Mr. Hempel:

Mr. Speaker: I wish to explain my vote and have it recorded in the Journal. I voted "no" on this bill when it came before the House the first time because at that time we had another bill here which dealt with the 20 per cent only and I hoped we would pass that bill so that the people that had the 20 per cent coming might actually receive the 20 per cent. At this time this other bill, which pertained only to the 20 per cent, has been killed and I feel that this bill we have before us now will not give the people their 20 per cent anyway. I vote "no" because it still contains the zoning feature which will kill the system anyhow.

Paul Johnson of Pembina:

Mr. Speaker: I wish to explain my vote. I am rather sorry that this bill was not allowed to pass and become a law as amended in the House for we had it in pretty fair shape, but owing to the fact that the Senate has now seen fit to make certain amendments and additions to the bill, and I believe with my friend Mr. Divet that it is unconstitutional, and owing to that belief though I would like to support the bill I will have to vote "no."

Mr. Twichell:

Mr. Speaker: I was for this bill as it originally left the House. The amendments that have been put on it in the Senate, in my opinion, seriously raise the question of the constitutionality of the law with respect to two features. That being the fact, at this time I will have to vote "no" on the measure.

Mr. Swett:

Mr. Speaker: I vote "aye," with the understanding that in the matter of taxes this law is intended to be retroactive insofar as the Legislature has power to pass legislation of a retroactive nature.

Mr. Peters:

Mr. Speaker: I want to explain my vote for once. I voted for this bill as it first passed the House but I am not in favor of the Senate amendments. Therefore I vote "no."

The Speaker explained his vote as follows:

Mr. Larkin:

I was opposed to this bill as passed by the House. I believe it was fostered by the enemies of the State Hail Insurance but I favor the Senate amendment. Therefore I vote "aye."

The committee on Military Affairs made the following report:

Mr. Speaker: Your committee on Military Affairs to whom was referred:

Senate Bill No. 286. A Bill for an Act to Repeal Chapter 6 of the Session Laws of North Dakota for the Year 1915, Relating to Aid to the Grand Army of the Republic from the Soldiers Home of North Dakota.

Have had the same under consideration and recommend that the same do pass.

ROBERT J. BOYD,
Chairman.

Mr. Boyd moved that the report be adopted which motion prevailed and the report was adopted.

MESSAGE FROM THE SENATE

Mr. Speaker: I have the honor to inform you that the Senate has approved the report of the conference committee on Senate Bill No. 49.

Also House Bill No. 278.
Also Senate Bill No. 180.
Also House Bill No. 29.

Very respectfully,
C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to return herewith the following bills:

House Bill No. 30. A Bill for an Act Making an Appropriation of \$323,250.00 for the Current and Contingent Expenses of the State Normal School at Valley City, and Making Permanent Improvements Thereto.

House Bill No. 27. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School at Minot and for Making Permanent Improvements and Repairs Thereto.

House Bill No. 263. A Bill for an Act Providing that Real Estate Which Has Been Sold at Tax Sale Which Sale Is Invalid or of Doubtful Validity Because Not Conducted in Accordance with Section 3783 of the Compiled Laws of 1913, or for Other Reasons, May Again Be Sold at Future Tax Sales for the Taxes of the Years Included in Such Irregular Tax Sales.

Which the Senate has amended.

Very respectfully,
C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has refused to concur in the House amendments to Senate Bill No. 83 and has appointed as a conference committee Senators Olson of Barnes, Carey and Peck.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 4, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has concurred in the House amendment to Senate Bill No. 162.

Senate Bill No. 151.
Senate Bill No. 180.
Senate Bill No. 197,
Senate Bill No. 265.

Very respectfully,

C. R. VERRY,
Secretary.

MESSAGED TO THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 4, 1925.

Mr. President: I have the honor to transmit herewith the following bills:

Senate Bill No. 206. A Bill for an Act to Impose a Flat Tax of Five Mills on Money and Credits, Providing for the Distribution of the Proceeds of Such Tax and Repealing Chapter 307, Laws of 1923, Relating to the Exemption of Moneys and Credits, and Repealing Chapter 305, Laws of 1923 Relating to the Taxation of Corporate Excess and All Other Acts and Parts of Acts in Conflict with the Provisions of this Act.

Senate Bill No. 288. A Bill for an Act Authorizing the Industrial Commission to Make an Investigation for Oil and Gas in North Dakota, and Providing for an Appropriation Therefor.

Senate Bill No. 239. A Bill for an Act Providing that the Bank Examiner Notify the Guaranty Fund Commission of Violations of Sections 5172, 5175, 5189 and 5192 of the Compiled Laws of North Dakota for the Year 1913, and Providing that a Failure so to do Shall be Deemed a Misdemeanor.

Senate Bill No. 279. A Bill for an Act to Amend and Re-enact Section 2 of Chapter 139, Session Laws of 1923, Re-

lating to Deposits in Banks and Trust Companies and Providing a Penalty for Making an Unlawful Charge Against Deposits Without the Consent of the Depositor.

Senate Bill No. 290. A Bill for an Act to Amend and Re-enact Section 5163 of the Compiled Laws of North Dakota for the Year 1913 Relating to Dividends and Surplus of Banking Corporations.

Senate Bill No. 179. A Bill for an Act to Safeguard the Distribution and Sale of Certain Dangerous Caustic of Corrosive Acids, Alkalis and Other Substances in the State of North Dakota.

Senate Bill No. 240. A Bill for an Act to Repeal Sections 910 to 916, both inclusive, Compiled Laws of 1913, Relating to the Presidential Primary Election.

Senate Bill No. 171. A Bill for an Act to Empower Cities and Villages to Levy and Collect a Tax for Purpose of Furnishing Musical Concerts to the Public.

Senate Bill No. 136. A Bill for an Act to Amend Section 8719 of the Compiled Laws of 1913, Relating to the Exemption of the Avails of Life Insurance Payable to the Personal Representatives of a Deceased, His Heirs or Estate.

Senate Bill No. 251. A Bill for an Act to Amend and Re-enact Section 1 of Chapter 145, Session Laws of North Dakota for the Year 1923, Relating to State Bounty on Wolves and Coyotes.

Senate Bill No. 183. A Bill for an Act to Amend and Re-enact Section 9 of Chapter 236 of the Session Laws of North Dakota for the Year 1915, Relating to the Examination, Registration and Regulation of Graduated Nurses.

Senate Bill No. 177. A Bill for an Act to Amend and Re-enact Section 4799 of the Compiled Laws of the State of North Dakota for 1913, Relating to Free Passes, Franks and Special Privileges Prohibited and Excetptions.

Senate Bill No. 200. A Bill for an Act to Regulate the Practice of the Profession of Engineering and Land Surveying in the State of North Dakota.

Which the House has indefinitely postponed.

J. C. MILLER,
Chief Clerk.

House of Representatives,
Bismarck, North Dakota.
March 4, 1925.

Mr. President: I have the honor to transmit herewith the following bills:

Senate Bill No. 48. A Bill for an Act to Appropriate the Sum of Six Hundred Dollars to Pay Miss Leila Diesem, La-Moure, North Dakota, for Services Rendered in Connection with the Compilation of the Blue Book for North Dakota for the Year 1919. Under the Direction of the Secretary of State.

Senate Bill No. 209. A Bill for an Act Designating the Commissioner of Insurance as Receiver of Insolvent Domestic Insurance Companies, Outlining the Procedure in Dissolution of Such Companies, and Defining the Commissioner's Powers and Duties as Such Receiver.

Which the House has passed unchanged.

J. C. MILLER,
Chief Clerk.

House of Representatives,
Bismarck, North Dakota,
March 4, 1925.

Mr. President: I have the honor to return herewith the following bill:

Senate Bill No. 230. A Bill for an Act to Amend and Re-enact Section 1400 of Article 22 of the Laws of the State of North Dakota, Relating to Consolidated, Graded and Rural Schools May Receive State Aid.

Which the House has amended.

Very respectfully,

J. C. MILLER,
Chief Clerk.

House of Representatives,
Bismarck, North Dakota,
March 5, 1925.

Mr. President: I have the honor to return

House Bill No. 112. A Bill for an Act to Provide an Appropriation in the Sum of One Thousand Dollars for the Inspection and Eradication of Bee Diseases, Under the Provisions of Chapter 140, Session Laws of North Dakota for the Year 1923.

As requested by the Senate.

Very respectfully,

J. C. MILLER,
Chief Clerk.

GENERAL ORDERS

Mr. Yeater moved that the House resolve itself into a committee of the whole for the consideration of general orders; which motion prevailed, and the House resolved itself into a committee of the whole.

The Speaker called Mr. Yeater to the chair.

When the committee arose it submitted the following report:

Mr. Speaker: The committee of the whole have had under consideration:

Senate Bill No. 235. A Bill For an Act to Amend and Re-enact Section 959 Compiled Laws of 1913, as Amended by Chapter 203, Session Laws of 1923, Relating to Election Ballots.

And recommend that the same be amended as follows:

Page 2, line 17, after the word "for" insert the following:

"The names of the greatest number of candidates for such an office appearing in either of the two left hand columns, or if said two left hand columns have an equal number of names, then the first left hand column, and every second column to the right thereof on said ballot shall be alternated in the printing of said official ballot, for each precinct by changing the position of the names in each office division as many times as there are candidates for such office." There shall be a space between the party designation at the top of each column and the names at the head of the ticket of five-eighths of an inch, in the center of which there shall be a square formed of black lines, in which the voter by his mark may declare that he voted for all names printed in that column, except such as are erased, or pasted or written over, or where the voter places a cross (X) or mark following the name of a candidate in another column, such name shall be counted in lieu of the name for the same office in the column voted for at the head of the ticket; provided, further, that where there are groups of names for a like position and a cross (X) is placed at the head of a party designation, and the voter places a cross or mark, following the name of one or more candidates in a group, in another column and fails or neglects to strike out the same number of names in the column originally voted for, the intention of the voter shall be construed to having voted for the name or names in the group so marked and the name or names in the same line on the opposite group shall not be counted."

In line 30 of the printed bill strike out the words "by paper or."

And when so amended recommend the same do pass.

Also,

The Committee of the Whole have had under consideration:

Senate Bill No. 52. A Bill for an Act to Appropriate Money for the Expenses of the Executive, Legislative and Judicial Departments of the State Government, and for Public Schools. Specifying the Amount and Time for Which Such Appropriations Shall Be Available, and Repealing All Acts, or Parts of Acts, Insofar as the Same Shall Relate to Appropriations Conflicting Herewith, or to Appropriations for the Same Matters or Purposes Provided for Herein.

And recommend that the same be amended as follows:

In subdivision 1 Engrossed Bill after "Secretary to Governor" strike out "\$5,000.00" and insert "\$5,600.00."

In third line after "Clerkhire" after the word "total" strike out "\$8,000.00" and insert "\$8,600.00."

Strike out all of line "Tidewater Association Fund 2,500.00"

In last line of Subdivision 1, strike out "\$23,700.00" and insert "\$21,800.00."

SUBDIVISION 4.

After line "Repairing Books 100" insert line "Printing Reports 10,000."

After "Total" strike out "\$5,800.00" and insert "\$15,800.00."

SUBDIVISION 6.

In first line after "Clerkhire" strike out "\$2,500.00" and insert "\$2,800.00" and change figures "5,000.00" to "5,600.00". Change figures to read Total "\$41,580.00."

SUBDIVISION 7.

After line "Publishing Abstracts of Votes, two elections 1,000.00" insert another line "Publicity Pamphlet 14,000.00."

After foregoing line insert line "Postage for Publicity Pamphlet 5,000.00."

Above last line insert line "Party Registration 2,000.00" Change total from "\$6,100.00" to "\$27,100.00."

SUBDIVISION 8.

After "Purchasing State Revenue Stamps" add "Available April 1st."

SUBDIVISION 9.

After "Assistants for Revenue Collection" add "Available April 1st."

SUBDIVISION 10.

Change the figures in line "Deputy Commissioner" from "\$5,000.00" to "\$5,600.00."

In line "Bookkeeper" change the figures "\$2,400.00" to "\$2,640.00."

In line "Stenographer" change the figures "\$2,400.00" to "\$2,640.00."

Change "Total from "30,100.00" to "31,180.00."

SUBDIVISION 12.

After "Fund for Cigarette Law Enforcement" add "Available April 1st."

SUBDIVISION 13.

In line "Deputy Superintendent of Public Instruction" change the figures "\$5,000.00" to "5,600.00."

In line "Travel Expense" change figures "2,000.00" to "2,500.00."

Change total from "47,800.00" to "48,900.00."

After "Department of Public Instruction State Aid and Examination" "State Aid:" insert "Salary One High School inspector \$5,000.00."

Clerk hire:

1 Stenographer, 2,400.00.

I Assistant High School Examiner (for 10 months) 3,000.00

2 Rural Graded and Consolidated Inspectors 8,800.00
Travel Expense—one High School Inspector, 2,000.00.
Two Rural Graded and Consolidated Inspectors, 4,000.00."

"For Rural graded and Consolidated Schools" strike out the figures "425,000.00" an insert "450,000.00".

After line "For Rural and Consolidated Schools" insert another line "For Teachers' Institutes, 10,600.00."

In last line before total insert the following line:

"Evening Schools 4,000.00."

In line total change the figures "619,000.00" to "683,800.00."

SUBDIVISION 15.

Change figures after "Deputy Commissioner" to "5,600."

In line "Stenographers" change the line to read "- stenographer 2,640.00."

Change total from "23,000.00" to "\$24,140.00.

SUBDIVISION 16.

In line "Salary—Dairy Commissioner" strike out "6,000.00" and insert "5,600.00."

In line "2 Assistant Dairy Commissioners" strike out the figure 2.

Strike out the figures "8,000.00 and insert "6,500.00."

In line "Official Tester" change "3,240.00" to "2,640.00."

In line "Stenographers" change "4,000.00" to "2,640.00"

In line "Travel Expense" change "8,000.00" to "7,000.00."
Change total to "31,980.00."

SUBDIVISION 18.

In line "Patent Clerk" change figures to "3,000.00."

After line "Premium on Bonds" insert another line "Expense School Land Sales 2,500.00."

Change total to "49,520.00."

SUBDIVISION 19.

Make the line "6 City, County and Institution Examiners 24,000.00" read "5 City County and Institution Examiners 20,000.00."

Change "Travel Expense" to "33,000.00."

Change total to "125,230.00."

SUBDIVISION 21.

Change figures in line "Assistant Auditor" to "4,200.00."

Change total to "\$72,800.00."

SUBDIVISION 28.

Change figures in line "Stenographer and Bookkeeper" to "2,640.00."

Change figures in line "Travel Expense" to "2,000.00."

Change figures in line "Field Assistants" to "2,000.00."

Change figures in line "Hydrographic Surveys" to "1,000."

Change figures in line "Transportation and Equipment" to "1,500.00."

Change total to "21,140.00."

SUBDIVISION 29.

Make line "Salary" read "Salary—Secretary at 2,800.00 per annum—\$5,600.00."

Change total to "\$11,290.00."

And when so amended recommend the same do pass.

The Speaker resumed the chair.

The clerk read the report of the Committee of the Whole.

Mr. Sanford moved that the report be adopted, which motion prevailed.

Mr. Twichell moved that the House return to the Seventh Order of Business.

Which motion prevailed.

Mr. Twichell moved that the records be corrected to show that Mr. Dave Poindexter was placed on the House pay roll as desk clerk on February 20th.

Which motion prevailed.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has concurred in the House amendment to Senate Bill No. 292.

The Senate requests the return of House Bill No. 208.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to transmit herewith the following bill:

Senate Bill No. 294. A Concurrent Resolution.
Which the Senate has passed and your favorable consideration is respectfully requested.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to transmit herewith a Concurrent Resolution which the Senate asks the House to kindly take action on as soon as possible.

Which the Senate has passed and your favorable consideration is respectfully requested.

Very respectfully,

C. R. VERRY,
Secretary.

Mr. Vogel moved that the House accede to the request of the Senate for the return of House Bill No. 208.

Which motion prevailed.

Mr. Yeater moved that the House do now recess until 1:15 o'clock.

The House re-convened at 1:15 the Speaker presiding.

The House returned to the 5th order of business.

REPORTS OF STANDING COMMITTEES

The Speaker presiding.

The committee on Appropriations made the following report:

Mr. Speaker: Your committee on Appropriations to whom was referred:

House Bill No. 294. A Concurrent Resolution to Provide Money to Pay the Expenses Incurred by the Special House Committee in Its Investigation of the State Highway Commission as Authorized by the House Resolution Known as House Bill No. 72.

Have had the same under consideration and recommend that the same do pass.

F. A. VOGEL,
Chairman.

Mr. Vogel moved that the report be adopted, which motion prevailed and the report was adopted.

The committee on Appropriations made the following report:

Mr. Speaker: Your committee on Appropriations to whom was referred:

Senate Bill No. 295. A Concurrent Resolution to Appropriate Money to Pay Expenses of Joint Committee on Interstate Bridges.

Have had the same under consideration and recommend that the same be amended as follows:

In the title of the Concurrent Resolution, strike out the word "appropriate" and insert in lieu thereof the word "provide."

Strike out the phrase "Whereas, There is no adequate provision of law for the reimbursement of said committee for said expenses."

Beginning with the word "appropriate," where the same follows "Legislative Assembly" in the body of the resolution.

Strike out all of the balance of the body of the resolution down to the word "Emergency" and insert in lieu thereof "appropriate and pay out of moneys on hand in the appropriation for the 19th Legislative Assembly for the State of North Dakota or from any funds available or to become available, for that purpose, the sum of \$242.25 to reimburse Senators W. D. Lynch and A. S. Marshall, and Representative George W. Morton, Robert Boyd and Fred Eckert for expenses incurred in connection with their attendance at this joint committee meeting."

And when so amended recommend the same do pass.

F. A. VOGEL,
Chairman.

Mr. Vogel moved that the report be adopted, which motion prevailed and the report was adopted.

The Committee on Appropriations made the following report:

Mr. Speaker: Your committee on Appropriations to whom was referred:

Senate Bill No. 51. A Bill for an Act Making an Appropriation of \$80,000.00 as an Offset for Federal Aid in Extension Division Work of the Agricultural College, Fargo, N. Dak.

Have had the same under consideration and recommend that the same be amended as follows:

Change figures in line 1 of the title of engrossed bill to "65,000.00."

Change figures in Line 3, Section 1 to "65,000.00."

And when so amended recommend the same do pass.

F. A. VOGEL,
Chairman.

Mr. Vogel moved that the report be adopted, which motion prevailed and the report was adopted.

The Committee on Appropriations made the following report:

Mr. Speaker: Your Committee on Appropriations to whom was referred:

Senate Bill No. 50. A Bill for an Act Making an Appropriation of \$178,200.00 to Pay the Maintenance, Improvements and Repairs, New Buildings and Miscellaneous for the Experiment Station at the Agricultural College, Fargo, North Dakota.

Have had the same under consideration and recommend that the same be amended as follows:

Change figures in line 1 of the title of the engrossed bill to "255,400.00."

Change figures in line 3 of Section 1 to "255,400.00."

Change figures in Line 6 of "Maintenance" after "Entomology" to "2,500."

Change figures in line 7 "Cereals and Milling" to "5,000"

Change figures in line 8 "purchase Livestock" to "2,500."

Strike out line 9.

In line 13, "Heat, Light, Power, Campus Service" change figures to "25,000.00." change total to "255,400.00."

And when so amended recommend the same do pass.

F. A. VOGEL,
Chairman.

Mr. Vogel moved that the report be adopted, which motion prevailed and the report was adopted.

The Committee on Appropriations made the following report:

Mr. Speaker: Your Committee on Appropriations to whom was referred:

Senate Bill No. 53. A Bill for an Act Making an Appropriation of \$565,600.00 to Pay the General Maintenance, Improvements and Repairs, Equipment, Miscellaneous and Public Service of the Agricultural College, Fargo, North Dakota.

Have had the same under consideration and recommend that the same be amended as follows:

In line 1 of the title of engrossed bill change figures to "538,500.00."

In line 3, section 1, change to "538,500.00."

Strike out lines 5 and 6 of "Administration."

Under subdivision "Education" in Line 3 "School of Home Economics" change figures to "53,000.00."

In line 8 "School of Science and Literature" change figures to "135,000.00."

Strike out line 9.

In line 12, strike out "School of Music" and insert "Band and Orchestra."

In line 13, "Military Science and Physical Education" change figures to "\$25,000.00."

Under subdivision "Physical Plant in line 2 "Light, Water, Power, Gas," change figures to "12,000.00."

Change figures in "Total Maintenance to "800,300.00."

Change figures in "Total Net Maintenance" to "420,300.00."

After last line in subdivision "Improvements and Repairs" insert "Equipment."

"1 Engine and Generator House" "25,000.00."

In line "Total Improvements and Repairs, Equipment, Miscellaneous and Public Service" change figures to "118,200.00."

Change total for the biennium "For all Purposes" to "538,500.00."

And when so amended recommend the same do pass.

F. A. VOGEL,
Chairman.

Mr. Vogel moved that the report be adopted, which motion prevailed and the report was adopted.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 5, 1925.

Mr. President: I have the honor to inform you that the House has concurred in the Senate amendment to House Bill No. 86.

Very respectfully,

J. C. MILLER,
Chief Clerk.

House of Representatives,
Bismarck, North Dakota,
March 5, 1925.

Mr. President: I have the honor to return House Bill No. 208. A Concurrent Resolution. As requested by the Senate.

Very respectfully,

J. C. MILLER,
Chief Clerk.

REPORTS OF SELECT COMMITTEES

The committee on Conference made the following report:

Mr. Speaker: Your committee on Conference to whom was referred:

Senate Bill No. 26. A Bill for an Act Making an Appropriation of \$12,000.00 for the Use of the Board of Administration in Administering Child Welfare Laws.

Have had the same under consideration and recommend that the same be amended as follows:

In line 1 of the title strike out "12,000.00" and insert "\$11,000.00"

In line 3 of Section 1 strike out "\$12,000.00" and insert in lieu thereof "\$11,000.00."

In line 9½ strike out "\$3,000.00" and insert in lieu thereof "\$2,500.00."

In line 17, strike out "12,000.00" and insert in lieu thereof "\$11,000.00"

HERBERT J. ROBERTS
WM. A. THATCHER,
ALEX ANDERSON.

And when so amended recommend the same do pass.

Mr. Roberts moved that the report be adopted, which motion prevailed and the report was adopted.

Mr. Vogel moved that the rules be suspended and that House Concurrent Resolution No. 294 be considered properly re-engrossed and placed upon third reading and final passage. Which motion prevailed.

THIRD READING OF HOUSE BILLS

ROLL CALL

House Bill No. 294. A Concurrent Resolution to Provide Money to Pay the Expenses Incurred by the Special House Committee in Its Investigation of the State Highway Commission as Authorized by the House Resolution Known as House Bill No. 72.

Was read the third time.

The question being on the final passage of the bill the roll was called and there were ayes 71, nays 37, absent and not voting 5.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hardy, Mountrail	O'Neil
Anderson, Sargent	Hartl	Palms
Anderson, Stutsman	Hempel	Quade
Arduser	Hoople	Quam
Borman	Iverson	Rabe
Boyd	Jacobson	Rasmusson
Brant	Jodock	Richardson
Brown	Johnson, Foster	Roberts
Bubel	Johnson, McHenry	Sanford
Burkhart	Johnson, Pembina	Schmidt
Burns	Johnson, Traill	Shepard
Butt	Jones	Shurr
Cart	Kamrath	Skogland
Craig	Keierleber	Starke
Divet	Lazier	Streich
Dougherty	Leraas	Svingen
Doyle	Levin	Swett
Eckert	Loudenbeck	Thatcher
Erickson, Divide	McCay	Tweten
Erickson, Steele	McManus	Vogel
Ferris	Martin	Worner
Fine	Miller, Williams	Yeater
Frank	Muus	Mr. Speaker
Hardy, Slope	Oberg	

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Bollinger	Johnson, Ransom	Sanderson
Carr	McDowail	Slominski
Crocker	McGauvren	Sproul
Currie	Miller, McIntosh	Standley
Elken	Montgomery	Thompson, Burleigh
Ellingson, Ramsey	Peters	Thompson, Sargent
Ellingson, Traill	Plath	Traynor
Flom	Polfuss	Tschida
Fox	Radcliffe	Tuneberg

Messrs.	Messrs.	Messrs.
Freeman	Root	Veitch
Hanson	Rulon	Watt
Helbling	Sagen	Zimmerman
Hildre		

Absent and not voting:

Messrs.	Messrs.	Messrs.
Erickson, Kidder	Morton	Twichell
Halcrow	Olafson	

So the bill passed and the title was agreed to.

Mr. Burns:

Mr. Speaker: I voted "aye" on this proposition for the simple reason that I felt that this was an obligation imposed by the majority of this House and also by a majority of the State Affairs Committee. I sat on the State Affairs Committee. I did not vote for the investigation yet I have always been in favor of paying for those things that we have contracted for. Therefore, I vote "aye."

Mr. Dougherty:

Mr. Speaker: I am opposed to this investigation believing it to be a political investigation, but the majority of the House ordered the investigation, consequently the bill should be paid. Therefore I vote "aye."

Mr. Erickson of Kidder:

Mr. Speaker:

If it was worth \$100.00 per day for attorneys for the 1921 investigation. This investigation is but a drop in the bucket. I vote "aye."

Mr. Ferris:

Mr. Speaker: I wish to explain my vote. I voted "aye" because the people all over this state are thinking that the Highways are costing entirely too much, and they think that there is something radically wrong and I think it was a good thing to have this investigation. Therefore I vote "aye."

Mr. Sproul:

Mr. Speaker: I vote "no" on this measure. I was a member of the State Affairs Committee and we announced that if anyone had any complaints to make against the Highway Department to come in and make them. We could see no place where an investigation was necessary and I figure that we proved it beyond a doubt to this House and I vote "no."

Mr. Thompson of Burleigh:

Mr. Speaker: I would like to explain my vote and have it put in the journal. I do not object to any Highway investigation but I feel that this has been an unfair investigation, done more to ruin the ambitions of an ambitious young engineer

and to put him out of his position and put somebody else in and I do not feel— when the legislators of this assembly come down here and work for \$5.00 per day, and hire a man at home to take their places and barely get away with their expenses—I don't feel that we ought to vote to pay a stenographer \$30.00 a day that works about three hours a day. There are a good many appropriations that come in here—now that stenographer gets more in the time she has been working there than we were asking for a Corn Show here for two years. Therefore I vote "no."

Mr. Watt:

Mr. Speaker: I want to vote "no" on this bill. We had a investigation four years ago which was of great value to the State of North Dakota. They made the people conducting that investigation wait two years for their money. If the Independents had not come into control of this Legislature two years ago they would not have been paid yet. I am in favor of making these people wait two years for their money, and I vote "no."

Mr. Vogel:

Mr. Speaker: I vote "aye" on this bill because I feel that no appropriation made during this session will be of more value to the people of the state of North Dakota than an appropriation to pay the expenses of this Highway Investigation.

I vote "aye" because of the fact that no stenographer in that bill received any \$30.00 per day as stated by the gentleman from Burleigh. Such a statement is unfounded as the record will show.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 4, 1925.

Mr. President: I have the honor to transmit herewith the following bill:

House Bill No. 294. A Concurrent Resolution to Provide Money to Pay the Expenses Incurred by the Special House Committee in Its Investigation of the State Highway Commission as Authorized by the House Resolution Known as House Bill No. 72.

Which the House has passed and your favorable consideration is respectfully requested.

Very respectfully,

J. C. MILLER,
Chief Clerk.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to return herewith the following bills:

House Bill No. 210. A Bill for an Act to Amend and Re-enact Section 6815 of the Compiled Laws of the State of North Dakota for 1913, and Section 1 of Chapter 209 of the Laws of North Dakota for 1913, Relating to the Notice Required to be Filed by Claimants of a Mechanic's Lien for Material and Fixing Priorities Thereof.

House Bill No. 191. A Bill for an Act Repealing Sections 1192, 1193 and 1194 of the Compiled Laws of North Dakota for the Year 1913, Relating to District High Schools.

House Bill No. 121. A Bill for an Act Creating the Office of State Efficiency Expert, Providing for the Appointment of Such Officer, Prescribing His Powers and Duties, Fixing His Salary, and Making an Appropriation for Payment of Same.

Which the Senate has indefinitely postponed.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to return herewith the following bills:

House Bill No. 239. A Bill for an Act Defining Public Dancing Places, Public Dances, Providing for the Issuing of Permits to Operate the Same, Regulating Public Dances and Public Dancing Places, Providing for the Policing of Public Dances, Providing for Penalties for the Violation of this Act, and Repealing All Acts and Parts of Acts in Conflict Herewith.

House Bill No. 268. A Bill for an Act to Amend and Re-enact Section 453 of the Compiled Laws of North Dakota for the Year 1913 Relating to the Fees of Local Registrars to Read as Follows.

House Bill No. 271.

House Bill No. 267. A Bill for an Act Providing for the Cancellation and Destruction of Unsold Bonds of Counties, Cities, Villages and School Districts, on the Expiration of Five Years from the Date of Their Authorization.

House Bill No. 284. A Bill for an Act to Amend and Re-enact Section 5144 of the Compiled Laws of North Dakota

for the Year 1913 Relating to Right of Way for Telephone Lines and Electric Light Systems.

House Bill No. 246. A Bill for an Act Amending and Re-enacting Chapter 297 of the Session Laws of North Dakota for 1923, Being an Act to Prohibit the Keeping Open, Running or permitting the Running or the Use of Any Place for Public Dances on the First Day of the Week, Commonly Called the Sabbath, and Prohibiting the Same Prior to Sunrise on Monday Morning, and Providing a Penalty Therefor.

House Bill No. 290. A Concurrent Resolution.

House Bill No. 148. A Bill for an Act to Amend and Re-enact Section 3116 of Chapter 342, Session Laws of 1923, Relating to Storage Charges on Grain and Regarding Insurance on Grain, Providing for Deposit of Insurance Policies and Disbursement of Funds Derived from Insurance of Stored Grain.

House Bill No. 112. A Bill for an Act to Provide an Appropriation in the Sum of One Thousand Dollars for the Inspection and Eradication of Bee Diseases, Under the Provisions of Chapter 140, Session Laws of North Dakota for the Year 1923.

House Bill No. 281. A Bill for an Act to Amend and Re-enact Section 27 of Chapter 161, Session Laws of 1915, as Amended by Chapter 134, Session Laws of 1919, as Amended by Chapter 224, Session Laws of 1923, Relating to Hunting With Dogs.

Which the Senate has passed unchanged.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to return herewith the following bills:

House Bill No. 108. A Bill for an Act to Amend and Re-enact Section Two (2) of Chapter 188 of the Session Laws of 1923 of the State of North Dakota, Relating to the Collection of Seed Grain and Feed Accounts Owning to Counties.

House Bill No. 287. A Bill for an Act to Amend and Re-enact Section 4, Chapter 140, Session Laws of 1921, Relating to Sow Thistles.

House Bill No. 269. A Bill for an Act to Amend and Re-enact Section 3523, Compiled Laws of 1913, Relating to the Appointment and Fixing the Salary of Deputy Sheriffs.

House Bill No. 101. A Bill for an Act to Provide for the Correction of Errors in the Assessment of Property; for the Placing of Omitted Property or Property Which has Escaped Taxation Upon the Tax Lists; for the Reassessment of Prop-

erty which has been Undervalued and to Repeal Sections 2137, 2216, 2217, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304 of the Compiled Laws of the State of North Dakota for the Year 1913.

House Bill No. 212. A Bill for an Act Relating to Frogs, Establishing Closed Season, Regulating the Manner of Taking; Licensing Dealers and Providing Penalties for Violations.

House Bill No. 280. A Bill for an Act to Amend and Re-enact Section 33, Chapter 161, Session Laws of 1915, as Amended by Chapter 122, Session Laws of 1917, as Amended by Section 4, Chapter 134, Session Laws of 1919, Relating to Game Birds and Fixing the Open Season for Killing Same.

House Bill No. 286. A Bill for an Act Directing the State Emergency Commission to Provide Funds for Opposing Any Increase in Lignite Freight Rates and Making an Appropriation Therefor.

Which the Senate has amended.

Very respectfully,

C. R. VERRY,
Secretary.

Mr. Starke moved that the rules be suspended and that Senate Bill No. 26 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

THIRD READING OF SENATE BILLS

ROLL CALL

Senate Bill No. 26. A Bill for an Act Making an Appropriation of \$12,000.00 for the Use of the Board of Administration in Administering Child Welfare Laws.

Was read the third time.

The question being on the final passage of the bill, as amended by the conference committee, the roll was called, and there were ayes 83, nays 29, absent and not voting 1.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Stutsman	Hardy, Mountrail	Radcliffe
Borman	Hartl	Rasmusson
Bollinger	Helbling	Roberts
Boyd	Hempel	Root
Brown	Hildre	Rulon
Burkhart	Hoopel	Sagen
Burns	Iverson	Sanderson
Butt	Jacobson	Schmidt
Carr	Johnson, Pembina	Shepard
Craig	Johnson, Ransom	Skogland
Crocker	Johnson, Traill	Slominski

Messrs.	Messrs.	Messrs.
Currie	Kamrath	Sproul
Divet	Levin	Standley
Dougherty	McDowall	Starke
Doyle	McGauvren	Streich
Eckert	McManus	Swett
Elken	Miller, McIntosh	Thatcher
Ellingson, Ramsey	Miller, Williams	Thompson, Burleigh
Ellingson, Traill	Montgomery	Thompson, Sargent
Ferris	Morton	Traynor
Fine	Muus	Tschida
Flom	Olafson	Tuneberg
Fox	O'Neil	Tweten
Frank	Peters	Twichell
Freeman	Plath	Veitch
Halcrow	Polfuss	Watt
Hanson	Quade	Worner
Hardy, Slope	Rabe	

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide.	Johnson, McHenry	Quam
Anderson, Sargent	Jones	Richardson
Arduser	Keierleber	Sanford
Brant	Lazier	Shurr
Bubel	Leraas	Svingen
Cart	Loudenbeck	Vogel
Erickson, Divide	McCay	Yeater
Erickson, Steele	Martin	Zimmerman
Jodock	Oberg	Mr. Speaker
Johnson, Foster	Palms	

Absent and not voting:

Messrs.
Erickson, Kidder

So the bill passed and the title was agreed to.

Mr. Starke moved that the vote by which Senate Bill No. 26 was passed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

Mr. Hempel moved that the House do now adjourn.

Which motion prevailed.

FIFTY-NINTH DAY

House of Representatives,
Bismarck, North Dakota,
March 5, 1925.

The House convened at 2:00 o'clock P. M. pursuant to adjournment.

The Speaker presiding.

Prayer by the Chaplain, Rev. Strutz.

ROLL CALL

All members present except Mr. Hanson.

Mr. Helbling moved that all absent members be excused.

Which motion prevailed.

REVISION AND CORRECTION OF THE JOURNAL

The Committee on Revision and Correction of the Journal made the following report:

Mr. Speaker: Your Committee on Revision and Correction of the Journal have carefully examined the Journal of the Fifty-seventh Day After Recess and the Fifty-eighth Day and recommend that the same be corrected as follows:

Page 1, line 8, correct spelling of "twelfth."

Page 6, line 37, correct spelling of "Bill."

Page 19, line 19, correct spelling of "which" and on line 45 correct spelling of "Twichell."

Correct spelling of "Twichell" in 4th line from bottom of page 19.

Page 37 after line 4 insert "which motion prevailed."

Page 35, roll call on Senate Bill No. 277, Crocker should be present and voting "aye" instead of "absent and not voting."

And when so corrected recommend that the same be approved.

J. H. McCAY,
Chairman.

Mr. McCay moved that the report be adopted, which motion prevailed and the report was adopted.

PETITIONS AND COMMUNICATIONS

State of North Dakota
State Hospital for the Insane
A. W. Guest, M.D., Superintendent
Jamestown, N. Dak.

March 4, 1925.

To the Members of the Legislature:

My Dear Sir: I am thankful to you for the splendid report and its adoption as to the State Hospital for Insane at Jamestown.

The best of Homes of this character is liable to attack from disgruntled, discharged, former employees from time to time. I have tried always to secure the best help and assistance the salary would warrant. We want to do everything to cure patients sent here and to return them home good citizens.

I am anxious that during the interim between the 1925 and 1927 Sessions of the Legislature, each of the present members visit and inspect the institution. Not for a few hours, or even days, but until freely acquainted with the management. That pertaining to the farm, to the water system, heating system, electric system, the buying system, stock and dairy system in vogue. The grounds, the buildings, the patients, their care, their sleeping and waking dormitories, day rooms, clothing and food. The work done by patients, the training given them, our plan of cures for curable patients and our method of making better citizens of those that are not curable. The medicine used, the exercises and amusements, the ventilation, etc.

This is North Dakota's greatest institution, it is semi-charitable, owned by our great State, and you are each entitled to know all about it. I want you to feel not only welcome but that we want you to come and thoroughly inspect this institution so that you will be more perfectly equipped with information and that we may receive any helpful suggestions to the betterment of the patients and to saving money for the State, and also that you may have first hand information as to the needs of the institution.

Very sincerely yours,

A. W. GUEST, M. D.,
Superintendent.

MESSAGE FROM THE GOVERNOR

State of North Dakota
Office of the Governor

Bismarck
March 4, 1925

The House of Representatives of the State of North Dakota:

Gentlemen: I have the honor to inform you that I have this day received, approved and filed with the Secretary of State the following bills:

House Bill No. 166. A Bill for an Act Defining and Establishing the State Mill and Elevator, Located at or Near the City of Grand Forks, North Dakota, as a Public Terminal Grain Elevator.

And,

House Bill No. 43. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State School of Forestry at Bottineau and Making Permanent Improvements and Additions Thereto.

And,

House Bill No. 163. A Bill for an Act to Amend and Re-enact Section 185 of the Session Laws of North Dakota for 1915, as Amended and Re-enacted by Chapter 156 of the Session Laws of North Dakota of 1923; Relating to the Support of Needy Women who are the Mothers of and Who are Compelled to Support One or More Children.

And,

House Bill No. 145. A Bill for an Act to Amend and Re-enact Section 4503 of the Compiled Laws of North Dakota for the Year 1913; limiting the value of Property to be Held by Religious and Charitable Corporations and Associations.

And,

House Bill No. 127. A Bill for an Act Extending the Rights of Eminent Domain as to State Institutions.

And,

House Bill No. 82. A Bill for an Act to Regulate and Better Safeguard the Bonds of Public Officials and Public Depositories.

And,

House Bill No. 36. A Bill for an Act Making an Appropriation for Maintenance, Improvements and Repairs, New Building, Equipment and Miscellaneous Items for the Institution of the Feeble Minded at Grafton.

And,

House Bill No. 32. A Bill for an Act Making an Appropriation for the State Hospital for the Insane at Jamestown for the Payment of Salaries and Wages, Improvements and Repairs, New Buildings, Equipment and Miscellaneous Items.

And,

House Bill No. 24. A Bill for an Act Making an Appropriation of \$28,000.00 to Provide for the Payment of an Existing Deficit in the General Maintenance Fund of the State Training School at Mandan, North Dakota.

And,

House Bill No. 33. A Bill for an Act Making an Appro-

priation of \$265,540.00 for the Current and Contingent Expenses of the State Penitentiary and for Making Permanent Improvements and Repairs Thereto.

And,

House Bill No. 19. A Bill for an Act to Repeal Section 1626B of the Compiled Laws of North Dakota for the Year 1913, Relating to Milling Experiments.

Very truly yours,

A. G. SORLIE,
Governor.

REPORTS OF SELECT COMMITTEES

Mr. Speaker: Your committee on conference to whom was referred:

Senate Bill No. 257. A Bill for an Act to Amend Chapter 131 of the Session Laws of 1919 as Amended by Chapter 66 of the Session Laws of 1921, Pertaining to the Giving of Notices of Intention to Foreclose Real Estate Mortgages.

Have had the same under consideration and recommend that the House recede from the House amendment, and further recommend that the printed bill be amended as follows:

After the word "amend" in the first line of the title of the printed bill, insert the following: "and re-enact."

Strike out all of lines 13, 14, 15 and 16 down to and including the word "land" in the printed bill, and insert in lieu thereof the following: "the records of the office of the Register of Deeds concerning and affecting the title to the premises described in such notice at his or their postoffice address as shown by such records, and if such address is not so shown, personal service upon such owner or owners proven by the certificate of the sheriff or by the affidavit of the person serving the same shall be sufficient, or if the sheriff's return shows that after diligent inquiry made for the purpose of serving such notice, he is unable to make service thereof upon the said title owner or owners of record within the county where the said land is situated, then and in such case, such notice shall not be required to be served upon such owner or owners whose postoffice address is not shown by such records in the office of the Register of Deeds."

THEO. KALDOR,
E. B. PAGE,
A. A. PECK,
Senate Conference Committee.

GEO. H. HOOPLE,
C. W. FINE,
L. L. TWICHELL,
House Conference Committee.

Mr. Twichel moved the adoption of the report, which motion prevailed and the report was adopted.

Mr. Twichell moved that the rules be suspended and that Senate Bill No. 257 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

THIRD READING OF SENATE BILLS

ROLL CALL

Senate Bill No. 25. A Bill for an Act to Appropriate the Sum of \$15,000.00 to the Board of Auditors as Provided for in Section 369 of the Compiled Laws of the State of North Dakota for the Year 1913, as Amended and Re-enacted by the Initiated Law Approved November 2nd, 1920.

Was read the third time.

The question being on the final passage of the bill, as amended by the conference committee, the roll was called, and there were ayes 111, nays 0, absent and not voting 2.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hardy, Mountrail	Quade
Anderson, Sargent	Hartl	Quam
Anderson, Stutsman	Hclbling	Rabe
Arduser	Hempel	Radcliffe
Borman	Hildre	Rasmusson
Bollinger	Hoople	Richardson
Boyd	Iverson	Roberts
Brant	Jacobson	Root
Brown	Jodock	Rulon
Bubel	Johnson, Foster	Sagen
Burkhart	Johnson, McHenry	Sanderson
Burns	Johnson, Pembina	Sanford
Butt	Johnson, Ransom	Schmidt
Carr	Johnson, Traill	Shepard
Cart	Jones	Shurr
Craig	Kamrath	Skogland
Crocker	Keierleber	Sproul
Currie	Lazier	Standley
Divet	Leraas	Starke
Dougherty	Levin	Streich
Doyle	Loudenbeck	Svingen
Eckert	McCay	Svett
Elken	McDowall	Thatcher
Ellingson, Ramsey	McGauvren	Thompson, Burleigh
Ellingson, Traill	McManus	Thompson, Sargent
Erickson, Divide	Miller, McIntosh	Traynor
Erickson, Kidder	Miller, Williams	Tschida
Erickson, Steele	Montgomery	Tuneberg
Ferris	Morton	Tweten
Fine	Muus	Twichell
Flom	Oberg	Veitch
Fox	Olafson	Vogel
Frank	O'Neil	Watt
Freeman	Palms	Worner
Halcrow	Peters	Yeater
Hanson	Plath	Zimmerman
Hardy, Slope	Polfuss	Mr. Speaker

Absent and not voting:

Messrs.	Messrs.
Martin	Slominski

So the bill passed and the title was agreed to.

HOUSE COMMITTEE ON ENROLLMENT AND ENGROSSMENT

The Committee on Enrollment and Engrossment made the following report:

Mr. Speaker: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following bills:

House Bill No. 110. A Bill for an Act to Amend and Re-enact Section 2214 of the Compiled Laws of North Dakota for 1913, Relating to Irregularities of Land to Be Platted Into Lots If Required.

Also,

House Bill No. 152. A Bill for an Act to Enact and Re-enact Chapter 170 of the Session Laws of North Dakota for the Year 1919, as Amended by Chapter 346 of the Session Laws of North Dakota for the Year 1923, Being an Act Regulating and Fixing the Hours of Labor of Females and Providing Penalties for the Violation Thereof.

Also,

House Bill No. 242. A Bill for an Act Providing that District Courts Shall Have Jurisdiction in the Foreclosure of Tax Liens in Cases of Irregular Tax Sales, Prescribing the Procedure in Such Cases; and Providing that Such Remedy Shall Be Cumulative.

Also,

House Bill No. 177. A Bill for an Act to Amend and Re-enact Section 10523 of the Compiled Laws of North Dakota for the Year 1913, Relating to the time of Commencing Criminal Actions, and Providing Exceptions Therefor.

Also,

House Bill No. 173. A Bill for an Act to Amend and Re-enact Section 10141 of the Compiled Laws of North Dakota for the Year 1913, Relating to Being Intoxicated in a Public Place.

Also,

House Bill No. 144. A Bill for an Act Providing for the Manner of Constructing Crossings, and For the Construction and Maintenance of Certain Signs at the Crossings of Railroads, Streets and Public Highways, and Regulating the Use of Such Crossings by the Public, and for the Establishment, and Re-location of Such Crossings and for the Protection of Dangerous Railroad Grade Crossings.

Also,

House Bill No. 179. A Bill for an Act to Amend and Re-enact Section 10994 of the Compiled Laws of North Dakota for the Year 1913, Relating to the Time for Appeal to the Supreme Court in Criminal Cases.

Also,

House Bill No. 171. A Bill for an Act to Amend and Re-enact Section 9917 of the Compiled Laws of North Dakota for the Year 1913, Relating to Punishment of Grand Larceny.

Also,

House Bill No. 155. A Bill for an Act to Amend and Re-enact Chapter 136, Laws of North Dakota for the Year 1923, Providing for the Supervision and Regulation of the Transportation of Persons and Property for Compensation Over Any Public Highway by Motor Propelled Vehicles; Defining Transportation Companies; Providing for Supervision and Regulation Thereof by the Board of Railroad Commissioners of the State of North Dakota; Providing for the Enforcement of the Provisions of This Act and for the Punishment of the Violation Thereof.

Also,

House Bill No. 178. A Bill for an Act to Amend and Re-enact Sections 11113, and 11114 and 11115 of the Compiled Laws of 1913.

Also,

House Bill No. 84. A Bill for an Act Empowering the Board of Railroad Commissioners to Order, Authorize and Permit Common Carriers to Publish and Charge Special Freight Rates, Classifications, Rules and Regulations, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Also,

House Bill No. 29. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School, Mayville, and for Equipment and Improvements and Repairs.

Also,

House Bill No. 165. A Concurrent Resolution Introduced by the Joint Committee on Agriculture.

Also,

House Bill No. 86. A Bill for an Act to Amend and Re-enact Sections 6, 7, 13, 26 and 27 of Chapter 160 of the Session Laws of 1919 as Amended by Chapter 38 of the Special Laws of the Sixteenth Legislative Assembly of the State of North Dakota, as Amended and Re-enacted by Chapter 77 of the Session Laws of North Dakota for the Year 1921, as Amended and Re-enacted by Chapter 232 of the Session Laws

of North Dakota for the Year 1923, Relating to State Hail Insurance.

And find the same correctly enrolled.

C. E. ERICKSON,
Chairman.

Mr. Erickson of Divide moved that the report be adopted, which motion prevailed and the report was adopted.

Mr. Speaker: Your conference committee appointed to consider House Bill No. 149 have met and are unable to agree, and therefore, recommend that the present committee be discharged and a new committee appointed.

C. VERNON FREEMAN,
I. SANFORDD,
O. M. JOHNSON,
WALTER H. SCHLOSSER,
A. S. MARSHALL,
JOHN L. MIKLETHUN.

Mr. Peters moved that the report of the conference committee on House Bill No. 149 be adopted and the committee discharged and a new committee appointed.

Which motion prevailed.

The Speaker appointed as such conference committee, Reps. Brant, Rulon and McManus.

Mr. Starke moved that the House reconsider the vote by which Senate Bil No. 200 was indefinitely postponed.

Which motion was lost.

Mr. Roberts moved that the House reconsider the vote by which Senate Bill No. 288 was indefinitely postponed.

ROLL CALL

The question being on the motion of Mr. Roberts for the reconsideration of the vote by which House Bill No. 288 was indefinitely postponed, the roll was called, and there were ayes 73, nays 38, absent and not voting 2.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hoople	Quam
Anderson, Sargent	Iverson	Radcliffe
Arduser	Jacobson	Rasmusson
Bollinger	Jodock	Richardson
Brant	Johnson, Foster	Roberts
Brown	Johnson, McHenry	Sagen
Bubel	Johnson, Pembina	Sanford
Burkhart	Jones	Schmidt
Burns	Kamrath	Shepard
Butt	Lazier	Shurr
Cart	Leraas	Skogland

Messrs.	Messrs.	Messrs.
Craig	Levin	Sproul
Currie	Loudenbeck	Standley
Doyle	McCay	Streich
Eckert	McManus	Svingen
Erickson, Divide	Martin	Swett
Erickson, Kidder	Miller, McIntosh	Thatcher
Erickson, Steele	Miller, Williams	Thompson, Burleigh
Ferris	Montgomery	Thompson, Sargent
Fine	Muus	Tschida
Fox	Oberg	Tuneberg
Frank	O'Neil	Vogel
Hardy, Mountrail	Palms	Yeater
Hartl	Plath	Mr. Speaker
Hempel		

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Anderson, Stutsman	Hardy, Slope	Rabe
Borman	Helbling	Root
Boyd	Hildre	Rulon
Carr	Johnson, Ransom	Sanderson
Crocker	Johnson, Traill	Slominski
Divet	Keierleber	Starke
Dougherty	McDowall	Traynor
Elken	McGavren	Twitchell
Ellingson, Ramsey	Morton	Veitch
Ellingson, Traill	Olafson	Watt
Freeman	Peters	Worner
Halcrow	Polfuss	Zimmerman
Hanson	Quade	

Absent and not voting:

Messrs.	Messrs.
Flom	Tweten

So the motion was declared lost.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 5, 1925.

Mr. President: I have the honor to inform you that the House has concurred in the conference committee report on Senate Bill No. 26.

Also ,

Mr. President: The House has concurred in the conference committee report on Senate Bill No. 257.

Very respectfully,

J. C. MILLER,
Chief Clerk.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to inform you that the Senate does not concur in the House amendments to Senate Bill No. 180 and the President has appointed as a conference committee Senators Rusch, Olson of Burleigh and Ettestad.

Very respectfully,

C. R. VERRY,
Secretary.

Mr. Sanford moved that the rules be suspended and that the vote by which Senate Bill No. 65 was indefinitely postponed be reconsidered.

Roll call was demanded and granted.

ROLL CALL

The question being on the motion of Mr. Sanford to reconsider the vote by which Senate Bill No. 65 was indefinitely postponed, the roll was called, and there were ayes 71, nays 41, absent and not voting 1.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Borman	Hanson	Root
Bollinger	Hardy, Mountrail	Sagen
Boyd	Hartl	Sanderson
Brant	Hildre	Sanford
Brown	Hoople	Schmidt
Burkhart	Iverson	Shepard
Burns	Jacobson	Slominski
Butt	Jodock	Sproul
Carr	Johnson, Pembina	Standley
Crocker	Johnson, Ransom	Starke
Currie	Johnson, Traill	Streich
Divet	Levin	Svingen
Dougherty	McCay	Swett
Doyle	Miller, McIntosh	Thatcher
Eckert	Montgomery	Thompson, Burleigh
Elken	Morton	Thompson, Sargent
Ellingson, Ramsey	Muus	Traynor
Ellingson, Traill	Olafson	Tschida
Erickson, Kidder	Palms	Tuneberg
Flom	Peters	Twichell
Fox	Plath	Veitch
Frank	Polfuss	Watt
Freeman	Rabe	Yeater
Halcrow	Radcliffe	

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Johnson, Foster	O'Neil
Anderson, Sargent	Johnson, McHenry	Quade
Anderson, Stutsman	Jones	Quam
Arduser	Kamrath	Rasmusson
Bubel	Keierleber	Richardson
Cart	Lazier	Roberts
Craig	Leraas	Rulon
Erickson, Divide	Loudenbeck	Shurr
Erickson, Steele	McDowall	Skogland
Ferris	McGauvren	Tweten
Fine	McManus	Vogel
Hardy, Slope	Martin	Zimmerman
Helbling	Miller, Williams	Mr. Speaker
Hempel	Oberg	

Absent and not voting:

Messrs.
Worner

So the motion was declared lost.

RESOLUTION

Introduced by Mr. O. C. Martin.

Whereas, It is necessary that the House Journals be mailed out to the members, and to those upon the mailing list, and

Whereas, It is necessary that the Journal of the Sixtieth Day be proofread; therefore,

Be It Resolved: That Jacob Aman be employed to complete the mailing out of such Journals, and that H. R. Long be retained and employed to complete such proofreading under the direction of the Printing Commission to the end that the Journal of the Sixtieth Day may be mailed out promptly, and that proof of the balance of Journal be properly read; the services of such employees to be paid at the wage at which they are now employed and on the direction of the Printing Commission, but as legislative expense.

Mr. Twichell moved the adoption of the resolution by Mr. Martin.

Which motion prevailed, and the resolution was adopted.

ROLL CALL

House Bill No. 295. A Resolution by Mr. Martin.
Was read the third time.

The question being on the final passage of the bill, the roll was called, and there were ayes 107, nays 0, absent and not voting 6.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hartl	Quade
Anderson, Sargent	Helbling	Quam
Anderson, Stutsman	Hempel	Rabe
Arduser	Hildre	Radcliffe
Borman	Hoople	Rasmusson
Bollinger	Iverson	Richardson
Boyd	Jodock	Roberts
Brown	Johnson, Foster	Root
Bubel	Johnson, McHenry	Rulon
Burns	Johnson, Pembina	Sanderson
Butt	Johnson, Ransom	Schmidt
Erickson, Steele	Johnson, Traill	Shepard
Carr	Jones	Shurr
Cart	Kamrath	Skogland
Craig	Keierleber	Slominski
Crocker	Lazier	Sproul
Currie	Leraas	Standley
Divet	Levin	Starke
Dougherty	Loudenbeck	Streich
Doyle	McCay	Svingen
Eckert	McDowall	Swett
Elken	McGauvren	Thatcher
Ellingson, Ramsey	McManus	Thompson, Burleigh
Ellingson, Traill	Martin	Thompson, Sargent
Erickson, Divide	Miller, McIntosh	Traynor
Erickson, Kidder	Miller, Williams	Tschida
Ferris	Montgomery	Tuneberg
Fine	Morton	Tweten
Flom	Muus	Twichell
Fox	Oberg	Veitch
Frank	Olafson	Vogel
Freeman	O'Neil	Watt
Halcrow	Palms	Yeater
Hanson	Peters	Zimmerman
Hardy, Slope	Polfuss	Mr. Speaker
Hardy, Mountrail		

Absent and not voting:

Messrs.	Messrs.	Messrs.
Brant	Plath	Sanford
Burkhart	Sagen	Worner
Jacobson		

Mr. Martin moved that the report of the conference committee on House Bill No. 193 be adopted and the committee discharged and a new conference committee appointed.

Which motion prevailed.

The Speaker appointed the following conference committee: Representatives Morton, Zimmerman and Helbling.

Mr. Vogel moved that the House do not concur in the Senate amendments to House Bill No. 30 and that the Speaker appoint a conference committee to confer with a like committee from the Senate regarding such amendments.

Which motion prevailed.

The Speaker appointed the following committee: Representatives Streich, Carr and Ferris.

Mr. Streich moved that the House do concur in the Senate amendments to House Bill No. 27.

Mr. Vogel moved, as a substitute motion, that the House do not concur in the Senate amendments to House Bill No. 27 and that the Speaker appoint a conference committee to confer with a like committee from the Senate regarding such amendments.

Which motion prevailed.

The Speaker appointed the following committee: Representatives Arduser, Hardy of Slope and Craig.

Mr. Twichell moved that the House concur in the Senate amendments to House Bill No. 263.

Which motion prevailed.

Mr. Twichell moved that the rules be suspended and that House Bill No. 263 be considered properly re-engrossed and be placed upon third reading and final passage.

Which motion prevailed.

THIRD READING OF HOUSE BILLS

ROLL CALL

House Bill No. 263. A Bill for an Act Providing that Real Estate Which Has Been Sold at Tax Sale Which Sale Is Invalid or of Doubtful Validity Because Not Conducted in Accordance with Section 3733 of the Compiled Laws of 1913, or for Other Reasons, May Again Be Sold at Future Tax Sales for the Taxes of the Years Included in Such Irregular Tax Sales.

Was read the third time.

The question being on the final passage of the bill, as amended by the Senate, the roll was called, and there were ayes 108, nays 0, absent and not voting 5.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hardy, Mountrail	Polfuss
Anderson, Sargent	Hartl	Quade
Anderson, Stutsman	Helbling	Quam
Arduser	Hempel	Rabe
Borman	Hildre	Radcliffe
Boyd	Hoople	Rasmusson
Brant	Iverson	Richardson
Brown	Jacobson	Roberts
Bubel	Jodock	Root
Burkhart	Johnson, Foster	Rulon
Burns	Johnson, McHenry	Sagen
Butt	Johnson, Pembina	Sanderson

Messrs.	Messrs.	Messrs.
Carr	Johnson, Ransom	Sanford
Cart	Johnson, Traill	Schmidt
Craig	Jones	Shepard
Crocker	Kamrath	Shurr
Currie	Keierleber	Skogland
Divet	Lazier	Slominski
Dougherty	Leraas	Sproul
Doyle	Levin	Starke
Eckert	Loudenbeck	Streich
Elken	McCay	Svingen
Ellingson, Ramsey	McDowall	Swett
Ellingson, Traill	McGauvren	Thatcher
Erickson, Divide	McManus	Thompson, Burleigh
Erickson, Kidder	Martin	Traynor
Erickson, Steele	Miller, McIntosh	Tschida
Ferris	Miller, Williams	Tuneberg
Fine	Montgomery	Tweten
Flom	Muus	Twichell
Fox	Oberg	Veitch
Frank	Olafson	Vogel
Freeman	O'Neil	Watt
Halcrow	Palms	Yeater
Hanson	Peters	Zimmerman
Hardy, Slope	Plath	Mr. Speaker

Absent and not voting:

Messrs.	Messrs.	Messrs.
Bollinger	Standley	Worner
Morton	Thompson, Sargent	

So the bill passed and the title was agreed to.

Mr. Sagen moved that the House do concur in the Senate amendments to House Bill No. 280.

Mr. Peters moved as a substitute motion that the House do not concur in the Senate amendments to House Bill No. 280 and that the Speaker appoint a conference committee to confer with a like committee from the Senate regarding such amendments.

Which motion was lost.

The question being on the motion of Mr. Sagen, the motion prevailed.

Mr. Twichell moved that the rules be suspended and that House Bill No. 280 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

ROLL CALL

House Bill No. 280. A Bill for an Act to Amend and Re-enact Section 33, Chapter 161, Session Laws of 1915, as Amended by Chapter 122, Session Laws of 1917, as Amended by Section 4, Chapter 134, Session Laws of 1919, Relating to Game Birds and Fixing the Open Season for Killing Same.

Was read the third time.

The question being on the final passage of the bill, as amended by the Senate, the roll was called, and there were ayes 75, nays 37, absent and not voting 1.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Halcrow	Olafson
Anderson, Sargent	Hanson	O'Neil
Anderson, Stutsman	Hardy, Slope	Quade
Arduser	Hardy, Mountrail	Rabe
Boyd	Hartl	Rasmusson
Brown	Helbling	Rulon
Burns	Hempel	Sagen
Carr	Hildre	Sanderson
Cart	Iverson	Schmidt
Crocker	Johnson, Foster	Shepard
Currie	Johnson, McHenry	Skogland
Divet	Johnson, Pembina	Slominski
Dougherty	Johnson, Ransom	Standley
Doyle	Johnson, Traill	Starke
Eckert	Jones	Streich
Elken	Keierleber	Thompson, Burleigh
Ellingson, Ramsey	Lazier	Traynor
Ellingson, Traill	Leraas	Tschida
Erickson, Steele	McDowall	Tuneberg
Ferris	McManus	Tweten
Fine	Martin	Twichell
Flom	Miller, McIntosh	Veitch
Fox	Montgomery	Vogel
Frank	Morton	Watt
Freeman	Muus	Zimmerman

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Borman	Loudenbeck	Roberts
Bollinger	McCay	Root
Brant	McGauvren	Sanford
Bubel	Miller, Williams	Shurr
Burkhart	Oberg	Sproul
Butt	Palms	Svingen
Craig	Peters	Swett
Erickson, Divide	Plath	Thatcher
Erickson, Kidder	Polfuss	Thompson, Sargent
Hoople	Quam	Worner
Jacobson	Radcliffe	Yeater
Jodock	Richardson	Mr. Speaker
Levin		

Absent and not voting:

Messrs.
Kamrath

So the bill passed and the title was agreed to.

Mr. Streich moved that the House return to the Sixth Order of Business.

Which motion prevailed.

Mr. Streich:

I move at this time that your select committee, appointed to conduct the Highway Investigation, be discharged. Their reports have been printed in the Journal and the people of the state can be the final judges of the value to the state of the work done by the committee.

I move that the committee be commended for their labor and discharged.

Which motion prevailed.

Mr. Morton moved the clincher motion.

Which motion prevailed.

Mr. Burkhart moved that the House concur in the Senate amendments to House Bill No. 286.

Mr. Boyd moved that the rules be suspended and that House Bill No. 286 be considered properly re-engrossed and be placed upon third reading and final passage.

Which motion prevailed.

ROLL CALL

House Bill No. 286. A Bill for an Act Directing the State Emergency Commission to Provide Funds for Opposing Any Increase in Lignite Freight Rates and Making an Appropriation Therefor.

Was read the third time.

The question being on the final passage of the bill, as amended by the Senate, the roll was called, and there were ayes 100, nays 2, absent and not voting 11.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hanson	Palms
Anderson, Sargent	Hardy, Slope	Peters
Anderson, Stutsman	Hardy, Mountrail	Plath
Arduser	Hartl	Polfuss
Borman	Helbling	Quade
Bollinger	Hempel	Quam
Boyd	Hildre	Rabe
Brant	Hoople	Rasmusson
Brown	Iverson	Richardson
Eubel	Jodock	Roberts
Burkhart	Jacobson	Root
Burns	Johnson, Foster	Rulon
Butt	Johnson, McHenry	Sanderson
Carr	Johnson, Pembina	Sanford
Cart	Johnson, Ransom	Shepard
Craig	Johnson, Traill	Shurr
Crocker	Jones	Slominski
Currie	Kamrath	Sproul
Divet	Keierleber	Standley

Messrs.	Messrs.	Messrs.
Dougherty	Lazier	Streich
Doyle	Leraas	Svingen
Eckert	Levin	Thatcher
Elken	Loudenbeck	Thompson, Burleigh
Ellingson, Ramsey	McGauvren	Thompson, Sargent
Ellingson, Traill	McManus	Tschida
Erickson, Divide	Martin	Tuneberg
Erickson, Kidder	Miller, McIntosh	Tweten
Erickson, Steele	Montgomery	Veitch
Ferris	Morton	Vogel
Fine	Muus	Watt
Flom	Oberg	Worner
Frank	Olafson	Yeater
Freeman	O'Neil	Zimmerman
Halcrow		

Those voting in the negative were:

Messrs.	Messrs.
Miller, Williams	Mr. Speaker

Absent and not voting:

Messrs.	Messrs.	Messrs.
Fox	Sagen	Swett
McCay	Schmidt	Traynor
McDowall	Skogland	Twichell
Radcliffe	Starke	

So the bill passed and the title was agreed to.

Mr. Hanson moved that the House concur in the Senate amendments to House Bill No. 212.

Which motion prevailed.

Mrs. Craig moved that the rules be suspended and that Senate Bill No. 212 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

ROLL CALL

House Bill No. 212. A Bill for an Act Relating to Frogs, Establishing a Closed Season, Regulating the Manner of Taking; Licensing Dealers and Providing Penalties for Violations.

Was read the third time.

The question being on the final passage of the bill, as amended by the Senate, the roll was called, and there were ayes 80, nays 19, absent and not voting 14.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hildre	Radcliffe
Anderson, Sargent	Hoople	Rasmusson
Anderson, Stutsman	Iverson	Richardson
Arduser	Jacobson	Roberts
Borman	Jodock	Root
Bollinger	Johnson, McHenry	Rulon
Brown	Johnson, Pembina	Sagen
Burkhart	Johnson, Ransom	Sanderson
Burns	Kamrath	Sanford
Carr	Lazier	Shepard
Cart	Leraas	Shurr
Craig	Levin	Slominski
Crocker	McDowall	Sproul
Currie	McGavren	Standley
Dougherty	McManus	Streich
Doyle	Miller, McIntosh	Sweet
Eckert	Montgomery	Thompson, Burleigh
Ellingson, Ramsey	Morton	Thompson, Sargent
Erickson, Divide	Muus	Tschida
Erickson, Kidder	Oberg	Tuneberg
Erickson, Steele	Olafson	Tweten
Fox	O'Neil	Tw'chell
Frank	Palms	Watt
Freeman	Peters	Worner
Halcrow	Plath	Zimmerman
Hanson	Polfuss	Mr. Speaker
Hardy, Mountrail	Rabe	

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Brant	Helbling	Miller, Williams
Bubel	Hempel	Quade
Elken	Johnson, Foster	Quam
Ellingson, Traill	Johnson, Traill	Schmidt
Ferris	Jones	Svingen
Fine	Keierleber	Thatcher
Hardy, Slope		

Absent and not voting:

Messrs.	Messrs.	Messrs.
Boyd	Loudenbeck	Traynor
Butt	McCay	Veitch
Divet	Martin	Vogel
Flom	Skogland	Yeater
Hartl	Starke	

So the bill passed and the title was agreed to.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to inform you that the

Senate has approved the conference committee report on Senate Bill No. 257 and also Senate Bill No. 26.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to return herewith the following bill:

House Bill No. 3. A Bill for an Act to Amend and Re-enact Sections 6, 11, 12 16 and 17 of Chapter 44 of the Special Session Laws of North Dakota, for the Year 1919, Relating to the Registration and Licensing of Motor Vehicles the Creation of a State Highway Fund, the Distribution of Such Fund, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Which the Senate has amended.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to return herewith the following bills:

House Bill No. 138. A Bill for an Act to Amend and Re-enact Section 8774 of the Compiled Laws of North Dakota for the Year 1913, Providing for the Sale of Real Estate by the County Court and For the Advertising of the Same and How Made.

House Bill No. 281.

House Bill No. 251. A Bill for an Act Prohibiting Discrimination on the Part of Insurance Companies and Bonding Companies in the Rate of Premium Charged for Insuring or Bonding Old Line or Line Elevators and Independent, Co-operative or Farmers' Elevators.

Which the Senate has indefinitely postponed.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to return herewith the following bills:

House Bill No. 1. A Bill for an Act to Amend and Re-enact Section 2185, Compiled Laws of North Dakota, for the Year 1913, as Amended by Chapter 67 of the 1919 Special Session and as Amended by Chapter 320 of the 1923 Session, Relating to Real Estate Taxes Due and Delinquent, and Penalty and Interest Thereon.

House Bill No. 2. A Bill for an Act to Amend and Re-enact Section 2191 of the Compiled Laws of North Dakota for the Year 1913, Relating to Tax Sales.

House Bill No. 192. A Bill for an Act to Amend and Re-enact Section 2166, of the Compiled Laws of 1913, Relating to Delinquent Personal Taxes and Providing for the Collection of the Same.

Which the Senate has indefinitely postponed.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to return herewith the following bills:

House Bill No. 259. A Joint Resolution.

Which the Senate has passed unchanged.

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to return herewith the following bills:

House Bill No. 184. A Bill for an Act to Amend and Re-enact Section 69 of the Compiled Laws of North Dakota for 1913, Relating to the Printing of the Popular Edition of the Session Laws; Fixing the Specifications for the Unauthenticated Edition of the Session Laws of the State of North Dakota, and Repealing All Acts and Parts of Acts in Conflict Therewith.

House Bill No. 186. A Bill for an Act to Amend and Re-enact Section 5167 of the Compiled Laws of 1913 Requiring Regular and Special Reports to the State Examiner by Banking Associations, Savings Banks and Trust Companies, and Providing Penalties for Failure to Make the Same.

House Bill No. 266. A Bill for an Act to Amend and Re-

enact Section 31, Chapter 168, Session Laws of 1919, Relating to the Survey of Mines.

Which the Senate has passed unchanged.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to return herewith the following bills:

House Bill No. 291. A Concurrent Resolution to Provide for the Payment of Expenses of the Special Committee Named by the Governor at the Instance of the House and Senate State Affairs Committee, for the Purpose of Investigating Conditions at the State Hospital at Jamestown, North Dakota.

House Bill No. 293.

Which the Senate has passed unchanged.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has concurred in the House amendment to

Senate Bill No. 83. A Bill for an Act to Regulate the Conduct of Elections, Repealing Section 1005, Compiled Laws of 1913, and Chapter 212 of Session Laws of 1923, and Providing Penalties for the Violation Thereof.

Senate Bill No. 167. A Bill for an Act Providing general rules of procedure in county courts relating to giving notice to and obtaining jurisdiction of all persons interested in estates of deceased persons, or of minors, or incompetents; and for giving notice to creditors of and presentation and investigation and allowance or rejection of claims against estates of deceased persons; and sales of real estate by executors, administrators and guardians; and to repeal Sections 8549, 8550, 8551, 8552, 8553, 8554, 8555, 8556, 8557, 8558, 8559, 8565, 8734, 8736, 8737, 8740, 8741, 8742, 8743, 8744, 8747, 8748, 8752, 8754, 8771, 8772, 8774, 8775, 8776, 8777, 8780, 8790, 8791, 8909, 8911, 8767, 8769, 8770 of the Compiled Laws of North Dakota 1913, and all Acts and parts of Acts in conflict herewith."

Senate Bill No. 236. A Bill for an Act to Prescribe the Legal Reserve Fund of All Banking Associations and Corporations, on and After July 1, 1926.

Senate Bill No. 230. A Bill for an Act to Amend and Re-enact Section 1400 of Article 22 of the Laws of the State of North Dakota, Relating to Consolidated, Graded, and Rural Schools May Receive State Aid.

Senate Bill No. 270. A Bill for an Act to Amend and Re-enact Section 1369 of the Compiled School Laws of North Dakota for the Year 1919, Relating to Teachers' Certificates Issued on High School Diplomas.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has appointed as a conference committee on House Bill No. 31, Senators Van Camp, Miklethun and Benson.

And as a Conference Committee on House Bill No. 149, Senators Tofsrud, McCrory and Ingerson.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to return:

House Bill No. 208. A Concurrent Resolution.

Which the Senate has amended as follows:

After the word "Dakota" strike out the period, insert a comma and insert the following: "If the same can be done to advantage and if suitable arrangements cannot be made with the owners of the said building that steps be taken to arrange for other permanent quarters for all of said departments including the Bank of North Dakota."

Very respectfully.

C. R. VERRY,
Secretary.

Mr. Twichell moved that the House concur in the Senate Amendments to House Bill No. 269, which motion prevailed.

Mr. Olafson moved that the rules be suspended and that House Bill No. 269 be considered properly re-engrossed and be placed upon third reading and final passage.

Which motion prevailed.

THIRD READING OF HOUSE BILLS

ROLL CALL

House Bill No. 269. A Bill for an Act to Amend and Re-enact Section 3523, Compiled Laws of 1913, Relating to the Appointment and Fixing the Salary of Deputy Sheriffs.

Was read the third time.

The question being on the final passage of the bill, as amended by the Senate, the roll was called, and there were ayes 80, nays 14, absent and not voting 19.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Sargent	Hardy, Slope	Polfuss
Anderson, Stutsman	Hardy, Mountrail	Quam
Borman	Hartl	Rabe
Bollinger	Hildre	Radcliffe
Boyd	Helbling	Rasmusson
Brown	Hempel	Richardson
Bubel	Iverson	Roberts
Burkhart	Jacobson	Root
Burns	Johnson, McHenry	Sanderson
Butt	Johnson, Pembina	Sanford
Carr	Johnson, Ransom	Shepard
Cart	Johnson, Traill	Slominski
Craig	Lazier	Streich
Crocker	Leraas	Swett
Divet	McCay	Thatcher
Dougherty	McDowall	Traynor
Doyle	McGauvren	Tuneberg
Eckert	Martin	Tweten
Ellingson, Traill	Miller, McIntosh	Twichell
Erickson, Divide	Montgomery	Veitch
Erickson, Steele	Morton	Vogel
Ferris	Muus	Watt
Flom	Oberg	Worner
Fox	Olafson	Yeater
Frank	O'Neil	Zimmerman
Halcrow	Peters	Mr. Speaker
Hanson	Plath	

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Jones	Sagen
Arduser	Kamrath	Shurr
Brant	Keierleber	Svingen
Jodock	Miller, Williams	Thompson, Burleigh
Johnson, Foster	Palms	

Absent and not voting:

Messrs.	Messrs.	Messrs.
Currie	Levin	Skogland
Elken	Loudenbeck	Sproul
Ellingson, Ramsey	McManus	Standley
Erickson, Kidder	Quade	Starke
Fine	Rulon	Thompson, Sargent
Freeman	Schmidt	Tschida
Hoople		

So the bill passed and the title was agreed to.

Mr. Cart moved that the House concur in the Senate amendments to House Bill No. 101.

Which motion prevailed.

Mr. Hempel moved that the rules be suspended and that House Bill No. 101 be considered properly re-engrossed and placed upon third reading and final passage, which motion prevailed.

ROLL CALL

House Bill No. 101. A Bill for an Act to Provide for the Correction of Errors in the Assessment of Property; for the Placing of Omitted Property or Property Which has Escaped Taxation Upon the Tax Lists; for the Re-assessment of Property which has been Undervalued and to Repeal Sections 2137, 2216, 2217, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304 of the Compiled Laws of the State of North Dakota for the Year 1913.

Was read the third time.

The question being on the final passage of the bill as amended by the Senate, the roll was called, and there were ayes 62, nays 35, absent and not voting 16.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hempel	Quam
Anderson, Sargent	Hildre	Richardson
Anderson, Stutsman	Hoople	Roberts
Arduser	Iverson	Root
Bollinger	Jacobson	Sagen
Boyd	Jodock	Sanford
Burkhart	Johnson, Foster	Schmidt
Burns	Johnson, McHenry	Shepard
Butt	Jones	Shurr
Cart	Kamrath	Skogland
Craig	Keierleber	Starke
Crocker	Lazier	Streich
Doyle	Leraas	Svingen
Erickson, Divide	McCay	Swett
Ferris	McGauvre	Thatcher
Fine	McManus	Tweten
Flom	Miller, Williams	Twichell
Freeman	Oberg	Vogel
Hanson	O'Neil	Yeater
Hardy, Mountrail	Palms	Mr. Speaker
Hartl	Plath	

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Borman	Johnson, Ransom	Sanderson
Carr	Levin	Slominski
Currie	Montgomery	Sproul
Divet	Morton	Standley
Dougherty	Muus	Thompson, Burleigh

Messrs.	Messrs.	Messrs.
Ellingson, Ramsey	Olafson	Traynor
Fox	Peters	Tschida
Frank	Polfuss	Tuneberg
Halcrow	Quade	Veitch
Hardy, Slope	Rabe	Watt
Helbling	Radcliffe	Worner
Johnson, Pembina	Rasmusson	

Absent and not voting:

Messrs.	Messrs.	Messrs.
Brant	Erickson, Kidder	Martin
Brown	Erickson, Steele	Miller, McIntosh
Bubel	Johnson, Traill	Rulon
Eckert	Loudenbeck	Thompson, Sargent
Elken	McDowall	Zimmerman
Ellingson, Traill		

So the bill passed and the title was agreed to.

Mr. Hempel moved that the vote by which House Bill No. 101 was passed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

Mr. Roberts moved that the House do not concur in the Senate amendments to House Bill No. 108.

Mr. Rabe moved, as a substitute motion, that the House do concur in the Senate amendments to House Bill No. 108, which motion was lost.

The question being on the motion of Mr. Roberts that the House do not concur in the Senate amendments to House Bill No. 108 the motion prevailed.

Mr. Divet moved that the chair appoint a committee to confer with a like committee from the Senate regarding the Senate Amendments to House Bill No. 108.

Which motion prevailed.

The Speaker appointed the following conference Committee: Representatives Quam, Keierleber and Twicheli.

Mr. Traynor moved that the House do concur in the Senate amendments to House Bill No. 287.

Mr. Hoople moved, as a substitute motion, that the House do not concur in the Senate amendments to House Bill No. 287.

Which motion was lost.

The question being on the motion by Mr. Traynor, the motion prevailed.

Mr. Halcrow moved that the rules be suspended and that House Bill No. 287 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

ROLL CALL

House Bill No. 287. A Bill for an Act to Amend and Re-enact Section 4, Chapter 140, Session Laws of 1921, Relating to Sow Thistles.

Was read the third time.

The question being on the final passage of the bill as amended by the Senate, the roll was called, and there were ayes 72, nays 28, absent and not voting 13.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Stutsman	Hempel	Roberts
Borman	Hildre	Root
Bollinger	Hoople	Rulon
Boyd	Iverson	Sanderson
Brown	Johnson, Pembina	Sanford
Burkhart	Johnson, Ransom	Shepard
Burns	Jones	Skogland
Carr	Kamrath	Slominski
Craig	Keierleber	Sproul
Crocker	Lazier	Standley
Currie	Levin	Starke
Divet	McGauvren	Svingen
Dougherty	McManus	Swett
Eekert	Martin	Thompson, Burleigh
Ellingson, Ramsey	Miller, Williams	Traynor
Ellingson, Traill	Montgomery	Tschida
Ferris	Muus	Tuneberg
Fine	Oberg	Tweten
Fox	Peters	Twichell
Frank	Plath	Vogel
Halcrow	Polfuss	Watt
Hanson	Quade	Yeater
Hardy, Slope	Radcliffe	Zimmerman
Hartl	Richardson	Mr. Speaker

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Flom	Leraas
Anderson, Sargent	Freeman	McCay
Arduser	Hardy, Mountrail	McDowall
Bubel	Helbling	Olafson
Butt	Jacobson	O'Neil
Cart	Jodock	Palms
Doyle	Johnson, Foster	Quam
Elken	Johnson, McHenry	Rasmusson
Erickson, Divide	Johnson, Traill	Schmidt
Erickson, Steele		

*Absent and not voting:

Messrs.	Messrs.	Messrs.
Brant	Rabe	Thatcher
Erickson, Kidder	Sagen	Thompson, Sargent
Loudenbeck	Shurr	Veitch
Miller, McIntosh	Streich	Worner
Morton		

So the bill passed and the title was agreed to.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 5, 1925.

Mr. President: I have the honor to inform you that the House refuses to concur in the Senate amendments to House Bill No. 30 and the Speaker has appointed as a conference committee Representatives Streich, Carr and Ferris; also, Mr. President: The House refuses to concur in the Senate amendments to House Bill No. 27 and the Speaker has appointed as a conference committee Representatives Arduser, Hardy of Slope and Craig.

Very respectfully,

J. C. MILLER,
Chief Clerk.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to return herewith the following bills:

House Bill No. 180. A Bill for an Act to Amend and Re-enact Section 1, of Chapter 97 of the Session Laws of 1921, as Amended and Re-enacted by Section 1, of Chapter 268 of the Session Laws of 1923. Defining Intoxicating Liquors.

Which the Senate has passed unchanged.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to return herewith the following bills:

House Bill No. 278. A Bill for an Act to Amend and Re-enact Section 44 of the Compiled Laws of North Dakota for the Year 1913, as Amended by Chapter 4 of the Session Laws of North Dakota for the Year 1915, and as Amended by Chapter 2 of the Session Laws of North Dakota for the Year 1917, Relating to Legislative Apportionment.

Which the Senate has indefinitely postponed.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has appointed as a conference committee on House Bill No. 27, Senators Baird, Hamilton and Patterson.

Very respectfully,

C. R. VERRY,
Secretary.

Mr. Twichell moved that the House concur in the Senate amendments to House Bill No. 3.

Mr. Vogel moved, as a substitute motion, that the House do not concur in the Senate amendments to House Bill No. 3, and that a conference committee be appointed.

Roll call was demanded and granted.

ROLL CALL

House Bill No. 3. A Bill for an Act to Amend and Re-enact Sections 6, 11, 12 16 and 17 of Chapter 44 of the Special Session Laws of North Dakota, for the Year 1919, Relating to the Registration and Licensing of Motor Vehicles, the Creation of a State Highway Fund, the Distribution of Such Fund, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Was read the third time.

The question being on the substitute motion that the House do not concur in the Senate amendments, the roll was called, and there were ayes 55, nays 56, absent and not voting 2.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hoople	Miller, Williams
Anderson, Sargent	Iverson	Oberg
Anderson, Stutsman	Jacobson	O'Neil
Arduser	Jodock	Palms
Brant	Johnson, Foster	Quam
Bubel	Johnson, McHenry	Richardson
Burkhart	Jones	Roberts
Butt	Kamrath	Schmidt
Cart	Keierleber	Shurr
Craig	Lazier	Skogland
Erickson, Divide	Leraas	Streich
Erickson, Kidder	Levin	Svingen
Erickson, Steele	Loudenbeck	Swett
Ferris	McCay	Thatcher
Flom	McDowall	Tweten
Hardy, Slope	McGauvren	Vogel
Hartl	McManus	Yeater
Hempel	Martin	Mr. Speaker

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Borman	Hanson	Sagen
Bollinger	Helbling	Sanderson
Boyd	Hildre	Sanford
Brown	Johnson, Pembina	Shepard
Burns	Johnson, Ransom	Slominski
Carr	Johnson, Traill	Sproul
Crocker	Miller, McIntosh	Standley
Currie	Montgomery	Starke
Divet	Morton	Thompson, Burleigh
Dougherty	Muus	Thompson, Sargent
Doyle	Olafson	Traynor
Eckert	Peters	Tschida
Elken	Plath	Tuneberg
Ellingson, Ramsey	Polfuss	Twichell
Ellingson, Traill	Rabe	Veitch
Fox	Radcliffe	Watt
Frank	Rasmusson	Worner
Freeman	Root	Zimmerman
Halcrow	Rulon	

Absent and not voting:

Messrs.	Messrs.	Messrs.
Fine	Hardy, Mountrail	

So the motion was declared lost.

The question being on the motion of Mr. Twichell that the House do concur in the Senate amendments to House Bill No. 3; Mr. Sanford moved as a substitute motion that House Bill No. 3 be made a special order of business tomorrow at 10 o'clock A. M., which motion prevailed.

Mr. Swett moved that the House do concur in the Senate amendments to House Bill No. 208.

Which motion prevailed.

Mr. Peters moved that the rules be suspended and that House Bill No. 208 as amended in the Senate, be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

The question being on the final passage of House Resolution No. 208, the motion prevailed and House Bill No. 208 was declared passed.

Mrs. Craig moved that the House do not recede from its amendments to Senate Bill No. 180, and that the Speaker appoint a conference committee to confer with a like committee from the Senate.

Which motion prevailed.

The House returned to the Seventh Order of Business.

Mr. Watt moved that all bills held by standing committees be immediately returned to the House.

Which motion prevailed.

Senate Concurrent Resolution by Senator Steel.

CONCURRENT RESOLUTION

Be It Resolved by the Senate of the State of North Dakota, the House of Representatives concurring therein, that the President of the Senate and the Speaker of the House of Representatives be directed to sign and send to President Coolidge the following telegram:

Calvin Coolidge, President,
Washington, D. C.

The Legislative Assembly of the State of North Dakota now in session has by resolution requested us to convey to you as chief executive of this nation, its congratulations and best wishes, and assure you that North Dakota has faith in Calvin Coolidge.

President of the Senate.

Speaker of the House of
Representatives.

Mr. Twichell moved that the resolution be adopted and printed in the Journal.

Mr. Vogel moved as a substitute motion that the words "and to assure you that North Dakota has faith in Calvin Coolidge" be stricken from the message.

Which motion was lost.

The question being on the motion by Mr. Twichell, a roll call was demanded and granted.

ROLL CALL

Senate Resolution by Senator Steel.

Was read the third time.

The question being on the final passage of the bill, the roll was called, and there were ayes 59, nays 54, absent and not voting 0.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Stutsman	Halcrow	Root
Borman	Hanson	Rulon
Bollinger	Hildre	Sagen
Boyd	Johnson, Pembina	Sanderson
Brown	Johnson, Ransom	Skogland
Burns	Johnson, Traill	Slominski
Carr	McDowall	Sproul
Crocker	McGauvren	Standley
Currie	Miller, McIntosh	Starke
Divet	Montgomery	Thompson, Burleigh
Dougherty	Morton	Thompson, Sargent
Eckert	Muus	Traynor
Elken	Olafson	Tschida
Ellingson, Ramsey	Palms	Tuneberg
Ellingson, Traill	Peters	Twichell
Ferris	Plath	Veitch
Flom	Polfuss	Watt
Fox	Quade	Worner
Frank	Rabe	Zimmerman
Freeman	Radcliffe	

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hempel	Oberg
Anderson, Sargent	Hoople	O'Neil
Arduser	Iverson	Quam
Brant	Jacobson	Rasmusson
Bubel	Jodock	Richardson
Burkhart	Johnson, Foster	Roberts
Butt	Johnson, McHenry	Sanford
Cart	Jones	Shepard
Craig	Kamrath	Schmidt
Doyle	Keierleber	Shurr
Erickson, Divide	Lazier	Streich
Erickson, Kidder	Leraas	Svingen
Erickson, Steele	Levin	Swett
Fine	Loudenbeck	Thatcher
Hardy, Slope	McCay	Tweten
Hardy, Mountrail	McManus	Vogel
Hartl	Martin	Yeater
Helbling	Miller, Williams	Mr. Speaker

So the bill passed and the title was agreed to.

Mr. Burkhart:

Mr. Speaker: I wish to explain my vote. I vote "no" because I believe that this resolution is a deliberate attempt by the Independent Voters Association to spread political propaganda over this State.

Mrs. Craig:

Mr. Speaker: Because of the lack of sensible news the "Hanna" "real" Republicans wish to spring this clever stunt. All the propoganda the Fargo Forum and its type need I realize they are getting. I vote "no."

Mr. Crocker: Mr. Speaker: I vote "no" because I consider this the most shameful imposition ever perpetrated upon an innocent man.

Mr. Erickson of Divide:

Mr. Speaker: I vote no on this Resolution and give, as my reason for so doing, the fact that I believe the Senators and Congressman deprived of recognition by the president are more in sympathy with the needs of our people than is the president, and his depriving them of rights to which they are entitled is Un-American and against the principles upon which this government is built, namely Representative government.

We elected Frazier, Ladd and Sinclair by larger majorities, in their district and state, than the President received, and realizing that they know more of our needs than does the President, or any eastern representatives, I condemn the President and his advisers, in most severe terms, for attempting to destroy a representative form of government. Therefore, I vote no.

Mr. Erickson of Kidder:

Mr. Speaker: In view of the fact that the Independents or self-styled "Real Republicans" of this House sent in resolutions congratulating the old style Republicans for ejecting our North Dakota Senators from their committees and councils and this is an effort to force the Progressive Republicans

of this House to sanction the above mentioned resolution, I vote "no."

Mr. Hempel:

Mr. Speaker: I cannot vote for this resolution knowing the action that the Republican party took in putting out of the party such men as LaFollette, Frazier, Sinclair, Brookhart and others of that kind, whom I consider some of the best men in Congress. I vote "no" for the reason that although Senator Norris and those other men who are working with him have been striving with all their might to conserve to the people of the United States the most valuable property, that of Muscle Shoals, they seemingly have been opposed by President Coolidge and his followers. Therefore, I vote "no."

Mr. Johnson of Eddy and Foster:

Mr. Speaker: I vote "no" on this resolution; not because I do not have confidence in President Coolidge but because if I should vote for it, it would be the same as indorsing his policies. Therefore I vote "no."

Paul Johnson of Pembina:

Mr. Speaker: I went all the way to the city of New York to help nominate a man whom I considered a very great man as President of the United States. It cost me a great deal of time, money and energy, but my man, who was a splendid man and a great man in whom I shall always have faith, was not elected. The people of these United States elected a man who is also a great man and a good man and one in whom I have unlimited confidence. And I have unlimited confidence not only in Calvin Coolidge but in the majority of the real American people who elected him. I vote "aye" of course.

Mr. Jodock:

Mr. Speaker: I wish to explain my vote. I vote "no" on this resolution for the reason that our Senators and one of our Representatives were turned out of the Republican party without cause. I vote "no."

Mr. McCay:

Mr. Speaker: I vote "no" for the reason that Coolidge told the farmers that he could not do anything for them. He was elected by corporations and is owned by corporations and consequently I can not put any confidence in him for all of the people. I vote "no."

Mr. Martin:

Mr. Speaker: I vote "no" on this resolution and offer no apologies.

Mr. Morton:

Mr. Speaker: I wish to explain my vote. I am going to vote "aye" on this resolution for the reason that I have always considered myself a Progressive Republican and from the fact that the people of the United States have elected President Coolidge by one of the largest majorities ever known in a like election. I have faith in my party and I vote "aye."

Mr. Sagen:

Mr. Speaker: I vote "aye" because the American people elected Calvin Coolidge to be our President. Yesterday, before the American people and High Heaven he took the oath

of office and I have faith in Calvin Coolidge. Therefore I vote "aye."

Mr. Thompson of Burleigh:

Mr. Speaker: I wish to explain my vote: In case they want to put me on record, there is where I want to be. The people around here have known me for a great many years. I have been a Democrat—a Democrat is as good as a white man if he behaves himself. Mr. Coolidge was elected as our President. Therefore he is my President for the next term of years—just as Mr. Sorlie is my Governor. When the majority of the people put a man in office, it is their duty to stay by him as long as he is honest. Therefore I vote "aye."

Mr. Veitch:

Mr. Speaker: I wish to have my vote recorded in the Journal. I vote "aye" for the reason that I believe in President Coolidge as a man of sterling quality and a man for the people. Therefore I vote "aye."

Mr. Vogel:

Mr. Speaker: I am voting "no" on this resolution because this telegram in itself is simply a piece of political propaganda put out by the so-called "Real Republicans" of North Dakota. I vote "no" on this resolution although I am in favor of sending congratulations to Calvin Coolidge. The fact that he has been elected President has not changed my personal opinion in regard to his personal fitness to hold that position—not one iota. Until he shows me that he is, I will continue to hold that same opinion and I am mighty glad to be able to vote on this and go on record due to the fact that you have failed, for political reasons, to remove the last phrase from this message. I vote "no."

Mr. Watt:

Mr. Speaker: I want to vote "aye" on this resolution because I have unbounded faith in Calvin Coolidge and it gives me great pleasure to send him a letter of congratulations. It is one of the things that the Republican party ought to be proud of.

Mr. Worner:

Mr. Speaker: I want to explain my vote. I have been a Republican all my life. The first vote I ever cast in my life was for the Republican party. I am proud to have had the privilege of voting for Calvin Coolidge and when we look back and see the great American people how they all responded—we can say "Amen" for the good Christian man we have in our chair at this time. I vote "aye."

The Speaker explained his vote as follows:

Mr. Larkin: As President of the United States I wish him Godspeed but I am sorry to state I have but little faith in him as a friend of the common people. Therefore I vote "no."

The House returned to the Seventh Order of Business.

Mr. Morton moved that the rules be suspended that the vote by which Senate Bill No. 287 was indefinitely postponed be reconsidered.

Which motion prevailed.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 5, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has appointed as a conference committee on House Bill No. 30, Senators Olson of Barnes, Seamands and Kaldor.

Very respectfully,

C. R. VERRY,
Secretary.

Mrs. Craig moved the House recess until 7:30 P. M.

Which motion prevailed.

NIGHT SESSION

The House re-assembled at 7:30 P. M. pursuant to recess taken.

The House returned to the Eighth Order of Business.

SIGNING OF BILLS

The Chief Clerk announced that the Speaker was about to sign:

House Bill No. 86. A Bill for an Act to Amend and Re-enact Sections 6, 7, 13, 26 and 27 of Chapter 160 of the Session Laws of 1919, as Amended by Chapter 38 of the Special Session Laws of the Sixteenth Legislative Assembly of the State of North Dakota, as Amended and Re-enacted by Chapter 77 of the Session Laws of North Dakota for the Year 1921 as Amended and Re-enacted by Chapter 232 of the Session Laws of North Dakota for the Year 1923, Relating to State Hail Insurance.

House Bill No. 110. A Bill for an Act to Amend and Re-enact Section 2214 of the Compiled Laws of North Dakota for 1913, Relating to Irregularities of Land to Be Platted Into Lots If Required.

House Bill No. 152. A Bill for an Act to Enact and Re-enact Chapter 170 of the Session Laws of North Dakota for the Year 1919, as Amended by Chapter 346 of the Session Laws of North Dakota for the Year 1923, Being an Act Regulating and Fixing the Hours of Labor of Females and Providing Penalties for the Violation Thereof.

House Bill No. 242. A Bill for an Act Providing that District Courts Shall Have Jurisdiction in the Foreclosure of Tax Liens in Cases of Irregular Tax Sales, Prescribing the Procedure in Such Cases; and Providing that Such Remedy Shall Be Cumulative.

House Bill No. 177. A Bill for an Act to Amend and Re-enact Section 10523 of the Compiled Laws of North Dakota for the Year 1913, Relating to the time of Commencing Criminal Actions, and Providing Exceptions Therefor.

House Bill No. 173. A Bill for an Act to Amend and Re-enact Section 10141 of the Compiled Laws of North Dakota for the Year 1913, Relating to Being Intoxicated in a Public Place.

House Bill No. 144. A Bill for an Act Providing for the Manner of Constructing Crossings, and For the Construction and Maintenance of Certain Signs at the Crossings of Railroads, Streets and Public Highways, and Regulating the Use of Such Crossings by the Public, and for the Establishment, and Re-location of Such Crossings and for the Protection of Dangerous Railroad Grade Crossings.

House Bill No. 179. A Bill for an Act to Amend and Re-enact Section 10994 of the Compiled Laws of North Dakota for the Year 1913, Relating to the Time for Appeal to the Supreme Court in Criminal Cases.

House Bill No. 171. A Bill for an Act to Amend and Re-enact Section 9917 of the Compiled Laws of North Dakota for the Year 1913, Relating to Punishment of Grand Larceny.

House Bill No. 155. A Bill for an Act to Amend and Re-enact Chapter 136, Laws of North Dakota for the Year 1923, Providing for the Supervision and Regulation of the Transportation of Persons and Property for Compensation Over Any Public Highway by Motor Propelled Vehicles; Defining Transportation Companies; Providing for Supervision and Regulation Thereof by the Board of Railroad Commissioners of the State of North Dakota; Providing for the Enforcement of the Provisions of This Act and for the Punishment of the Violation Thereof.

House Bill No. 178. A Bill for an Act to Amend and Re-enact Sections 11113, and 11114 and 11115 of the Compiled Laws of North Dakota for the Year 1913, Relating to Bail.

House Bill No. 84. A Bill for an Act Empowering the Board of Railroad Commissioners to Order, Authorize and Permit Common Carriers to Publish and Charge Special Freight Rates, Classification, Rules and Regulations, and Repealing all Acts and Parts of Acts in Conflict Herewith.

House Bill No. 165. A Concurrent Resolution Introduced by the Joint Committee on Agriculture.

House Bill No. 29. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School, Mayville, and for Equipment and Improvements and Repairs.

Senate Bill No. 216. A Bill for an Act to Transfer the Sum of \$400.00 From the Fund Appropriated to the War History Commission for Membership in National Association of War History Organizations to said Commission's Fund for Clerk Hire.

Senate Bill No. 9. A Bill for an Act Making an Appropriation of \$19,450.00 to Reimburse the Depositors Guaranty Fund for Monies Withdrawn Therefrom Under Authority of Section 34 of Chapter 200 of the Session Laws of 1923.

Senate Bill No. 115. A Bill for an Act Relating to the Collection of Checks, Drafts, Notes or Other Negotiable Instruments by Banks or Trust Companies.

Senate Bill No. 152. A Bill for an Act Making an Appropriation to Provide for the Payment of Income Tax Refunds in Connection with Taxes Assessed and Paid Under the 1919 Income Tax Law for the Years 1919, 1920, 1921 and 1922.

Senate Bill No. 192. A Bill for an Act to Amend and Re-

enact Sections 11275, 11276, 11278, 11279 11280, 11281, 11288, 11289 and 11291 of the Compiled Laws of 1913, and Acts Amendatory Thereof, Relating to the Officers and Employees of the State Training School, Their Duties and Salary, Those Who May be Committed to Said School and for What Time, Regulating the Conditions Under which the Students in Said School May be Paroled, and Fixing Penalty for Violation of Parole or Assisting Escapes from Said School.

Senate Bill No. 117. A Bill for an Act Relative to Payment of Deposits in Two Names.

Senate Bill No. 114. A Bill for an Act to Amend and Re-enact Section 2212 of the Compiled Laws of North Dakota for the Year 1913, as Amended by Chapter 252 of the Session Laws of 1915, Relating to the Duty of the County Auditor and the Requirements of the Transfer of Real Property as to Taxes, Deeds and Other Instruments of Conveyance.

Senate Bill No. 207. A Bill for an Act Relating to Primary Elections; Prescribing the Minimum Number of Votes for Nomination.

Senate Bill No. 95. A Bill for an Act to Amend and Re-enact Chapter 91 of the Session Laws of 1921 of the State of North Dakota Relating to the Taking of Promissory Notes in Renewal of Notes Already Held by Banks, Other Corporations or Individuals and Affecting Their Legality.

Senate Bill No. 151. A Bill for an Act to Amend and Re-enact Section 2166 of the Compiled Laws of North Dakota for the Year 1913, Relating to Delinquent Personal Property Taxes.

Senate Bill No. 162. A Bill for an Act Authorizing the Conveyance of Certain Lands.

Senate Bill No. 264. A Bill for an Act Relating to Elections; Providing for a Recount in Case of a Tie Vote.

Senate Bill No. 210. A Bill for an Act Defining State Associations and Regulating and Limiting the Power of Such Associations to Re-Discount, to Borrow Money, to Pledge Assets, Forbidding Contracts to Re-Purchase Assets, Providing Procedure for the Foreclosure of Pledges With Redemption Therefrom, Declaring Void Pledge Contracts in Violation of the Provisions of the Act, Providing a Penalty for Borrowing Money and Pledging Assets in Violation of the Act and Repealing Laws in Conflict.

Senate Bill No. 197. A Bill for an Act to Amend and Re-enact Section 4922 of the Compiled Laws of the State of North Dakota for the Year 1913, as Amended and Re-enacted by Chapter 165, Session Laws of 1919, Relating to the Revocation of the Certificates of Authority of Insurance and Surety Companies and Providing Against Discrimination.

Senate Bill No. 265. A Bill for an Act to Amend and Re-enact Sections 6854, 6855 and 6856, Compiled Laws of 1913, Relating to Threshing Lien.

And the Speaker signed the same in the presence of the House.

The Speaker appointed as a conference committee on Senate Bill No. 180 Reps. Watt, Hildre and Sanford.

Mr. Speaker: Your conference committee appointed to meet with a like committee from the Senate to consider House Bill No. 93, beg leave to report that we do concur in the Senate amendments to House Bill No. 93.

G. W. MORTON,
J. F. ZIMMERMAN,
WILLIAM R. HARTL.

Mr. Borman moved that the House accept the report of the conference committee and concur in the Senate amendments to House Bill No. 93.

Which motion prevailed.

Mr. Twichell moved that the rules be suspended and that House Bill No. 93 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

THIRD READING OF HOUSE BILLS

ROLL CALL

House Bill No. 93. A Bill for an Act to Amend and Re-enact Section 3 of Chapter 187 of the Session Laws of North Dakota for the Year of 1919 as Amended by Chapter 211 of the Session Laws of North Dakota for 1923, Relating to the Qualifications of Official and Legal Newspapers and Providing for the election of such newspapers.

Was read the third time.

The question being on the final passage of the bill as amended by the Senate, the roll was called, and there were ayes 55, nays 52, absent and not voting 6.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Stutsman	Hartl	Root
Borman	Hildre	Rulon
Boyd	Iverson	Sagen
Brown	Johnson, Pembina	Sanderson
Burns	Johnson, Ransom	Slominski
Carr	Johnson, Traill	Sproul
Crocker	Miller, McIntosh	Standley
Currie	Montgomery	Starke
Divet	Morton	Thompson, Burleigh
Dougherty	Muus	Thompson, Sargent
Elken	Olafson	Traynor
Ellingson, Ramsey	Peters	Tschida
Ellingson, Traill	Plath	Tuneberg
Ferris	Polfuss	Twichell
Fox	Quade	Veitch
Frank	Rabe	Watt
Freeman	Radcliffe	Worner
Halcrow	Rasmusson	Zimmerman
Hanson		

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hoople	O'Neil
Anderson, Sargent	Jacobson	Palms
Arduser	Jodock	Quam
Brant	Johnson, Foster	Richardson
Bubel	Johnson, McHenry	Roberts
Burkhart	Jones	Sanford
Butt	Kamrath	Schmidt
Cart	Keierleber	Shepard
Craig	Lazier	Shurr
Doyle	Leraas	Streich
Erickson, Divide	Levin	Svingen
Erickson, KidJer	Loudenbeck	Swett
Erickson, Steele	McCay	Thatcher
Fine	McManus	Tweten
Hardy, Slope	Martin	Vogel
Hardy, Mountrail	Miller, Williams	Yeater
Helbling	Oberg	Mr. Speaker
Hempel		

Absent and not voting:

Messrs.	Messrs.	Messrs.
Bollinger	Flom	McGauvren
Eckert	McDowall	Skogland

So the bill was declared lost.

Mr. Streich moved that the vote by which House Bill No. 93 was passed be reconsidered and the motion to reconsider be laid on the table.

Which motion was declared lost.

Mr. Twichell:

Mr. Speaker: I desire to explain my vote on this measure. The only change in this law being a change that precludes the public newspaper from being a religious paper. I vote for the bill, that being the only change in the law. It prohibits a religious newspaper from being the official paper. I vote "aye."

Mr. Vogel:

Mr. Speaker: I am forced to vote "no" on this bill. I was for the bill as introduced, providing that three-fourths of the paper be published in English. There are a great many German newspapers in this state that this might affect. Consequently I vote "no" on this bill.

REPORTS OF STANDING COMMITTEES

The Committee on Resolutions made the following report:

Mr. Speaker: Your Committee on Resolutions to whom was referred:

Resolution introduced by Representative Miller Relating to Imperialism and War.

Have had the same under consideration and recommend that the same be indefinitely postponed.

E. E. IVERSON,
Chairman.

Mr. Iverson moved that the report be adopted, which motion prevailed and the report was adopted.

The Committee on Resolutions made the following report:

Mr. Speaker: Your Committee on Resolutions to whom was referred:

House Bill No. 292. A Resolution introduced by Messrs. Fine, Jones and Arduset.

Have had the same under consideration and recommend that the same do pass.

E. E. IVERSON,
Chairman.

Mr. Iverson moved that the report be adopted, which motion prevailed and the report was adopted.

Mr. Vogel moved that the rules be suspended and that House Concurrent Resolution No. 292 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

The question being on the passage of the House Resolution No. 292, the secretary was instructed to cast the unanimous vote of the House for House Concurrent Resolution No. 292.

The Committee on Appropriations made the following report:

Mr. Speaker: Your Committee on Appropriations to whom was referred:

Senate Bill No. 142. A Bill for an Act Making an Appropriation of \$10,000.00 to the State Fair at Fargo for the Year 1926.

Have had the same under consideration and recommend that the same be indefinitely postponed.

F. A. VOGEL,
Chairman.

Mr. Vogel moved that the report be adopted, which motion prevailed and the report was adopted.

The committee on Appropriations made the following report:

Mr. Speaker: A minority of your committee on Appropriations to whom was referred:

Senate Bill No. 142. A Bill for an Act Making an Appropriation of Ten Thousand Dollars for the Biennium to the State Fair at Fargo for the Year 1926, as Provided under Sections 1847 to 1859 of the Compiled Laws of North Dakota for the Year 1913.

Have had the same under consideration and recommend that the same do pass.

WM. WATT,
EINAR MUUS,
C. H. STARKE,
E. E. VEITCH,
MICHAEL TSCHIDA,

Mr. Watt moved that the Minority report be adopted.

Mr. Roberts moved, as a substitute motion, that the majority report be adopted.

Roll call was demanded and granted.

ROLL CALL

The question being on the adoption of the substitute motion by Mr. Vogel, the roll was called and there were ayes 56, nays 53, absent and not voting 4.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Iverson	Rabe
Anderson, Sargent	Jacobson	Rasmusson
Anderson, Stutsman	Jodock	Richardson
Arduser	Johnson, Foster	Roberts
Brant	Johnson, McHenry	Schmidt
Bubel	Jones	Shepard
Burkhart	Kamrath	Shurr
Butt	Keierleber	Skogland
Cart	Lazier	Streich
Craig	Leraas	Svingen
Erickson, Divide	Loudenbeck	Swett
Erickson, Kidder	McCay	Thatcher
Ferris	McManus	Tweten
Fine	Martin	Vogel
Hardy, Slope	Miller, Williams	Worner
Hardy, Mountrail	Oberg	Yeater
Hartl	O'Neil	Zimmerman
Helbling	Quade	Mr. Speaker
Hempel	Quam	

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Borman	Halcrow	Root
Boyd	Hanson	Rulon
Brown	Hildre	Sagen
Burns	Hoople	Sanderson
Carr	Johnson, Pembina	Sanford
Crocker	Johnson, Ransom	Slominski
Currie	Johnson, Traill	Sproul
Divert	Levin	Standley
Dougherty	Miller, McIntosh	Starke
Doyle	Montgomery	Thompson, Burleigh
Eckert	Morton	Thompson, Sargent

Messrs.	Messrs.	Messrs.
Elken	Muus	Traynor
Ellingson, Ramsey	Olafson	Tschida
Ellingson, Traill	Palms	Tuneberg
Erickson, Steele	Peters	Twichell
Fox	Plath	Veitch
Frank	Polfuss	Watt
Freeman	Radcliffe	

Absent and not voting:

Messrs.	Messrs.	Messrs.
Bollinger	McDowall	McGauvren
Flom		

So the motion prevailed and the majority report was adopted.

Mr. Martin moved that the vote by which Senate Bill No. 142 was indefinitely postponed be reconsidered and the motion to reconsider be laid on the table.

Mr. Twichell moved a call of the House, which motion prevailed.

Roll call disclosed Reps. McGauvren absent.

Mr. Vogel moved that the call of the House be dispensed with.

Roll call demanded.

ROLL CALL

The question being on the dispensation of a call of the House the roll was called, and there were ayes 59, nays 52, absent and not voting 2.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hempel	Quam
Anderson, Sargent	Hoople	Rabe
Anderson, Stutsman	Iverson	Rasmusson
Arduser	Jodock	Richardson
Brant	Jacobson	Roberts
Bubel	Johnson, Foster	Sanford
Burkhart	Johnson, McHenry	Schmidt
Butt	Jones	Shepard
Cart	Kamrath	Shurr
Craig	Keierleber	Skogland
Doyle	Lazier	Streich
Erickson, Divide	Leraas	Svingen
Erickson, Kidder	Loudenbeck	Swett
Erickson, Steele	McCay	Thatcher
Ferris	McManus	Tweten
Fine	Martin	Vogel
Hardy, Slope	Miller, Williams	Yeater
Hardy, Mountrail	Oberg	Zimmerman
Hartl	O'Neil	Mr. Speaker
Helbling	Quade	

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Borman	Hanson	Root
Bollinger	Hildre	Rulon
Boyd	Johnson, Pembina	Sagen
Brown	Johnson, Ransom	Sanderson
Burns	Johnson, Traill	Slominski
Carr	Levin	Sproul
Crocker	McDowall	Standley
Currie	Miller, McIntosh	Starke
Divet	Montgomery	Thompson, Burleigh
Dougherty	Morton	Thompson, Sargent
Eckert	Muus	Traynor
Elken	Olafson	Tschida
Ellingson, Ramsey	Palms	Tuneberg
Ellingson, Traill	Peters	Twichell
Fox	Plath	Veitch
Frank	Polfuss	Watt
Freeman	Radcliffe	Worner
Halcrow		

Absent and not voting:

Messrs.	Messrs.
Flom	McGauvren

The question being on the motion by Mr. Martin, the motion prevailed.

The Committee on Appropriations made the following report:

Mr. Speaker: Your Committee on Appropriations to whom was referred:

Senate Bill No. 143. A Bill for an Act Making an Appropriation of \$10,000.00 to the State Fair at Grand Forks for the Year 1925.

Have had the same under consideration and recommend that the same be indefinitely postponed.

F. A. VOGEL,
Chairman.

Mr. Vogel moved that the report be adopted, which motion prevailed and the report was adopted.

The committee on Appropriations made the following report:

Mr. Speaker: A minority of your Committee on Appropriations to whom was referred:

Senate Bill No. 143, A Bill for an Act Making an Appropriation of Ten Thousand Dollars to the State Fair at Grand Forks for the Year 1925, as provided for under Sections 1847 to 1859 of the Compiled Laws of North Dakota for the Year 1913.

Have had the same under consideration and recommend that the same do pass.

WM. WATT,
EINAR MUUS,
C. H. STARKE,
E. E. VEITCH,
MICHAEL TSCHIDA,

Mr. Veitch moved that the minority report be adopted.

Mr. Roberts moved, as a substitute motion, that the majority report be adopted.

Roll call demanded and granted.

ROLL CALL

The question being on the adoption of the substitute motion by Mr. Roberts, the roll was called and there were ayes 58, nays 54, absent and not voting 1.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Iverson	Rabe
Anderson, Sargent	Jacobson	Rasmusson
Anderson, Stutsman	Jodock	Richardson
Arduser	Johnson, Foster	Roberts
Brant	Johnson, McHenry	Sanford
Bubel	Jones	Schmidt
Burkhart	Kamrath	Shepard
Butt	Keierleber	Shurr
Cart	Lazier	Skogland
Craig	Leraas	Streich
Doyle	Loudenbeck	Svingen
Erickson, Divide	McCay	Swett
Erickson, Kidder	McManus	Thatcher
Erickson, Steele	Martin	Tweten
Ferris	Miller, Williams	Vogel
Fine	Oberg	Worner
Hardy, Slope	O'Neil	Yeater
Hardy, Mountrail	Quade	Zimmerman
Hartl	Quam	Mr. Speaker
Hempel		

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Borman	Halcrow	Polfuss
Bellinger	Hanson	Radcliffe
Boyd	Helbling	Root
Brown	Hildre	Rulon
Burns	Hoople	Sagen
Carr	Johnson, Pembina	Sanderson
Crocker	Johnson, Ransom	Slominski
Currie	Johnson, Traill	Sproul
Divet	Levin	Standley
Dougherty	McDowall	Starke
Eckert	Miller, McIntosh	Thompson, Burleigh
Elken	Montgomery	Thompson, Sargent

Messrs.	Messrs.	Messrs.
Ellingson, Ramsey	Morton	Traynor
Ellingson, Traill	Muus	Tschida
Flom	Olafson	Tuneberg
Fox	Palms	Twichell
Frank	Peters	Veitch
Freeman	Plath	Watt

Absent and not voting:

Messrs.
McGauvren

So the motion prevailed and the majority report was adopted.

Mr. Martin moved that the vote by which Senate Bill No. 143 was indefinitely postponed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

Mr. Doyle:

Mr. Speaker: I wish to explain my vote. In the call of the House I voted "aye." But I look at it in this way. If Fargo is going to be beat out of the appropriation for the Fargo fair I will not vote for an appropriation for a fair at Grand Forks.

Therefore, I vote "No."

Mr. Larkin:

I vote "aye" on this because this is one of the links in a vicious chain—bridges, fairs, two or three institutions that control the legislation of the state. Therefore I vote "aye."

A minority of the Committee on Appropriations made the following report:

Mr. Speaker: A minority of your Committee on Appropriations to whom was referred:

Senate Bill No. 144. A Bill for an Act to appropriate an Additional \$5,000.00 to the Northwest Agricultural Livestock and Fair Association of Minot, for 1925 and 1926.

Have had the same under consideration and recommend that the same do pass.

EINAR MUUS,
WM. WATT,
C. H. STARKE,
E. E. VEITCH,
MICHAEL TSCHIDA.

A majority of the Committee on Appropriations made the following report:

Mr. Speaker: A majority of your Committee on Appropriations to whom was referred:

Senate Bill No. 144. A Bill for an Act to appropriate \$5000.00 to the Northwest Agricultural Livestock and Fair Association of Minot, for the Fairs to be Held in the Years 1925 and 1926, as Authorized by Section 6 of Chapter 217.

Have had the same under consideration and recommend that the same be indefinitely postponed.

F. A. VOGEL,
Chairman.

Mr. Burns moved that the minority report be adopted.

Mr. Roberts moved, as a substitute motion, that the majority report be adopted.

Roll call was demanded and granted.

ROLL CALL

The question being on the adoption of the majority report, the roll was called, and there were ayes 59, nays 53, absent and not voting 1.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hoople	Rabe
Anderson, Sargent	Iverson	Rasmusson
Anderson, Stutsman	Jacobson	Richardson
Arduser	Jodock	Roberts
Brant	Johnson, McHenry	Sanford
Bubel	Johnson, Foster	Schmidt
Burkhart	Jones	Shepard
Butt	Kamrath	Shurr
Cart	Keierleber	Skogland
Craig	Lazier	Streich
Doyle	Leraas	Svingen
Erickson, Divide	Loudenbeck	Swett
Erickson, Kidder	McCay	Thatcher
Erickson, Steele	McManus	Tweten
Ferris	Martin	Vogel
Fine	Miller, Williams	Worner
Hardy, Slope	Oberg	Yeater
Hardy, Mountrail	O'Neil	Zimmerman
Hartl	Quade	Mr. Speaker
Hempel	Quam	

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Borman	Halcrow	Radcliffe
Bollinger	Hanson	Root
Boyd	Hebling	Rulon
Brown	Hildre	Sagen
Burns	Johnson, Pembina	Sanderson
Carr	Johnson, Ransom	Slominski
Crocker	Johnson, Traill	Sproul
Currie	Levin	Standley
Divet	McDowall	Starke
Dougherty	Miller, McIntosh	Thompson, Burleigh
Eckert	Montgomery	Thompson, Sargent

Messrs.	Messrs.	Messrs.
Elken	Morton	Traynor
Ellingson, Ramsey	Muus	Tschida
Ellingson, Traill	Olafson	Tuneberg
Flom	Palms	Twichell
Fox	Peters	Veitch
Frank	Plath	Watt
Freeman	Polfuss	

Absent and not voting:

Messrs.
McGauvren

So the motion prevailed and the majority report was adopted and Senate Bill No. 144 was indefinitely postponed.

Mr. Loudenbeck moved that the vote by which Senate Bill No. 144 was indefinitely postponed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

A minority of the Committee on Appropriations made the following report:

Mr. Speaker: A minority of your Committee on Appropriations to whom was referred:

Senate Bill No. 145. A Bill for an Act Making an Appropriation of \$6,000.00 to the Missouri Slope Agricultural and Fair Association at Mandan for the Fairs to be Held in the Years 1925 and 1926.

Have had the same under consideration and recommend that the same do pass.

WM. WATT,
EINAR MUUS,
C. H. STARKE,
E. E. VEITCH,
MICHAEL TSCHIDA.

A majority of the Committee on Appropriations made the following report:

Mr. Speaker: A majority of your Committee on Appropriations to whom was referred:

Senate Bill No. 145. A Bill for an Act Making an Appropriation of \$6,000.00 to the Missouri Slope Agricultural and Fair Association at Mandan for the Fairs to be Held in the Years 1925 and 1926, as Authorized by Sections 1860 to 1866, Both Inclusive, of the Compiled Laws for North Dakota for 1913.

Have had the same under consideration and recommend that the same be indefinitely postponed.

F. A. VOGEL,
Chairman.

Mr. Tschida moved that the minority report be adopted.

Mr. Bubel moved, as a substitute motion, that the majority report be adopted.

Roll call was demanded and granted.

ROLL CALL

The question being on the adoption of the majority report, the roll was called, and there were ayes 61, nays 51, absent and not voting 1.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hoople	Quam
Anderson, Sargent	Iverson	Rabe
Anderson, Stutsman	Jacobson	Rasmusson
Arduser	Jodock	Richardson
Brant	Johnson, Foster	Roberts
Brown	Johnson, McHenry	Sanford
Bubel	Jones	Schmidt
Burkhart	Kamrath	Shepard
Butt	Keierleber	Shurr
Cart	Lazier	Skogland
Craig	Leraas	Standley
Doyle	Levin	Streich
Erickson, Divide	Loudenbeck	Svingen
Erickson, Kidder	McCay	Swett
Erickson, Steele	McManus	Thatcher
Ferris	Martin	Tweten
Fine	Miller, Williams	Vogel
Hardy, Slope	Montgomery	Worner
Hardy, Mountrail	Oberg	Yeater
Hartl	O'Neil	Mr. Speaker
Hempel	Quade	

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Borman	Halcrow	Root
Bollinger	Hanson	Rulon
Boyd	Helbling	Sagen
Burns	Hildre	Sanderson
Carr	Johnson, Pembina	Slominski
Crocker	Johnson, Ransom	Sproul
Currie	Johnson, Traill	Starke
Divet	McDowall	Thompson, Burleigh
Dougherty	Miller, McIntosh	Thompson, Sargent
Eckert	Morton	Traynor
Elken	Muus	Tschida
Ellingson, Ramsey	Olafson	Tuneberg
Ellingson, Traill	Palms	Twichell
Flom	Peters	Veitch
Fox	Plath	Watt
Frank	Polfuss	Zimmerman
Freeman	Radcliffe	

Absent and not voting:

Messrs.
McGauvren

So the motion prevailed and the majority report was adopted and Senate Bill No. 145 was indefinitely postponed.

Mr. Oberg moved that the vote by which Senate Bill No. 145 was indefinitely postponed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

A minority of the Committee on Appropriations made the following report:

Mr. Speaker: A minority of your Committee on Appropriations to whom was referred:

Senate Bill No. 155. A Bill for an Act to appropriate the Sum of \$30,000.00 for the Purpose of Paying State's Share for the Construction of Pavement on Federal Aid Project No. 100 Under the Provisions of Chapter 73 of the Laws Passed at the Sixteenth Session of the Legislative Assembly of North Dakota, said Project Being part of Missouri River Bridge Project, and that Such Appropriation be Made from the State Highway Fund.

Have had the same under consideration and recommend that the same do pass.

WM. WATT,
EINAR MUUS,
C. H. STARKE,
E. E. VEITCH,
MICHAEL TSCHIDA.

A majority of the Committee on Appropriations made the following report:

Mr. Speaker: A majority of your Committee on Appropriations to whom was referred:

Senate Bill No. 155. A Bill for an Act to appropriate the Sum of \$30,000.00 for the Purpose of Paying State's Share for the Construction of Pavement on Federal Aid Project No. 100 Under the Provisions of Chapter 73 of the Laws Passed at the Sixteenth Session of the Legislative Assembly of North Dakota, said Project Being part of Missouri River Bridge Project, and that Such Appropriation be Made from the State Highway Fund.

Have had the same under consideration and recommend that the same be indefinitely postponed.

F. A. VOGEL,
Chairman.

Mr. Tschida moved that the minority report be adopted.

Mr. Roberts moved, as a substitute motion, that the majority report be adopted.

Roll call was demanded and granted.

ROLL CALL

The question being on the adoption of the majority report, the roll was called, and there were ayes 57, nays 55, absent and not voting 1.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hartl	Oberg
Anderson, Sargent	Hempel	O'Neil
Anderson, Stutsman	Hoople	Quade
Arduser	Iverson	Quam
Brant	Jacobson	Richardson
Bubel	Jodock	Roberts
Burkhart	Johnson, Foster	Sanford
Butt	Johnson, McHenry	Schmidt
Cart	Jones	Shepard
Craig	Kamrath	Shurr
Doyle	Keierleber	Skogland
Eckert	Lazier	Streich
Erickson, Divide	Leraas	Svingen
Erickson, Kidder	Levin	Swett
Erickson, Steele	Loudenbeck	Thatcher
Ferris	McCay	Tweten
Fine	McManus	Vogel
Hardy, Slope	Martin	Yeater
Hardy, Mountrail	Miller, Williams	Mr. Speaker

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Borman	Helbling	Root
Bollinger	Hildre	Rulon
Boyd	Johnson, Pembina	Sagen
Brown	Johnson, Ransom	Sanderson
Burns	Johnson, Traill	Slominski
Carr	McDowall	Sproul
Crocker	Miller, McIntosh	Standley
Currie	Montgomery	Starke
Divet	Morton	Thompson, Burleigh
Dougherty	Muus	Thompson, Sargent
Elken	Olafson	Traynor
Ellingson, Ramsey	Palms	Tschida
Ellingson, Traill	Peters	Tuneberg
Flom	Plath	Twichell
Fox	Polfuss	Veitch
Frank	Rabe	Watt
Freeman	Radcliffe	Worner
Halcrow	Rasmusson	Zimmerman
Hanson		

Absent and not voting:

Messrs.
McGauvren

So the motion was carried and the majority report was adopted and Senate Bill No. 155 was indefinitely postponed.

Mr. Loudenbeck moved that the vote by which Senate Bill

No. 155 was indefinitely postponed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

THIRD READING OF SENATE BILLS

ROLL CALL

Senate Bill No. 242. A Bill for an Act to Safeguard the Initiative, Referendum and Recall Provisions of the Constitution by Prohibiting Illegal and Fraudulent Signatures to Petitions, Prescribing Form and Manner of Signing and Penalties for Violations.

Was read the third time.

The question being on the final passage of the bill, as amended, the roll was called, and there were ayes 108, nays 2, absent and not voting 3.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hardy, Mountrail	Plath
Anderson, Sargent	Hartl	Polfuss
Arduser	Helbling	Quam
Borman	Hempel	Rabe
Bollinger	Hildre	Radcliffe
Boyd	Hoople	Rasmusson
Brant	Iverson	Richardson
Brown	Jacobson	Roberts
Bubel	Jodock	Root
Burkhart	Johnson, Foster	Rulon
Burns	Johnson, McHenry	Sagen
Butt	Johnson, Pembina	Sanderson
Carr	Johnson, Ransom	Sanford
Cart	Johnson, Traill	Schmidt
Craig	Jones	Shepard
Crocker	Kamrath	Shurr
Currie	Keierleber	Skogland
Divet	Lazier	Slominski
Dougherty	Leraas	Standley
Doyle	Levin	Starke
Eckert	Loudenbeck	Streich
Elken	McCay	Svingen
Ellingson, Ramsey	McDowall	Thatcher
Ellingson, Traill	McGauvren	Thompson, Burleigh
Erickson, Divide	McManus	Thompson, Sargent
Erickson, Kidder	Martin	Traynor
Erickson, Steele	Miller, McIntosh	Tschida
Ferris	Miller, Williams	Tuneberg
Fine	Montgomery	Tweten
Flom	Morton	Twichell
Fox	Muus	Veitch
Halcrow	Oberg	Watt
Hanson	Olafson	Worner
Frank	O'Neil	Yeater
Freeman	Palms	Zimmerman
Hardy, Slope	Peters	Mr. Speaker

Those voting in the negative were:

Messrs.	Messrs.
Anderson, Stutsman	Quade

Absent and not voting:

Messrs.	Messrs.	Messrs.
Sproul	Swett	Vogel

So the bill passed and the title was agreed to.

The Speaker declared the emergency clause had carried.

ROLL CALL

Senate Bill No. 1. A Bill for an Act to Amend and Re-enact Chapter 320, Laws of 1923, also Sections 2191, 2192, 2197, 2202, 2203, 3733, 3735 and 3736 of the Compiled Laws of North Dakota for the Year 1913, Providing for Penalties on Delinquent Real Estate Taxes and Special Assessments; for the Sale of Land for Taxes and Special Assessments; Issuance of Certificates of Sale and Assignments Thereof; for Redemption of Land Sold at Tax Sale; for the Issuance of Tax Deeds on Land Not Redeemed from Sale for Taxes and for the Disposition or Conveyance of Land Bid in by the County and Not Redeemed or Purchased; and to Repeal All Acts in Anywise Contravening the Provisions of This Act.

Was read the third time.

The question being on the final passage of the bill, as amended, the roll was called, and there were ayes 105, nays 5, absent and not voting 3.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Helbling	Quam
Anderson, Sargent	Hildre	Rabe
Anderson, Stutsman	Hoople	Radcliffe
Arduser	Iverson	Rasmusson
Borman	Jacobson	Richardson
Bollinger	Jodock	Roberts
Boyd	Johnson, Foster	Root
Brant	Johnson, McHenry	Rulon
Brown	Johnson, Pembina	Sagen
Bubel	Johnson, Ransom	Sanderson
Burkhart	Johnson, Traill	Sanford
Burns	Jones	Schmidt
Butt	Kamrath	Shepard
Carr	Keierleber	Shurr
Cart	Lazier	Skogland
Crocker	Leraas	Slominski
Currie	Levin	Sproul
Divet	Loudenbeck	Standley
Dougherty	McCay	Starke
Doyle	McDowall	Streich
Eckert	McManus	Svingen
Elken	Martin	Swett

Messrs.	Messrs.	Messrs.
Ellingson, Ramsey	Miller, McIntosh	Thompson, Burleigh
Ellingson, Traill	Miller, Williams	Thompson, Sargent
Erickson, Divide	Montgomery	Traynor
Erickson, Kidder	Morton	Tschida
Erickson, Steele	Muus	Tuneberg
Ferris	Oberg	Tweten
Flom	Olafson	Twichell
Fox	O'Neil	Veitch
Freeman	Palms	Watt
Halcrow	Peters	Worner
Hardy, Slope	Plath	Yeater
Hardy, Mountrail	Polfuss	Zimmerman
Hartl	Quade	Mr. Speaker

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Craig	Hempel	Vogel
Fine	Thatcher	

Absent and not voting:

Messrs.	Messrs.	Messrs.
Frank	Hanson	McGavren

So the bill passed and the title was agreed to.

Mr. Boyd moved that the vote by which Senate Bill No. 1 was passed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

Mr. Hempel:

Mr. Speaker: I vote "no" on this bill for the reason that on January 23, on page 7 in the roll call on House Bill No. 1, seventy members of this House voted to reduce the penalties on taxes to three per cent. Now, a month later (after some of you may have forgotten that in your oath you swore "to do your duty to the best of your ability") you will raise the penalties again to five per cent, if you vote for this bill. On that same day of January 23, one hundred members of this body, on roll call on House Bill No. 2, voted to reduce the interest on delinquent taxes. Now, forty days later, if you vote for this bill, you will again raise the penalty and interest. I voted for reducing penalties and interest and I am not going to vote for this bill, which we understand was drawn by the tax commissioner, and yet, after it had been amended by the Senate with eighteen separate amendments, the Senate finally allowed the bill to be withdrawn and an entirely new bill printed. (Entirely new bill except the title and number.) After this new bill came before the Senate, they made twenty-three amendments again on this new bill and when the bill came before the House, we made twenty-five more amendments and for all of those reasons, and for the further reason that the Senate just today killed House Bills Nos. 1 and 2, which we passed over six weeks ago, which bills reduced penalties and interest on delinquent taxes, I am going to vote "no" because the people are pleading for a re-

duction in penalties and interest and not for a re-vamping of the tax laws. Therefore, I vote "no."

Mr. Johnson of Eddy and Foster:

Mr. Speaker: I wish to explain my vote. I feel that these penalties are higher than they should be but the rest of the bill contains many good points, and for that reason I vote "aye."

Mr. Starke moved that the rules be suspended and that Senate Bill No. 287 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

Mr. Starke moved that the Senate be requested to return Senate Bill no. 287.

Which motion prevailed.

Mr. Watt moved that the rules be suspended and that Senate Bill No. 52 be considered properly re-engrossed as amended, and placed upon third reading and final passage.

Which motion prevailed.

ROLL CALL

Senate Bill No. 52. A Bill for an Act to Appropriate Money for the Expenses of the Executive, Legislative and Judicial Departments of the State Government, and for Public Schools, Specifying the Amount and Time for Which Such Appropriations Shall Be Available, and Repealing All Acts, or Parts of Acts, Insofar as the Same Shall Relate to Appropriations Conflicting Herewith, or to Appropriations for the Same Matters or Purposes Provided for Herein.

Was read the third time.

The question being on the final passage of the bill, as amended, the roll was called, and there were ayes 112, nays 0, absent and not voting 1.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hartl	Quam
Anderson, Sargent	Helbling	Rabe
Anderson, Stutsman	Hempel	Radcliffe
Arduser	Hildre	Rasmusson
Borman	Hoople	Richardson
Bollinger	Iverson	Roberts
Boyd	Jacobson	Root
Brant	Jodock	Rulon
Brown	Johnson, Foster	Sagen
Bubel	Johnson, McHenry	Sanderson
Burkhart	Johnson, Pembina	Sanford
Burns	Johnson, Ransom	Schmidt
Butt	Johnson, Traill	Shepard
Carr	Jones	Shurr
Cart	Kamrath	Skogland
Craig	Keelerleber	Slominski

Messrs.	Messrs.	Messrs.
Crocker	Lazier	Sproul
Currie	Leraas	Standley
Divet	Levin	Starke
Dougherty	Loudenbeck	Streich
Doyle	McCay	Svingen
Eckert	McDowall	Swett
Elken	McManus	Thatcher
Ellingson, Ramsey	Martin	Thompson, Burleigh
Ellingson, Traill	Miller, McIntosh	Thompson, Sargent
Erickson, Divide	Miller, Williams	Traynor
Erickson, Kidder	Montgomery	Tschida
Erickson, Steele	Morton	Tuneberg
Ferris	Muus	Tweten
Fine	Oberg	Twichell
Flom	Olafson	Veitch
Fox	O'Neil	Vogel
Frank	Palms	Watt
Freeman	Peters	Worner
Halcrow	Plath	Yeater
Hanson	Polfuss	Zimmerman
Hardy, Slope	Quade	Mr. Speaker
Hardy, Mountrail		

Absent and not voting:

Messrs.

McGavren

So the bill passed and the title was agreed to.

The Speaker declared the emergency clause carried.

Mr. Roberts moved that the vote by which Senate Bill No. 52 was passed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

Mr. Twichell moved that the rules be suspended and that Senate Bill No. 286 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

ROLL CALL

Senate Bill No. 286. A Bill for an Act to Repeal Chapter 6 of the Session Laws of North Dakota for the Year 1915, Relating to Aid to the Grand Army of the Republic from the Soldiers Home of North Dakota.

Was read the third time.

The question being on the final passage of the bill, the roll was called, and there were ayes 110, nays 0, absent and not voting 3.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hartl	Rabe
Anderson, Sargent	Helbling	Radcliffe
Anderson, Stutsman	Hempel	Rasmusson
Arduser	Hildre	Richardson
Borman	Hoople	Roberts
Bollinger	Iverson	Root
Boyd	Jacobson	Rulon
Brant	Jodock	Sagen
Brown	Johnson, Traill	Sanderson
Bubel	Johnson, Foster	Sanford
Burkhart	Johnson, McHenry	Schmidt
Burns	Johnson, Ransom	Shepard
Butt	Jones	Shurr
Carr	Kamrath	Skogland
Cart	Keierleber	Slominski
Craig	Lazier	Sproul
Crocker	Leraas	Standley
Currie	Levin	Starke
Divet	Loudenbeck	Streich
Dougherty	McCay	Svingen
Doyle	McDowall	Swett
Eckert	McManus	Thatcher
Elken	Martin	Thompson, Burleigh
Ellingson, Ramsey	Miller, McIntosh	Thompson, Sargent
Ellingson, Traill	Miller, Williams	Traynor
Erickson, Divide	Montgomery	Tschida
Erickson, Kidder	Morton	Tuneberg
Erickson, Steele	Muus	Tweten
Ferris	Oberg	Twichell
Fine	Olafson	Veitch
Flom	O'Neil	Vogel
Fox	Palms	Watt
Frank	Peters	Worner
Freeman	Plath	Yeater
Halcrow	Polfuss	Zimmerman
Hardy, Slope	Quade	Mr. Speaker
Hardy, Mountrail	Quam	

Absent and not voting:

Messrs.	Messrs.	Messrs.
Hanson	Johnson, Pembina	McGauvren

So the bill passed and the title was agreed to.

Mr. Twichell moved that the rules be suspended and that Senate Bill No. 235 be considered properly re-engrossed as amended, and placed upon third reading and final passage.

Which motion prevailed.

ROLL CALL

Senate Bill No. 235. A Bill for an Act to Amend and Re-enact Section 959 Compiled Laws of 1913, as Amended by Chapter 203, Session Laws of 1923, Relating to Election Ballots.

Was read the third time.

The question being on the final passage of the bill, as amended, the roll was called, and there were ayes 100, nays 7 absent and not voting 6.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Sargent	Hildre	Rabe
Anderson, Stutsman	Hoople	Rasmusson
Arduser	Iverson	Richardson
Bollinger	Jacobson	Roberts
Brant	Jodock	Root
Brown	Johnson, Foster	Rulon
Burkhart	Johnson, McHenry	Sagen
Burns	Johnson, Ransom	Sanderson
Butt	Johnson, Traill	Sanford
Carr	Kamrath	Shurr
Cart	Keierleber	Skogland
Craig	Lazier	Slominski
Crocker	Leraas	Sprout
Currie	Levin	Standley
Divet	Loudenbeck	Starke
Dougherty	McCay	Streich
Doyle	McDowall	Svingen
Eckert	McManus	Swett
Elken	Martin	Thatcher
Ellingson, Ramsey	Miller, McIntosh	Thompson, Burleigh
Ellingson, Traill	Miller, Williams	Thompson, Sargent
Erickson, Divide	Montgomery	Traynor
Erickson, Kidder	Morton	Tschida
Erickson, Steele	Muus	Tuneberg
Ferris	Oberg	Tweten
Fine	Olafson	Twichell
Flom	O'Neil	Veitch
Fox	Palms	Vogel
Freeman	Peters	Watt
Halcrow	Plath	Worner
Hardy, Slope	Polfuss	Yeater
Hardy, Mountrail	Quade	Zimmerman
Hartl	Quam	Mr. Speaker
Hempel		

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Helbling	Schmidt
Borman	Jones	Shepard
Bubel		

Absent and not voting:

Messrs.	Messrs.	Messrs.
Boyd	Hanson	McGauvren
Frank	Johnson, Pembina	Radcliffe

So the bill passed and the title was agreed to.

COURTESIES OF THE FLOOR

The courtesies of the floor were extended to the following:

Mrs. C. A. Fisher, Bismarck, N. D.; Mr. M. J. Kopp, Richardton, N. D.

Mr Iverson moved that the House do now recess until 9:30 o'clock tomorrow.

Which motion prevailed.

J. C. MILLER,
Chief Clerk.

FIFTY-NINTH DAY AFTER RECESS AND
SIXTIETH DAY

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

The House re-assembled at 10:00 A. M. pursuant to recess taken.

The Speaker presiding.

The House returned to the Eighth Order of Business.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 5, 1925.

Mr. President: I have the honor to transmit herewith the following bill:

House Bill No. 292. A Resolution introduced by Messrs. Fine, Jones and Arduser.

Which the House has passed and your favorable consideration is respectfully requested.

Very respectfully,

J. C. MILLER,
Chief Clerk.

House of Representatives,
Bismarck, North Dakota,
March 5, 1925.

Mr. President: I have the honor to return herewith the following bills:

Senate Bill No. 142. A Bill for an Act Making an Appropriation of Ten Thousand Dollars for the Biennium to the State Fair at Fargo, for the Year 1926, as Provided Under Sections 1847 to 1859 of the Compiled Laws of North Dakota for the Year 1913.

Senate Bill No. 143. A Bill for an Act Making an Appropriation of Ten Thousand Dollars to the State Fair at Grand

Forks for the Year 1925, as Provided for Under Sections 1847 to 1859 of the Compiled Laws of North Dakota for the Year 1913.

Senate Bill No. 144. A Bill for an Act to Appropriate \$5000.00 to the Northwest Agricultural Livestock and Fair Association of Minot, for the Fairs to be Held in the Years 1925 and 1926, as Authorized by Section 6 of Chapter 217.

Senate Bill No. 145. A Bill for an Act Making an Appropriation of \$6,000.00 to the Missouri Slope Agricultural and Fair Association at Mandan for the Fairs to be Held in the Years 1925 and 1926.

Senate Bill No. 145. A Bill for an Act Making an Appropriation of \$6,000.00 to the Missouri Slope Agricultural and Fair Association at Mandan for the Fairs to be Held in the Years 1925 and 1926.

Senate Bill No. 155. A Bill for an Act to Appropriate the Sum of \$30,000.00 for the Purpose of Paying State's Share for the Construction of Pavement on Federal Aid Project No. 100 Under the Provisions of Chapter 73 of the Laws Passed at the Sixteenth Session of the Legislative Assembly of North Dakota, said Project Being part of Missouri River Bridge Project, and that Such Appropriation be Made from the State Highway Fund.

Which the House has indefinitely postponed.

Very respectfully,

J. C. MILLER,
Chief Clerk.

House of Representatives,
Bismarck, North Dakota,
March 5, 1925.

Mr. President: I have the honor to return herewith the following bills:

Senate Bill No. 286. A Bill for an Act to Repeal Chapter 6 of the Session Laws of North Dakota for the Year 1915, Relating to Aid to the Grand Army of the Republic from the Soldiers Home of North Dakota.

Also an unnumbered Resolution.

Which the House has passed unchanged.

Very respectfully,

J. C. MILLER,
Chief Clerk.

House of Representatives,
Bismarck, North Dakota,
March 5, 1925.

Mr. President: I have the honor to request the return of Senate Bil No. 287 for further consideration.

Very respectfully,

J. C. MILLER,
Chief Clerk.

FRIDAY, MARCH 6, 1925

1343

House of Representatives,
Bismarck, North Dakota,
March 5, 1925.

Mr. President: I have the honor to inform you that the Speaker has appointed a new conference committee on House Bill No. 149 composed of Reps. Brant, Rulon and McManus.

Also,

Mr. President: The House refuses to concur in the Senate amendments to House Bill No. 108 and the Speaker has appointed as a conference committee, Reps. Quam, Keierleber and Twichell.

Also,

Mr. President: The House refuses to recede from its amendments to Senate Bill No. 180 and the Speaker has appointed as a conference committee, Reps. Watt, Hildre and Sanford.

Very respectfully,

J. C. MILLER,
Chief Clerk.

House of Representatives,
Bismarck, North Dakota,
March 5, 1925.

Mr. President: I have the honor to inform you that the House has concurred in the Senate amendments to House Bills Nos. 263, 280, 286, 212, 269, 101, 287 and 208.

Very respectfully,

J. C. MILLER,
Chief Clerk.

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to return herewith the following bills:

Senate Bill No. 1. A Bill for an Act to Amend and Re-enact Chapter 320, Laws of 1923, also Sections 2191, 2192, 2197, 2202, 2203, 3733, 3735 and 3736 of the Compiled Laws of North Dakota for the Year 1913, Providing for Penalties on Delinquent Real Estate Taxes and Special Assessments; for the Sale of Land for Taxes and Special Assessments; Issuance of Certificates of Sale and Assignments Thereof; for Redemption of Land Sold at Tax Sale; for the Issuance of Tax Deeds on Land Not Redeemed from Sale for Taxes and for the Disposition or Conveyance of Land Bid in by the County and Not Redeemed or Purchased; and to Repeal All Acts in Anywise Contravening the Provisions of This Act.

Senate Bill No. 52. A Bill for an Act to Appropriate Money for the Expenses of the Executive, Legislative and

Judicial Departments of the State Government, and for Public Schools. Specifying the Amount and Time for Which Such Appropriation Shall Be Available, and Repealing All Acts, or Parts of Acts Insofar as the Same Shall Relate to Appropriations Conflicting Herewith, or to Appropriations for the Same Matters or Purposes Provided for Herein.

Senate Bill No. 235. A Bill for an Act to Amend and Re-enact Section 959 Compiled Laws of 1913, as Amended by Chapter 203, Session Laws of 1923, Relating to Election Ballots.

Senate Bill No. 242. A Bill for an Act to Safeguard the Initiative, Referendum and Recall Provisions of the Constitution by Prohibiting Illegal and Fraudulent Signatures to Petitions, Prescribing Form and Manner of Signing and Penalties for Violations.

Which the House has amended.

Very respectfully,

J. C. MILLER,
Chief Clerk.

Mr. Sanford moved that the House do concur in the Senate amendments to House Bill No. 3.

Which motion prevailed.

Mr Twichell moved that the rules be suspended and that House Bill No. 3 be considered properly re-engrossed as amended by the Senate and placed upon third reading and final passage

Which motion prevailed.

THIRD READING OF HOUSE BILLS

ROLL CALL

House Bill No. 3. A Bill for an Act to Amend and Re-enact Sections 6, 11, 12, 16 and 17 of Chapter 44 of the Special Session Laws of North Dakota, for the Year 1919, Relating to the Registration and Licensing of Motor Vehicles, the Creation of a State Highway Fund, the Distribution of Such Fund, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Was read the third time.

The question being on the final passage of the bill, as amended by the Senate, the roll was called, and there were ayes 85, nays 25, absent and not voting 3.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Sargent	Hardy, Mountrail	Rabe
Anderson, Stutsman	Hartl	Radcliffe
Arduser	Helbling	Rasmussen
Borman	Hempel	Roberts
Bollinger	Hildre	Root

Messrs.	Messrs.	Messrs.
Brant	Hoople	Rulon
Brown	Iverson	Sagen
Burkhart	Jacobson	Sanderson
Burns	Jodock	Sanford
Butt	Johnson, McHenry	Schmidt
Carr	Johnson, Pembina	Shepard
Cart	Johnson, Ransom	Skogland
Crocker	Johnson, Traill	Slominski
Divet	Lazier	Sproul
Dougherty	Leraas	Standley
Doyle	Martin	Starke
Eckert	Miller, McIntosh	Swett
Elken	Miller, Williams	Thompson, Burleigh
Ellingson, Ramsey	Montgomery	Thompson, Sargent
Ellingson, Traill	Morton	Traynor
Erickson, Kidder	Muus	Tschida
Erickson, Steele	Oberg	Tuneberg
Ferris	Olafson	Tweten
Fox	Palms	Twichell
Frank	Peters	Veitch
Freeman	Plath	Watt
Halcrow	Polfuss	Worner
Hanson	Quade	Zimmerman
Hardy, Slope		

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Keierleber	Quam
Bubel	Levin	Richardson
Craig	Loudenbeck	Shurr
Erickson, Divide	McCay	Svingen
Fine	McDowall	Thatcher
Flom	McGavren	Vogel
Johnson, Foster	McManus	Yeater
Jones	O'Neil	Mr. Speaker
Kamrath		

Absent and not voting:

Messrs.	Messrs.	Messrs.
Boyd	Currie	Streich

So the bill passed and the title was agreed to.

Mr. Twichell moved that the vote by which House Bill No. 3 was passed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

Mr. Vogel:

Mr. Speaker: I vote "no" on this bill. I am opposed to giving any more money to a department that has shown the waste and extravagance that the present Highway administration has shown. I vote "no."

Mr. Starke moved that the rules be suspended and that

Senate Bill No. 287 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

THIRD READING OF SENATE BILLS.

ROLL CALL

Senate Bill No. 287. A Bill for an Act to Amend and Re-enact Section 2980 Compiled Laws 1913, Relating to the Construction of Hotels.

Was read the third time.

The question being on the final passage of the bill, as amended, the roll was called, and there were ayes 49, nays 57, absent and not voting 7.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hardy, Mountrail	Quam
Anderson, Sargent	Hartl	Rabe
Arduser	Helbling	Radcliffe
Bollinger	Hempel	Rasmusson
Boyd	Hoople	Roberts
Brant	Iverson	Sanford
Bubel	Jacobson	Shurr
Burkhart	Jodock	Skogland
Butt	Johnson, Foster	Starke
Cart	Johnson, McHenry	Streich
Doyle	Lazier	Svingen
Eckert	Loudenbeck	Thatcher
Erickson, Divide	Miller, Williams	Tschida
Erickson, Kidder	Oberg	Voger
Erickson, Steele	O'Neil	Yeater
Ferris	Palms	Mr. Speaker
Hardy, Slope		

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Anderson, Stutsman	Johnson, Pembina	Rulon
Borman	Johnson, Traill	Sagen
Brown	Jones	Sanderson
Burns	Keierleber	Schmidt
Carr	Leraas	Shepard
Craig	Levin	Slominski
Crocker	McCay	Sproul
Divet	McDowall	Standley
Dougherty	McGauvren	Swett
Elken	McManus	Thompson, Burleigh
Ellingson, Ramsey	Miller, McIntosh	Thompson, Sargent
Ellingson, Traill	Montgomery	Traynor
Fine	Muus	Tuneberg
Flom	Peters	Tweten
Fox	Plath	Twichell
Freeman	Polfuss	Veitch
Halcrow	Quade	Watt
Hanson	Richardson	Worner
Hildre	Root	Zimmerman

Absent and not voting:

Messrs.	Messrs.	Messrs.
Currie	Kamratak	Morton
Frank	Martin	Olafson
Johnson, Ransom		

So the bill was declared lost.

Mr. Peters moved that the vote by which Senate Bill No 287 was lost be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

Mr. Hempel:

Mr. Speaker: I wish to explain my vote. I vote "aye" for the reason that I believe more lives will be lost if the fire-escapes are put on these ten or twelve story buildings. In case of a fire scare they would be trying to get out and down the fire-escapes and more lives would be lost than if they tried to get out by the way of the two or three elevators in those buildings. Therefore I vote "aye."

GENERAL ORDERS

Mr. Jones moved that the House resolve itself into a Committee of the Whole for the consideration of General Orders.

Which motion prevailed and the House resolved itself into a Committee of the Whole

The Speaker called Mr. Jones to the chair.

When the committee arose it submitted the following report:

Mr. Speaker: The Committee of the Whole have had under consideration:

Senate Bill No. 189. A Bill for an Act Authorizing the State Engineer to Cooperate with the Director of the United States Geological Survey in Making Topographic Surveys and Maps to be Used in the Development of Flood Protection, Domestic Water Supply, Restoration of Water Areas, Irrigation and Drainage Projects in the State of North Dakota, and Making an Appropriation Therefor.

And recommend the same do pass.

Also,

The Committee of the Whole have had under consideration:

Senate Bill No. 50. A Bill for an Act Making an Appropriation of \$266,900.00 to Pay the Maintenance, Improvements and Repairs, New Buildings and Miscellaneous for the Experiment Station at the Agricultural College, Fargo, North Dakota.

And recommend that the same be amended as follows:

Change figures in line 1 of the title of the engrossed bill to "255,400.00."

Change figures in line 3 of Section 1 to "255,400.00."

Change figures in line 6 of "Maintenance" after "Entomology" to "2,500."

Change figures in line 7 "Cereals and Milling" to "5,000."

Change figures in line 8 "purchase livestock to "\$2,500."

Strike out line 9.

In line 13, "Heat, Light, Power, Campus Service" change figure to "25,000.00" change total to "255,400.00."

And when so amended recommend the same do pass.

Also,

The Committee of the Whole have had under consideration:

Senate Bill No. 51. A Bill for an Act Making an Appropriation of \$100,000.00 as an Offset for Federal Aid in Extension Division Work of the Agricultural College, Fargo, N. Dak.

And recommend that the same be amended as follows:

Change figures in line 1 of the title of engrossed bill to "65,000.00."

Change figures in line 3, Section 1, to "65,000.00."

And when so amended recommend the same do pass.

Also,

The Committee of the Whole have had under consideration:

Senate Bill No. 40. A Bill for an Act Making an Appropriation of \$1,254,355.00 for the Purpose of Paying the General Maintenance, Improvements and Repairs, New Equipment, Etc., of the State University at Grand Forks, North Dakota.

And recommend that the same be amended as follows:

In line 1 of the title of the engrossed bill change the figures "\$1,239,255.00" to "\$956,255.00."

In line 3, Section 1 of the engrossed bill, change the figures "\$1,239,255.00" to "\$956,255.00."

In line 11 change "46,500.00" to "44,000.00."

In line 13 change figures to "18,000.00."

Change figures in line 14 "Summer Sessions" to "25,000.00."

After line 17 insert line "18 General Educational Expense 15,500.00."

Insert line "19 Extension Division 25,000.00."

Insert line "20 Students Welfare 4,400.00."

Change figures for "Total Maintenance" to "\$1,095,000.00."

Change figures for "Total net maintenance" to "\$838,000.00."

Strike out "New Buildings" and lines "1" and "2."

Under "Equipment" change figures in line 3 to "\$20,000.00."

Under "Public Service" insert another line "Lignite Testing and Investigations \$6,000.00."

Change figures in line "2 Clay Testing and Investigations" to "4,000.00."

Change total to "\$46,700.00."

Change total for "Public Service" to "\$40,700.00."

Change total to "\$46,700.00."

And when so amended recommend the same do pass.

Also,

The Committee of the Whole have had under consideration:

Senate Bill No. 53. A Bill for an Act Making an Appropriation of \$548,600.00 to Pay the General Maintenance, Improvements and Repairs, Equipment, Miscellaneous and Public Service of the Agricultural College, Fargo, North Dakota.

And recommend that the same be amended as follows:

In line 1 of the title of engrossed bill change figures to "538,500.00."

In line 3, Section 1, change to "538,500.00."

Strike out lines 5 and 6 of "Administration."

Under subdivision "Education" in line 3, "School of Home Economics" change figures to "53,000.00."

In line 8 "School of Science and Literature" change figures to "135,000.00."

Strike out line 9.

In line 12, strike out "School of Music" and insert "Band and Orchestra."

In line 13, "Military Science and Physical Education" change figures to "25,000.00."

Under subdivision "Physical Plant" in line 2 "Light, Water, Power, Gas." change figures to "12,000.00."

Change figures in "Total Maintenance" to "800,000.00."

Change figures in "Total Net Maintenance" to "420,000.00."

After last line in subdivision "Improvements and Repairs" insert "Equipment."

"1 Engine and Generator House" "25,000.00."

In line "Total Improvements and Repairs, Equipment, Miscellaneous and Public Service" change figures to "118,200.00."

Change total for the biennium "For All Purposes" "538,500.00."

And when so amended recommend the same do pass.

Also,

The Committee of the Whole have had under consideration:

Senate Bill No. 295. A Concurrent Resolution to Appropriate Money to Pay Expenses of Joint Committee on Interstate Bridges.

And recommend that the same be amended as follows:

In the title of the Concurrent Resolution, strike out the word "appropriate" and insert in lieu thereof the word "provide."

Strike out the phrase "Whereas, There is no adequate provision of law for the reimbursement of said committee for said expenses."

Beginning with the word "appropriation," where the same follows "Legislative Assembly" in the body of the resolution, strike out all of the balance of the body of the resolution down to the word "Emergency" and insert in lieu thereof: "appropriate and pay out of moneys on hand in the appropriation for the 19th Legislative Assembly for the State of North Dakota or from any funds available or to become available, for that purpose, the sum of \$242.25 to reimburse Senators W. D. Lynch and A. S. Marshall, and Representative George W. Morton, Robert Boyd and Fred Eckert for expenses incurred in connection with their attendance at this joint committee meeting."

And when so amended recommend the same do pass.

WM. R. JONES,

The Speaker resumed the Chair.

The Clerk read the report of the Committee of the Whole.

Mr. Twichell moved that the report of the Committee of the Whole be adopted.

Which motion prevailed.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate requests the return of House Bill No. 121.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has appointed as a conference committee on House Bill No. 108, Senators Hart, Olson of Eddy and Patten.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has appointed as a conference committee on House Bill No. 31, Senators Kaldor, Bakken, Fredrickson.

And as a conference committee on House Bill No. 27, Senators Ployhar, Ingerson and Bakken.

Very respectfully,

C. R. VERRY,
Secretary.

Mr. Vogel moved that the House comply with the request of the Senate for the return of House Bill No. 121.

Which motion prevailed.

Mr. Starke moved that the following communication be printed in the Journal.

Which motion prevailed.

The Board of Administration at the request of Representative Starke respectfully presents the following statement concerning the building needs at the State University:

The rapid growth of the student enrollment during the past few years has taxed the classroom capacity of all the state educational institutions. This statement particularly applies to four of the larger institutions of the state, namely, the University, Agricultural College, and the State Normal Schools at Minot and Valley City. The Budget Board has seriously considered the building needs of all four of these institutions as being acute. Their decision to recommend an appropriation for the construction of the Liberal Arts building at the University was passed upon and the same consideration that prompted them to recommend the construction of the dormitory for the Institution for Feeble Minded at Grafton and the dining room building at the State Hospital for the Insane. Briefly the conclusion reached by the Budget Board after considering the recommendations of the heads of all the institutions was that the finances of the state would not permit at the time the undertaking of any buildings except those that could be classed as strictly emergency needs. On this

basis they have recommended the construction of three buildings referred to. Two of these have already been approved by the Legislature. The Board of Administration is convinced that looked at from an emergency standpoint the necessity for the Liberal Arts building at the University ranks with the other two buildings mentioned above and already approved. Before the Board of Administration decided that the condition of the old Main Building at the University constituted a serious emergency and a menace to human life due to its rapid and sudden deterioration last spring and summer, we secured the expert opinion and advice of competent builders and architects. The following two reports, one from an architect and one from a firm of contractors, is typical:

"In compliance with your request of July 22, we have investigated the condition of Merrifield Hall at the University, and submit the following report:

"First: The settlement of walls and floors of Merrifield Hall has made the building unsafe, and should be vacated immediately. The settlement has not been uniform around the building, and when settling, as this building has, 4 1-6 inches at one end and remaining at zero at the other, terrific pressures are brought upon different portions of the brickwork. The locations and amounts of these loads are not determinable, and if they were, it would be impractical to try to relieve the stresses created on the brick.

"Second: We do not consider the building safe for school purposes or any other purpose which involves human occupancy in the building.

"Third: It would be impractical to try to repair this building to make it safe for school purposes.

"Fourth: To repair this building would necessitate the underpinning of the entire structure, excavating below the present footings for proper bearing, placing new concrete footings, repairing all arches over doors and windows that have failed, and repairing all damaged plaster and floors. The cost of this work we estimate to be \$50,000.00.

"Fifth: The plan you have submitted to us shows that no settlement has taken place at two points, namely A and H. Since the building walls are of continuous construction, and but two points remain level, there is no portion of the walls that have not been distorted due to the unequal settlement.

This condition makes the entire building unsafe.

We do not recommend the expenditure of any money for repairing this building, but if it is to be occupied, the walls and floors should be properly braced and tied.

Respectfully submitted,

KEITH & KURKE,
By W. F. Kurke."

"In answer to your letter of July 22, in regard to the condition of Merrifield Hall, our opinion is as follows:

"First: The present condition of the building is risky.

Second: We do not consider the use of the building for school purposes safe.

"Third: Such repairs would be so extensive that the cost would be far from reasonable.

Fourth: Third item answers this fully.

"Fifth: Due to the settlement of the building in the past year, it is doubtful if any portion could be made safe.

Yours very truly,

THORVALDSON-JOHNSON, CO., Inc.,
By William Gillanders."

Reports of similar trend were received from Architect Bert D. Kock, Contractor Geo. W. Buckingham and Contractor Thos. Borge.

Following the receipt of these reports, the Board felt that we had no other safe course to pursue but to condemn the building. As a temporary relief measure after consultation with architects and builders, it was deemed best to remove the upper stories so as to relieve the load upon the footings that were shown to be giving way. All of the administration offices, three classrooms and 15 faculty offices are still being maintained in this building. A temporary shack was constructed on the campus to provide for 10 class rooms which had to be removed from the old building. The board wishes to respectfully advise that they cannot assume the responsibility for the continued use of the old building for another period of three years on account of its positive menace to human life.

Respectfully submitted,

BOARD OF ADMINISTRATION,

By R. B. MURPHY,
Chairman.

Mr. Twichell moved that the House recess until 1:30; which motion prevailed.

The House re-assembled at 1:30 pursuant to recess taken.

The Speaker presiding.

The House returned to the 8th order of Business.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has concurred in the House amendment to Senate Bill No. 242.

Very respectfully,

C. R. VERRY,
Secretary.

Bismarck, North Dakota,
Senate Chamber,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate refuses to concur in the House amendments to Senate Bill No. 235 and the President has appointed as a conference committee Senators Carey, Fredrickson and Stevens.

Also the Senate refuses to concur in the House amendments to Senate Bill No. 22 and has appointed as a conference committee Senators Kretschmar, Benson and Marshall.

Very respectfully,

C. R. VERRY,
Secretary.

SIGNING OF BILLS

The clerk announced that the Speaker was about to sign

House Bill No. 280. A Bill for an Act to Amend and Re-enact Section 33, Chapter 161, Session Laws of 1915, as Amended by Chapter 122, Session Laws of 1917, as Amended by Section 4, Chapter 134, Session Laws of 1919, Relating to Game Birds and Fixing the Open Season for Killing Same.

House Bill No. 267. A Bill for an Act Providing for the Cancellation and Destruction of Unsold Bonds of Counties, Cities, Villages and School Districts, on the Expiration of Five Years from the Date of Their Authorization.

House Bill No. 268. A Bill for an Act to Amend and Re-enact Section 453 of the Compiled Laws of North Dakota for the Year 1913 Relating to the Fees of Local Registrars to Read as Follows.

House Bill No. 186. A Bill for an Act to Amend and Re-enact Section 5167 of the Compiled Laws of 1913 Requiring Regular and Special Reports to the State Examiner by Banking Associations, Savings Banks and Trust Companies, and Providing Penalties for Failure to Make the Same.

Senate Bill No. 287. A Bill for an Act to Amend and Re-enact Section 2980 of Compiled Laws 1913, Relating to the Construction of Hotels.

House Bill No. 291. A Concurrent Resolution to Provide for the Payment of Expenses of the Special Committee Named by the Governor at the Instance of the House and Senate State Affairs Committee, for the Purpose of Investigating Conditions at the State Hospital at Jamestown, North Dakota.

House Bill No. 284. A Bill for an Act to Amend and Re-enact Section 5144 of the Compiled Laws of North Dakota for the Year 1913 Relating to Right of Way for Telephone Lines and Electric Light Systems.

House Bill No. 101. A Bill for an Act to Provide for the Correction of Errors in the Assessment of Property; for the Placing of Omitted Property or Property Which has Escaped Taxation Upon the Tax Lists; for the Reassessment of Property which has been Undervalued and to Repeal Sections 2137, 2216, 2217, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304 of the Compiled Laws of the State of North Dakota for the Year 1913.

House Bill No. 269. A Bill for an Act to Amend and Re-enact Section 3523, Compiled Laws of 1913, Relating to the Appointment and Fixing the Salary of Deputy Sheriffs.

House Bill No. 271. A Bill for an Act Requiring All Public Terminal Grain Elevators to Issue Warehouse Receipts for Grain or Other Produce Received, and Prescribing What Such Warehouse Receipts Shall Contain.

House Bill No. 148. A Bill for an Act to Amend and Re-enact Section 3116 of Chapter 342, Session Laws of 1923, Relating to Storage Charges on Grain and Regarding Insurance on Grain, Providing for Deposit of Insurance Policies and Disbursement of Funds Derived from Insurance of Stored Grain.

House Bill No. 266. A Bill for an Act to Amend and Re-enact Section 31, Chapter 168, Session Laws of 1919 Relating to the Survey of Mines.

House Bill No. 281. A Bill for an Act to Amend and Re-enact Section 27 of Chapter 161, Session Laws of 1915, as Amended by Chapter 134, Session Laws of 1919, as Amended by Chapter 224, Session Laws of 1913, Relating to Hunting With Dogs.

House Bill No. 239. A Bill for an Act Defining Public Dancing Places, Public Dances, Providing for the Issuing of Permits to Operate the Same, Regulating Public Dances and Public Dancing Places, Providing for the Policing of Public Dances, Providing for Penalties for the Violation of this Act, and Repealing All Acts and Parts of Acts in Conflict Herewith.

House Bill No. 290. A Concurrent Resolution introduced by Mr. Swett.

House Bill No. 259. A Joint Resolution.

House Bill No. 184. A Bill for an Act to Amend and Re-enact Section 69 of the Compiled Laws of North Dakota for 1913, Relating to the Printing of the Popular Edition of the

Session Laws; Fixing the Specifications for the Unauthenticated Edition of the Session Laws of the State of North Dakota, and Repealing All Acts and Parts of Acts in Conflict Therewith.

House Bill No. 208. A Concurrent Resolution.

House Bill No. 180. A Bill for an Act to Amend and Re-enact Section 1, of Chapter 97 of the Session Laws of 1921, as Amended and Re-enacted by Section 1, of Chapter 268 of the Session Laws of 1923, Defining Intoxicating Liquors.

House Bill No. 286. A Bill for an Act Directing the State Emergency Commission to Provide Funds for Opposing Any Increase in Lignite Freight Rates and Making an Appropriation Therefor.

House Bill No. 293. A Concurrent Resolution.

House Bill No. 246. A Bill for an Act Amending and Re-enacting Chapter 297 of the Session Laws of North Dakota for 1923, Being an Act to Prohibit the Keeping Open, Running or Permitting the Running of Any Place for Public Dances from the First Day of the Week, Commonly Called the Sabbath, and Prohibiting the Same Prior to Sunrise on Monday Morning, and Providing a Penalty Therefor.

House Bill No. 112. A Bill for an Act to Provide an Appropriation in the Sum of One Thousand Dollars for the Inspection and Eradication of Bee Diseases, Under the Provisions of Chapter 140, Session Laws of North Dakota for the Year 1923.

House Bill No. 212. A Bill for an Act Relating to Frogs, Establishing Closed Season, Regulating the Manner of Taking; Licensing Dealers and Providing Penalties for Violations.

House Bill No. 263. A Bill for an Act Providing that Real Estate Which Has been Sold at Tax Sale Which Sale Is Invalid or of Doubtful Validity Because Not Conducted in Accordance with Section 3733 of the Compiled Laws of 1913, or for Other Reasons, May Again Be Sold at Future Tax Sales for the Taxes of the Years Included in Such Irregular Tax Sale.

And the Speaker signed the same in the presence of the House.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to return herewith the following bills:

Senate Bill No. 78. A Bill for an Act Levying a Tax on Dogs; Providing for the Collection of the Same and Creating a Fund for the Purpose of Reimbursing the Owners of Live

Stock or Fowls for Damage and Injury by Dogs; and for the Destruction of Dogs.

Senate Bill No. 287. A Bill for an Act to Amend and Re-enact Section 2980 Compiled Laws 1913, Relating to the Construction of Hotels.

Which the House has indefinitely postponed.

Very respectfully,

J. C. MILLER,
Chief Clerk.

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to inform you that the House has concurred in the Senate amendment to House Bill No. 3.

Very respectfully,

J. C. MILLER,
Chief Clerk.

House of Representatives,
Bismarck, North Dakota,
aMrch 6, 1925.

Mr. President: I have the honor to return

House Bill No. 121. A Bill for an Act Creating the Office of State Efficiency Expert, Providing for the Appointment of Such Officer, Prescribing His Powers and Duties, Fixing His Salary, and Making an Appropriation for Payment of Same.

As requested by the Senate.

Very respectfully,

J. C. MILLER,
Chief Clerk.

- Mrs. Craig moved that the House do not recede from its amendments to Senate Bill No. 52 and that the Speaker appoint a Conference Committee to confer with a like committee from the Senate on Senate Bill No. 52, which motion prevailed.

The Speaker appointed the following conference committee: Representatives Starke, Ferris and Vogel.

Mrs. Craig moved that the House do not recede from its amendments to Senate Bill No. 235 and that the Speaker appoint a conference committee to confer with a like committee from the Senate on Senate Bill No. 235, which motion prevailed.

The Speaker appointed the following conference committee: Representatives Yeater, Rabe and Streich.

REPORT OF SELECT COMMITTEE

The committee on conference made the following report:

Mr. Speaker: Your committee on conference to whom was referred:

House Bill No. 108. A bill for an Act to Amend and Re-enact Section Two (2) of Chapter 188 of the Session Laws of 1923 of the State of North Dakota, Relating to the Collection of Seed Grain and Feed Accounts Owing to Counties.

Have had the same under consideration and make the following report: Your committee recommends that the Senate recede from its amendments and that the bill be amended by striking out everything after the words "accounts" as the same occurs in line 8 of Section 2 of the engrossed bill and adding thereafter "and take security therefor; and may extend the time of payment thereof."

Section 3. Emergency. An emergency is hereby declared to exist and this Act shall take effect and be in force from and after its passage and approval.

And when so amended recommend that the same do pass.

J. L. HART,
O. H. OLSON,
R. W. PATTEN,
Senate Committee.

PETER KIERLEBER,
JOHN QUAM,
L. L. TWICHELL,
House Committee.

Mr. Twichell moved that the report of the conference committee on House Bill No. 108 be adopted, the committee discharged.

Which motion prevailed.

Mr. Twichell moved that the rules be suspended and that House Bill No. 108 be considered properly re-engrossed and placed upon third reading and final passage, which motion prevailed.

THIRD READING OF HOUSE BILLS

ROLL CALL

House Bill No. 108. A Bill for an Act to Amend and Re-enact Section Two (2) of Chapter 188 of the Session Laws of 1923 of the State of North Dakota, Relating to the Collection of Seed Grain and Feed accounts Owing to Counties.

Was read the third time.

The question being on the final passage of the bill, as amended by conference committee report, the roll was called, and there were ayes 105, nays 1, absent and not voting 7.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hempel	Rabe
Anderson, Sargent	Hildre	Radcliffe
Arduser	Hoople	Rasmusson
Borman	Iverson	Richardson
Bollinger	Jacobson	Roberts
Boyd	Jodock	Root
Brant	Johnson, Foster	Rulon
Brown	Johnson, McHenry	Sanderson
Burkhart	Johnson, Pembina	Sanford
Burns	Johnson, Ransom	Schmidt
Butt	Johnson, Traill	Shepard
Carr	Jones	Shurr
Cart	Kamrath	Skogland
Craig	Keierleber	Slominski
Crocker	Lazier	Sproul
Currie	Leraas	Starke
Divet	Levin	Streich
Dougherty	Loudenbeck	Svingen
Doyle	McCay	Sweet
Eckert	McDowall	Thatcher
Elken	McGauvren	Thompson, Burleigh
Ellingson, Ramsey	McManus	Thompson, Sargent
Ellingson, Traill	Martin	Traynor
Erickson, Divide	Miller, Williams	Tschida
Erickson, Kidder	Montgomery	Tuneberg
Erickson, Steele	Morton	Tweten
Ferris	Muus	Twichell
Flom	Oberg	Veitch
Fox	Olafson	Vogel
Frank	O'Neil	Watt
Freeman	Peters	Worner
Hardy, Slope	Plath	Yeater
Hardy, Mountrail	Polfuss	Zimmerman
Hartl	Quade	Mr. Speaker
Helbling	Quam	

Those voting in the negative were:

Messrs.

Bubel

Absent and not voting:

Messrs.

Anderson, Stutsman

Fine

Halcrow

So the bill passed and the title was agreed to.

Messrs.

Hanson

Miller, McIntosh

Messrs.

Sagen

Standley

Mr. Roberts moved that the House do now adjourn.

Which motion prevailed.

J. C. MILLER,
Chief Clerk.

SIXTIETH DAY

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

The House convened at 2:00 o'clock P. M., pursuant to adjournment, the Speaker presiding.

Prayer by the Chaplain Rev. Strutz.

ROLL CALL

All members present except Messrs. Fine and Rabe.

Mr. Helbling moved that all absent members be excused, which motion prevailed.

Mr. Starke moved that the rules be suspended and that Senate Resolution No. 295 be considered properly re-engrossed and placed at the head of the calendar, which motion prevailed.

REVISION AND CORRECTION OF THE JOURNAL

The committee on Revision and Correction of the Journal made the following report:

Mr. Speaker: Your committee on Revision and Correction of the Journal have carefully examined the Journal of the 58th day after recess and 59th day and recommend that the same be corrected as follows:

Additional corrections to Journal of March 4th: On page 9, strike out lines 15, 16 and 17.

On page 10 line 24, after the word "page" strike out the figures "28" and insert the figures "21."

Corrections to journal for 58th day after recess and 59th day.

Page 3, insert the word "coming" after the figures "20%" as they first appear in line 12.

Page 7, line 37, correct spelling of word "that."

Page 15, correct printer's error in line 20, and correct word "change" in line 26.

Page 18, line 43, add "of Burleigh."

Page 21, line 14, correct spelling of "storage."

Page 22, after line 24, insert "which motion prevailed."

Page 23, insert space between lines 35 and 36.

Page 23, in line 38 insert "which motion prevailed."

Page 39, line 4 correct spelling of "at."

Page 39, correct lines 8 and 9 to read: "work done by the committee. I move that the committee be commended for their labor and discharged."

Page 43, line 12, strike out "fi" and insert "of the."

Page 45, line 4, correct spelling of "consolidated."

Page 45, in line 8, correct spelling of "teachers."

Page 45, in line 9, correct spelling of word "school."

Page 47, line 6, change word "Senate" to "House."

Page 47, line 13, correct spelling of word "list."

Page 48, line 36, correct spelling of "Keierleber."

Page 52, lines 35 and 36, change word "Senate" to "House."

Page 53, after line 5, insert:

CONCURRENT RESOLUTION:

Be it resolved by the Senate of the State of North Dakota, the House of Representatives concurring therein, that the President of the Senate and the Speaker of the House of Representatives be directed to sign and send to President Coolidge the following telegram:

"Calvin Coolidge, President,
Washington, D. C.

The Legislative Assembly of the State of North Dakota now in session has by resolution requested us to convey to you as chief executive of this nation, its congratulations and best wishes, and to assure you that North Dakota has faith in Calvin Coolidge.

.....
President of the Senate.

.....
Speaker of the House of Representatives.

Page 53, line 6, add, at the end of line after word "adopted" the following: "and printed in the Journal."

Page 53, line 14, correct spelling of "resolution."

Page 54, insert omitted explanation of vote by Mr. Erickson of Divide, after line 25:

"Mr. Erickson of Divide:

Mr. Speaker: I vote no on this Resolution and give, as my reason for so doing, the fact that I believe the Senators and Congressman deprived of recognition by the president are more in sympathy with the needs of our people than is the President, and his depriving them of rights to which

they are entitled is Un-American and against the principles upon which this government is built, namely Representative government.

We elected Frazier, Ladd and Sinclair by larger majorities, in their district and state, than the President received, and realizing that they know more of our needs than does the President, or any eastern representative, I condemn the President and his advisers, in most severe terms, for attempting to destroy a representative form of government. Therefore, I note no."

Page 54, line 19, correct word "voters'."

Page 57, insert "Night Session" between lines 3 and 4.

Page 58, line 29, correct spelling of "school."

Page 63, line 8, correct spelling of "Michael."

Page 63, line 15, correct spelling of "called."

Page 76, line 9, correct spelling of "suspended."

Page 76, line 10, correct spelling of "properly."

Page 76, line 11, correct spelling of "passage."

Page 76, line 16, correct spelling of "rules."

Page 78, correct "invested" in line 27.

And when so corrected recommend that the same be approved.

J. H. McCAY,
Chairman.

Mr. McCay moved that the report be adopted, which motion prevailed and the report was adopted.

HOUSE COMMITTEE ON ENROLLMENT AND ENGROSSMENT.

The Committee on Enrollment and Engrossment made the following report:

Mr. Speaker: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following bills:

House Bill No. 263. A Bill for an Act Providing that Real Estate Which Has been Sold at Tax Sale Which Sale Is Invalid or of Doubtful Validity Because Not Conducted in Accordance with Section 3733 of the Compiled Laws of 1913, or for Other Reasons, May Again Be Sold at Future Tax Sales for the Taxes of the Years Included in Such Irregular Tax Sale.

Also,

House Bill No. 212. A Bill for an Act Relating to Frogs, Establishing a Closed Season, Regulating the Manner of Taking; Licensing Dealers and Providing Penalties for Violations.

Also,

House Bill No. 112. A Bill for an Act to Provide an Appropriation in the Sum of One Thousand Dollars for the Inspection and Eradication of Bee Diseases, Under the Provisions of Chapter 140, Session Laws of North Dakota for the Year 1923.

Also,

House Bill No. 268. A Bill for an Act to Amend and Re-enact Section 453 of the Compiled Laws of North Dakota for the Year 1913 Relating to the Fees of Local Registrars to Read as Follows.

Also,

House Bill No. 186. A Bill for an Act to Amend and Re-enact Section 5167 of the Compiled Laws of 1913 Requiring Regular and Special Reports to the State Examiner by Banking Associations, Savings Banks and Trust Companies, and Providing Penalties for Failure to Make the Same.

Also,

House Bill No. 287. A Bill for an Act to Amend and Re-enact Section 4, Chapter 140, Session Laws of 1921 Relating to Sow Thistles, and Providing Penalty for Violation Thereof.

Also,

House Bill No. 291. A Concurrent Resolution.

Also,

House Bill No. 293. A Concurrent Resolution.

Also,

House Bill No. 280, re-engrossed as amended. A Bill for an Act to Amend and Re-enact Section 33, Chapter 161, Session Laws of 1915, as Amended by Chapter 122, Session Laws of 1917, as Amended by Section 4, Chapter 134, Session Laws of 1919, Relating to Game Girds and Fixing the Open Season for Killing Same.

Also,

House Bill No. 267. A Bill for an Act Providing for the Cancellation and Destruction of Unsold Bonds of Counties, Cities, Villages and School Districts, on the Expiration of Five Years from the Date of Their Authorization.

Also,

House Bill No. 269. A Bill for an Act to Amend and Re-enact Section 3523, Compiled Laws of 1913 Relating to the Appointment and Fixing the Salary of Deputy Sheriffs.

Also,

House Bill No. 284. A Bill for an Act to Amend and Re-enact Section 5144 of the Compiled Laws of North Dakota

for the Year 1913 Relating to Right of Way for Telephone Lines and Electric Light Systems.

Also,

House Bill No. 271. A Bill for an Act Requiring All Public Terminal Grain Elevators to Issue Warehouse Receipts for Grain or Other Produce Received, and Prescribing What Such Warehouse Receipts Shall Contain.

Also,

House Bill No. 148. A Bill for an Act to Amend and Re-enact Section 3116 of the Compiled Laws of 1913, as Amended by Chapter 342, Session Laws of 1923, Relating to Storage Charges and Insurance on Grain and Prohibiting the Transferring or Assigning of Insurance on Grain and Giving Ticket Holders the First Lien on Proceeds of Insurance and also Amending and Re-enacting Section 3114, Compiled Laws of 1913, Giving the Owners of Storage Tickets a Prior Lien on All Grain on Hand in Case of Insolvency.

Also,

House Bill No. 266. A Bill for an Act to Amend and Re-enact Section 31, Chapter 168, Session Laws of 1919, Relating to the Survey of Mines.

Also,

House Bill No. 281. A Bill for an Act to Amend and Re-enact Section 27 of Chapter 161, Session Laws of 1919, as Amended by Chapter 224, Session Laws of 1923, Relating to Hunting with Dogs.

Also,

House Bill No. 239. A Bill for an Act Defining Public Dancing Places, Public Dances, Providing for the Issuing of Permits to Operate the Same, Regulating Public Dances and Public Dancing Places, Providing for the Policing of Public Dances, Providing for Penalties for the Violation of this Act, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Also,

House Bill No. 290. A Concurrent Resolution.

Also,

House Bill No. 259. A Joint Resolution.

Also,

House Bill No. 246. A Bill for an Act Amending and Re-enacting Chapter 297 of the Session Laws of North Dakota for 1923, Being an Act to Prohibit the Keeping Open, Running or Permitting the Running of Any Place for Public Dance from the First Day of the Week, Commonly Called the Sabbath, and Prohibiting the Same Prior to Sunrise on Monday Morning and Providing a Penalty Therefor.

Also,

House Bill No. 208. A Concurrent Resolution.

Also,

House Bill No. 180. A Bill for an Act to Amend and Re-enact Section 1, of Chapter 97 of the Session Laws of 1921, as Amended and Re-enacted by Section 1, of Chapter 268 of the Session Laws of 1923, Defining Intoxicating Liquors.

Also,

House Bill No. 184. A Bill for an Act to Amend and Re-enact Section 69 of the Compiled Laws of North Dakota for 1913, Relating to the Printing of the Popular Edition of the Session Laws: Fixing the Specifications for the Unauthenticated Edition of the Session Laws of the State of North Dakota, and Repealing All Acts and Parts of Acts in Conflict Therewith.

Also,

House Bill No. 286. A Bill for an Act Directing the State Emergency Commission to Provide Funds for Opposing Any Increase in Lignite Freight Rates and Making an Appropriation Therefor.

Also,

House Bill No. 101. A Bill for an Act to Provide for the Correction of Errors in the Assessment of Property; for the Placing of Omitted Property or Property Which Has Escaped Taxation Upon the Tax Lists; for the Reassessment of Property Which Has Been Undervalued; and to Repeal Sections 2187, 2216, 2217, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, of the Compiled Laws of the State of North Dakota for the Year 1913.

Also,

House Bill No. 3. A Bill for an Act to Amend and Re-enact Sections 6 and 11, Chapter 44 of the Special Session Laws of North Dakota, for the Year 1919, Relating to the Registration and Licensing of Motor Vehicles, the Creation of a State Highway Fund, and the Distribution of Such Fund and Repealing All Acts and Parts of Acts in Conflict Herewith.

And find the same correctly enrolled.

C. E. ERICKSON,
Chairman.

Mr. Erickson moved that the report be adopted, which motion prevailed and the report was adopted.

REPORTS OF SPECIAL COMMITTEES

Mr. Speaker: Your conference committee appointed to consider the Senate amendments to House Bill No. 149, a bill for an Act to Create a State Board of Accountancy and Prescribing Its Duties and Powers, etc., have had the same under

consideration and concur in the Senate amendments with the understanding that the Senate amendments following the word "provided" in line 12, page 3, of the printed bill, be inserted after the word "practice" in line 11, page 3, of the printed bill, instead of after the word "provided" in line 12, page 3 of the printed bill.

For the Senate:

O. T. TOFSRUD,
RALPH INGERSON,
R. G. McCRORY.

For the House:

E. H. BRANT,
JAMES McMANUS,
A. J. RULON.

Mr. Rulon moved that the report of the conference committee on House Bill No. 149 be adopted.

Which motion prevailed.

Mr. Rulon moved that the rules be suspended and that House Bill No. 149 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

THIRD READING OF HOUSE BILLS

ROLL CALL

House Bill No. 149. A Bill for an Act to Create a State Board of Accountancy and Prescribing its Duties and Powers; to Provide for the Examinations of and Issuance of Certificates to Qualified Accountants, with the Designation of Certified Public Accountants; to Provide the Penalty for Violations of the Provisions Thereof; and to Repeal Sections 549, 550, 551, 552, 553, 554, 555, 556 and 557 of the Compiled Laws of North Dakota for the Year 1913 and All Other Acts or Parts of Acts in Conflict Therewith.

Was read the third time.

The question being on the final passage of the bill, as amended by the conference committee, the roll was called, and there were ayes 105, nays 4, absent and not voting 4.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hartl	Quam
Anderson, Sargent	Helbling	Rabe
Anderson, Stutsman	Hildre	Radcliffe
Arduser	Hoople	Rasmusson
Borman	Iverson	Richardson
Bollinger	Jacobson	Roberts
Boyd	Jodock	Root
Brant	Johnson, McHenry	Rulon
Brown	Johnson, Pembina	Sagen

Messrs.	Messrs.	Messrs.
Bubel	Johnson, Ransom	Sanderson
Burkhart	Johnson, Traill	Sanford
Burns	Jones	Schmidt
Butt	Kamrath	Shepard
Carr	Keierleber	Shurr
Cart	Lazier	Skogland
Crocker	Leraas	Slominski
Currie	Levin	Sproul
Divet	Loudenbeck	Standley
Dougherty	McCay	Starke
Doyle	McDowall	Streich
Elken	McManus	Svingen
Ellingson, Ramsey	Martin	Swett
Ellingson, Traill	Miller, McIntosh	Thompson, Burleigh
Erickson, Divide	Miller, Williams	Thompson, Sargent
Erickson, Kidder	Montgomery	Traynor
Erickson, Steele	Morton	Tschida
Ferris	Muus	Tuneberg
Flom	Oberg	Tweten
Fox	Olafson	Twichell
Frank	O'Neil	Veitch
Freeman	Palms	Vogel
Halcrow	Peters	Watt
Hanson	Plath	Worner
Hardy, Slope	Polfuss	Zimmerman
Hardy, Mountrail	Quade	Mr. Speaker

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Craig	Johnson, Foster	Thatcher
Hempel		

Absent and not voting:

Messrs.	Messrs.	Messrs.
Eckert	McGavren	Yeater
Fine		

So the bill passed and the title was agreed to.

The House passed to the Fourteenth Order of Business.

THIRD READING OF SENATE BILLS

ROLL CALL

Senate Bill No. 295. A Concurrent Resolution to Appropriate Money to Pay Expenses of Joint Committee on Interstate Bridges.

Was read the third time.

The question being on the final passage of the bill, as amended, the roll was called, and there were ayes 112, nays 0, absent and not voting 1.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Helbling	Quade
Anderson, Sargent	Hempel	Quam
Anderson, Stutsman	Hildre	Rabe
Arduser	Hoople	Radcliffe
Borman	Iverson	Rasmusson
Bollinger	Jacobson	Richardson
Boyd	Jodock	Roberts
Brant	Johnson, Foster	Root
Brown	Johnson, McHenry	Rulon
Bubel	Johnson, Pembina	Sagen
Burkhart	Johnson, Ransom	Sanford
Burns	Johnson, Traill	Schmidt
Butt	Kamrath	Shepard
Carr	Keierleber	Shurr
Cart	Lazier	Skogland
Crocker	Leraas	Slominski
Currie	Levin	Sproul
Divet	Loudenbeck	Standley
Dougherty	McCay	Starke
Doyle	McDowall	Streich
Eckert	McGauvren	Svingen
Elken	McManus	Sweet
Ellingson, Ramsey	Martin	Thatcher
Ellingson, Traill	Miller, McIntosh	Thompson, Burleigh
Erickson, Divide	Morton	Thompson, Sargent
Erickson, Kidder	Montgomery	Traynor
Erickson, Steele	Muus	Tschida
Ferris	Oberg	Tuneberg
Fox	Olafson	Tweten
Frank	O'Neil	Twichell
Freeman	Palms	Veitch
Halcrow	Peters	Vogel
Hanson	Plath	Watt
Hardy, Slope	Jones	Werner
Craig	Miller, Williams	Yeater
Flom	Sanderson	Zimmerman
Hardy, Mountrail	Polfuss	Mr. Speaker
Hartl		

Absent and not voting:

Messrs.

Fine

So the bill passed and the title was agreed to.

The Speaker declared the emergency clause had carried.

ROLL CALL

Senate Bill No. 189. A Bill for an Act Authorizing the State Engineer to Cooperate with the Director of the United States Geological Survey in Making Topographic Surveys and Maps to be Used in the Development of Flood Protection, Domestic Water Supply, Restoration of Water Areas, Irrigation and Drainage Projects in the State of North Dakota, and Making an Appropriation Therefor.

Was read the third time.

The question being on the final passage of the bill, the roll was called, and there were ayes 62, nays 44, absent and not voting 7.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Bollinger	Hardy, Slope	Peters
Boyd	Hartl	Polfuss
Brown	Helbling	Quam
Burkhart	Hildre	Rabe
Burns	Hoople	Radcliffe
Butt	Iverson	Rasmusson
Carr	Jacobson	Richardson
Craig	Jodock	Roberts
Crocker	Johnson, Foster	Rulon
Currie	Johnson, Pembina	Sagen
Dougherty	Johnson, Ransom	Sanderson
Doyle	Lazier	Shepard
Eckert	Loudenbeck	Shurr
Ellingson, Ramsey	McCay	Streich
Ellingson, Traill	McDowall	Sweet
Erickson, Kidder	Martin	Traynor
Ferris	Montgomery	Tschida
Fox	Morton	Twichell
Frank	Muus	Vogel
Freeman	Oberg	Mr. Speaker
Halcrow	Palms	

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Johnson, McHenry	Slominski
Anderson, Sargent	Johnson, Traill	Sproul
Anderson, Stutsman	Jones	Standley
Arduser	Kamrath	Starke
Borman	Leraas	Svingen
Brant	McGavvren	Thatcher
Bubel	Miller, McIntosh	Thompson, Sargent
Cart	Miller, Williams	Tuneberg
Elken	Olafson	Tweten
Erickson, Divide	O'Neil	Veitch
Erickson, Steele	Plath	Watt
Flom	Quade	Worner
Hanson	Root	Yeater
Hardy, Mountrail	Sanford	Zimmerman
Hempel	Skogland	

Absent and not voting:

Messrs.	Messrs.	Messrs.
Divet	Keierleber	Schmidt
Levin	Thompson, Burleigh	

So the bill passed and the title was agreed to.

Mr. Traynor moved that the vote by which Senate Bill No. 189 was passed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

MESSAGE TO THE SENATE

Bismarck, North Dakota,
House of Representatives,
March 5, 1925.

Mr. President: I have the honor to return herewith the following bills:

Senate Bill No. 295. A Concurrent Resolution to Appropriate Money to Pay Expenses of Joint Committee on Interstate Bridges.

Which the House has amended.

Very respectfully,

J. C. MILLER,
Chief Clerk.

Mr. President: I have the honor to inform you that the Speaker has appointed as a conference committee on Senate Bill No. 52, Reps. Starke, Ferris and Vogel.

Also,

Mr. President: The Speaker has appointed as a conference committee on Senate Bill No. 235, Reps. Yeater, Rabe and Streich.

Very respectfully,

J. C. MILLER,
Chief Clerk.

Bismarck, North Dakota,
House of Representatives,
March 5, 1925.

Mr. President: I have the honor to inform you that the House has adopted the conference committee reports on House Bills Nos. 108 and 149.

Very respectfully,

J. C. MILLER,
Chief Clerk.

THIRD READING OF SENATE BILLS

ROLL CALL

Senate Bill No. 51. A Bill for an Act Making an Appropriation of \$80,000.00 as an Offset for Federal Aid in Extension Division Work of the Agricultural College, Fargo, N. Dak.

Was read the third time.

The question being on the final passage of the bill as amended, the roll was called, and there were ayes 105, nays 1, absent and not voting 7.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hardy, Slope	Polfuss
Anderson, Sargent	Hardy, Mountrail	Quade
Anderson, Stutsman	Harti	Quam
Arduser	Helbling	Rabe
Borman	Hildre	Radcliffe
Bollinger	Hoople	Rasmusson
Boyd	Iverson	Richardson
Brant	Jacobson	Roberts
Brown	Jodock	Rulon
Bubel	Johnson, Foster	Sanderson
Burkhart	Johnson, McHenry	Sanford
Burns	Johnson, Pembina	Shepard
Butt	Johnson, Ransom	Shurr
Carr	Jones	Skogland
Cart	Kamrath	Slominski
Craig	Keierleber	Sproul
Crocker	Lazier	Standley
Currie	Leraas	Starke
Divet	Loudenbeck	Streich
Dougherty	McCay	Svingen
Doyle	McDowall	Swett
Eckert	McGauvren	Thatcher
Elken	McManus	Thompson, Burleigh
Ellingson, Ramsey	Martin	Thompson, Sargent
Ellingson, Traill	Miller, McIntosh	Tschida
Erickson, Divide	Miller, Williams	Tuneberg
Erickson, Kidder	Montgomery	Tweten
Erickson, Steele	Morton	Twichell
Ferris	Muus	Veitch
Flom	Oberg	Vogel
Fox	Olafson	Watt
Frank	O'Neil	Worner
Freeman	Palms	Yeater
Halcrow	Peters	Zimmerman
Hanson	Plath	Mr. Speaker

Those voting in the negative were:

Messrs.
Hempel

Absent and not voting:

Messrs.	Messrs.	Messrs.
Fine	Root	Schmidt
Johnson, Traill	Sagen	Traynor
Levin		

So the bill passed and the title was agreed to.

ROLL CALL

Senate Bill No. 50. A Bill for an Act Making an Appropriation of \$266,900.00 to Pay the Maintenance, Improvements

and Repairs, New Buildings and Miscellaneous for the Experiment Station at the Agricultural College, Fargo, North Dakota.

Was read the third time.

The question being on the final passage of the bill, as amended. the roll was called, and there were ayes 109, nays 2, absent and not voting 2.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Harti	Quade
Anderson, Sargent	Helbling	Quam
Anderson, Stutsman	Hildre	Rabe
Arduser	Hoople	Radcliffe
Borman	Iverson	Rasmusson
Bollinger	Jacobson	Richardson
Boyd	Jodock	Roberts
Brant	Johnson, Foster	Root
Brown	Johnson, McHenry	Rulon
Bubel	Johnson, Pembina	Sagen
Burkhart	Johnson, Ransom	Sanderson
Burns	Johnson, Traill	Sanford
Butt	Jones	Schmidt
Carr	Kamrath	Shepard
Cart	Keierleber	Shurr
Craig	Lazier	Skogland
Crocker	Leraas	Slominski
Currie	Levin	Sproul
Divet	Loudenbeck	Standley
Dougherty	McCay	Starke
Doyle	McDowall	Streich
Eckert	McGauvren	Svingen
Elken	McManus	Swett
Ellingson, Ramsey	Martin	Thompson, Burleigh
Ellingson, Traill	Miller, McIntosh	Thompson, Sargent
Erickson, Kidder	Miller, Williams	Traynor
Erickson, Steele	Montgomery	Tschida
Ferris	Morton	Tuneberg
Fine	Muus	Tweten
Flom	Oberg	Twichell
Fox	Olafson	Veitch
Frank	O'Neil	Vogel
Freeman	Palms	Watt
Halcrow	Peters	Worner
Hanson	Plath	Zimmerman
Hardy, Slope	Polfuss	Mr. Speaker
Hardy, Mountrail		

Those voting in the negative were:

Messrs.	Messrs.
Hempel	Thatcher

Absent and not voting:

Messrs.	Messrs.
Erickson, Divide	Yeater

So the bill passed and the title was agreed to.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has approved the reports of the select conference committees on Senate Bill No. 180, House Bill No. 149, House Bill No. 108.

Very respectfully,

C. R. VERRY,
Secretary.

THIRD READING OF SENATE BILLS

ROLL CALL

Senate Bill No. 53. A Bill for an Act Making an Appropriation of \$548,600.00 to Pay the General Maintenance, Improvements and Repairs, Equipment, Miscellaneous and Public Service of the Agricultural College, Fargo, North Dakota.

Was read the third time.

The question being on the final passage of the bill, as amended, the roll was called, and there were ayes 107, nays 2, absent and not voting 4.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hardy, Mountrail	Polfuss
Anderson, Sargent	Hartl	Quade
Anderson, Stutsman	Helbling	Quam
Arduser	Hildre	Rabe
Borman	Hoople	Radcliffe
Bollinger	Iverson	Rasmusson
Boyd	Jacobson	Richardson
Brant	Jodock	Root
Brown	Johnson, Foster	Rulon
Bubel	Johnson, McHenry	Sagen
Burkhart	Johnson, Pembina	Sanderson
Burns	Johnson, Ransom	Sanford
Butt	Johnson, Traill	Schmidt
Carr	Jones	Shepard
Cart	Kamrath	Shurr
Craig	Keierleber	Skogland
Crocker	Lazier	Sproul
Currie	Leraas	Standley
Divet	Levin	Starke
Dougherty	Loudenbeck	Svingen
Doyle	McCay	Swett
Eckert	McDowall	Thompson, Burleigh
Elken	McGavren	Thompson, Sargent
Ellingson, Ramsey	McManus	Traynor
Ellingson, Traill	Martin	Tschida

Messrs.	Messrs.	Messrs.
Erickson, Divide	Miller, McIntosh	Tuneberg
Erickson, Kidder	Miller, Williams	Tweten
Erickson, Steele	Montgomery	Twichell
Fine	Morton	Veitch
Flom	Muus	Vogel
Fox	Oberg	Watt
Frank	Olafson	Worner
Freeman	O'Neil	Yeater
Halcrow	Palms	Zimmerman
Hanson	Peters	Mr. Speaker
Hardy, Slope	Plath	

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Hempel	Thatcher	

Absent and not voting:

Messrs.	Messrs.	Messrs.
Ferris	Slominski	Streich
Roberts		

So the bill passed and the title was agreed to.

Mr. Vogel moved that the vote by which Senate Bill No. 53 was passed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

ROLL CALL

Senate Bill No. 40. A Bill for an Act Making an Appropriation of \$1,239,255.00 for the Purpose of Paying the General Maintenance, Improvements and Repairs, New Equipment, Etc., of the State University at Grand Forks, North Dakota.

Was read the third time.

The question being on the final passage of the bill, as amended, the roll was called, and there were ayes 100, nays 4, absent, and not voting 9.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hardy, Slope	Quade
Anderson, Sargent	Hardy, Mountrail	Quam
Anderson, Stutsman	Hartl	Rabe
Arduser	Helbling	Radcliffe
Borman	Hildre	Rasmusson
Bollinger	Hoople	Richardson
Boyd	Iverson	Roberts
Brant	Jacobson	Root
Brown	Jodock	Rulon
Bubel	Johnson, Foster	Sagen
Burkhart	Johnson, McHenry	Sanderson

Messrs.	Messrs.	Messrs.
Burns	Johnson, Pembina	Sanford
Butt	Johnson, Ransom	Schmidt
Carr	Jones	Shepard
Cart	Lazier	Shurr
Craig	Leraas	Skogland
Crocker	Loudenbeck	Slominski
Currie	McCay	Sproul
Divet	McDowall	Standley
Dougherty	McGauvren	Starke
Doyle	McManus	Thompson, Burleigh
Eckert	Martin	Thompson, Sargent
Elken	Miller, McIntosh	Traynor
Ellingson, Ramsey	Miller, Williams	Tschida
Ellingson, Traill	Montgomery	Tuneberg
Erickson, Kidder	Morton	Tweten
Erickson, Steele	Muus	Veitch
Ferris	Olafson	Vogel
Fine	O'Neil	Watt
Flom	Palms	Worner
Fox	Peters	Yeater
Freeman	Plath	Zimmerman
Halcrow	Polfuss	Mr. Speaker
Hanson		

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Hempel	Svingen	Thatcher
Oberg		

Absent and not voting:

Messrs.	Messrs.	Messrs.
Erickson, Divide	Kamrath	Streich
Frank	Keierleber	Swett
Johnson, Traill	Levin	Twichell

So the bill passed and the title was agreed to.

Mr. Hanson moved that the vote by which Senate Bill No. 40 was passed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

Mr. Hempel:

Mr. Speaker: I ask that the statement that I am going to make be printed in the Journal just ahead of the roll call on Senate Bill No. 40. These figures are from the records, where available, otherwise obtained by using my head, my pencil and sometimes the adding machine in arriving at figures. They are correct where record was available; otherwise they are approximate figures, such as one would get by adding the facts that are available and basing conclusions on such facts.

List of Salaries Paid for Administration, Faculty and Employees of the State Educational Institutions in 1923-1924.

Name of State Institution	Cost of Administration	Faculty Salary	Other Employees	Total Salary Faculty and Employees
Grand F'ks				
U	\$ 73,000.00	\$ 683,000.00	unavailable	\$ 755,000.00
Agri. Col. ..	49,600.00	611,800.00	unavailable	661,400.00
Valley City	27,100.00	241,400.00	\$ 55,500.00	324,000.00
Minot	23,100.00	155,000.00	33,500.00	211,600.00
Dickinson ..	11,600.00	84,000.00	16,800.00	112,400.00
Mayville	13,000.00	15,860.00	28,280.00	57,140.00
Ellendale	11,200.00	75,088.00	16,000.00	102,288.00
Wahpeton ..	14,300.00	60,000.00	11,120.00	85,420.00
Mandan	15,180.00	14,520.00	56,000.00	85,680.00
Bathgate	6,000.00	10,460.00	10,460.00	26,920.00
Devils Lake	11,640.00	53,000.00	27,500.00	92,140.00
Totals.....	\$255,700.00	\$2,003,128.00	\$255,160.00	\$2,513,988.00

Of this tax of over \$2,500,000.00 for salaries for those working in the state educational institutions, the west half of the state pays approximately 45 per cent, while they directly get only 16 per cent benefit, and the east half of the state pays approximately 55 per cent of this tax, but gets 84 per cent benefit.

On account of these excessive increases of taxes, many thousands of farmers have already lost their homes, and many thousands will continue to lose them if we do not "call a halt." Why should we appropriate these large sums to be used in part to educate 175 to 200 Minnesota boys and girls? Why should we appropriate so much money which will mean many more thousands of homeless farmers (if we continue to pay men \$10, \$15 and some more than \$20 a day)? We should vote to kill these two big bills and bring the supporters of them "down to earth" and then they will stand for amendments that should be made before the bills pass.

Do you know that for the coming two years the various departments of the Agricultural College expect to spend \$1,164,251.00? Do you know that the University at Grand Forks expects to spend \$1,568,355.00; a total of \$2,681,605.00 for these two institutions alone? If we permit that, how many thousand farmers more will be taxed out of house and home? Do you know that our college is charging only \$28 tuition, while in some states where the farmers are not losing their homes by the tens of thousands, they charge the student \$32 tuition, in place of loading it all on the overburdened taxpayer? Do you know that the University is asking for almost \$300,000.00 for the "Liberal Arts" Department? I think that is entirely too liberal. Therefore I am going to vote "no" on these big bills. Only 1280 students from North Dakota attended the University the past year—and out of that 1280, 433 were from the City of Grand Forks alone. Taking this record of 433 students from Grand Forks city, we can assume that at least 50 or 60 more came from Grand Forks County—making in all some 500 students from Grand Forks County. Or in other words, the University will con-

tinue to spend (if we let them) \$500,000.00 of the North Dakota people's tax money to educate the students from one County. And yet "those boys" from the "East" talked longest and loudest to "zone" the State for Hail Insurance. Why not zone the University? You have "zoned" the Hail Department. The people will take it into their hands and "zone" some of these other matters.

Mr. Hempel:

Mr. Speaker: I ask that the articles that I read to the House about the method of raising funds for the "helpless" children be printed in the Journal following my remarks on Senate Bill No. 40.

Why the North Dakota Children's Home Society is Begging \$40,000—The Children Home Society of Fargo, which is non-sectarian, provides and cares for orphans and dependent and neglected children from poor families. . . . Most of the children accepted by the Society are orphans. For three years an average of one child per day has been turned away because of inadequate facilities. . . . The Home is at present operating on \$900.00 borrowed money. Every overhead expense possible has been cut out. . . . The Federated Clubs in convention at Minot last fall voted to endorse a \$40,000.00 campaign for maintenance funds for the Children's Home Society of Fargo. . . . The quota for Sheridan County is \$520. The Woman's Literary Club of McClusky has charge of the drive for Sheridan County. . . . Let every person in Sheridan County put their shoulders to the wheel and push for our county to be the first to raise their quota. . . . In the near future the Woman's club will put on an entertainment to raise McClusky's share of the county quota. Watch for the date and attend. That will be your bit to help some child find a home.

That, Mr. Speaker, is the way we raise money for the helpless children. But when we want to help those who could well afford to help themselves, we pass Senate Bill No. 40. "To those who have much, much shall be given; from those who have not shall be taken that which they seem to have."

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to return herewith the following bills:

Senate Bill No. 40. A Bill for an Act Making an Appropriation of \$1,254,355.00 for the Purpose of Paying the General Maintenance, Improvements and Repairs, New Equipment, etc., of the State University at Grand Forks, North Dakota.

Senate Bill No. 50. A Bill for an Act Making an Appropriation of \$278,200.00 to Pay the Maintenance, Improvements

and Repairs, New Buildings and Miscellaneous for the Experiment Station at the Agricultural College, Fargo, North Dakota.

Senate Bill No. 51. A Bill for an Act Making an Appropriation of \$129,061.98 as an Offset for Federal Aid in Extension Division Work of the Agricultural College, Fargo, N. Dak.

Senate Bill No. 53. A Bill for an Act Making an Appropriation of \$565,600.00 to Pay the General Maintenance, Improvements and Repairs, Equipment, Miscellaneous and Public Service of the Agricultural College, Fargo, North Dakota.

Which the House has amended.

Very respectfully,

J. C. MILLER,
Chief Clerk.

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to return herewith the following bill:

Senate Bill No. 189. A Bill for an Act Authorizing the State Engineer to Co-operate with the Director of the United States Geological Survey in Making Topographic Surveys and Maps to be Used in the Development of Flood Protection, Domestic Water Supply, Restoration of Water Areas, Irrigation and Drainage Projects in the State of North Dakota, and Making an Appropriation Therefor.

Which the House has passed unchanged.

Very respectfully,

J. C. MILLER,
Chief Clerk.

Your conference committee on Senate Bill No. 52 have met and agreed upon the following amendments to the bill as the same passed the House:

Page 3, line 46, subdivision 4, amend so as to read: "Printing reports and purchasing books, \$10,000.00."

Amend page 7, line 136, subdivision 10, to read: "Bookkeeper, \$3000.00."

Amend page 11, line 239, subdivision 16, to read: "2 assistant dairy commissioners, \$8000.00."

Change totals to correspond.

P. T. KRETSCHMAR,
A. S. MARSHALL,
JOHN W. BENSON,
For the Senate.

C. H. STARKE,
F. A. VOGEL,
FRED FERRIS,
For the House.

Mr. Vogel moved that the Report of the conference committee on Senate Bill No. 52 be adopted.

Which motion prevailed.

Mr. Starke moved that the rules be suspended and that Senate Bill No. 52 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

THIRD READING SENATE BILLS

ROLL CALL

Senate Bill No. 52. A Bill for an Act to Appropriate Money for the Expenses of the Executive, Legislative and Judicial Departments of the State Government, and for Public Schools, Specifying the Amount and Time for Which Such Appropriations Shall Be Available, and Repealing All Acts, or Parts of Acts, Insofar as the Same Shall Relate to Appropriations Conflicting Herewith, or to Appropriations for the Same Matters or Purposes Provided for Herein.

Was read the third time.

The question being on the final passage of the bill, as amended by conference committee report, the roll was called, and there were ayes 105, nays 0, absent and not voting 8.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hempel	Quam
Anderson, Sargent	Hildre	Rabe
Anderson, Stutsman	Hoople	Radcliffe
Arduser	Iverson	Rasmusson
Borman	Jacobson	Richardson
Bollinger	Jodock	Roberts
Boyd	Johnson, Foster	Rulon
Brant	Johnson, McHenry	Sagen
Brown	Johnson, Pembina	Sanderson
Burkhart	Johnson, Ransom	Sanford
Burns	Johnson, Traill	Schmidt
Butt	Jones	Shepard
Cart	Kamrath	Shurr
Craig	Keierleber	Skogland
Crocker	Lazier	Slominski
Currie	Leraas	Sproul
Divet	Loudenbeck	Standley
Dougherty	McCay	Starke
Doyle	McDowall	Streich
Eckert	McGavren	Svingen
Elken	McManus	Swett
Ellingson, Ramsey	Martin	Thatcher
Ellingson, Traill	Miller, McIntosh	Thompson, Burleigh
Erickson, Divide	Miller, Williams	Thompson, Sargent
Erickson, Kidder	Montgomery	Tschida
Erickson, Steele	Morton	Tuneberg
Fine	Muus	Tweten
Flom	Oberg	Twichell

Messrs.	Messrs.	Messrs.
Fox	Olafson	Veitch
Freeman	O'Neil	Vogel
Hanson	Palms	Watt
Hardy, Slope	Peters	Worner
Hardy, Mountrail	Plath	Yeater
Hartl	Polfuss	Zimmerman
Helbling	Quade	Mr. Speaker

Absent and not voting:

Messrs.	Messrs.	Messrs.
Bubel	Frank	Root
Carr	Halcrow	Traynor
Ferris	Levin	

So the bill passed and the title was agreed to.

The conference committee on Senate Bill No. 180 made the following report:

Mr. Speaker: Your committee on conference to whom was referred:

Senate Bill No. 180. A Bill for an Act Regulating the Expenditure of Money for Travel Expenses of the Members, Officers and Employees of the Board of Administration and the Institutions Under Its Control, and Certain Departments of the State, and Requiring the Approval of the Board and Governor Therefor.

Have had the same under consideration and recommend that the same be amended as follows:

In line 5, Section 1, after the word "officer," insert a comma and strike out the words "or in the same time." and after the word "thereof" strike out the semicolon and insert a comma.

And when so amended recommend the same do pass.

For the Senate:

H. J. RUSCH,
OBERT A. OLSON,
OLE ETTESTAD.

For the House:

WM. WATT,
I. SANFORD,
OLE HILDRE.

Mr. Watt moved that the report be adopted, which motion prevailed and the report was adopted.

Mr. Watt moved that the rules be suspended and that Senate Bill No. 180 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

ROLL CALL

Senate Bill No. 180. A Bill for an Act Regulating the Expenditure of Money for Travel Expenses of the Members, Officers and Employees of the Board of Administration and the Institutions Under Its Control, and Certain Departments of the State, and Requiring the Approval of the Board and Governor Therefor.

Was read the third time.

The question being on the final passage of the bill, as amended by the conference committee, the roll was called, and there were ayes 106, nays 0, absent and not voting 7.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hempel	Quade
Anderson, Sargent	Hildre	Rabe
Anderson, Stutsman	Hoople	Radcliffe
Arduser	Iverson	Rasmusson
Borman	Jacobson	Richardson
Bollinger	Jodock	Roberts
Boyd	Johnson, Foster	Root
Brant	Johnson, McHenry	Rulon
Brown	Johnson, Pembina	Sagen
Burkhart	Johnson, Ransom	Sanderson
Burns	Johnson, Traill	Sanford
Butt	Jones	Schmidt
Carr	Kamrath	Shepard
Cart	Keierleber	Shurr
Craig	Lazier	Skogland
Crocker	Leraas	Slominski
Currie	Levin	Sproul
Divet	Loudenbeck	Standley
Dougherty	McCay	Starke
Doyle	McDowall	Svingen
Eckert	McGauvren	Swett
Elken	McManus	Thatcher
Ellingson, Ramsey	Martin	Thompson, Burleigh
Ellingson, Traill	Miller, McIntosh	Thompson, Sargent
Erickson, Divide	Miller, Williams	Traynor
Erickson, Kidder	Montgomery	Tschida
Erickson, Steele	Morton	Tuneberg
Fine	Muus	Tweten
Flom	Oberg	Twichell
Fox	Olafson	Veitch
Freeman	O'Neil	Vogel
Halcrow	Palms	Watt
Hanson	Peters	Worner
Hardy, Mountrail	Plath	Zimmerman
Hartl	Polfuss	Mr. Speaker
Helbling		

Absent and not voting:

Messrs.	Messrs.	Messrs.
Bubel	Hardy, Slope	Streich
Ferris	Quam	Yeater
Frank		

So the bill passed and the title was agreed to.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has approved the report of the conference committee on Senate Bill No. 52.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to return herewith the following bill:

House Bill No. 121. A Bill for an Act Creating the Office of State Efficiency Expert, Providing for the Appointment of Such Officer, Prescribing His Powers and Duties, Fixing His Salary, and Making an Appropriation for Payment of Same.

Which the Senate has indefinitely postponed.

Very respectfully,

C. R. VERRY,
Secretary.

Mr. Speaker: Your conference committee on House Bill No. 31 report that they have failed to agree and ask that the committee be discharged and a new committee be appointed.

A. J. LOUDENBECK,
A. M. THOMPSON,
O. E. ERICKSON,
of Kidder
FRED VAN CAMP,
JOHN L. MIKLETHUN,
JOHN W. BENSON.

Mr. Vogel moved that the report of the conference committee on House Bill No. 31 be adopted and the committee discharged, and a new conference committee appointed.

Which motion prevailed.

Mr. Watt moved that the House reconsider the action by which the report of the conference committee on House Bill No. 31 was adopted.

Which motion was lost.

The Speaker appointed the following conference committee to further confer with a like committee from the Senate on House Bill No. 31: Representatives McManus, Starke and O'Neil.

The conference committee on House Bill No. 27 made the following report:

Mr. Speaker: Your conference committee to which was referred House Bill No. 27 have had the same under consideration and beg leave to report that they cannot agree.

L. R. BAIRD,
D. H. HAMILTON,
G. PATTERSON,

For the Senate.

J. C. ARDUSER,
MINNIE D. CRAIG,
FRANK J. HARDY,

For the House.

Mr. Vogel moved that the report of the conference committee on House Bill No. 27 be adopted, the committee discharged, and a new conference committee appointed.

Which motion prevailed.

The Speaker appointed the following conference committee to further confer with a like committee from the Senate on House Bill No. 27: Representatives Streich, Quade and Loudenbeck.

The conference committee on House Bill No. 194 made the following report:

Mr. Speaker: Your conference committee to whom was referred:

House Bill No. 194 as amended. A Bill for an Act Providing for the Painting of a Sign in a Conspicuous Place on Each Side of All Motor Vehicles Owned and Operated on the Public Highways by State Departments, institutions, or Industries, Showing the Name of the Department, Institution or Industry, and Providing Penalty for Violation.

Have had the same under consideration and recommend that the same be amended as follows:

Section 1, in line 5, strike out the word "in" after the word "manner."

And when so amended recommend the same be adopted.

For the House:

SWETT,
RASMUSSON,
MICHAEL TSCHIDA.

For the Senate:

C. A. WARD.
S. J. ATKINS.
C. A. SEAMANDS.

Mr. Twichell moved that the report of the conference committee on House Bill No. 194 be adopted.

Which motion prevailed.

Mr. Swett moved that the rules be suspended and that House Bill No. 194 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

THIRD READING OF HOUSE BILLS

ROLL CALL

House Bill No. 194. A Bill for an Act Providing for the Painting of a Sign in a Conspicuous Place on Each Side of All Motor Vehicles Owned and Operated on the Public Highways by State Departments, Institutions or Industries, Showing the Name of the Department, Institution or Industry, and Providing Penalty for Violation.

Was read the third time.

The question being on the final passage of the bill, as amended by the conference committee, the roll was called, and there were ayes 104, nays 0, absent and not voting 9.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hardy, Mountrail	Quam
Anderson, Sargent	Hartl	Radcliffe
Anderson, Stutsman	Helbling	Rasmusson
Arduser	Hildre	Richardson
Borman	Hoople	Roberts
Bollinger	Iverson	Root
Boyd	Jacobson	Rulon
Brant	Jodock	Sagen
Brown	Johnson, Foster	Sanderson
Bubel	Johnson, McHenry	Sanford
Burkhart	Johnson, Pembina	Schmidt
Burns	Johnson, Ransom	Shepard
Butt	Kamrath	Shurr
Carr	Keierleber	Skogland
Cart	Lazier	Slominski
Craig	Leraas	Sproul
Crocker	Levin	Standley
Currie	Loudenbeck	Starke
Divet	McCay	Streich
Dougherty	McDowall	Svingen
Doyle	McGavren	Swett
Eckert	McManus	Thatcher
Elken	Martin	Thompson, Burleigh
Ellingson, Ramsey	Miller, Williams	Thompson, Sargent
Ellingson, Traill	Montgomery	Tschida
Erickson, Divide	Morton	Tuneberg
Erickson, Kidder	Muus	Tweten
Erickson, Steele	Oberg	Twichell
Ferris	Olafson	Veitch
Fine	O'Neil	Vogel
Flom	Palms	Watt
Fox	Peters	Worner
Freeman	Plath	Zimmerman
Halcrow	Polfuss	Mr. Speaker
Hardy, Slope	Quade	

Absent and not voting:

Messrs.	Messrs.	Messrs.
Frank	Johnson, Traill	Rabe
Hanson	Jones	Traynor
Hempel	Miller, McIntosh	Yeater

So the bill passed and the title was agreed to.

Mr. Vogel moved that the House return to the Seventh Order of Business.

Which motion prevailed.

MOTIONS AND RESOLUTIONS

Mr. Vogel moved that the Chair appoint a committee of two to escort the Hon. John Carr of Stutsman to the platform.

Which motion prevailed.

The Speaker appointed Representatives Craig and Sanderson as such committee.

The committee escorted Mr. Carr to the rostrum.

Mr. Carr:

Mr. Speaker: My duty is a very pleasant one on this occasion. This session will soon come to an end and we will be departing for our homes.

Mr. Speaker, the members of this House have felt that it was but fitting and proper, after your sixty days of arduous labor as Speaker of this House, that they should give to you some token in recognition of your services and we hope that as you go from this House that you will carry with you only the pleasantest recollections. Some of the friction that is incidental to all bodies of this kind we hope will be forgotten, and that when you have occasion to think of the sixty days, which we are now bringing to a close here, that the unpleasant things may be forgotten and that you will have only the pleasantest recollections; and at this time, in behalf of the entire membership of this House, I have the pleasure of presenting to you this token of our appreciation.

Mr. Larkin:

Members of the Nineteenth Legislative Assembly: I appreciate more than I am able to tell you the kind words of Mr. Carr and appreciate this token that he has presented, and will treasure it as a token. And I want to thank you Members, not one but every one of you, for the splendid cooperation you have given me. It is true, as he has stated, there were times when there was a little friction. I thank God that I am one of those fellows that can fight when there is something to fight about and forget it when it is over.

I can assure you that I look forward in the time to come when perhaps I have reached that three score and ten or more years, when sitting around the fireside and living, as only the old men and women do live, in the past, perchance my hands

resting upon a cane similar to the one of my good friend Brother Ferris, at this time thinking of the past, I am sure that one of the brightest, most pleasing times I will have to remember will be the days that I have spent with you in this Assembly and I want to assure each and every one that while I have differed with you on some occasions, I feel nothing but the most friendly feeling for each and every one of you and my earnest wish is that God may bless you in the future. I thank you.

MOTIONS AND RESOLUTIONS

Mrs. Craig moved that the Board of Administration be requested to remove all legislative group pictures prior to 1900 from the House Chamber and place same in the State Historical Society.

Which motion prevailed.

Senate Resolution No. 294, by Senator Whitmer, was read.

Mr. Twichell moved that further consideration of Senate Bill No. 294 be indefinitely postponed.

Which motion prevailed and Senate Bill No. 294 was indefinitely postponed.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to inform you that the House has adopted the conference committee reports on Senate Bills No. 152, 180 and House Bill No. 194.

Also,

Mr. President: The Speaker has appointed as a new conference committee on House Bill No. 31, Reps. McManus, Starke and O'Neil.

Also,

Mr. President: The Speaker has appointed as a new conference committee on House Bill No. 27, Reps. Streich, Quade and Loudenbeck.

Very respectfully,

J. C. MILLER,
Chief Clerk.

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to return herewith the following bill:

Senate Bill No. 294.

Which the House has indefinitely postponed.

Very respectfully,

J. C. MILLER,
Chief Clerk.

Mr. Root moved that the vote by which Senate Bill No. 288 was indefinitely postponed be reconsidered.

Roll call was demanded and granted.

ROLL CALL

The question being on the motion to reconsider the vote by which Senate Bill No. 288 was indefinitely postponed, the roll was called, and there were ayes 53, nays 50, absent and not voting, 9, passed 1.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Jacobson	Richardson
Arduser	Johnson, Foster	Roberts
Brant	Johnson, McHenry	Root
Brown	Johnson, Pembina	Shepard
Burkhart	Jones	Shurr
Burns	Leraas	Skogland
Butt	Loudenbeck	Streich
Cart	McCay	Svingen
Craig	Martin	Swett
Eckert	Miller, Williams	Thatcher
Erickson, Divide	Morton	Thompson, Burleigh
Erickson, Kidder	Muus	Thompson, Sargent
Fine	O'Neil	Tuneberg
Fox	Plath	Tweten
Frank	Quam	Vogel
Hardy, Mountrail	Rabe	Yeater
Hoople	Rasmusson	Mr. Speaker
Iverson		

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Anderson, Stutsman	Hartl	Polfuss
Borman	Helbling	Quade
Bollinger	Hempel	Radcliffe
Boyd	Hildre	Rulon
Carr	Jodock	Sanderson
Crocker	Johnson, Ransom	Sanford
Currie	Johnson, Traill	Schmidt
Divet	Kamrath	Slominski
Dougherty	Keierleber	Sproul
Elken	Lazier	Starke
Ellingson, Ramsey	Levin	Traynor
Ellingson, Traill	McDowall	Tschida
Erickson, Steele	McGauvren	Twichell
Ferris	McManus	Veitch
Freeman	Montgomery	Watt
Halcrow	Olafson	Worner
Hanson	Palms	Zimmerman

Absent and not voting:

Messrs.	Messrs.	Messrs.
Anderson, Sargent	Hardy, Slope	Peters
Doyle	Miller, McIntosh	Sagen
Flom	Oberg	Standley

Passed:

Messrs.
Bubel

So the motion was declared lost.

Mr. Twichell moved that the vote by which Senate Bill No. 238 was lost be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

REPORT OF SELECT COMMITTEE

The conference committee on House Bill No. 30 made the following report:

Mr. Speaker: Your joint conference committee have had under consideration:

House Bill No. 30. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School, at Valley City, North Dakota, and Making Permanent Improvements and Repairs Thereto.

Beg to report that the committee have disagreed, and ask that the committee be discharged.

CHAS. F. STREICH,
JOHN CARR,
FRED FERRIS.

Mr. Vogel moved that the report of the conference committee on House Bill No. 30 be adopted, that the committee be discharged and a new conference committee be appointed.

Which motion prevailed.

The Speaker appointed the following conference committee: Representatives Martin, Watt and Oberg.

The conference committee on House Bill No. 31 made the following report:

Mr. Speaker: Your conference committee to whom was referred:

House Bill No. 31. A Bill for an Act Making an Appropriation of \$130,000.00 for Maintenance, Improvements and Repairs, Equipment and Miscellaneous for the Tuberculosis Sanatorium at San Haven.

Have had the same under consideration and recommend that the House concur in the Senate amendments.

And when so amended recommend the same do pass.

For the Senate:

THEO. KALDOR,
C. L. BAKKEN,
L. O. FREDRICKSON.

For the House:

JAMES McMANUS,
C. H. STARKE,
J. W. O'NEILL.

Mr. Vogel moved that the report of the conference committee on House Bill No. 31 be not adopted and that the committee be discharged and a new committee appointed.

Mr. Starke moved, as a substitute motion, that the report of the conference committee on House Bill No. 31 be adopted.

Roll call was demanded and granted.

ROLL CALL

The question being on the substitute motion of Mr. Starke, the roll was called, and there were ayes 81, naves 31, absent and not voting 1.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Stutsman	Hildre	Rasmusson
Borman	Hoople	Root
Bollinger	Iverson	Rulon
Boyd	Jacobson	Sagen
Brown	Jodock	Sanderson
Burkhart	Johnson, Pembina	Schmidt
Burns	Johnson, Ransom	Shepard
Butt	Johnson, Traill	Shurr
Carr	Leraas	Skogland
Crocker	Levin	Slominski
Currie	McDowall	Sproul
Divet	McGauvren	Standley
Dougherty	McManus	Starke
Eckert	Miller, McIntosh	Streich
Elken	Miller, Williams	Svingen
Ellingson, Ramsey	Montgomery	Thompson, Burleigh
Ellingson, Traill	Morton	Thompson, Sargent
Ferris	Muus	Traynor
Flom	Olafson	Tschida
Fox	O'Neil	Tuneberg
Frank	Palms	Tweten
Freeman	Peters	Twichell
Halcrow	Plath	Veitch
Hanson	Polfuss	Watt
Hardy, Mountrail	Quade	Worner
Hartl	Rabe	Zimmerman
Hempel	Radcliffe	Mr. Speaker

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hardy, Slope	McCay
Anderson, Sargent	Fine	Martin
Arduser	Helbling	Oberg
Brant	Johnson, Foster	Quam
Bubel	Johnson, McHenry	Richardson
Cart	Jones	Roberts
Craig	Kamrath	Sanford
Doyle	Keierleber	Swett
Erickson, Divide	Lazier	Thatcher
Erickson, Kidder	Loudenbeck	Vcgel
Erickson, Steele		

Absent and not voting:

Messrs.
Yeater

So the motion prevailed and the report was adopted.

Mr. Starke moved that the rules be suspended and that House Bill No. 31 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

THIRD READING OF HOUSE BILLS

ROLL CALL

House Bill No. 31. A Bill for an Act Making an Appropriation of \$110,000.00 for Maintenance, Improvements and Repairs, Equipment and Miscellaneous for the Tuberculosis Sanatorium at San Haven.

Was read the third time.

The question being on the final passage of the bill, as amended by the Senate, the roll was called, and there were ayes 86, nays 24, absent and not voting 3.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Stutsman	Hoople	Richardson
Borman	Iverson	Root
Bollinger	Jacobson	Rulon
Boyd	Jodock	Sagen
Brown	Johnson, Foster	Sanderson
Burkhart	Johnson, Pembina	Sanford
Burns	Johnson, Ransom	Schmidt
Butt	Johnson, Traill	Shepard
Carr	Leraas	Shurr
Crocker	Levin	Skogland
Currie	McCay	Slominski
Divet	McDowall	Sproul
Dougherty	McGauvren	Standley
Eckert	McManus	Starke

Messrs.	Messrs.	Messrs.
Elken	Miller, McIntosh	Streich
Ellingson, Ramsey	Miller, Williams	Svingen
Ellingson, Traill	Montgomery	Thompson, Burleigh
Erickson, Kidder	Morton	Thompson, Sargent
Ferris	Muus	Traynor
Flom	Olafson	Tschida
Fox	O'Neil	Tuneberg
Frank	Palms	Tweten
Freeman	Peters	Twichell
Halcrow	Plath	Veitch
Hanson	Polfuss	Watt
Hardy, Mountrail	Quade	Worner
Hartl	Rabe	Zimmerman
Hempel	Radcliffe	Mr. Speaker
Hildre	Rasmusson	

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Erickson, Steele	Loudenbeck
Anderson, Sargent	Fine	Martin
Arduser	Hardy, Slope	Oberg
Brant	Johnson, McHenry	Roberts
Bubel	Jones	Swett
Cart	Kamrath	Thatcher
Craig	Keierleber	Vogel
Erickson, Divide	Lazier	Yeater

Absent and not voting:

Messrs.	Messrs.	Messrs.
Doyle	Helbling	Quam

So the bill passed and the title was agreed to.

Mr. Starks moved that the vote by which House Bill No. 31 was passed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

Mr. Crocker:

Mr. Speaker: I take great pleasure in voting "aye." I believe that we can afford to serve the little children. It is said that a child is worth \$5,000.00. It would just take eight children to pay for this \$40,000 appropriation. I vote "aye" simply to furnish them this home.

Mr. Divet:

Mr. Speaker: I vote "aye" on this bill because I believe the exigency of the situation justifies the spending of the money for the erection of this building, and I thus vote without any apology to the people of the state, the people at home, or any place else, believing that those who want to determine what money should be appropriated and for what purpose ought to manifest their desires by becoming members of this legislature and assuming some of that responsibility.

Mr. Erickson of Kidder:

Mr. Speaker: I am going to vote "no" on this bill. If I was assured that this would be the only new building I would vote "aye" or if this was at the end of the list I would vote for it, but as it is I must vote "No."

Mr. Hempel:

Mr. Speaker: I wish to vote "aye." I am doubtful as to whether it is the proper thing to do—to vote for this appropriation—but if I am going to make a mistake I prefer to make it helping the children. I vote "aye."

Mr. Loudenbeck:

Mr. Speaker: I wish to explain my vote. And it is the first time I have explained my vote. I vote "No" on this measure. If I were to vote for any new building this is the one I would vote for but I do not believe this is the time to make any additional appropriations.

Mr. Thompson of Burleigh:

Mr. Speaker: This bill is not like I would like to have it on either side, but I will have to vote "aye" for this on account of the children. I think this appropriation should be taken off of some of the other appropriations made to this same institution. We talk about saving money. If we cut a little off of their fuel appropriation or some of their other appropriations and put it on here for this new building the bill would be in proper shape so a man could vote for it conscientiously but I will have to vote "aye" on it any way.

Mr. Vogel:

Mr. Speaker: I vote "no" on this bill. In the first place I vote "no" because the Budget Board did not recommend the bill. In the second place I am not in favor of appropriating money for an institution that by reorganization can do the same work that this building is supposed to be built to do, at the same time taking money from the farmers of North Dakota whose own children are doing without the necessities of life and are unable to attend school because of having to work. I do not believe in appropriating money for a new building when by proper reorganization the work can be done in the present building. I vote "no."

Mr. Worner:

Mr. Speaker: I don't see how we can appropriate \$40,000 at this time to this institution to build a new building. But at the same time when little children come to me and ask for money for such a good cause I can hardly resist giving them something. My conscience hardly allows me to vote against this bill. I vote "Aye."

REPORT OF SELECT COMMITTEE

The committee on conference made the following report:

Mr. Speaker: Your committee on Conference to whom was referred:

House Bill No. 27. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School, Minot, North Dakota, and Making Permanent Improvements and Repairs Thereto.

Have had the same under consideration and beg leave to report that we cannot agree and ask that the committee be discharged and a new conference committee be appointed.

CHAS. F. STREICH,
A. I. QUADE,
A. J. LOUDENBECK,

For the House.

FRANK E. PLOYHAR,
RALPH INGERSOON,
C. L. BAKKEN,

For the Senate.

Mr. Vogel moved that the report of the conference committee on House Bill No. 27 be adopted, the committee discharged and a new conference committee appointed which motion prevailed.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to inform you that the House has adopted the conference committee report on House Bill No. 31.

Very respectfully,

J. C. MILLER,
Chief Clerk.

Mr. Divet moved that the House recess for fifteen minutes, which motion prevailed.

The House reconvened pursuant to recess taken, the Speaker presiding.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has approved the report of the conference committee on Senate Bill No. 292.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has appointed as a conference committee on House Bill No. 27, Senators Ingerson, Patterson and Babcock.

And as a conference committee on House Bill No. 30, Senators Ployhar, Carey and Olson of Barnes.

The Senate refuses to concur in the House amendments to Senate Bill No. 40 and has appointed as a conference committee on Senate Bill No. 40, Senators Whitman, Steel and Ettestad.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate refuses to concur in the House amendments to Senate Bills Nos. 50, 51 and 53 and has appointed as a conference committee on Senate Bill No. 50, Senators Rusch, Patten and Page; and on Senate Bill No. 51, Senators Fredrickson, Benson and Schlosser; and on Senate Bill No. 53, Senators McLachlin, Pathman and Bakken.

Very respectfully,

C. R. VERRY,
Secretary.

CONSIDERATION OF MESSAGES FROM THE SENATE

Mr. Vogel moved that the House do not recede from its amendments to Senate Bill No. 50 and that the Speaker appoint a Conference Committee to confer with a like committee from the Senate, which motion prevailed.

The Speaker appointed the following Conference committee: Representatives Cart, McGavvren and Swett.

Mr. Vogel moved that the House do not recede from its amendments to Senate Bill No. 51, and that the Speaker appoint a conference committee to confer with a like committee from the Senate which motion prevailed.

The Speaker appointed the following conference committee: Representatives Quade, Helbling and Johnson of Eddy.

Mrs. Craig moved that the House do not recede from its amendments to Senate Bill No. 53, and that the Speaker appoint a conference committee to confer with a like committee from the Senate, which motion prevailed.

The Speaker appointed the following conference committee, Representatives Erickson of Divide, Bubel and Anderson of Stutsman.

Mr. Traynor moved that the House do not recede from its amendments to Senate Bill No. 40, and the Speaker appoint a conference committee to confer with a like committee from the Senate, which motion prevailed.

The Speaker appointed the following Conference Committee: Representatives Jacobson, Ferris and Craig.

HOUSE COMMITTEE ON ENROLLMENT AND ENGROSSMENT

The Committee on Enrollment and Engrossment made the following report:

Mr. Speaker: Your Committee on Enrollment and Engrossment respectfully report that

House Bill No. 29. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School, Mayville, and for the Equipment and Improvements and Repairs.

House Bill No. 165. A Concurrent Resolution Introduced by the Joint Committee on Agriculture.

Also,

House Bill No. 86 as amended. A Bill for an Act to Amend and Re-enact Sections 6, 7, 13, 26 and 27 of Chapter 160 of the Session Laws of 1919 as Amended by Chapter 38 of the Special Session Laws of the Sixteenth Legislative Assembly of the State of North Dakota, as Amended and Re-enacted by Chapter 77 of the Session Laws of North Dakota for the Year 1921, as Amended and Re-enacted by Chapter 232 of the Session Laws of North Dakota for the Year 1923, Relating to State Hail Insurance.

Also,

House Bill No. 155. A Bill for an Act to Amend and Re-

enact Chapter 136, Laws of North Dakota for the Year 1923, Providing for the Supervision and Regulation of the Transportation of Persons and Property for Compensation Over any Public Highway by Motor Propelled Vehicles; Defining Transportation Companies; Providing for Supervision and Regulation Thereof by the Board of Railroad Commissioners of the State of North Dakota; Providing for the Enforcement of the Provisions of this Act and for the Punishment for the Violation Thereof.

Also,

House Bill No. 178. A Bill for an Act to Amend and Re-enact Sections 11113, 11114 and 11115 of the Compiled Laws of North Dakota for the Year 1913, Relating to Bail.

Also,

House Bill No. 84. A Bill for an Act Empowering the Board of Railroad Commissioners to Order, Authorize and Permit Common Carriers to Publish and Charge Special Freight Rates, Classifications, Rules and Regulations, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Also,

House Bill No. 144. A Bill for an Act Providing for the Manner of Constructing Crossings, and For the Construction and Maintenance of Certain Signs at the Crossings of Railroads, Streets and Public Highways, and Regulating the Use of Such Crossings by the Public, and for the Establishment, and Re-location of Such Crossings and for the Protection of Dangerous Railroad Grade Crossings.

Also,

House Bill No. 179. A Bill for an Act to Amend and Re-enact Section 10994 of the Compiled Laws of North Dakota for the Year 1913, Relating to the Time for Appeal to the Supreme Court in Criminal Cases.

Also,

House Bill No. 171. A Bill for an Act to Amend and Re-enact Section 9917 of the Compiled Laws of North Dakota for the Year 1913, Relating to Punishment of Grand Larceny.

Also,

House Bill No. 242. A Bill for an Act Providing that District Courts Shall Have Jurisdiction in the Foreclosure of Tax Liens in Cases of Irregular Tax Sales, Prescribing the Procedure in Such Cases; and Providing that Such Remedy Shall Be Cumulative.

Also,

House Bill No. 177. A Bill for an Act to Amend and Re-enact Section 10523 of the Compiled Laws of North Dakota for the Year 1913, Relating to the time of Commencing Criminal Actions, and Providing Exceptions Therefor.

Also,

House Bill No. 173. A Bill for an Act to Amend and Re-enact Section 10141 of the Compiled Laws of North Dakota for the Year 1913, Relating to Being Intoxicated in a Public Place.

Also,

House Bill No. 110. A Bill for an Act to Amend and Re-enact Section 2214 of the Compiled Laws of North Dakota for 1913, Relating to Irregularities of Land to Be Platted Into Lots If Required.

Also,

House Bill No. 152. A Bill for an Act to Amend and Re-enact Chapter 170 of the Session Laws of North Dakota for the Year 1919, as Amended by Chapter 346 of the Session Laws of North Dakota for the Year 1923, Being an Act Regulating and Fixing the Hours of Labor of Females and Providing Penalties for the Violation thereof.

Were delivered to the governor for his approval at the hour of 5 o'clock.

C. E. ERICKSON,
Chairman.

HOUSE COMMITTEE ON ENROLLMENT AND EN-GROSSMENT.

The committee on Enrollment and Engrossment made the following report:

Mr. Speaker: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following bills:

House Bill No. 108. A Bill for an Act to Amend and Re-enact Section Two (2) of Chapter 188 of the Session Laws of 1923 of the State of North Dakota, Relating to the Collection of Seed Grain and Feed Accounts Owing to Counties.

Also,

House Bill No. 149. A Bill for an Act to Create a State Board of Accountancy and Prescribing Its Duties and Powers; to Provide for the Examination of and Issuance of Certificates to Qualified Accountants, with the Designation of Certified Public Accountants; to Provide the Penalty for Violations of the Provisions Thereof; and to Repeal Sections 549, 550, 551, 552, 553, 554, 555, 556 and 557 of the Compiled Laws of North Dakota for the Year 1913 and All Other Acts or Parts of Acts in Conflict Therewith.

Also,

House Bill No. 194. A Bill for an Act Providing for the Painting of a Sign in a Conspicuous Place on Each Side of

All Motor Vehicles Owned and Operated on the Public Highways by State Departments, Institutions or Industries, Showing the Name of the Department, Institution or Industry, and Providing Penalty for Violation.

And find the same correctly enrolled.

C. E. ERICKSON,
Chairman.

Mr. Erickson of Divide moved that the report be adopted, which motion prevailed and the report was adopted.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to inform you that the Speaker has appointed the following conference committees:

On Senate Bill No. 50, Representatives Cart, McGauvren and Swett.

On Senate Bill No. 51, Representatives Quade, Helbling and Johnson of Foster.

On Senate Bill No. 53, Representatives Erickson of Divide, Bubel and Anderson of Stutsman; and on Senate Bill No. 40, Representatives Jacobson, Ferris and Craig.

Very respectfully,

J. C. MILLER,
Chief Clerk.

Mr. Vogel moved that the House recess until 6:45 which motion prevailed.

NIGHT SESSION

The House re-convened at 6:45 p. m. pursuant to recess taken. The Speaker presiding.

The Industrial Commission,
Bismarck, North Dakota,
March 6, 1925.

House of Representatives,
Bismarck, North Dakota.

Mr. Speaker:

In compliance with the directions contained in Concurrent Resolution No. 290, originating in the House of Representatives of the Nineteenth Legislative Assembly, we have the honor to transmit herewith consolidated reports showing the financial condition as of December 31, 1921, of the various

state industries under the control or supervision of the North Dakota industrial commission.

These reports include balance sheets and statements of operations covering the State Mill and Elevator at Grand Forks, the Drake Mill, and Bank of North Dakota, together with detailed account of the process of liquidation of the former State Homebuilding Association.

We beg to inform your honorable body that Section 6, of Chapter 151, Session Laws of 1919, does not provide sufficient time for the preparation of the statistical data required in the report of the Industrial Commission. From twenty to thirty days time is necessary, for each yearly period, within which to close out the books of such institutions as the state Mill and Elevator and Bank of North Dakota; after which, audit reports must be prepared and submitted. The 1924 report of the Industrial Commission will contain all the information transmitted herewith, together with an additional report covering the financing of Soldier Bonus payments. The complete report will be printed in pamphlet form and be ready for distribution during the present month.

Respectfully submitted,

N. D. INDUSTRIAL COMMISSION,
By John Gammons, Secretary.

Mr. Twichell moved that the above communication from the Industrial Commission be printed in the Journal, which motion prevailed.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to return herewith the following bills:

House Bill No. 292. A Resolution introduced by Messrs. Fine, Jones and Arduser.

Which the Senate has passed unchanged.

Very respectfully,

C. R. VERRY,
Secretary.

Bismarck, North Dakota,
Senate Chamber,
March 6, 1925.

Mr. Speaker: I have the honor to transmit herewith the following bills:

Senate Bill No. 296.

Which the Senate has passed and your favorable consideration is respectfully requested.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Concurrent Resolution No. 295 introduced by Senator Stevens, was read.

Mr. Boyd moved the adoption of Senate Concurrent Resolution No. 295, which motion prevailed.

The House returned to the 7th Order of Business.

MOTIONS AND RESOLUTIONS

Mr. Morton moved that the Senate be requested to return Senate Bill No. 294, which motion prevailed.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to return herewith the following bills:

Senate Bill No. 296.

Which the House has passed unchanged.

Very respectfully,

J. C. MILLER,
Chief Clerk.

REPORT OF SELECT COMMITTEE

The committee on Conference made the following report:

Mr. Speaker: Your committee on Conference to whom was referred House Bill No. 30, have had the same under consideration and beg leave to report that we cannot agree.

O. C. MARTIN, Chairman,
OSCAR S. OBERG,
For the House.

C. J. OLSON,
C. W. CAREY,
For the Senate.

Mr. Sanford moved that the report of the Conference Committee on House Bill No. 30 be not adopted, that the committee be discharged, and a new conference committee be appointed by the Speaker.

Which motion prevailed.

The Speaker appointed the following conference committee: Representatives Martin, Richardson and Yeater.

SIGNING OF BILLS

The Chief Clerk announced that the Speaker was about to sign:

House Bill No. 149. A Bill for an Act to Create a State Board of Accountancy and Prescribing its Duties and Powers; to Provide for the Examinations of and Issuance of Certificates to Qualified Accountants, with the Designation of Certified Public Accountants; to Provide the Penalty for Violations of the Provisions Thereof; and to Repeal Sections 549, 550, 551, 552, 553, 554, 555, 556 and 557 of the Compiled Laws of North Dakota for the Year 1913 and All Other Acts or Parts of Acts in Conflict Therewith.

House Bill No. 108. A Bill for an Act to Amend and Re-enact Section Two (2) of Chapter 188 of the Session Laws of 1923 of the State of North Dakota, Relating to the Collection of Seed Grain and Feed Accounts Owing to Counties.

House Bill No. 194. A Bill for an Act Providing for the Painting of a Sign in a Conspicuous Place on Each Side of All Motor Vehicles Owned and Operated on the Public Highways by State Departments, Institutions or Industries, Showing the Name of the Department, Institution or Industry, and Providing Penalty for Violation.

House Bill No. 3. A Bill for an Act to Amend and Re-enact Sections 6, 11, 12, 16 and 17 of Chapter 44 of the Special Session Laws of North Dakota, for the Year 1919, Relating to the Registration and Licensing of Motor Vehicles, the Creation of a State Highway Fund, the Distribution of Such Fund, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Senate Bill No. 292. A Concurrent Resolution Memorializing the Congress of the United States to Take Steps Toward the Establishment of a National Park in Billings County, North Dakota, Embracing the Wonderful Petrified Forest There Located, to be Called Roosevelt Park.

Senate Bill No. 49. A Bill for an Act Making an Appropriation of \$10,000.00 for the Maintenance of the Pure Seed Laboratory and Pure Seed Law Enforcement at the Agricultural College, Fargo, N. D.

Senate Bill No. 167. A Bill for an Act Providing general rules of procedure in county courts relating to giving notice to and obtaining jurisdiction of all persons interested in estates of deceased persons, or of minors, or incompetents; and for giving notice to creditors of and presentation and investigation and allowance or rejection of claims against estates of deceased persons; and sales of real estate by executors, administrators and guardians; and to repeal Sections 8549, 8550, 8551, 8552, 8553, 8554, 8555, 8556, 8557, 8558, 8559, 8565, 8734, 8736, 8737, 8740, 8741, 8742, 8743, 8744,

8747, 8748, 8752, 8754, 8771, 8772, 8774, 8775, 8776, 8777, 8780, 8790, 8791, 8909, 8911, 8767, 8769, 8770 of the Compiled Laws of North Dakota 1913, and all Acts and parts of Acts in conflict herewith."

Senate Bill No. 25. A Bill for an Act to Appropriate the Sum of \$15,000.00 to the Board of Auditors as Provided for in Section 369 of the Compiled Laws of the State of North Dakota for the Year 1913, as Amended and Re-enacted by the Initiated Law Approved November 2nd, 1920.

Senate Bill No. 230. A Bill for an Act to Amend and Re-enact Section 1400 of Article 22 of the Laws of the State of North Dakota, Relating to Consolidated, Graded, and Rural Schools May Receive State Aid.

Senate Bill No. 26. A Bill for an Act Making an Appropriation of \$12,000.00 for the Use of the Board of Administration in Administering Child Welfare Laws.

Senate Bill No. 209. A Bill for an Act Designating the Commissioner of Insurance as Receiver of Insolvent Domestic Insurance Companies, Outlining the Procedure in Dissolution of Such Companies, and Defining the Commissioner's Powers and Duties as Such Receiver.

Senate Bill No. 257. A Bill for an Act to Amend Chapter 131 of the Session Laws of 1919 as Amended by Chapter 66 of the Session Laws of 1921, Pertaining to the Giving of Notices of Intention to Foreclose Real Estate Mortgages.

Senate Bill No. 48. A Bill for an Act to Appropriate the Sum of Six Hundred Dollars to Pay Miss Leila Diesem, La-Moure, North Dakota, for Services Rendered in Connection with the Compilation of the Blue Book for North Dakota for the Year 1919, Under the Direction of the Secretary of State.

Senate Bill No. 270. A Bill for an Act to Amend and Re-enact Section 1369 of the Compiled School Laws of North Dakota for the Year 1919, Relating to Teacher's Certificates Issued on High School Diplomas.

Senate Bill No. 236. A Bill for an Act to Prescribe the Legal Reserve Fund of all Banking Associations and Corporations, on and After July 1st, 1926.

And the Speaker signed the same in the presence of the House.

The conference committee on Senate Bill No. 40 made the following report:

REPORT OF SELECT COMMITTEE

Mr. Speaker: Your conference committee to whom was referred Senate Bill No. 40

Mr. Speaker: Your conference committee on Senate Bill No. 40 beg leave to report that they fail to agree and recom-

mend that the report be accepted, the committee discharged and a new committee be appointed.

W. S. WHITMAN,
ALFRED STEEL,
OLE ETTESTAD,
MINNIE D. CRAIG,
JOHN JACOBSON,
FRED FERRIS,

The committee on conference made the following report:

Mr. Speaker: Your committee on Conference to whom was referred:

Senate Bill No. 235. A Bill for an Act to Amend and Re-enact Section 959 Compiled Laws of 1913, as Amended by Chapter 203, Session Laws of 1923, Relating to Election Ballots.

Your conference committee which was to meet with a like committee of the Senate to confer on Senate Bill No. 235, beg leave to report as follows:

That the House recede from its amendment to said bill.

And recommend that the same be amended as follows:

In line 29 after the period insert the following: "The names of candidates under headings designating each official position shall be alternated on the official ballot in the printing in the manner as provided by the Primary Election Law."

Also in line 30 strike out the words "by paper or."

And when so amended recommend the same do pass.

ROY A. YEATER,
CHAS. F. STREICH,
HERMAN RABE,

For the House.

C. W. CAREY,
L. O. FREDRICKSON,
JOHN N. BENSON,

For the Senate.

Mr. Vogel moved that the report of the Conference Committee on Senate Bill No. 235 be adopted.

Which motion prevailed.

Mr. Jodock moved that the rules be suspended and that Senate Bill No. 235 be considered properly re-engrossed and placed upon third reading and final passage, which motion prevailed.

THIRD READING OF SENATE BILLS

ROLL CALL

Senate Bill No. 235. A Bill for an Act to Amend and Re-enact Section 959 Compiled Laws of 1913, as Amended by Chapter 203, Session Laws of 1923, Relating to Election Ballots.

The question being on the final passage of the bill as amended by the conference committee, the roll was called, and there were ayes 100, nays 0, absent and not voting 13.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hardy, Slope	Polfuss
Anderson, Sargent	Hardy, Mountrail	Quam
Anderson, Stutsman	Hartl	Radcliffe
Arduser	Hildre	Rasmusson
Borman	Hoople	Roberts
Bollinger	Iverson	Root
Brant	Jacobson	Rulon
Brown	Jodock	Sagen
Bubel	Johnson, McHenry	Sanderson
Burkhart	Johnson, Pembina	Sanford
Burns	Johnson, Traill	Schmidt
Butt	Jones	Shepard
Carr	Kamrath	Shurr
Carr	Keierleber	Skogland
Craig	Lazier	Slominski
Crocker	Leraas	Sproul
Currie	Levin	Starke
Divet	Loudenbeck	Streich
Dougherty	McCay	Svingen
Eckert	McDowall	Thatcher
Elken	McManus	Thompson, Burleigh
Ellingson, Ramsey	Martin	Thompson, Sargent
Ellingson, Traill	Miller, McIntosh	Tschida
Erickson, Divide	Miller, Williams	Tuneberg
Erickson, Kidder	Montgomery	Tweten
Erickson, Steele	Morton	Twichell
Ferris	Muus	Veitch
Fine	Oberg	Vogel
Flom	Olafson	Watt
Fox	O'Neil	Worner
Frank	Palms	Yeater
Freeman	Peters	Zimmerman
Halcrow	Plath	Mr. Speaker
Hanson		

Absent and not voting:

Messrs.	Messrs.	Messrs.
Boyd	Johnson, Ransom	Richardson
Doyle	McGavren	Standley
Helbling	Quade	Swett
Hempel	Rabe	Traynor
Johnson, Foster		

So the bill passed and the title was agreed to.

Mrs. Craig moved that the vote by which Senate Bill No. 235 was passed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to inform you that the speaker has appointed as a new conference committee on House Bill No. 30, Representatives Martin, Richardson and Yeater, also, Mr. President, the House has adopted the conference committee report on Senate Bill No. 235.

Very respectfully,

J. C. MILLER,
Chief Clerk.

Mr. Vogel moved that the report of the conference committee on Senate Bill No. 40 be adopted, the committee discharged, and a new conference committee appointed which motion prevailed.

The Speaker appointed the following conference committee: Representatives Oberg, Shepard and Hempel.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has appointed a new conference committee on House Bill No. 30, Senators Ployhar, Olson of Barnes, Carey.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has adopted the conference committee report on Senate Bill No. 235.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has appointed a new conference committee on Senate Bill No. 40, being Senators Schlosser, Hamilton and Kretschmar.

Very respectfully,

C. R. VERRY,
Secretary.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to inform you that the speaker has appointed as a new conference committee on Senate Bill No. 40 Representatives Oberg, Shepard and Hempel.

J. C. MILLER,
Chief Clerk.

REPORT OF SELECT COMMITTEE

The committee on Conference made the following report:

Mr. Speaker: Your committee on conference to whom was referred:

House Bill No. 30. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School, at Valley City, North Dakota, and Making Permanent Improvements and Repairs Thereto.

Have had the same under consideration and beg leave to report that we cannot agree.

O. C. MARTIN, Chairman.
ROY A. YEATER,
L. A. RICHARDSON,
For the House.

C. J. OLSON,
FRANK E. PLOYHAR,
C. W. CAREY,
For the Senate.

Mr. Vogel moved that the report of the conference committee on Senate Bill No. 30 be adopted, the committee discharged and a new conference committee appointed, which motion prevailed.

The Speaker appointed the following conference committee: Representatives Hardy of Slope, Bubel and Watt.

FRIDAY, MARCH 6, 1925

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House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to inform you that the Speaker has appointed as a new conference committee on House Bill No. 30, Representatives Hardy of Slope, Bubel and Watt.

Very respectfully,

J. C. MILLER,
Chief Clerk.

HOUSE COMMITTEE ON ENROLLMENT AND EN-
GROSSMENT.

The committee on Enrollment and Engrossment made the following report:

Mr. Speaker: Your Committee on Enrollment and Engrossment respectfully report that they have examined the following bills:

Concurrent Resolution No. 292, Introduced by Messrs. Fine, Jones and Arduser.

And find the same correctly enrolled.

E. E. ERICKSON,
Chairman.

Mr. Erickson moved that the report be adopted, which motion prevailed and the report was adopted.

HOUSE COMMITTEE ON ENROLLMENT AND
ENGROSSMENT

The Committee on Enrollment and Engrossment made the following report:

Mr. Speaker: Your Committee on Enrollment and Engrossment respectfully report that:

House Bill No. 267. A Bill for an Act Providing for the Cancellation and Destruction of Unsold Bonds of Counties, Cities, Villages and School Districts, on the Expiration of Three Years from the Date of Their Authorization.

Also,

House Bill No. 284. A Bill for an Act to Amend and Re-enact Section 5144 of the Compiled Laws of North Dakota for the year 1913 Relating to Right of Way for Telephone Lines and Electric Light Systems.

Also,

House Bill No. 246. A Bill for an Act Amending and Re-enacting Chapter 297 of the Session Laws of North Dakota

for 1923, Being an Act to Prohibit the Keeping Open, Running or Permitting the Running or use of any Place for Public Dances on the First Day of the Week, Commonly Called the Sabbath, and Prohibiting the Same Prior to Sunrise on Monday Morning, and Providing a Penalty Therefor.

Also,

House Bill No. 239. A Bill for an Act Defining Public Dancing Places, Public Dances, Providing for the Issuing of Permits to Operate the Same, Regulating Public Dances and Public Dancing Places, Providing for the Policing of Public Dances, Providing for Penalties for the Violation of this Act, and Repealing all Acts in Conflict Herewith.

Also,

House Bill No. 268. A Bill for an Act to Amend and Re-enact Section 453 of the Compiled Laws of North Dakota for the Year 1913 Relating to the Fees of Local Registrars.

Also,

House Bill No. 271. A Bill for an Act Requiring All Public Terminal Grain Elevators to Issue Warehouse Receipts for Grain or Other Produce Received, and Prescribing What Such Warehouse Receipts Shall Contain.

Also,

Concurrent Resolution No. 290, Introduced by Mr. Swett.

Also,

House Bill No. 148. A Bill for an Act to Amend and Re-enact Section 3116 of the Compiled Laws of 1913, as Amended by Chapter 342, Session Laws of 1923, Relating to Storage Charges and Insurance on Grain and Prohibiting the Transferring or Assigning of Insurance on Grain and Giving Ticket Holders the First Lien on Proceeds of Insurance and Also Amending and Re-enacting Sections 3114, Compiled Laws of 1913, Giving the Owners of Storage Tickets a Prior Lien on All Grain on Hand in Case of Insolvency.

Also,

House Bill No. 112. A Bill for an Act to Provide an Appropriation in the Sum of One Thousand Dollars for the Inspection and Eradication of Bee Diseases, Under the Provisions of Chapter 140, Session Laws of North Dakota for the Year 1923.

Also,

House Bill No. 281. A Bill for an Act to Amend and Re-enact Section 27 of Chapter 161, Session Laws of 1915, as Amended by Chapter 134, Session Laws of 1919, as Amended by Chapter 224, Session Laws of 1923, Relating to Hunting With Dogs.

Also,

Concurrent Resolution No. 291. Introduced by Mr. Twichell. To provide for the Payment of Expenses of the Special Committee Named by the Governor at the Instance of the House and Senate State Affairs Committee, for the Purpose of Investigating Conditions at the State Hospital at Jamestown, North Dakota.

Also,

Concurrent Resolution No. 293. Introduced by Mr. O. C. Martin.

Also,

House Bill No. 186. A Bill for an Act to Amend and Re-enact Section 5167 of the Compiled Laws of 1913 Requiring Regular and Special Reports to the State Examiner by Banking Associations, Savings Banks and Trust Companies, and Providing Penalties for Failure to Make the Same.

Also,

House Bill No. 184. A Bill for an Act to Amend and Re-enact Section 69 of the Compiled Laws of North Dakota for 1913, Relating to the Printing of the Popular Edition of the Session Laws; Fixing the Specifications for the Unauthenticated Edition of the Session Laws of the State of North Dakota, and Repealing all Acts and Parts of Acts in Conflict Therewith.

Also,

House Bill No. 266. A Bill for an Act to Amend and Re-enact Section 31, Chapter 168, Session Laws of 1919, Relating to the Survey of Mines.

Also,

Joint Resolution No. 259, Introduced by Mr. Root.

Also,

House Bill No. 263. A Bill for an Act Providing that Real Estate Which Has Been Sold at Tax Sale Which Sale is Invalid or of Doubtful Validity Because Not Conducted in Accordance with Section 3733 of the Compiled Laws of 1913, or for Other Reasons, May Again be Sold at Future Tax Sales for the Taxes of the Years Included in Such Irregular Tax Sales.

Also,

House Bill No. 287. A Bill for an Act to Amend and Re-enact Section 4, Chapter 140, Session Laws of 1921, Relating to Sow Thistles.

Also,

House Bill No. 269. A Bill for an Act to Amend and Re-

enact Section 3523, Compiled Laws of 1913, Relating to the Appointment and Fixing the Salary of Deputy Sheriffs.

Also,

House Bill No. 101. A Bill for an Act to Provide for the Correction of Errors in the Assessment of Property; for the Placing of Omitted Property or Property Which has Escaped Taxation upon the Tax Lists; for the Reassessment of Property Which has Been undervalued; and to Repeal Sections 2137, 2216, 2217, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304 of the Compiled Laws of the State of North Dakota for the Year 1913.

Also,

House Bill No. 212. A Bill for an Act Relating to Frogs, Establishing a Closed Season, Regulating the Manner of Taking; Licensing Dealers and Providing Penalties for Violations.

Also,

House Bill No. 280. A Bill for an Act to Amend and Re-enact Section 33, Chapter 161, Session Laws of 1915, as Amended by Chapter 122, Session Laws of 1917, as Amended by Section 4, Chapter 134, Session Laws of 1919, Relating to Game Birds and Fixing the Open Season for Killing Same.

Also,

House Bill No. 286. A Bill for an Act Directing the State Emergency Commission to Provide Funds for Opposing Any Increase in Lignite Freight Rates and Making an Appropriation Therefor.

Also,

Concurrent Resolution No. 208. Introduced by Mr. Yeater.

Also,

House Bill No. 180. A Bill for an Act to Amend and Re-enact Section 1, of Chapter 97 of the Session Laws of 1921, as Amended and Re-enacted by Section 1, of Chapter 268 of the Session Laws of 1923, Defining Intoxicating Liquors.

Also,

House Bill No. 3. A Bill for an Act to Amend and Re-enact Sections 6 and 11, Chapter 44 of the Special Session Laws of North Dakota, for the Year 1919, Relating to Registration and Licensing of Motor Vehicles, the Creation of a State Highway Fund, and the Distribution of Such Fund and Repealing all Acts and Parts of Acts in Conflict Herewith.

Were delivered to the Governor for his approval at the hour of 7 o'clock.

C. E. ERICKSON,
Chairman.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: The Speaker of the House of Representatives wishes to inform your honorable body that the House will adjourn sine die promptly at 12 midnight.

Very respectfully,

B. C. LARKIN,
Speaker.

SIGNING OF BILLS

The Chief Clerk announced that the Speaker was about to sign:

Senate Bill No. 1. A Bill for an Act to Amend and Re-enact Chapter 320, Laws of 1923, also Sections 2191, 2192, 2197, 2202, 2203, 3733, 3735 and 3736 of the Compiled Laws of North Dakota for the Year 1913, Providing for Penalties on Delinquent Real Estate Taxes and Special Assessments; for the Sale of Land for Taxes and Special Assessments; Issuance of Certificates of Sale and Assignments Thereof; for Redemption of Land Sold at Tax Sale; for the Issuance of Tax Deeds on Land Not Redeemed from Sale for Taxes and for the Disposition or Conveyance of Land Bid in by the County and Not Redeemed or Purchased; and to Repeal All Acts in Anywise Contravening the Provisions of This Act.

Senate Bill No. 52. A Bill for an Act to Appropriate Money for the Expenses of the Executive, Legislative and Judicial Departments of the State Government and for Public Schools, Specifying the Amount and Time for Which Such Appropriations Shall be Available, and Repealing All Acts, or Parts of Acts, Insofar as the Same Shall Relate to Appropriations for the Same Matters or Purposes Provided for Herein.

Senate Bill No. 180. A Bill for an Act Regulating the Expenditure of Money for Travel Expenses of Members, Officers and Employees of the Board of Administration and the Institutions Under Its Control, and Certain Departments of the State, and Requiring the Approval of the Board and Governor Therefor.

House Resolution No. 292.

And the Speaker signed the same in the presence of the House.

REPORT OF SELECT COMMITTEE

Mr. Speaker: Your committee on Conference to whom was referred:

Senate Bill No. 51. A Bill for an Act Making an Appro-

priation of \$80,000.00 as an Offset for Federal Aid in Extension Division Work of the Agricultural College, Fargo, N. D.

Have had the same under consideration and your committee begs leave to report that Conference Committee does not agree on Senate Bill No. 51 and asks to be discharged.

A. I. QUADE,
E. R. HELBLING,
ERNEST F. JOHNSON,

For the House.

L. O. FREDRICKSON,
JOHN W. BENSON,
WALTER SCHLOSSER,

For the Senate.

Mr. Streich moved that the report of the Conference Committee on Senate Bill No. 51 be not adopted and that the Committee be discharged and a new Conference Committee appointed, which motion prevailed.

The Speaker appointed the following Conference Committee: Representatives Johnson of Foster, Cart and Quam.

The committee on Conference made the following report:

Mr. Speaker: Your committee on Conference to whom was referred:

Senate Bill No. 50. A Bill for an Act Making an Appropriation of \$278,200.00 to Pay the Maintenance Improvements and Repairs, New Buildings and Miscellaneous for the Experiment Station at the Agricultural College, Fargo, North Dakota.

Have had the same under consideration and cannot agree.

H. J. RUSCH,
R. W. PATTEN,
E. B. PAGE,

For the Senate.

ELMER W. CART,
JOSEPH McGAUVREN,
HERBERT F. SWETT,

For the House.

Mr. Vogel moved that the report of the Conference Committee on Senate Bill No. 50 be not adopted, that the committee be discharged and a new Conference Committee appointed which motion prevailed.

The Speaker appointed the following Conference Committee: Representatives McGauvren, Brant and Arduser.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to inform you that the Speaker has appointed as a conference committee on Senate Bill No. 51 Representatives Johnson of Foster, Cart and Quam; also, Mr. President, the Speaker has appointed as a new conference committee on Senate Bill No. 50, Representatives McGauvren, Brant and Arduser; also, Mr. President, the House has reconsidered its action whereby it indefinitely postponed House Bill No. 93 and the Speaker has appointed as a conference committee on House Bill No. 93 Representatives Erickson of Kidder, Twichell and Miller of Williams.

Very respectfully,

J. C. MILLER,
Chief Clerk.

Mr. Rabe moved that the House return to the Seventh Order of Business which motion prevailed.

MOTIONS AND RESOLUTIONS

Mr. Rabe moved that the House reconsider the vote by which House Bill No. 93 was indefinitely postponed.

Which motion prevailed.

Mr. Twichell moved that a committee of three be appointed to confer with a like committee from the Senate regarding House Bill 93, and that the Senate be notified of the action of the House in regard to House Bill No. 93.

Which motion prevailed.

The Speaker appointed the following committee. Representatives Erickson of Kidder, Twichell and Miller of Williams.

The conference committee on Senate Bill No. 53 made the following report:

Mr. Speaker: Your conference committee on Senate Bill No. 53, to whom was referred:

Senate Bill No. 53. A Bill for an Act Making an Appropriation of \$565,600.00 to Pay the General Maintenance, Improvements and Repairs, Equipment, Miscellaneous and Public Service of the Agricultural College, Fargo, North Dakota.

Have had the same under consideration and have agreed to disagree.

RICHARD BUBEL,
C. E. ERICKSON,
ALIX ANDERSON,
For the House.

P. McLACHLIN,
FRED PATHMAN,
CHAS. M. WHITMER,
For the Senate.

Mr. Cart moved that the report of the Conference Committee on Senate Bill No. 53 be adopted, the committee discharged, and a new Conference Committee appointed, which motion prevailed.

The Speaker appointed the following Conference Committee: Representatives Craig, Roberts and Hardy of Mountrail.

HOUSE COMMITTEE ON ENROLLMENT AND EN-GROSSMENT.

The Committee on Enrollment and Engrossment made the following report:

Mr. Speaker: Your Committee on Enrollment and Engrossment have examined the following bills:

House Bill No. 31. A Bill for an Act Making an Appropriation of \$110,000.00 for Maintenance, Improvements and Repairs, Equipment and Miscellaneous for the Tuberculosis Sanitorium at San Haven.

And find the same correctly enrolled.

C. E. ERICKSON,
Chairman.....

Mr. Erickson moved that the report be adopted, which motion prevailed and the report was adopted.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to inform you that the Speaker has appointed as a new conference committee on Senate Bill No. 53, Representatives Craig, Roberts and Hardy of Mountrail.

Very respectfully,

J. C. MILLER,
Chief Clerk.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has appointed a new conference committee on Senate Bill No. 50, Senators Carey, Wog and Martin.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has appointed a new conference committee on House Bill No. 30, consisting of Senators Ingerson, McLachlin and Magnuson; and as a conference committee on Senate Bill No. 40, Senators Schlosser, Hamilton and Kretschmar; and as a conference committee on Senate Bill No. 51, Senators Stortstad, Benson and Ritchie.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has appointed as a new conference committee on Senate Bill No. 53, Senators Eastgate, Fredrickson and Ettestad; also as a conference committee on House Bill No. 93, Senators Murphy, Pathman and Kretschmar.

Very respectfully,

C. R. VERRY,
Secretary.

SIGNING OF BILLS

The Chief Clerk announced that the Speaker was about to sign:

House Bill No. 3. A Bill for an Act to Amend and Re-enact Sections 6 and 11, Chapter 44 of the Special Session Laws of North Dakota, for the Year 1919, Relating to the Registration and Licensing of Motor Vehicles, the Creation of a State Highway Fund, and the Distribution of Such Fund and Repealing All Acts and Parts of Acts in Conflict Herewith.

House Bill No. 149. A Bill for an Act to Create a State Board of Accountancy and Prescribing Its Duties and Powers; to Provide for the Examination of and Issuance of Certificates to Qualified Accountants, with the Designation of Certified Public Accountants; to Provide the Penalty for Violations of the Provisions Thereof; and to Repeal Sections 549, 550, 551, 552, 553, 554, 555, 556 and 557 of the Compiled Laws of North Dakota for the Year 1913 and All Other Acts or Parts of Acts in Conflict Therewith.

House Bill No. 194. A Bill for an Act Providing for the Painting of a Sign in a Conspicuous Place on Each Side of All Motor Vehicles Owned and Operated on the Public Highways by State Departments, Institutions or Industries or Industries, Showing the Name of the Department, Institution or Industry, and Providing Penalty for Violation.

House Bill No. 31. A Bill for an Act Making an Appropriation of \$130,000.00 for Maintenance, Improvements and Repairs, Equipment and Miscellaneous for the Tuberculosis Sanatorium at San Haven.

House Bill No. 108. A Bill for an Act to Amend and Re-enact Section Two (2) of Chapter 188 of the Session Laws of 1923 of the State of North Dakota, Relating to the Collection of Seed and Feed Accounts Owing to Counties.

And the Speaker signed the same in the presence of the House.

HOUSE COMMITTEE ON ENROLLMENT AND EN-GROSSMENT.

The committee on Enrollment and Engrossment made the following report:

Mr. Speaker: Your committee on Enrollment and Engrossment respectfully report that:

House Bill No. 194. A Bill for an Act Providing for the Painting of a Sign in a Conspicuous Place on Each Side of all Motor Vehicles Owned and Operated on the Public Highways by State Departments, Institutions or Industries, Showing the Name of the Department, Institution or Industry, and Providing Penalty for Violation.

Also,

House Bill No. 108. A Bill for an Act to Amend and Re-enact Section Two (2) of Chapter 188 of the Session Laws of 1923 of the State of North Dakota, Relating to the Collection of Seed Grain and Feed Accounts Owing to Counties.

Also,

House Bill No. 149. A Bill for an Act to Create a State Board of Accountancy and Prescribing its Duties and Powers; to Provide for the Examinations of and Issuance of Certificates to Qualified Accountants, with the Designation of Certified Public Accountants; to Provide the Penalty for Violations of the Provisions Thereof; and to Repeal Sections 549, 550, 551, 552, 553, 554, 555, 556 and 557 of the Compiled Laws of North Dakota for the Year 1913 and All Other Acts or Parts of Acts in Conflict Therewith.

Were delivered to the governor for his approval at the hour of 7 o'clock.

C. E. ERICKSON,
Chairman.

REPORT OF SELECT COMMITTEE

The conference committee on House Bill No. 30 made the following report:

Mr. Speaker: Your conference committee on House Bill No. 30, to whom was referred:

House Bill No. 30. A Bill for an Act Making an Appropriation of \$323,250.00 for the Current and Contingent Expenses of the State Normal School at Valley City, and Making Permanent Improvements Thereto.

Have been unable to agree and asked to be discharged and that a new committee be appointed.

WM. WATT,
FRANK J. HARDY,
RICH. BUBEL,
For the House.

RALPH INGERSON,
NELS MAGNUSON,
P. McLACHLIN,
For the Senate.

FRANK, J. HARDY,
Chairman.

Mr. Streich moved that the report of the conference committee on House Bill No. 30 be adopted, the committee discharged and a new committee be appointed, which motion prevailed.

The Speaker appointed the following committee. Representatives Watt, Bubel and Hardy of Slope.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to inform you that the Speaker has appointed as a new conference committee on House Bill No. 30 Representatives Watt, Bubel and Hardy of Slope.

Very respectfully,

J. C. MILLER,
Chief Clerk.

REPORT OF SELECT COMMITTEE

Mr. Speaker: Your conference committee appointed to consider House Bill No. 93, beg leave to report that the Senate recedes from its amendment thereto.

P. J. MURPHY,
FRED PATHMAN,
P. T. KRETSCHMAR
Senate Committee.

O. E. ERICKSON,
A. C. MILLER,
L. L. TWICHELL,
House Committee.

Mr. Twichell moved that the report of the conference committee on House Bill No. 93 be adopted and the committee discharged.

Which motion prevailed.

The conference committee on Senate Bill No. 40 made the following report:

Mr. Speaker: Your conference committee on Senate Bill No. 40, to whom was referred:

Senate Bill No. 40. A Bill for an Act Making an Appropriation of \$1,239,255.00 for the Purpose of Paying the General Maintenance, Improvements and Repairs, New Equipment, Etc., of the State University at Grand Forks, North Dakota.

Beg leave to report that we cannot agree.

OSCAR S. OBERG,
Chairman.

J. W. HEMPEL,
H. A. SHEPARD,
House Committee.

WALTER H. SCHLOSSER,
P. T. KRETSCHMAR,
G. PATTERSON,
Senate Committee.

Mr. Vogel moved that the report of the Conference Committee on Senate Bill No. 40 be adopted, the committee discharged and a new committee be appointed.

Which motion prevailed.

The Speaker appointed the following committee. Representatives Swett, Oberg and Quade.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to inform you that the Speaker has appointed as a new conference committee on Senate Bill No. 40 Representatives Swett, Oberg and Quade.

Very respectfully,

J. C. MILLER,
Chief Clerk.

HOUSE COMMITTEE ON ENROLLMENT AND EN- GROSSMENT.

Mr. Speaker: Your committee on Enrollment and Engrossment respectfully report that they have examined the following bills:

House Bill No. 113. A Bill for an Act to Amend and Re-enact Section 1 of Chapter 146 of the Session Laws of 1919 as Amended and Re-enacted and as Purported to be Amended and Re-enacted by Chapter 176 of the Session Laws of 1923; Creating the Office of Commissioner of Immigration, Appointment by the Governor, Term of Office, and Prescribing Salary and Bond.

House Bill No. 73. A Bill for an Act to Amend and Re-enact Section 2464 of the Compiled Laws of North Dakota enact Section 292 of the Compiled Laws of North Dakota for the Year 1913, Relating to the Foreclosure of Mortgages Held by the Board of University and School Lands, Assignments Thereof, and Conveyance of Interests in Lands Acquired Thereunder.

House Bill No. 216. A Bill for an Act Amending Sections 4, 9 and 12, Chapter 292, Session Laws of 1923, Relating to the Bonds of North Dakota, Real Estate Series.

House Bill No. 258. A Bill for an Act Relating to Bonds Issued by Counties, Cities, Villages, School Districts, Park Districts and Other Subdivisions Within the State.

House Bill No. 260. A Bill for an Act Providing that All Bond Issues Shall Be Authorized by a Vote of the Qualified Electors, and Repealing All Acts and Parts of Acts in Conflict with the Provisions of This Act.

House Bill No. 241. A Bill for an Act to Amend and Re-enact Section 3 of Chapter 61 of the 1915 Session Laws, Relating to the Filing of Itemized Statements Required by the State Budget Board.

House Bill No. 221. A Bill for an Act to Amend and Re-enact Section 3532, Article 13, Chapter 43 of the Compiled Laws of 1913, Relating to the Fees of County Surveyors.

House Bill No. 183. A Bill for an Act to Amend and Re-enact Section 10248 of the Compiled Laws of North Dakota for the Year 1913, Forbidding the Injury, Destruction or Removal of Encumbered Chattel Property from the State, and Prescribing Penalties Therefor.

House Bill No. 181. A Bill for an Act to Amend and Re-enact Section 21 of Chapter 231 of the Session Laws of 1917, as Amended and Re-enacted by Section 21 of Chapter 225 of the Session Laws of 1919 Relating to the Taxation of Transfers of Property by Will, Gift or by Intestate Law.

House Bill No. 170. A Bill for an Act to Amend and Re-enact Section 10914 of the Compiled Laws of North Dakota for the Year 1913, Relating to the Statement of the Case in Criminal Proceedings.

House Bill No. 159. A Bill for an Act to Amend and Re-enact Section 2664 of the Compiled Laws of North Dakota for the Year 1913, Having to Do With Estrays and the Sale Thereof.

House Bill No. 156. A Bill for an Act to Amend and Re-

enact Section 2 of Chapter 167, Session Laws of 1913 and to Provide for Greater Dispatch of Business in Burleigh County.

House Bill No. 142. A Bill for an Act to Repeal Sections 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289 and 2290 of the Compiled Laws of North Dakota for the Year 1913, Relating to Bond Issues Authorized by the Legislative Assembly of the State of North Dakota Which Have Been Retired.

House Bill No. 130. A Bill for an Act Appropriating \$10,-000.00 out of the State Bar Fund and Transferring the Same to the General Fund of the State.

House Bill No. 289. A Bill for an Act Providing for the Moving of Schoolhouses to Other Places Within School Districts Under Certain Conditions.

House Bill No. 143. A Bill for an Act Prescribing the Penalty for Larceny in the Night Time of Poultry and Live Stock.

House Bill No. 38. A Bill for an Act Making an Appropriation for Salaries, Clerkhire and Miscellaneous Expenses of the Game and Fish Board.

House Bill No. 92. A Bill for an Act to Repeal Sections 1733, 1734, 1735 and 1736 of the Compiled Laws of North Dakota for 1913, Relating to Military Instruction in the State Normal and Industrial School at Ellendale, N. D.

House Bill No. 91. A Bill for an Act to Amend and Re-enact Section 1, Chapter 204, Session Laws of 1915, Being an Act to Compel Railroad Companies to Maintain Suitable Stock Yards.

House Bill No. 275. A Bill for an Act Making an Appropriation for the Purpose of Paying a Bounty on Wolves and Coyotes as Provided for Under Chapter 145 of the Session Laws of 1923, and Magpie Bounty Allowed in Chapter 144 of Session Laws, 1923.

House Bill No. 46. A Bill for an Act Making an Appropriation of \$262,380.00 to the State Training School, Mandan, North Dakota, for the Current and Contingent Expenses, Maintenance, New Buildings, Equipment and Miscellaneous Items, for the Biennium Beginning July 1st, 1925, and Ending June 30th, 1927.

House Bill No. 40 as amended. A Bill for an Act Making an Appropriation to Pay Salary, Stenographer and General Expenses of the Commissioner of Immigration.

House Bill No. 34. A Bill for an Act Making an Appropriation to Pay the Current and Contingent Expenses of the School for the Deaf at Devils Lake, Together with Improvements and Repairs, Equipment and Miscellaneous Items.

House Bill No. 68. A Bill for an Act to Provide for the Registration of all Marriages with the State Registrar of Vital Statistics, and to Provide Fees for the Same.

Were delivered to the Governor for his approval at the hour of 9 o'clock.

C. E. ERICKSON,
Chairman.

Mr. Twichell moved that House Bill No. 93 be placed upon third reading and final passage.

Which motion prevailed.

THIRD READING OF HOUSE BILLS

ROLL CALL

House Bill No. 93. A Bill for an Act to Amend and Re-enact Section 3 of Chapter 187 of the Session Laws of North Dakota for the Year of 1919 as Amended by Chapter 211 of the Session Laws of North Dakota for 1923, Relating to the Qualifications of Official and Legal Newspapers and Providing for the election of such newspapers.

Was read the third time.

The question being on the final passage of the bill, as amended by the conference committee, the roll was called, and there were ayes 104, nays 1, absent and not voting 8.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hartl	Quade
Anderson, Sargent	Helbling	Quam
Anderson, Stutsman	Hempe	Rabe
Arduser	Hildre	Radcliffe
Borman	Hoople	Rasmusson
Bollinger	Iverson	Richardson
Boyd	Jacobson	Roberts
Brant	Jodock	Root
Brown	Johnson, Foster	Rulon
Bubel	Johnson, McHenry	Sagen
Burkhart	Johnson, Pembina	Sanderson
Burns	Johnson, Traill	Sanford
Butt	Jones	Schmidt
Carr	Kamrath	Shepard
Cart	Keierleber	Skogland
Craig	Lazier	Slominski
Crocker	Leraas	Sproul
Currie	Levin	Starke
Divet	Loudenbeck	Streich
Dougherty	McCay	Svingen
Doyle	McDowall	Swett
Elken	McManus	Thatcher
Ellingson, Ramsey	Martin	Thompson, Burleigh
Erickson, Divide	Miller, McIntosh	Thompson, Sargent
Erickson, Kidder	Miller, Williams	Traynor
Erickson, Steele	Montgomery	Tschida
Ferris	Morton	Tuneberg
Fine	Muus	Tweten

Messrs.	Messrs.	Messrs.
Flom	Oberg	Twichell
Fox	Olafson	Veitch
Frank	O'Neil	Vogel
Freeman	Palms	Watt
Hanson	Peters	Worner
Hardy, Slope	Plath	Mr. Speaker
Hardy, Mourrill	Polfuss	

Those voting in the negative were:

Messrs.
Ellingson, Traill

Absent and not voting:

Messrs.	Messrs.	Messrs.
Eckert	McGavren	Yeater
Halcrow	Shurr	Zimmerman
Johnson, Ransom	Standley	

So the bill passed and the title was agreed to.

Mr. Borman moved that the vote by which House Bill No. 93 was passed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

The House returned to the Seventh Order of Business.

MOTIONS AND RESOLUTIONS

Mr. Boyd moved that the House reconsider the vote by which Senate Bill No. 65 was indefinitely postponed.

Which motion was lost.

REPORT OF SELECT COMMITTEE

The committee on conference made the following report:

Mr. Speaker: Your committee on conference to whom was referred:

House Bill No. 30. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School at Valley City, North Dakota, and Making Permanent Improvements and Repairs Thereto.

Have had the same under consideration and beg leave to report that they cannot agree.

For the House:

FRANK J. HARDY,
WM. WATT,
RICH. BUBEL.

For the Senate:

RALPH INGERSON,
ALFRED STEEL,
JOHN W. BENSON.

Mr. Vogel moved that the report of the conference committee on House Bill No. 30 be adopted, the committee discharged and a new committee appointed.

Which motion prevailed.

The Speaker appointed the following committee: Representatives Watt, Bubel and Hardy of Slope.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has appointed as a new conference committee on House Bill No. 30 Senators Benson, Ingerson and Steel.

And also on Senate Bill No. 51 a new conference committee of Senators Seamans, Ployhar and Ingerson.

Also the Senate has appointed as a new conference committee on Senate Bill No. 40 Senators Lynch, Olson of Eddy and Schlosser.

Very respectfully,

C. R. VERRY,
Secretary.

The conference committee on Senate Bill No. 50 made the following report:

Mr. Speaker: Your conference committee to whom was referred:

Senate Bill No. 50. A Bill for an Act Making an Appropriation of \$278,200.00 to Pay the Maintenance, Improvements and Repairs, New Buildings and Miscellaneous for the Experiment Station at the Agricultural College, Fargo, North Dakota.

Have had the same under consideration and do concur in the House amendments.

Senate Committee:

C. W. CAREY,
GUST WOG,
W. E. MARTIN.

House Committee:

JOSEPH McGAUVREN,
E. H. BRANT,
J. C. ARDUSER.

Mr. Vogel moved that the report of the conference committee on Senate Bill No. 50 be adopted and the committee discharged.

Which motion prevailed.

The conference committee on Senate Bill No. 53 made the following report:

Mr. Speaker: Your conference committee to whom was referred:

Senate Bill No. 53. A Bill for an Act Making an Appropriation of \$565,600.00 to Pay the General Maintenance, Improvements and Repairs, Equipment, Miscellaneous and Public Service of the Agricultural College, Fargo, North Dakota.

Beg leave to report that the committee agree to the following changes:

That the House recede from its amendments on items 5 and 6 under "Administration" and also recommend that the Senate concur in the other House amendments and that all totals be corrected to conform to the change.

For the Senate:

J. E. EASTGATE,
OLE ETTESTAD,
L. O. FREDRICKSON.

For the House:

HARRY HARDY,
MINNIE D. CRAIG,
HERBERT J. ROBERTS.

Mr. Vogel moved that the report of the conference committee on Senate Bill No. 53 be adopted, and the committee discharged.

Which motion prevailed.

Mr. Vogel moved that the rules be suspended and that Senate Bill No. 53 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

THIRD READING OF SENATE BILLS

ROLL CALL

Senate Bill No. 53. A Bill for an Act Making an Appropriation of \$565,600.00 to Pay the General Maintenance, Improvements and Repairs, Equipment, Miscellaneous and Public Service of the Agricultural College, Fargo, North Dakota.

Was read the third time.

The question being on the final passage of the bill, as amended by the conference committee report, the roll was called, and there were ayes 106, nays 0, absent and not voting 7.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hardy, Slope	Quade
Anderson, Sargent	Hardy, Mountrail	Quam
Anderson, Stutsman	Hartl	Palms
Arduser	Helbling	Rabe
Borman	Hempel	Radcliffe
Bollinger	Hildre	Rasmusson
Boyd	Hoople	Richardson
Brant	Iverson	Roberts
Brown	Jacobson	Root
Bubel	Jodock	Rulon
Burkhart	Johnson, Foster	Sagen
Burns	Johnson, McHenry	Sanderson
Butt	Johnson, Pembina	Sanford
Carr	Johnson, Traill	Schmidt
Cart	Jones	Shepard
Craig	Kamrath	Shurr
Crocker	Keierleber	Skogland
Currie	Lazier	Slominski
Divet	Leraas	Sproul
Dougherty	Levin	Starke
Doyle	Loudenbeck	Svingen
Eckert	McCay	Swett
Elken	McDowall	Thatcher
Ellingson, Ramsey	McGauvren	Thompson, Burleigh
Ellingson, Traill	McManus	Thompson, Sargent
Erickson, Divide	Miller, McIntosh	Traynor
Erickson, Kidder	Miller, Williams	Tschida
Erickson, Steele	Montgomery	Tuneberg
Ferris	Morton	Twetten
Fine	Muus	Twichell
Flom	Oberg	Vogel
Fox	Olafson	Worner
Frank	O'Neil	Yeater
Freeman	Plath	Zimmerman
Halcrow	Polfuss	Mr. Speaker
Hanson		

Absent and not voting:

Messrs.	Messrs.	Messrs.
Johnson, Ransom	Standley	Veitch
Martin	Streich	Watt
Peters		

So the bill passed and the title was agreed to.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has approved the conference committee report on House Bill No. 93.

Very respectfully,

C. R. VERRY,
Secretary.

REPORT OF SELECT COMMITTEE

The conference committee on Senate Bill No. 51 made the following report:

Mr. Speaker: Your conference committee to whom was referred:

Senate Bill No. 51. A Bill for an Act Making an Appropriation of \$129,061.98 as an Offset for Federal Aid in Extension Work of the Agricultural College, Fargo, N. Dak.

Have had the same under consideration and beg leave to report that they cannot agree.

For the Senate:

STORSTAD,
JOHN W. BENSON,
C. G. RITCHIE.

For the House:

ERNEST F. JOHNSON,
ELMER W. CART,
JOHN QUAM.

Mr. Vogel moved that the report of the conference committee on Senate Bill No. 51 be adopted, the committee discharged and a new conference committee appointed.

Which motion prevailed.

The Speaker appointed the following conference committee: Representatives Johnson of Foster, Erickson of Kidder and Quam.

The Speaker appointed a conference committee on House Bill No. 27, Representatives Yeater, Divet and Jones.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to inform you that the Speaker has appointed as a new conference committee on House Bill No. 30 Reps. Watt, Bubel and Hardy of Slope.

Also,

Mr. President: The House has adopted the conference committee report on Senate Bill No. 50.

Also,

Mr. President: The House has adopted the conference committee report on Senate Bill No. 53.

Also,

Mr. President: The Speaker has appointed as a new conference committee on Senate Bill No. 51 Reps. Johnson of Foster, Erickson of Kidder and Quam.

Also,

Mr. President: The Speaker has appointed as a new conference committee on House Bill No. 27 Reprs. Yeater, Divet and Jones.

Very respectfully,

J. C. MILLER,
Chief Clerk.

REPORT OF SELECT COMMITTEE

The conference committee on Senate Bill No. 40 made the following report:

Mr. Speaker: Your conference committee to whom was referred:

Senate Bill No. 40. A Bill for an Act Making an Appropriation of \$1,254,355.00 for the Purpose of Paying the General Maintenance, Improvements and Repairs, New Equipment, etc., of the State University at Grand Forks, North Dakota.

Have had the same under consideration and state that they cannot agree.

For the Senate:

W. D. LYNCH,
O. H. OLSON.

For the House:

HERBERT F. SWETT,
OSCAR G. OBERG,
A. I. QUADE.

Mr. Vogel moved that the report of the conference committee on Senate Bill No. 40 be adopted, the committee discharged and a new conference committee appointed.

Which motion prevailed.

The Speaker appointed the following conference committee: Representatives Oberg, Hartl and Ferris.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to inform you that the Speaker has appointed as a new conference committee on Senate Bill No. 40, Reprs. Oberg, Hartl and Ferris.

Very respectfully,

J. C. MILLER,
Chief Clerk.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has approved the conference committee report on Senate Bill No. 53.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to return herewith the following bills:

House Bill No. 58. A Bill for an Act to appropriate the sum of Twenty-five Thousand (\$25,000.00) Dollars for the Purpose of Aiding in the Construction of a Bridge and Approaches Across the Des Lacs Lake on the County Line Between Burke and Ward Counties in the State of North Dakota, Under the Provisions of Chapter 73 of the Session Laws of North Dakota for the Year 1919, and that Such Appropriation be Made from the State Highway Fund.

House Bill No. 47. A Bill for an Act to appropriate the sum of \$75,000.00, from Any Moneys in the State Highway Fund, for the Purpose of Aiding in the Construction of a Bridge Across the Red River of the North, Between the City of Fargo, Cass County, North Dakota, and the City of Moorhead, Clay County, Minnesota Under the Provisions of Chapter 73 of the Laws of North Dakota for the Year 1919.

Which the Senate has passed unchanged.

Very respectfully,

C. R. VERRY,
Secretary.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has appointed a new conference committee on House Bill No. 30: Senators McCoy, Bakken, Ingerson.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has appointed a new conference committee on House Bill No. 27: Senators Baird, Patterson, Hamilton.

Also,

Mr. Speaker: The Senate has approved the report of conference committee on Senate Bill No. 50.

Very respectfully,

C. R. VERRY,
Secretary.

The conference committee on Senate Bill No. 40 made the following report:

Mr. Speaker: Your conference committee to whom was referred:

Senate Bill No. 40. A Bill for an Act Making an Appropriation of \$1,254,355.00 for the Purpose of Paying the General Maintenance, Improvements and Repairs, New Equipment, etc., of the State University at Grand Forks, North Dakota.

Begs leave to report that your committee cannot agree on Senate Bill No. 40.

For the House:

OSCAR S. OBERG,
FRED FERRIS,
WILLIAM R. HARTL,

For the Senate:

WALTER H. SCHLOSSER,
A. S. MARSHALL,
S. J. ATKINS.

Mr. Vogel moved that the report of the conference committee on Senate Bill No. 40 be adopted, the committee discharged and a new committee appointed.

Which motion prevailed.

The Speaker appointed as such new committee, Reps. Swett, Quade and Cart.

The conference committee on Senate Bill No. 51 made the following report:

Mr. Speaker: Your conference committee to whom was referred:

Senate Bill No. 51. A Bill for an Act Making an Appropriation of \$129,061.98 as an Offset for Federal Aid in Extension Division Work of the Agricultural College, Fargo, N. Dak.

Have had the same under consideration and recommend the Senate do concur in the House amendments.

For the Senate:

RALPH INGERSON,
C. A. SEAMANDS,
FRANK E. PLOYHAR.

For the House:

JOHN QUAM,
JOHNSON of Foster,
O. E. ERICKSON.

Mr. Vogel moved that the report be adopted and the conference committee be discharged.

Which motion prevailed.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to inform you that the Speaker has appointed as a new conference committee on Senate Bill No. 40, Reps. Swett, Quade and Cart.

Very respectfully,

J. C. MILLER,
Chief Clerk.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has appointed a new conference committee on Senate Bill No. 40: Senators Olson of Burleigh, Lynch, Eastgate.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has approved the conference committee report on Senate Bill No. 51.

Very respectfully,

C. R. VERRY,
Secretary.

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to return herewith the following bills:

House Bill No. 55. A Bill for an Act to appropriate the Sum of \$200,000.00 from any Moneys in the State Highway Fund for the Purpose of Aiding in the Construction of a Bridge Across the Missouri River Between Williams County and McKenzie County, North Dakota, Under the Provisions of Chapter 73 of the Laws of North Dakota for the Year 1919.

House Bill No. 57. A Bill for an Act to appropriate the Sum of \$100,000.00 from any Moneys in the State Highway Bridge Fund, for the Purpose of Aiding in the Construction of a Bridge Across the Missouri River, at a Point Near the Town of Sanish, Between McKenzie County, North Dakota and Mountrail County, North Dakota, Under the Provisions of Chapter 73 of the Laws of North Dakota for the Year 1919.

Which the Senate has passed unchanged.

Very respectfully,

C. R. VERRY,
Secretary.

The House returned to the Seventh Order of Business.

MOTIONS AND RESOLUTIONS

Mr. Streich moved that the Senate be requested to return Senate Bill No. 65.

Mr. Streich moved the call of the House.

Roll call disclosed all members present except Johnson of Ransom and Standley.

Mr. O. C. Martin moved that the call of the House be dispensed with.

Which motion prevailed.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to return herewith the following bill:

House Bill No. 294.

Which the Senate has passed unchanged.

Very respectfully,

C. R. VERRY,
Secretary.

REPORT OF SELECT COMMITTEE

Report of conference committee on House Bill No. 27:

Mr. Speaker: Your conference committee on House Bill No. 27 beg leave to report that they cannot agree.

For the Senate:

L. R. BAIRD,
D. H. HAMILTON,
G. PATTERSON.

For the House:

ROY A. YEATER,
W. R. JONES,
A. G. DIVET.

Mr. Burkhart moved that the report of the conference committee on House Bill No. 27 be adopted, the committee discharged and a new conference committee appointed.

Which motion prevailed.

The Speaker appointed the following conference committee: Representatives Burkhart, Divet and Streich.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to inform you that the Speaker has appointed as a new conference committee on House Bill No. 27, Reps. Burkhart, Divet and Streich.

Very respectfully,

J. C. MILLER,
Chief Clerk.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to transmit herewith the following bill:

Senate Bill No. 65. A Bill for an Act to Establish the North Dakota State Corn Show and Making an Appropriation Therefor.

Which the House has requested.

Very respectfully,

C. R. VERRY,
Secretary.

Mr. Shurr moved that the House reconsider the vote by which Senate Bill No. 65 was indefinitely postponed.

Which motion prevailed.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to inform you that the House requests the return of Senate Bill No. 65.

Very respectfully,

J. C. MILLER,
Chief Clerk.

Mr. Starke moved that the rules be suspended and that Senate Bill No. 65 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

ROLL CALL

Senate Bill No. 65. A Bill for an Act to Establish the North Dakota State Corn Show and Making an Appropriation Therefor.

Was read the third time.

The question being on the final passage of the bill, the roll was called, and there were ayes 82, nays 27, absent and not voting 3, passed 1.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hoople	Rabe
Bollinger	Iverson	Radcliffe
Boyd	Jacobson	Rasmusson
Brown	Jodock	Richardson
Burkhart	Johnson, Foster	Roberts
Burns	Johnson, Pembina	Root
Butt	Johnson, Traill	Rulon
Carr	Kamrath	Sagen
Cart	Keierleber	Sanderson
Crocker	Levin	Sanford
Currie	Loudenbeck	Shepard
Divet	McCay	Shurr
Dougherty	McManus	Skogland
Doyle	Martin	Slominski
Eckert	Miller, McIntosh	Sproul
Ellingson, Ramsey	Miller, Williams	Starke
Erickson, Divide	Montgomery	Streich
Fine	Morton	Svingen
Fox	Muus	Thompson, Burleigh
Frank	Oberg	Thompson, Sargent
Freeman	Olafson	Traynor
Halcrow	O'Neil	Tschida
Hanson	Palms	Tuneberg
Hardy, Slope	Peters	Twichell
Hardy, Mountrail	Plath	Veitch
Hartl	Polfuss	Watt
Hempel	Quam	Zimmerman
Hildre		

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Anderson, Sargent	Ferris	Quade
Anderson, Stutsman	Flom	Schmidt
Arduser	Helbling	Swett
Borman	Johnson, McHenry	Thatcher
Brant	Jones	Tweten
Bubel	Lazier	Vogel
Craig	Leraas	Worner
Erickson, Kidder	McDowall	Yeater
Erickson, Steele	McGavvren	Mr. Speaker

Absent and not voting:

Messrs.	Messrs.	Messrs.
Elken	Johnson, Ransom	Standley

Passed:

Ellingson, Traill

So the bill passed and the title was agreed to.

Mr. Doyle moved that the vote by which Senate Bill No. 65 was passed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

REPORT OF SELECT COMMITTEE

The conference committee on House Bill No. 27 made the following report:

Mr. Speaker: Your conference committee to whom was referred:

House Bill No. 27. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School, Minot, North Dakota, and Making Permanent Improvements and Repairs Thereto.

Have had the same under consideration and recommend that the House do concur in the Senate amendment thereto.

For the House:

J. H. BURKHART,
CHAS. F. STREICH,
A. G. DIVET.

For the Senate:

L. R. BAIRD
G. PATTERSON,
D. H. HAMILTON.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to return herewith the following bill:

Senate Bill No. 65. A Bill for an Act to Establish the

North Dakota State Corn Show and Making an Appropriation Therefor.

Which the House has passed unchanged.

Very respectfully,

J. C. MILLER,
Chief Clerk.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has appointed as a new conference committee on House Bill No. 30, Senators Kaldor, Ingerson, Bakken.

And also as a new conference committee on Senate Bill No. 40, Senators Van Camp, Hamilton, Murphy.

Very respectfully,

C. R. VERRY,
Secretary.

Mr. Streich moved that the report of the conference committee on House Bill No. 27 be adopted and the committee discharged.

Mr. Hempel moved as a substitute motion that the House do not accept the report of the conference committee.

Roll call was demanded and granted.

ROLL CALL

The question being on the substitute motion by Mr. Hempel, the roll was called, and there were ayes 45, nays 63, absent and not voting 5.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Sargent	Hempel	Plath
Arduser	Iverson	Polfuss
Borman	Jodock	Quade
Brant	Johnson, Foster	Quam
Bubel	Jones	Roberts
Craig	Kamrath	Schmidt
Erickson, Divide	Keierleber	Swett
Erickson, Kidder	Leraas	Thompson, Sargent
Erickson, Steele	McDowall	Tuneberg
Ferris	McGauvren	Tweten
Fine	Martin	Vogel
Flom	Miller, McIntosh	Worner
Hardy, Slope	Oberg	Yeater
Hartl	O'Neil	Zimmerman
Helbling	Peters	Mr. Speaker

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hanson	Radcliffe
Anderson, Stutsman	Hardy, Mountrail	Rasmusson
Bollinger	Hildre	Richardson
Boyd	Hoople	Root
Brown	Jacobson	Rulon
Burkhart	Johnson, McHenry	Sanderson
Burns	Johnson, Pembina	Sanford
Butt	Johnson, Ransom	Shepard
Carr	Johnson, Traill	Shurr
Cart	Lazier	Skogland
Crocker	Levin	Slominski
Currie	Loudenbeck	Sproul
Divet	McCay	Starke
Dougherty	McManus	Streich
Doyle	Miller, Williams	Svingen
Eckert	Montgomery	Thatcher
Elken	Morton	Thompson, Burleigh
Ellingson, Traill	Muus	Traynor
Fox	Olafson	Tschida
Frank	Palms	Veitch
Freeman	Rabe	Watt

Absent and not voting:

Messrs.	Messrs.	Messrs.
Ellingson, Ramsey	Sagen	Twichell
Halcrow	Standley	

So the motion was declared lost.

Mr. Burkhart moved that the rules be suspended and that House Bill No. 27 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

ROLL CALL

House Bill No. 27. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School, Minot, North Dakota, and Making Permanent Improvements and Repairs Thereto.

Was read the third time.

The question being on the final passage of the bill, as amended by the Senate, the roll was called, and there were ayes 66, nays 41, absent and not voting 6.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Halcrow	O'Neil
Anderson, Stutsman	Hanson	Palms
Bollinger	Hardy, Mountrail	Peters
Boyd	Hartl	Polfuss
Brown	Hildre	Rabe
Burkhart	Hoople	Rasmusson
Burns	Iverson	Rulon

Messrs.	Messrs.	Messrs.
Butt	Jacobson	Sagen
Carr	Jodock	Sanderson
Cart	Johnson, McHenry	Sanford
Crocker	Johnson, Pembina	Shepard
Currie	Johnson, Ransom	Shurr
Divet	Johnson, Traill	Skogland
Dougherty	Lazier	Slominski
Doyle	Levin	Starke
Eckert	McCay	Streich
Elken	McManus	Svingen
Ellingson, Traill	Miller, Williams	Thatcher
Erickson, Divide	Montgomery	Thompson, Burlaigh
Fox	Morton	Traynor
Frank	Muus	Tschida
Freeman	Olafson	Watt

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Anderson, Sargent	Jones	Richardson
Arduser	Kamrath	Roberts
Brant	Keierleber	Schmidt
Bubel	Leraas	Sproul
Craig	Loudenbeck	Swett
Erickson, Kidder	McDowall	Thompson, Sargent
Erickson, Steele	McGauvren	Tuneberg
Ferris	Martin	Tweten
Fine	Miller, McIntosh	Veitch
Flom	Oberg	Worner
Hardy, Slope	Plath	Yeater
Helbling	Quade	Zimmerman
Hempel	Quam	Mr. Speaker
Johnson, Foster	Radcliffe	

Absent and not voting:

Messrs.	Messrs.	Messrs.
Borman	Root	Twichell
Ellingson, Ramsey	Standley	Vogel

So the bill passed and the title was agreed to.

Mr. Streich moved that the vote by which House Bill No. 27 was passed be reconsidered and the motion to reconsider be laid on the table.

Which motion prevailed.

REPORT OF SELECT COMMITTEE

The conference committee on House Bill No. 30 made the following report:

Mr. Speaker: Your conference committee to whom was referred:

House Bill No. 30. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School, at Valley City, North Dakota, and Making Permanent Improvements and Repairs Thereto.

Have had the same under consideration and cannot agree.

For the Senate:

R. INGERSON,
C. L. BAKKEN,
R. G. McCRORY.

For the House:

WM. WATT,
RICH. BUBEL,
FRANK J. HARDY.

Mr. Cart moved that the report of the conference committee on House Bill No. 30 be adopted and the committee discharged and a new conference committee appointed.

Which motion prevailed.

The Speaker appointed the following committee: Representatives Martin, Bubel and Quade.

The conference committee on Senate Bill No. 40 made the following report:

Mr. Speaker: Your conference committee to whom was referred:

Senate Bill No. 40. A Bill for an Act Making an Appropriation of \$1,254,355.00 for the Purpose of Paying the General Maintenance, Improvements and Repairs, New Equipment, Etc., of the State University at Grand Forks, North Dakota.

Have had the same under consideration and cannot agree.

For the House:

HERBERT F. SWETT,
ELMER W. CART,
A. I. QUADE,

For the Senate:

OBERT A. OLSON,
W. D. LYNCH,
J. E. EASTGATE.

Mr. Cart moved that the report of the conference committee on Senate Bill No. 40 be adopted, the committee discharged and a new conference committee appointed.

Which motion prevailed.

The Speaker appointed the following conference committee: Representatives Elken, Hoople and Yeater.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to inform you that the Speaker has appointed a new conference committee on Senate Bill No. 40—Reps. Elken, Hoople and Yeater.

Also,

Mr. President: The Speaker has appointed a new conference committee on Senate Bill No. 30—Reps. Martin, Bubel and Craig.

Very respectfully,

J. C. MILLER,
Chief Clerk.

SIGNING OF BILLS

The Chief Clerk announced that the Speaker was about to sign

Senate Bill No. 189. A Bill for an Act Authorizing the State Engineer to Co-operate with the Director of the United States Geological Survey in Making Topographic Surveys and Maps to be Used in the Development of Flood Protection, Domestic Water Supply, Restoration of Water Areas, Irrigation and Drainage Projects in the State of North Dakota, and Making an Appropriation Therefor.

Senate Bill No. 286. A Bill for an Act to Repeal Chapter 6 of the Session Laws of North Dakota for the Year 1915, Relating to Aid to the Grand Army of the Republic from the Soldiers Home of North Dakota.

Senate Bill No. 242. A Bill for an Act to Safeguard the Initiative, Referendum and Recall Provisions of the Constitution by Prohibiting Illegal and Fraudulent Signatures to Petitions, Prescribing Form and Manner of Signing and Penalties for Violations.

Senate Bill No. 277. A Bill for an Act to Amend and Re-enact Section 1725 of the Compiled Laws of North Dakota for the Year 1913, Relative to the Industrial School at Ellendale, North Dakota.

Senate Bill No. 83. A Bill for an Act to Regulate the Conduct of Elections, Repealing Section 1005, Compiled Laws of 1913, and Chapter 212 of Session Laws of 1923, and Providing Penalties for the Violation Thereof.

Senate Bill No. 235. A Bill for an Act to Amend and Re-enact Section 959, Compiled Laws of 1913, as Amended by Chapter 203, Session Laws of 1923, Relating to Election Ballots.

Senate Bill No. 296.

House Bill No. 239. A Bill for an Act Defining Public Dancing Places, Public Dances, Providing for the Issuing of Permits to Operate the Same, Regulating Public Dances and Public Dancing Places, Providing for the Policing of Public Dances, Providing for Penalties for the Violation of This Act, and Repealing All Acts and Parts of Acts in Conflict Herewith.

House Bill No. 271.

House Bill No. 55. A Bill for an Act to Appropriate the Sum of \$200,000.00 from any Moneys in the State Highway Fund for the Purpose of Aiding in the Construction of a Bridge Across the Missouri River Between Williams County and McKenzie County, North Dakota, Under the Provisions of Chapter 73, of the Laws of North Dakota for the Year 1919.

House Bill No. 58. A Bill for an Act to Appropriate the Sum of Twenty-five Thousand (\$25,000.00) Dollars for the Purpose of Aiding in the Construction of a Bridge and Approaches Across the Des Lacs Lake on the County Line Between Burke and Ward Counties in the State of North Dakota, Under the Provisions of Chapter 73 of the Session Laws of North Dakota for the Year 1919, and that Such Appropriation be Made from the State Highway Fund.

House Bill No. 47. A Bill for an Act to Appropriate the Sum of \$75,000.00 from Any Moneys in the State Highway Fund, for the Purpose of Aiding in the Construction of a Bridge Across the Red River of the North, Between the City of Fargo, Cass County, North Dakota, and the City of Moorhead, Clay County, Minnesota Under the Provisions of Chapter 73 of the Laws of North Dakota for the Year 1919.

House Bill No. 57. A Bill for an Act to Appropriate the Sum of \$100,000.00 from any Moneys in the State Highway Bridge Fund, for the Purpose of Aiding in the Construction of a Bridge Across the Missouri River, at a Point Near the Town of Sanish, Between McKenzie County, North Dakota and Mountrail County, North Dakota, Under the Provisions of Chapter 73 of the Laws of North Dakota for the Year 1919.

House Bill No. 294. A Resolution.

And the Speaker signed the same in the presence of the House.

REPORT OF SELECT COMMITTEE

The conference committee on House Bill No. 30 made the following report:

Mr. Speaker: Your conference committee to whom was referred:

House Bill No. 30. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School, at Valley City, North Dakota, and Making Permanent Improvements and Repairs Thereto.

Recommend that the Senate recede from their amendment of purchasing building, \$18,000, and the House accept the other Senate amendments.

For the House:

O. C. MARTIN,
MINNIE D. CRAIG,
RICH. BUBEL.

For the Senate:

THEO. KALDOR,
RALPH INGERSON,
C. L. BAKKEN.

Mrs. Craig moved that the report of the conference committee on House Bill No. 30 be adopted, and the conference committee discharged.

Which motion prevailed.

Mrs. Craig moved that the rules be suspended and that House Bill No. 30 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

THIRD READING OF HOUSE BILLS

ROLL CALL

House Bill No. 30. A Bill for an Act Making an Appropriation of \$323,250.00 for the Current and Contingent Expenses of the State Normal School at Valley City, and Making Permanent Improvements Thereto.

Was read the third time.

The question being on the final passage of the bill, as amended by conference committee report, the roll was called, and there were ayes 87, nays 17, absent and not voting 9.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Freeman	Plath
Anderson, Sargent	Halcrow	Polfuss
Anderson, Stutsman	Hanson	Quam
Arduser	Hardy, Slope	Rabe
Borman	Hardy, Mountrail	Rasmusson
Bollinger	Hartl	Roberts
Boyd	Hildre	Root
Brown	Hoople	Rulon
Bubel	Iverson	Sagen
Burkhart	Jacobson	Sanderson
Burns	Jodock	Sanford
Carr	Johnson, McHenry	Schmidt
Cart	Johnson, Pembina	Shepard

Messrs.	Messrs.	Messrs.
Craig	Johnson, Traill	Shurr
Crocker	Jones	Skogland
Currie	Kamrath	Slominski
Divet	Keierleber	Sproul
Dougherty	Lazier	Starke
Doyle	Leraas	Svingen
Eckert	McCay	Thompson, Burleigh
Elken	McManus	Traynor
Ellingson, Ramsey	Miller, McIntosh	Tschida
Ellingson, Traill	Miller, Williams	Tuneberg
Erickson, Steele	Montgomery	Twichell
Ferris	Morton	Veitch
Fine	Muus	Watt
Flom	Olafsor	Worner
Fox	Palms	Yeater
Frank	Peters	Mr. Speaker

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Erickson, Kidder	McGauvren	Thatcher
Helbling	Oberg	Thompson, Sargent
Hempel	Quade	Tweten
Johnson, Foster	Richardson	Vogel
Loudenbeck	Streich	Zimmerman
McDowall	Swett	

Absent and not voting:

Messrs.	Messrs.	Messrs.
Brant	Johnson, Ransom	O'Neil
Butt	Levin	Radcliffe
Erickson, Divide	Martin	Standley

So the bill passed and the title was agreed to.

REPORT OF SELECT COMMITTEE

The conference committee on Senate Bill No. 40 made the following report:

Mr. Speaker: Your conference committee to whom was referred:

Senate Bill No. 40. A Bill for an Act Making an Appropriation of \$1,254,355.00 for the Purpose of Paying the General Maintenance, Improvements and Repairs, New Equipment, etc., of the State University at Grand Forks, North Dakota.

Have had the same under consideration and recommend that we recede from the House amendments on the following items: Law School, \$46,500.00; Military and Physical Training, \$18,000.00; Summer Sessions, \$27,700.00; Extension Division, \$31,000.00; New Buildings—Armory, \$20,000.00.

And that all totals be corrected to conform to the changes.

For the House:

GEO. H. HOOPLE,
ROY A. YEATER,
GUY L. ELKEN.

For the Senate:

FRED VAN CAMP,
P. J. MURPHY,
D. H. HAMILTON.

Mr. Twichell moved that the report of the conference committee on Senate Bill No. 40 be adopted and the committee discharged.

Which motion prevailed.

Mr. Twichell moved that the rules be suspended and that Senate Bill No. 40 be considered properly re-engrossed and placed upon third reading and final passage.

Which motion prevailed.

THIRD READING OF SENATE BILLS

ROLL CALL

Senate Bill No. 40. A Bill for an Act Making an Appropriation of \$1,254,355.00 for the Purpose of Paying the General Maintenance, Improvements and Repairs, New Equipment, etc., of the State University at Grand Forks, North Dakota.

Was read the third time.

The question being on the final passage of the bill, as amended by conference committee report, the roll was called, and there were ayes 68, nays 41, absent and not voting 4.

Those voting in the affirmative were:

Messrs.	Messrs.	Messrs.
Anderson, Stutsman	Hanson	Rasmusson
Borman	Hartl	Root
Bollinger	Helbling	Rulon
Boyd	Hildre	Sagen
Brown	Hoople	Sanderson
Burkhart	Iverson	Sanford
Burns	Jacobson	Shepard
Butt	Johnson, Pembina	Shurr
Carr	Johnson, Traill	Skogland
Cart	Levin	Slominski
Crocker	McDowall	Sproul
Currie	McManus	Streich
Divet	Miller, McIntosh	Thompson, Burleigh

Messrs.	Messrs.	Messrs.
Dougherty	Montgomery	Thompson, Sargent
Doyle	Morton	Traynor
Eckert	Muus	Tschida
Elken	Olafson	Tuneberg
Ellingson, Ramsey	Palms	Twichell
Ellingson, Traill	Peters	Veitch
Fox	Plath	Watt
Frank	Polfuss	Yeater
Freeman	Quade	Mr. Speaker
Halcrow	Rabe	

Those voting in the negative were:

Messrs.	Messrs.	Messrs.
Anderson, Divide	Hempel	O'Neil
Anderson, Sargent	Jodock	Quam
Arduser	Johnson, Foster	Richardson
Brant	Johnson, McHenry	Roberts
Bubel	Jones	Schmidt
Craig	Kamrath	Starke
Erickson, Divide	Keierleber	Svingen
Erickson, Kidder	Lazier	Swett
Erickson, Steele	Leraas	Thatcher
Ferris	Loudenbeck	Tweten
Fine	McGavren	Vogel
Flom	Martin	Worner
Hardy, Slope	Miller, Williams	Zimmerman
Hardy, Mountrail	Oberg	

Absent and not voting:

Messrs.	Messrs.	Messrs.
Johnson, Ransom	Radcliffe	Standley
McCay		

So the bill passed and the title was agreed to.

Mr. Twichell moved that the vote by which House Bill No. 40 was passed be reconsidered and the motion to reconsider be laid on the table.

The House returned to the Eighth Order of Business.

SIGNING OF BILLS

The Chief Clerk announced that the Speaker was about to sign

Senate Bill No. 53. A Bill for an Act Making an Appropriation of \$565,600.00 to Pay the General Maintenance, Improvements and Repairs, Equipment, Miscellaneous and Public Service of the Agricultural College, Fargo, North Dakota.

Senate Bill No. 50. A Bill for an Act Making an Appropriation of \$178,200.00 to Pay the Maintenance, Improvements and Repairs, New Buildings and Miscellaneous for the Experiment Station at the Agricultural College, Fargo, North Dakota.

Senate Bill No. 51. A Bill for an Act Making an Appropriation of \$80,000.00 as an Offset for Federal Aid in Extension Division Work of the Agricultural College, Fargo, N. Dak.

And the Speaker signed the same in the presence of the House.

MESSAGE TO THE SENATE

House of Representatives,
Bismarck, North Dakota,
March 6, 1925.

Mr. President: I have the honor to inform you that the House has concurred in the conference committee report on Senate Bill No. 40.

Very respectfully,

J. C. MILLER,
Chief Clerk.

MESSAGE FROM THE SENATE

Senate Chamber,
Bismarck, North Dakota,
March 6, 1925.

Mr. Speaker: I have the honor to inform you that the Senate has approved the conference committee report on House Bill No. 30 and also on Senate Bill No. 40.

Very respectfully,

C. R. VERRY,
Secretary.

HOUSE COMMITTEE ON ENROLLMENT AND EN-
GROSSMENT

The committee on Enrollment and Engrossment made the following report:

Mr. Speaker: Your committee on Enrollment and Engrossment respectfully report that

House Bill No. 27. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School at Minot and for Making Permanent Improvements and Repairs Thereto.

Also,

House Bill No. 30. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the

State Normal School at Valley City, North Dakota, and Making Permanent Improvements and Repairs Thereto.

Also,

Concurrent Resolution No. 294. To Provide Money to Pay the Expenses Incurred by the Special House Committee in its Investigation of the State Highway Commission as Authorized by the House Resolution Known as House Bill No. 72.

Also,

House Bill No. 55. A Bill for an Act to Appropriate the Sum of \$200,000.00 from any Moneys in the State Highway Fund for the Purpose of Aiding in the Construction of a Bridge Across the Missouri River Between Williams County and McKenzie County, North Dakota, Under the Provisions of Chapter 73 of the Laws of North Dakota for the Year 1919.

Also,

House Bill No. 57. A Bill for an Act to Appropriate the Sum of \$100,000.00 from any Moneys in the State Highway Bridge Fund, for the Purpose of Aiding in the Construction of a Bridge Across the Missouri River, at a Point Near the Town of Sanish, Between McKenzie County, North Dakota and Mountrail County, North Dakota, Under the Provisions of Chapter 73 of the Laws of North Dakota for the Year 1919.

Also,

House Bill No. 93. A Bill for an Act to Amend and Re-enact Section 3 of Chapter 187 of the Session Laws of North Dakota for the Year of 1919 as Amended by Chapter 211 of the Session Laws of North Dakota for 1923, Relating to the Qualifications of Official and Legal Newspapers and Providing for the election of such newspapers.

Also,

House Bill No. 47. A Bill for an Act to Appropriate the Sum of \$75,000.00 from Any Moneys in the State Highway Fund, for the Purpose of Aiding in the Construction of a Bridge Across the Red River of the North, Between the City of Fargo, Cass County, North Dakota, and the City of Moorhead, Clay County, Minnesota Under the Provisions of Chapter 73 of the Laws of North Dakota for the Year 1919.

Also,

House Bill No. 58. A Bill for an Act to Appropriate the Sum of Twenty-five Thousand (\$25,000.00) Dollars for the Purpose of Aiding in the Construction of a Bridge and Approaches Across the Des Lacs Lake on the County Line Between Burke and Ward Counties in the State of North Dakota, Under the Provisions of Chapter 73 of the Session Laws of North Dakota for the Year 1919, and that Such Appropriation be Made from the State Highway Fund.

And find the same correctly enrolled.

Mr. Erickson moved that the report be adopted, which motion prevailed and the report was adopted.

C. E. ERICKSON,
Chairman.

HOUSE COMMITTEE ON ENROLLMENT AND EN-
GROSSMENT

The committee on Enrollment and Engrossment made the following report:

Mr. Speaker: Your committee on Enrollment and Engrossment respectfully report that:

House Bill No. 31. A Bill for an Act Making an Appropriation of \$130,000.00 for Maintenance, Improvements and Repairs, Equipment and Miscellaneous for the Tuberculosis Sanatorium at San Haven.

Also,

Concurrent Resolution No. 294.

Also,

House Bill No. 55. A Bill for an Act to Appropriate the Sum of \$200,000.00 from any Moneys in the State Highway Fund for the Purpose of Aiding in the Construction of a Bridge Across the Missouri River Between Williams County and McKenzie County, North Dakota, Under the Provisions of Chapter 73 of the Laws of North Dakota for the Year 1919.

Also,

House Bill No. 57. A Bill for an Act to Appropriate the Sum of \$100,000.00 from any Moneys in the State Highway Bridge Fund, for the Purpose of Aiding in the Construction of a Bridge Across the Missouri River, at a Point Near the Town of Sanish, Between McKenzie County, North Dakota and Mountrail County, North Dakota, Under the Provisions of Chapter 73 of the Laws of North Dakota for the Year 1919.

Also,

House Bill No. 93 as amended. A Bill for an Act to Amend and Re-enact Section 3 of Chapter 187 of the Session Laws of North Dakota for the Year 1919 as Amended by Chapter 211 of the Session Laws of North Dakota for 1923, Relating to the Qualifications of Official and Legal Newspapers and Providing for the Election of Such Newspapers.

Also,

House Bill No. 47. A Bill for an Act to Appropriate the Sum of \$75,000.00, from Any Moneys in the State Highway Fund, for the Purpose of Aiding in the Construction of a Bridge Across the Red River of the North, Between the City of Fargo, Cass County, North Dakota, and the City of Moorhead, Clay County, Minnesota Under the Provisions of Chapter 73 of the Laws of North Dakota for the Year 1919.

Also,

House Bill No. 58. A Bill for an Act to Appropriate the Sum of Twenty-five Thousand (\$25,000.00) Dollars for the Purpose of Aiding in the Construction of a Bridge and Approaches Across the Des Lacs Lake on the County Line Between Burke and Ward Counties in the State of North Dakota, Under the Provisions of Chapter 73 of the Session Laws of North Dakota for the Year 1919, and that Such Appropriation be Made from the State Highway Fund.

Also,

House Bill No. 27. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School at Minot and for Making Permanent Improvements and Repairs Thereto.

Also,

House Bill No. 30. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School at Valley City, North Dakota, and Making Permanent Improvements and Repairs Thereto.

Were delivered to the Governor for his approval at the hour of

C. E. ERICKSON,
Chairman.

COURTESIES OF THE FLOOR

The courtesies of the floor were extended to the following: Mr. Matt Crowley, Hebron, N. D.; Mrs. J. W. O'Neill, Norma, N. D.; Mrs. C. A. Fisher, Bismarck, N. D.; Mr. W. A. Overing, Hettinger, N. D.

SIGNING OF BILLS

The chief Clerk announced that the Speaker was about to sign:

Senate Bill No. 40. A Bill for an Act Making an Appropriation of \$1,239,255.00 for the Purpose of Paying the General Maintenance, Improvements and Repairs, New Equipment, Etc., of the State University at Grand Forks, North Dakota.

Senate Bill No. 65. A Bill for an Act to Establish the North Dakota State Corn Show and Making an Appropriation Therefor.

And the Speaker signed the same in the presence of the House.

Mr. Burkhart moved that the Speaker appoint a committee to notify the Senate that the House is ready for adjournment.

Which motion prevailed.

The Speaker appointed Representatives Vogel, Jodock and Johnson of Foster.

Mrs. Craig moved that the House adjourn sine die.

Which motion prevailed and the House adjourned.

J. C. MILLER,
Chief Clerk.

**MINUTES OF THE MEETINGS OF SPECIAL COMMITTEE
INVESTIGATING HIGHWAY DEPARTMENT**

Bismarck, N. D.

Feb. 3rd, 1925

Room 611 McKenzie Hotel.

Committee met in first session at 10:00 A. M. All members present.

Moved by Mr. Vogel and supported by Mr. Halcrow that W. A. Thatcher act as Secretary of the Committee and is hereby elected for such position. Motion carried.

Matters relative to organization, attorneys, stenographers and other help was discussed.

Moved by Mr. Vogel and supported by Mr. Halcrow that the Chairman, Mr. Yeater, communicate with Judge Graham of Ellendale as to acting as attorney for the Committee and also see Mr. Ole Lund as to acting as accountant. Motion carried.

Mr. Vogel agreed to see the stenographers at the Capitol and see if some one from either the House or Senate could be procured for the present to act as stenographer for the Committee.

It was further agreed that if possible the Sergeant-at-Arms of the House would be asked to act as Sergeant-at-Arms for the Committee for the present if needed.

Resolution known as House bill No. 72 authorizing the appointment of the Highway Investigation Committee and giving them authority to proceed with same investigation was read and discussed. It was further agreed by all members of the committee that meetings and doings of the committee be done as quietly as possible and no actions taken for the present be given out for publication and that all investigations be made fair and impartial to all concerned.

Moved by Mr. Vogel and supported by Mr. Halcrow that the Committee adjourn to meet again at the call of the Chairman. Motion carried.

Committee adjourned at 11:20 A. M.

WM. A. THATCHER,
Secretary.

Bismarck, N. D.

Feb. 5th, 1925.

Room 611 McKenzie Hotel.

Meeting called to order at 10:00 o'clock P. M. by Chairman Roy Yeater.

Members present, Chairman Roy Yeater, Sec'y. W. A. Thatcher and Alex. Anderson.

Judge Graham of Ellendale was present and the rules to govern the procedure of the committee were gone over and agreed to for the present.

Minutes of the first meeting of Feb. 3rd, were read and approved as read.

After some talk on the organization of the committee for further work it was agreed to meet again at 10:00 o'clock tomorrow morning, Friday, Feb. 6th.

Chairman Yeater was instructed to procure suitable rooms for the meeting of the committee and for the working of the attorney and other help.

Moved by Thatcher and supported by Anderson that the committee adjourn. Motion carried.

WM. A. THATCHER,
Secretary.

Bismarck, N. D.
Feb. 6th, 1925.
Room 228 McKenzie Hotel.

Meeting called to order at 8:30 o'clock P. M., by the Chairman, Roy Yeater.

Members present, Yeater, Anderson, Halcrow and Thatcher. Absent, Vogel.

Motion made by Mr. Anderson and supported by Mr. Halcrow that Mr. Graham of Ellendale be retained as counsel for the committee for the present. Motion carried, all members voting aye.

Many questions of how the committee should proceed with the work assigned to them was taken up and discussed by all present.

Moved by Thatcher and supported by Halcrow that the Chairman and Mr. Graham consult with the Auditing Board and if possible have them make the complete annual audit of the material and property belonging to the State Highway Commission under the supervision of Mr. Lund and have this done with as little delay as possible. Motion carried, all members voting aye.

The Secretary volunteered to see the Sergeant-at-Arms of the House regarding his acting in the same capacity for the Committee for the present time.

Mr. Vogel came in and took part in the further discussion of procedure and the matter of rules to govern the Committee was taken up. The rules of former investigations were gone over and a set of rules drawn up by Mr. Graham was adopted with the exception of Rule Nine.

Moved by Mr. Vogel and supported by Mr. Halcrow that an exception be made to Rule Nine, Mr. Black or any of the Members of the Highway Commission to be allowed to appear

with counsel providing said counsel does not endeavor to block or stop information desired by the committee. Motion carried, all voting aye.

Chairman Yeater appointed to see the Hotel Management relative to a room to replace the room over taxi 57 which has been discontinued on account of diphtheria.

Meeting adjourned at 10:40 to meet again Monday morning.

WM. A. THATCHER,
Secretary.

RULES GOVERNING THE PRACTICE AND PROCEDURE OF THE SPECIAL HOUSE COMMITTEE

The following are the rules governing the practice and procedure before the Special House Committee of the House of Representatives of the State of North Dakota, Nineteenth Session, appointed to consider and investigate the affairs of the State Highway Commission:

RULE I.

The hour of the day at which the Special House Committee shall sit upon this investigation shall be at 9:30 o'clock A. M. and when the hour shall arrive, the Chairman of said Committee shall so announce and, thereupon, the business of the investigation shall proceed.

RULE II.

The Secretary of this Committee shall keep a full and complete record of all proceedings had in this investigation, including all motions made by members of said committee and the vote thereon, and a verbatim report of all testimony taken on said investigation, including all papers, documents and records which may be offered in connection therewith; provided, however, that all the testimony may be taken in shorthand by a reporter, duly appointed and sworn for that purpose and by him, or her, transcribed.

The oath taken by the reporter shall be substantially in the following form:

STATE OF NORTH DAKOTA, }
County of Burleigh } ss.

I,....., do solemnly swear that I will support the Constitution of the United States of America, and the Constitution of the State of North Dakota; that I will perform the duties of the office of the reporter of the investigation before the Special House Committee of the House of Representatives, Nineteenth Session, to the best of my ability. So help me God.

.....

Subscribed and sworn to before me this.....day
of.....A, D. 1925.

Notary Public, Burleigh County,
North Dakota.

My Commission Expires.....

RULE III.

Upon the application of any Committeeman to the Chairman of this Committee, or of Counsel appointed to aid in this investigation, subpoenas shall be issued by the Chairman of the Committee, attested by the Secretary thereof, and such subpoenas shall state the time and the place at which the same shall be returnable, and shall be substantially in the following form:

STATE OF NORTH DAKOTA, }
County of Burleigh } ss.

Before the Special House Committee of the House of Representatives of the State of North Dakota, Nineteenth Session, appointed to investigate the affairs of the State Highway Commission.

THE STATE OF NORTH DAKOTA TO.....GREETING:

You, and each of you, are hereby commanded to appear before the Special House Committee of the House of Representatives, of the State of North Dakota, 19th Session, sitting to investigate and consider the affairs of the State Highway Commission on the.....day of.....1925, at....., in the City of Bismarck, County of Burleigh and State of North Dakota, then and there to testify of your own knowledge in the matter which is before said Committees, to-wit: The Investigation and Consideration of the State Highway Commission, and you are requested to bring with you the following:

Hereof fail not.

Dated this.....day of February, 1925.

Attest: Chairman of the Special House
Committee.

Secretary of the Special House
Committee.

RULE IV.

All witnesses subpoenaed as above shall immediately report to the Secretary of the said Committee, and upon the discharge of such witness or witnesses, they shall present

to said Secretary their said subpoena and he shall thereupon certify the mileage and per diem of such witnesses, which certificate shall be accepted as evidence thereof.

RULE V.

The form of direction for the service of such subpoena shall appear upon the subpoena, and shall be substantially as follows:

THE STATE OF NORTH DAKOTA:

To the Sargeant-at-Arms of the House of Representatives of the State of North Dakota, or any of his assistants, or any Special Officer, appointed by the Special House Committee, or to any Sheriff, Marshal or Public Officer within the State of North Dakota:

You are hereby commanded to forthwith serve and return the within subpoena according to law.

Dated at Bismarck, North Dakota, this.....day
of.....1925.

.....
Secretary of the Special House
Committee.

Proof of service of such subpoena shall be governed by the provisions of Section 7436, Civil Code, Compiled Laws of 1913.

Each witness shall be sworn in the following manner:

You do solemnly swear (affirm) that the evidence you will give in the matter of the investigation and consideration of the State Highway Commission, now before the Special House Committee, shall be the truth, the whole truth, and nothing but the truth, so help you God.

Which oath shall be administered by the Chairman of this Special House Committee.

RULE VII.

All hearings shall be open to the public, except when deemed advisable by the Chairman and a majority of the Committee thereof to hold executive sessions. Whenever the Committee decides to go into executive session, all persons shall be excluded from said hearing, save and except the members of said Committee, Counsel employed by said Committee, the necessary accountants and other employees, and the person under examination.

RULE VIII.

This proceeding being in the nature of an investigation, and the controversies incident to the average trial being absent, the Counsel for the Committee are directed to proceed to the examination of witnesses by the question and answer method, and without reference to the formal rules of evidence, elicit from the witnesses, as expeditiously as the circumstances will permit, the ultimate and essential facts to be by each witness disclosed.

RULE IX.

Every person subpoenaed for examination shall appear in person for the purpose of giving testimony.

RULE X.

The Chairman of this Special House Committee shall direct all necessary preparation for the hearing before said Committee, and upon the hearing shall direct all forms of proceedings not otherwise specifically provided for herein.

RULE XI.

When no rule is herein provided for the governing of the practice and procedure of this Special House Committee, the Chairman thereof shall announce the rule, subject to the right of any members of said Committee to appeal therefrom to the whole Committee.

RULE XII.

Witnesses shall be examined by counsel employed by this Committee, provided, however, that if a member of the Committee wishes to question a witness he shall first address the chair.

RULE XIII.

The parliamentary rules adopted by the House of Representatives of the State of North Dakota, 19th Session so far as the same may be applicable and not inconsistent with the specific rules adopted by this Committee, shall govern the proceedings upon this investigation.

RULE XIV.

In the event of any witness failing to appear before this Committee in answer to a subpoena, upon such fact being found by this Committee the Chairman hereof shall prepare a statement thereof showing the following facts:

- (1) The issuance of the subpoena and the date thereof.
- (2) The service thereof upon such person, including the time and place of such service.
- (3) A statement of the time and place when and where such witness was by such subpoena directed to appear.
- (4) The fact of the failure or refusal of such witness to so appear. Such statement shall be signed and certified by the Chairman of this Committee and attested by the Secretary hereof, and shall be filed with the Speaker of the House of Representatives of the State of North Dakota for such proceedings in said House for Contempt as may be in accordance with the rules of said House of Representatives.

RULE XV.

In the event of any witness refusing to answer a question or questions propounded to him by counsel for this Committee, upon such fact being found by this Committee the Chair-

man hereof shall prepare a statement showing the following facts:

- (1) The issuance of the subpoena and the date thereof.
- (2) The service thereof upon such person, including the time and place of such service.
- (3) A statement of the time and place when and where such witness was by such subpoena directed to appear.
- (4) The fact of his refusal to answer questions propounded. Such statement shall be signed and certified by the Chairman of this Committee and attested by the Secretary hereof, and shall be filed with the Speaker of the House of Representatives of the State of North Dakota for such proceedings in said House for contempt as may be in accordance with the rules of said House of Representatives.

RULE XVI.

In the event of the failure of any witness, duly subpoenaed, to appear and being with him any books, papers, documents or records, and upon such fact being found by the Committee, the Chairman shall prepare a statement showing the following facts:

1. The issuance of the subpoena and the date thereof.
2. Service thereof upon such person, including the time and place of such service.
3. A statement of the time and place when and where such witness was by such subpoena directed to appear and produce such books, papers, documents, or records.
4. The fact of his refusal to produce such books, papers, documents and records.

Such statement shall be signed and certified by the chairman and attested by the secretary of the Committee, and shall be filed with the Speaker of the House of Representatives of the State of North Dakota for such proceedings before said House for Contempt as may be in accord with the rules of such House of Representatives.

RULE XVII.

Upon the final completion of this investigation the Chairman of this Committee shall direct the stenographer or stenographers taking the testimony thereof to make a full, complete and verbatim transcript of such testimony and to affirm the same under oath and there may be annexed thereto any and all papers, documents or exhibits offered or received in connection therewith, or certified copies, thereof, duly certified to by the Chairman of this Committee, which said verbatim report of such testimony, together with such papers, documents and exhibits as shall be deemed necessary, to a proper understanding of the report, shall be annexed and attached to the report of the Special House Committee and filed with the House of Representatives, of the State of North Dakota.

RULE XIX.

All documents, papers and exhibits offered and received in this investigation shall immediately be filed with and kept in the custody of the Secretary of this Committee until the same shall be annexed to the report of this Committee and filed with the House of Representatives.

Bismarck, N. D.,
Feb. 9th, 1925.
Room 228 McKenzie Hotel.

Meeting called to order at 10:00 o'clock A. M. by Chairman Roy Yeater. All members of the committee present.

Minutes of Second Meeting of February 5th read and approved as read.

Minutes of meeting of February 6th read and approved as read with the exception of the motion referring to the hiring of Mr. Graham as the Attorney which Mr. Halcrow stated did not contain the salary he was to receive which was stricken from the motion.

Mr. Graham stated that he would present his bill and was sure that same would be satisfactory to all concerned.

Miss Alfson appeared before the Committee on request and the matter of her acting as the stenographer and reporter for the committee was discussed.

Moved by Vogel and supported by Halcrow that Miss Alfson be retained by the Committee as stenographer and reporter and that the question of salary be left for the present until the volume of work could be better ascertained. Motion carried, all voting aye.

Mr. Lund and Mr. Leuhrs appeared before the Committee on request and the matter of taking inventory of the stock of machinery and repairs of the State Highway Commission was discussed at some length.

The expense of doing this work was taken up and Mr. Lund informed the Committee that the Board of Auditors did not have enough funds at this time to do this work, but that they would furnish his assistance and that of one man and that the Committee would have to furnish the rest of the help.

Mr. Luehrs stated that he thought the audit would take from two to three weeks and that he and four other men could do it in that time. He stated that he would work for \$7.50 a day and he thought he could get the balance of the help for \$5.00 a day.

Moved by Vogel and supported by Mr. Halcrow that the Committee employ Mr. Luehrs and for him to procure the balance of the help as he stated and that this be done with the understanding that they would be paid as soon as the expenses would be allowed by the Legislature.

Motion carried, all voting aye.

Mr. Dan R. Jones of Wahpeton was called in to give testimony as to what he knew of road projects in Richland County and in general. He was placed under oath by the Chairman and Miss Alfson was called in and took the testimony of the witness.

Mr. Herman Hardt was the second witness to take the stand and under oath administered by the Chairman his testimony was also taken by the stenographer.

Moved by Vogel and supported by Anderson that Mr. I. P. Baker be subpoenaed for tomorrow to appear before the Committee. Motion carried, all voting aye.

Attorney Graham stated that he wished to subpoena Mr. Knudson for tomorrow also.

It being noon, on motion of Mr. Vogel supported by Mr. Anderson the Committee adjourned until tomorrow.

WM. A. THATCHER,
Secretary.

Bismarck, N. D., Feb. 10th, 1925.

Meeting called to order by Chairman Yeater at 9:30 A. M. All members present.

Minutes of the meeting of Feb. 9th were read and approved with correction.

Communication from the State Highway Commission signed by Messrs. Black, Brown and Kitchen asking that meetings of the committee be open and that they be allowed to be present with counsel was read and discussed at some length.

Moved by Vogel and seconded by Thatcher that action on this motion be deferred for the present. Motion carried. Vogel, Thatcher and Yeater voting yes, and Halcrow and Anderson voting no.

Mr. I. P. Baker of Bismarck was called in and put on the stand and oath administered by the Chairman and testimony taken by the stenographer. Mr. Baker also showed maps and drawings of the Missouri River Highway bridge.

Mr. R. B. McDonald of Solen, Sioux County, was sworn in as a witness by the Chairman and testimony taken by the stenographer.

Mr. Oliver Knudson of Bismarck, one of the Resident Engineers of the State Highway Commission was the next witness to take the stand. He was sworn in and testimony taken by the stenographer.

It was decided after some discussion to have the next meeting of the Committee an open meeting and that the members that requested to be present from the Highway Commission could be present in person if they so chose.

Committee adjourned to meet tomorrow morning at 9:30 A. M. and the matter of witnesses to be left to the Attorney of the Committee.

WM. A. THATCHER,
Secretary.

February 11th, 1925.
Room 200 McKenzie Hotel.

Meeting called to order at 9:50 by Chairman Yeater. Members present Vogel, Yeater, Halcrow and Thatcher. Absent Anderson.

Mr. P. M. Hegdahl of Bismarck, testing engineer, of the State Highway Commission was called to the stand, placed under oath and testimony taken by the stenographer.

Mr. Hegdahl promised to furnish a list of the gravel pits that he had tested gravel from and which were approved and which rejected. Also the pits that were used and where the gravel was shipped.

Mr. W. F. Gettelman of Bismarck, Superintendent of Equipment, was the second witness for the day to be sworn in and his testimony was taken by the stenographer.

Moved by Vogel and supported by Thatcher that Mr. Gettelman furnish a list of sales of cars and machinery to private parties as near correct as possible. Motion carried. Vogel, Halcrow and Thatcher voting yes.

As to the above motion, Mr. Gettelman promised he would furnish the list as soon as he could get it out.

At 11:00 o'clock the Committee adjourned to Room No. 228 for an executive session.

Messrs. Newton and McAuliff accompanied by Judge Hanley, all of Mandan, appeared before the committee. Judge Hanley explained the reason why they did not wish to place the books of the Gravel Company to the public but assured the Committee that they were willing to give any information that would be asked and if same would be evidence that was needed by the Committee that same would have their permission for public use.

After some discussion as to the program for the next day it was moved by Vogel and supported by Thatcher that the meeting adjourn. Motion carried.

WM. A. THATCHER,
Secretary.

Bismarck, N. D.,
Feb. 12th, 1925.
Room 200 McKenzie Hotel.

Meeting called to order by Chairman Yeater at 9:40 A. M. Members present, Chairman Yeater, Vogel, Halcrow and Thatcher. Absent, Anderson.

Mr. T. R. Atkinson, Civil Engineer of the City of Bismarck, was the first witness called for examination. He took the stand and was sworn in by the Chairman. Testimony was taken by the stenographer.

Mr. Atkinson in his testimony claimed that he had bought the two cars he was using, from the State Highway Commission in 1923 and read what he claimed was a copy of a letter written to Mr. Black, Chief Engineer of the State Highway Commission, asking Mr. Black to give him a bill for the two cars but acknowledged that to date he had received no bill for same.

Mr. A. W. Luehrs was called to the stand again for further testimony which was taken by the stenographer.

Mr. Newton of Mandan, Secretary of the Gravel Company at that city, took the stand and was sworn in by the Chairman. Judge Hanley was present and asked to represent Mr. Newton which was denied by the Chairman.

Moved by Vogel and supported by Thatcher that Mr. Newton do not be allowed to have counsel to represent him. Motion carried, Vogel and Thatcher voting aye and Halcrow no.

After the testimony of Mr. Newton the Committee adjourned to meet in executive session in Room 228.

Minutes of meeting of February 10th read and approved as read.

Miss Alfson had informed the Chairman of the Committee and Mr. Graham that she did not feel that she was able to handle the work of the committee and wished to be relieved from the position but that she would finish the work of today.

Attorney Graham stated that he had communicated with Miss Irma Shepard of Ellendale and that she would come at once and take the position.

Moved by Thatcher and supported by Vogel that Miss Shepard be hired to take the place of Miss Alfson. Motion carried all voting aye.

On motion duly seconded the meeting adjourned.

WM. A. THATCHER,
Secretary.

Bismarck, N. D., Feb. 13th, 1925.
Room 200 McKenzie Hotel.

Meeting called to order at 9:50 by Chairman Yeater. Members present, Yeater, Halcrow, Anderson and Thatcher.

Mr. Carl Myhre, Civil Engineer, employed by the State Highway Commission was the first witness called to the stand.

Miss Irma Shepard of Ellendale was present and acted as stenographer in taking the proceedings of the day.

Mr. Vogel came in and took his seat with the Committee.

After Mr. Myhre had finished his testimony, Mr. W. F. Gettelman was called to the stand again and questioned relative to the disposition of material of the Highway Commission.

Minutes of the meetings of February 11th and 12th read and approved as read.

Meeting adjourned to meet again at 9:30 tomorrow.

WM. A. THATCHER,
Secretary.

Bismarck, N. D., Feb. 14th, 1925.
Room 200 McKenzie Hotel.

Meeting called to order at 9:40 by Chairman Roy Yeater. Members present, Yeater, Anderson, Halcrow and Thatcher. Absent, Vogel.

John A. N. Smith, the caretaker at Fort Lincoln was the first witness on the stand. His testimony was given as to the care and condition of the Highway Commission material kept at Fort Lincoln.

Mr. A. D. McKinnon of Bismarck, was the next witness to be called. He is a Civil Engineer and stated that he had also worked as Project Engineer for the Commission.

Mr. Vogel arrived and took part in the questioning of Mr. McKinnon.

The Committee recessed for a few minutes. Mr. McKinnon was recalled to the stand for a few questions.

Mr. Herman Hardt called to witness stand. Mr. Hardt stated that he has served a subpoena on Mr. W. G. Black to appear for witness. Mr. Black did not appear.

Open session was dismissed and after reading of the minutes of the meeting of February 13th, which was approved as read, and some discussion as to the further calling of witnesses, on motion of Vogel and supported by Anderson, the meeting adjourned.

WM. A. THATCHER,
Secretary.

Bismarck, N. D., Feb. 16th, 1925.
Room 200 McKenzie Hotel.

Meeting called to order at 9:45 A. M., by Chairman Yeater. All members present. Miss Alfson acting as stenographer.

Judge Hanley of Mandan appeared for Mr. Black and explained why (he) (Mr. Black) was not present. After some discussion, Mr. Hanley agreed that Mr. Black would appear tomorrow morning in person and bring all records as per previous agreement.

Moved by Mr. Vogel, supported by Mr. Anderson, that Mr. Black be given until tomorrow morning to appear in person with records. Motion carried, all voting aye.

Mr. A. D. McKinnon of Bismarck was called to the stand for a short time.

A recess for 5 minutes was called. Committee reconvened at 10:40 and Miss Shepard relieved Miss Alfson as stenographer.

Mr. R. H. Myhre of Wahpeton, Deputy County Auditor of Richland County was the next witness called to the stand and was questioned relative to the Richland County projects.

Judge Hanley appeared before the Committee and delivered certain records, papers and blue prints from Mr. Black which were accounted for in the stenographer's notes.

Mr. C. E. Lounsbury of Wahpeton, State's Attorney for Richland County was the next witness called to the stand. His testimony was relative to the Richland County Project. After some questioning he was excused until tomorrow when the Committee reconvenes.

After a short discussion it was moved by Vogel and seconded by Anderson that the rules be suspended and meetings hereafter be called at 9:00 o'clock each morning. Motion carried, all voting aye.

On motion meeting adjourned.

WM. A. THATCHER,
Secretary.

Bismarck, N. D., Feb. 17th, 1925.
Room 200 McKenzie Hotel.

Meeting called to order at 9:00 A. M., by Chairman Yeater. Members present, Yeater, Anderson, Halcrow and Thatcher. Absent, Vogel.

Mr. W. G. Black, State Civil Engineer was present and was called to the stand.

Mr. Vogel arrived at 9:15 and took his seat with the Committee.

A recess was called at 10:30. Miss Shepard relieved Miss Alfson as stenographer. Reconvened at 10:40 and Mr. Black resumed the witness stand.

At 11:50 the Committee excused the witness and adjourned to room 228. Minutes of the meeting of the 14th read and approved as read. Minutes of the 16th read and corrected as follows: In the motion that states the rules were suspended so as to call meetings at nine o'clock instead of nine thirty, the motion should read that the rules were changed relative to hour of meeting. Such change being 9:00 o'clock A. M. instead of 9:30 o'clock.

After some discussion as to extra help for Attorney

Graham, it was moved by Thatcher and supported by Anderson that Mr. Graham be authorized to secure legal assistance for the present if it be necessary. Motion carried, Vogel, Anderson and Thatcher voting yes, and Halcrow no.

Meeting adjourned.

WM. A. THATCHER,
Secretary.

Bismarck, N. D., February 19th, 1925.

Meeting called to order at 9:10 by Chairman Yeater. Members present, Yeater, Halcrow and Thatcher. Absent, Vogel and Anderson.

Miss Alfson acting stenographer. Mr. Lounsbury assisting Attorney Graham.

Mr. Black was again called to the witness stand.

Mr. Anderson arrived at 9:15 and Mr. Vogel at 9:20.

At 10:20 a short recess was taken and when the Committee started work again Miss Shepard replaced Miss Alfson as stenographer and Mr. Black still on the witness stand.

The meeting adjourned at 11:50 to meet again tomorrow.

WM. A. THATCHER,
Secretary.

Bismarck, N. D., February 20th, 1925.

Meeting called to order at 9:10 A. M., by Chairman Yeater.

All members present. Miss Alfson in the stenographers chair.

Mr. R. H. Myrhe of Wahpeton was called to the witness stand.

Mr. J. R. Poupore of Grand Forks, a member of the State Highway Commission was the second witness to be called.

A recess was taken at 10:35. After the recess Miss Shepard relieved Miss Alfson as stenographer and Mr. Poupore was recalled for further testimony.

At 11:55 the Committee adjourned until tomorrow.

WM. A. THATCHER,
Secretary.

Bismarck, N. D., February 21st, 1925.

Meeting called to order at 9:10 by Chairman Yeater. All members present. Miss Alfson acting as stenographer.

Mr. Treadwell Twichell of Mapleton, North Dakota, and the contractor for Project No. 59 of Richland County was sworn in as the first witness of the day. He was accompanied by his brother Attorney L. L. Twichell and Attorney Green of Fargo.

A recess was called at 10:30 at which time Miss Shepard relieved Miss Alfson as stenographer and Mr. Twichell was again called to the witness stand.

At noon the Committee adjourned hearing and retired to room 228. Minutes of the meetings of the 19th and 20th were read and approved as read.

The subpoena sent to Mr. R. N. Carroll of Grand Forks on the 17th inst, was returned by Sheriff Odin Overby of Grand Forks stating that Mr. Carroll would not be able to come unless mileage and other expenses were guaranteed to him.

Attorney Graham stated that he would try to get in touch with Mr. Carroll by telephone.

Chairman Yeater presented a bill in the sum of \$10.00 from the Rohrer's Taxi Service for the use of two cars on the 12th when the Committee inspected the equipment of the Highway Commission at the shops and at Fort Lincoln. No action was taken on the bill.

The Committee then adjourned to meet again Monday morning.

WM. A. THATCHER,
Secretary.

Bismarck, N. D., February 23rd, 1925.

Meeting called to order at 9:10 by Chairman Yeater. All members present. Miss Shepard acting as stenographer.

Mr. Treadwell Twichell was called to the stand as the first witness of the day.

The Committee recessed for a few minutes at 10:30. Miss Shepard continuing as stenographer.

After recess Mr. C. H. Luckey of Moorhead, at one time a Civil Engineer employed by the State Highway Commission was called to the witness stand and testimony taken.

Mr. John N. Roherty of Bismarck, Civil Engineer and Designer for the State Highway Commission was the third witness to be called. He gave testimony under oath which was taken by the stenographer.

Mr. Luckey was called to the stand again at the request of Mr. Halcrow.

Mr. Oliver Knudson, who had testified some days previous, was the next witness to testify before the Committee.

Mr. Roherty was called to the stand the second time for testimony.

At 11:55 the committee adjourned taking testimony until tomorrow morning at 9:00 and retired to room 228.

Minutes of the meeting of the 21st was read and approved as read.

After a short discussion the meeting adjourned for the day.

WM. A. THATCHER,
Secretary.

Bismarck, N. D., February 24th, 1925.

Meeting called to order at 9:10 by Chairman Yeater. All members present.

Miss Shepard acting as stenographer as Miss Alfson did not appear for duty.

Mr. W. G. Black was the first witness to be called to the stand.

At 10:40 a short intermission was called. After recess the work continued as before.

Shortly before noon Mr. Black was excused for the day and Mr. Luckey was called to the stand at the request of Mr. Halcrow.

Owing to a call of the House the Committee adjourned at 12:00 o'clock noon without further action.

WM. A. THATCHER,
Secretary.

Bismarck, N. D., February 25th, 1925.

Meeting called to order at 9:10 by Chairman Yeater. All members present.

Mr. Black was called to the stand again for further testimony.

Mr. Tillotson acting as stenographer.

A short recess was taken at 10:40. After recess Mr. Black was again called to the stand. Mr. Tillotson acting as stenographer.

At 11:30 the Committee adjourned on account of a call of the House to meet again tomorrow morning at 9:00.

WM. A. THATCHER,
Secretary.

Bismarck, N. D., February 26th, 1925.

Meeting called to order at 9:10 by Chairman Yeater. All members present. Yeater, Anderson, Halcrow and Thatcher. Absent, Vogel.

Attorney General Geo. F. Shafer was the first witness to be called for the day.

Mr. Tillotson acting stenographer.

Mr. Leiberman, Chief Clerk of the State Highway Commission, was the next witness to be called and testimony taken.

Mr. Vogel arrived at 9:25 and took his seat with the committee.

Chief Engineer was called to the witness stand again.

Mr. Myhre, Assistant Chief Engineer of the State Highway Commission, was the fourth witness to be called for examination.

A short recess was taken at 10:40. At 10:50 the committee resumed work again and Mr. Roherty was called to the witness stand at the request of Mr. Halcrow.

Mr. W. H. Robinson of Washburn, N. D., and former Chief Engineer of the State Highway Commission was called to the stand and his testimony taken.

Mr. Black was called for again to give further testimony but was not present so Mr. Knudson was called for a few questions.

The next witness to be called for testimony was Mr. J. A. Wallace of Bismarck who was sworn in and testimony taken by the stenographer.

At 12 o'clock noon, the Committee discontinued further testimony until tomorrow at 9:00 A. M.

Minutes of February 24th and 25th read and approved as read after which the Committee adjourned.

WM. A. THATCHER,
Secretary.

Bismarck, N. D., February 27th, 1925.

Meeting called to order at 9:10 by Chairman Yeater. All members present.

Miss Alfson acting stenographer.

Miss Christianson taking testimony of the proceedings for Mr. Black the same as the day before.

Mr. W. G. Black was the first witness called for the morning.

At 10:00 Miss Shepard relieved Miss Alfson as stenographer.

Mr. C. A. Mudgett of Valley City was the next witness called and was sworn in and testimony taken.

The next witness called was Mr. John Gavin now employed by the State Highway Commission of the State of Missouri and formerly in the service of the Highway Commission of North Dakota. He was sworn in and testimony taken.

At 12:15 the Committee excused further witness for the day and retired to room 228.

A letter was read from Mr. Treadwell Twichell asking

that he be given all transcripts and also be recalled to the witness stand to correct some of his former testimony.

Moved by Vogel and supported by Halcrow that Mr. Treadwell Twichell be given an opportunity to reappear before the Committee for a period of twenty minutes to make any explanations and clear up testimony and no additional time be given without a vote of the Committee. Motion carried, Vogel, Yeater, Anderson, Halcrow and Thatcher all voting aye.

Some discussion was had as to the printing of the transcripts and testimony of the Committee.

Moved by Vogel and supported by Anderson that the Chairman of the Committee be instructed to move in the House of Representatives that the transcripts and testimony taken by this Committee together with the report of the Committee be printed in the House Journal and that the printing of same be started at once. Motion carried, Yeater, Vogel, Anderson, Halcrow and Thatcher all voting aye.

Meeting adjourned until 9:00 o'clock A. M. tomorrow morning.

WM. A. THATCHER,
Secretary.

Bismarck, N. D., Feb. 28th, 1925.

Meeting called to order at 9:10 by Chairman Yeater. Members present, Yeater, Halcrow, Anderson and Thatcher. Absent, Vogel.

Mr. L. L. Twichell appeared before the Committee and asked to be placed on the witness stand to give some testimony which he claimed has not been brought out in behalf of his brother, Mr. T. Twichell.

Moved by Halcrow and supported by Anderson that Mr. L. L. Twichell be allowed to appear before the committee as a witness if the evidence he wished to give was material to the investigation. Motion carried, all members present voting aye.

Mr. Tillotson was present and acted as stenographer.

Mr. John Gavin was the first witness to be called to the stand for testimony which was taken by the stenographer.

Mr. Vogel arrived at 9:20 and took his seat with the committee.

Mr. O. B. Lund of Bismarck, Special Auditor for the State Auditing Board was called to the stand and sworn in and testimony taken.

Mr. O. R. Vold of Bismarck, Assistant Auditor to Mr. Lund, in the auditing of the war material and equipment of the State Highway Commission was the next witness to be called

to the stand. He was sworn in and testimony taken by the stenographer.

Mr. Treadwell Twichell took the stand as per his request to reappear before the Committee for the purpose of correcting testimony and making further explanations.

Mr. Gettelman was again called to the stand for further testimony.

Mr. Vold was also called to the stand again for a few minutes after which the Committee adjourned at 12:15 to meet again in the evening at 8:00 o'clock.

WM. A. THATCHER,
Secretary.

Bismarck, N. D., February 28th, 1925.

Meeting called to order at 8:00 P. M. by Chairman Yeater. Members present, Yeater, Halcrow and Anderson. Members absent, Vogel and Thatcher.

Mr. Anderson acting as Secretary and Miss Shepard acting stenographer.

Mr. L. L. Twichell was present and after being sworn in as a witness, took the stand and gave testimony which was taken by the stenographer.

Mr. Thatcher arrived at 8:30 and took his seat with the Committee.

Mr. Twichell finished his testimony at 9:30 and the Chairman announced that as there were no more witnesses to testify, that the meeting would be dismissed and that it was quite likely that this would be the last of testimony taken by the committee, but if it was deemed best the Committee would meet for that purpose Monday evening at 8:00 P. M.

WM. A. THATCHER,
Secretary.

Bismarck, N. D., March 2nd, 1925.

Meeting called to order at 7:50 by Chairman Yeater. Members present, Yeater, Halcrow, Anderson and Thatcher. Absent, Vogel.

The question of the letters requested to be included in the testimony by Mr. W. G. Black was taken up.

Mr. Dan R. Jones of Wahpeton was called in and asked a few questions to clear up a few statements made in former testimony. Same was taken by the stenographer as a part of the hearing.

After some discussion on the manner of presenting the Committee report to the House of Representatives the Committee adjourned.

WM. A. THATCHER,
Secretary.

Bismarck, N. D., March 3rd, 1925.

Meeting called to order at 8:00 A. M. by Chairman Yeater. All members present. Attorneys Graham and Lounsbury were also present.

A list of the witnesses were checked up and the expense bills were gone over by the Committee and approved as per list of same attached.

Minutes of the meeting of February 27th was read and approved as read.

Minutes of the meetings of February 28th which included both the morning and evening session were read and approved as read.

The Committee adjourned to meet again in the evening to complete Committee report.

WM. A. THATCHER,
Secretary.

WITNESSES

Dan R. Jones, Wahpeton, North Dakota.....	\$ 2.10
R. B. McDonald, Solen, North Dakota.....	2.10
T. R. Atkinson, Bismarck, North Dakota	4.10
J. H. Newton, Mandan, North Dakota	4.70
J. H. McCauliff, Mandan, North Dakota	4.70
John N. Smith, Fort Lincoln, Bismarck, N. Dak.....	2.50
R. H. Myhra, Wahpeton, North Dakota.....	41.40
Treadwell Twichell, Mapleton, North Dakota.....	39.00
C. H. Lucke, Moorhead, Minnesota.....	24.00
John Gavin, Springfield, Missouri	75.40
C. F. Mudgett, Valley City, North Dakota.....	16.00
J. A. Wallace, Bismarck, North Dakota.....	2.10

TOTAL.....	\$ 218.10
Total Brought Forward	\$ 218.10

Reporters:

B. F. Tillotson, Reporter, Bismarck, North Dakota	\$ 214.00
Irma B. Shepard, Reporter, Ellendale, North Dakota	700.00
Sigrid Alfson, Reporter, Bismarck, North Dakota	300.00
TOTAL.....	\$1,214.00

Additional help employed by O. B. Lund to assist in making the audit:

A. W. Luehrs, Bismarck, North Dakota....	\$ 97.50
Ben Martin, Bismarck, North Dakota.....	85.00
Ted Meinhoven, Bismarck, North Dakota..	37.50
Robert A. Yeater, Bismarck, North Dakota	108.00
Glenn Jensen, Bismarck, North Dakota....	37.50
O. R. Vold, Bismarck, North Dakota.....	82.50
Tom Lauder, Bismarck, North Dakota.....	65.00
TOTAL.....	\$ 513.00

Other Expenses:

Hotel McKenzie, Bismarck, North Dakota, for office and work room for counsel and reporters	\$ 45.50
Telephone and telegrams paid by the McKenzie Hotel, Bismarck, North Dakota	28.20
Rohrer's Taxi Service, Bismarck, North Dakota, 2 autos for trip to Fort Lincoln by Committee	10.00
TOTAL.....	\$ 83.70

Counsel:

F. J. Graham, Ellendale, North Dakota....	\$1,350.00
C. E. Lounsbury, Wahpeton, North Dakota	633.40
TOTAL.....	\$1,983.40

GRAND TOTAL.....	\$4,011.90
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WM. A. THATCHER,
Secretary.

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TESTIMONY TAKEN BEFORE THE SPECIAL COMMITTEE ON INVESTIGATION OF THE HIGHWAY COMMISSION:

Commencing on February 9, 1925.

Mr. Dan R. Jones, having been duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. What is your name? A. Dan. R. Jones.

Q. And will you state your residence and business? A. Wahpeton, North Dakota; attorney at law and farmer.

Q. You have lived in Richland County for the last 35 or 40 years? A. Lived there since 1897.

Q. Are you acquainted with the highway between Fairmount and Hankinson and between Wahpeton and Wyndmere? A. I am acquainted with Federal Aid Project No. 59 and 72; 59 between Fairmount and Hankinson, about 15 miles, and 72 between Wahpeton and Morton, almost 16 miles.

Q. And now do you know when the highway between Fairmount and Hankinson was built? A. Why it has been in the course of construction for about 4 years. I think they just got through accepting it in 1924.

Q. Now do you know who was the engineer in charge. Was it J. G. Gavin? A. John Gavin—it is John, isn't it—he was working there off and on with various engineers from the State Highway Department and from the federal government, as Mr. Twichell told me.

Q. Do you know what contractors did the building of the road? A. Treadwell Twichell on Project No. 59. I don't know who did the grading on the other project.

Q. Now was there some clay used to put over the sand between Fairmount and Hankinson? A. There was, yes.

Q. Do you know anything about the distance that the clay was hauled, as to the overhaul? A. This contract, as I remember, was let for about \$65,000 in the first instance, and that is the amount they told the commissioners that it would cost, of which this county will have to pay, as I remember, one-half and finally I think they paid as high as something like \$76,000, between \$76,000 and \$80,000. Then when this was all done, why Twichell came in with a bill for something like \$47,000 more, claiming it to be all for overhaul, that is, they hauled clay four or five miles in some instances.

Q. I don't suppose you know anything about how far apart they put the clay pits. A. I know that they would put a clay pit and haul, a long distance, and then put another

clay pit and haul back again; that instead of establishing various clay pits, they established a clay pit at one end and haul a long distance, for instance, to the west; and then they established a clay pit at the west and hauled to the east over the very ground they had hauled before from the east.

(2)

Mr. Thatcher. Q. Were they doing this under a contract? A. Why, as I understand it, they didn't have a separate contract; just told the contractor to do the business and he did it, and under the contract as drawn, he was entitled to pay for overhaul.

Mr. Thatcher. Q. What was the nature of the contract they had to do this work? A. I never saw the contract, but Twichell told me there was an overhaul clause that protected him on clay hauled over a certain distance and by reason of overlapping of this hauled clay, it gave him a terrible lot of money.

EXAMINATION BY. MR. GRAHAM:

Q. Do you know whether or not a settlement has been made with Mr. Twichell for his claim of \$47,000? A. I understand there has been a settlement agreed upon at least. In the first place, the county commissioners were in consultation about how the contract was carried out; that Twichell came to the county commissioners, I believe, and asked for \$9,000, and then for \$13,000 and finally got up to \$47,000 and the county commissioners wouldn't do anything and he took it up with the State Highway Commission and I understand they finally got around so Twichell appointed one arbitrator, the Highway Commission another and the two appointed a third, and they arbitrated the matter and the arbitrators held that Twichell was entitled to the whole

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\$47,000. Then the Highway Commission or some member of it came down to Wahpeton and wanted the commissioners to pay \$47,000, and they said they would fight before they would pay it. Finally, they came down again and Wahpeton or Richland County had \$9,000 up here in the State Fund; that is, they had \$9,000 of automobile fund coming to them, and the Highway Commission told them if they would allow \$9,000, the national or state government would pay the balance, and that is the way it was settled. That 15 miles has cost in the neighborhood of \$122,000. That would be about \$8,000 a mile.

Mr. Thatcher. Q. That is a gravel road? A. No, it is just a graded road, no gravel on it at all. They simply hauled clay from the side to cover some of the sand. There were no bridges. It has a few culverts. I think there is one bridge, but a culvert is all that is necessary, but I think they put in one small bridge. So \$8,000 a mile with the same kind of grading with the exception of the overhaul, and we don't need it in our county. The local contractors have put up as good a grade for all the way from \$200 to \$400 a mile.

Mr. Thatcher. Q. That isn't a hilly country either? A.

Just as level as a floor; just as level as a floor. The engineering alone on those two projects was \$746.00 a mile.

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Mr. Thatcher. Q. What? A. The engineering alone on those two projects was \$746.00 a mile.

Mr. Halcrow. Q. Mr. Jones, under whose administration of the Highway Department was that contract let? Under Mr. Robinson or Mr. Black? A. I think both contracts were let under the predecessor of Mr. Black and completed under Mr. Black.

Mr. Halcrow. Q. Let under Mr. Robinson and completed under Mr. Black? A. I don't know who the other engineer was, if it was Robinson, that was who it was. The project between Wahpeton and Morton, there was a dry run out about 8 miles west of Wahpeton that on the straight way, it takes a very long fill and bridge to go over it, but by turning about two rods to the north, it took about a 20 foot bridge and that is what we always did and we had the right-of-way. Under the college engineer, why we ran that straight and we put in a \$10,000 bridge and a big fill to cover that what you might call, a dry run, only a little water comes down in the spring, most of the time it is dry absolutely. That road cost us about \$104,000 for say 16 miles, under 16. That would be something over \$7,000 a mile for the grading and the culverts and the bridges. Of course, there is one bridge over Wild Rice River. That same kind of grade again that is perfectly level cost us, including bridges, \$7,000 a mile. Local contractors have put up just as good a grade and even better

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a grade for less than \$300 a mile. All we have to do is to run Erie graders and blade graders and put up a splendid grade. We graveled 8 miles of that road at \$5,000 a mile.

Mr. Thatcher. Q. \$5,000 for gravel? A. Just for gravel alone but we have to ship in gravel.

Mr. Vogel. Q. Where is that gravel shipped from? A. From White Rock.

Mr. Vogel. Q. South Dakota? A. Yes.

Mr. Vogel. Q. How far is that? A. About 30 miles. Then they finally shipped it from near Elbow Lake, Minnesota.

Mr. Vogel. Q. How far is that? A. That must be 45 or 50 miles.

Mr. Vogel. Q. Have you no gravel nearer? A. That is the nearest gravel we have, that is of any value.

EXAMINATION BY MR. GRAHAM:

Q. I Don't suppose that you know where they secured the sand for the concrete work for the bridge on that road? A. No. I don't, but in all probability it came down from the Wahpeton Sand & Gravel Company pit near Elbow Lake as they have splendid gravel for concrete work.

Q. Are there any other projects in that county besides these two you have mentioned? A. They are the only two and I think they are the only two we will ever have.

(6)

Q. Is there any other information, Mr. Jones, that you think of that you can give us in regard to the highways in that vicinity? A. I might from checking up on work down in our county. I would say that road work done by the township board, the township boards get \$1.00 worth of work for \$1.00 worth of pay; when the county commissioners do road work, they get \$1.00 worth of work for \$2.00 worth of pay; when the State Highway Commission has anything to do with it, they get \$1.00 worth of work for \$5.00 worth of pay, and when the national government mixes with the state government, they get \$1.00 worth of work for \$10.00 worth of pay. I think if you will check up with the state, you will find that to be true. Possibly I have underestimated the inefficiency of the State Highway Commission and the national government in building roads in North Dakota.

Q. And, in your opinion, is a large waste connected with the building of the highways? A. Absolute inefficiency and wastefulness of public funds. The State Highway Commission have made the first 8 miles of Project No. 72, west of Wahpeton, have made the grade at the rate of one and one-half to one; the result is that when anyone drives near the edge of the road after a rain, they go down in the ditch and the grade is so steep that the autos tip over, with the result that four men and women have been killed outright. Since

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the grade has been put up by the Highway Commission, and others have been seriously injured. Many autos have been wrecked, while on other roads with just as good grades but turnpiked, I know of no one who has been killed and very few who have been injured.

Mr. Vogel. Q. Have you any further knowledge of any matters concerning the State Highway Commission? A. The contractors who put on the gravel on Project No. 72 put in a bid for the work at about \$12,000 under the lowest other bidder. The men who claim they were in authority, examined the pit at White Rock and the gravel in it and told them that the gravel was suitable for the business before the bids were put in and after the bids were let and the gravel was being put on the road, complaints came from various sources that the gravel wasn't proper or of good quality and finally when two-thirds of the work was done, the State Highway Commission compelled the contractor to take their gravel from another pit. From all present indications of the road, the White Rock gravel is far superior as road material to the gravel that was shifted to. The White Rock gravel has what they call a clay binder. The other gravel furnished has what they call a vegetable binder. This change of pits cost the contractors from \$3,000 to \$5,000 and have placed the contractors in such a position that they will not be able to make a low bid in the future unless they can rely upon those

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in authority as to the quality of gravel required before bids are let.

EXAMINATION BY MR. GRAHAM:

Q. This gravel that was finally secured, where was it

from, near Elbow Lake. A. Secured through the Wahpeton Sand & Gravel Company.

Q. Do you know who the main stockholders are? A. The main stockholders are a man by the name of Harris. Harris is also one-half owner in the White Rock gravel pit. The other owner of the stock in the Wahpeton Sand & Gravel Company is a man by the name of Reeder, and another man by the name of Riley. The owners of the gravel pit at White Rock were Harris and Hull. Mr. Hull happened to die and right after he died and couldn't look after his gravel pit any longer, why that was when they made the shift.

Mr. Thatcher. Q. You don't suppose the railroads would have any effect on that change, Mr. Jones? A. Absolutely not, because the Milwaukee wanted the business as much as the Great Northern and they had given an exceptionally good rate to get the business. No it was strictly, I think, it was political pull entirely that did it.

Mr. Vogel: Q. Just what do you mean by political pull? A. Why the influence of one man upon another.

Q. For what purpose? A. Of getting the opportunity of selling gravel.

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Q. Who owns the Elbow Lake pit? A. That is, as I say, of course, Harris, one-third owner, didn't make any difference to him because he owned one-half in one and one-third in another. He was down south and wasn't here.

Q. Who benefited by this chance? A. Reeder and Riley.

Q. Reeder and Riley were not interested then in the White Rock pit? A. No.

EXAMINATION BY MR. GRAHAM:

Q. It is your opinion that political influence was brought to bear by them upon the State Highway Commission to make the change? A. I believe they kicked so much, they finally influenced them.

Mr. Vogel: Q. Were Reeder and Riley, were they bidders in the first place? A. They were not bidders, simply were going to furnish gravel to some other bidders. It was upon their prices to some other bidders that the bidders bid \$42,000 instead of \$52,000.

Q. What difference is there between the cost of gravel from Elbow Lake and that from White Rock? A. I don't know, but—

Q. Higher? A. The cost of hauling is considerable this way. To strike the project from Breckenridge with Elbow Lake gravel, they would have to haul on trucks 1¼ miles; from the Milwaukee tracks, they have to haul about one-fourth a mile, so there was an overhaul of about one mile.

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Those contractors told me they were going to try to get an overhaul; I don't know whether they got it or not.

Mr. Herman Hardt, having been duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. What is your name? A. Herman Hardt.

Q. Where do you live? A. Napoleon.

Q. How long have you lived in the state? A. In the state ever since the year 1886.

Q. What is your business? A. Farmer, contractor.

Q. Were you a member of the State Highway Commission at one time? A. Yes.

Q. During what period? A. During the period of Frazier's and part of Mr. Nestos' two years ago.

Q. Your term expired on what date? A. The 15th of April, two years ago.

Q. 1923? A. Yes.

Q. You acted as State Highway Commissioner for the term of four years prior to that time? A. Two years.

Q. Now can you give us any information in regard to the State Highway Commission? A. Only what I handed in that you can examine. Of their present doings, I couldn't tell anything, I don't know, only hearsay, or anything of that kind. Those parties handed that to me and you can go to work on them.

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Q. Exhibit I is one of the papers to which you have reference? A. Yes.

Mr. Graham: I offer in evidencé Exhibit I of the committee's file.

(EXHIBIT I)

HIGHWAY COMMISSION

Farming out State Engineer work to private engineers as a reward for their support of Black as State Engineer to succeed State Engineer Robinson is against good public policy and economy and causes the administration and engineering expense of the highway department to be much greater than necessary. No other highway department anywhere has tried this policy and retained it long, but Black has to pay for his appointment.

INVESTIGATE:

"A." Vouchers and warrants issued under this plan to:
 Dakota Construction & Engineering Co., Valley City, N. D.
 Stevenson & Miller, Fargo, N. D.
 Ingram & Smith, Grand Forks, N. D.
 T. R. Atkinson, Bismarck, N. D.

Bert La Due, Carson, N. D.

"B." What projects did the engineers do the engineering on? t

"C." How many engineers were on the pay roll during the time, and what work did they perform?

"D." How many engineers are and have been on the pay roll, capable of drawing plans and specifications of road projects, and their salary?

"E." How many engineers are and have been on the pay roll capable of supervising road construction and their salaries? What projects did they supervise?

"F." How many young lads living in Bismarck and attending school were employed during their vacation—giving name, address, amount of compensation paid, time employed, duties performed and total amount paid to each?

Atkinson of Bismarck drew plans for the project from Bismarck to the bridge in 1918 or 1919. They were rejected by Bliss, he drew a part of his bill, but Bliss refused to pay any more on the bill because Atkinson would not file his field notes until he was paid in full. The project fell through.

"G." See if Atkinson was paid for the balance on the project. He should not have been paid. It was an expensive survey and it was rejected by Bliss. If he was paid by Black, it was a steal.

"H." Investigate fully Project No. 59 in Richland County. Get all bids on work and settlement with Treadwell Twichell. (Clipping from Bismarck Tribune, Bismarck, N. D., attached to Exhibit No. I.)

BISMARCK CITY ENGINEERS DRAWS \$8,574.00 FROM STATE HIGHWAY COMMISSION IN ELEVEN MONTHS

Editor's Note:—This is the first of a series of articles discussing city finances as they touch upon budget making.

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In urging that Bismarck employ a full time city engineer upon a stated salary who will have supervision of the street and water works departments, taxpayers investigating expenditures point out that under the present plan, the city is paying an excessive price for the services rendered by T. R. Atkinson, the present incumbent.

Mr. Atkinson is conducting at the city hall his engineering business which covers the entire state. A portion of the time of his four or five assistants engaged in general engineering is devoted to Bismarck city business, but the taxpayers furnish him an office, heat, light and telephone free and \$720 a year for office expenses in addition. The city also pays for the power to operate his blue print machine. The office is used by Mr. Atkinson not exclusively for the city's business but for work throughout the state, the county and in other places demanding his services.

This system is wrong from the taxpayer's standpoint. Investigation made by the taxpayers yesterday at the state capitol shows that from August 7, 1923, to September 2, 1924, Mr. Atkinson drew \$8,574.41 from the state highway commission for services covering that period.

Dates, amounts and voucher numbers follow:

Warrant No.	Date	Amount
343999	August 7, 1923	\$ 476.40
344000	August 7, 1923	315.60
346373	September 1, 1923	75.65
346374	September 1, 1923	888.45
348473	September 19, 1923	796.80
348474	September 19, 1923	256.12
349524	October 1, 1923	1,033.20
349525	October 1, 1923	227.95
351621	October 19, 1923	218.10
355222	November 19, 1923	377.90
356555	December 1, 1923	1,321.20
360439	December 24, 1923	239.20
361449	January 16, 1924	61.40
368719	March 24, 1924	17.50
375682	May 15, 1924	170.00
375691	May 15, 1924	103.95
378028	June 2, 1924	501.54
379839	July 7, 1924	368.00
380024	July 7, 1924	204.20
381844	July 22, 1924	156.40
381876	July 22, 1924	268.00
386422	September 2, 1924	202.85
386426	September 2, 1924	294.00
		\$8,574.41

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Subsequent articles will discuss the payments made Mr. Atkinson from Burleigh county and the city of Bismarck.

These articles are published to show that the taxpayers of Bismarck in reality are assisting in the promotion of Mr. Atkinson's engineering business through affording him free office rent and office expenses wholly out of proportion to the amount of strictly engineering business necessary in a city the size of Bismarck. It is hoped that these articles will convince the city commission and the citizens of Bismarck that an engineer under the complete control of the city commission would be a most wise and economical arrangement.

(CLIPPING ATTACHED TO EXHIBIT I)

BID ACCEPTED FOR BUILDING NEW PAVEMENT

County Commissioners would pave stretch from end Main Street to Prison

PRELIMINARY STEPS

Letting of contract depends upon ultimate success in raising of funds

Burleigh County commissioners this morning passed a res-

olution taking preliminary steps to pave a section of the Red Trail from the east end of Main Street to a point just beyond the state penitentiary. The resolution asked for the letting of a contract to the Haggart Construction Company of Fargo for bitulithic pavement.

Under the proposed pavement plan, federal aid for half the cost would be obtained, the county's share of state aid used and efforts made to have the state furnish more money because of the penitentiary, and have the Northern Pacific and Soo lines contribute.

Commissioner Bachman voted "no" on the resolution, saying that he would not favor it, if the county had to bear a heavy share. He was told that the resolution was preliminary and that the contract would have to be signed later if he plan went through, and he then changed his vote to "aye".

Commissioner Bachman, during the discussion, also asked County Auditor Johnson why he had not demanded money. Bachman said he understood for coming from the state for money, put on the concrete road to the bridge. The auditor replied he understood that it was necessary for the county to put in more money and then it would get the money for use on a new project.

The proposed contract for the pavement of 2.384 miles east from Main street would be \$123,365.10 for a four-inch

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asphaltic concrete base and two-inch top of Warrenite bitulithic. Bids ranged from \$115,400.80 for one type of concrete to \$150,536.81. The bidders were Haggart Construction Company, General Construction Company of Minneapolis ;S. Birch & Sons, St. Paul; Northern Construction Company, Grand Forks.

The low bid is considerably higher than the cost of paving on the stretch of concrete on the road from the bridge to Mandan. That stretch of 2.395 miles cost \$82,619.88, under contract with the Northern Construction Company, or \$40,745.22 less than the contract for paving about the same distance on this side of the river.

The resolution of the board of commissioners follows:

Moved by Commissioner Moynier, seconded by Commissioner Soder.

"Whereas, on the 22nd day of December, 1924, bids were submitted to the Board of County Commissioners of the County of Burleigh for the construction of the Federal Aid Road from Ninth Street in the city of Bismarck for 2.384 miles east on the Red Trail, being known as Federal Project No. 244, in accordance with proposals of the State Highway Commission:

"And, whereas, the Haggart Construction Company of Fargo, North Dakota, has submitted bids, and are the lowest responsible bidders in all kinds of construction submitted:

"And Whereas, Warrenite Bitulithic pavement on a four-

inch asphaltic concrete base is deemed by this Board the most desirable pavement to be used for the construction of said road:

"Therefore, Be It Resolved by the Board of County Commissioners of Burleigh County, in the State of North Dakota, that said board, and said Board does hereby recommend to the Chief Engineer and Secretary of the State Highway Commission that the award of contract for the work of Federal Aid Project No. 244 be given to The Haggart Construction Company of Fargo, North Dakota, on the following class of work, namely, road grading and paving, and that the type of pavement recommended be the Warrenite Bitulithic wearing surface on a four-inch asphaltic base, on the following conditions:

That all parties benefitted by said work shall certify to the State Highway Commission that they and each of them will pay their proportional part of the cost of the construction of said road."

Roll call Moynier, aye, Soder, aye, Bachman, aye, Swanson, aye.

(CLIPPING ATTACHED TO EXHIBIT I)

COST OF PAVEMENT

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The fact that the proposed paving of the National Parks Highway from Main street to a point beyond the penitentiary grounds is to cost some \$40,000 more than a strip of paving an equal distance between Mandan and the bridge just laid by Morton county should call for some explanation.

While a hard surface road eliminating grade crossings to the east of the city is a welcomed improvement, why such an additional cost?

The proposed paving of the highway known popularly as the "pen road" covers a mileage practically that of the Mandan pike from the west end of the bridge to the streets of Mandan.

What appears a most excellent job was done at \$40,000 less than it is proposed to spend east of this city. Whether the state highway commission, the bureau of public roads or the railroads will participate in a project that means such an increased cost remains to be seen.

It would seem that the same specifications as were followed in Morton county could be applied to the proposed Burleigh county project and a satisfactory highway result.

If there is some pressing need of paying \$40,000 more for pavement on this side of the river than on the other, the members of the highway commission should give the reason. The county commissioners would be hardly justified in spending more money than Morton county did on a like distance of hard surface road.

The vote on the new court house indicated that the tax-

payers of Burleigh county don't want to pay for frills and promotion."

Mr. Graham: Q. Exhibit 2 is also part of the papers to which you have reference? A. Yes.

Mr. Graham: I offer in evidence Exhibit 2.

(EXHIBIT II)

(CLIPPING) LEST WE FORGET

Just to keep the record straight, is the chief motive of writing this editorial, not with any hope that the city commission will clean house in its engineering department and cut off the indefensible waste of public funds.

But another milestone in the controversy over the construction of the new water works system has been reached and as usual the taxpayer is paying the freight.

Two winters and a summer have gone by, much water has flowed under the two great bridges, since ground was first broken for the new municipal water plant. Ground was
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broken before an intake or source of water for the new plant was fixed for service.

Mistake Number One.

Then ground was broken and the filtration plant built over on the Bismarck Water Supply company's ground before title was secured to the same.

Mistake Number Two.

Fortunately this did not prove as damaging as it might as the difficulty was squeezed out of by reaching final terms as to purchase of the old plant.

The Tribune supported the regular and extra waterworks bond election on the assurance that all of the old equipment of the Bismarck Water Supply Co., that could be used would be utilized. This was not done.

Mistake Number Three.

A second bond election to correct mistakes of the first bond election was held which cost the taxpayer something.

Mistake Number Four.

But the taxpayers including the Tribune quietly and charitably overlooked mistake number four and supported the second election. Everyone was anxious to get the water issue out of politics and get it settled as efficiently and cheaply as possible.

When the bond issue won overwhelmingly and the taxpayers gave vent to a sigh of relief the orgy of spending started.

Mistake Number Five.

Promises and assurances were thrown to the winds. Everything had to be new. Miles of piping were ordered and T. R. Atkinson proceeded to direct the work with a lavish hand on a three and five per cent basis—mostly five per cent.

The city commission took a back seat, and let Mr. Atkinson have his own sweet way. It is true they ordered him to cut out several blocks of unnecessary water mains after several protests. Before their orders were put into effect, however, more mains had been installed than were necessary.

Mistake Number Six.

Mr. Atkinson aided by his assistant, Mr. Wolff whose son had the contract for installing the distribution system began to build a plant for a city of 50,000. Some feeble protests were made, but "Tim" was in the saddle and five per cent commission was added to each and every contract.

Mistake Number Seven.

The information before the bond elections and what took place after the elections explain why all the story was not told when the voters approved the plan. No mention was made that T. R. Atkinson was to be paid a gratuity of three per cent on the purchase price of the old plant, even on the portions that WERE TO BE JUNKED. Oh, no! That was

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kept as dark and as quiet as could be. The gratuity netted him more than \$7,000.

It was even hinted that probably the plant could be put in without spending all of the bonds authorized. The people were to have a most economically constructed plant before the bond issue was voted. What the people of Bismarck were promised and what they got are two different things.

First of all the old intake was abandoned. Pumps that were supposed to be worn were to be discarded. These same pumps and the old intake are still doing duty efficiently but the Atkinson intake wholly unnecessary a short distance down the river cannot be used. Thousands of dollars have been dumped into this intake and now the courts probably will have to decide who has been in error for the last year or so.

T. R. Atkinson or The Woodrich Construction Company?

But of course while these two parties quarrel and bicker the tax payer not Atkinson foots the bill.

Mistake Number Eight.

As the building of the plant went on, contracts were altered. Then the cost plus arrangements went into effect. A statement of how much more the plant has cost over the contract price might be interesting. But so little information creeps out on the water plant that most of the facts have to be gained by hard digging. It is probably the case that the city commission has spent more than the bond election authorized. Of course the deficit if there is any will have to be made out of the revenue of the plant.

Mistake Number Nine.

Then as to another mistake. Instead of fixing the city engineer's fee on a straight salary basis, the city commission allowed a commission contract. This was letting down the bars to the orgy of spending that followed.

Mistake Number Ten.

Will the city commission pass the expense of all these mistakes on to the taxpayer? Why not assess a few of them against the city engineer?

The facts are now before the people of Bismarck. The courts probably will have the matter and more of the sordid tale will be written later.

Unless the City Commission is so impressed with the efficiency of their engineering department that the taxpayer's pocketbook becomes merely a secondary consideration there should follow a housecleaning at the City Hall in the interests of economy and retrenchment."

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TESTIMONY TAKEN AT THE HEARING BEFORE SPECIAL HOUSE COMMITTEE FEBRUARY 10TH, 1925:

The following communication was received by the Committee:

February 9, 1925.

Mr. Roy Yeater, Chairman,
and

Members of the House Investigating Committee Investigating
the State Highway Commission:

Gentlemen:

The undersigned State Highway Commission and the State Engineer hereby respectfully request that the members of this Commission or the State Engineer, or both, be permitted to appear before your Committee and be present during the taking of all the testimony and evidence received by your committee in the course of its investigation.

This request is based upon the proposition that the committee has retained counsel to appear for it and examine witnesses during said investigation, and we who are being investigated request that the same privilege be granted to us, so that we may be present and be confronted by the witnesses and so that we can ask such questions as may be necessary to explain testimony given by the different witnesses.

And in connection with this request, we further respectfully ask that we be allowed to be represented by counsel before your committee and during the taking of all testimony by the committee.

Respectfully submitted,

STATE HIGHWAY COMMISSION

(Signed)	W. G. BLACK Chief Engineer and Secretary.
(Signed)	ORMANZO A. BROWN Commissioner
(Signed)	JOSEPH A. KITCHEN Commissioner.

Mr. Isaac P. Baker, having been called as a witness, after having been duly sworn, testified as follows:

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EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence? A. Isaac P. Baker, a little over 69 years, nearest birthday, 70, residence, Bismarck since 1880.

Q. In what business are you engaged, Mr. Baker? A. My principal business has been transportation on the Missouri River and I have been affiliated with other industries, including banking, several commercial interests.

Q. You are the owner of real estate in this county also? A. Yes, I have some real estate in Burleigh County and I am interested in some companies which own considerable real estate here.

Q. Is there any information you can give us in regard to the work of the State Highway Commission since it has been associated with the federal aid? A. Well, my first relationship with the Highway Commission of the State of North Dakota pertaining to roads grew out of the original authorization for the bridge across the Missouri River at Bismarck and to give the history of this matter, I would say that originally some Red River Valley people desired state aid to build a bridge at the boundary across the Red River of the North. Our Senator here who had been urged to watch bridge legislation took their bill which allowed one-third of the cost of construction to be paid by the State, intent being that Min-

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nesota should put up one-third, the county there, and the county on the North Dakota side put up one-third. That Act provided the State of North Dakota would aid to the extent of one-third. Well, the bill was purely a local one so I urged Senator King and those people—no mention was made of the Missouri River—to simply put in a slight amendment and say "Bridges across navigable streams within the State of North Dakota," and neither the House nor Senate had any objection to that and put the bill through. I then asked Burleigh County to notify under the bridge act, the Highway Commission that it would avail itself of that act and asked Morton County to do the same, which they did. Practically from that time on, Burleigh County asked me to represent their interests in regard to this bridge. We, knowing that the federal government would pay 50% of the cost of construction of bridges across the navigable streams, that would leave only the State Highway bridge people themselves to pay their part as the government aid paid one-half. In other words, when the government paid 50%, it only left the other 50% to be paid for of which the State paid one-third and then the counties would have to pay one-sixth each. Well, that bridge act that we had to have passed by the federal government, authorized Burleigh and Morton County to build a bridge across the Missouri River of certain specifications. My correspondence shows that the government had insisted on all bridges above Leavenworth,

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Kansas, being a 50-foot level above the high water mark

elevation the same as the Bismarck bridge of the Northern Pacific railway. Well, when this river commission had determined for the War Department that no bridges should be of less elevation than that of the Northern Pacific railroad bridge at Bismarck, that would entail about 20% additional cost of construction of the bridge that would otherwise suit all navigation purposes and would reduce the great cost of all commerce across the American continent if we could force them to recognize changed conditions of river navigation, the character of the boats, so we went to St. Louis, or to Kansas City; I went down to represent Burleigh County, had a hearing there and the engineering department insisted upon maintaining their ruling, their law, and the fact that all bridges about level with Kansas should still retain that 50 foot elevation above high water. Well, we went to Washington. I went down there and with the aid of our Senators and Representatives, finally got the War Department and Chief Engineer to reduce the elevation as we had urged, and they put through an Act in Congress then that all bridges above Leavenworth, Kansas, might be to reduced elevation to save the commerce of the country from going up. In the year Congress passed the Act authorizing Burleigh and Morton County to build a bridge according to the plans and specifications as submitted with this reduced elevation,

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the plans were submitted and approved and accepted by the War Department, accepted by the Highway Commission of the State of North Dakota, accepted by the Bureau of Public Roads. According to those plans furnished them, the State of North Dakota appropriated \$225,000 as its aid, as I remember, to the bridge to pay the cost of substructure, superstructure and the approaches to that bridge. Those plans provided, I think, a 5 per cent grade from the level of the bridge floor to the ground which would have brought it out about 300 feet from the top elevation down. Now that in reality was the only authority that the State of North Dakota ever granted anybody to build a bridge across the Missouri River. After that was done, there had been a change of administration, a change of Highway Commissioners and the present commissioners then started out on a plan to build about 19,000 feet so-called part of the bridge, about 19,000 feet, to the streets of Mandan. The elevation at that point where they struck the streets of Mandan was, according to the United States government, the Missouri River survey map which I have shows about 15 feet lower there than it was where they started at the bridge to go there, so that under no stretch of imagination could you call it, in reality, a part of the bridge.

Mr. Vogel. They called it a part of the approach to the bridge, was that your understanding? A. No, they made

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three projects, one was this bridge, as—

Mr. Vogel. Q. That is the superstructure? A. Substructure and superstructure and everything in relation to it, that is one known as 100, I think. Then they called another project from the end of that to Mandan another project, and from the end of that to the streets of Bismarck another proj-

ect. Well, now I have a letter from the Chief of the Bureau of Public Roads at Washington that I believe will give you better information as to that whole matter than anything, and it is the view of MacDonald, Chief of the Bureau of Public Roads at Washington—

Mr. Vogel. Did the government pay its half of that road from the end of the bridge to Mandan? A. My understanding is the government did pay for one-half and that the railroad company paid for fifty per cent of the cost of construction of the viaduct, the same as they did on this side of the river. In other words, where the viaduct was, the government paid 50% and the railroads 50% and it cost the bridge people nothing. The same on the other side, the railroads being willing to build on a fifty-fifty basis.

EXAMINATION BY MR. GRAHAM:

Q. Then perhaps you would like to have this letter introduced as a part of the record? A. I think for the benefit of you gentlemen, it should show the history of that transaction.

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That is what you want to know. What brought me into direct conflict with the Highway Commission was first their attempting to make that the bridge, and in this I have right straight through been authorized by Burleigh County to represent them. What I objected to then and have objected to ever since was as stated in this opinion. The Attorney General of the State of North Dakota told those people they didn't have any right under this bridge act to do any such thing. Now they knew that the government wouldn't suffer because the government says, I will give you fifty-fifty if you want it so it didn't make any difference whether we got a road right straight to the bluff or 19,000 feet the other way, the government stood ready to pay fifty-fifty. My conflict comes, when I looked to the southeast—I am looking now on the west side of the Missouri—I objected to that the people should be compelled to go a mile west of the town of Mandan to get onto this bridge to come back across the river. Now, it isn't a question of today or tomorrow, but it is a question of forever. They knew they had no right to do it. Now I brought here the flood pictures showing that on the 30th of March, 1923, that whole road there was under water, not from the Missouri River but from the dams of the Heart River west of Mandan, so that unless you build the other straight to the bluff, you are subject any year to have an overflow that deprives you of the use of

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that road at all. There are the pictures and you can see them; the skiff used in the streets of Mandan to get to the hotel and that all came from the Heart River and not from the Missouri at all. Now, so as to make it clear that the government knew and those people knew that this was not part of the bridge but they were attempting to pay for it out of the bridge money, we found the Missouri River was likely to cut way around this bridge and the railroad bridge and leave this bridge with the Missouri River on that side, so I went down to Washington representing still Burleigh County, went to Mr. MacDonald, Chief of the Bureau, and asked Mr. MacDonald to pay his share of the cost of construction of

the revetment up there to save his bridge. He said he wouldn't do it. At first, he said if that river runs through and cuts that out, if this bridge is complete, this bridge being complete, the government will ask the State of North Dakota to maintain its own bridges and roads, we don't do that after the project is complete; the State must maintain at its own expense all those roads. "Well," I said, "did you make such a law?" He said, "Yes," and he brought it out. I said, "All right, you have convicted yourself by your own statement because you hold that from the bridge clear to Mandan is a part of the bridge and this work isn't complete, so until it is complete, you must contribute. Well, he said yes; yes under that he would, so he went down to the

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Chief of Engineers of the Army, General Beach, he went with me. I urged General Beach to pay one-third of the cost of the revetment to protect those bridges. I said, "Mr. MacDonald, the Chief of the Bureau, will pay for the Bureau of Public Roads one-third, and the Northern Pacific Railroad Company, in order to save their bridge, will pay one-third, and I ask you to do this in the interests of the navigation on the Missouri River because we have terminals there, boats at Bismarck, we have good revetted shores there, we got wire houses and all and railroad tracks, and if the river cuts the other way, you will have nothing but shores to revet, no railroad, terminals, no bridges, instead nothing. General Beach said that if they had any money they would do it. I said I will find the money because you spent our money on the lower side of the Missouri that was appropriated for the upkeep. They looked it up and found that that was correct so they revetted the shore last year at their own expense. Now this year, these people that contracted paving was against the opinions of the Attorney General, against the opinion of the Auditing Board, against the opinion of every authority they had and went ahead and let a contract and called it a bridge and asked the State of North Dakota now to pay under Senator Atkins' bill, \$30,000 out of the bridge fund for that. Now, my personal interest in this is as representing Burleigh County. The people of Burleigh County

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went out in conjunction with some other parties and built a little bridge in a little road almost straight across, as near as they could, to the bluff.

Mr. Vogel: You mean on the west side of the river? A. In Morton County. Of course, Morton County dominating the Highway Commission refused absolutely to give these people any possible opportunity of getting across the river without going around straight back through the town of Mandan and back this way. Now the road across, as my maps and elevations show, would be higher than that. It wouldn't be subject to the congestion or spring break-up at the Heart River nor its floods, and even though Mandan, which is low-down, might be flooded some time, these people to the south and southwest would have an opportunity of getting across the river without regard to the flood above. I took Mr. Hathaway, district engineer, in charge of these highways here—

Mr. Vogel: Federal engineer? A. Yes, from Minneapolis. He wrote and he said if your Highway Commission will submit this, I will say we will build the road, but they never would submit. I went with the Association of Commerce people here in a committee before the Highway Commission and they wouldn't give us any consideration. The Governor was not there but he had stated at one meeting we attended

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that he doubted their authority to build any road over there under the bridge act. Now, what I think so far as the Highway Commission is concerned, they have demonstrated their unfairness and their entire lack of regard for anything except the interests of the town of Mandan and I think they have been guilty of bad faith in a measure with the government in that they have taken the government's money and the railroad company's money and have spent it according to their own bills that have been introduced in this body asking you now to pay for something that they have already done and if that is correct and I think you will find it is true according to their own measures, if that is so, then I would say where do you come in to covering and fathering their accounts all over the state. I don't know what they are. This transaction stands on its own legs.

Mr. Vogel: You have just this one project in mind as your only complaint against the Highway Commission? A. Yes, there is only one other that I think is wrong. I think that in connection with Burleigh County, they are approving a bitulithic road from the streets of Bismarck east. That means the railroad freights all bitulithic stuff from way off somewhere else when we have sand and gravel and labor and all the material here at home.

Mr. Vogel: Where are they going to build this bitulithic road, from where? A. From streets of Bismarck clear out east to the Penitentiary.

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Q. Do you own land on this road? A. I have land on both sides of it but I am not assessed for it or anything of that sort and would be very glad to see a nice road built in front of my land, but—

Mr. Vogel: They have approved of those plans, have they? A. That is my understanding; that is the situation. I may be wrong in it but my participation in this whole road, this bridge here, has been from the start as a representative of Burleigh County and the records show while Burleigh County has approved letting a contract for that bitulithic, I never have been in favor of such stuff and they are not representing me on that.

EXAMINATION BY MR. GRAHAM:

Q. Mr. Baker, did you have any connection yourself in a way of furnishing any material for the building of the bridge or not? A. Well, indirectly I did. Through one of these corporations that I was interested in that was hauling cement along the Missouri River, hauling and putting cement along the river, I found that all of the material was being shipped on the Northern Pacific road. I was operating boats from

Washburn with the Soo road. I thought as the Soo road had its division headquarters here in the State, it was entitled as a taxpayer to a reasonable share of the freights to be transported for them, so that when I found that the cement

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was coming almost exclusively, in fact exclusively, on the Northern Pacific, I asked the Duluth people to quote us cement at Duluth for use on the Missouri River. I wanted, my recollection is, ten or twelve thousand barrels. They quoted me a price which was a less price than had been quoted to the State of North Dakota for the construction of its piers so that when I got that quotation from them, I submitted it to the Highway Commission who, under its contract with the builders, had the right to furnish any material it saw fit at any time. In the construction of that bridge, the State availed itself of that right and accepted my lower bid and told the contractors we will furnish our own cement which was a less price than was being furnished. I found that they were paying, I think it was, five cents a sack commission to the agents that were in the cement trust to the agents or dealers at five cents, so they sent me, our company that I was interested in, this five cents which amounted to, according to my recollection, \$1,200, \$1,300 or \$1,400. I think that as my son was a commissioner and as I was representing Burleigh County and as I had gone to the limit and charged nothing for my services for trips or anything, that I made for them, it didn't seem quite proper to stick it down in my pocket so I endorsed it to the State of North Dakota and sent it up to them, this money. Along come the handling of the steel, great quantities of steel

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freighted. We insisted that one of two things be done, either that we be permitted to furnish that steel, or that they divide that freight with the Soo road fifty-fifty which meant many thousand tons of freight. Well, the steel trust of course, controlling steel but still wanting to build a bridge and still not wanting to get into any fuss, they made their own arrangements, as I understand it, with the Soo and gave the Soo a double quantity of the steel to pull from Gary, or wherever they shipped it from in Indiana, and let the Northern Pacific pull it from here as they had better switch tracks down to the river. Personally, that is my recollection with the bridge, except to fight them to a fare-thee-well to make that—

Q. Mr. Baker, is there any portion of this concrete road between the City of Bismarck and the bridge that runs over your land? A. Yes, all of it from there. Yes, and when they come to buying that road, those people tried some to run it straight through the streets of Bismarck east there and we made a present of it clear from the bridge to the streets of Bismarck.

Q. You received absolutely nothing for the land over which the road runs? A. The only land I was paid for in this connection, as I remember it, at all was on the west-side of the river as you get down off the bridge there was about

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8 acres that those people said they would have to take the

ground itself up, leave a hole and use that for the construction of their approach, Morton County's part of it. They asked me for a price, I said, "You give me whatever you are paying anybody else for that," I said, "I don't care anything about it, whatever you are paying, you can give me," but they used my land in the construction of all the road, cutting big holes in it—

Q. They didn't pay for 8 acres? A. Yes, they paid, as my recollection is, they paid \$100 an acre but that was their price fixed by them, I told them when they asked for it to fix their price.

Q. Mr. Baker, this Exhibit 3 purports to be a copy of a letter from Thomas MacDonald, Chief of the Bureau of the United States Department of Agriculture to Hon. James H. Sinclair. Do you know whether or not it is a copy? A. Well, of course, all I know is that they sent it to me; Sinclair sent the letter to me; of course, I didn't get the original letter but it could be verified very easily.

Mr. Graham offers in evidence Exhibit 3 as part of the record:

(EXHIBIT III)

UNITED STATES DEPARTMENT OF AGRICULTURE

Bureau of Public Roads
Washington, D. C.

Refer to File No. J-1

March 22, 1922.

(34)

Hon. James H. Sinclair,
House of Representatives,

Dear Mr. Sinclair:

Our District Engineer in St. Paul has just made a report regarding the Bismarck-Mandan bridge, which is Federal Aid Project No. 100, and I think you will be interested in knowing some of the details. This project involves Morton County which is included in your district and I think likely that the matter will be brought to your attention in one of its varying phases and I want you to have the facts before you so that you will be better able to understand any communications which you may receive. The Bismarck-Mandan project is a bridge across the Missouri River and obviously is a very large and important project as any such major crossing of a large river is bound to be. When the project was first presented to us, the preliminary estimate of the State was \$750,000 and the State requested aid in the amount of \$375,000. Our own engineers at that time estimated the probable cost at \$1,400,000, basing our figures on independent computations. We recognized the importance of the project, however, and approved it. When contracts were finally let for the bridge and it was put under construction, it was found that the total estimate had in fact risen to \$1,323,996.43 for which the State requested and the Government allotted \$661,998.21 Federal Aid. So you see the Government's interest in this one project is considerable.

The figures which I have given you refer to the bridge as a separate structure and do not include approaches either to the town of Bismarck on the east nor to Mandan on the west and it was understood, of course, by all concerned that adequate approaches would be required in order to develop the full usefulness of the bridge, and such approaches were indicated in the original lay-out of the project but apparently because of the cost were temporarily omitted. As a matter of fact the State has submitted a project known as North Dakota 136 which will connect the city of Bismarck with the east end of the bridge. On the Mandan side, as possibly you know, there is a wide alluvial flat outside of the river levee which is close to the city of Mandan. This flat is nearly two miles across and is flooded periodically when the river rises. We are ready to approve the east approach, project No. 136, and we are insisting that an adequate westerly approach be provided for and have presented this matter to the State with definite technical suggestions for a satisfactory solution.

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A representative of this office attended a meeting of the State Highway Commission in January at which a resolution was passed to the effect that the State Highway Department would at once take steps to provide for the necessary western approach and we have had a representative of our District Office at Bismarck frequently since that time. It now appears that conflicting local interests, which are certainly financial and may be political, are unable to get together and up to this time, the Highway Department has taken no definite action toward providing for the approach on the Mandan side.

Financially the counties of Burleigh and Morton and the State are all represented in the project, for the State has to secure some county funds in order to match Federal Aid. Obviously we are not concerned in this project as to the source from which the State secures its funds as our cooperation under the law can only be with the State Highway Department and one of the serious difficulties at this time appears to be the inability of the two counties to adjust their financial responsibility for the completion of the crossing. Besides this question of local finances, which undoubtedly involves local differences of opinion, it appears now that several conflicting interests have developed both within and without the Highway Commission with the result that concentrated action by the Commission has so far been impossible.

We have had very conflicting reports regarding available State funds. The attorney for Morton County assures us that the State has funds from which it can legally appropriate the necessary amount for the completion of the project but on the other hand the Attorney General of the State, as reported by our District Engineer, is finding great difficulty in outlining a plan of procedure in financial matters because there appeared to have been some irregular financial methods adopted in connection with this project by his predecessors. In this expression reference is probably made to the original adjustment of funds among the three local units, State, County of Burleigh and County of Morton.

A group of citizens of Mandan appear to expect that a high concrete viaduct similar to a part of the bridge structure itself will be built entirely across the flood plain to Mandan but we have advised emphatically against this because of the damage likely to result to the structure when the ice gorges go out that may form above the bridge. Representatives of Bismarck insist that the end of the bridge be connected by a short rather steep earth fill with the pres-

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ent natural surface of the flood plain and that no further improvement be required. Between these extremes is a design which we believe economical and satisfactory and the State has been informed in detail as to our proposal.

We feel that we have a very large responsibility in getting this project properly completed. It appears from the estimates referred to in the first part of this letter that the State and the Counties did not realize the extent to which they were committing themselves in undertaking an expensive river crossing of this kind although we did our best to enlighten them but this unfortunately does not alter the fact that the Government's interest is considerably over \$600,000 and that an incomplete crossing would be a discredit to both the State and the Government and would impugn the judgment of both in devoting such large sums of public money to a thoroughly worthy project and then leaving the usefulness of the structure seriously impaired and the convenience of the traveling public clearly disregarded by a refusal to complete the project in a creditable manner.

I feel that the stand we have taken in this matter is thoroughly sound. Progress payments which are discretionary with the Secretary of Agriculture have been discontinued pending such time as the State submits its proposals to us for the west approach and we have outlined in detail the best method of handling the project so that the state can secure a considerable addition of Federal Aid; and we have suggested a design which we believe to be more economic than suggestions locally made. So I do not feel that any representations which may be made to you or your colleagues from the State can be sufficiently weighty to offset the burden of responsibility which rests upon this Bureau in seeing that the crossing is satisfactorily completed, and should any of the varying phases of this matter be brought to your attention, I know that with the facts before you will understand whatever of inconvenience our present course may give the State is essentially the result of unadjusted local differences of an apparently serious nature.

Very truly yours,

(Signed) THOS. M. MacDONALD,
Chief of Bureau."

EXAMINATION BY MR. GRAHAM:

Q. Now, are there any charges of any kind that you desire to lay against the State Highway Commission other than

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what you have said or that you have personal knowledge of?

A. My knowledge in other matters is simply hearsay and I wouldn't assume responsibility for.

Q. Have you any communication from anyone that you desire to leave with us in regard to the State Highway Commission? A. I had a communication from a party, Mr. McDonald, but he tells me he has been subpoenaed so he probably will tell.

Q. That is the only one? A. I had one from Mr. Hard who used to be an employe of the State. He is down in Illinois somewhere and he noticing the attack that was made by the Fargo Forum with its headlines on me, he gave me credit for—

Mr. Vogel: You said, Mr. Hard, former drainage man? A. Yes, Herbert A. Hard. While it was a personal letter and a rather congratulatory communication I would think it would be better to simply ask him himself if he had any communication.

Mr. Graham: You wouldn't care to introduce the letter without consent from him? A. I don't believe it would be good taste to do that.

Mr. Halcrow: In connection with the road out there, Mr. Baker, that is, through Mandan, isn't it the policy of the State Highway Commission to run roads of all projects directly if possible from town to town? A: I don't think so.
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Mr. Halcrow: I think it is their policy to run from the county seat to county seat wherever they can, and it would seem to me from what you said that if they followed the outline you gave us, they would cut this connecting line between Mandan and Bismarck out and turn probably east of Mandan rather than into Mandan? A. That is a mistake. This road to where it strikes the bluff to get into Mandan is shorter with a higher road than it does now and goes into Mandan with a shorter way than this, but this putting it due west would give those people a chance to get in across the river without being compelled to go way west of Mandan to get back across the river.

Mr. Vogel: The road you have outlined would have gone into Mandan and would have gone in from the south? A. Yes, just where St. Anthony road goes in now, the present road into Mandan. Mandan's shortest and best and only practicable road which it has from the south goes this way, but Mandan recommending to the Highway Commission and Bureau of Public Roads proposed to go due south from Mandan to Selfridge on the Milwaukee railroad and bars out that country to the southeast. My maps will show you that.

Mr. Vogel: Under the plan of the Highway Commission, that would shut out the other road and shut out the people from the south into Mandan on the road which is now there? A. Yes.

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(Maps produced—examined by committee.)

Mr. R. B. McDonald, having been called as a witness, after having been duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence? A. R. B. McDonald, 31, Solen.

Q. Now, you are one of the county commissioners of Sioux County? A. Yes.

Q. And how long have you been county commissioner? A. Since January 1, 1925.

Q. What is your business? A. Banking.

Q. And are you acquainted with Mr. Black who is engineer? A. Yes.

Q. And with Mr. Brown, the Commissioner? A. Slightly.

Q. Now where Mr. Black and Mr. Brown down to see you people in that vicinity some time last summer in regard to putting through a federal aid project from Mandan south? A. Yes.

Q. When was that? A. Why, I think it was some time during June.

Q. And did you have any conversation with him in regard to the highway proposed? A. Yes.

Q. Where was that conversation? A. Well, I accompanied the Highway Commission from Solen on to Fort Yates and Selfridge and the talk we had was mostly along the way.

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Q. What members of the Commission were along? A. Brown and Black and two of the government representatives.

Q. Two of the government engineers? A. Yes.

Q. Will you state the conversation as nearly as you can what Mr. Black said, and what you said or Mr. Brown said? A. The intention of the Highway Commission was to lay out a project direct route from Mandan to Selfridge connecting on to the Yellowstone trail. By getting to a point on the south line of Township 134, Range 81, they run into a territory which they apparently couldn't get any 7 per cent grades through. It was necessary to deviate one way or the other. At the Commissioners' meeting held in June, it was proposed that the deviation would be made about two miles west of Solen. We figured in order to save another bridge and place a road where our local people could take an advantage of it, wanted the road routed through Solen. Our commissioner refused to sign up the authorization unless it would be so routed. Our conversation with Mr. Black led us to believe that the road would be routed through Solen.

Q. What did he say? A. Well, the impression was that the State Highway Commission had the government—that the government engineers usually listened a good deal to the State Highway Commission.

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Q. Did Black say that? A. It was intimated during the course of the conversation—

Q. Just a minute. You are giving us now your conclusion of what you understood from what you said. We would like to have you give us what Mr. Black said. A. I am not certain as to whether Mr. Black said that, but I am quite sure that Mr. Brown stated that when the State Highway Commission wants a road and fight for it, they usually get it there.

Q. Mr. Black heard that conversation? A. I think so. I am not positive about that.

Q. Then was there a survey afterwards made across Sioux County. A. Yes.

Q. Now was that survey made in accordance with the understanding which you people had that the road should go in through Solen? A. No.

Q. Where did the survey go? A. About 7 miles west of Solen.

Q. Now was there more than one survey made across Sioux County? A. Two surveys.

Q. Now did you have any conversation with Mr. Black since that time in regard to these surveys? A. Yes, I have.

Q. Where? A. At his office.

Q. When? A. It was in January, last month.

Q. Was anyone present besides you and Mr. Black? A. No.

Q. Go ahead and state what the conversation was as near
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as you can give it, what he said and what you said. A. Well, I explained to Mr. Black at the time that I felt that we didn't get a square deal over in Sioux County. The impression was that we were to get one of the roads.

Mr. Vogel: Are those roads built already now? A. No, there has nothing been done.

Mr. Halcrow: Was a survey ever made on the road you understood was to be built through Solen? A. No, the road through Solen was not surveyed. No attempt was made to pick out a road through Solen.

Mr. Vogel: Are any towns hit from Mandan to Selfridge? A. Only one small station called Bremen.

Mr. Vogel: By either one of the two surveys? A. One.

Mr. Vogel: The other hits no town from Mandan to Selfridge? A. Bremen is on the route from Mandan to Selfridge.

Mr. Vogel: On one or both? A. On one.

Mr. Vogel: The other hits no town? A. The other route is intended from Fort Yates along the river to Mandan.

Mr. Vogel: Two separate rivers and two separate highways to be built? A. Yes.

EXAMINATION BY MR. GRAHAM:

Q. Go ahead with your conversation with Mr. Black at the office. A. Well, Black intimated that it was no fault of
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his that the government engineers did not authorize the project through Solen and insisted on a direct routing. If that was true, it was all right, but we felt that personally we should have been given a chance to appear at least.

Q. Did Mr. Black say anything to that? A. No, it just happened that he was called out and he did, however, state that he would be only too glad to come down in the spring and go over the proposition again and see if there was not a way by which this route could be changed.

Q. Well, do you people feel that you have been given a fair treatment in this matter by Mr. Black, or that you haven't? A. Well, if Mr. Black is personally to blame for it—whether he is responsible for it, I don't know.

Q. Is there any other information you can give us in regard to the Highway Commission outside of what you have already done? A. I have had very little to do with the Highway Commission outside of what I have stated.

Mr. Yeater: You said you are a commissioner in Sioux County. A. Yes. As I understand it, a survey has been run down there and contract entered into to pay for surveying at the rate of \$60.00 a mile, and as I understand, the bill has been considerably more than that and it was nothing more nor less than a preliminary survey.

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Q. Have you any other knowledge in regard to this? A. Well, nothing more than what I have said. It appears that this resolution authorizing the survey specified a maximum fee of \$60.00 per mile and I think that there were approximately 40 miles surveyed, as I understand it, this is not authentic, but apparently the bill was put in for the maximum amount. Since I have been commissioner, we have not gone into it at all for the reason that just prior to the first of the year, the commissioners authorized a payment of \$200 on the contract on the bill and there still is a balance due of \$400, and we refused to even consider the matter until the county has been furnished with the necessary blue prints and tracings and so on.

Mr. Yeater: You are a new commissioner there, you just came in the first of January, as I understand it? A. Yes.

Mr. Yeater: You weren't commissioner then when the resolution was entered into? A. No.

Mr. Vogel: Your county has received nothing in extra to survey these two routes? A. We have received nothing.

Mr. Vogel: What part of the cost were you supposed to pay? A. I presume the entire cost. This resolution provided for a maximum amount of \$60.00 a mile and there was \$2,000 advanced on it so far.

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Mr. Vogel: There has been \$2,000 advanced on it and is \$4,000 left to pay? A. Yes.

EXAMINATION BY MR. GRAHAM:

Q. What is the actual amount of road that is to be built in your county by federal aid, 20 miles? A. Forty. The entire project involves about 70 or 80 miles. Of course, the survey only intended—they expect to build 40 miles this coming year. That is what they have maintained.

Q. How wide is your county? A. Well, it is about 100 miles long on the south end and about 20 miles long on the north and approximately 30 miles on the east end and about 6 miles on the west end.

Q. How wide where the road is surveyed? A. Well, it is difficult to say—

Q. What I am starting to get at is: Is it 40 miles across the county? A. Straight north and south.

Q. It was 40 miles wide where the road was to be built?

Mr. Vogel: It doesn't go way to the southern point of the county, does it? A. No. Just goes to Selfridge. It was to connect up with the Yellowstone trail.

Mr. Vogel: Surveyed no farther south than Selfridge? A. I don't know where it is surveyed; I have no idea.

Mr. Vogel: You paid \$2,000? A. Yes. I figured as long
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as our territory was not benefitted by either route, I became disinterested. The government engineer, however, practically assured us he wanted to build one project through there and feeds into this road, but somehow or other the two roads were surveyed after that.

Mr. Graham: That is all the information you can give us that you know of? A. I think so.

Mr. Thatcher: Which town do you live in, Mr. McDonald?
A. Solen.

Mr. Anderson: Do you think, Mr. McDonald, that they made this survey through that country as to the best advantage to the roads or do you think they didn't? A. I don't see where the advantage—where there is an advantage for anyone hardly. Leaving Selfridge, there is practically no travel directed north from Selfridge. Mobridge, South Dakota, is a town that does practically all its business, just like Mandan and Bismarck is for us. Our travel is directed north; their travel is directed south. I don't see any benefit for the people there along either the driveway or along the territory, as no one lives there.

Mr. Thatcher: I think, Mr. Anderson, your idea was to know if one road could be built cheaper than another.

Mr. Anderson: The idea was that if they surveyed through there and thought it would be to the best advantage of all

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concerned and whether it would be cheaper to build another place.

Mr. Vogel: The country from Mandan to Selfridge; how far is that, about 40 miles? A. About 60 or 70 miles.

Mr. Vogel: This town between Mandan and Selfridge is Bremen which you spoke of? A. Yes.

Mr. Vogel: Running a state highway from Mandan to Selfridge connecting with just the small town of Bremen, a distance of 60 miles? A. Yes, Bremen has a population of 15 or 20 people.

Mr. Thatcher: There are practically no towns down there anyway are there? A. Very few. They could not hit more than one town any way.

Mr. Vogel: But the population of the country through which this road is to run, is it heavy or thinly populated? A. From Bremen to Selfridge, there is practically no one living in through there at all. There might be half a dozen.

Mr. Vogel: Most of the population is south of Selfridge? A. Well, yes.

Mr. Vogel: From Selfridge to the South Dakota line? A. Yes.

Mr. Vogel: What is that land, Indian land? A. It was now but is gradually being patented.

Mr. Vogel: Is it rough land? A. I would say it was half and half, although there is quite a little rough land
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after you get about 10 miles out of Selfridge; north from there about 20 or 25 miles it is rough, very rough.

Mr. Halcrow: I want to ask you, Mr. McDonald, is your own property in this little town, Solen? A. Very little.

Mr. Halcrow: You would not be personally interested in the road going through there? A. I naturally would be where I live, interested in it as a person and as a county commissioner.

Mr. Halcrow: Would you be looking for benefit to the county rather than yourself? A. I couldn't authorize the proposition as it is and live in Solen. The people wouldn't stand for that because it would hurt our very interests to cut off the best territory from our town. Personally, or as county commissioner, I couldn't authorize it.

Oliver Knudson, having been called as a witness, after having been duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence? A. My name is Knudson, Oliver Knudson, and I am 31, live at Bismarck.

Q. What is your business or occupation? A. I am with the State Highway Commission.

Q. How long have you been with the State Highway Commission? A. About 5½ years.

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Q. And you were with Mr. Robinson a portion of the time that he was State Engineer, and with Mr. Black since he was State Engineer? A. Yes sir.

Q. Do you have any title as to any department or anything? A. I am a resident engineer.

Q. Resident engineer? A. Yes sir.

Q. And have you ever had any connection with Project 59 in Richland County between Fairmount and Hankinson? A. Yes, sir.

Q. When were you connected with that? A. Let's see, in 1922, two years this summer.

Mr. Vogel: Are you in the employ of the State Highway Commission at the present time? A. Yes, sir.

Mr. Graham: Do you mean 1923 or 1922? A. 1923.

Q. You had charge of that highway at that time? A. Yes, as a resident engineer at that time.

Q. Will you just explain what your duties consisted of? A. Why, my duties were to see that the roads were built according to plans and specifications.

Q. Do you know when the contract for that road had been entered into? A. I think about four years previous to that as the contractor mentioned it was his fourth year on that job.

Q. Treadwell Twichell was the contractor? A. Yes.

Q. What kind of soil is it through which that road was built? A. About half of it, that is the first half east of

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Hankinson is quite sandy, very sandy. The rest of it is loam, fairly heavy loam.

Q. What kind of work was Mr. Twichell doing at that time? A. At the time I was down there, he was surfacing the section east of Hankinson.

Q. What do you mean by surfacing? A. He was hauling clay surfacing on the sandy portion of the road.

Q. The road was sandy and wouldn't stand up otherwise? A. Yes.

Q. Was this clay being put on under your instruction? A. Yes.

Q. Will you explain to us how the clay was put on, how far it was hauled? A. I don't remember the average haul; there were two pits, and Mr. Twichell had surfaced a big part of this road before and it had gone to pieces and he was patching up these holes and, if I remember right, he was hauling clay about 1½ miles when he started. I couldn't say as to that, if I had the blue print, I could tell.

Q. Were these clay pits or points at which they were established, was that designated by your own department?
A. Designated by someone prior to my time, I don't know who.

Q. The engineer in charge would designate the distance clay was to be hauled from any particular pit? A. Yes.

Q. Have you any recollection at this time as to the distance he hauled clay from those pits? A. I believe the maximum haul on part of it was 2½ miles, nearly 2½ miles, I think.

Mr. Vogel: How far did he have to haul that clay to get an overhaul? A. His overhaul, as I understand it, was in the clay surfacing. He got so much a cubic yard station, being so much per 100 feet. He got 5c a cubic yard station which would be 5c for every 100 feet he hauled.

Mr. Vogel: For 100 feet he would get 5c, for 200 feet he would get 10c and he hauled 2½ miles? A. As I say, I couldn't say exactly how far he had hauled it unless I had the blue prints.

Mr. Halcrow: Where does the overhaul start? A. The clay surfacing wouldn't be known as overhaul. I think the distance started from the pit.

Mr. Halcrow: What distance from the pit would he haul it to get overhaul? A. He would get 5c a cubic yard station, or 5c for 100 feet hauled.

Mr. Graham: Explain the amount he was to receive. A. On ordinary road construction, the contractors in this state 1,000 feet free, and any dirt hauled over 1,000 feet is considered overhaul, but in this case the clay surfacing, as I said before, this was clay surfacing and I am not familiar with Mr. Twichell's agreement. Mr. Twichell told me that he didn't have a scratch of a pen on this clay surfacing and

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just what his agreement was with the engineer in charge or whoever he made the agreement with, I don't know.

Mr. Vogel: He had no written contract for clay surfacing?
A. I understand he didn't.

Mr. Graham: Q. Now what were your instructions in regard to what clay surfacing Mr. Twichell was to do? A. Well, I went down some time in April, and Mr. Gavin of Valley City was division engineer there and he instructed me to have Mr. Twichell do no more new surfacing but to have him patch up the places that had worn through during the year or since he had surfaced the road and make it up so we could get rid of it so the Bureau of Public Roads would accept it.

Q. Was it later fixed so the Bureau of Public Roads accepted it? A. I think it was accepted, I left before the season was over.

Q. Could you tell anything in regard to Mr. Halcrow's question as to the amount that Mr. Twichell was to receive for hauling the 1,000 feet? A. Well, I was told that he was to get 5c a cubic yard station.

Mr. Vogel: What do you mean by cubic yard station? A. 5c per 100 feet.

Mr. Vogel: Then if he hauled it 1,000 feet, he would get 50c? A. That is my understanding, being that he didn't have a unit price on the clay surfacing, I think his haul started from the pit.

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Mr. Vogel: Is it the usual and customary method for the Highway Commission not to have a written contract with the contractor? A. No, it isn't.

Mr. Vogel: Was not Mr. Twichell in this case fixing up a road that he was supposed to have had finished? A. Yes, it was built by Mr. Twichell.

Mr. Vogel: Refused by the federal engineer? A. They discovered that they had to surface certain portions of it before the government would take it over.

Mr. Graham: Now that surfacing, would that be work he should have received additional pay for beyond the contract price? A. Yes.

Mr. Vogel: Did he comply with the original contract when he finished the road before he went back on it to repair it again; had the road been accepted by the Highway Commission? A. No.

Mr. Vogel: Whose fault was it Mr. Twichell had to go back over the road? A. Well, I am not able to say. I don't know; the job was under construction for a long period of time and there were several controversies involved.

Mr. Graham: Did Mr. Twichell follow the instructions which you gave him during the time you were there or did you have trouble with him? A. There was some misunderstanding about what Mr. Twichell was to surface and how much he was to surface.

Mr. Graham: Now did you have anything to do with establishing the pits from which clay should be hauled? A. No, I didn't.

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Q. Do you know who did establish the pits? A. No, I don't. I'm not sure as to that. Mr. Gavin was resident engineer down there before I came.

Mr. Vogel: Is he from the State Highway Commission or the federal government? A. State Highway Commission.

Mr. Halcrow: How did you arrive at the yardage? A. I didn't measure the yardage, I was called into Bismarck the latter part of August.

Mr. Halcrow: The yardage that Mr. Twichell put on the

road was not measured in any way? A. It was measured by whoever took my place.

Mr. Halcrow: How did they go about it? A. I don't know.

Mr. Vogel: How would you go about it? A. I would measure up—In the first place, Mr. Twichell had blue prints showing him where to haul this clay. I think about 45 yards per station is used and that called for six inches which would be 45 yards per station. Their blue prints showed exactly how far he would haul to and it simply would be a matter of measuring up the pit and—and in fact that wouldn't be necessary. Forty-five cents per station is what he should pay Twichell.

Mr. Halcrow: It was up to him if he put that much on a station? Isn't it a matter of fact that the right way would

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be to measure from the pit from where it was taken and get the yardage? A. You could get the exact yardage that way, yes, but if he makes an agreement to haul so much earth per station and he hauls in excess of that, it has been our custom in the Highway Commission not to pay him for that yardage.

Mr. Vogel: Suppose he hauls more? A. That is up to the engineer.

Mr. Vogel: How do you determine what he has hauled? A. Measure the pits.

Mr. Vogel: Do you know whether that was done in this case or not? A. As I say, this road was surveyed before I came down and Mr. Twichell was supposed to patch up places that were worn.

Mr. Vogel: Who took your place down there? A. Mr. Thorberg.

Mr. Graham:

Q. He is now at Valley City? A. Yes.

Q. Now did you have charge of any other work that summer besides the job in Richland County? A. I had Richland and Sargent.

Q. What was the number in Sargent? A. There were two, 147 and 58 .

Q. That was from Forman and Cayuga and Geneseo? A. Yes.

Q. That stretch was also being put in by Mr. Twichell? A. Yes.

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Q. That had been started before? A. Yes.

Q. And was being completed? A. Yes.

Q. He hadn't properly completed that contract either? A. No.

Q. Now did you have any trouble or dispute with him in regard to the completion of the Geneseo-Cayuga road? A. No, except Mr. Twichell considered the job finished and we knew that it had to be shouldered up and certain places fixed up before it could be taken over.

Q. That is, in other words, Mr. Twichell hated to conform to the rules and specifications of the Highway Commission? A. They did have some trouble with him that way, yes.

Q. Can you tell us about how many miles of construction work that one engineer can oversee at the same time? A. Well, a man has been known to handle from 40 to 60 and I think 70 miles.

Q. Depending upon the number of contractors worked? A. Yes.

Q. How many contractors can you oversee at one time? A. Well, I have had six.

Q. Six you say you have had? A. I believe that is the most I have had.

Q. And I suppose it would run down to two or three that one engineer would oversee? A. Yes.

Mr. Vogel: Did Mr. Twichell receive extra compensation for fixing up the Geneseo road or was that a verbal agree-

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ment the same as the other? A. There is a unit price on this on different items in road contract and Mr. Twichell was paid in that way.

Q. Well, when he took this contract, did his contract provide for a finished road acceptable to the Highway Commission? A. According to the specifications.

Q. Called for a road ready to be taken over by the State Highway Department? A. Yes.

Q. You say Mr. Twichell figured he had the road finished and you required that he do certain other things? A. Yes.

Q. Was he paid extra for those certain other things he did or was he held under his original contract? A. Well, he was paid some additional, yes, after the job was completed; I don't know just what agreement Mr. Black had with him.

Mr. Thatcher: Then was the plan changed, the original plan and specifications? A. No.

Mr. Graham:

Q. Perhaps we can clarify it this way. As I understand the proceeding of the State Highway Commission, the contractor must put the road in shape and maintain it until it has been finally accepted? A. Yes, sir.

Q. And for that maintaining, he does not, as a general rule, receive any additional compensation? A. No, that is covered in the specifications.

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Q. Would you state to us under what circumstances a contractor would receive additional compensation over the contract price? A. I am not sure if your question is clear.

Mr. Graham: Strike out the question. I'll put it this way.

Q. Are there any times when the contractor receives more than the contract price? A. Yes, sometimes an engineer sees places where something additional is needed.

Q. That is, if an additional amount of dirt is moved than is provided for in the specifications, then he would receive additional pay for that service? A. Yes, end of course in that case, a resident engineer sends in what is known as a change of plans.

Mr. Vogel: Would this apply to either one of the Twichell cases? Were there change of plans necessitated on the part of the department or was there a misunderstanding of just what the plans constituted between Twichell and the State Highway Commission?

A. Well, Richland 59 is a balled up mess; I confess I don't know very much about it, but on 58, Mr. Twichell had some additional earth and different items which he claimed he had coming.

Mr. Graham: Did he have any other engineer to come and measure up the amount of dirt than the Highway Commission? A. Not that I know of.

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Q. Who furnished gravel for any of these projects you were on? A. I didn't have any gravel projects.

Q. Do you know anything about the furnishing of gravel? A. No, I don't. You mean for concrete work? Concrete gravel came from Mandan usually.

Q. Who owns the gravel pit at Mandan? A. I don't know the man.

Q. Was gravel shipped to various parts of the State from Mandan? A. Yes.

Mr. Vogel: Was there sand for concrete purposes any handier than that? A. There were samples sent in from— At least I have sent samples from various places I have been, but they have been rejected on account of having too much shale and various other reasons.

Mr. Graham:

Q. Do you know of any other place in the state outside of Mandan where gravel will pass specifications? A. No, I don't know of any pit except the Mandan pit at present.

Q. Do you know whether or not tests have been made on gravel from other portions of the state. A. Yes.

Q. Who makes these tests? A. Mr. Hegdal is our testing engineer.

Q. He is one of the engineers employed by Mr. Black?
A. Yes.

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Mr. Thatcher: You are working now, are you, in the department? A. Yes.

Mr. Vogel: You are held over from the old administration? A. Yes.

Mr. Graham:

Q. Do you have any advance in salary from what you had before? A. Yes, I received a raise lately.

Q. What is your salary now? A. \$175.00.

Q. Before that? A. \$170.00.

Q. When did you receive this raise? A. Last month.

Q. January- A. Yes.

Q. Any explanation of the raise at all? A. I requested a raise about a year ago.

TESTIMONY TAKEN AT THE HEARING BEFORE SPECIAL HOUSE COMMITTEE ON FEBRUARY 11, 1925:

Mr. P. M. Hegdal, having been called as a witness, after having been duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence? A. P. M. Hegdal, 38, Bismarck.

Q. What is your business or occupation? A. Civil engineer.

Q. And are you connected with the State Highway Commission? A. I am.

Q. In what capacity? A. As testing engineer at present.

Q. From what school did you graduate? A. The South
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Dakota State Agricultural College.

Q. In what year? A. 1914.

Q. And you have been in the practice of your profession since that time? A. Yes, and some before that.

Q. And did you ever work in the testing department before you did that work here? A. Well, I have done some. I had work along that line at the college where I graduated. I had work of a similar nature but not as testing engineer.

Q. What does the work of a testing engineer consist of?
A. At present with the Highway Commission, it consists principally of examining the sand and gravel used in con-

crete and corrugated metal pipes used in federal aid construction.

Mr. Vogel: Now what do you mean by use in concrete work? A. I mean head walls on pipes and concrete culverts and bridges and pavements.

Mr. Graham:

Q. And the department before they O. K.'d the use of any sand or gravel for any particular project, required it to be tested? A. Yes.

Q. Now, can you give us the specifications adopted by the State Highway Commission for the use of sand and gravel in concrete work? A. How much of that would you want?

Q. That is, just show what the specifications must be. A. I can give you some and then you can decide how much

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you want. Well, as regards to sand, the specifications say sand shall consist of clean, hard, durable, uncoated grains free from lumps, soft or flaky particles, salt, alkali, shale, organic matter, loam or other deleterious substances. The grading of the sand shall be as follows: Passing the $\frac{1}{4}$ inch sieve, 100%; passing a 20 mesh standard sieve not less than 50%; passing a 20 mesh standard sieve not more than 75%; passing a 50 mesh standard sieve, not more than 25%; passing a 100 mesh standard sieve, not more than 5%; weight removed by elutriation test not more than 3%. Mortar composed of one part by way of Portland cement and three parts by way of sand mixed and tested in accordance with the methods described in United States Bureau of Standards circular No. 33 which have a tested strength at the age of seven days and 28 days of not less than 100% of that developed by mortars of the same proportions and consistency made of the same cement and standard Ottawa sand.

Q. That goes in a general way? A. Yes, that is the important with regard to sand.

Q. Now who prepared these specifications? A. I couldn't say who prepared them.

Q. It was prepared by the Highway Commission? A. Yes.

Q. Of this state? A. Yes.

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Q. Now, are they passed upon by the federal government? A. Yes.

Mr. Vogel: Do they re-test these samples? A. No, they used to—The Bureau of Public Roads used to do testing for the states, but this last year or the last couple of years they have required the states to make the tests themselves and then send them reports of the test.

Mr. Vogel: Then they are not tested by the federal government at all? A. Not now.

Mr. Vogel: Your statement seems to be incorrect then.
Mr. Graham: What I had reference to was these specifications if they were passed upon by the federal government.

Mr. Graham:

Q. Now, how long have they had a testing department in this state? A. Practically most of the testing has been done last year in 1924.

Q. There was testing done before that? A. There might have been a little but very little, so little that it didn't amount to anything.

Q. You have made all of the tests yourself personally upon this sand and gravel since about 1924? A. Yes, I have.

Q. Now do you have a record or book concerning those tests? - A. Yes.

Q. You have that book with you? A. Yes.

Q. Would you produce it? A. Yes.

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(Book produced)

Q. Can you tell us in a general way how many samples you have tested in that length of time? A. That is, about some over 400, about 414, I think the last time I counted them.

Q. How many of those in a general way were rejected and how many were eligible for use? A. Well, I couldn't say offhand as to that; I hadn't listed them that way. Of course, every report gives whether it is accepted or not but I don't know the number of rejections.

Q. Now is there sand and gravel from more than one place in North Dakota that may be used for concrete work and will pass your specifications? A. Yes, the specifications don't specify any pits or locations; it just specifies the character of the material.

Q. Yes, I understand that, but is there sand and gravel here in the state in various localities that will pass these specifications? A. Yes.

Q. Could you tell us about how many places and where they are located? A. Well, it would take quite a while to go through it. It is all in here where they have been accepted. There are quite a few in here but it would take quite a little while to go through it. If you want me to go through it—

Mr. Vogel: It will take a little time.

Mr. Graham: You would probably keep the record and get the information for us?

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Mr. Vogel: Let him do that.

Mr. Graham: Perhaps you could fix up a list showing such localities in each of the counties? A. Yes.

Mr. Vogel: Those are pencil notes are they not? A. These are originals and these were typed out and reports made and sent around to government and division engineers.

Mr. Vogel: You erase those at times and make changes? I notice quite a few erasures. A. Of course these are the ones that are worked on in the laboratory and I make any changes that I feel like up to the time that I turn these in.

Mr. Graham:

Q. Did you ever have any complaint from anyone in regard to the test? A. Well, I can't say as I have had any complaints particularly. There has been cases where they have brought special samples down to check up some pit or stockpile or to check some of the tests. Don't think there has been any kick on the tests.

Q. Have you any personal interest in any of these tests as to whether or not they pass the specifications? A. No, I have no personal interest in it.

Q. You don't own any interest in a gravel pit anywhere or sand? A. No.

Mr. Vogel: You know before you make the test what pit it is from? A. In nearly all cases. Sometimes the samples

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are sent in from a stock-pile and if the material is stocked on the job, then of course it don't make much difference to us where it comes from. When it comes from a stock-pile to be used on a certain job, it is examined to see if it is all right and sometimes we don't know where the source of the material was.

Mr. Vogel: Suppose you find a stock-pile that isn't all right, what do you do? A. Turn it down.

Mr. Vogel: What do you mean by stock pile? A. That is sand or gravel that has been piled up on the job ready to be used and has been hauled.

Mr. Vogel: Are they in the habit of doing that before the test has been made? A. We have required sending in samples to us on stock piles because it is pretty hard to get satisfactory tests from the pits.

Mr. Vogel: Have you rejected some stock piles? A. Yes, I think so. I couldn't say offhand as to the stock piles.

Mr. Vogel: You could get the information for us? A. Yes, it is in the books.

Mr. Graham:

Q. Now, do you have different specifications for sand and gravel for use as covering to a road? A. Yes, that comes under a different specification.

Q. Could you give us the specifications of that? A. I will give the most important. The material used for gravel

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surfacing shall consist of hard, durable pebbles or parcels of stone, free from trash or vegetable matter; together with sand and clay or other binding material, the cementing value of the material passing the one-fourth mesh screen at not less than 50%. Gravel will be classified into No. 1 and No. 2 as follows: Gravel used for first and intermediate courses when tested by means of laboratory screens shall meet the following requirements: passing a two inch screen not less than 95%; retained on a $\frac{1}{4}$ inch screen 50% to 75%. The material retained on $\frac{1}{4}$ inch screen is known as coarse aggregate, which when tested by laboratory screens shall meet following requirements: if it is retained on a one-inch screen from 25% to 75%. Material passing $\frac{1}{4}$ inch screen is known as fine aggregate which, when tested by laboratory sieves shall meet the following requirements: total passing 200 mesh sieve, 15% to 35%. These two—it is listed into No. 1 and 2, but we have generally considered these together, these requirements, No. 1 and 2 of sand.

Q. Now does shale content hurt the sand and gravel for surfacing purposes? A. For surfacing, No, I wouldn't say that it does.

Q. Now, do you know anything about the graveling of a road west from Wahpeton in Richland County, as to what gravel was used? A. No, I couldn't say that I know what was used on that job.

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Q. Mr. Vogel: Who would know? A. Well, the division engineer and probably the records that the construction engineer has, would show. Of course, I have a record of everything that was sent in to be tested and what job it was on, but I don't remember getting any—I don't think I have any tests on material for that project. Of course, if I knew the number of the project, I could soon find out.

Mr. Vogel: Those records would be available in the Highway Department? A. Yes, the construction engineer probably has a record of that.

Mr. Halcrow: Are the samples of gravel tested for road covering the same as for concrete work? A. No, they are not so particular about gravel and sand used for road covering as they are for aggregate for concrete.

Mr. Halcrow: Possibly a lot of the covering material isn't tested at all? A. No, I believe a lot of the material that has been used hasn't been tested because it has been considered that the material that was most easily obtained should be used on that unless it was considered by just a casual inspection that it was unfit, but usually they take material that is closest to the job for surfacing because it shortens the haul.

Mr. Vogel: It is their practice to take road covering as near to the road as they can get it? A. Yes.

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Mr. Graham: Do you know anything about what amount the federal government pays for sand and gravel covering

for the road? A. They pay 50 % on that the same as on dirt.

Q. Deduct 50% or one-half, yet they pay for gravel regardless of what the cost of it is? A. No, they pay 50% of whatever the cost comes after the bid is made; after it is all figured up whatever the cost come to, they pay one-half of it. They don't set a certain amount that they pay.

Q. Are you positive of that? A. I am quite positive because I never have seen any estimates that were figured up that weren't figured that way. As far as I know, they have always been figured on 50% of the cost. Whatever the bids were, if they agree that the bid price is fair, then a contract is let and they assume half of the cost.

Mr. Thatcher: They don't have a minimum or maximum rate? A. Yes, if they consider it unreasonable, of course, they refuse to go into accepting the contract.

Mr. Thatcher: Yes, but what I mean, they don't have any set minimum or maximum? A. I don't think they have any definitely stated price which would hold them down to turning down a contract or accepting it; I think they use their judgment on that.

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Mr. Graham: Q. Have you done any other work for the Highway Department besides testing? A. Yes. I have worked at practically everything, construction design, worked with the bridge department, construction, and construction and design on the road department and right-of-way department; worked at practically all the work.

Q. How long have you been with the department? A. Since April, 1920.

Q. You have worked then both under Mr. Robinson and Mr. Black?

Q. Were you there under Mr. Bliss? A. I came when Robinson was in.

Mr. Vogel: You can get the information we wish? A. Yes. You want a list of the locations of sand and gravel, Yes, I will fix up a list by location and whether it was accepted and rejected.

Mr. Graham: As to counties, if you would. A. Yes, and counties too.

Mr. W. F. Gettleman, having been called as a witness, after having been duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence? A. William Frederick Gettleman; my age is 32 the 10th of April, residence is Bismarck.

Q. And what is your business or profession? A. Civil engineer.

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Q. From what school are you a graduate? A. University of Wisconsin.

Q. What year? A. 1914.

Q. You are working with the State Highway Commission? A. Yes, sir.

Q. As Superintendent of Equipment? A. Yes, sir.

Q. How long have you been with them? A. Since the first of May, 1923.

Q. And you have had the same position all of the time? A. Yes, sir.

Q. Now, will you tell the committee of what your duties consist? A. Duties of the Superintendent of Equipment, under the organization, is supposed to consist of administering the equipment of the Highway Commission which is issued to the engineers for use in the field, such as surveying instruments and supplies, automobiles and trucks where needed; the selecting from government bulletins of surplus war materials consisting of construction tools and supplies, trucks, tractors, etc., in order to obtain them for the Highway Commission either for its own use or for other state departments' use and for distribution to the counties and other municipal sub-divisions, or rather political sub-divisions, for use on the construction and improvement of public highways.

Q. Now, you say that the federal government sends certain supplies, war materials to the State. A. Yes, sir.

Q. And under what conditions is that sent? A. That it is to be used on the construction and improvement of public roads.

Q. Is there any cost to that? A. There is a U. S. handling charge which represents their cost in the exchange department, like for instance, if it had been shipped from France back here, and then their cost of handling from city in the United States and freight to us and what we call the Highway Commission handling charge.

Q. That is the only charge for it? A. Yes, sir.

Mr. Vogel: You have ordered the material from them, is that the idea? A. They send out bulletins from time to time and we select the materials that we would like to get and indicate quantities. Some time later we receive a sheet stating that that stuff has been ordered from that department but we do not know whether we will get it before the department has signified by sending shipping instructions telling what will come. Sometimes a large proportion of the orders we sent in are lost because the ratio is better than 48 to 1 because the states that are close by select and get material much more quickly.

Mr. Vogel: Has that been followed out since war material was sent out? A. Sometimes they send one sheet, some-

times send nothing but the bill or lading and at other times send seven copies.

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Mr. Vogel: Do I understand you to mean then that all of the material the State Highway Commission has received has been ordered by them? A. No, some things have been shipped, from what I heard, under a mistake. We have some machines on hand which were shipped in the early days of this department which never would have been ordered, used unwieldly machines. For instance, five boring machines underneath the Missouri River for which we have no use.

Mr. Vogel: At the present time, whatever war material you receive has been ordered? A. Yes, sir.

Mr. Vogel: And has ever since you have been connected with the department? A. Yes, sir.

Mr. Graham: Q. Who has charge of the order? A. Well, sometimes the Chief Engineer, Assistant Chief Engineer, when the bulletin came through, would indicate the items that they wanted. In the majority of instances, I went over the items myself and ordered what I thought would be light in weight so as to reduce freight and most acceptable on the work. At other times, when I have been away, out of the city, the items have been ordered direct by the Chief.

Q. Now, this material that is sent out, does the State Highway Department have the right to sell such of it as they do not need? A. Well, there has been a great deal

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of correspondence and misunderstanding on that. The federal government said that all items not suitable for work on the public roads should be listed as such and then sold in order that the funds could be used on the work with the explicit instructions and the money derived from that was to be used on the construction or improvement of public roads or in connection therewith. Then there as a young man from Washington that came through here on an inspection last fall and he stated that the matter of trade-ins was alright if the material that you received in trade was used in the manner specified, and under that authority, I remember we got that truck from the Indiana Truck Corporation because they handled supplies and it was the nearest exchange of highway supplies.

Q. What did you exchange for the Indiana truck? A. Some heavy aviation truck parts.

Q. You had charge of the exchange? A. I did.

Mr. Vogel: Why would you have highway material that would not be suitable for road construction when you do the ordering yourself? A. There was a large proportion of these supplies that were ordered and received long before I came here.

Q. That were not suitable for highway purposes? A. Yes, sir.

Q. Did you make any valuation of these parts which
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you exchanged for the truck? A. Yes, sir, the list price less 50% is the general selling price for these parts and practically all the distributors in the country and we had been distributing it at 50% of the list price, but they consisted largely of castings and heavy springs and items which were in dead stock so they were traded to the Indiana Truck Corporation at 25%, I believe, off from what we charged for them for the entire lot with the proviso that any of those items could be purchased back at the regular 50% less list price in case any of the counties could use those parts.

Mr. Vogel: This sale—Do the government regulations allow you to sell materials to private individuals? A. Well, I don't believe that the government regulations do desire that.

Mr. Vogel: Now, I will put the question a little different way. Do the government regulations allow you to do that? A. No, I don't believe they do.

Mr. Vogel: You have sold some of that material to private individuals? A. Yes, sir, on orders.

Mr. Vogel: From where? A. Chief Engineer.

Mr. Graham: Q. Then you have instructions from the Chief Engineer to sell this material to private individuals? A. The policy has changed two or three times. When I first came on in charge of the equipment, I made up a
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blank form of request which had to be signed by the County or City Auditor or other municipality or political sub-division desiring these materials, on which he had to sign an affidavit and affix his seal that they were using these materials strictly in connection with the construction or improvement of public roads and at the top of the page was an extract from the government regulation in that regard, and for some time there was absolutely no material sent out except with one of those signed receipts in, but after a while and I believe even at that time there may have been a lot getting into private hands through these Auditor's instructions, and then orders came down, I don't believe the order came direct to me because not all orders in the department had come direct to me.

Mr. Vogel: What do you mean by not coming direct? A. I mean over my head.

Mr. Vogel: Direct to whom? A. Whoever it might be that was closest to that proposition.

Mr. Graham: Q. Now have you actually sold any material to private individuals since you have been in charge of equipment? A. Yes, sir, the order was by Mr. Black to sell to anyone. Mr. Black ordered Mr. Miller down at the department to sell to anybody.

Q. Who is Mr. Miller? A. Storekeeper.

Q. You have a list of the private individuals sold to?

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A. It can be found in the files.

Q. Have you access to those files? A. Yes, sir.

Q. Could you deliver to the committee a list of those private individuals? A. Not an absolutely complete list.

Q. But quite an extensive list?

(Mr. Vogel: I move that such a list be secured, which motion prevailed.)

Mr. Vogel: You say that sale should be contrary to the United States government requirement? A. Yes, sir.

Mr. Graham: Q. When a sale is made, do you keep any memorandum of the sale? A. Yes, sir.

Q. That is on file in your department? A. Yes, sir.

Q. Do you keep a cash slip? A. Yes, sir, whenever cash is taken in, this slip is made out in triplicate and the cash is turned over to our bookkeeper and then over to the Highway Commission office proper.

Q. Who fixes the prices at which these articles shall be sold? A. That, to a large extent, has been fixed by the shopkeeper down there.

Mr. Vogel: Who is that? A. Mr. Miller.

Mr. Graham: Q. Then does Mr. Miller make an inventory at the end of each year? A. No, sir.

Q. How does he keep an account of what property he has on hand and what sales are made? A. The inventory

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was made at the time I took charge down there and the inventory under Mr. Lund in November, 1923, and the present inventory now. Of course, it was presumed that there would be an inventory this spring.

Q. Then whenever new material is shipped in you keep the invoice? A. We have the shipping instructions and description of the items on file in what we call the Surplus War Materials file.

Q. You keep an invoice or inventory book? A. We printed a list taken from our first inventory but we have not taken regular inventories at any particular intervals.

Mr. Vogel: You secured an inventory you say when you went in? A. Yes, sir.

Mr. Vogel: You took the inventory yourself? A. I was down there.

Mr. Graham: Q. Now, does the department have any automobiles. A. Yes, sir.

Q. And in what way are the automobiles purchased or

secured? A. By the State Highway Commission, the Board of Commissioners.

Q. By the Board of Commissioners you mean Mr. Black and the Governor and the Commissioner of Agriculture and Labor, Mr. Poupore and Mr. Brown? A. Yes, sir. I believe that is the way they are purchased.

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Mr. Vogel: Who does the purchasing, the Board? A. It must be, that is the way they come down.

Mr. Graham: Q. Do you have anything to do with purchasing? A. No, sir.

Q. When do they first come into your hands or under your control? A. Well, I am notified that there is a new car at such and such a place; sometimes it is not purchased here, in the majority of cases, it has not been purchased here; and there is a new car out on a job in a certain place and they want a license on it, some repairs and I get instructions to send them out there.

Mr. Vogel: Where are most of them purchased? A. I don't remember.

Mr. Vogel: You can get a list for us? A. Yes, sir. Every car shows where it was purchased and some were purchased at Rugby, Valley City and different places.

Mr. Graham: Q. Here is one question I omitted. In what way do you handle funds from the sale of war materials? A. They are taken in at the bank of course until the last couple of months the office was right directly up overhead and the money was transferred to the bookkeeper several times a day and is sent up by messenger to the Capitol.

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Q. Was it kept in one fund or a separate fund, the money that is received? A. It is all transferred up to the Capitol.

Q. In what way it is carried there, you have no knowledge? A. No, sir.

Q. Do you know how many automobiles there are belonging to the department at this time? A. There are 56 vehicles including, I think four White trucks of various types, one G. M. C. truck and the Indiana.

Mr. Vogel: How many, 56, that includes six trucks? A. Yes, sir. Six trucks and the rest are cars of various makes.

Mr. Vogel: These are all the cars that really belong to the Highway Department itself? A. Yes, sir.

Mr. Graham: Q. There are 50 automobiles in use? A. Yes.

Q. Could you tell us what kinds they are? A. Ford coupes, Oldsmobile touring car, one Cadillac, enclosed Studebaker, one other Studebaker, Hudson touring car, 1924 Overland Champion, 3 Buick-6 enclosed. One of the Studebakers has since been sold, one or two of these Ford has been sold and one Dodge has been sold. There is also a Buick-Six

enclosed car just bought. That is one of the three up at Devils Laks.

Q. Who uses those? A. The one up at Devils Lake is used by the division engineer, Mr. McKewn; the No. 40, 1924 Buick, is used by Mr. C. A. Myhre, Assistant Chief.

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The Buick-Six is used by J. E. O'Neil.

Q. Who is he? A. The construction engineer who succeeded Mr. Hillman who succeeded Mr. Wallace.

Q. Who uses the Cadillac? A. The Cadillac is used by T. R. Atkinson.

Mr. Vogel: Is he City Engineer? A. Yes, sir.

Mr. Vogel: Is he on the highway force? A. I believe he does work for the Highway Commission; I believe he does work at odd times; I wish to state that the car was assigned to Mr. Atkinson without my authority.

Mr. Vogel: Whose authority was it? A. Mr. Black's.

Mr. Vogel: He is on part time is he, Mr. Atkinson? A. He is paid by contract, I believe.

Mr. Vogel: The same as any other contractor? A. That is, any professional contracting engineer, or I believe he contracts at so much per mile.

Mr. Vogel: Could you give us the purpose of giving him a Cadillac car? A. No, I couldn't.

Mr. Vogel: He has any other car besides this? A. Yes, he has a Dodge bearing Number 340, and one White staff observation truck. That is a White truck model 1918, that is used by army officers for transporting the staff officers around on investigations; that is reconnoissance

Mr. Vogel: Do I understand that T. R. Atkinson simply contracting at times for State Highway work has the use of three State Highway automobiles? A. Yes, sir.

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Mr. Vogel: Were all of these given without your authority? A. Yes, sir. No. 340 had been assigned to him before I came on the job and was in his possession at that time.

Mr. Vogel: The other two have been given to him since? A. Yes, sir.

Mr. Graham: Q. Does the State Highway pay for the upkeep of these cars? A. There was some repair on the Dodge in the shop early in 1923 and it was presumed that he would turn in a mileage report and pay mileage on the cars the same as he had done during the previous year. His last mileage report was in November, 1922, I believe it was November. The White was assigned some time during the summer and the Cadillac was assigned late in the fall. The Cadillac was purchased by this Department from the Attorney General's office and was gone over a bit before Mr. Atkinson got it as we had expected to use it for the survey party.

Q. He has had absolute use of that car since that time?
A. Yes, sir.

(Blue prints showing cars owned by Highway Commission, repairs, etc., examined by committee.)

Mr. Vogel: What is that item of \$676.07. Is it the total cost of operating the White staff observation truck in the hands of T. R. Atkinson? A. Let's see.

(Blue print examined by Mr. Gettleman.)

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Q. Is that the total cost? A. No, no, that is a White staff observation used by the sign-marking department.

Mr. Vogel: What is the number of that White staff observation truck that Mr. Atkinson has? A. 426, I believe. I don't believe that is in there.

Mr. Vogel: That is not listed as part of the equipment at all? A. It is carried on the books but I left it out of here because they were no items of expense for last year. This list is not of equipment; just an operation report and the Dodge which previously had been used on one trip by Mr. Roherty of the Highway Commission is No. 340. That is why I showed it here.

Mr. Graham: Q. There has been no bill for gas and oil turned in by Mr. Atkinson during the time? A. I don't know. Mr. Atkinson turns all his bills in direct to the Highway Commission. In fact, Mr. Atkinson has not dealt with me in any of these items concerning any of these bills.

Q. You have no knowledge on that feature of it? A. No.

Mr. Vogel: In other words, Mr. Gettleman, on all these cars that are used, every other person listed on this sheet turned in an itemized statement of their expenses? A. Yes, sir.

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Mr. Vogel: Mr. Atkinson does not turn in an itemized statement to you? That goes straight to Mr. Black? A. Yes, sir. That is, if there is such a one.

Mr. Vogel: That is what I meant.

Mr. Gettleman: I might explain that they send out mileage reports to the division or resident engineers; then the division and resident engineers send in a mileage report covering expenses on the use of the car.

Mr. Graham: Q. Do they send in any receipts for gas and oil that may be purchased? A. I believe they do. They turn that in to the Highway Commission proper. They pay that out of their expense account and the regulations are that everything over \$1.00 has to have a receipt.

Q. Are there any of these cars in Bismarck that are being used at the present time? A. Yes, sir.

Q. What ones. A. I am using one myself. Well, I can tell you from this list, the ones in use. You see, I have to

go out to Fort Lincoln and down to the Bank and out to the old shop and down town for purchases so I have to run around quite a bit.

Q. What kind of a car do you have to use? A. Ford, No. 1 at the top.

Mr. Vogel: Who is A. D. McKinnon? A. Road Engineer, I believe. I believe that is his title.

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Mr. Vogel: Is that a correct statement of his expenses, \$1,340.90? A. Yes, sir.

Mr. Vogel: For one year? A. Yes, sir. This report covers the year 1924.

Mr. Thatcher: You say, Mr. Gettelman, that is just a repair report; that does not include gas and oil? A. Yes, it includes gas and oil.

Mr. Graham: Are there any other cars in use here in Bismarck this winter besides the one you use? A. Yes.

Mr. Graham: What other cars? A. The one used by Mr. McKinnon.

Mr. Vogel: What are McKinnon's duties? A. He is road engineer, goes out to contract lettings and sees to the opening of bids, etc. He does considerable traveling, goes over highways and road inspection with government engineers. Mr. O'Neil has a car.

Mr. Vogel: What does Mr. O'Neil do? A. Construction engineer.

Mr. Graham:

Q. Is he using a car now? A. Yes, sir.

Q. What kind does he have? A. Buick six.

Q. What other cars are there in use? A. Mr. Myhre's car. The assignment of the cars to the officials was not under my province; that is done direct, I don't exactly know how it is done. Mr. Black decides who has a car.

Q. Is there anyone from the department that drives one

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of these cars for the purpose of taking employees to the Capitol and back? A. I believe there is. One of the mechanics there. Two or three of the fellows have changed off on that.

Q. Whose car do they take? A. Mr. Myhre's.

Q. Do they take some of the employees up there in the morning? A. I don't know if they do now, they did.

Q. Come for them at noon? A. Yes, I believe—that is, Mr. Hubbard at one time and Mr. Young was doing it last.

Q. Do they take them back to work in the afternoon? A. Yes, sir.

Q. And come for them in the evening after work? A. Yes, sir.

Q. The driving, you say, was done by one of the mechanics? A. Yes, sir.

Q. How much time did it take? A. On an average, it took close to three hours a day for meeting and taking care of the help.

Mr. Vogel: They haul just the stenographers and other people that work in the Highway department at the Capitol? They haul them back and forth? A. I believe those are the parties they haul.

Mr. Vogel: Do you know of any other department that provides automobiles to haul employees back and forth? A. No, sir.

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Mr. Vogel: Under whose order is this done? A. Up at the head office.

Mr. Graham:

Q. Do you know what this mechanic was receiving? A. Mechanics are paid \$150 a month.

Mr. Vogel: How many hours a day do they work? A. From eight in the morning to five at night.

Mr. Vogel: Eight hours? A. Yes, sir, except on special emergencies they work at any time. The boys have been very good about that.

Mr. Vogel: Those employees put in on the average of three hours of the eight for hauling employees back and forth? A. Yes, it took about that.

Mr. Vogel: When was this stopped? A. I don't know know if that is stopped as yet unless Mr. Myhre is driving the car himself.

Mr. Graham:

Q. Now, do they turn in an expense account for use of gas and oil for using the car to the Capitol and back? A. They don't have to turn in an expense account because they have a gas book issued to them.

Q. So far as you know they used the gas book for gas and oil for those cars? A. Yes, sir.

Mr. Vogel: Have any of the automobiles since you have been on the department been sold to private individuals or traded in? A. Mostly trade-ins; there has been one or two cases where they have been sold off.

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Mr. Vogel: Have you the list of those to whom they were sold? A. No, but the records would show.

Mr. Vogel: Could you get a list for us of these and the parties to whom they were sold? A. Yes, sir.

Mr. Yeater: What funds do they pay these automobiles from or don't you know? A. Well, it is taken out of our funds.

Mr. Yeater: That is funds from the War material is it? A. Yes, sir.

Mr. Graham: It is not taken out of the Highway Fund? A. Well, I don't just know. I know we put it on our books because we get the bill but the car is usually already paid for before we get the notification of the sale.

Mr. Graham: When you say you send the funds for the sale of material to the Capitol, is it turned in there and credited in the Highway fund? A. Yes, sir.

Mr. Vogel: There is just one fund? A. What they call the 10 per cent fund.

Mr. Graham: What do you mean by the 10 per cent fund?

Mr. Yeater: That is the fund that you use for any purpose for which—? A. Yes, sir.

Mr. Graham:

Q. Ten per cent from what fund is it originally taken? A. I don't know just exactly what fund that comes on.

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Q. It is known as the 10 per cent fund? A. That is the colloquial name for it.

Q. What kind of a car does Mr. Black have? A. A Hudson touring.

Q. When was that purchased? A. Spring of 1923.

Q. Do you know the cost of it? A. I think it was in the neighborhood of \$1,700; there was an old Hudson touring that they traded in on it.

Q. Do you know the cost of the Cadillac car? A. Cost us \$150 outside of repairs. You see we bought it from the Attorney General's office; it was a whiskey six, or eight.

Q. Bought it at an auction sale? A. I don't know just exactly how it was purchased. It was turned over to us, the Assistant sent it down.

Q. What was the car worth in your opinion? A. Oh, it was worth about—it was a 1915 model—worth about \$600.

Q. In good running condition? A. It was when we got through with it, it was in fair condition; it hadn't been thoroughly gone over but it had been tuned up a bit.

Q. Do you know whether there is any provision in the law authorizing the State Highway Commission to buy automobiles? A. I do not.

Q. You have nothing to do with that feature of it anyway? A. No, sir.

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Mr. Vogel: (Examining blue print) Where is your economy rating on other cars outside of Fords and Dodges? That isn't figured here is it? A. No, that was just put up for comparison. I wanted to show the same car in gradation. This shows the miles per gallon for various months of the year. This figures out miles for the entire year.

STATEMENT BY JUDGE HANLEY TO THE COMMITTEE
IN EXECUTIVE SESSION

I will say with reference to Mr. Newton, the secretary and Mr. McAuliff, that they are both here under subpoena. I am representing them as counsel. Your subpoena to Mr. Newton requests him to present the stock book of the Riverside Gravel Company. Neither Mr. McAuliff nor Mr. Newton have any objection to appearing before your committee to testifying to any pertinent matter that involves the investigation that the committee is making. They do, however, question the authority of the committee to inspect the books or papers of the Riverside Gravel Company who are a third party and not involved in the investigation. We have no objection to making a showing to establish whether or not any member of the Highway Commission is a stockholder in the Riverside Gravel Company or in any way interested in that company. The facts are that none of the Highway Commission is a stockholder, no one connected with it has any interest in it and while we

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don't want to turn over the books to the committee, we have no objection to Judge Graham and the chairman of the committee looking at the stock books—(Mr. Thatcher: Or the whole committee?)—or the whole committee looking at the stock books excepting that we don't feel that the private business of the company should be turned over to this committee and Mr. Newton will take the stand on oath to establish the fact, as I said before, that not any parties connected with the Highway Commission is a stockholder or interested in the company.

Mr. Vogel: You are working on the supposition that that is the purpose of the committee in asking for the books?

Mr. Hanley: It may not be. The reason I am operating under that supposition is that I so understood from my conversation with Judge Graham, but if there are other matters that the committee want to go into the witnesses will take the stand. We don't care particularly to contest the authority of your committee to require the introduction of books or examine witnesses but are perfectly willing to give such facts as are pertinent to the inquiry, but, at the same time, if we have to contest that authority, we would. We would rather get along in harmony with the committee than be in contest.

Mr. Vogel: You would produce the stockholders list before the whole committee, would you?

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Mr. Hanley: I don't know whether you want to take a record of this or not. (Explanation by Mr. Hanley that they would be willing to submit list of stockholders to the committee provided this list be not published.)

Mr. Vogel: Could you give us a list of those for our own use if it is not published? A. Yes. I have a list. These are the stockholders of the company. (List submitted.)

Mr. Vogel: These are the stockholders of record? A. Yes. They can be verified by the books.

(Stock book examined by committee.)

TESTIMONY TAKEN AT THE HEARING BEFORE
SPECIAL HOUSE COMMITTEE ON FEBRUARY
12, 1925.

Mr. T. R. Atkinson, having been called as a witness, after having been duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence?

A. T. R. Atkinson, 56, Bismarck, North Dakota.

Q. What is your business? A. Civil engineer.

Q. How long have you been a resident of Bismarck? A. Nearly twenty years.

Q. Have you done any work for the State Highway Commission? A. I have.

Q. When did you commence doing work for the State Highway Commission? A. In 1918. However, I may state
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I have done work for all of the different Highway Commissioners since 1918. I think I did some work every year right straight through. I was formerly State Engineer for a number of years and in 1918, I did considerable work for Mr. Bliss. He was Highway Engineer at that time. In 1919, 1920, 1921 and 1922 for Mr. Robinson while he was Highway Engineer. I would like to state further that my connection with the Highway Department has been partly on—I have done some work on a day basis of \$10.00 per day and my expenses and then I have also done some work as other engineers have throughout the state on making preliminary surveys for the Highway Engineer. I think that is a practice of all Highway Commissions so far as I know to use the different engineers in the counties to make the preliminary surveys for them.

Q. The preliminary surveys about which you have spoken, that is done on a contract basis? A. That is the rule.

Q. How much a mile? A. My arrangement with Mr. Robinson was that he was to furnish me a car without charge; I would take care of the gas and oil and I was to get \$15 a mile. I might say that my arrangements and the work which I did under Mr. Robinson was more profitable than the work I have done under Mr. Black.

Mr. Vogel: Profitable what way? A. For the reason that under Mr. Robinson they didn't require the engineers who

made surveys to make out the pencil plats and pencil notes
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of the cross-sections, which cost around \$15.00 a mile to do. Mr. Black insisted when I did this work for him, that we would be paid \$60.00 per mile and that we should have to plat up all the pencil drawings and cross section—what is known as the cross-section, that is we run a center line down the line wherever it goes, and then we take what is known as cross-sections across it every 100 feet and oftener when the contour or form of the ground requires it, and then we are required to set up stakes every 500 feet and put out monuments at section corners or cross points and reference them, and we are required to come into the office, under Mr. Blacks ruling and make all pencil plats which formerly was done by the engineers in the office, that was under Mr. Robinson, and under Mr. Black's regime, I have had to furnish my own cars and pay all by expenses all the way.

Mr. Vogel: You say you have had to furnish your own cars? A. Yes, sir.

Mr. Graham:

Q. Now what arrangement did you have with Mr. Black as to the contract basis of your work? A. It was to be \$60.00 a mile for all that work.

Q. Now, as I understand, it was to be \$60.00 per mile and you furnish your own cars? A. I furnished my entire equipment, office and all equipment, paid all expenses of every nature.

Mr. Vogel: You are City Engineer here in Bismarck? A.
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Yes, sir. I want to say that there are probably eight or ten—I don't know—engineers in the state who are working under the same plan and I think it is an economical proposition for the state.

Mr. Vogel: Do you know if there are any other states working under that plan? A. I don't know, sir. I only know that our own state does and I think it is an economical proposition for this state.

Mr. Vogel: It is true that there are no other states that are at the present time using that same system, having discarded it as being too costly? A. I don't know.

Mr. Vogel: Minnesota doesn't? A. I don't know; I could not say.

Mr. Graham: Who pays you \$60.00—

Mr. Atkinson: Pardon me, Mr. Graham. I want you gentlemen to understand that I want to give you all the facts. I have nothing to cover up; I want the facts to come out. There are, I presume, eight or ten I think, I can name them, that are doing this work and I believe it is an economical proposition for this state for this reason; that you cannot go out here and pick out engineers, competent engineers, on short notice to make these surveys unless you agree to keep those fellows through the winter.

Mr. Vogel: How many engineers have they in the High-

way Commission at the present time? A. I couldn't tell you. (96)

Mr. Graham: Perhaps we can develop it along this line-- Mr. Atkinson: I would like to explain a little further, Mr. Graham. An engineer in charge that is competent to go out and make one of these surveys must have had considerable experience and a man worth \$150 to \$250 a month. Now, if you have to go out and pick them out, you have to agree to keep them through the winter and for that reason you see the work through the winter is slack and the Highway Commission don't care to keep any more engineers than they can use on designing of these plans and other work so that I believe in this state, where we have such long winters, that is the most economical for the state to handle the work in that way.

Mr. Vogel: That is your own personal opinion? A. I will tell you this much, Mr. Vogel, I can show you my books and will show them to your auditor, if you wish, Mr. Lund, and I will show you where we worked and the work we did. I often worked myself ten to twelve hours a day and my men worked twelve hours a day and we worked mighty hard and I believe we turned in mighty good records, and Mr. Lund can go with me and go over my books. I have done a lot of work this year and my books will show that including my time at \$10.00 a day, I haven't made \$500 on all the work I have done for the Highway Commission in 1924.

Mr. Vogel: You mean profit? A. Yes, sir, but further, (97) it enables me to keep my organization together and keep trained men by being able to do this work.

Mr. Graham:

Q. What other work do you do besides Highway Commission work? A. City engineering; I do considerable engineering throughout different parts of the state, make land surveys, road surveys for counties, Burleigh county, Emmons county, I do work of that kind. Of course the municipal engineering work during the past four or five years has fallen off so it hasn't been as much as it was before that. I used to keep about fifteen men all the time; now I average 7 or 8 men through the year.

Mr. Graham: Now, you say there are 8 or 10 engineers throughout the state who did work the same way? A. I understand so, yes, sir. I think I could give you their names if you wish. I think I know every one of them.

Q. All right. A. Mr. Griffin, Mandan.

Mr. Vogel: Is this the man that was a former partner of Mr. Black? A. Yes, sir. (Mr. Atkinson continuing): Mr. Hurning, Jamestown; Mr. Bliss, Valley City, who was formerly State Engineer; Stevenson, Lucke & Miller, Fargo; Mr. Johnson at Hillsboro; Ingram & Smith, Grand Forks; Engdahl, Stanley. There may be others but I know of these; I have personal knowledge of these.

Mr. Vogel: This work is not done on a competitive basis between the engineers? A. No, sir. I tell you there are a
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lot of fellows, Mr. Vogel, who have said they wouldn't want to do it because they couldn't get money enough. Bliss claims to have lost a lot of money on this; they often have to put in as much as 14 to 16 hours a day.

Mr. Graham:

Q. How many miles have you surveyed for the State Highway Commission during the year 1924? A. I couldn't tell without examining my records. I think it was around 100 miles. Would like to explain how that came about: owing to the financial condition of the state, the men for these surveys did not come in until way along in June and July. My first party, the first survey I made started out the last of June, went up in Mountraill County. I surveyed thirteen miles up there and lost some over \$100.00, it was a hard job.

Mr. Vogel: You received how much a mile? A. \$60.00. I then came back and there was no other work in sight at that time. My party was on other work until about the last of July, and then the demand commenced to come in for Federal Aid Projects and they asked me if I would go down and make surveys on the reservation in Sioux County and I says, "That is mighty hard work down there and I will lose money on that proposition, but if you got other work coming up where I can get a chance to make even, I will take it.

Mr. Vogel: You say you did 100 miles last year? A. A
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little over 100.

Mr. Vogel: Your records would show? A. Yes, my office records would show.

Mr. Vogel: In 1923, how many miles? A. I would have to look up the records on that but I think 50 or 60 miles.

Mr. Vogel: 1922? A. That was under Mr. Robinson, about the same.

Mr. Yeater: The work you have done for the counties was separate from the Highway Commission? A. Yes, sir.

Mr. Vogel: You secured survey contracts in these same counties in which you were doing work for the Highway Commission? A. No, sir, only in one, Emmons, I made a survey of five miles in Emmons County last year and I was engineer for Emmons County last year.

Mr. Graham:

Q. Now, where you say you did work for the Highway Commission. Who pays you, the Highway Commission or each county? A. The arrangement was that the Highway Commission has paid me from the fund that has accrued to the credit of that county.

Mr. Vogel: Q. They charged it up to the county? A. They

charged it up to the county fund. That was true except in Sioux County, I didn't know until I had the work completed that they had an agreement with Sioux County before because they didn't have enough funds to their credit to make

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the survey; they had an agreement with the commissioners of Sioux County that they were to pay the expenses of the survey and I might add they are still owing me about \$500.00 down there on work done last September and October.

Mr. Graham:

Q. Now, approximately how many miles did you survey for Mr. Robinson in 1921? A. I couldn't tell you without going back to the records.

Q. Can you make a list? A. I question some whether I did any. I doubt if I made any in 1921. I think I was engaged in other work in the eastern part of the state and was unable to make surveys which he asked me to make.

Mr. Vogel: In Sioux County you surveyed how many miles? A. 40 miles at \$60. a mile.

Mr. Vogel: That is the total cost of the survey? A. At the request of the government engineers, we ran two or three different lines so that in order to compare the cost and see which would be the most economical and for that reason the total mileage for which I am to be paid runs a little more than that; I think the total cost runs up around between \$2,500 and \$2,600.

Mr. Graham:

Q. I do not suppose you know how many miles these other engineers surveyed for the Highway Commission in 1924? A. I do not, but I have been told that I made more surveys in 1924 than any other engineer; that is hearsay of course.

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Q. Now, it would have taken about how many engineers working for the Highway Commission to make these surveys? Would two men have been able to make them? Two full-time men? A. Two full-time men might have, yes, sir, but you understand that a man in charge of the party has to have instrument men under him; you have to have about three good paid engineers on a job of that kind. Now, I go out myself and have an engineer besides that I pay \$200 a month, and I have another engineer that I pay \$100 a month. Now those men, including the work which I do, Mr. Black would have to keep on all the year around in order to do this work.

Mr. Vogel:

Q. Two full-time engineers could oversee all of this survey in your opinion? A. They could oversee it, yes, sir, but you have to have others besides.

Q. Then in addition to the two full-time engineers, they would need some instrument men? A. Yes, sir.

Q. Those instrument men could be picked up at any time? A. No, sir.

Mr. Graham:

Q. What do you pay your instrument men? A. I pay one \$125 a month, and one \$100. I have one man that does this work that I pay \$300 a month.

Q. Well then, in addition to the instrument men what other help would they need? A. You would have to have two chainmen and rodman.

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Q. Chainmen and rodmen would be picked up at any time? A. Yes, sir. You can pick up—generally you can pick them up, although it is pretty hard to get bright, competent fellows except during the time when you can use college men. When the college closes in spring, during the summer and up until fall, about three months, you can get all you want and the rest of the time from the time the work opens up in the spring until the middle of June, and then from September on it is hard to pick up fellows to fill in and it is darned expensive.

Q. Then there was some testimony here yesterday that you had some cars belonging to the State Highway Commission. Do you have any cars belonging to the State Highway Commission? A. Not belonging to the Highway Commission; they are my own cars.

Q. Do you have a Cadillac car? A. I do, sir.

Q. From whom did you secure it? A. I secured it from the Highway Commission, Mr. Black.

Q. Bought it? A. Yes, sir.

Q. When did you buy it? A. I think it was in November; October or November, 1923.

Q. What did you pay for it? A. Well, as I—it was the same as the other cars—would you allow me to explain in connection with these—

Q. Couldn't you tell me how much you paid for it? A. It is not paid for yet.

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Q. How much are you to pay for it? A. When Mr. Black came into the office in the spring of 1923, I told him I would like to buy two cars. I told him I—if it was all right with him, I would take over an old Dodge which I had been running under Mr. Robinson and I would like some sort of an old truck in which to pack around my camp outfit and men as I camp all the time. I asked him what the cost would be and he said, "I couldn't tell you; in the first place, I don't know whether I have the right to sell the automobiles or not and, in the second place, I don't know, I am new on here and haven't had time to check up and know what those cars cost." He says, I understand that the previous administration have sold these cars for the cost of the freight plus what repairs they put on to them. I said, I'll tell you I would like those cars if you can sell them to me because I don't want to be driving Highway Commission cars in my private business and I would

rather buy those cars for that reason, because I never felt right driving an old Dodge under Robinson's regime if I wanted to go somewhere.

Q. Since that time, has Mr. Black ever told you what the price would be for any of these cars? A. No,—Yes, he told me, approximately. As I say, he told me at that time that he didn't have authority to sell them, he didn't think, and he would look the matter up, and he was going to try to get authority to dispose of the cars which I had and then he would

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bill me for them, and he told me later on he had an opinion from the Attorney General of the United States that he had authority to sell this stuff, and said, you can purchase those if you wish, and I said, send me a bill for those cars and he said, I intend to.

Mr. Vogel: Was this Cadillac car also a car belonging to the War Equipment Department? A. No, sir. I understand it wasn't.

Mr. Vogel: Have you ever been billed for these cars? A. No, sir.

Mr. Vogel: Did he ever tell you what price you would have to pay for them? A. I think he told me at the time the Cadillac was taken over, it would be \$150. I think that is what he said. I would like to say that—

Mr. Graham: Now, did he tell you what the Dodge would be? A. No, he never did.

Mr. Graham:

Q. Did he tell you what the truck would be? A. I think he told me at one time that they were selling those White trucks at \$395.

Q. How did it happen that he didn't bill you for these? A. I don't know, I couldn't tell you. I spoke to him about it several times. On November 24th—if I may introduce copy of letter which I wrote him, I think he has the original in his files.

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"November 24, 1923. Mr. W. G. Black, Chief Engineer, State Highway Commission, Bismarck, North Dakota."

Mr. Vogel: Mr. Black would undoubtedly have the original letter in his files? A. I imagine so. "Referring to the Dodge touring car and the White truck which I took over last spring. If you will please forward me bill for them, I will mail you check to cover, or you may take out the amount from the proceeds of my account for the survey of F. A. P. No. 224, Starkweather to Devils Lake, which I have completed and turned over the notes to Mr. McKinnon."

Mr. Graham: You would be owing the Highway Department interest upon these amounts for the time you have had the cars, would you not? A. I would question that some because the Highway—in my work for the Highway Commission, they are owing me considerable amounts of money all

the time and it was always, I presume, intended that in the final settlement, what I was owing on those cars would be taken out of what I had coming to me. I had \$600 due me for work in Sioux County last September.

Mr. Vogel: Those bills have been presented and allowed by the Highway Commission? A. No, the bill was presented in Sioux County and \$2,000 was allowed on that bill.

Mr. Vogel: You understood when you took the job and when you take all these jobs that these payments must go through a certain process of collection? A. Yes, sir.

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Mr. Graham:

Q. Now, who is to pay the taxes on these cars for 1924? A. I don't know whether—I never paid any attention to that.

Q. Did the assessor come around to you last spring? A. I don't recall. I do know I had on tags, which I bought and put on those tags a year ago.

Q. Did you turn these in as belonging to you on the assessmen list? A. I did if the assessor asked me; I don't recall and I don't recall the assessor's visit to me. I surely had no idea of escaping taxes on those.

Q. Did the assessor come down to you and ask for a statement of the property you own? A. I can't remember, I don't think he did.

Q. You don't know? A. The thing has escaped my attention. I surely never tried to avoid paying taxes on them and I of course am claiming those cars, because they sent me Highway Commission tags for them and I sent them back and I went and purchased my own tags.

Q. Now, at the time you were doing work for Mr. Robinson, were you not to pay the Highway Department ten cents a mile for the use of that Dodge car? A. No, sir.

Q. Did you have any talk with anybody concerning that? With Mr. Robinson or did you ever have any talk with the members of the committee? A. No, sir; the Highway Commission, you mean, no, sir.

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Q. Now, do you not know that it was the custom of the Highway Commission to charge ten cents a mile for the use of these cars when they were let out to men who were doing contract work? A. I do not, sir.

Q. It was never brought to your attention in any way? A. I was asked to turn in a mileage account on that car which I did in the fall.

Mr. Vogel: When? A. 1922, I think.

Mr. Graham: And you paid for the number of miles you had used the car? A. No, sir.

Mr. Graham: Dnd any members of the Highway Department ask you for payment for the number of miles you had

driven the car? A. I think Mr. Luehrs was in charge of the equipment at that time and I think my statement of the mileage was turned over to him, but I am sure he never rendered me a bill for the mileage.

Mr. Vogel: Did he ask you anything, concerning it at that time? A. I don't recall.

Mr. Graham:

Q. Now, was this car used by any member of your family during the time that you had it while you were working for Mr. Robinson? A. Very little, because I—as I say, I was very careful not to use that car for my personal business; I did use it on some other private work but it was not used by my family.

Q. You used it on some private work? A. Yes, and I think my record of the mileage shows that at the time.

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Q. Did you pay the department for the time you had used the car on your private work? A. No, sir, because I paid all the oil, gas and repairs at that time.

Q. That was your agreement with Mr. Robinson? A. That was my agreement with Mr. Robinson and I was to use it on private work if I wished.

Q. You were to use it on your private work also? A. Providing I paid all repairs bills and all that.

Q. How many miles did you use it on your private work? A. I would have to look up the records on that.

Q. Could you give us any approximate? A. No, sir, I can't.

Q. Would it be probably 1,000? A. Probably more than that.

Q. 2,000 miles? A. I would imagine maybe 3,000; I couldn't say.

Q. That is your best recollection, 3,000 miles on the private work? A. Yes, all of that.

Mr. Vogel: When did you get the car? A. In the spring of 1922.

Mr. Vogel: You have had that car ever since that time? A. No, sir. It was turned back to them in the fall of 1922, again in the fall of 1923—no, in the fall of 1922, it was turned back to the department and as I say, I secured it again from Mr. Black in 1923.

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Mr. Vogel: You turned it back to the department during the time you didn't have use for it but you have used it during the season from that time until now? A. Since I took it over from Mr. Black in the spring of 1923, it never has been back to the Highway Commission shops.

Mr. Vogel: You have paid the department nothing for the

use of that car nor for the payment of the car since that time? A. No, sir, but I paid the department probably about \$500 in repairs.

Mr. Vogel: Actually you repaired it for your own use?
A. Yes, sir.

Mr. Vogel: It was in good condition when you got it? A. It was an old car.

Mr. Vogel: It was in good ordinary condition? A. It was an old second-hand car.

Mr. Vogel: But in those two years, you haven't paid anything to the department for the use of this Dodge. You have the Dodge in your possession? A. Yes, sir, and consider it my own.

Mr. Vogel: You consider it your own although you haven't paid for it? A. Yes, sir.

Mr. Graham:

Q. In your opinion, what was the Cadillac worth at the time you bought it from the department? A. I thought it was a good buy at \$150.

Q. Now, in your opinion, what was the Dodge worth at the time; the Dodge you took from Mr. Black in 1923? A. I

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think it was—I bought a better one, considerably better, this fall for \$225 and in much better condition than this other one; I imagine about \$150 would be a good price for the Dodge.

Q. How many miles have you driven it in 1923 and 1924?
A. I would have to look up my records.

Q. Could you tell us about how many? A. About 15,000 miles.

Q. In those two years? A. Yes, sir.

Mr. Vogel: What was your approximate cost of repairs during that time? A. I made on all the mileage which I ran in 1924, charging ten cents a mile to every mile which the car ran, charging up my repairs and expenses, I am about \$150 to the good on three old cars which I took over from the Highway Commission and that \$150 is eaten up by the time of my own men working on them to keep them going.

Mr. Graham:

Q. Now, in your opinion what was the truck worth when you bought it from the Highway Commission? A. Well, as I say, I am not a very good judge of old second-hand cars. I know I lost \$185 on that darned old car in 1924, mileage run and the repairs on it.

Q. I will ask you, in your opinion what was it worth when you bought it? A. As I say, I am a poor judge. I know you could go out and buy a second-hand car as good as that for a very small amount.

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Q. You thought it was worth \$395.00? A. I thought it was good to do the work which I had to have it for, to carry my camp equipment from one job to another and to carry my men, and I have broken down a good many times on the way and lost a lot of time that way.

Q. You have used that also on private work? A. No, sir only because I never had any use for it except on surveys made for the state.

Q. Do you know of any other engineers of these eight or nine you have mentioned that have Highway equipment they are using? A. I don't know, I don't think so.

Q. You haven't paid anything on these three cars at all? A. I just have paid something for repairs.

Q. I mean you haven't paid anything on the sale price? A. No, sir, I asked them to send me a bill.

Q. You have no written contract for the purchase? A. No.

Q. They are still carried on the Highway books as belonging to the Highway Commission? A. I don't know, sir.

Mr. Vogel: They are carried as belonging to the Highway Commission, as belonging to them? A. I repeatedly said to Mr. Black that I wished he would send me a bill and he said, I will see that the equipment department sends you a bill, but the bill never has come, and I have told him also, you can take the value of those cars out of any of these bills I have turned in here.

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Q. The cars are worth considerably less now than when you took them? A. I assume so; anyone who gives me \$100 can have the whole bunch.

Q. You are willing to pay what those cars were worth when you took them? A. No, sir, I never would pay that; they are second-hand cars.

Q. You expected to pay to the Highway Commission what those cars were worth when you first took them over? A. I expected to pay that, yes, sir.

Q. And interest on the money for the time you have had them? A. No, sir, the Highway Commission can forward me bill for those cars.

Mr. Vogel: You have had the use of those cars? A. And they have had the use of my money a good many times.

Mr. Vogel: Your understanding was when you took these contracts that these bills were allowed through the regular procedure? A. I have waited two or three months a good many times.

Mr. Vogel: You expected to do that when you took the contract? A. No, I did not.

Mr. Vogel: You have had road contracts with the State

Highway Department sufficiently long to know its procedure?
A. I know it has worked out that way but it wasn't the way I expected.

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Mr. Graham:

Q. You expected, of course, to pay cash for these cars when you bought them from the Highway Commission? A. I did.

Q. And you have had the use of this money ever since?
A. They have had the use of my money ever since.

Mr. Vogel: Did you have an agreement with Mr. Robinson that you would have to purchase the Dodge car from him when he was Chief Engineer? A. I think I said I would like to purchase it and I think he told me at that time he had no authority to sell.

Q. He had authority to give it to you to use? A. I didn't question his authority.

Mr. A. W. Luehrs, having been called as a witness, after having been duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence? A. A. W. Luehrs, age 50, Bismarck, North Dakota.

Q. You have been connected with the equipment department of the State Highway Commission? A. Yes, sir.

Q. During what period of time? A. From October 1, 1922, until, I think, May 1, 1923.

Q. During that time you had charge of the automobiles used by the State Highway Commission? A. Yes, sir.

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Q. Do you know under what arrangements these cars were let out for the various engineers to use? A. You mean to the Highway engineers or anyone else? To all department engineers they were turned over on a basis that they turned in the mileage and our department charged them ten cents a mile; we furnished gas, oil and repaired the car.

Q. Now during the time that you were there, did Mr. Atkinson have a car? A. I would like to supplement that. Now on the sub-contractors my understanding was the same basis.

Q. That is, they were to pay ten cents a mile? A. Yes, sir, the same basis.

Q. Mileage on the car and your department to furnish oil and gas? A. Yes.

Q. Now, do you know whether or not Mr. Atkinson had a car while you were there? A. Yes, sir, he had a Dodge:

Q. Did your department furnish oil and gas for that car?
A. Now, I wouldn't say as to that offhand unless I look up the books, but it was my impression that we have furnished

Mr. Atkinson gas; that was the sending out of the gas books and that was left to the bookkeeper, Mr. Galloway.

(Interruption by Mr. Atkinson: Could I correct my statement in regard to the gas? I think I had one or two gas books— Mr. Vogel: Just a moment, Mr. Atkinson, when Mr. Luehrs has finished, you will be given a chance to rebut the testimony.)

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Q. Did your department during the time you were there receive any pay for this from Mr. Atkinson?

Q. What has taken place since, you do not know? A. I know nothing about the department at all.

Mr. Vogel: From November until May, from November, 1922, until May, 1923, that is the time you were in the department? A. From October, 1922, yes.

Mr. Vogel: Mr. Atkinson has paid nothing into the department for the use of this car on a mileage basis or any other basis? A. No, sir.

Mr. Graham: Did you render him a bill for the mileage? A. There was one sent from the office. I called for a mileage statement for Mr. Atkinson and he sent one in and a bill was rendered on it, or anyway my mechanic said he sent it, I ordered it sent, but we received no money from Mr. Atkinson, as I remember. I would like to say this to you that that car was turned over to Mr. Atkinson by Mr. Hanson and what his agreement, if he had any agreement, was, I know nothing about it. Mr. Hanson has not reported to me.

Mr. Atkinson recaled to the stand:

Mr. Atkinson: I think it was taken from Mr. Hanson and I think he furnished me one or two gas books; I had forgotten.

Mr. Vogel: Do you know whether Mr. Robinson knew about this transaction? You stated you received this car from Mr. Robinson. Now you state you received it from Mr. Hanson. Did Mr. Robinson know? A. The orders were given by Mr. Robinson to Mr. Hanson to let me have the car.

Mr. Vogel: You are positive of that? A. Yes, sir, and I can't recall that Mr. Luehrs rendered me a bill; he may have done so; I may have forgotten. I am honest in my statements, Mr. Vogel, but I went to Mr. Robinson at the end of the season when I turned the car over and I said, Mr. Robinson, I have used this car on my personal business some; I have done work here for the Highway Commission, considerable work. I think I have given good service; now in addition to the agreement which we made when I had the car on these surveys, if there is any additional charge for me to pay on the cars, I will and he said, No, sir.

Mr. Graham: Will you explain to us about the gas books? A. I think they furnished gas book with \$20.00, \$25.00 or \$5.00. I can't remember—

Mr. Luehrs: It was \$25.00.

(Continued)

Mr. Atkinson: Oh yes, a gas book with \$25.00 worth of coupons in it and I don't know how many I had, I am willing to take Mr. Luehrs' word as to that, but I do say that Mr. Robinson's and my agreement was that he would furnish me the car but that I was to furnish gas and oil and repairs, and at the end of the season, as I say, I went to Mr. Robinson and

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said. How about the expenses on this car which I have used for personal account. He says, it was all right, you have done good service, given good work, you haven't made much money and it is all right.

Mr. Graham:

Q. Did you tell Mr. Robinson that the department had supplied you with gas books? A. I don't recall, but I knew that he was in touch with the department and it was under him.

Q. You told us that your agreement was that you were to furnish gas and oil? A. Yes, sir.

Q. Did you secure any gas and oil from the supply department at the Highway Commission? A. I think I did when I first started out with the car. As I say, I can't remember, the records will show, I don't question those.

Mr. J. H. Newton, having been called as a witness, after having been first duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence? A. J. H. Newton, Mandan.

Q. What is your business or occupation? A. Wholesale grocer.

Q. Are you connected with other lines of business also? A. Yes, sir.

Q. Are you connected with the Riverside Gravel Company? A. Yes, sir.

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Q. And when was that organized? A. Why, I don't remember exactly, but I think it was in 1920; the latter part of 1920 or about 1921.

Q. For how much was that incorporated? A. I think it was incorporated for \$100,000.

Q. And how much stock has been issued? A. \$45,500.

Mr. Vogel: That is paid-up capital stock? A. Yes, sir.

Mr. Graham: Now, would you be willing to give us the names of the stockholders? A. I gave them to you yesterday.

(Mr. Vogel: The agreement was that the list would be submitted to the committee but that the same would not be incorporated in the record.)

Mr. Graham:

Q. Now, is Mr. Black or any member of the Highway Commission a stockholder in the Riverside Grave Company? A. No, sir.

Q. Have they ever been? A. No, sir.

Q. Now, you have a grave pit? A. Yes, sir.

Q. Where is that situated? A. At Schmidt, North Dakota.

Q. That is about 6 or 8 miles? A. 11 miles south of Mandan.

Q. On the railroad? A. Yes, sir.

Q. And how large a tract of land does it cover? A. Forty-seven and some fractional acres.

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Q. And what business does it do? A. What do you mean?

Q. What is the business of the Riverside Gravel Company? A. Wash and screen and sell gravel and sand.

Q. For what purposes? A. Any purpose.

Q. Particularly for concrete work? A. Yes, sir.

Q. And that business covers the State of North Dakota? A. Covers anywhere.

Q. Do you do any business outside of the State of North Dakota? A. Yes, sir, lots of it.

Q. How many cars of sand and gravel did you ship during the year 1924? A. Oh, 700 or 800, I didn't check them up.

Q. How many of those were shipped within the State of North Dakota? A. I don't know.

Q. Could you tell us about how many cars? A. No, sir.

Q. Your records would show? A. I think they would, yes, sir.

Q. You would be willing to give us records on that? A. Possibly. It would take about a week to figure up.

Q. Could you not have your bookkeeper check it over? A. Don't have a bookkeeper. I do it myself.

Q. You have a record showing where all the cars of sand and gravel went? A. Yes, sir.

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Q. Would you have any objection to making a list showing shipments within the State of North Dakota? A. No, sir.

Q. When could you prepare such a record? A. It would take me a week to get it.

Q. Would you secure it for us as soon as possible? A. Yes, sir.

Q. Now, do you know whether or not any sand or gravel has been shipped up in the northern half of the state? A. I think there has, a little, yes.

Q. Could you tell us to what concern? A. I think I could. I might say to you that I have a list here of every firm and every individual, at your suggestion yesterday, that we ever sold any sand or gravel to since we were in business. I will read it to you if you want to.

Q. Does this list show the amount to be shipped? A. No. I didn't have time to get that.

Mr. Vogel: Would you be willing to leave that list with the stenographer? A. No, but I will read it into the record. C. V. Anderson, Baldwin, N. D.; Henry Bellman, New Leipzig; W. C. Bakke, Dickinson; Bartleson & Ness, Minot; J. C. Boespflug, Richardson, he lives at Miles City and works at Richardson; Ralph Burnstad, Burnstad, N. D.; Carson State Bank, Carson, N. D.; Curlew Elevator & Lumber Company, Glen Ullin; S. G. Cummins, Elgin, N. D.; F. H. Carpenter
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Lumber Company, Bismarck; Dunham Lumber Company, Bismarck; Dietz School District, Elgin; David Dietz, New Salem; Foundation Company, Chicago; Fargo Bridge & Iron Company, Fargo, N. D.; Great Northern Bridge Company, Minneapolis; A. Guthrie & Company, Duluth—

Mr. Vogel: These went for work within the state? A. Great Northern underpass for Northern Pacific. Lindquist & Son, Leeds; Glen Ullin Coal Company, Glen Ullin; George J. Grant Construction Company, St. Paul; Peter Jertson, Lisbon; Adam Geiss, Huff; Homebuilders Association, Mandan; E. W. Hyde, Almont; Haggart Construction Company, Fargo; F. M. Haas Company, Minot; Hutchinson Hardware Company, LaMoure; Hughes & Dieters, Dickinson; James Hoag Roofing Company, St. Paul; Harrison & Son, Dickinson; I think they live in Jamestown but work in Dickinson; D. M. Helland, Carson; T. E. Ibberson & Company, Minneapolis; Chas. C. Jackson, Jamestown; J. A. Jardine, Fargo; C. H. Johnson & Company, Fargo; James Kennedy, Mandan, lives in Fargo but works in Mandan; Knife River Coal Company, Bismarck; Chas. Kidd, Mandan; B. F. Kriesten, Melville, N. D.; Kingsley Bros., Mott; H. Knudtson, Adrian, N. D.; Carl Lindberg, Jamestown; J. L. Larson, Bismarck; Lewis-Vidger Company, Jamestown; LaMoure Construction Company, LaMoure; Agaton Larson, Mandan; Linton Bridge Company, Linton; Fred Mitchell, Mandan; Mandan Mercantile Company, Mandan;
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Mandan Transfer Company, Mandan; Mott Supply Company, Mott; W. W. Moyer, lives at Bismarck, shipped to Mott; Chas. Mutchelknaus, Mott; Morton County, Mandan; McFarland Engineering Company, Kansas City; E. A. Moline, Bottineau; Milnor Construction Company, Milnor; W. A. Mosher, Mott;

W. L. Marchand, Rolla; Mandan Construction Company, Mandan; McCormick Coal Company, New Salem; L. M. Nielson, Valley City; Northern Pacific Railway Company, St. Paul; A. T. Nelson, Carson; Northern Great Plains Station, Mandan; Wm. Noggle, Bismarck; North Dakota Construction Company, Burnstad; W. H. Noel, Jamestown; N. W. and W. A. Nelson Company, Minneapolis; Northern Construction Company, Grand Forks; R. F. Odenthal, Dickinson; Occident Elevator Company, Minneapolis; Fred Pathman, Carson; C. N. Pageant, Minnewaukan; T. F. Powers & Company, Fargo; F. W. Rasmussen, LaMoure; J. B. Racek, Mandan; Reddinger & Hanson, Wahpeton; Russell-Miller Milling Company, Mandan; L. B. Hanna, Mandan, he lives at Fargo; Red Trail Oil Company, Mandan; Roy Redman, Heil, N. D.; Sweet Briar Township, Sweet Briar; State Training School, Mandan; T. M. Swingen, Cooperstown; Geo. W. Scoville, Forman; Standard Oil Company, Bismarck; Joseph Simmons, Mandan; Schiller Bros., Dickinson; State Hospital, Jamestown; Stanley Bros., Hannaford; Henry Tatley, Bismarck; E. R. Tarnoski, St. Paul; Thorwad Johnson Company, Grand Forks; A. J. Wein-

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berger, Beach; Winston Grant, Glendive, Montana, live at St. Paul, but shipped to Montana; D. J. Weidell, Mankato, Minn.; Western Auto Company, Mandan; D. R. Williams, Mott; Western Electric Company, Jamestown; Woodrich Construction Company, Minneapolis; John Young, LaMoure; Joseph Jasonck, Cayuga; W. M. Stark Company, Des Moines, Ia.; T. A. Pendergast Bridge Company, Milbank, S. D. These are all of the people we ever sold gravel to since we have been in the gravel business. The total number is 105, of which 33 did highway work, 72 did not do any highway work and therefore this committee is not interested in them. Of the 33 that did highway work, 11 of them have not bought any gravel since Mr. Black was in office. That leaves 22 that bought gravel of us during the time Mr. Black was in office, but of the 22 who bought gravel from us during the time Mr. Black was in office, eleven of them also bought gravel from us during the time that Mr. Robinson and Mr. Black were both in office, so that there is only eleven that we sold new since Mr. Black came into office. Now, then, with reference to your request for cars shipped, you are not interested in the cars which were shipped to build the Great Northern bridge in Montana?

Mr. Graham: All we are interested in are cars shipped to concerns doing roadwork within this state.

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Mr. Vogel: These contractors pay themselves for this gravel or does the Highway Commission pay part of it? A. We never sold gravel to the Highway Commission, we worked entirely with contractors.

Mr. Graham:

Q. You furnish this gravel, I suppose, f. o. b. cars at Schmidt? A. Yes, sir.

Q. At what rates is it furnished for bridge work and cement work in the state? A. We have several prices; we

sometimes sell it by the ton and sometimes sell it by the yard.

Q. Could you give us the price? A. Yes, sir, would be very glad to. The price of screened and washed gravel by the yard at Schmidt, North Dakota, is \$1.75 for 2,700 lbs., and screened and washed sand is \$1.00 for 3,000 pounds, f. o. b. cars, Northern Pacific railroad, Schmidt, North Dakota, Mandan railroad weights to govern. When we sell it by the ton, the price is for sand, sixty-five cents a ton of 2,000 pounds, and \$1.25 a ton of 2,000 pounds for stone, same condition, f. o. b. cars Schmidt, Mandan railroad weights.

Q. You have machinery there for loading? A. Yes, sir.

Q. And for the washing of it? A. Yes, sir.

Q. Now have you any machinery of any kind from the State Highway Commission? A. No.

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Q. Did you ever have? A. No, sir.

Q. Do you you know whether anyone else in that vicinity has? A. Don't know anything about it.

Q. Did you have any arrangements with any member of the Highway Commission that they are to receive a commission or profit on any of the sand sold or gravel sold through their recommendations? A. No, sir.

Q. You pay no commissions? A. Not to anyone.

Q. To any member of the Highway Commission? A. Not to anyone.

Q. Do you know whether or not they advertise your sand and gravel for you in any way? A. I don't think they do.

Q. You have no arrangement for such advertising. A. No, sir. I want to say furthermore for the benefit of the committee, if we never sold any gravel for road work, we would never know it.

Q. What percent would it be of your business? A. Three per cent.

Mr. Vogel: You mean for road surfacing? A. No, we don't sell road surfacing. Ours is all concrete gravel; we never sold a bit of road surfacing in our life.

Mr. Vogel. You could give us the names of those eleven parties? A. Yes, would be glad to do that. Of course, I will modify my statement as to not knowing it. When you get an order many times we don't know where it comes from,

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we don't care: when it comes to commissions it is different. You want to know what?

Mr. Vogel: I would like to know the eleven concerns that are buying gravel from you now that did not buy before. A. Ralph Burnstad; Lindquist & Son, Leeds; Peter Jertson, Lisbon; B. F. Kreisten, Melville; H. Kundtson, Adrian; Linton

Bridge Company, Linton; W. L. Marhcand, Rolla; North Dakota Construction Company, Burnstad; W. H. Noel, Jamestown. There are a couple more, I can't think of them now.

Mr. Thatcher: Was this last year the first year Mr. Moline of Bottineau bought gravel? A. No., he bought both times, all the time.

Mr. Vogel: Those are the new concerns? A. Yes, sir, as near as I can get it.

Mr. Vogel: The price you charge for this sand and gravel would vary with the amount the parties bought, would it not? A. No, sir.

Mr. Vogel: If they bought one carload or ten? A. Wouldn't make any difference.

Mr. Vogel: They have all bought for the same price? A. Yes, sir.

Mr. Vogel: Is Charles McDonald of Mandan interested in your company? A. No, sir.

Mr. Vogel: Bought any gravel? A. No, sir.

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TESTIMONY TAKEN AT THE HEARING BEFORE SPECIAL HOUSE COMMITTEE ON FEBRUARY 13, 1925.

CARL MYHRRE

called as a witness, being first duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence?

A. Carl Myhrre, age 38, residence Bismarck.

Q. What is your profession? A. Civil engineer.

Q. You are a graduate of what school? A. Des Moines University.

Q. And what year? A. 1908.

Q. You are connected with the State Highway Commission? A. Yes, sir.

Q. How long have you been connected with them? A. Since 1917.

Q. And what is your position? A. Assistant chief engineer.

Q. You have been in the employ of the State Highway Commission both under Mr. Robinson and Mr. Black? A. And under Mr. Bliss.

Q. And under Mr. Bliss. Can you tell us anything about who drew the plans for the Mandan paving, I believe being known as No. 100 B, Federal Aid Project? A. Why, as near as I remember Black and Griffin drew the plans, that is the original plans, that was before I was in Bismarck at all.

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Q. That was before Mr. Black was a member of the State Highway Commission? A. Yes.

Q. What is the length of that project? A. The bridge proper just the other side of the bridge?

Q. The Federal Aid Project 100. A. 2,395 miles.

Q. And you say that this project was made by Mr. Black and Mr. Griffin? A. I believe the original survey was, I wasn't here at the time, but I believe that is true.

Q. What kind of paving is this? A. Concrete.

Q. Concrete. A. Reinforced concrete.

Q. Now, what was the contract price? A. Just the paving?

Q. Yes. A. \$82,619.88.

Q. \$82,619.88. To whom was the contract awarded? A. The Northern Construction Company of Grand Forks

Q. When was the work commenced upon it? A. I don't know whether I can give you that without going to another file—I can't give you that without consulting another file, I haven't got that in these files, we have another file.

Q. Can you tell us about when it was commenced? A. Let's see, well, it was somewhere around the latter part of August, I believe.

Q. What year? A. This year .
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Q. 1924? A. 1924, yes.

Q. And was it completed a couple or three months later?

A. Yes, completed a couple or three months later, the final estimate was issued November 7th, somewhere around there was the date of completion.

Q. Who was to pay for that project? A. Why, the Bureau of Public Roads paid 50% and the state aid, I believe—Federal Aid was 50%, State Aid was 1-3 or 33 1-3% and the county payment was 1-6.

Q. Has that all been paid? A. That has all been paid, I believe the final estimate has been made, but the vouchers have to go through the Auditing Board and I don't know just the status of it.

Q. The Northern Construction Company, you understand has had the final amount— A. I can't say definitely as to whether the vouchers, the final vouchers have to go through the Auditing Board, warrant won't be drawn until it goes through.

Q. Do you know from what fund it would be drawn? A. I do not, no, I don't have anything to do with that.

Q. You have no personal knowledge? A. No, no personal knowledge.

Q. Now, these plans and specifications, what did they provide for, that is as to the width of the road and thick-

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ness of the concrete? A. The paving was 20 feet wide, seven inches thick up to a point two feet from the end when they thickened to nine inches which was the usual proceeding on the outer edge of concrete.

Q. Nine inches thick, that would be from the side of the road? A. That is right on the outer edge to take the place of the curb, the other part is all seven inches thick.

Q. These plans are made so that they will provide for all of the estimated traffic along this road? A. Well, that is rather hard thing.

Q. Is twenty feet the usual width? A. Well, they are coming to twenty feet now. Previous to that 18 feet was a sort of standard width among the states, but they are coming to twenty feet now because the 18 feet is a little too narrow as they found out on the pavement on this side.

Q. What proportion of concrete, sand and gravel are contained, what is the ratio? A. Well, one sack of cement, one cubic foot of cement to two cubic feet of sand and three and a half cubic feet of coarse aggregate we call it—gravel.

Q. That is the standard plan for work of this character? A. Yes, that is the standard specification used on all work.

Q. And what is the probable life of a road of this character? A. Well, that all depends upon traffic conditions entirely.

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Q. Could you give us some estimate? A. Well, it is pretty hard to estimate the life of a pavement, it is rather indefinite, depends on traffic conditions entirely, you can't foresee in the next five or six or ten years.

Q. I suppose that when these plans were drawn for this, so far as the engineering force was able they were drawn with the object in view of having some definite length of life? A. It is hard to state, it would be just a guess if I made one.

Q. Would you say that it would be five years? A. You could patch it indefinitely, by maintenance possibly you could maintain it indefinitely; it is a question of traffic getting so dense and heavy as to break it down.

Q. From what you know of the traffic conditions here is there any probability— A. Probably be good for fifteen years, fifteen to twenty years.

Q. By being patched if necessary? A. Yes, maintained, of course.

Q. Did you have anything to do with the building or inspection of it? A. Well, very little, our construction engineer has that in charge.

Q. Who is that? A. Mr. O'Neil.

Q. What kind of a base is first put in for this road?
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A. Well, it is a gravel sub-base under this.

Q. Of how much? A. You see the project originally was what they call a gravel project, that is, it is in fact the thickness of the gravel section was six inches compacted in the center, 18 feet width, 24 feet width out here.

Q. Gravel extension? A. 24 feet, the original gravel section was 24 feet.

Q. Do you know whether or not this is the same character of concrete roads as they build in Minnesota? A. Practically the same, yes.

Q. And in your opinion the probable life of this is at least fifteen years under the traffic conditions as they would probably be? A. Yes, I should say about that.

Q. Now, what other forms of roads are there of the same character besides concrete? A. What other types you mean?

Q. Yes, A. Well, we took bids over there on what they call black base, asphaltic concrete base of four inches base and two inch asphaltic concrete top. We also took bids on a concrete five and a half inch concrete base with two inch asphaltic wearing surface or top, that is the three types.

Q. They took those bids? A. Yes.

Q. And which is the cheapest? A. The concrete.

Q. And which will probably last the longest, if you know?
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A. Well, I wouldn't care to answer that.

Q. Well, what is the— A. We have enough argument with paving men now.

Q. What is the general opinion among engineers? A. That is a question, depends upon conditions entirely, what sub-grade.

Q. The sub-grade would be the same for all of this type of road? A. Yes.

Q. The only difference being as to whether there would be an asphaltic top in place of concrete, is that the general difference? A. That is the general difference between the two, yes.

Q. And there is a bithulithic type? A. Bithulithic? Yes. That is asphaltic concrete, also, only it is a patented proposition, Warren brothers

Q. Can you give us the specifications for roads of that type? A. Well, it is simply a —bithulithic is simply an asphalt, that is all, heated asphalt.

Q. It is patented? A. It was a patented material.

Q. How does the cost of that compare with the concrete?
A. Oh, in this particular case I haven't got that bit along, but I believe it was somewhere about thirty cents a square yard, something like that over there on this.

Q. On this paving? A. Somewheres about thirty cents, thirty-five.

Q. Have you any information as to the proposed paving
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from the east side of Bismarck out past the Penitentiary? A. Well, all I know about it is that we have plans for it, prepared for the paving.

Q. And has the contract been let on that? A. No.

Q. Have the bids been received? A. The bids have been received, but no contracts.

Q. On what type? A. Practically the same type as was taken over in Morton County, black base, asphaltic concrete and concrete base, and asphaltic top and concrete.

Q. And when will it be passed upon as to what type will be used, if you know? A. At the time, I presume that they award the contract.

Q. When will it be? A. I don't know, waiting for finances.

Q. Have the bids been opened? A. Oh, yes, the bids have been opened and read.

Q. When was that. A. I don't recall the date now without consulting the records.

Q. Now, in building these roads with whom is it left as to what type will be accepted, to the Highway Commission? A. Well, the state law on the Highway proposition, of course you understand, is that in the counties where the contract is to be awarded it is to be subject to the approval of the Coun-
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ty Boards. So that what actually happens is that at the time of the letting of the contract the County Commissioners recommend by resolution a certain bid and on all occasions so far, with possibly one exception the State Highway Commission have simply awarded the contract upon the recommendation of the County Board.

Q. The State Highway Commission has a representative present, does it at the opening of the bids? A. Yes, sir.

Q. And after he has figured over the bids he generally gives his recommendation to the County Commissioners as to which he believes should be accepted? A. Not necessarily, no, I don't think so. They talk it over, go into executive session. As a rule it is the low bidder if he is responsible and all right. In most cases it is the low bidder.

Q. You say "If he is responsible and all right," does not the law provide that all of these bidders shall furnish a surety bond for the performance of the work? A. Yes.

Q. And if a man does furnish a bond would he not be considered a responsible bidder? A. Ordinarily, yes.

Q. When they put in a bid they have to send along a certified check for the five per cent amount of the bid that they will enter into a contract if it be awarded to them. A. Yes,

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sir.

Q. Have you seen this paving since it was completed out on 100B? A. Yes, I've been there.

Q. Been over it? A. Yes, sir.

Q. What kind of a job do you call it? A. I call it a very good job.

Q. As good as any of that type of work? A. Excellent job, yes, sir.

Q. You think it will last as long as any work of that character if it is maintained? A. Yes, sir.

MR. GRAHAM: Are there any questions from the committee on that?

MR. VOGEL: Q. You stated that county boards' recommendations were taken with one exception, what is that one exception that you made? A. Well, as I remember it, it was up in Bottineau county, there was some proposition of force act, I believe, I don't remember the circumstances about it, but it seems to me that there was some job up in Bottineau county that the County Commissioners recommended a certain awarding of the contract and the Commission couldn't see it that way, so the sum and substance of it was that all the bids were rejected, and no work was done on the project.

Q. The project was dropped then? A. Just dropped then.

Q. How did these bids on the Penitentiary road compare

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pare to the different types of contracts? A. I believe they were fairly close, I believe about the same as those over in Morton county, a little higher I believe the low bid was a little higher on concrete due naturally to the fact that they asked a low bid on 100 feet.

Q. You have a list of the contractors up there? A. Yes, we have a list of them up there.

Q. Can you furnish us with that list? A. Yes, sir.

Q. Does the government require twenty feet width of highway? A. No, they don't require it, that is I mean to say they don't insist on it, they would rather have it than eighteen feet.

Q. Is this ratio of 27 and 9 over all the accepted portion of that cement highway? A. The 7 and 9?

Q. 27 and 9. A. 27—they had seven inches on the edge and nine near the end.

Q. That is generally the accepted standard? A. Oh, yes, that is about the general rule. In some places they have it as high as nine and ten inches all the way through, it is in some of the eastern states.

Q. What is the thickness on this side the same as the other? A. The same, that concrete type is the same type we have been using all the way through.

Q. Who did the construction at Mandan? A. The Northern Construction Company of Grand Forks.

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Q. You say they have been paid? A. Well, the final estimate has been issued, I don't know as to payment.

Q. Through whose hands does that go, State Highway Commission? A. Payment goes through the State Auditing Board and vouchers are issued same as any other.

Q. You know the nature of this \$30,000 appropriation asked for on that road? A. Well, that is all I know, I know something of what it is, I don't know details except as it is \$30,000, asked for as part of the bridge fund the same as appropriated for the bridge itself. This project is a part of the bridge approach, we had quite a time getting that through the Bureau of Public Road. The reason we desired it through as part of the bridge approach was that you can get fifty per cent of the entire cost of the bridge approach, whereas if it was simply on the highway you can get \$15,000 a mile only.

Mr. Yeater: Q. What did that highway cost?

Mr. Graham: Here are the figures, I can give you the figures, \$82,619.88.

Mr. Yeater: That is for the whole two miles, what was it?

Mr. Graham: 2.395 miles.

Witness: This road out by the Penitentiary, all we asked for is \$15,000.00 a mile on that.

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Mr. Vogel: You could not possibly get that in as an approach of the bridge, could you? A. Not very well.

Q. What is the average approach of the bridge in most of these cases, the average length of the approach to a bridge, on the average? A. Of a bridge?

Q. Figuring on a certain grade? A. Certain grade, yes, but this is an exceptional case. Ordinarily the approach to a bridge extends from the bridge to what you might call solid ground or an elevation that is high enough to be above water, if the same theory were followed out for this proposition why you would have to run clear to the hills over there in order to get up, all of it being an approach.

Q. The government has paid their part, the counties their part and part by the state? A. Yes.

Mr. Vogel: That is all, I think.

Mr. Graham: Are there any other questions?

Mr. Graham: Can you tell us who was present at the opening of the bids for the Burleigh county project? A. Mr. McKinnon.

Q. Do you know whether or not he made any recommendations to the County Commissioners as to what type ought to be accepted? A. I don't believe so, I don't know, it is very unusual if he did.

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Q. Do they provide you with an automobile? A. Yes, sir, they have the past year.

Q. What kind? A. Buick.

Q. It is a Buick sedan? A. No, it is a Buick winter enclosed.

Q. Touring car? A. Touring with a winter top.

Q. Do you know what the cost of that was? A. I think it was \$1425. I believe somewhere in the neighborhood.

Q. That was done under the orders of the State Highway Commission? A. Yes.

Q. It is their policy to provide all of the head engineers with a car? A. Yes.

Q. Do they provide you with gas and oil for an automobile? A. Yes.

Q. You travel considerable? A. Well, not a great deal, I have run about, this car has gone about 5,000 miles I think.

Q. And used just in connection with the business of the Highway Commission? A. Yes, sir.

Q. Where is it kept? A. Well, part of the time it is kept down, at the present time in the bank building during the cold weather, otherwise kept up in my garage where I stay.

Q. Do they issue any instructions concerning the use of these cars? A. No, not that I know of, you are supposed to take care of it.

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Q. No instructions as to the particular business it is to be used for? A. No definite instructions.

Q. And how often do you render a statement as to the use that you have made of it, the number of miles traveled? A. Well, this car I just got in June or July, and it has only gone about 5,000 miles. As a usual thing the heads of the department don't render a report only at the end of the year on cars that they use, the other cars are, I believe, weekly or monthly reports, due to the fact that they are charged up against various projects.

Q. Do the heads of the Department in making this report showing the number of trips you have made and details? A. Yes.

Q. Who would be the proper man to subpoena here with the plans of the Burleigh County paving? A. Well—

Q. Mr. McKinnon? A. Well, it all depends on what you want to know. Mr. McKinnon or Mr. O'Neil.

They keep these cars in repair for you at all times? A. Do they keep it in repair? A. Yes.

Q. This was a new car this summer? A. New car this summer.

Q. They issue gas coupon books, then? A. Yes, sir.

Q. Do you keep a record of all these coupon books issued? A. I believe so. yes.

Q. What is the nature of the statement you file at the end of the year? A. Well, number of miles gone, gas used and so forth.

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Q. Do you know whether they traded in any car on this new car, or just bought it outright? A. No, this was a direct buy, I believe, without a trade at all.

Mr. Vogel: Q. Do you know where the funds came from to purchase these new cars, out of the Highway Commission direct? A. Well, it can come out of two funds, it can come out of the administration, I believe most of the automobiles came out of the Administration, or it can come out of the Ten Per Cent Fund, I believe they could use that, I don't know that they have used it.

Q. What do you mean by the Ten Per Cent Fund? A. Well, that is the ten per cent part of the Motor Vehicle funds, pro rated as ten per cent goes to the Highway Commission, used for needed machinery or building roads, or anything they care to use it for in their own judgment.

Mr. Graham: Q. Did you ask for any particular kind of car? A. No.

Q. What had you had previous to this time? A. Well, I had a Ford sedan for about a month, previous to that I had no car, I would use my own car on state work for about a year and a half and never made any change for mileage or anything else.

Q. Did any of the other do that, that you know, the

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same as you? A. Well, some of the men in the office have driven their own cars all the time.

Q. Can you tell us what ones? A. Mr. Kiley, Mr. Peters. Of course, they are men that don't go out on trips, you understand, just in the neighborhood and back, sometimes used in state work might made an errand. I used my car for a year and a half without any compensation.

Q. You never presented any bill for mileage? A. No.

Mr. Vogel: This year and a half was during the time

that Atkinson had cars from the Department? A. Well, I don't know as to that.

Q. Who purchased this car? A. Why, the Highway Commission purchased it.

Q. Well, they don't go down to buy the cars, who do they instruct to buy them? A. They bought it at Valley City and I went there to get it.

Q. From whom? A. Peg Garage.

Mr. Graham: In this connection, do you know whether or not they call for bids, whenever they buy cars, do they call for bids or go to the market and buy? A. Go to the market and buy. Prices are standardized on cars. I believe their policy has been to buy in different points of the state so as to distribute the business about the state.

Mr. Vogel: Suppose they bought four or five cars from
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one concern, they could get a better deal on them? A. Possibly they could do that, they did, I believe, buy quite a few from different firms.

Mr. Graham: That is all.

W. F. Gettleman, being recalled as a witness.

EXAMINATION BY MR. GRAHAM:

Q. You were sworn the other day when you testified were you not? A. Yes, sir.

Q. Mr. Gettelman, will you explain to us as far as possible the method by which the surplus war material is handled, as to how it can be disposed of and the rules under which it was sent out by the Federal Government? A. I can best explain your question by referring to a standard form of request for the assignment of surplus war materials by counties, cities or other municipalities, or state agencies in which is quoted the section of the law governing the disposition of such vehicles and materials.

Mr. Graham: Read that so it will go into the record. A. "That the title to certain vehicles and equipment shall be and remain vested in the State for the use in the improvement of the public highways and no such vehicles or equipment shall be sold or the title to the same transferred to any

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individual, company or corporation, provided that any State Highway department to which is assigned motor propelled vehicles and other equipment and supplies transferred herein to the department may in its discretion arrange for the use of such vehicles and equipment for the purpose of completing or maintaining public highways with any state agency or municipal corporation at a fair rental which shall not be less than the cost and maintenance and repair of said vehicles and equipment." That, of course, applied to all materials suitable or supposed to be suitable for the construction and work, any work in connection therewith and agencies of course

applied also to contractors, and in the disposition of materials to contractors. This form of lease was used which was supposed to cover its disposition. (Handing paper to Mr. Graham.)

Mr. Graham: This is a copy of form of lease used by the department leasing out— A. That is the form that I used.

Mr. Graham: I offer in evidence Exhibit A as part of the testimony of this witness.

EXHIBIT A.

“LEASE OF SURPLUS WAR MATERIALS TO CONTRACTORS OR OTHER STATE AGENTS ENGAGED IN THE CONSTRUCTION OR IMPROVEMENT OF PUBLIC ROADS.

“THIS LEASE, Made this.....day of.....192.....
between the NORTH DAKOTA STATE HIGHWAY COM-
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MISSION, lessor, andof.....N. D.,
lessee.

“WITNESSETH: That the lessor, has by these presents demised and leased unto the said lessee all the following named goods of the value of.....Dollars, (\$.....), known and described as follows, to-wit:

List of Materials:

.....
for the term of.....years, commencing on the.....
day of.....192....., and at a total rental for the entire
period of.....Dollars (\$.....), payment of this rental
to be made promptly upon receipt of the goods leased.

“That the said lessee hereby agrees to pay said rental at the time and in the manner herein specified, together with all crating and shipping charges as shall be necessary for the transportation of such goods from storage to the place of delivery.

“That the material listed above and affected by this lease shall be used by the lessee only in connection with the construction or maintenance of public roads in strict accordance with the laws of the United States Government, governing the disposition of Surplus War Materials.

“That said lessee will not assign this lease or assign or sublet his interest in any of the goods and chattels herein described without the written consent of said lessor.

“That no agreement of sale of goods is here implied until such time as the said lessor may determine that said goods and chattels are unserviceable. If such goods are at any time declared unserviceable by said lessor, then and then only shall the title pass to said lessee upon payment of such additional sums as shall at that time be mutually agreed upon by said lessor and lessee.

“That upon the failure of the lessee to comply with any of the terms of this lease, or if any legal process shall at any time be levied upon said goods or chattels, or any part

thereof, for or upon any debt or demand now due or to become due or claimed to be due from said lessee, then this lease shall determine and become void and the right of possession in and to said goods and chattels, and every part thereof, shall revert to and vest in the said lessor, and said lessor shall have the right, without notice or service, to take said goods and chattels, and every part thereof, from said lessee without legal process.

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“That all provisions hereof shall extend to and include the successor and successors of the lessor, and the executors, administrators and assigns of the lessee.

“Witness the hands of the respective parties hereunto affixed, this.....day of.....192....

“The North Dakota State Highway Commission,
Lessor, by W. G. Black, Chief Engineer and
Secretary,

By.....

Witnesses of Lessee

Superintendent of Equipment.

.....
Lessee.

WITNESS: Of course, considerable materials were unsuitable for the use and construction of highways, that is they couldn't be used by counties, cities or contractors in any convenient way, and Mr. Balck took it up with the Department several times and we had considerable correspondence on it, that is with the Department of Agriculture. They even had a man out here and they finally sent out forms covering the disposition of the stuff that was unserviceable, or rather, unadapted for that use. Of course, you understand that anything that was unserviceable, that is even stuff that was adapted but was in such condition that it could not be used, could be condemned and sold; for instance, trucks, tractors, cars and so forth, in case that in order to put them in first class condition as good as any, it would cost thirty per cent, showing the figure of their original value and that was the discounts used on the condemnation of cars, trucks and so forth, of which I have a considerable number of condemnations

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here. it was the custom to take mechanics, automobile men, or others conversant with the use and value of the automobiles in question and have them submit their independent opinion as to what it was worth, what it would take to put them in first class condition and then take them before a notary public and have their signature attested.

Mr. Graham: Q. That was done with the automobiles, trucks and tractors? A. Yes, sir, up to the time that I had at east a nominal control in the overseeing the disposition of most of the articles, trucks and tractors, cars and so forth.

Q. Now, were any of these trucks, tractors or cars disposed of without having been appraised and condemned by disinterested parties? A. Yes, sir.

Q. And how did that happen, if you know? A. Well, the truck or whatever it is would be turned over to some party

under the order of the Chief Engineer without going through that process.

Q. Do you know why that was done? A. No, sir.

Q. Was it done without your approval? A. No, sir.

Q. And how much stuff was turned over in that way, if you know? A. Oh, I don't know. There is quite a few articles around, we have several trucks that were put out that way.

Q. Could you give us the names of the parties to whom
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those trucks were given? A. Well, after the articles were gone sometimes, I didn't know when they went, but I'd miss them sooner or later. There is a Liberty B truck that I understood was loaned or to be sold to the Red Trail Transfer Company, that never under any consideration could have been condemned because it was in A-1 condition, and I don't believe cost us anything for repairs.

Q. What size truck was this? A. Commercially known as a 3-ton truck, but really having a capacity of about seven tons.

Q. Do you know what the reasonable value of this truck was? A. The original value was in the matter of between three and four thousand dollars, but of course, there was depreciation annually, mostly through the appearance of the truck from exposure and its being not adapted to all classes of work on account of its great weight, it weighs 12,000 pounds.

Q. And when was that turned over to the Red Trail Transfer Company? A. I believe I have a letter ordering its disposition, 8-21-24 (handing letter to counsel.)

Q. Do you know in whose handwriting this letter is? A. The Chief Engineer, sir.

Q. You are familiar with his handwriting and signature? A. Yes, sir.

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Mr. Graham: I will offer in evidence Exhibit B.

EXHIBIT B.

(Letterhead) RED TRAIL TRANSFER

Mandan, N. D., 8-21-24.

W. F. G.

Deliver to Red Trail Oil Co., Liberty B. Truck, Truck No. 10408 (Chassis No.)

W. G. BLACK, Chief Engr.

Mr. Graham: You turned over to the Red Trail Oil Company this Liberty B Truck? A. I did not turn it over, it was already gone.

Q. It was already gone. In your opinion what was that

truck worth? A. It would cost today between—it was our custom to assign the vehicles to counties and so forth at an assignment charge of \$395, which represented its cost to us in freight and handling, but depending on the use that they could make of it, it might be worth anywhere in the neighborhood of \$1,000 or more or less.

Q. And where is this Red Trail Oil Company located? A. In Mandan, I believe.

Q. And they still have it in their possession, so far as you know? A. Yes, so far as I know.

Q. They have never paid anything for it at all? A. No, sir:

Q. Now, are there any other trucks or tractors that were handled in the same way? A. Well, there is several vehicles that I've got listed as to the best of my knowledge being
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loaned to Morton County. There was a heavy aviation truck, Highway Commission number 266 that was loaned to Morton County, and I believe that was the way it went, I'm not certain. I had loaned it to the Penitentiary for use in hauling their ashes and in connection with another heavy aviation truck having a cookhouse on it for use in their harvest work. I believe that anything needed in any of the State Departments they were perfectly entitled to use.

Q. Well, how did it come to be transferred over or changed over to the Red Trail people? A. Well, they came to Mr. Lee, the Warden, with an order, as I understand it, to Mr. Lee to let them have the truck.

Q. Who was this order signed by, according to your information? A. I do not know.

Q. Did you ever see the order yourself? A. No, I understood that it was used for hauling concrete on the paving job over there for awhile, but I'm not certain. I went over there and talked to the head of the Northern Construction Company, and he said that they were renting some trucks there.

Q. But there was no authorization or statement of any kind sent in to you by any member of the Department as to its use or disposition? A. No, sir.

Q. All you know is what you have been able to find out yourself? A. Yes, sir.

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Q. Now, can you tell us about any other matters of the same kind? A. Well, Morton County has a two-wheel trailer, and about a year ago another Liberty B truck bearing the number 442 was loaned on Mr. Black's orders to the Sheriff of Morton County to be used for a few days or a week or so. I wrote to the County Auditor several times and also called up the Sheriff, but at the present time the truck is to the best of my knowledge in their possession.

Q. Was this instruction of Mr. Black's to you? A. Yes, sir, he called me up on the telephone.

Q. When was that turned over to the Sheriff? A. Before Christmas, a little over a year ago, that would be late in 1923.

Q. There has never been any report made to you by the Sheriff or Auditor of Morton County in regard to their use made of it? A. No, sir.

Q. Did you have any personal knowledge as to the use made of it? A. No, except one time the Sheriff said it was about six miles out of town and that he would have it immediately returned. I took it up with Mr. Black at different times and he said that they would bring it back pretty quick.

Q. Now is there anything else disposed of in the same way? A. There is a four-wheel trailer, what we call an oil trailer, except that the oil tank has been taken off of it,
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that I missed one day out there, that is, I was sure that we had one more of those trailers, but I could not find it out on the line at the Fort or in the old shop anywhere. Of course, when we brought those things in we kept them on the line and we have got to check them up occasionally. I missed that and I inquired around and I understand that it had been loaned to Mr. Helbling.

Q. Who is Mr. Helbling? A. He lives across the river, did at that time, I believe.

Q. Did you find out anything more about it? A. No, I never did.

Q. Find out when it was taken? A. No, I couldn't ascertain that.

Q. Or by whose orders it was taken? A. I believe, no, I couldn't say as to whose orders it was.

Q. Did you ever ask Mr. Black? A. No, I never asked Mr. Black about that, I got tired of going up there and asking him about those things. I got in bad doing that.

Q. You asked him about things of that several times? A. Yes, sir.

Q. And what answer did you receive? A. Oh, that it would be attended to, or that they were handing the deal and the price hadn't been decided on. Of course, you see some
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things were taken up through the Highway Commission direct and made perfectly all right. Of course, they're over me and if—the only thing, I believe, I would like to have it all on the books so that I know exactly where all that stuff was.

Q. The Board when it would pass on matters of this kind would not send you any orders or instructions as to what had been done notwithstanding— A. Except on rare occasions, it would be casually mentioned, like once it was said that the Board decided to get rid of all materials and equipment, or the Board had decided on a different policy on that handling of the cars and trucks. And I understood that the steam shovel out here was sold. I don't know anything

about it, but last Fall a steam shovel man called, or saw me down town and said he had come over to set up the steam shovel and asked if that was it out there at the shed, or out at the shop, and I said it was the only steam shovel we had around here. I did not know that it had been disposed of. He said "yes, our firm bought it," I did not know the name of the firm. I said "you'd have a tough time moving it now, because it is all dismantled," so he went back without doing anything about taking it.

Q. When was that? A. About November.

Q. Is the steam shovel still here? A. Yes, sir.

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Q. Did you ever receive any notice from the State Highway Commission that this had been disposed of? A. No, I knew that they had been talking about it, but I understood that they had talked it over with Mr. Brown once or twice, and Mr. Brown was trying to place it with some of the counties. I know I wrote to several counties that were interested about it and urged that four or five counties get together and have it set up and use it back and forth for construction work, as it was too heavy a job for one county. It would cost about \$2,000 to put it in serviceable condition and it would be doubtful whether it would be worth while.

Q. Did the Department of Agriculture issue any rules and regulations to you in regard to the disposition of such material as is not serviceable for road work or unsuitable for road work? A. Yes, sir. They issued blanks covering the disposition of material or equipment or vehicles when unsuited for high improvement and unserviceable. The unsuitable blanks, for instance, cover, I figured, covered such things as these milling machines, and I made them out and here are duplicate copies. They were forwarded to the War Department and they allowed us to dispose of them and most of them have since been disposed of. (Handing paper to counsel.)

Mr. Graham: I show you Exhibit C and ask you if that
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is one of the statements to which you have reference? A. Yes, sir.

Mr. Graham: I offer Exhibit C in evidence.

EXHIBIT C.

Form No. 5.

NORTH DAKOTA HIGHWAY COMMISSION
EQUIPMENT UNSUITED FOR HIGHWAY IMPROVEMENT REPORT

February 15, 1924.

U. S. Department of Agriculture,
Bureau of Public Roads,
Washington, D. C.

Gentlemen:—(Attention War Materials Division)

The following equipment received from surplus war ma-

terials is unsuited and unadapted for use in connection with the improvement of public highways. In case that the U. S. Government desires to make use of any of the items listed, either for its own use or for allotment to another State, it is requested that we be so notified, giving definite shipping instructions.

It is understood that after a period of thirty days from the receipt of this report by your Department, unless otherwise notified, we are authorized to sell this equipment for the account of the United States. After deducting from the proceeds of such sale the actual disbursements incurred by this State in preserving such items of equipment the balance is to be remitted to your Department, payable to the "Treasurer of the United States." The "actual disbursements" on this equipment are shown below. In case an item of equipment is re-shipped to a Government activity or to another State, we are to be reimbursed the amount shown below, as "actual disbursements."

Name of Material

Description: Milling Machine, English & Miller Co.

Made by Gooley and Edlund Company, 42" high duty belt driven.

Manufacturer's No. S. C. 75; Type B Standard; Size 5000 pounds; Original Cost \$2,000, perhaps.

Received by this Department from Fort Crook, Nebraska.

Shipping Instructions No. L3-5437.

Actual Disbursements:

Freight Paid, \$124.21, and Handling Charges, \$64.00; Total, \$184.21.

Signed W. F. G.

State Highway Commission.

Because of broken parts, practically worthless.

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Mr. Graham: Now, under the terms of the lease here, if a larger price was received than would pay the freight and handling charges by the Government, the balance was to be remitted to the United States Government? A. Yes, sir.

Q. And if no larger price was received then you kept the amount of the freight and handling charges? A. That closed the transaction, it was practically impossible to get anything near as much as what we had in most of those. For instance, these machines down at the bridge, boring machines, I figure cost us around \$500 apiece, and I don't know of anybody who would give us \$100 apiece for them as junk.

Q. Now, their tents and picks and handles for the picks, what method was adopted for disposing of articles of that character or class? A. They are sold.

Q. Did you have letters of instructions from the Depart-

ment of Agriculture concerning their sale? A. I don't see how their sale could be covered that way. I consider those suitable for the use of the construction or improvement of roads, and they were only issue to anybody or shipped to anywhere on either one of these forms to which I referred to before, and orders came down that it had been decided to sell everything.

Q. Orders came down from where? A. From the Capitol.
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I understood that it had been the wish of the Highway Commission to get rid of everything, as the Department was not getting paid for freight and handling, and they wanted to liquidate as fast as they could.

Q. Now, in what form were these instructions given to you and by whom? A. Well, I remember, Mr. Black mentioned it a couple of times that we sell anything down there and he, also gave orders to the Store Room Clerk in that regard.

Q. Now, is there any price fixed for the sale of this class of material? A. It was generally taken from mail order catalogs or in comparison to the market price in stocks for such materials, usually from twenty to fifty per cent, sometimes a little bit higher, of what the retail and occasionally wholesale value might be. The idea was that the counties or cities in obtaining that material should be granted a saving of money which would better enable them to do their work.

Q. Take the picks and tents, for instance, any individual could come into the Supply Department and buy them? A. At this time?

Q. Yes. A. Yes.

Q. Now, was there any policy in regard to renting out these tents to individuals? A. Tents have not been exactly rented, they can be loaned to what were considered worthy
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causes from time to time, like state fairs and conventions of Indian Scouts and Boy Scouts.

Q. Ever loaned to any hunting parties that you know of? A. No, I don't remember.

Q. Now, does Mr. Atkinson— A. I might remark that when any article was loaned out of that nature a memorandum was made of it at the regular price and then occasionally the article might be purchased or taken over later by that organization or party. We have memoranda so that there was always a record kept of it.

Q. Does Mr. Atkinson, the Engineer here in town have any cars in his possession? A. Yes, sir.

Q. What cars? A. A Cadillac car which is numbered on our books as No. 470, and a Dodge car No. 340 and a White truck, I don't remember the number.

Q. Were these delivered to Mr. Atkinson during the time

you have been in the Department? A. The Dodge was turned over to him before I came on.

Q. Was the Cadillac? A. That was turned over to him late in 1923.

Q. Do you know under what terms or conditions? A. No, I don't.

Q. And the White truck? A. That was turned over to him during the summer of 1923.

Q. How did it happen that the Cadillac and White were turned over to him? A. Well, Mr. Black said to let him have them. That is, he had instructed the—I believe in regard to the White that he called up the Chief Mechanic and asked him to give it to Mr. Atkinson, I think that I was either out of the City, or I wasn't around there anyway.

Q. The Chief Mechanic? A. Yes, sir.

Q. And upon your return the Mechanic told you about it? A. Yes, sir.

Q. And about the White truck? A. Well, that was the car that was turned over in that manner. The Cadillac, I believe I was there at the time that was turned over. I think they came down to the shop to get it and Mr. Black called up and said to let them have it.

Q. And those three cars belong to the Departemnt, do they? A. Yes, sir.

Q. So far as your records appear? A. Yes, sir, still carried on our books.

Q. You have never received any instructions from anyone or notice that they had been sold to Mr. Atkinson. A. No, I know Mr. Black mentioned once or twice that he thought Mr. Atkinson would want to buy them, but there was never any money paid in to us, or any memorandum given to us of any money paid in.

Q. Did Mr. Atkinson ever write you a letter that he wanted to pay for these cars or anything of that kind. A. No, never received any communications from Mr. Atkinson, he didn't deal with me at all.

Q. Was there any repair work or gas or oil furnished by your Department for these three cars or trucks during the time you have been in? A. Well, now, there was some work done on the Dodge, there was \$268.87 worth of work.

Q. When was that done? A. Done in the winter of 1922 and 1923 before I came on there. It appears on the books, I believe early in 1923.

Mr. Vogel: What was that amount. A. \$268.87, that was repairs and parts, that was done after the last report, the last mileage report that we have from Mr. Atkinson on November 29th, 1922 for that car.

Mr. Graham: Q. Has this work and repair bill ever been paid by Mr. Atkinson? A. That wasn't the method of handling that. It was presumed that Mr. Atkinson would turn in mileage reports as he had done the previous year.

Q. The reason that I asked that question was that Mr. Atkinson said that he had purchased the car.

Q. If he has he has paid the Highway Commission and it as'n't been transferred to our books.

Q. He said that he had purchased cars, but he hadn't paid for them. But any repairs since January, 1923, he had

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paid for. Nothing appears on your books that he has paid for this work and repairs? A. No, sir.

Q. Was any other work done upon any of those cars during the time you have been in? A. Well, the White No. 426 had a little work done on it. I don't know exactly when it was, but I imagine some of it was done early in 1923, because it was around the shops there quite a bit and there had been some maintenance work, now it might not necessarily been overhauling.

Q. What is the amount charged on your books?

A. Well, this amount covers freight, handling and all repairs, accessories and everything else that was ever paid for it.

Q. What amount? A. \$913.50, that is the total charge without any gas and oil, which I figure of course is expendable.

Q. Is there any amount on your books as to the total charge on the Dodge car? A. Well, that would be hard to state because that car was undoubtedly used by others in the Department previous to that and it would be repaired. Those cars would go out and come in and after they had been out for a season they would just about have to be rebuilt, they're just crystaized.

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Q. The Cadillac car, was there any charge on your books for the repair of that? A. The purchase price was \$150 and there was about \$25.53 that was against that.

Mr. Graham: Q. Now, did Mr. Atkinson obtain any gasoline or oil from your department during the time on gasoline books? A. No, I don't believe he did.

Q. Have the White and Dodge ever been condemned under the rules and regulations for sale? A. I will see, I have got the condemnations here for most of those Whites because they were all in very poor condition and could easily have been condemned. I have the condemnation here, but I don't see No. 426 on here because at the time of this condemnation the car was not in our possession.

Q. What time was this condemnation proceedings for the sale? A. 19th of July, 1923.

Q. The Cadillac car, from whom was that secured, if you know? A. The attorney general's office.

Q. That was in December, 1923? A. Yes, I believe it was about that time.

Q. Have there ben any acicdents or wrecks with any of

Q. Have there been any accidents or wrecks with any of

Q. Or 1923, that you know of? A. I don't exactly recall any.

Q. While the committee was looking over the material at Fort Lincoln yesterday there was a White truck— A. Oh,

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you mean a truck, yes, there was a White staff observation converted into a one-ton truck that I understand went off a grade down east of here and was hauled in. That was assigned to the Sign Department, Highway Sign Painting Department.

Q. Were there any other accidents with any cars or trucks that you know of? A. Well, of course, there would be breakdowns. I know a G. M. C. burnt out a bearing and busted a crank case and the chief Mechanic went down and brought it in on three cylinders.

Q. Did you have charge of that surplus war material out at Fort Lincoln? A. Why, yes, it is nominally in my charge.

Q. Has permission been given to various parties to go out there and take certain parts of such cars and trucks that were not in use? A. No, I wouldn't say that; in case anybody wanted anything or we sold parts, we used to sell parts from the dismantled machinery, trucks and so on out there, I'd usually send a mechanic out there with them to take off the part when it was sold. Of course, access to the Fort is fairly easy.

Q. Ever written orders that were sent out directed to the caretaker out there? A. Yes, quite often a note would be sent out to the caretaker to permit someone to get something.

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Q. Did anyone else send out such orders outside of yourself? A. As to that I couldn't say.

Q. And you also have charge of the old cars and so forth out here east of town? A. In the sheds, yes sir, they are stored out there.

Q. Are all of the trucks out there that are stored in the open, are they in serviceable condition? A. No, sir.

Q. Have you any record as to what ones are in a useable condition? A. Yes, sir.

Q. Can you tell us what ones? A. I can tell you which trucks and cars are in serviceable condition. All trucks that are on the line outside are not in serviceable condition. The serviceable trucks and one or two that are not in running

condition are stored out at Fort Lincoln, the ones stored in the shed out in the shops are some of them in very, very poor condition. I have about, maybe twenty some vehicles, or more, out there, some of them are already overhauled, some of them are to be overhauled and some of them should be disposed of, flat crank shafts, and so on.

Q. Do you keep any oil out there of any kind? A. No, I don't believe there is anything out there in the oil line now. The equipment and supplies are moved into the basement, the oil house has been locked up for the winter.

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Q. It appeared to the Committee as though there were seven or eight barrels of oil out there on the Line. A. Oh, on the Line, storage stuff out there, well, I believe that is a peculiar kind of engine oil or some stuff that was received from the War Department, stuff which he had out there, has been stored out there for want of a better place. That I believe was brought in from the Fort. It was stored in the shops when the shop, the big shop was originally in place out there, and afterwards moved over into one of the buildings. That still remains. Later on when the Sign Department had to have more room this oil was moved out on the line.

Q. It is oil that you can't use? A. We have no use for that oil. As I understand it, it is some peculiar kind of steam engine oil or something.

Q. And the Sign Painting Department is out there? A. Well, they did operate one of the buildings and they still have some of their stuff stored out there, they have lumber and signs and so forth, but at present they are doing their work in the basement of the Bank of North Dakota, where our repairs are going on.

Q. Who is in charge of the Sign Department? A. Mr. R. H. Crane.

Q. You have nothing to do with that? A. No, except to supply them with trucks and so forth to transport their signs and supply them with saws and tools and so forth as they may need them in the making of their signs.

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Mr. Vogel: Q. Going back to those exhibits you showed there, that requirement with respect to the rental or sale of war material you took that from the Federal requirements? A. Yes, I took that from a paragraph of one of the first letters of instruction that they sent out to us.

Q. You say that you consider a contractor is a state agency? A. Yes.

Q. A private contractor would be called a state agency? A. Yes, working for the State, doing the work, Mr. McCord of the War Department when he was out here said that it was permissible to make deals with contractors and let them have the material if they were working on the construction or improvement of public roads. The War Department's atti-

tude was, so far as possible to assist the states in disposing of this material, but you couldn't get anything from them in writing other than that quotation of law, and that is why I made that instead of an assignment. Of course, all of this was to remain vested in the Highway Commission, but I made that a lease.

Mr. Vogel: You have a provision in there which requires
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that in case there is any change in the status of the articles that the Highway Commission can demand the return of that material? A. Yes, that is the understanding, that is why I put "Lease of Surplus War Materials" instead of "Sale."

Q. They can be sold on condemnation, but the report of that condemnation must be sent in to the United States Government? A. Yes, sir.

Q. Now the sale of these various trucks and so forth, you say you had parties submit estimates, disinterested parties? A. Yes, sir.

Q. Sworn to before a notary public? A. Yes, sir.

Q. Was that done in all cases? A. No, it wasn't done in the cases that I mentioned, and the matter was finally taken out of my hands, and the orders given were to sell anything.

Q. What is your official title in this Department? A. Superintendent of Equipment.

Q. Are you supposed to have control of all of the equipment? A. That was my understanding.

Q. You found then that that isn't true? A. Absolutely.

Q. In other words you are just a figure head? A. Figure head, yes.

Q. When, how long after you took charge of this Department did you find that things were being disposed of without any regard to passing through your hands? A. Oh,
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things were kind of taken out of my hands along during the summer of 1923.

Q. How long after you were in the Department was that? A. Well, for that matter, what I had expected was changed almost immediately after I came. All those men would be sent down there to be set to work and I protested against that, and I was told if they didn't suit me I could get rid of them, but I found it was a pretty hard thing.

Q. In the disposition of these various trucks that you have mentioned, you would hold that the United States Government rules were violated, would you? A. Yes, sir, in the disposition of those; that Liberty—

Q. In other words the Chief Engineer had full control over all these matters? A. Yes, sir.

Q. Have you any particular form that is used, a certain form of requisition blanks that is used in passing this stuff

around; for instance, you understand what I mean—in case some Department requires certain material from you, isn't there a special form or requisition that is sent to you? A. Why, yes, there is, sometimes in the form of a letter. If the Board of Administration, or the State Penitentiary, or the Training School wants something they send in in that form.

Q. Do those requests come through the Chief Engineer
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first? A. All the correspondence is addressed to the Chief Engineer.

Q. I mean in the Highway Department, supposing something is wanted by some branch of the Department, say the Sign Department, isn't there a form of requisition sent to you? A. No, the Sign Department would go to the Store Room Clerk and tell him what they wanted.

Q. Just tell him, or is there a written requisition. A. Well, Mr. Black gave the Storeroom Clerk instructions that the Sign Department was to have anything needed.

Q. Without any written instructions? A. Yes, sir.

Q. In other words, they walk over there and get it, no questions asked? A. Memorandum is made of it and sent up to the office.

Q. Do these men, the Storeroom Clerk, and these men handling these things keep the original, or may it be verbal? A. Well, it is to a large extent verbal.

Q. This was not the regular form of requisition? A. No, sir.

Q. This is a letter head of the Red Trail Transfer Company at Mandan, Exhibit B? A. Yes, sir.

Q. Then this request, you might call it from W. G. Black, Chief Engineer, addressed to W. F. G. supposed to be you? A. Yes, sir.

Q. Made out on the Red Trail Transfer letterhead you
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would consider in the regular form of requisition? A. No, but one to which I have become very accustomed.

Q. You have received other requisitions from Mr. Black on various pieces of paper? A. Yes, sir.

Q. No uniform system at all? A. Well, usually from a desk pad.

Q. Usually from a desk pad, you haven't received any on any particular stationery like this, other than this, have you to your knowledge? A. Not that I know of, may have been.

Q. You don't know anything about this Red Trail Garage at Mandan, as to the ownership? A. I understand that a man named Smith is interested in it.

Q. And that truck to your knowledge has not been paid for? A. No, sir.

Q. Is still in their possession? A. I believe so.

Q. Now, you have a truck here, I believe, sent to the Sheriff of Morton County, Liberty B. Truck No. 4422? A. Yes, sir.

Q. Did you receive a verbal or a written order from Mr. Black to turn this truck over to the Sheriff? A. Over the telephone, I was over at the shop.

Q. You think they received the instructions over the telephone? A. Yes, sir.

Q. And the value of the material, I don't suppose has anything to do with their method? A. No, sir.

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Q. You don't know what the Sheriff wanted this truck for? A. No, sir, I understood that he wanted to use it over there for a few days.

Q. It was not for hunting or anything of that kind? A. I don't know, he'd be lucky to shoot enough to haul in that.

Q. He was to receive this truck for just a few days? A. That was my understanding of it.

Q. It was given to him in 1923? A. Yes, sir.

Q. And he still has the truck? A. I suppose so, I believe so. Six miles out of Mandan.

Q. It is over there still? Might be in some other hands, however? A. Possibly.

Q. Now, you spoke about an oil trailer, this you say was in the hands of Mr. Helbling to your last knowledge? A. Yes, sir.

Q. That is Mr. Helbling, the representative? A. I believe it is, I never met him.

Q. You say the old tanks were taken off of that, where are those oil tanks? A. I think they are out, one went to the shop, one of the other tanks is being used for hauling water.

Q. And still in your hands there? A. I believe they are still.

Q. Do you know who this party was who said he purchased this steam shovel, or what company it was? A. No, sir.

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Q. Was that steam shovel dismantled? A. It was received before I came in, but it was dismantled when it came, at that time, it was in the same condition it is now on the Line out there.

Q. The tents you say were sold to private individuals?
A. Yes, sir.

Q. You would call that contrary to Federal regulations, would you? A. Yes, it was.

Q. Did you ever send in any condemnation on tents? A. No, I don't see how that could be done.

Q. They were sold for twenty to fifty per cent less than catalogue price, mail order? A. Why, the price on tents before I came it had been about \$11, and afterwards they went up. I know we made the same tents about \$25.

Q. They were sold to private individuals at this same cut?
A. Yes, I believe the same price.

Q. Are those new tents, wall or—? A. The large tents there are, there is only one lot of new tents which were received, that is the wall tent 9x9.

Q. You say that when a man rented one of these tents you made a charge account against him for that? A. Yes, a memorandum went up and if it isn't returned after a certain length of time it is put on the books.

Q. You don't know how many of those charge accounts
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you are carrying at the present time against individuals do you? A. I don't know, there may be a few.

Q. You received orders from Mr. Black to give Atkins this truck? No, I didn't receive any.

Q. Oh, that was given during your absence? A. Yes.

Q. What did you receive from Mr. Black with respect to materials furnished Atkins? A. I received nothing from Mr. Black in regard to Mr. Atkins at all.

Q. That was handled outside of your Department entirely, was it? A. Why, I don't remember, I know the articles were disposed of while I was gone, I am quite sure the Cadillac was.

Q. And outside of your Department? A. The Cadillac was cut at the shop at the time.

Q. It was turned over to him either presumably by an order over the telephone? A. There might have been a note or something like that.

Q. When you returned did the Mechanic tell you that this car had been sold? A. Just said that Mr. Black instructed Mr. Atkinson was to get it, or something like that, I don't remember exactly.

Q. You don't know whether it was said at all that he had bought it? A. Nothing said about buying it.

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Q. You said \$268.87 repairs on the Dodge? A. I didn't

put them on, but they were put on by the Department during that winter.

Q. What would be your conservative estimate of the value of a Dodge car of this description and of the Cadillac car at the time Mr. Atkinson received them? A. The Dodge car, at that time, it would have been worth, not more than \$200, probably you couldn't get for that car over \$200 or \$250.

Q. Still you put \$268 worth of repairs on it? A. That is the trouble with an old car, they can use up their—

Q. You put \$913 worth of repairs, freight and all on the truck? A. \$252.80 for the freight and handling charge, and the truck came with no side curtains, generator off, had to be all gone over, bearings lined up, that was the large amount of the parts bought from the Wachter Transfer people, that is from the White people through them.

Q. Isn't it your policy in selling this material to get out of it what the Department has put into it? A. Yes, sir.

Q. The truck then should have sold for \$913.50, approximately? A. No, less than that, I told Mr. Black, that is, that I figured that truck was worth in the neighborhood of \$750, something like that, it might not be so much.

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Q. That was what you would consider it worth, with those repairs? A. Yes, sir.

Q. The Cadillac would be worth about \$175 with the repairs you put on it? A. Yes.

Q. That makes a total of \$1225, you think that is the fair valuation of the cars Mr. Atkinson got? A. I think there would be a lot of parties would like to buy them at that at that time.

Q. You stated that Mr. Atkinson stated that he would pay no higher than \$500 for all of the material he got? A. I believe that is what it was.

Q. You think that is about half value, or less? A. Oh, yes.

Q. Why is it that those trucks are not in serviceable condition? A. We have no facilities now for overhauling them unless it is done out in the open air, and in the past year our force has been cut down to usually two and not more than three mechanics, so that they are busy all the time repairing the vehicles.

Q. What has put them out of service? A. Well, a lot of them were received that way. Some of them were used when the Highway Commission did construction work and there is one or two that were used over at the Mandan Training School which would require some overhauling before they would be serviceable.

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TESTIMONY TAKEN BEFORE THE SPECIAL COMMITTEE ON INVESTIGATION OF THE HIGHWAY COMMISSION:—(Continued.)

Q. Where are the pistons and connecting rods and spark plugs, where have they all disappeared to? A. You mean out at the Fort?

Q. Out at this place? A. Oh, out here at the shop. Well, the magnetoes and carburetors have all been taken off when they were put out there, and most of those magnetoes and carburetors went up in the fire because they were stored inside, but the Libertys are just the way they were received, of course, some articles may have been taken off of some of those trucks, it is several months now, there is nobody out there days except when somebody runs out there occasionally.

Q. How many trucks have you, altogether, serviceable and unserviceable, just approximately? A. Oh, there must be around a dozen unserviceable, counting those at Fort Lincoln.

Q. Counting those at Fort Lincoln unserviceable? A. I count those junk, around the outside of the Fort, those that are all dismantled. The serviceable trucks—we have got a Pierce Arrow, counting those which are still listed on our books and haven't been paid for, we have got about five or six serviceable.

Q. And practically twelve that are unserviceable? A. Yes, sir, now I have a number of trucks in storage.

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Q. Did you say twelve? A. There is twelve or thirteen, or more of those are unserviceable. Of course, it is kind of hard to draw the line of those exactly serviceable and unserviceable, most all of them need something.

Mr. Vogel: That is all.

Mr. Graham: Q. The steam shovel that you spoke of, that was ordered by a previous administration, do you know? A. Yes, oh yes, that was in here quite a long while.

Q. You don't know anything about how that came to be ordered? A. No, I don't.

Q. Is there any way that it could be used out here for road work? A. Well, Mr. Brown has suggested several times that it might be used in a scoria pit or something like that.

Q. That would be the only way it could be made use of? A. Could be used on heavy jobs if it was possible to fix it up, I imagine that might be done. It would cost \$2,000 to put it in first class condition. I had a steam shovel man out there to look at it one day.

Q. How are the articles purchased, is that your work in the Department? A. They appear on our books, but the Highway Commission purchases those.

Q. You have nothing to do with the purchase of them?

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A. No, sir.

Q. And when a new automobile is purchased is that reported to your Department? A. Yes, sir.

Q. By whom? A. The duplicate copy of the bill is sent us and we place the purchase price on our books.

Q. And have there been any new automobiles purchased since the first of January at all? A. Of this year?

Q. Yes. A. No, I don't believe there has.

Mr. Vogel: Q. The orders for the purchase of automobiles must be passed upon by the Highway Commission, or does Mr. Black have the authority to purchase them as he needs them? A. I believe that the Highway Commission decides whether cars shall be purchased or not.

Mr. Vogel: That is all.

THE COMMITTEE ADJOURNED FOR THE DAY.

Testimony taken at the hearing before the Special House Committee commencing on February 14, 1925.

JOHN A. N. SMITH, called as a witness, being first duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence? A. John A. N. Smith, age 55, residence Fort Lincoln.
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Q. How long have you lived out at the Fort? A. 12 years.

Q. And what is your business or occupation? A. Caretaker of the Quarter Master's Corps.

Q. That is, you are an employe of the United States Government? A. Yes, sir.

Q. And you have in your charge the buildings out there at the Fort? A. Yes, sir.

Q. And do you know whether or not some of the surplus war materials which have been sent to the State Highway Commission have been kept out there? A. Yes, sir.

Q. When did they first commence keeping the war material out there? A. Oh, the first of April, 1920, I guess, then it was ordered out. Come in again in 1921 or 1922.

Q. And do you know who was the State Engineer at that time? A. Mr. Robinson.

Q. Do you know Mr. Black, the present Engineer? A. Yes, I know him, that is all.

Q. Has there been any of the war material kept out there since he was Engineer? A. Yes, sir.

Q. Now, where was this war material kept when it was

brought out? A. It was kept in four different buildings that was turned to them by the War Department.

Q. Was any of it kept outside of the buildings? A. Oh, (181)
kept all over.

Q. And some of it kept out in the road? A. Public highway, yes, sir.

Q. And were you acquainted with Mr. Luehrs then head of the Equipment Department? A. Yes, sir.

Q. Could you tell the Committee in what kind of shape he kept the material? A. In excellent shape.

Q. Kept it stored in the buildings? A. Yes, sir.

Q. Has it been kept the same way since he severed his connection with the Highway Department? A. No, sir.

Q. In what way has it been kept differently. A. It ain't kept at all, scattered all over.

Q. Most of it stored outside of the buildings? A. Oh, it's stored around in the sheds, oh, no, I'll say it ain't much more stored outside than it was at that time.

Q. How was this stuff taken away from there, under orders from some of the State Highway men? A. Under orders of Gettelman, or somebody goes in there and claimed they had an order from the Engineer that they can go and help themselves.

Q. And sometimes they would bring written orders? A. Yes, sir.

Q. I will show you Exhibit D and ask you if that is one of the orders to which you refer. A. Yes, sir, that is the kind of orders.

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Mr. Graham: I will offer in evidence Exhibit D.

EXHIBIT D

"Captain John Smith

Dear Sir:

Please let George Maxwell have truck bed by south shed.

Yours truly

F. L. Hubbard."

Mr. Graham: This order purports to have been written by one F. L. Hubbard, who is Mr. Hubbard? A. He is the foreman of the shop.

Q. And did anyone else send out orders for this material besides Mr. Hubbard? A. Yes, Mr. Miller, he has charge of the store house and also Mr. Gettelman, he is—

Q. Anyone else besides those three you have mentioned? A. No, sir.

Q. Did either Mr. Robinson or Mr. Black sent out orders for any of this material to you, written? A. Not to me.

Q. Is the stuff that is now out there of any particular value in your opinion? A. No, sir.

Q. Practically worthless? A. Yes, sir.

Mr. Anderson: What about those tents out there, are they in good condition now? A. Well, it could be taken out and taken care of, they would be, if they were taken out now and taken care of, three or four months longer they wouldn't be any good.

Mr. Halcrow: Wouldn't be worth anything? A. No.

Q. Aren't they brought in from the weather in there?

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A. No, it ain't the weather, the oil is spoiling them, oh, any kind of tent if put away for about a year, if they aren't taken out and aired they are rotten, I don't care what kind of tent it is, because it will break.

Mr. Graham: Who has charge of that stuff there? A. I suppose—I don't know who has charge, Mr. Black or Mr. Gettelman.

Q. Hasn't Mr. Gettelman full charge of all of that material out there at the Fort? A. I don't know, Mr. Gettelman, he gets all his orders from Mr. Black.

Q. As a matter of fact Mr. Gettelman is responsible for all conditions out at the Fort isn't he right now, it is all under his charge? A. I don't know.

Q. You don't know whose fault, but it is in very poor condition? A. Yes.

Mr. Vogel: Was any of those trucks in the shed out there, were any of them run in under their own power, do you know? A. I wouldn't say, I don't know.

Q. There are some trucks there that have perfectly good tires on them. A. I don't know.

Q. In the east shed. A. Oh, the east shed, oh, sure.

Mr. Thatcher: Those in the East shed? A. In the east shed.

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Mr. Anderson: They have 1924 license tags, must have been run in last year. A. Run in sometime this last winter, not very long ago, they goes in through the gate, ask me for the key for the gate.

Mr. Tatcher: The east gate? A. Yes.

Mr. Anderson: Q. Are there any of those trucks in that line, that stuff outside the inclosure there any good, or are all of them junk? A. Ain't worth anything.

Q. All junked? A. Yes, what is left of them.

Mr. Graham: That is all.

Witness excused.

A. D. McKinnon, called as a witness, being first duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and resident? A. A. D. McKinnon, 44 years old, living at Bismarck.

Q. What is your profession? A. Civil engineer.

Q. How long have you been in Bismarck? A. For the last two years, since April, 1923.

Q. Are you connected with the State Highway Commission? A. Yes, sir.

Q. What position do you hold? A. Project Engineer.

Q. Where did you live before that time? A. Goodrich, North Dakota.

Q. Were you County Engineer for Sheridan County? A. Yes, sir.

Q. How long did you occupy that position? A. From 1912 to 1918, then I went in the service and resigned, did not run for election, but was appointed after I came back from camp.

Q. You were in the army then? A. I was.

Q. What time did you come back from the army? A. In December, 1918.

Q. Did you have any other business in Sheridan County besides being County Engineer? A. Yes, sir, I was County Engineer for a term by appointment from the County Commissioners in Wells County, looked after their work in the adjoining county, and also had the newspaper, Denhoff Voice, and the Boudon Guardian and later the Denhoff Voice and the Goodrich Citizen, and I disposed of the Denhoff Voice and just ran the Citizen.

Q. Will you explain to us what you mean by Project Engineer? A. Why, the Project Engineer meets with the various Boards of Commissioners and arranges for the new work that they are carrying on in those counties from time to time, makes the preliminary investigation of all routes in company with the Highway Engineer, Bureau of Public

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Roads, the Federal man has charge of the plans and since I have been Project Engineer I have also taken care of all Right of Way matters.

Q. Then, if I understand it correctly, whenever the County Commissioners indicate to the Highway Department that they wish to take advantage of Federal aid then you go down with the Federal man and look the ground over and agree upon the route?

A. Yes, sir.

Q. Then who does the actual surveying of those routes that are decided upon? A. Well, we usually have a Chief of Party who goes out with a surveying party, or we go out with some of the local engineers.

Q. Then who draws up the designs for these roads? A. The Construction Engineer has charge of the design, the Chief Draftsman is in charge of drafting, he is responsible to the Chief Construction Engineer.

Q. Now, in order to get this matter before the Committee, after you have been out and decided upon the road, what is the next procedure? A. To have the survey made.

Q. And that is either made by representatives of the State Highway Commission, or contracted out to private engineers? A. Yes, sir.

Q. They then make the survey and the notes of the surveyors are taken and made out by the people who desire the surveying, or sent in to the Department?

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A. Why, then they make out the notes after they plot up everything, show the cross sections every hundred feet and make a continuous profile and those are sent in to me and usually the profile is returned to the Division Engineer for him to go over the line to give any additional recommendations, such as for culverts or drainage structures. Then they are sent in to the Construction Engineer and the plans drawn up from them.

Q. Then the plans you say are drawn up under your Department? A. No, under the Construction Department.

Q. Then after the plans have been drawn up what is the next proceeding? A. They have them sent to the Bureau of Public Roads for approval.

Q. That is at Washington, D. C.? A. Well, we submit them to the local office here, the district office.

Q. Oh, they have a district office within the State? A. Yes, sir.

Q. Who is in charge of that? A. S. R. Sharts.

Q. Where does he has his headquarters? A. In the Federal Building, the Post Office Building here.

Q. Well, after he has entered his approval, what is the next proceeding? A. Well, prior to the letting, that is to the advertising for bids, it is customary for the Construction Engineer and Mr. Sharts to make out the plans, those are not

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the completed plans, ready for construction and make what we call a P. S. & E. for the Bureau, that is a project statement and estimate, and if he finds any changes that he wishes to recommend, he makes his recommendations, such as may be an enlarging a drainage opening, or detouring around a

hill, or sloughs, or maybe where we haven't called for rip rap along the sides of a fill he will recommend rip rap.

Q. The Federal man goes along at the time? A. Yes, sir, with the plan.

Q. In these plans that are gotten out, they show the number of yards of dirt that is to be moved? A. Yes.

Q. And the excavation and fills? A. Yes, sir.

Q. And all culverts and bridges to be built? A. Guard lines, snow fences.

Q. Everything for the completed road? A. Completed road, yes, sir.

Q. And the next procedure is to advertise for bids for this? A. Yes, sir.

Q. That is done in the county in which the work is to be done? A. Yes, advertised in a local paper in the county, and the opening of the bids are always held in the county seat of the county where the work is to be done.

Q. Does anyone from the Department attend at the opening of the bids? A. Always.

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Q. Under whose charge is that? A. Sometimes when I am not busy with other work I attend the letting, I believe I have attended most of the lettings in the State the last two years, usually the Project Engineer.

Q. Then at the opening of the bids what is done? A. Why, we open the bids and read them off and list them together with the prices and see that the certified checks are accompanying each bid, then I figure up, make the computations, and figure up the total bid, then it is up to the Commissioners. The Commissioners usually pass a resolution recommending the awarding of the contract. They always reserve the right in their public notice of bids to refuse any and all proposals.

Q. This form of advertisement which is made, that is the form adopted by the Highway Department, the form of advertisement in the local paper is a form made up by the Highway Department? A. Yes, a regular form.

Q. And provides among other things that the bidder shall send a certified check for five per cent of the amount of his bid? A. Yes, sir.

Q. Under your rules, each man who bids must make a bid upon each article of construction, that is provided for in

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the plans and specifications? A. To make a complete bid, yes, sir.

Q. If he does not do that, then you would not consider his bid in opening the bids? A. Well, there is no hard and fast rule on that.

Q. What is the general custom? A. If the party has merely made an oversight, now, for instance, he bid on concrete for head walls, or metal piping, we always call for an alternate bid on concrete pipe and also on metal pipe, and the Board elects which they will choose to put in the work, in one instance that happened not very long ago the contractor had put in a bid for the contract price for the concrete on the head walls, showing metal pipes, but not filling out his alternate proposal upon concrete pipe, he overlooked that item, but I did not throw the bid out on account of it being that way because he had a unit price all right there for concrete head walls in the total amount. If one man would bid only on the contract and would not put in for there being any rock work or concrete work, that kind of a bid would not be considered if it called for concrete work and rock work, his bid wouldn't be considered.

Q. Then after the bids have been opened, the Engineer takes and figures up the prices that have been submitted in the bid for each and informs the County Commissioners which is the lowest bid?

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A. Yes, the sum total of each bid.

Q. Then you make a recommendation to the County Commissioners as to which bid they should accept in your opinion?

A. No, sir, the County Commissioners make the recommendation to the Highway Department.

Q. Does not the law provide that the bids shall be awarded by the State Highway Commission subject to the approval of the County Commissioners, if you know? A. All recommendations are by the County Commissioners to the Chief Engineer as to the awarding of the contract, and the Engineer never lets the contract, it is possible for them to find out what his recommendations are, the recommendations of the County Commissioners must be approved, and the contract must be signed by the County Commissioners first.

Q. Has there ever been any time when in your experience the County Commissioners and the Highway Commission have not agreed upon what bid to accept? A. One occasion that I know of.

Q. When? A. I think it was in either June or July, 1923, up in Bottineau County. The County Commissioner recommended the rejection of the low bid and the award of it to the second bidder, on the grounds that they didn't know whether the low bidder was responsible. The low bidder happened to be a man from South Dakota, Manley and Son,

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and they had their recommendations, in the back of the proposal there is a place for that, to show what work they had finished and for whom, and also recommendations as to their financial responsibility. When I wrote a letter to the State Highway Department of South Dakota, to find out whether Mr. Manley had done satisfactory to them, they wired back, "Yes." When we sent to the Bank at Milbank they replied and said "he is financially responsible up to the amount of \$25,000" and the contract was around eighteen or twenty

thousand dollars, so we notified the Board of County Commissioners of Bottineau County, that we could not agree with them. that Mr. Manley was not a responsible bidder and recommended that they award the contract to him, the low bidder, and they immediately rejected all bids and didn't do the work.

Q. The project was dropped? A. Yes, has never been completed, it was a gravel job.

Q. Does your advertisement provide that a surety bond must be put up by the successful bidder? A. Yes, sir.

Q. Would not that, generally speaking make any contractor responsible who could furnish the bond? A. It ought to, but it does not work out that way. They are responsible in the end and if you can discount all the trouble that you

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will have in finally getting the bonding company to take hold of the job.

Q. So that you try then to secure persons who are financially responsible themselves, financially and able to do the work, are able and have had the experience so as to avoid all lawsuits within the surety company? A. Yes.

Q. Now, during the time you have been in has the contract always been awarded to the lowest bidder? A. In almost every case, there has been one or two cases, for instance, I was at a letting down in Hillsboro, a local contractor, it was a bridge, the local contractor who had done all of the work for the County, and who had property in the county, was \$132.00 higher than the low man. The low man had never done anything of that sized work, he had put in small bridge culverts and so on, but never a bridge, it was a 110 foot span bridge, and the Board asked if they could not award it to Mr. Winberg of Hillsboro, who had done very satisfactory work for them. They offered, if I thought the Federal Government would not pay the fifty per cent of the difference \$132.00 to pay it themselves, rather than give it to some one they were not acquainted with, and who was not a taxpayer in the county. The Federal man agreed that the Federal

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Government would come in for the fifty per cent of the \$132.00.

Q. Is there a Federal man who is present at the letting of the contract? A. Always.

Q. What project was that upon, if you remember? A. I think they called it 65 B or C, now I'm not sure, it is a bridge right south of Kelso, in Trail County.

Q. And are there any other occasions within your experience where the contract was not given to the lowest bidder? A. No sir, not that I remember.

Q. Then if the bid has been awarded to the bidder and the contract entered into, what is the next thing? A. After the authorization from Washington, we notify the contractor

that he can begin work. The Construction Department takes that over.

Q. Do you have anything to do with the Construction Department? A. Nothing absolutely.

Q. Do you know whether or not the Construction Department has an engineer in charge while the work is being done? A. Why, I think they do, it is customary to have a resident engineer.

Q. Who is the head of the Construction Department? A. J. E. O'Neil.

Q. Now, have you the plans and specifications for the paving job from the east side of Bismarck out east of something over two miles? A. Yes, sir.

Q. What job do they call that? A. Federal Aid Project No. 244.

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Q. And do you know the length of that? A. Well, it is two and a fraction miles, I have got the plans here, I can refer to them. (Referring to papers) It is 2.384 miles.

Q. What width of pavement does that provide for? A. Twenty feet pavement.

Q. What thickness of concrete? A. Well, there was seven different types of paving advertised for, that is we received bids on seven different combinations, the straight run concrete was seven inches.

Q. When was the bids advertised? A. I think it was the 22nd day of December that they were opened.

Q. Then was there any contract awarded? A. No, sir. (Referring to paper) December 22nd.

Q. How many bidders were there? A. Four bidders.

Q. Will you give us the names and addresses of those bidders and the type upon which they bid, and the amount of their bid for the different types? A. The Northern Construction Company of Grand Forks, was the first proposal opened. They bid on all the grading items, the gravel surfacings, culvert pipes, gravel shoulders and on the straight run concrete, gravel for a base, the concrete or straight run concrete paving, that was a complete bid.

Q. What was the amount of that? A. \$92,338.28.

Q. Was that the same type of road as was installed on

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the Mandan side? A. Practically the same.

Q. And the plans and specifications are practically the same, identical? A. Identical.

Q. Now, what was the next bid? A. The next bid that was opened was that of the Haggert Construction Company of Fargo, and their total bid on all the items mentioned be-

fore, including straight run concrete was \$90,917.70. They bid on the other combinations of paving.

Q. What other combinations? A. There was with concrete base, first with two inch wearing surface of asphaltic concrete and an alternate, and two inch wearing surface of Warrenite bithulithic.

Q. What was the amount of that, that is, first of asphaltic concrete two inch wearing surface? A. That was \$134,729.81.

Q. And the two inch wearing surface of Warrenite bithulithic? A. \$134,729.81, the same identical bid.

Q. Were there any other bids? A. He bid, the same party bid on the other combinations.

Q. What were they? A. One was a four-inch asphaltic concrete base with two inch asphaltic concrete wearing surface. They bid, it totaled \$123,365.10, \$11,000 lower than the last one; and with the two inch surface, Warrenite bithulithic the same price, \$123,435.10.

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Q. Did he bid on anything else? A. There was another combination of three inch asphaltic concrete base with two wearing surfaces of each type, the asphaltic concrete and Warrenite bithulithic. That bid was \$115,693.91.

Q. Any other bids from these people? A. Well, we also called—there was fourteen possible combinations, seven with metal pipe and the same seven with concrete pipe used, and we have got the totals. We would figure everything out. (Handing paper to counsel)

Q. I don't suppose you have an extra copy of this? A. Yes, sir, I brought a blue print down for you.

Q. This shows the bids and so forth? A. It is a blue print of these bids, the originals. There were two other bidders.

Q. They show upon this? A. They show.

Mr. Graham: I will offer in evidence Exhibit E.

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STATEMENT OF BIDS RECEIVED—NORTH DAKOTA STATE HIGHWAY COMMISSION

Federal Aid Project No. 244

Time of Letting, 2 P. M., December 22, 1924

County of Burleigh, Road & Paving Items

Place of Letting, Bismarck, North Dakota.

Sheet 1

Bidder's Name.....

North'n Const. Co. Haggart Const. Co.

Gen'l Const. Co.

S. Birch & Sons.

of 2 Sheets.

Bidder's Address.....

Grand Forks, N. D.

Fargo, N. D.

Mpls., Minn.

Fargo, N. D.

Item No.	Item	Approx. Quantity	Unit	Bid Price	Amount	Bid Price	Amount	Bid Price	Amount	Bid Price	Amount
1	Clear and grub	1.00	acres	\$100.00	\$ 100.00	\$ 5.00	\$ 5.00	\$10.00	\$ 10.00	\$ 7.50	\$ 7.50
2	Plow and harrow	1.00	acres	10.00	10.00	5.00	5.00	5.00	5.00	6.00	6.00
4	Earth excavation	14029	cu. yds.	.60	8,417.40	.35	4,910.15	.60	8,417.40	.50	7,014.50
5	Rock excavation	220	cu. yds.	2.00	440.00	1.00	220.00	2.50	550.00	3.00	660.00
6	Overhaul	4209	cy. sta.	.05	210.45	.03	126.27	.03	126.27	.04	168.36
83A	Gravel shoulders in place	2492	cu. yds.	2.65	6,603.80	3.25	8,099.00	2.50	6,230.00	2.75	6,853.00
20A	Wire rope guard rail.....	700	lin. ft.	.50	350.00	.80	560.00	.85	595.00	1.00	700.00
21	Wood guard posts	22	each	.50	11.00	1.10	24.20	1.25	27.50	1.20	26.40
22	Snow fence (L. P.).....	348	lin. ft.	.80	278.40	.75	261.00	1.00	348.00	.90	313.20
82H	Gravel in place	2941	cu. yds.	2.65	7,793.65	3.00	8,823.00	3.50	10,293.50	3.25	9,558.25
12	Concrete headers	277	lin. ft.	.50	138.50	.50	138.50	.60	166.20	.65	180.05
12A	Steel paving guard	528	lin. ft.	.25	132.00	.30	158.40	.40	211.20	.35	184.80
30A	Class A concrete	0.73	cu. yds.	20.00	14.60	30.00	21.90	32.00	23.36	28.00	20.44
33A	Metal reinforcement	52	lbs.	.05	2.60	.07	3.64	.08	4.16	.07 1/2	3.90
41	TOTAL A				24,502.40		23,356.06		27,007.59		25,696.40
41	18" Met. pipe culv. in place	370	lin. ft.	2.50	925.00	2.70	999.00	3.00	1,110.00	2.75	1,017.50
30	Class A concrete	3.84	cu. yd.	20.00	76.80	30.00	115.20	32.00	122.88	28.00	107.52
33	Metal reinforcement	312	lbs.	.05	15.60	.07	21.84	.08	24.96	.07 1/2	23.40
	TOTAL B				1,017.40		1,136.04		1,257.84		1,148.42

46	18" concr. pipe culv. in place	370	lin. ft.	2.50	925.00	3.00	1,110.00	3.25	1,202.50	3.00	1,110.00
30B	Class A concrete	4.10	cu. yds.	20.00	82.00	30.00	123.00	32.00	131.20	28.00	114.80
33B	Metal reinforcement	325	lbs.	.05	16.25	.07	22.75	.08	26.00	.07 1/2	24.37
	TOTAL C				1,023.25		1,255.75		1,359.70		1,249.17
84	Concrete pavement	28411.78	sq. yds.	3.25	92,338.28	3.20	90,917.70	3.25	95,179.46	3.30	93,758.87
	TOTAL D										
85	6" Portland cement concr. base	28411.78	no bid			2.15	61,085.33	2.30	65,347.09	2.35	66,767.68
	TOTAL E										
85A	4" asphaltic concr. base	28411.78	no bid			1.75	49,720.62	1.75	49,720.62	1.65	46,879.44
	TOTAL F										
85A	13" asphaltic concr. base	28411.78	no bid			1.48	42,049.43	1.50	42,617.67	1.45	41,197.08
	TOTAL G										
86	(Warrenite Bitulithic) 2" asphaltic wear. surf.	28411.78	no bid			1.73	49,152.38	1.80	51,141.20	2.00	56,823.56
	TOTAL H										
87	Asphaltic concrete wear. surf.	28411.78	no bid			1.73	49,152.38	1.85	52,561.79		No bid
	TOTAL I										
	Special item 5" Portland cement (base concr.)					2.00	56,823.56			2.15	61,085.33
	S. Q. brand culverts to be used						S. Q. Brand Culverts to be used				

Bidder's Guaranty—
Amount and Kind

c.c. 6,250.00

c.c. 7,500.00

c.c. 7,500.00

c.c. 7,000.00

Disposal of Bidder's Guaranty—Returned

STATEMENT OF BIDS RECEIVED—NORTH DAKOTA STATE HIGHWAY COMMISSION—(Continued)

Item No.	Item	Approx. Quantity	Unit	Bid Price	Amount	Bid Price	Amount	Bid Price	Amount	Bid Price	Amount
	TOTAL A AND B										
84	Concrete pavement	28411.78	sq. yds.		25,519.80		24,492.10		28,265.43		26,844.82
	TOTAL A & B AND TOTAL D				117,858.08		115,409.80		123,444.89		120,603.69
85	6" Portland cement concr. base	28411.78	sq. yds.						144,753.72		150,436.06
	A & B & TOTAL E & H						134,729.81		146,174.31		
85A	4" asphaltic concr. base	28411.78	sq. yds.	A&B&F&I			134,729.81				
	A & B & TOTAL F & H						123,365.10		129,127.25		130,547.82
85a1	3" asphaltic concr. base	28411.78	sq. yds.	A&B&F&I			123,365.10		130,547.84		
	TOTAL G										
86	2" asphaltic wear. surf. (Warrenite Bitulithic)	28411.78	sq. yds.	A&B&G&H			115,693.91		122,024.30		124,865.46
	TOTAL H										
87	Asphaltic concr. wear. surf.	28411.78	sq. yds.	A&B&G&I			115,693.91		123,444.89		
	TOTAL I										
	A & C			A&C	25,525.65		24,611.81		28,367.29		26,945.57
	A & C & D										
	A & C & E & H				117,863.93		115,529.51		123,546.75		120,704.44
	A & C & E & I						134,849.52		144,855.58		150,536.81
	A & C & F & H						134,849.52		146,276.17		
							123,484.81		129,229.11		130,648.57
	A & C & E & I						123,484.81		130,649.71		
	A & C & G & H						115,813.62		122,126.16		124,966.21
	A & C & G & I						115,813.62		123,546.75		

Federal and other officials in attendance: F. S. Barry, George Hanson and A. D. McKinnon.

Recommendations of County Board; That contract with metal culvert pipe furnished and 4" asphaltic concrete base with 2" Warrenite bithaletic wearing surface be awarded to Haggart Construction Company, as lowest bidder.

Recommendations and remarks by Project Engineer.....

Action taken by State Highway Commission.....

Signed: A. D. McKinnon,

Project Engineer.

Signed:.....192...

.....
Chief Engineer and Secretary.

Q. Who was the other bidders? A. The General Construction Company of Minneapolis, and S. Birch & Sons of Fargo.

Q. On what types did they bid? A. The General Construction Company bid on every type. Birch & Sons bid on the straight run concrete.

Q. What is the amount of their bid? A. \$120,603.69.

Q. And the other people? A. Bid on the straight run concrete and everything, all possible combinations. On straight run concrete their total bid was \$123,444.88. They were high bidders.

Q. Was there any discussion by the Engineer, the Federal Engineer and the Board of County Commissioners as to what bid should be accepted? A. There was no discussion. There was a discussion as to the money, availability of funds, and we informed them that we couldn't award any contract until we could make a sworn affidavit of availability of sufficient funds to match the Government's share, to the Federal Government.

Q. What share would the Federal Government pay on this? A. Fifty per cent of the cost up to \$15,000 a mile, they won't go over that.

Q. They would pay \$15,000 a mile? A. Yes.

Q. So that on a road costing \$30,000 they would stand one-half? A. Yes, but if it cost more than that they wouldn't go over the \$15,000, they have a limit to the amount they will

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allow to a road, except a bridge structure, there is no limit to that.

Q. Was there any money or funds available for this? A. Well, they passed a resolution recommending to the Highway Department the award of the contract with this proviso in, that all parties benefitted by said work shall certify to the State Highway Commission that they and each of them will pay their proportionate part of the cost of the construction of the said road.

Q. Under what bid? A. Do you wish me to read the resolution, this is certified by the county. (Handing paper to counsel.)

Q. Have you an extra copy of this? A. Yes, sir.

MR. GRAHAM: I will offer in evidence Exhibit F.

EXHIBIT F.

"Moved by Commissioner Moynier, seconded by Commissioner Soder, 'Whereas, on the 22nd day of December, 1924, bids were submitted to the Board of County Commissioners of the County of Burleigh for the construction of the Federal Aid Road from Ninth Street in the City of Bismarck for 2.384 miles east on the Red Trail, being known as Federal

Project No. 244, in accordance with proposals of the State Highway Commission:

“And whereas, The Haggart Construction Company of (200) Fargo, North Dakota, has submitted bids, and are the lowest responsible bidders in all kinds of construction submitted:

“And whereas, Warrenite Bitulithic pavement on a four inch asphaltic concrete base is deemed by this Board the most desirable pavement to be used for the construction of said road:

“Therefore, Be It Resolved by the Board of County Commissioners of Burleigh County, in the State of North Dakota, that said board, and said Board does hereby recommend to the Chief Engineer and Secretary of the State Highway Commission that the award of contracts for the work on Federal Aid Project No. 244 be given to the Haggart Construction Company of Fargo, North Dakota, on the following class of work, namely, road grading and paving, and that the type of pavement recommend to be the Warrenite Bitulithic wearing surface on a four inch asphaltic base, on the following conditions:

“That all parties benefitted by said work shall certify to the State Highway Commission that they and each of them will pay their proportional part of the cost of the construction of said road.”

“Roll call: Moynier, aye; Soder, aye, Bachman, aye, Swanson, aye.”

MR. GRAHAM:

Q. Then the Board of County Commissioners recommended that the Warrenite Bitulithic wearing surface of four inches asphaltic base be used? A. Yes, sir.

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Q. Did your department concur in that recommendation? A. I haven't done anything with the matter because there is no sufficiency of funds.

Q. What did you expect to do when the funds are available? A. We will have—it has been customary for us to O. K. the recommendations of the local board.

Q. Have you had any discussion as to what you would do on this? A. No, sir. Absolutely not, the thing has laid dormant up to the present time because we have yet to be notified that they have made any headway in raising the funds from the sources mentioned in that resolution.

Q. Would this type of road be any better than the one for the straight concrete? A. Well, sir, we are not making recommendations.

Q. But, say, in your opinion as an engineer. A. I couldn't give an honest opinion of that because I haven't seen where the two were tried out under the same circumstances and the same climatic conditions. I have nothing to base it on.

Q. What do the engineering journals say about those two?
 A. Well it is just like newspapers would say different things, it depends upon who is writing the article; some prefer and claim that the black base which is not yielding and doesn't
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subject the surface to cracks on account of frost heating it is better; others claim that reinforced concrete will stand up better, but we haven't made any recommendations one way or the other as far as our Department is concerned.

Q. At the present time, then, there isn't any recognized standard by the engineering profession as to which type is the best? A. There is a recognized standard but there is a difference of opinion among engineers.

Q. Is the difference about half and half? A, I couldn't say, never had any experience with any paving except concrete paving.

Q. Then you wouldn't want to say that this bitulithic surface would last any longer with the same amount of travel as the concrete over on the Mandan side, what is your opinion? A. I have no opinion because I have no experience to base an opinion on.

Q. Do you think it would be a wise thing for the County Commissioners of Burleigh County to try something which was in the experimental stage? A. I wouldn't say that it is in an experimental stage, it is used in a lot of other parts. I wouldn't advise them one way or the other on it, I didn't on the day of letting; they didn't ask me for any advice.

Q. There is a difference of approximately \$44,000? A.
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\$8,000.

Q. \$8,000? A. Yes.

Q. I thought you gave me the concrete as \$90,917.70, and then the other as \$134,000. A. The straight run concrete was \$115,444.80, I think that is with the grading items in, for the completed job, the completed job, the low bid, straight run concrete was \$115,409.80. The type that they elected in that resolution, the four inch black base with two inch Warrenite bitulithic wearing surface was \$123,365.10, which said company was low on all type of paving.

Q. Now, if I understand you correctly, the one which they wished to accept was the four inch asphaltic concrete base and the two inch wearing surface of Warrenite bitulithic, that would be \$123,365? A. \$123,365.

Q. Do you know what the total cost of the Mandan project was? For the similar length, or approximately? A. It was about \$3,000 less than the price out here. When you figure the grading and the gravel surface and the gravel shoulders and the culverts that were put in first under a previous contract, that \$3,000 comes in a slight difference in the

cost of the concrete per yard between the two bids, and the fact that this over here is eighteen feet wide (indicating Mandan) and this is twenty feet.

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Q. You say that the Mandan is eighteen feet? A. I was informed that the concrete from here to the bridge is 18 feet, I think west of the bridge is 20, I know the project out here (indicating east) is 20 feet wide, the proposed paving, and I think the Mandan paving is 18 feet wide. You had those plans down here yesterday, I did not refer to them before I came up, I think—

Q. That is your recollection of it? A. That it is 18 feet wide, there is a difference in the two sides.

MR. VOGEL: They testified yesterday it was 20 feet.

MR. GRAHAM: It is not the duty of your Department to recommend to the County Commissioners what in your opinion would be the best kind of pavement to use? A. Adopted the same procedure, they can use either concrete or metal pipe, the County Commissioners have that option to take either metal or concrete pipe, and there are plenty of salesmen to boost their own products without the Project Engineer assisting them.

Q. But before there is any recommendations made by the County Commissioners, do they not ordinarily talk the matter over with you and the Federal Aid man before they make a recommendation? A. They do sometimes ask us for our opinion?

Q. Did they in regard to the Burleigh County paving? A.
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No, sir.

Q. Asked either you or the Federal Aid man anything about it? A. No, sir. By the time we got through with the figuring up of the different combinations, there was fourteen of them, it was about five o'clock or a little after so they adjourned until the next morning and they passed this resolution. The resolution was drawn up when we got there.

Q. That is the course you have adopted on all kinds of projects, not to recommend any particular form of work, either in grading or concrete road building? A. Well, our recommendations as to the form of grading is submitted in the plans. We have different sections of road, what we call different sections. Now there would be a thirty-two foot section of a narrow V-shaped ditch, or a flat bottomed ditch, depends on the point of the county, and the soil, but we make no recommendations as to certain brand of pipe, or anything like that.

Q. Nor any type of gravel that shall be used, or sand? A. No, just merely that it will come up to the specifications.

Q. Do you suggest to any contractors where they shall get sand or gravel for culvert items, or bridges? A. Never

have. We don't care where they get it so long as it conforms to specifications.

MR. VOGEL: You are a civil engineer, are you? A. Yes, sir.

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Q. Of what school? A. University of Minnesota.

Q. You say you take care of right of ways, what do you mean by that? A. All right of way matters. We have to purchase right of way in a lot of instance in constructing roads.

Q. You have the full power to purchase right of way? A. In purchasing rights of way, we don't purchase any rights of way, the County Commissioners purchase the right of way, but we draw up the plats for them from which to work, four copies for each.

Q. Does the county usually follow your recommendations with respect to the purchase? A. We make no recommendations, we just lay out the road, make the surveys, and then draw up the plats from which to work. They agree to purchase right of way when they pass the original resolution for this state survey.

Q. When you make the survey you establish the right of way, don't you by your survey? A. Yes, they sometimes don't, and then we get the Federal man to give in a little bit.

Q. You said that is what happened in one or two instances? Where are those instances? A. I think one of them was in Logan County or McIntosh County, I'm not sure, something about going around a slough, the Federal man turned down our plans in the original survey and refused to O. K. them because we went across a slough, and recommended going around. The Commissioners couldn't make a decent deal with the property owner, and after being held up for about three months finally allowed us to change the road.

Q. You say there are different methods of making the survey, the method by Highway Engineer and the method by Chief of Party, I think you called it. A. Yes, and on location force.

Q. Could you tell us how many projects have been surveyed by Chief of Party and the Highway Commission? A. In the last two years?

Q. Yes. A. I'd have to consult the records.

Q. Will you do that? A. I will.

Q. You have no recollection as to the number? A. Oh, no, I couldn't make a guess at all.

Q. You retain a force in your Department, do you to survey? A. No, I don't maintain one. Whenever we have surveys to make we usually get one of the experienced engineers and get him a levelman and transit man and rodmen.

Q. Where do you get those experienced engineers, is that private engineers? A. No, I'm referring now to when we sent out our own party.

Q. You have no recollection as to how many times this has been done? A. We had a party working this summer, in fact, we had three parties working this summer.

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Q. That is in the State Highway Commission? A. Yes.

Q. Do you know where they were working? A. They worked in Logan and McIntosh County, made a 27 mile survey along the county line from Fredonia to Wishek at the request of the County Commissioners. They made two surveys. McHenry County from Granville to Towner, and from Velva to Voltaire, I think it was then. We made surveys in Mountrail County and also in Mercer county.

Q. Who pays for that cost of surveying? A. The counties.

Q. The entire cost? A. Yes, sir, it is charged up to their State Aid Fund.

Q. What did you charge Logan and McIntosh for that survey, do you recall? A. I think the cost—I would have to refer to the engineer Chief of Partys' record. It went around, it was very difficult, it was in the hills, it went around \$59.00 a mile, but that was not charging him with wear and tear on the car that was furnished by the Department, but it was charging him with the gas and oil used.

Q. You say the work, the cost on these projects is about \$59.00? A. Where we have straight run, that is where there are no hills, and it is very level, the speed with which you can make the survey is much swifter, and the average cost is

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around \$50.00, and the other has averaged around \$59.00 or \$60.00.

Q. You figure the Department breaks even at that price, the Highway Commission breaks even? A. Well, no—what do you mean? breaks even?

Q. No, at this price charged the counties for one man— A. That is the price that it has cost the counties I am giving you.

Q. That is charged up against the counties' highway fund? A. There is no breaking even about it, you see that is the actual cost to the county.

Q. And it is the actual cost to the Highway Commission for the labor of these men? A. Yes.

Q. You allow private engineers about \$60.00 a mile? A. from \$50.00 to \$60.00 depending upon the class of work. Where it is smooth going, level ground, no departure from section lines, no curves to run, that is about \$50.00 a mile.

Q. Was that of T. R. Atkinson at \$50.00 a mile? A. I

think it was around \$60.00, at \$60.00 because we had, it was rough down here in Sioux County.

Q. The advertising—the advertisement for bids in the counties, those are drawn up by the Department are they not? A. Regular form. We fill them in and mail it to the County Auditor, and he puts it in the official paper.

Q. Who was the lowest bidder in Bottineau County? A.
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Padgett Company.

Q. Where from? A. Leeds, North Dakota.

Q. Have you ever had any bonding companies in North Dakota had to take over projects? A. I think we had one, that happened up here in Mountrail, or Williams, I mean—I believe a Mr. Curran of Minot, in a truck accident, so they called on the bonding company, so the bonding company called in another company. It was on a bridge, a small bridge.

Q. On the Bismarck project here there has been no contract awarded? A. Absolutely not.

Q. You still hold the certified checks on these four bids? A. No, sir, just the one, the low.

Q. What? A. Just the low bidder's. We will hold that certified check until such time as the contract is awarded or rejected.

Q. In other words, the bid has practically been let, then, has it not? A. No, sir.

Q. You have returned the certified checks of the other bidders? A. Why certainly.

Q. And are only holding one certified check? A. That is our purpose. Nothing has been done about letting that contract, in fact, we don't think it will ever be let.

Q. In case the funds are available who gets this contract? A. Well, according to this resolution it will be the Haggart Construction Company, the bidder.

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Q. The only reason you haven't let the contract is the lack of funds? A. Well, the availability of funds hasn't come to our official notice.

Q. The Haggart Construction Company will get it if the funds are available? A. I can't anticipate the action of the Highway Commission will take on it, or the Chief Engineer.

Q. There has been only one case in the history of the Department where the Highway Commission did not do as the Commissioners wished? A. Yes.

Q. The Haggart Construction Company would get this contract if funds are available? A. Well, there are other things to be taken into consideration.

Q. What, for instance? A. Authorization from the Gov-

ernment, we haven't got that yet, in fact, we don't sign any contract.

Q. You have returned the bids of these other three bidders, also with their certified checks? A. No, sir.

Q. You still have their bids? A. Oh, yes.

Q. You say there is a difference of opinion in respect to this type of paving—is this bitulithic paving in use in North Dakota in any place? Bitulithic wearing top? A. Yes, sir.

Q. This type they figure on putting on the Penitentiary road? A. Yes, sir.

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Q. Where used? A. Used at Valley City, exclusively, used in Fargo, some in use here in this city.

Q. What has been the success with that in this city? A. Some of it seems to be standing up good, some just like concrete, it depends upon who puts it in, what kind of a job, you can go out here in the City and find places where this type is good, and where there has been fault in the workmanship and it is not standing up.

Q. You figure that bitulithic paving is not in the experimental stage then? A. Oh, absolutely not. Q. What is the total cost of the concrete paving on that Mandan Highway, from the bridge to Mandan per mile, just average? A. The grading items and everything included?

Q. Yes, A. I think it was around, I remember figuring it up and it was—I wouldn't care to give any definite figures because I can't remember the cost of each piece of work, but there was \$3,000 difference between this piece out here (indicating) and the Mandan job.

Q. This was \$3,000.00 higher. A. \$3,000.00 higher.

Q. For the same type of work? A. Yes.

Q. Is there as much grading to do out here as there was on the Mandan project? A. Almost as much.

Q. Where do you account for that \$3,000 difference? A. In the extra yardage of concrete, square surface pavement.

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Q. I don't quite understand what you mean by that. A. This road, as I remember the Mandan pavement is 18 feet wide—

Mr. Graham: The engineer testified yesterday it was 20 feet.

A. I don't know because he had the plans, of course he would know, I have ridden over it, but never measured it.

Mr. Vogel: There would be no difference in the yardage then of that road and this? A. No.

Q. What would be your personal opinion with respect to.

that cost here and there? A. Well, might be in the contract price per yard.

Q. No doubt it is in the contract price per yard, but as an engineer, why would you feel that this road should cost \$3,000 more than the other, your opinion now. A. In my opinion, if I was bidding, on this on the 22nd day of December, I'd know that I couldn't get on to the work and do anything until next spring.

Q. You would be figuring to— A. I'd know that that is the basis I'd figure my bid on, I couldn't get on and do anything until next year, prices are going up, prices of dirt are higher than they were last year, two or three cents, labor is higher.

Q. This \$90,000 bid did not include the grading by the
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Haggart Construction Company for that? A. No, that is just for the surface, the pavement.

Q. On proposals of that road does the—the Government pays fifty per cent? A. Up to \$15,000 a mile. The Highway Commission—we have no funds to match Federal Aid with, the County has the funds to—they have to their credit in the State Aid Fund certain money.

Q. But the Federal Government pays fifty per cent up \$15,000 a miles, does that mean, up to \$30,000 the Federal Government would pay \$15,000? A. Yes, sir.

Q. And the County pays the other fifty per cent? A. Well, in this job, they expect it from outside sources, as they mention in this resolution.

Q. What do you mean by that? A. That all parties benefitted by said work pay their proportional share.

Q. What parties? A. The same as a special assessment, assessed against the abutting property. The Soo Railway and the N. P. own considerable property abutting on this road. There could be the elimination of two main line railroad grade crossings, and two branch line railroad grade crossings, and that was the idea that the Commissioners had in mind when they passed that.

Q. Have you any knowledge of anyone else that would
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be benefitted by that stretch of road? A. I can't just think of anyone unless it is some abutting property that would be a matter in the city limits for the city assessment commission to decide.

Q. Have you any knowledge of any other road where recommendations were made that those interested should pay part of the cost of it? A. Yes, sir.

Q. Any of these projects that go through the main streets of a town? A. I expect it would be the same.

Q. You were present you say when these bids are let?
A. When the bids are opened, yes.

Q. You say you make no recommendations with respect to the type of work or the type of gravel or anything of that kind? A. No, sir.

Q. Why are you present there then? A. If we think that the bids are excessive we advise the County Commissioners that. That one instance down at Lisbon, they rejected all bids. I suggested it, they had another letting at a saving of \$3,000.

Q. The County Commissioners usually have their own engineer there? A. If they have one.

Q. You say you leave it to the salesmen to boost for their own products? A. We are not in the sales game.

Q. Don't you think it would be the part of good judgment
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for you civil engineers appearing before the County Commissioners to assist the County Commissioners in picking out their bid. A. In picking out their bid?

Q. Pick out the low offer and better type of road. A. Well, there is no salesman there selling roads.

Q. Selling materials? A. Well—for instance, culvert pipe, now we have certain specifications. No culvert pipe can be used on the job unless the brand is registered and filed here and comes up to our specifications. All we can do is recommend all of those registered. We can't say we prefer you to buy from this particular culvert man because all of these come up to specifications.

Q. Does not the Portland Cement Company have their representative there? A. The Portland Cement Company was represented in this matter.

Q. With County Commissioners in many cases unacquainted with these different types of road, it is many times the high powered salesman who puts it over, isn't it? A. I couldn't say.

Q. What is your personal opinion? A. Well, if they didn't know enough to ask for advice I suppose it would be, they would put it over.

Q. Do they ask you for your advice? A. On certain conditions, but not on paving.

Q. Was an engineer for Burleigh County present at the
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time? A. Yes, sir.

Q. Who was it? A. Mr. Atkinson.

Q. Mr. Atkinson, the County Engineer, was present when these bids were let? A. Yes.

Q. Is this Mr. Atkinson the same Atkinson who did the

work for the State Highway Commission, conducted the survey work? A. He was employed by the County, yes, sir.

Q. He recommended this bithulithic? A. I couldn't say, I didn't hear him, I was figuring up the bids.

Q. Do you recall how many concerns there are in this state whose gravel is O. K. with the Department? A. I couldn't say, that is not my Department.

Mr. Vogel: That is all.

Mr. Yeater: Any other questions?

Mr. Graham: Who did the surveying for the Burleigh project? A. The County Surveyor here, Mr. Atkinson.

Q. And that was let by the Highway Commission to Mr. Atkinson to do? A. The County Commissioners had him do this, he designed the paving, too.

Q. So that the Highway Commission had nothing to do except the approval of the plans? A. Plans submitted after they were drawn up.

Mr. Vogel: The County paid Atkinson for this work, I suppose? A. I presume so.

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Q. Was that paid out of their State Highway fund? A. I couldn't say, there has been no bill presented, that I know of.

Mr. Graham: Q. You don't know whether Mr. Atkinson was hired on a straight salary or so much a mile for what surveying he does for Burleigh County? A. I couldn't say.

Q. What is the custom? A. Well, in some counties they pay a surveyor, or county engineer a straight salary, and any work that he does outside, or any money that he earns is credited back to the County that is, they save that money, that is why in a good many instances the County asks the State Highway Commission to let the County Engineer do the work, because it is a saving of money to them.

Q. When you let the County Engineer do the work, you pay him the same price that you do any other man? A. We pay him the same price and the County Commissioners deduct that amount that he gets from his yearly salary.

Q. Did you have the minute book of the Highway Commission? A. I didn't bring that down with me. Mr. Black is Secretary, and he will bring it with him, he will bring it.

Q. What other records have you here? A. You asked me to bring that opinion about the sale of war equipment, that is a certified copy of the letter from the United States

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Acting Attorney General. (Producing paper.)

Mr. Vogel: Q. When did you go on the force up here? A. April, 1923.

Q. Have you ever been in State Highway Commission work before in this State? A. Not in this State.

Q. In any other state? A. No, sir.

Q. This is your first experience with State Highway work? A. Yes, with State Highway work.

Q. Do you have a car? A. Yes, sir.

Q. What kind of a car is it? A. Studebaker, light six that I have now.

Q. When was that purchased? A. I took it out August 14th, 1923.

Q. Was that bought new? A. Yes, sir, touring car.

Q. What price was paid for it? A. I couldn't say.

Q. Who purchased the car? A. I think the State Highway Commission.

Q. The records will show that purchase? A. Oh, yes.

Q. You have had the use of that car since that time? A. Yes, sir, 33,000 miles.

Q. The Highway Commission furnishes gasoline and oil and repairs? A. Yes, sir.

Q. Where do you keep that car? A. I keep it in the garage down town.

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Q. You use it for your own private use also, outside of your Highway Commission work? A. I have made two or three trips with it and furnished by own gas and oil.

Q. Do they furnish you with gas books? A. Issue gas books.

Q. Has there been much repair done on that car by the Highway Commission? A. Why, they charged me up with a winter inclosure last December, when the weather got cold I had to make trips and they put a winter top on. I noticed the other day the \$100 item charged to me as repairs instead of accessories.

Q. You have a winter top on this car? A. Yes, that was the heaviest repair.

Q. You have the largest repair amount in the Department? A. I think I have about the largest, if not the largest, I cover every county in the state.

Q. Your mileage was about 1400 last year? A. A little over 22,000 miles.

Q. About \$1400, I mean the expense of this? A. I couldn't say, I don't think it is that much.

Q. You entered the statement of this? A. No, sir, they take it off the speedometer reading.

Q. Who takes that off? A. I think the Superintendent of Equipment.

Q. How often do they take it off? A. I couldn't say.

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Q. You make no statement whatever, however, to the Department? A. They keep it, they keep that, I don't keep any statement of it.

Q. When you need a gasoline book, you just make requisition for it, or go and get it? A. They get my mileage from the car and record it.

Q. You have to get authorization of this for a gas book from anyone? A. No, sir.

Q. Just go and ask them for that? A. He keeps a record of that, keeps a set of books, I understand.

Mr. Graham: When you are out on these trips do you charge up your hotel bills and traveling expenses? A. Yes, expenses when I am away from home.

Q. Do you take receipts for those? A. Yes, everything over a dollar I get a statement.

Q. This is turned in to the Department on your return? A. Make out an expense account, attach the receipts to it and it goes before the Auditing Board.

Q. That only applies when you are away from Bismarck? A. I do not get expenses while here in town, no one does.

Q. Do all of the engineers and helpers who are out surveying also receive their hotel bills? A. Well, now, I'm not sure, I have nobody in the field, except the local surveying parties, and they get their expenses, but I couldn't say what
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the ruling is in the Construction Department.

Q. What salary do you receive? A. \$250 a month.

Mr. Vogel: Q. What salary did you receive as Engineer in Sheridan County? A. \$300 a month when I was working, some months it ran more than that because I was working over in the other counties.

Mr. Graham: Q. You had charge of the surveying done in Sheridan County? A. And for the roads called project—From Denhof to Turtle Lake, project 209, surveyed by Mr. Atkinson at \$60 a mile.

Q. When was that done? A. In 1923, the same year. We surveyed from Denhof west by our own locating party, Mr. Overby was Chief of Party.

Q. This surveying that was done by Mr. Atkinson, did he supervise it in person? A. I think he did, I was up there every time that I went through there, I usually make it a point to visit the surveying parties.

Q. You do not remember whether or not it was actually done by some boys out of school who had not had any pre-

vious experience? A. I couldn't say as to their experience, they turned in a good set of notes.

Q. Did you ever at any time criticize surveying done by them as being a "bunch of kids?" A. Not in Sheridan County.

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Q. What county was that? A. Wells County, I was going through there one day and the boys were out in the field. I met them along the road there and I asked them where Mr. Atkinson was, they told me that he had not been there for three or four days, so when I came back I called Mr. Atkinson's attention to the fact that we expected him to be out there and look after it because it was getting where we had to get some curves run in, it was getting a little rough, and I didn't think that the boys were capable of getting the exact location of the road in the hills and he should be there to look after it, and he looked after it.

Q. Didn't you speak to him about it before he did do it? A. I just called his attention to it, that I didn't like that work.

Mr. Vogel: Q. That is the only instance of that kind that you have any recollection of? A. Yes, sir.

Mr. Thatcher: Q. One low bid was rejected, you said in Bottineau County? A. The County Commissioners rejected the low bidder, J. C. Manley, and they took the second bidder, and that was Padgett.

Q. Did Padgett do that work? A. No, sir, the contract was never let.

Q. You don't know what part of the county, that was, what part of the State Highway? A. I think—it was

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gravel, I think the project number is 140 or 43, that would be west of the River, I think it was, they have just recently asked us to advertise the bids again, that was two years ago, they didn't do any work in Bottineau County last year.

Mr. Graham: Q. Have you the original letter, of Exhibit G, that was sent out by the Acting Attorney General of the United States? A. The original of that letter I have not, Mr. Black gave me that this morning, he has charge of those records, I have nothing to do with that Department.

Mr. Graham: You know nothing about it except that it bears Mr. Black's certificate as to being a true copy of the original letter? A. Yes.

Q. Did you bring along the other rules and regulations regarding the disposition of the surplus war material? A. I haven't any.

Q. Has Mr. Black? A. I don't know whether he has anything upon the subject or not.

Q. The subpoena called for any other rules and regulations that the Department might have. A. Well, I think that was what Mr. Black gave me.

Q. That is all that he gave you? A. Yes.

Mr. Graham: I will offer in evidence Exhibit G.

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EXHIBIT G

(Certificate at top of first page) "State Highway Commission, Bismarck, N. D. I hereby certify that this is a true copy of the original document on file in this office. (Signed) W. G. Black, Chief Engineer and Secretary.

“(Copy-ar)

“DEPARTMENT OF JUSTICE
WASHINGTON

June 23, 1923.

The Honorable, The Secretary of Agriculture.

Sir:

I have the honor to acknowledge receipt of your letter of the 12th ultimo, stating that under the several Acts of Congress authorizing you to distribute among the states surplus war material suitable for use in the improvement of highways, you have so distributed many millions of dollars worth of property. You inform me that a small part of the material which has thus been transferred to the States is not now serviceable for the improvement of highways and you have asked my opinion upon the right of the States to sell or exchange such material.

“The material in question falls under one or the other of the following classifications:

“1. Equipment of a type which is unsuitable for use by the states in the improvement of public highways, this equipment having been erroneously distributed to the states be-
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cause of errors in packing at War Department depots or because of faulty War Department inventories of the material.

“2. Equipment, which, by reason of imperfect inventories or careless loading and handling in shipment was delivered to the states in unserviceable condition although it is of a character desired by the states for road improvement.

“3. Equipment which is suitable for road building but which cannot be used by the states within a reasonable time because of changes in the plans of the states since it was requisitioned and delivered.

“4. Equipment which has been worn out and has become unserviceable through use by the state in the improvement of roads since it was transferred. Section 7 of the Act of February 28, 1919, (40 Stat. 1201), provides:

“That the Secretary of War be, and he is hereby authorized in his discretion to transfer to the Secretary of Agriculture all available war material, equipment, and supplies not needed for the purposes of the War Department, but suitable for use in the improvement of highways, and that the same be distributed among the highway departments of

the several states to be used on roads constructed in whole or in part by Federal Aid, such distribution to be made upon a value basis of distribution the same as provided by the Federal aid road act, approved July 11, 1916. * * * *

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"Sections 1 and 2 of the Act of March 15, 1920, (41 Stat. 530), and Section 5 of the Act of November 9, 1921, (42 Stat. 213) authorizes transfer to the states of surplus war material on the same terms and conditions as provided in Section 7 of the Act of February 28, 1919. In addition, the Act of March 3, 1921, (31 Stat. 1349), and the Act of June 30, 1921 (42 Stat. 81) provide for transfer to the states of a certain number of motor vehicles for use by them on road maintenance.

"The foregoing acts must be construed as continuing and extending the policy of direct Federal aid in favor of state rural post roads which was established by the Act of July 11, 1918, (39 Stat. 365). Both the wording of the Acts and their purpose indicate that title to the material transferred passes to the states. The sole condition attached to the transfer is that the material be used on roads constructed with Federal aid. The states therefore receive the material subject to the obligation to use it on roads constructed with Federal aid; but when the material becomes unserviceable for such use the duty to keep the property ends, since to retain it further would not serve to carry out the purpose of the Acts of Congress. The states may make appropriate disposition of such unserviceable property, but they are under obligation to use the proceeds derived from its sale in the pur-

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chase of equipment to be used upon roads built with Federal aid, or possibly in the construction or maintenance of such roads.

"The foregoing interpretation of the Acts of Congress relating to the transfer to the states of material suitable for road improvement is confirmed by section 5 of the Act of March 15, 1920, which provided:

"That the title to said vehicles and equipment shall be and remain vested in the State for use in the improvement of the public highways, and no such vehicles and equipment in serviceable condition shall be sold or the title to the same transferred to any individual, company, or corporation. * * * *"

"The prohibition in Section 5 against sale by the states of equipment 'in serviceable condition' implies a right on the part of the states to dispose of equipment which is not in serviceable condition.

"It is my opinion that the states may sell or exchange material transferred to them by the Federal Government which at the time of sale is unserviceable for road improvement. This view applies, however, only to material legally transferred to the states under the various Acts of Congress, and includes the last three of the four classifications of unserviceable material previously set forth in this opinion.

"A different situation exists with reference to the first
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classification of unserviceable material, namely, that which was not originally adapted for use in road improvement. The Acts of Congress authorize transferring to the state only material "suitable for use in the improvement of highways." The transfer of materials not suitable for such use, being unauthorized, did not transfer title in the same to the states. The United States, notwithstanding delivery of possession, still retained title to the property, and the states received and hold it as gratuitous bailees.

"In any case where the United States could make a profitable use of property belonging to it but in the possession of a state, the property should be reshipped to some officer of the United States. Where shipment would be unprofitable, I am of the opinion that you may advise the state to dispose of it for the account of the United States. Authority for such action is apparently given by the Act of July 9, 1918 (40 Stat. 650).

"The states paid the freight charges on equipment shipped to them by the United States. Since a gratuitous bailee is entitled to reimbursement for actual disbursements incurred in preserving the property bailed (6C.J.1131), I believe that the states may reimburse themselves for freight charges which they have paid on the equipment erroneously shipped to them. Although Section 3818, Revised Statutes, requires
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the 'proceeds' of the sale of public property to be deposited in the Treasury of the United States, I am of the opinion that in the present case the 'proceeds' of the sale will be the net selling price of the property less prior freight charges paid thereon by the state. I therefore advise you to permit the states to reimburse themselves for their actual freight charges before remitting to you the net proceeds of property sold by them at your direction for the account of the United States.

"Respectfully,

W. D. Riter, Acting Attorney General."

Mr. Graham: Are there any other papers that were sent along? A. That is all that was requested.

Q. You say Mr. Black will bring in the minutes? A. Yes, sir, he said he would.

Witness excused. Recess taken.

A. D. McKinnon recalled after recess.

Mr. Graham: Q. Mr. Witness, this Warrenite bithulithic system of paving, is that a patented process? A. It is a patented process, that is why we called for bids on the other asphaltic concrete two-inch wearing surface, the bids are identically the same for each class.

Q. Well, I suppose the cost of that is higher on account
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of its being patented? A. It wasn't in this case, it was the same, the same bid was submitted.

(Continued)

Q. But the bids which you say are the same do not provide for asphaltic concrete wearing surface? A. That is the same as the Warrenite, with the exception one is patented, and has a different mixture of aggregate, and that mixture is patented.

Q. And this asphaltic concrete, is that not patented? A. Yes, sir—no, sir.

Q. Just the Warrenite bithulithic is patented? A. Yes, that is the trade name for it.

Q. It contains a little different ingredients than the asphaltic concrete? A. Yes.

Q. And I suppose claimed by the manufacturers to wear longer and give better service? A. That is their sales talk.

Mr. Graham: I think that is all.

Witness excused.

Herman Hardt called as a witness, being first duly sworn, testified as follows:

Examination by Mr. Graham:

Q. Will you state your age and residence?

A. Herman Hardt, you mean present residence?

Q. Yes. A. Residence, room 505, McKenzie Hotel, otherwise of Napoleon.

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Q. You are assistant sergeant-at-arms in the House of Representatives of the 19th session? A. Yes, sir.

Q. And did you serve a subpoena upon W. G. Black to appear before this Committee at nine o'clock this morning? A. Yes, sir.

Q. When did you serve that subpoena? A. I served it yesterday afternoon after Mr. Black came out of the Governor's room about four o'clock.

Mr. Graham: I will state for the record that Judge Hanley of Mandan called me up last night by telephone and asked if it would be agreeable to us and to the Committee if Mr. Black did not appear until eleven o'clock, and I told him that

I thought we had enough witnesses to keep us going until that time, and Judge Hanley told me that he would be present by eleven o'clock.

Mr. Vogel: This is Judge Hanley who represented the Mandan Gravel Company before this Committee the other day?

Mr. Graham: Yes, sir.

Mr. Yeater: Mr. Black not having put in an appearance, and if there are no other witnesses a motion to adjourn is in order.

The Committee adjourned until 9:30 February 16th, 1925.

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TESTIMONY TAKEN AT THE HEARING BEFORE THE
SPECIAL HOUSE COMMITTEE ON FEBRUARY 16th, 1925

Mr. Graham: We will call W. G. Black to the stand.

STATEMENT BY MR. J. M. HANLEY:

I will state to the members of the committee I appear as Mr. Black's counsel and in courtesy to the committee desire to make a statement about Mr. Black's appearance as a witness. Mr. Black was subpoenaed Saturday and furnished some of the documents that the committee desired. With reference to any other papers or documents that the committee desires, he is ready and will furnish them to the committee. Mr. Black feels, however, that before he is called as a witness, he is entitled to the following things: That he is entitled to a transcript of the testimony that has been taken before this committee in secret session or otherwise. I was going to say that I have conferred with Judge Graham in regard to that and I understood that Judge Graham furnished to Mr. Black a transcript of the testimony up, I think, to about Wednesday or Thursday, but that the complete transcript has not yet to this time been furnished to him. Mr. Black also feels that under the circumstances that he ought to be entitled to be present at the hearing when his testimony is taken with his counsel. Judge Graham has stated to me

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that he understood your committee would permit Mr. Black to be present with his counsel but that his counsel would not be allowed to ask any questions or to interpose any objections and I may say before this committee that if that was the rule, that to allow Mr. Black to have counsel with those limitations would simply make his counsel a spectator and would not put him in a position where the rights of Mr. Black could be protected. Mr. Black also feels that he ought to have the right to have his counsel cross-examine the witnesses that have appeared here before the committee and testified against Mr. Black. With these statements, I, as his counsel, say to the committee that before Mr. Black will appear as a witness before the committee, that we ask that these details that I have mentioned be arranged or at least that the committee authorize Judge Graham to confer with me as to procedure and as to what limitations will be placed upon Mr. Black's counsel and as to what manner Mr. Black's rights that he claims will be protected before the committee.

Mr. Vogel: You represent Mr. Black? A. Yes, sir.

Mr. Vogel: You represented the Mandan Gravel Company also? A. I did and other clients.

Mr. Vogel: How is it possible for us to furnish Mr. Black with the testimony when we have already instructed Mr. Black that he may appear before all of the open ses-

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sions as we can't get a transcript out the same day it was written. A. The statement that Mr. Black and his counsel, that he could appear before the committee simply amounted to permitting him to be here as a spectator; there has been

certain testimony taken before this committee in secret session.

Mr. Vogel: That testimony Mr. Black has in his possession. A. Not all of it.

Mr. Vogel: Yes, he has all of it. What day was it we instructed the secretary to turn over to Mr. Black all the transcript of this committee—what day was that? You state, Judge Graham, just what arrangement was with this committee with respect to turning over the transcript to Mr. Black. You don't recall what day, do you?

Mr. Graham: I think it was on Friday. It was my recollection and I might state for the members of the committee that on Friday, I told Mr. Black that all of the testimony that was then taken was ready for him and I went up to the Capitol and went in to see Mr. Black but found that he was out. Upon my return, I found that he had been in to see the girl in charge of the rooms and she informed me that he had been there and asked for the testimony but she did not know what to give him so it was not turned over to him, but on Saturday about one o'clock, I turned over to him then all testimony that was then taken and at this time we have nearly all of the testimony completed and are ready and

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willing to turn over to Judge Hanley, as counsel for Mr. Black, all testimony that has been taken.

Mr. Vogel: There is no testimony of the executive session not in the hands of Mr. Black? Mr. Graham: No, sir.

Mr. Hanley: Is it not true that some statements taken at the executive session are not in that transcript?

Mr. Vogel: None except those at which you were present in regard to the Riverside Gravel Company. You wish that in the record? Mr. Hanley: No, sir.

Mr. Vogel: As that is the only one, the transcript is complete. That is true as far as the committee is concerned? Members of the committee: Yes.

Mr. Hanley: As far as the present is concerned, I want to further state that Mr. Black does not and will not object to coming before this committee and testifying when he is assured that his rights will be protected and when he has been given an opportunity to find out what the charges are addressed to him personally so that he can look into the records, get the papers and letters ready to properly testify to the committee as to the matters that have been charged against him.

Mr. Graham: I might state for the committee as I understand the proceedings, that this is not a criminal action but

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is in the nature of an investigation to find out the facts in relation to the State Highway Commission and that there are no charges made against Mr. Black except such matters as may be brought out by any of the witnesses who appear before the committee and that the committee is ready and willing at all times to subpoena in for examination such wit-

nesses as Mr. Black desires to have appear before the committee and give their testimony regarding any matters which have been gone into by this committee.

Mr. Hanley: I am glad Judge Graham has mentioned that as that is one thing I intended to mention and did not incorporate in my preliminary statement that we would also want to produce witnesses to testify in regard to those charges, and Mr. Black and his counsel and I think quite a number of people have gotten the impression that a large part of this proceeding has been addressed towards Mr. Black personally and particularly that statements of insinuations have been made by one I. P. Baker of this city, and if the disposition of this committee is to address itself solely to how the office of State Engineer has been conducted, I don't think there will be much difficulty between counsel and committee and counsel for Mr. Black have felt that inasmuch as the Committee has counsel, and inasmuch as those who are making the charges against Mr. Black have counsel—

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Mr. Vogel: Who have you reference to that has counsel that are bringing charges against Mr. Black? A. I think I would say, for one, Mr. Baker, Mr. Vogel.

Mr. Vogel: Who did Mr. Baker appear with before this Committee as counsel? A. I think he is thoroughly competent himself and with his ability to appear before the committee without counsel.

Mr. Vogel: Mr. Black has a perfect right to ask us to subpoena I. P. Baker at any time to testify before this Committee.

Mr. Hanley: That is one of the things we would like to know. We would like to have Mr. Baker brought before the Committee so he could be cross-examined before Mr. Black's counsel concerning charges Mr. Baker has made before this Committee against Mr. Black.

Mr. Graham: I might state further that if I understand the position of this committee right, it is only to obtain the facts in regard to the State Highway Commission so that after all of the testimony has been taken, the House Investigating Committee may make such a report to the House of Representatives as will show, in their opinion, whether or not the department has been carried on in an economical manner and if there are any defects which have arisen, they may make such recommendations as they may deem fit and proper and that it is not the purpose of this committee to single out any individual but to take it in its general way only.

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Mr. Hanley: I may say upon that assurance, Judge Graham, that Mr. Black will come before this committee. All we ask is that his personal rights will be protected before this Committee, and I will say to the Committee now, it is going to be rather impossible to get Mr. Black before the committee this morning but I assure you that he will be here not later than tomorrow morning and offer himself as a witness at that time. At that time we ask that his counsel have the right to interpose objections and ask questions but as to

whether this committee will allow it or not is for you to decide and if it is conducted in a spirit of fairness, we will be here. We would like a transcript now so we have a chance to go through it today and prepare ourselves and bring such letters and documents as may be required.

Mr. Graham: As I understand your position, we can absolutely depend upon Mr. Black being here to appear before the committee tomorrow morning? **Mr. Hanly:** Yes, sir.

Mr. Graham: I might state further, Judge Hanley, that if the committee does not see fit to give you the right to interpose objections and ask questions if you will give me such questions or leads as you would like to have brought is rather unusual but I will be willing to go that far. Of course, you understand that as to such matters as may de-

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velop during the examination, that we feel Mr. Black is not being treated fairly, he should be properly advised as to how to take care of his rights.

Mr. Thatcher: This Committee has no one man singled out. **Mr. Hanley:** I am very glad to hear that, I am very glad to hear that.

Mr. Thatcher: There is no one man singled out more than any other.

A. D. McKinnon having been called to the stand, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. You were sworn Saturday? **A.** Yes, sir.

Q. If I remember your testimony correctly, you testified that the plans and specifications for the concrete road over on the Mandan side were similar to the plans and specifications for the proposed Burleigh County bridge? **A.** I think you have got my testimony confused with Mr. Myhre. Mr. Myhre testified as to plans for the Mandan paving; I had the plans here of the Bismarck project.

Q. If I remember correctly, I asked you the question if the plans and specifications for the concrete paving were the same as the Mandan paving? **A.** Well, now as far as I know they are.

Q. Did you ever check them over to see if they are the same as the Mandan paving? **A.** You see, I had nothing to do with the plans or design of roads and construction, but

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when you subpoenaed me you asked me to bring the Bismarck plans and I paid particular attention to those plans.

Q. Is it not a fact that the plans for the proposed concrete paving were much more stringent and provided for much more reinforcement of steel than was ordinarily customary in others that you know of? **A.** They have 50 pounds to the square yard.

Q. You are not positive as to what the Mandan paving had? **A.** No, not until I looked the plan over.

Q. Were there any transverse bars added to the Burleigh County project that were not in the Mandan? A. I couldn't say until I looked at the Mandan plans.

Q. Were there transverse bars that were provided for in the Burleigh County project that were not ordinarily used in concrete work? A. I think there are transverse bars provided in all paving concrete.

Q. You are positive as to that statement? A. I wouldn't be positive.

Q. Can you cite any instances where transverse bars were used in this form of paving and the thickened edges of the concrete? A. In this state? I couldn't state because I have had no experience with paving in this state.

Q. Have you had experience with paving in any other place? A. Yes, sir.

Q. Is it not a matter of fact that on account of the additional provisions that are asked for in this proposed con-

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crete road that it made an additional expense of approximately fifty-eight cents per yard more than was necessary for this type of road? A. I think the difference in the same contractor's bid on the Mandan paving and the same contractor bidding on the Bismarck paving for straight-run concrete was some nineteen cents a square yard.

Q. Has there not been a considerable drop in the price of materials between the time of these two contracts? A. I couldn't say whether there was or wasn't.

Q. You know in a general way that the prices of all material have dropped for the last year or two? A. I think the fact of the matter is they are going up.

Q. Up to the time of the opening of the bids there had been a general drop for the last year or two? A. There has been a general raise in the price of material in the last six months.

Q. I mean up to the time the bids were opened? A. That would be included in the last six months. December 22nd was when the bids were opened.

Q. When we have the plans here for these two projects here, you could tell us whether they were the same or not by checking over? A. Absolutely.

Q. Can you tell us of a single state which provides for seven-inch concrete in the center, thickened to nine inches at the edge and with transverse bars in it? A. I wouldn't say it was a state, but I had experience in 1918 laying concrete

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road in the State of Virginia from Camp Humphreys to the town of Alexandria and we used eight inches in the center and eleven inches on the outside on a military road.

Q. That was so as to provide for the heavy army trucks?

A. There was army traffic over there from the Camp to the town.

Q. Were transverse bars used there? A. Yes, sir.

Q. That was a military job? A. It was done by the War Department while I was in the service.

Q. Was a great deal heavier than would be necessary for ordinary traffic? A. That depends upon what you call ordinary traffic; if you anticipate future traffic, it wouldn't be.

Q. Can you cite any state job where that has been done? A. I am not familiar with any others.

Q. This contract out here provided for a four-inch gravel sub-grade, did it not? A. Yes, sir.

Q. And that is only used ordinarily where there is a wet or spongy surface? A. It was used on the Mandan job, too.

Q. That was wet and spongy surface there? A. Sand and silt.

Q. Subject to overflow over there? A. At times I presume it is.

Q. This proposed road out here is not subject to overflow at any time? A. But it is necessary to have your sand cushion in any soil.

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Q. I wish you would answer the question? A. This is not subject to overflow, no.

Q. Are there any of the states that you know of that require the four inch of gravel subgrade and the reinforced concrete and transverse bars? A. I am not positive as to their requirements; I know what is customary though.

Q. And do you know what amount of grade is being built in other states of the black surface type? A. I couldn't tell the amount, no.

Q. Is it not a fact that all of the states are using only a straight-run grade for highways? A. I couldn't say.

Q. You have no knowledge along that line? A. Have never looked it up; am not interested in that; that is the work of the construction engineer.

Q. Who drew up the plans and specifications for the Burleigh County project? A. The county engineer made the design.

Q. Mr. Atkinson? A. I think so.

Q. Under contract with the State Highway Department? A. Not with the State Highway, with the County Commissioners.

Q. The State Highway Department had nothing to do then with the plans that were drawn? A. They O. K'd them before it could be submitted to the Bureau of Public Roads,

and before we submit any plans to the Bureau of Public Roads they have to be approved by our department if they are to receive fifty per cent on any job.

Q. Whose duty was it to check these plans over? A. Well, I would say the construction engineer or Assistant Chief Engineer.

Q. And see whether the plans and specifications would be proper for this part of the country? A. Our plans are signed by the Assistant Chief Engineer and Chief Engineer before they are submitted to the Bureau of Public Roads.

Q. Who would be the construction engineer that would check these over before they went to the Bureau? A. Mr. O'Neil is construction engineer.

Mr. Graham: I think that it all unless the committee has any question they desire to ask.

Mr. Vogel: The bid on the concrete work for this highway out here was considerable higher than the Mandan was it not? A. As I stated, I think it was 19 cents, the same bid by the same contractor.

Mr. Vogel: You stated in your previous testimony that the reason for that raise was because of the increase in the price of material? A. And labor, anticipating the fact that he couldn't get on the job to do the work until this coming year. They don't allow concrete to be laid in the winter.

Mr. Vogel: You are positive that the price on all that material has raised? A. I mentioned in my previous testimony the labor item only, based on the fact that the contractors—

Mr. Vogel: I don't believe the labor item was mentioned in your previous testimony? A. I think in my testimony Saturday that I stated that grading contracts are going higher on account of contractors anticipating higher wages to be paid the coming year, higher prices for horses, feed, hay and stuff like that. I know we are paying two cents a yard more now.

Mr. Vogel: You have no knowledge in regard to what other states require in the way of highways? I know not.

Mr. Vogel: Are you not in the habit of reading papers and magazines on this subject? A. I would not attempt to swear to anything of that kind.

Mr. Vogel: What is the general consensus of opinion among engineers largely with respect to concrete roads? A. I stated in my previous testimony that that depends upon what magazines you read. There are partisan on both sides of the question as to what type for paving is better.

Mr. Vogel: It is your personal opinion that this type of highway from here to the Penitentiary was absolutely called

for under the conditions? A. I wouldn't say it was called for but it would be mighty good type of paving to use.

Mr. Vogel: It was necessary then? A. I wouldn't say (247) it was absolutely necessary, not. It is pretty hard for a person to say whether it was absolutely necessary in the contract.

Mr. Vogel: They asked for your personal opinion? A. I had no personal opinion.

Mr. Vogel: You have no personal opinion with respect to roads at all? A. Some roads, yes, sir; road grading; I base that on my experience; I cannot base, under oath, my statement based on hearsay or opinions of others.

Mr. Graham: Q. Are there any members of the Highway Commission that have had any actual experience with concrete work as to the various kinds and concrete paving? A. I think there are.

Q. Who? A. Mr. Roherty is one of the engineers who has had considerable experience in paving—J. N. Roherty; Mr. Black has had experience in paving and Mr. Myhre.

Q. Do you not think, Mr. McKinnon, that work of this kind should be put in as economically as possible, also considering the class the work that is used? A. Considering the class of work, yes.

Q. So as to keep expenses down as much as possible? A. Yes, sir.

Q. The project out in Burleigh County, would this be known as a heavy traffic out here? A. It would, yes, sir.

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Q. Heavier than the Mandan traffic? A. Yes, I would say it would be.

Q. In what way would there be more traffic over there than on the Mandan side? A. Because of the east traffic which would not go west, it would center at the State Capitol. There would be a lot of east traffic stopping here headed for the Capitol that would not go further west.

Q. Is there not a large local traffic between Mandan and Bismarck that does not go east of the town? A. I wouldn't say it doesn't go further east than the end of this project which only extended a little to the south of the State Penitentiary.

Q. The bus lines do not run out to the Penitentiary? A. There is quite heavy traffic, local traffic.

Q. What are the heaviest trucks that might run over this pacing that you know of? A. Well, there is the bus that goes to Linton. I don't know just how heavy it is. It leaves Bismarck and goes that way to Linton and is as heavy as any other bus. I think they are heavier than the average run of trucks.

Q. Would that be as heavy as the buses which run between Bismarck and Mandan? O. One of the buses running between here and the Capitol is as heavy as the buses running from here to Mandan and that same bus has been making trips to Linton.

Q. Is there any difference in the amount of the dirt or dust coming from a concrete highway and from the black surface highway? A. I think there is no difference in the amount of dust.

Q. What advantage is there with the black surface over the ordinary concrete? A. The advantage is claimed by the salesmen and the promoters of that type of paving—is that what you wish me to give?

Q. Do you know what the actual advantages are, if there are any, in your opinion? A. I just got through stating a while ago that I was not recommending either type of paving.

Q. Is not that a duty of the engineering department to give to the people the best type of paving in their opinion? A. Duty of the construction department, yes, sir, not of the project engineer. You can see very easily, Mr. Graham, how it would be if I would start out as Project Engineer promoting roads before the County Commissioners of the state and start to dictate to them what type of road that would benefit a certain manufacturing company or a certain patented process. I leave that for the construction department to see what will pass the specifications laid down by the department and will conform with the specifications of the Bureau of Public Roads.

Q. Then as I understand the position of the State Highway Commission, they do not attempt to give the benefit of their advice as to the various kinds of roads which might be cheapest and best for particular localities but leave that to the Board of County Commissioners? A. If they are asked

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for advice, I presume they would give them, the proper engineer would, not the project engineer.

Q. So that if some concern would come in and bring in some kind of road-making material that had not been properly tested out and the county commissioners desired to take it, the Highway Commission would not advise against it after that? A. We would not advise against it.

Q. Will you accept it? A. If it would pass the federal requirements, we would not say a word against it.

Q. If it passes the federal requirements, it passes the State Highway Department requirements? A. Yes.

Q. Does not the federal government attempt to give to the people the best and cheapest roads for that locality? A. They do.

Q. Then do they often advise other counties as to the type

of road which should be used? A. I never heard them; was never present when a federal engineer sided in with either type of pavement.

Q. Now, some types of pavement have been in use for a great length of time in various parts of the country, have they not? A. Yes, sir.

Q. And the engineering journals which you people take show the tests on the various kinds of paving? A. Yes, sir.

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Q. So that you people have information in regard to how the different kinds stand up? A. Yes, sir.

Q. And the question of expense, etc.? A. Yes, sir.

Q. Do you not think that all of this should be given in to the Board of County Commissioners so that they would be in a position to accept the best type of road? A. If they ask us for it, they get it.

Q. Should they not have this information regardless of whether they ask it or not? A. They certainly should have it. Sometimes they don't ask us and go ahead and set their mind on a certain kind and contract for stuff without asking us.

Q. That, I suppose, is caused from the sales talk of some salesman who has some particular type of highway material to sell? A. I presume so.

Q. Do you know whether or not the federal requirements ask for four inch gravel subgrade on concrete paving of the type of Burleigh County? A. I think they do.

Q. You think they absolutely require it? A. Yes, sir.

Q. Would you swear to that? Would you swear they do so require? A. I wouldn't swear that they do.

Q. Could you bring us the rules and regulations of the federal government in regard to concrete paving? A. Yes, sir, we have their specifications.

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Q. Would you bring those, provide them for us by tomorrow morning? A. Yes, sir.

Mr. Vogel: You say Mr. Atkinson drew the plans and specifications for this highway? A. He designed the paving.

Mr. Vogel: Do you know how much experience Mr. Atkinson had with paving projects? A. I couldn't say.

Mr. Graham: You say the construction engineer is the man that is best qualified to speak with respect to various kinds of paving, is that true? A. I would say that is in his department, not mine.

Q. Would that be true of gravel highways also? A. He has charge of all construction.

Q. Does he sit in with the county commissioners when the bids are opened? A. Sometimes he is present at the

lettings.

Q. You are always present? A. Not always. We just simply merely have one representative from our department and one from the Bureau of Public Roads. There is no hard and fast rule as to who that representative should be. In the interest of economy, I might be out on federal aid work in a certain part of the state making road inspections and if I happen to be near a county seat where they are letting, I attend the lettings.

Q. Do you know whether you have attended more of these than the construction engineer? A. I believe I have attended more than the construction engineer.

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Q. What is the purpose of your attendance? A. To open bids and figure them up for the county commissioners and inform them who is lowest bidder.

Q. You represent the State Highway Commission at that sitting? A. Yes, sir.

Q. You give them no advice or instructions as to which is the best type of road? A. As I explained Saturday, Mr. Vogel, our advice as to the best type of road is given when the plans are designed and when the construction engineers O. K. the plan for that particular road, they specify the type of road; that is the advice given to the county commissioners, in the blue prints, not verbally.

Q. This is done before the bids are let? Absolutely.

Q. In other words, you in reality specify the kinds of roads to be built? A. Yes, sir, the type of roads whether it is a flat-bottomed ditch or a V-shaped ditch; it depends upon the kind of country it goes through, drainage and things like that, that is on the roads in the blue prints.

Mr. Graham: Did the Highway Department make any suggestions or changes in the plans that were submitted by Mr. Atkinson for this road? A. That was up to the construction department; I had nothing to do with designing.

Q. You saw the plans and specifications? A. I saw the plans and specifications after they were approved by our department.

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Q. If there were any changes made, would they be noted upon the plans? A. Not upon the blue prints. They would be noted upon the tracings and the tracings changed and new blue prints made.

Q. Who was the federal engineer that was present when the plans were opened? A. When the bids were opened? Mr. Berry I think was here—the blue prints would show—from Saint Paul was here.

Q. Is there any one representing the federal government here in Bismarck at the present time? A. There is.

Q. Who? A. Mr. S. R. Sharts

Q. Sharts? A. Yes, Sharts.

Q. He has an office in the federal building? A. In the federal building.

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R. H. Myrrha called as a witness, being first duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence? A. Richard Harold Myrrha, age is 22, address is Wahpeton, North Dakota.

Q. How long have you lived in Wahpeton? A. Ever since my birth.

Q. Are you somewhat familiar with the Federal Aid project No. 59 between Fairmount and Hankinson? A. Yes, sir, have worked on it.

Q. You say you worked on it? A. On the project, employed by the Highway Commission.

Q. When did you work upon that? A. I couldn't give any exact dates on it, I started sometime in the spring of 1921 and worked until about the first of September, 1921, and then I worked some part of the summer of 1922.

Q. When was this project commenced? A. The knowledge I have of it from the work on the project?

Q. Yes, the work on the project. A. There had been some done when I started work in 1921, evidently been done the year before.

Q. And do you know when this project was completed? A. It was finally accepted—no, I can't give the date.

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Q. And who was the contractor, if you know. A. Treadwell Twitchell.

Q. What is your business at the present time? A. Deputy County Auditor of Richland County.

Q. How long have you been Deputy County Auditor? A. Since September 11th, 1924.

Q. Were you in the Auditor's office before that time? A. I was from—for over a year previous to the time that I have been in as Deputy.

Q. Been in the office for about the last year and a half? A. Yes, sir.

Q. Do you have with you a contract entered into between the Highway Commission, Richland County and Mr. Twitchell for the construction of project 59? A. Yes, sir.

Q. Will you produce such contract? A. Here are copies of the contract. Here is the original.

Mr. Graham: May it be understood then by the Committee,

that the stenographer make a copy of Exhibits H and I and that they then be returned to the Deputy County Auditor.

Committee: Yes.

Mr. Graham: Now, Exhibits H and I, are the contracts and proposals for the construction of Sections A and B of Federal Aid Project No. 59? A. Yes, sir.

(Paper examined by Committee)

Mr. Graham: Perhaps you can read into the record the (257)

total amount of the bid, and the price for each separate item as they are disclosed and then do away with the copying of the printed part of the Exhibits.

(Whereupon Exhibits H and I were withdrawn and the following read into the record by the witness to take the place of said Exhibits.)

"Item No. 3, 13,971 cu. yds., Class A Excavations, for 58c per cu. yd., Amount \$8,103.18.

"Item No. 4, 23,707 cu yds., Class B Excavations, for 58c per cu. yd., Amount \$13,750.08.

"Item No. 6, 5,885 cu. yds., sta. overhaul, for 5c per cu. yd. Sta., Amount \$294.25

Item No. 148, 144 lin. ft. hauling from point of delivery and installing 15 inch diam. corrugated metal culverts for 65c per lin. ft., Amount \$23.60.

"Item No. 150, 48 lin. ft. haul from point of delivery and installing 24 in. diam. corrugated metal culverts, for \$1.10 per lin. ft., Amount \$52.80. Gross sum of bid \$22,293.89."

Mr Graham: Can you tell us from that Exhibit the date that the contract was awarded to Mr. Twitchell? A. Contract form dated May 22nd, 1920, proposals were received on the 4th day of June, 1920, at 1:00 o'clock P. M.

Q. Then will you turn to B of Project 59 and give us the same information.

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"Item No. 3, 9,052 cu. yds., Class A. Excavations, for 56c per cu. yd., total amount \$5,069.12.

"Item No. 4, 26,496 cu. yds. of Class B. Excavations, for 56c per cu. yd., the total amount \$14,837.78.

"Item No. 6, 24,698 cu. yd. sta. overhaul for 7c per cu. yd. sta., total amount \$1,728.86

"Item 148, 192 lin ft., hauling from point of delivery and installing 15 in. corrugated metal culverts for 65c per lin. ft., amount \$124.80.

"Item No. 149, 48 lin. ft. hauling from point of delivery and installing 18 in. corrugated metal culverts, for \$1.00 per lin. ft., amount \$48.00. Gross sum bid \$21,808.54." Bids were received at the same time until 1:00 o'clock P. M., June 4th, 1920.

Mr. Graham: A and B are both sections of Project 59?
A. Yes, sir.

Q. And have you any later contracts of any kind that were entered into for the building of this road? A. No, sir.

Q. And there are none in the files of the County Auditor?
A. None, as far as dirt work is concerned.

Q. Well, any kind of work upon No. 59? A. No, sir, we haven't any.

Q. Can you tell us how much money has been expended by Richland County in payment for Project No. 59?

Mr. Vogel: What proportional share was Richland County
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supposed to pay of No. 59? A. Pay fifty per cent of the cost of the road, it was regular Federal Aid.

Mr. Hanley: In response to the request made by the Committee this morning Mr. Black presents herewith the following files from his office:

1. Original specifications for Morton County, that is as to paving on the portion of the bridge project west of the bridge in two parts; original specifications as to the earth work, original specifications as to the paving.

2. Copy of the specifications on Project No. 59 in Richland County.

3. Proposal of the Northwestern Slate and Iron Company on Contract 59, Richland County.

4. Proposal and contract of Mr. Neal on Project 59.

5. Proposal and contract of Mr. Twichell on Section A of Project 59.

6. Proposal and contract of Mr. Twichell on Section B, Project 59.

7. Original contract for the paving on Project 1000, being the project from near the east end of the bridge, such contract being with the Goodrich Construction Company.

8. Original contract, Mandan on Project 100-C with the Northern Construction Company.

9. Original supplemental agreement on 100-C with the
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Woodrich Construction Company.

10. Original contract with Joseph Simons on Project 100-B and C.

11. Original contract for gravel with Sylvester & Dailey on Project 100 B and C.

12. Original contract with W. L. Chapin & Sons as to the earth work on Project 100-B and C.

13. Supplemental contract with Chapin & Sons.
14. Original contract with Carl V. Anderson of Baldwin, as to riprap on Project 100-B.
15. Supplemental contract with Anderson on the same project with reference to preparing slopes.
16. Supplemental contract with the Northern Construction Company on the same project with reference to approach.
17. The original plans for Project 100-B and C in two parts.
18. Original plans for Project 244 in Burleigh County, being the proposed road from the east end of Bismarck to the Penitentiary.
19. Original plans for Project 59 in Richland County.
20. Original plans in Project 58 in Sargent County.
21. Detailed plans on 100-C.
22. Also specifications on Project 244, Burleigh County.
23. And specifications on Project 59 in Sargent County.

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24. And the following records with reference to Project 58 in Sargent County:

1. The original contract with Mr. Twichell as to Section A.
2. Original contract with Mr. Twichell as to Section B.
3. Original contract with Mr. Twichell as to Section C.
4. Another contract with Mr. Twichell as to A, B, and C, combined.
5. Also the contract with Mr. Jackson as to Sections A, B, and C.
6. Also the supplemental agreement with the Stevens Bros. as to Section C.
7. Supplemental agreement with Mr. Twichell as to Sections A and B.
8. And supplemental agreement with Mr. Twichell as to Section C.

I would like to state in the record that these are original files from the records of the office of the Highway Commission and we would like to have access to them during the hearings and also would like to have them returned as soon as possible to the office.

Mr. Graham: We will keep them in the rooms of the Highway Investigating Committee and you are at perfect liberty to have access to them at any time. There is one additional

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thing that I would like to ask you to produce for tomorrow morning, and that is a copy of the transcript of the evidence taken at the arbitration hearing between the State Highway Commission and Mr. Twichell. Mr. Black informed me that he had such testimony.

Mr. Hanley: Yes. May we ask that the stenographer Make a list as I dictated in the record so that we may use it to check with out records in the commission.

Mr. Graham: Yes, it may be so understood.

Mr. Graham (to witness R. H. Myrrha on stand) Have you added up the amounts which have been paid by Richland County? A. Yes, sir, on the dirt estimates here to Treadwell Twichell or to the Northern Construction Company as assignee on Section A the bills that I have totalled \$28,983.48, and on Section B, \$20,115.23. I have another one here I overlooked which is \$3,000 more on B.

Mr. Graham: An even \$3,000? A. No. \$3,915.77, making a total of \$24,031.

Q. Making a total of \$24,031, on Section B? A. Yes, sir.

Q. Now, does that include the sum of \$9,300, which was to the credit of Richland County in the automobile license fund? A. No, sir, we have no receipt for that.

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Q. But there has been arrangements that that amount be taken from the money owed Richland County. A. Yes, sir.

Q. Do you know whether or not Richland County expended any money for maintaining this road before it was finally completed? A. Yes, sir.

Q. How much? A. Something over \$1,200.00.

Q. Do you have the exact figures? A. There is some lists I made up of maintenance.

Q. Read it into the record. A. \$700.00 was paid to Ed O'Mara, and to a man by the name of Nelson, I think his name was Henry Nelson, \$544.75.

Q. And do you know whether or not the contract provides that the road should be kept up in shape by the contractor until finally accepted? A. Yes, sir, it does.

Q. I do not suppose you know why it wasn't taken into account in the settlement with Mr. Twichell? A. No, I don't.

Q. Are you acquainted with Mr. Bliss of Valley City? A. Yes, sir, I know him.

Q. Were you present sometime last Fall when Mr. Bliss appeared before the Board of County Commissioners and presented what he said was the arbitration settlement between the State Highway Commission and Mr. Twichell? A. Yes, sir.

Q. Do you remember what was the approximate total, (264) round figures, that he submitted for this work? A. Approximately \$46,000, or \$47,000.

Q. In addition to what he had already been paid? A. Yes, sir.

Q. Did he make any statement in regard as to whether or not that was the award of the Board of Arbitration? A. He said that was the award that the Board of Arbitration had decided on in a recent meeting.

Q. Did he say when that meeting was held? A. I believe he said about the middle of November.

Q. Do you know whether or not any notice was sent to the Board of County Commissioners in regard to any of them appearing at the hearings? A. No notice was sent regarding their appearance, but they were asked in regard to having a representative there, and Mr. Hoefs, the chairman of the board, was intending to go to this meeting, but he was told it would be on the day after Thanksgiving and on Thanksgiving day he called up Mr. Bliss and was told that the meeting had been held some two weeks before and informed that everything had been settled; Richland County had no representative.

Mr. Graham: I think that is all at this time unless the Committee has some questions they would like to ask.

Mr. Vogel: Q. You say Richland County has paid \$9,000 (265) in addition? A. They passed a resolution to pay \$9,300.00, which is Richland County's share of State Aid Fund and we have heard indirectly that it has been paid, but we have no receipts to show it has been paid. It was offered as a settlement on this \$47,000 estimate which was given us by the Board of Arbitration.

Q. Richland County refused to accept the findings of the Board of Arbitration? A. Yes, they did.

Q. Which was approximately \$47,000? A. Yes, sir.

Q. And Richland County finally agreed to settle for \$9,000? A. \$9,300.00, the amount they had.

Q. Do you know the names of these arbitrators? A. Mr. Bliss and I believe Mr. Mudgett.

Q. Who did Mudgett represent? A. He was one who was appointed to represent the—to be satisfactory to both sides, and I don't know if Mr. Twichell was represented or not.

Q. Who represented Richland County? A. No one.

Q. I mean on this Board of Arbitration? A. No one. Mr. Bliss was representing the Highway Commission and Richland County had no representation

Q. How was this Board of Arbitration agreed to in the

first place? A. It was evidently agreed to in some other way than consulting Richland County as they had no notice of it at all.

Q. You don't know who the third arbitrator was? A. No, (266)

I don't.

Q. Know who he was picked by? A. No, sir.

Mr. Graham: We'll develop that with the next witness.

Mr. Vogel: That is all.

Witness excused.

C. E. LOUNSBERRY, called as a witness, after being first duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence? A. C. E. Lounsberry, 38 years old, reside in Wahpeton, North Dakota.

Q. What is your profession? A. Lawyer.

Q. And at present you are State's Attorney of Richland County? A. I am.

Q. And for four years prior to the first of January you were assistant state's attorney? A. Yes, for ten years.

Q. Ten years prior to that. As Assistant State's Attorney and as the State's Attorney you have had consultation with the Board of County Commissioners in regard to Project 59? A. Only since the first of November, 1924. Prior to that time no advice had ever been asked of the State Attorney's office concerning either the execution of the contract or any other phase of the work.

Q. When was the matter first brought to your attention? (267)

A. Sometime about the middle of November, 1924, when it was reported to me that a settlement was, a final settlement was to be made and some question was raised as to what the actual amount that Mr. Twichell had coming represented, by outsiders, by taxpayers and the State's Attorney's office took cognizance of the affair at that time and made an investigation in the matter.

Q. Will you state the result of this investigation? A. The result of our investigation was that there was a dispute between the engineer who had been in charge of the work and the contractor as to the amount of money that he had coming. The engineer who had been in charge of the work had advised Richland County that there was due to Mr. Twichell as a balance, about, somewhere between \$14,000, and \$16,000, and the Board was advised at that time that Mr. Twichell claimed \$34,000, and in order to ascertain what the grounds of the engineer's stand were I had the engineer come up from

the State of Missouri and check over the entire matter with him. It developed that the dispute was over clay surfacing and the overhauling of clay surfacing.

Mr. Graham: Did you find anything in the original contract to provide for any clay surfacing? A. No, there was nothing to provide for clay surfacing in the original contract, and there were no unit prices bid for clay surfacing.

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Q. And was there any supplemental contract entered into for clay surfacing so far as you were able to find out? A. There was nothing on file in the County Auditor's office indicating that they had even been requested to participate in any supplemental agreement and later when I talked to Mr. Bliss, who appeared before the Board of County Commissioners representing the State Highway Commission as to the amount, I asked him about supplemental agreements and he said that none had been before the Board of Arbitration. Later when I conferred with Mr. Black about the matter and at the time the settlement of \$9,300.00 was offered in full payment of Richland County's obligations he said that no supplemental contract had ever been executed. The original contract provides that for additional work in excess of 120 per cent of the contract price that a supplemental agreement must be filed but no such supplemental agreement was made or filed, and the original contract also provides that no additional work shall be done upon the project except under the written instructions of the engineer in charge. No such written instructions were ever issued. The contract also provides that if extra work is done upon the project without written instructions and without a supplemental agreement as to price

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that it shall be done at the contractor's risk. Those in brief are the grounds upon which Richland County stood in making an offer of settlement.

Q. Did Mr. Bliss at the time he met with the Board of County Commissioners make any statement as to what the amount the Board of Arbitration had agreed upon as being due to Mr. Twichell? A. Yes, he stated that they had agreed upon the sum in round figures of \$47,000.

Q. Did you have any conversation with him in regard to why they had given more than Mr. Twichell had asked Richland County for in the sum of \$34,000? A. Yes, Mr. Bliss stated that the figures before the Board of Arbitration were submitted by the Highway Commission, and that they made no attempt to go back of the figures to see whether Mr. Twichell had that amount coming or not. That they didn't deem that as part of their duties, and that they knew nothing about the \$34,000 item. I also asked Mr. Bliss if he had heard of the fact that Mr. Gavin, the Engineer who had been in charge of the work had estimated that Twichell had approximately \$16,000 coming and he said he had heard that somewhere, and I asked him if the Board of Arbitration requested the Highway Commission to produce Mr. Gavin's original figures on the work in order that they might be

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checked against the figures presented by the Highway Commission, and he said no, that they did not do so and I asked him what amount the Highway Commission was willing to allow on the arbitration in the first instance, and he said \$47,000. I asked him what amount Mr. Twichell claimed and he said that Mr. Twichell had made the statement that he was satisfied with the figures submitted by the Highway Commission. I asked him what that left to arbitrate and he said he didn't know.

Q. Did he tell you who were the other members of this Board of Arbitration? A. Mr. Crabbe of Fargo represented Mr. Twichell, Mr. Mudgett of Valley City, selected by Bliss and Crabbe.

Q. Did you have any conversation with Mr. Bliss as to why the consent of Richland County had not been obtained as to the arbitration? A. Yes, and Mr. Bliss said in that connection that he would assume full responsibility for that. That he had been instructed to notify Richland County as to the date of the meeting and that he had written Mr. Swank, one of the Commissioners giving him the date upon which the meeting would be held, and that in a telephone conversation he had changed the date giving Mr. Swank as the date of the meeting of the Board November 28th, 1924, and then he had failed to advise Mr. Swank that the Board had decided to

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meet earlier. He said that in his talk with Mr. Swank that he had asked him whether Richland County had any suggestions to make about the third man on the Board of Arbitration, and Mr. Swank told him that he was not the Chairman of the Board, was a mere member of the Board, and didn't want to make any suggestions without consulting with the full Board, and Mr. Bliss then advised him that he and Mr. Crabbe were satisfied with Mr. Mudgett of Valley City, and that he thought he'd be a good man on the board, and that they would proceed to appoint him.

Q. Was the matter ever brought up at the Board of County Commissioners in regard to having somebody present at the hearing? A. Yes, sir, and Mr. Hoefs, chairman, was authorized to appear and as the previous witness has related, Mr. Hoefs called Mr. Bliss on the telephone on Thanksgiving Day and told him that he would be present at the meeting the next day, and he was advised that the meeting had taken place two weeks previous, and everything was settled. He asked Mr. Bliss if anyone had appeared before the Board of Arbitration pretending to represent Richland County in this matter and he said no, no one had laid any facts before them except the Highway Commission which had laid the estimate of \$47,000 before them.

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Q. Did Mr. Bliss say whether or not any member of the engineering force had checked up the amounts claimed by Mr. Twichell and measured them up or not? A. He said that the Board of Arbitration made no effort to back the figures submitted by the Highway Commission. Q. Which were the same figures presented by Mr. Twichell? A. Mr. Twichell

presented no figures to the Board, as I understand it, but said that he was satisfied with the figures with the figures presented by the Highway Commissioners.

Q. Then did Mr. Black later on appear before the Board of County Commissioners? A. No, sir, Mr. Swank and I had a conference with Mr. Black and Mr. L. L. Twichell.

Q. Where did you have that conference? A. In my office, in Wahpeton.

Q. Do you remember any conversation by Mr. Black and Mr. Twichell in regard to this proposed settlement? A. Well, I asked Mr. Black about the supplemental agreements required by the contracts, and he said that no such agreements had ever been made, and I asked him about the written instructions of the engineer and he said that none had ever been issued. He realized that the Department had been at fault in so doing. I asked him about the average price for the excavations of similar material through the state during

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the years covered by the contract, specifically as to clay surfacing which had been ordered and informed him that Mr. Bliss had made the statement that 23 cents up to 25 cents for state work had been the governing price at that time, and he stated that he thought that was about right, and I asked him how the Highway Commission had allowed 58 cents and he stated that under their understanding that that was the price to which he was entitled, there being no supplemental agreement.

Q. Now, did he state whether or not the Highway Commission had made any measurement of this work? A. Yes, he stated that they had made an overhaul diagram showing the amount of overhaul on the job and I asked him how they got at their figures for excavation and he said that they had measured the barrow pits, and taken that as the basis for the excavation.

Q. Had they Mr. Twichell's statement as to the distribution of the excavation? A. I asked him if it had not been claimed by Mr. Gavin that a great deal of this excavation had been used in building up shoulders of the road, where the road was not up to the specified plan width, and he said that he understood that Mr. Gavin had claimed that, but that he had been sure that that was not a fact.

Q. Did he give any explanation as to why he was willing

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to accept Mr. Twichell's figures in place of the Division Engineer, Mr. Gavin, as to the amount still unpaid. He said that he was satisfied that Mr. Gavin had made an error in computation and based that upon the excavation measurements of the barrow pits.

Q. What proportion of this \$46,000 or \$47,000 did Mr. Black desire to have Richland County assume? A. It amounted to somewhere around \$18,000 or \$19,000.

Q. And why was Richland County not willing to accept

that? A. Because after investigation by others we had become convinced that Mr. Gavin's original estimate had been very close to correct.

Q. You had Mr. Gavin back to recheck the work, did you?
A. We had him come back and I went over the entire situation with him and had Mr. Gavin reconstruct his final estimate as well as could be done without field notes, using the location of the barrow pits on the amended plans and estimating 44 yards of dirt to the station.

Q. Did you have anyone check over his figures with him, any other engineer? A. Yes, sir.

Q. Who was that? A. A man by the name of Lewis.

Q. And what amount did they figure out as being due to Mr. Twichell? A. Approximately \$10,000. There was another item in there that Richland County approve of and that
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was an item of interest on each section of the road, which as I recall it amounted to about \$900, which had been allowed by the Board of Arbitration, in spite of the fact that the contract provided penalties for failing to complete the work on the contract time, but no penalties had been—no attempt had been made to exact any penalties from Mr. Twichell, but they permitted him four years in which to complete the road and were charged interest on the amount which he claimed to have coming.

Q. Were any questions asked the arbitrators at that meeting allowing Richland County anything, any further sum which had been spent for maintenance? A. No, nothing whatever. That point was raised. I asked Mr. Black about that and he stated that that was not allowed because it was up to the contractor to maintain the road and I advised him that the engineer had told us that he had repeatedly asked Mr. Twichell to maintain the road, that he had neglected to do so and it was necessary for the County Commissioners in that District, in order to render the road passable at all to hire a local man with drags to get it in shape, and that continued almost from the inception until the completion of the work.

Q. What was the final proposition of Richland County in regard to a settlement with Mr. Twichell? A. We had to
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our credit in the State Aid Fund the sum of \$9300.00 which would be available to us only for Federal Aid Projects, and the disposition of the County Board, and the taxpayers in general towards Federal Aid Projects was not good. They were quite disgusted with Project 59, and which would render this sum available only sometime in the distant future, and in order to get the matter adjusted the County Commissioners saw fit to offer them that amount.

Q. What did Mr. Black say as to that? A. He said he did not know whether that would be accepted or not, but he thought that the offer was much too small, and I advised him that that was all that Richland County would give under any

circumstances, and if the matter was litigated that it would be our contention that we owed nothing whatever.

Q. Did he make any statement as to how the balance of the money would be raised for Mr. Twichell? A. He said that he didn't know, that that was the thing that he would have to ascertain, whether that sum could be taken from any other fund.

Q. Did you later have any conversation or correspondence with him concerning it? A. When he left I asked him for the overhaul chart, asked that he send it to me, and also asked for the agreement or a copy of it, agreement with the
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Federal Government under which they agreed to pay one-half of the \$47,000 estimate, and he later sent these to me.

Mr. Graham: I will ask you whether or not Exhibits J, K, L, and M are the matters to which you have reference. (Handing papers to witness.) A. Yes, sir.

Mr. Graham: I will offer in evidence Exhibits J, L and M; and Exhibit K for the purpose of looking over, but not to be copied into the record. Exhibit K is in such shape we could hardly get it in.

EXHIBIT J

"North Dakota State Highway Commission.

Bismarck, Jan. 6, 1925.

Mr. H. C. Lounsbury, States Attorney, Wahpeton, N. Dak.

Dear Mr. Lounsbury:

"Have been so busy since my return that I was unable to forward the blueprint showing the haul on Federal Aid Project No. 59, until yesterday.

"I am attaching hereto a copy of the revised detail estimate and a copy of the agreement with the Bureau of Public Roads covering the increased cost.

"Should there be any further information you may desire, please advise me.

"Yours very truly,

(Signed) W. G. BLACK,
Chief Engineer & Secretary.

WGB:RW

EXHIBIT L

"MODIFICATION OF PROJECT AGREEMENT.

"Whereas, by that certain project agreement signed on February 24, 1921, by the State Highway Commission of North Dakota, and on February 18, 1921, by the Secretary of Agriculture, as amended by 'Modification of Project Agreement' signed on March 19, 1923, by the State Highway Commission
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of North Dakota and on April 2, 1923, by the Secretary of Agriculture, the said parties entered into an agreement for the improvement of that certain rural post road described

therein and designated as North Dakota Project No. 59, and

"Whereas, the said State Highway Commission of North Dakota has requested a further revision of the plans and specifications for said project to provide for an additional quantity of clay and haul, and by reason thereof has requested that the estimate of cost approved for said project be increased from \$89,983.88 to \$119,179.09 and that the Federal funds approved and set aside to the credit of the project be increased from \$44,991.99 to \$59,589.54,

"Now therefore, it is hereby mutually agreed by and between the said State Highway Commission of North Dakota and the Secretary of Agriculture, that the plans, specifications, and estimates be revised in the manner above indicated and that said project agreement be amended as follows:

"The third 'Whereas' paragraph shall read:

"Whereas, the Secretary has certified to the Secretary of the Treasury such approval of said surveys, plans, specifications, and estimates, and the sum of fifty-nine thousand, five hundred eighty-nine and 54-100 dollars (\$59,589.54) as the share of the United States payable under said act on account
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of said project, which does not exceed 50 per cent of the total estimated cost thereof.'

"Article 1 shall read:

"Article 1. Funds for the use of the Highway Department in the construction of said project have been made available in the following manner, to-wit:

"(a) By the State.....

"(b) By the County of Richland, pursuant to certificates of availability of county funds, signed by the Chief Engineer and Secretary of the N. D. State Highway Commission, and dated May 27, 1921, March 19, 1923, and September 24, 1924.

"Article IV. The United States pro rata share of the cost of said project shall not in any event exceed (a) the said sum of fifty-nine thousand five hundred eighty-nine and 54-100 dollars, certified to the Secretary of the Treasury as above mentioned, being fifty per cent of one hundred nineteen thousand, one hundred seventy-nine and 09-100 dollars, the approved total estimated cost of said project, nor (b) the said per centum of the value of the labor and materials which shall have been actually put into the construction of said project in conformity to said plans and specifications.'

"Except as herein specifically modified the said project agreement shall remain in full force and effect.

"In Witness Whereof, the parties have hereunto affixed their signatures and official seals, the State Highway Department on the 24th day of September, 1924, and the Secretary on the 13th day of October, 1924.

"STATE HIGHWAY COMMISSION OF NORTH
DAKOTA.

By W. G. Black,

State Engineer and Secretary.

"C. V. Marvin,

Acting Secretary of Agriculture.

(Seal)

(Certificate attached) STATE HIGHWAY COMMISSION,
BISMARCK, N. D. I hereby certify that this is a true copy
of the original document on file in this office. (signed) W. G.
Black, Chief Engineer and Secretary."

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EXHIBIT M

(Certificate at top of page) "State Highway Commission,
Bismarck, N. D. I hereby certify that this is a true copy of
the original document on file in this office. (Signed) W. G.
Black, Chief Engineer and Secretary.

NORTH DAKOTA STATE HIGHWAY COMMISSION

REVISED DETAIL ESTIMATE

CONTRACT WITH T. TWICHELL

Section "A"

Item No.	Quantity, Unit, Item	Unit Price	Amount
3	13,829 Cu. yd. Class A exc.	\$.58	\$ 8,020.82
4	28,730 Cu. yd. Class B exc. ....	.58	16,663.40
6	5,000 C. Y. Sta. overhaul .....	.05	250.00
4A	20,682 Cu. yd. earth exc. for clay surfacing .....	.58	11,995.56
6A	563,622 C. Y. Sta. overhaul on clay surfacing .....	.05	28,181.10
148	144 L. F. haul & instal. 15" CMPC .....	.65	93.60
150	48 L. F. haul & instal. 24" CMPC	1.10	52.80
	Subtotal		\$ 65,257.28

Section "B"

3	8,987 Cu. yd. Class A exc. ....	.56	5,032.72
4	31,798 Cu. yd. Class B exc. ....	.56	17,806.88
6	24,698 C. Y. Sta. overhaul .....	.07	1,728.86
148	192 Lin. ft. haul & instal. 15" CMPC .....	.65	124.80
149	48 Lin. ft. haul & instal. 18" CMPC	1.00	48.00
	Subtotal		\$ 24,741.26

CONTRACT WITH N. W. SHEET & IRON WORKS

(Entire Project)

Item No.	Quantity, Unit, Item	Unit Price	Amount
141	336 Lin. ft. furnish & del. 15" CMP cul.	1.24	416.64
142	48 Lin. ft. furnish & del. 18" CMP cul.	1.54	73.92
143	48 Lin. ft. furnish & del. 24" CMP cul.	2.43	116.64
	Subtotal		\$ 607.20

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CONTRACT WITH W. H. NOEL (Ent. Proj.)

Item No.	Quantity, Unit, Item	Unit Price	Amount
200	263 Cu. yd. Structure excavation..	5.00	1,315.00
201	239.45 Cu. yd. Class A concrete..	41.00	9,817.45
202	12,022 Lbs. reinforcing steel .....	.11	1,322.42
400A	10 Cu. yd. wet structural exc.....	25.00	250.00
400B	22 Cu. yd. dry structural exc.....	5.00	110.00
401	65.29 Cu. yd. Class A concrete....	41.00	2,676.89
403	1,154 Cu. yd. reinforcing steel .....	.12	138.48
409.	6.1 Cu. yd. gravel wearing sur- face	5.50	33.55
411	13.8 Lin. ft. W. I. drain pipe 2" diam. ....	.50	6.90
	Subtotal		\$ 15,670.62

MATERIAL FURNISHED BY COUNTY

Item No.	Quantity, Unit, Item	Unit Price	Amount
4a	20,682 Cu. Yds. clay surfacing ma- terial in pit .....	.10	2,068.20
	Subtotals		\$108,344.63
	Eng. & Con. 10%.....		10,834.46
	Total estimated cost		\$119,179.09

Length 14.43 miles.

Average cost per mile \$8259.11.

Amount Federal aid requested \$59,589.54.

Amount Federal aid recommended \$59,589.54.

Mr. Graham: Q. After receiving this letter did you have any further correspondence or talk with Mr. Black with him, at any time? A. Only over the telephone at the next meeting of the Board of County Commissioners. Mr. Black talked to Mr. Swank on the phone and I was later called over and Mr. Swank stated that Mr. Black had talked to him and made the statement that if Richland County would advance \$700 making an even \$10 000, he thought a settlement could be reached, and I called Mr. Black on the phone and advised him that Richland County would give \$9300 and nothing more, and would give the \$9300 only out of this State Aid Fund, and he

told me that he would advise me shortly whether that was acceptable. He called me again on the phone, or wired me, I have forgotten which now, but at least advised me that in his
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opinion the settlement could be made on that basis, and the County Commissioners at that time passed a resolution authorizing Mr. Black, or the State Highway Commission to transfer the \$9300 in the State Aid Fund and render it available for settlement, providing that they received a receipt in full from Mr. Twichell for all of the work, labor and services contemplated by the contract on Federal Aid Project 59.

Q. At the present time you have not received such receipt? A. No, we have not, and the only knowledge that I have of the matter is a talk that I had with Mr. Black about ten days ago in Bismarck, at which time he advised me that a settlement had gone through.

Q. Did Mr. Black at that time give you any reasons in regard to why such additional amounts should be paid to Mr. Twichell? A. Well, it was his contention that Mr. Twichell had the money coming, I guess.

Q. You did not ask him whether or not any measurements had been made by his engineering force to verify that? A. No, as I stated previously the dispute was entirely in regard to the clay surfacing, and the overhaul of the clay surfacing, and they had taken the measurements of the pits as their guide for the amount of excavation to allow, and had taken Twichell's statement as to the distribution of the material.

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Q. Have you any copies of the estimates presented by the engineers, and certificates of work done upon these projects? A. Yes, sir.

Mr. Graham: I will show you Exhibits N and O. Are they copies of some of the estimates that were presented to the Board of County Commissioners? A. Exhibits N and O are copies of the so-called final estimates which were submitted by Mr. Bliss as the findings of the Board of Arbitration.

Q. How do you know these are copies? A. They have been compared.

Q. You compared them with the papers presented by Mr. Bliss? A. Yes, sir. No win connection with Exhibits N and O, inasmuch as the Exhibits purport to be copies of estimates, I want to call the Committee's attention to the fact that only the figures are copies, and not the printed portion, as far as the figures and what they stand for are concerned, they are exact copies, but no attempt was made to copy the printed portions. The original estimates are here and they can be checked against these copies if the Committee desires.

Q. Do the pencil notations upon these Exhibits have anything to do with the contents? A. Nothing whatever.

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Mr. Graham: I will offer in evidence Exhibits N and O.

EXHIBIT N
FINAL ESTIMATE

On Contract No. 3993.40A.

Item No.	Quantity, Unit, Item	Unit Price	Amount
	Statement		
	Original Work to Date:		
3	13,829 Cu. yd. Class A earth exc.....	.58	\$ 8,020.82
4	24,722 Cu. yd. Class B earth exc.....	.58	14,338.76
6	5,000 Cu. yd. stac. overhaul .....	.05	250.00
148	144 Lin. ft. haul. & inst. all 15"		
	C M C cul. ....	.65	93.60
150	48 Lin. ft. haul & install. 24"		
	C M Cul.	1.10	52.80
	Total amount of original work to date.....		\$ 22,755.98
	Additional Work to Date:		
4	4,008 Cu. yd. Class B earth exc.....	.58	2,324.64
	Total amount of additional work to date.....		\$ 2,324.64
	Extra Work:		
4A	20,682 Cu. yd. earth exc. for clay surfacing .....	.58	11,995.56
6A	56,622 Cu. yd. Sta. overhaul .....	.05	28,181.10
	Interest as per Arbitrators award.....		2,200.60
	Total amount of extra work to date.....		\$ 42,377.26
	(285)		

SUMMARY OF WORK DONE TO DATE

Total amount of original work	\$ 22,755.98
Total amount of additional work	2,324.64
Total amount of extra work.....	42,377.26
Total amount of work done to date.....	\$ 67,457.88
Less 10% to be retained until the work has been formally accepted by the State.....	
Total amount due the contractor to date.....	67,457.88
Less total amount of previous estimates.....	28,983.48
Net amount of this estimate	\$ 38,474.40

M. P. WYNKOOP,
Acting Division Engineer.

EXHIBIT O
FINAL ESTIMATE

On Contract No. 3993.40B.

Item No.	Quantity, Unit, Item	Unit Price	Amount
	Statement		
	Original Work to Date:		
3	8,987 Cu. yds. Class A earth exc.....	.56	\$ 5,032.72
4	26,496 Cu. yds. Class B earth exc.....	.56	14,837.76
6	24,698 Cu. yds. Stas. overhaul .....	.07	1,728.86
148	198 Lin. ft. H. & I. 15" C.M. pipe	.65	124.80

149	48 Lin. ft. H. & I. 18" C.M. pipe 1.00	48.00
	Total amount of original work to date.....	\$ 21,772.14
	Additional Work to Date:	
4	6,624 Cu. yd. Class B earth exc..... .56	3,709.44
	Total amount of additional work to date....	\$ 3,709.44
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	Extra Work:	
4	12,604 Cu. yd. Class B earth exc..... .56	7,058.24
	Interest as per Arbitrators award.....	473.19
		\$ 7,531.43

SUMMARY OF WORK DONE TO DATE

Total amount of original work	\$ 21,772.14
Total amount of additional work	3,709.44
Total amount of extra work	7,531.43
Total amount of work done to date.....	\$ 33,031.01
Less 10% to be retained until the work has been formally accepted by the State.....	
Total amount due the contractor to date.....	33,031.01
Less total amount of previous estimates.....	24,030.70
Net amount of this estimate	\$ 8,982.31

M. P. WYNKOOP,
Acting Division Engineer.

Mr. Graham: I will show you Exhibits commencing with 1-A to 1-I. Those are certificates of work done by the contractor as shown by the certificates of engineer at the various times? A. Yes, sir.

Q. And they are copies prepared by you of the originals? A. Not prepared, compared by me.

Q. So that you know they are correct copies? A. Yes, sir.

Q. I will show you Exhibits P to W inclusive, which are certificates of work done upon Project 59 as returned by the
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engineer? A. Yes, sir, those are copies of the original estimates number 1 to 8 on Section A.

Q. And the Deputy County Auditor has the original here? A. Yes, sir.

Mr. Graham: I will offer in evidence Exhibits P to W, inclusive.

EXHIBIT P

CERTIFICATE OF WORK DONE

A—Estimate No. 1, on Contract No. 399.40A.
Statement

Item No.	Quantity, Unit, Item	Unit Price	Amount
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HIGHWAY INVESTIGATION REPORT

159

Original Work to Date:

3	2,510 Cu. yds. excavation Class A..	\$0.58	\$	1,455.80
4	3,878 Cu. yds. excavation Class B..	.58		2,249.24

Total amount of org. work to date..... \$ 3,705.04

SUMMARY OF WORK DONE TO DATE

Total amount of original work	\$ 3,705.04
Total amount of addition work	
Total amount of extra work.....	
Total amount of force account work.....	

Total amount of work done to date.....\$ 4,705.04

Less 10% to be retained until the work has been
formally accepted by the State Highway Com-
mission 370.50

Total amount of previous certifications 0.00

Total amount due contractor on this est... ..\$ 3,334.54

C. A. R. DISTELHORST,
Division Engineer.

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EXHIBIT Q

CERTIFICATE OF WORK DONE

A—Estimate No. 2, on Contract No. 3993.40A.

Statement

Item No.	Quantity, Unit, Item	Unit Price	Amount
ORIGINAL WORK TO DATE			
3	6,590 Cu. Yds. Excavation Class A	\$.58	\$ 3,822.20
4	4975 Cu. Yds. Excavation, Class B	.58	2,885.50

Total amount of work done to date\$ 6,707.70

SUMMARY OF WORK DONE TO DATE

Total amount of original work	\$ 6,707.70
Total amount of additional work	
Total amount of extra work	
Total amount of force account work.....	

Total amount of work done to date.....\$ 6,707.70

Less 10% to be retained until the work has been
formally accepted by the State Highway Com-
mission 670.77

Total\$ 6,036.93

Total amount due the Contractor to date.....

Total amount of previous certifications 3,334.54

Total amount due the Contractor on this est.....\$ 2,702.39

C. A. R. DISTELHORST,
Division Engineer.

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EXHIBIT R.

CERTIFICATE OF WORK DONE

A—Estimate No. 3, on Contract No. 3993.40A.

Statement

ORIGINAL WORK TO DATE

Item No.	Quantity, Unit, Item	Unit Price	Amount
3	9230 Cu. Yds. Excavation Class A	\$.58	\$ 5,353.40
4	11150 Cu. Yds. Excavation Class B	.58	6,467.00
6	2770 Cu. Yds. Sta's Overhaul.....	.58	.138.50

Total amount of original work to date\$ 11,958.90

SUMMARY OF WORK DONE TO DATE

Total amount of original work.....	\$ 11,958.90
Total amount of additional work .....	.....
Total amount of extra work .....	.....
Total amount of force account work .....	.....

Total amount of work done to date.....\$ 11,958.90

Less 10% to be retained until the work has been formally accepted by the State Highway Commission

1,195.89

Total amount due contractor to date\$ 10,763.01

Total amount of previous certifications

6,036.93

Total amount due contractor on this est.....\$ 4,726.08

C. A. R. DISTELHORST,

Division Engineer.

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EXHIBIT S

CERTIFICATE OF WORK DONE

A—Estimate No. 4 on Contract No. 3993.40A.

Statement

ORIGINAL WORK TO DATE

Item No.	Quantity, Unit, Item	Unit Price	Amount
3	11730 Cu. Yds. Class "A" Excavation	\$.58	\$ 6,803.40
4	20600 Cu. Yds. Class "B" Excavation .....	.58	11,948.00
6	5885 Cu. Yds. Sta's Overhaul.....	.58	294.25
148	24 Lin. Ft. Hauling and Installing 15" C. M. C. ....	.65	15.60
154	24 Lin. Ft. Hauling and Installing 24" C. M. C.	1.10	26.40

Total amount of original work to date.....\$ 19,087.65

ADDITIONAL WORK TO DATE

6	855 Cu. Yd. Sta's Overhaul .....	.65	42.75
	Total amount of additional work to date.....	\$	42.75

SUMMARY OF WORK DONE TO DATE

Total amount of original work	\$	19,087.65
Total amount of additional work		42.75
Total amount of extra work		
Total amount of force account work		
<hr/>		
Total amount of work done to date.....	\$	19,130.40
Less 10% to be retained until the work has been formally accepted by the State Highway Com- mission		
		1,913.04
<hr/>		
Total amount due to contractor to date.....	\$	17,217.36
Total amount of previous certifications.....		10,763.01
<hr/>		
Total amount due the contractor on this esti- mate	\$	6,454.35

C. A. R. DISTELHORST,
Division Engineer.

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EXHIBIT T

CERTIFICATE OF WORK DONE

A—Estimate No. 5, on Contract No. 3993.40A.
Statement

ORIGINAL WORK TO DATE:

Item No.	Quantity, Unit, Item	Unit Price	Amount
3	12734 Cu. Yds. Cass "A" Excava- tion	\$.58	\$ 7,385.72
4	23707 Cu. Yds. Cass "B" Excava- tion .....	.58	13,750.06
6	5,885 Cu. Yds. Sta's Overhaul .....	.05	294.25
148	144 Lin. Ft. Hauling and Installing 15" C. M. C. ....	.65	93.60
150	48 Lin. Ft. Hauling and Installing 24" C. M. C.	1.10	62.80
<hr/>			
Total amount of original work to date.....			\$ 21,576.43

ADDITIONAL WORK TO DATE

4	955 Cu. Yds. Class "B" Excava- tion	\$.58	\$ 553.20
8	59,443 Cu. Yds. Sta's Overhaul .....	.05	2,972.15
<hr/>			
Total amount of Additional work to date....			\$ 3,526.05

SUMMARY OF WORK DONE TO DATE

Total amount of original work	\$ 21,576.43
Total amount of additional work	3,526.05
Total amount of extra work	
Total amount of force account work	
Total amount of work done to date.....	\$ 25,102.48
Less 10% to be retained until the work has been formally accepted by the State Highway Com- mission	2,510.25
Total amount due the Contractor to date....	\$ 22,590.23
Total amount of previous certifications.....	17,217.36
Total amount due the contractor on this estimate	\$ 5,372.87

C. A. R. DISTELHORST,
Division Engineer.

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EXHIBIT U

CERTIFICATE OF WORK DONE

A—Estimate No. 6, on Contract No. 3993.40A.
Statement

ORIGINAL WORK TO DATE

Item No.	Quantity, Unit, Item	Unit Price	Amount
3	13971 Cu. Yds. Class "A" Excava- tion	\$.58	\$ 8,103.18
4	23707 Cu. Yds. Class "B" Excava- tion .....	.58	13,750.06
6	5885 Cu. Yds. Sta. Overhaul .....	.05	294.25
148	144 Lin. Ft. Hauling and Instal- ling 15" C. M. Pipe .....	.65	93.60
150	48 Lin. Ft. Hauling and Instal- ling 24" Corr. Met. Pipe.....	1.10	52.80
Total amount of Original work to date.....			\$ 22,293.89

ADDITIONAL WORK TO DATE

4	1617 Cu. Yds. Class "B" Excava- tion	\$.58	\$ 937.86
6	133432 Cu. Yds. Stas. Overhaul.....	.05	6,671.60
Total amount of additional work to date.....			\$ 7,609.46

SUMMARY OF WORK DONE TO DATE

Total amount of original work.....	\$ 22,293.89
Total amount of additional work	7,609.46
Total amount of extra work	
Total amount of force account work.....	
Total amount of work done to date.....	\$ 29,903.35

Less 10% to be retained until the work has been formally accepted by the State Highway Commission	2,990.34
Total amount due the contractor to date.....	\$ 26,913.01
Total amount of previous certifications	32,590.23
Total amount due the contractor on this estimate	\$ 4,322.78

R. N. CARROLL,
Division Engineer.

(293)

EXHIBIT V

CERTIFICATE OF WORK DONE

A—Estimate No. 7, on Contract No. 3993.40A.
Statement

ORIGINAL WORK TO DATE

Item No.	Quantity, Unit, Item	Unit Price	Amount
3	13829 Cu. Yds. Class A Earth Exc.....	\$.58	\$ 8,020.82
4	23707 Cu. Yds. Class B Earth Exc.....	.58	13,750.06
6	5000 Cu. Yds. Stas. Overhaul.....	.05	250.00
148	144 Lin. Ft. Haul and Installing 15" C. M. M. ....	.65	93.60
149	48 Lin. Ft. Haul and Installing 24" C. M. C.	1.10	52.80
Total amount of original work to date.....			\$ 22,167.28

ADDITIONAL WORK TO DATE

4	2634 Cu. Yds. Class B. Earth Exc...	.58	1,527.72
6A	150319 Cu. Yds. Stas. Overhaul on Clay Surfacing .....	.05	7,515.95
Total amount of Addition work to date.....			\$ 9,043.67

SUMMARY OF WORK DONE TO DATE

Total amount of original work	\$ 22,167.28
Total amount of additional work	9,043.87
Total amount of extra work	
Total amount of force account work.....	
Total amount of work done to date.....	\$ 31,210.95
Less 10% to be retained until the work has been formally accepted by the state.....	3,121.10
Total amount due the contractor to date.....	28,089.95
Less total amount of previous estimate	26,913.01
Net amount of this estimate	\$ 1,176.94

JOHN G. GAVIN,
Resident Engineer.

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EXHIBIT W.

CERTIFICATE OF WORK DONE

A—ESTIMATE No. 8, on Contract No. 3993.40A.

STATEMENT

Item No.	Quantity, Unit, Item	Unit Price	Amount
ORIGINAL WORK TO DATE:			
3	13,829 Cu. Yd. Class A Earth Exc....	\$.58	\$ 8,020.82
4	23,707 Cu. Yd. Class B Earth Exc....	.58	13,750.06
6	5,000 Cu. Yd. Stas. Overhaul.....	.05	250.00
148	144 L. F. H. & I 15" C.M.C.....	.65	93.60
150	48 L. F. H. & I. 24" C.M.C.....	1.10	52.80
Total amount of Original Work to date.....			\$22,167.28
ADDITIONAL WORK TO DATE			
4	3,793 Cu. Yd. Class B. Earth Exc....	.58	2,199.94
6A	158,733 Cu. Yd. Stas. Overhaul, Clay surfacing .....	.05	7,836.65
Total amount of Addition Work to date.....			\$10,036.59
SUMMARY OF WORK DONE TO DATE:			
Total amount of Original work.....			\$22,167.28
Total amount of Additional work.....			10,036.59
Total amount of Extra work			
Total amount of Force Account work.....			
Total amount of work done to date.....			\$32,203.87
Less 10 per cent to be retained until the work has been formally accepted by the State.....			3,220.39
Total amount due the Contractor to date.....			\$28,983.48
Less Total amount of previous estimates.....			28,089.95
Net amount of this Estimate			\$ 893.53

JOHN G. GAVIN,
Resident Engineer.

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Mr. Graham: I will offer in evidence Exhibits 1-A to 1-I, inclusive.

EXHIBIT 1-A

CERTIFICATE OF WORK DONE

B-ESTIMATE No. 1, on contract No. 3993.40B.

STATEMENT

Item No.	Quantity, Unit, Item	Unit Price	Amount
ORIGINAL WORK TO DATE:			
3	410 Cu. Yds. Excavation Class A....	\$.56	\$ 229.60
4	4,640 Cu. Yds. Excavation Class B....	.56	2,598.40
Total amount of Original work to date			\$ 2,828.48

SUMMARY OF WORK DONE TO DATE

Total amount of Original work	\$ 2,828.00
Total amount of Additional Work.....	
Total amount of Extra work	
Total amount of Force Account work.....	
Total amount of work done to date	2,828.00
Less 10 per cent to be retained until the work is formally accepted by the State Highway Com- mission	282.80
Total amount due the Contractor to date.....	\$ 2,545.20
Total amount of previous Certifications.....	0.00
Total amount due the Contractor on this estimate...	\$ 2,545.20

C. A. R. DISTELHORST,
Division Engineer.

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EXHIBIT 1-B

CERTIFICATE OF WORK DONE

B—ESSTIMATE No. 2 On Contract No. 3993.40B.

STATEMENT

Item No.	Quantity, Unit, Item	Unit Price	Amount
ORIGINAL WORK TO DATE:			
3	3,100 Cu. Yds. Excavation Class A....	\$.56	\$ 1,736.00
4	8,840 Cu. Yds. Excavation Class B....	.56	4,838.40
Total amount of Original work to date.....			\$ 6,574.40

SUMMARY OF WORK DONE TO DATE

Total amount of Original work	\$ 6,574.40
Total amount of Additional work	
Total amount of Extra work	
Total amount of Force Account work.....	
Total amount of work done to date.....	\$ 6,574.40
Less 10 per cent to be retained until the work has been formally accepted by the State Highway Commission	657.44
Total amount due the Contractor to date	\$ 5,916.96
Total amount of previous Certifications.....	2,545.20
Total amount due the Contractor on this Estimate...	\$ 3,371.76

C. A. R. DISTELHORST,
Division Engineer.

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EXHIBIT 1-C

CERTIFICATE OF WORK DONE

B—ESTIMATE No 3, on Contract No. 3993.40B.

STATEMENT

Item No.	Quantity, Unit, Item	Unit Price	Amount
ORIGINAL WORK TO DATE:			
3	4,400 Cu. Yds. Class A Exc.....	\$.56	\$ 2,464.00
4	12,390 Cu. Yds. Class B Exc.....	.56	6,938.40
Total amount of Original work to date.....			\$ 9,402.40

SUMMARY OF WORK DONE TO DATE

Total amount of Original work to date	\$ 9,402.40
Total amount of Additional work	
Total amount of Extra work	
Total amount of Force account work.....	
Total amount of work done to date.....	\$ 9,402.40
Less 10 per cent to be retained until the work has been formally accepted by the State Highway Commission	940.24
Total amount due the Contractor to date	\$ 8,482.16
Total amount of previous Certifications.....	5,916.96
Total amount due the Contractor on this estimate....	\$ 2,545.20

C. A. R. DISTELHORST,
Division Engineer.

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EXHIBIT 1-D

B—ESTIMATE No. 4, on Contract No. 3993.40B.

STATEMENT

Item No.	Quantity, Unit, Item	Unit Price	Amount
ORIGINAL WORK TO DATE:			
3	7,220 Cu. Yds. Class A Exc.....	\$.56	\$ 4,043.20
4	18,190 Cu. Yds. Class B Exc.....	.56	10,186.40

SUMMARY OF WORK DONE TO DATE

Total amount of Original work	\$14,220.60
Total amount of Additional work	
Total amount of Extra work	
Total amount of Force Account work	
Total amount of Work done to date	\$14,229.60

Less 10 per cent to be retained until the work has been formally accepted by the State Highway Commission 1,422.96

Total amount due the Contractor to date.....\$12,806.64
 Total amount of previous Certifications..... 8,462.16
 Total amount due the Contractor on this estimate...\$ 4,344.48

C. A. R. DISTELHORST,
 Division Engineer.

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ESTIMATE 1-E

CERTIFICATE OF WORK DONE

B—ESTIMATE No. 5, on contract No. 3993.40B

STATEMENT

Item No.	Quantity, Unit, Item	Unit Price	Amount
ORIGINAL WORK TO DATE:			
3	9,052 Cu. Yds. Class A Earth Exc.....	\$.56	\$ 5,069.12
4	17,648 Cu. Yds. Class B Earth Exc.....	.56	9,882.88
6	2,542 Cu. Yds. Sta. Overhaul.....	.07	177.94
Total amount of Original work to date			\$15,129.94

SUMMARY OF WORK DONE TO DATE

Total amount of Original work	\$15,129.94
Total amount of Additional work	
Total amount of Extra work	
Total amount of Force Account work.....	
Total amount of work done to date	\$15,129.94
Less 10 per cent to be retained until the work has been formally accepted by the State Highway Commission	1,512.99
Total amount due the Contractor to date.....	\$13,616.95
Total amount of previous Certifications.....	12,806.64
Total amount due the Contractor on this Estimate....	810.31

R. N. CARROLL,
 Division Engineer.

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EXHIBIT 1-F

CERTIFICATE OF WORK DONE

B—ESTIMATE No. 6, Contract No. 3993.40B.

STATEMENT

Item No.	Quantity, Unit, Item	Unit Price	Amount
ORIGINAL WORK TO DATE:			
3	9,052 Cu. Yds. Class A Exc.....	\$.56	\$ 5,069.12

4	21,000 Cu. Yds. Class B Exc.....	.56	11,760.00
6	6,000 Cu. Yds. Stas. Overhaul .....	.07	420.00
148	144 Lin. Ft. Hauling and installing 15" Corr. Met. Pipe Culv.....	.65	83.60
149	48 Lin. Ft. Hauling and Installing 18" Corr. Met. Pipe Culv.....	1.00	48.00
Total amount of Original work to date.....			\$17,390.72

SUMMARY OF WORK DONE TO DATE

Total amount of Original work	\$17,390.72
Total amount of Additional work	
Total amount of Extra work	
Total amount of Force Account work	
Total amount of work done to date	\$17,390.72
Less 10 per cent to be retained until the work has been formally accepted by the State Highway Commission	1,739.07
Total amount due the Contractor to date	\$15,651.65
Total amount of previous Certifications.....	13,616.95
Total amount due the Contractor on this Estimate....	2,034.70

R. N. CARROLL,
Division Engineer.

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EXHIBIT 1-G

CERTIFICATE OF WORK DONE

B—ESTIMATE No. 7, on Contract No. 3993.40B.

STATEMENT.

Item No.	Quantity, Unit, Item	Unit Price	Amount
ORIGINAL WORK TO DATE:			
3	9,052 Cu. Yds. Class A Earth Exc....	\$.56	\$ 5,069.12
4	23,810 Cu. Yds. Class B Earth Exc.....	.56	13,333.60
4	15,600 Cu. Yds. Stas. Overhaul.....	.07	1,092.00
148	192 Lin. Ft. 15" C.M.C.P. Hauling and installing .....	.65	124.80
149	48 Lin. Ft. 18" C.M.C.P. Hauling and installing	1.00	48.00
Total amount of Original work to date			\$19,667.52

SUMMARY OF WORK DONE TO DATE

Total amount of Original work	\$19,667.52
Total amount of Additional work	
Total amount of Extra work	
Total amount of Force Account work	
Total amount of work done to date	\$19,667.52

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Less 10 per cent to be retained until the work has been formally accepted by the State Highway Commission	1,966.75
Total amount due the Contractor to date.....	17,700.77
Total amount of previous Certifications.....	15,651.65
<hr/>	
Total amount due the Contractor on this estimate....	\$ 2,049.12

R. N. CARROLL,
Division Engineer.

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EXHIBIT 1-H

CERTIFICATE OF WORK DONE

B—ESTIMATE No. 8, on Contract No. 3993.40B

STATEMENT

Item No.	Quantity, Unit, Item	Unit Price	Amount
ORIGINAL WORK TO DATE:			
3	9,052 Cu. Yds. Class "A" Exc.	\$.56	\$ 5,069.12
4	26,496 Cu. Yds. Class "B" Exc. ....	.56	14,837.76
6	19,600 Cu. Yds. Stas. Overhaul.....	.07	1,372.00
148	192 Lin. Ft. Haul & Install. 15" C. M. C. ....	.65	124.80
149	48 Lin. Ft. Haul & Install 18" C. M. C.	1.00	48.00
Total amount of original work to date			\$21,451.68
ADDITIONAL WORK TO DATE:			
4	1,604 Cu. Yds. Class B Exc. ....	.56	898.24
Total amount of additional work to date			\$898.24
SUMMARY OF WORK DONE TO DATE			
Total amount of original work			\$21,451.68
Total amount of additional work			898.24
Total amount of Extra work			
Total amount of Force Account work			
Total amount of work done to date			\$22,349.92
Less 10% to be retained until the work has been formally accepted by the State			2,234.99
Total amount due the Contractor to date			\$20,114.93
Less total amount of previous estimates			17,700.77
Net amount of this estimate			\$ 2,414.16

JOHN C. GAVIN
Resident Engineer.

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EXHIBIT I—I

CERTIFICATE OF WORK DONE

B—Estimate No. 9 on Contract No. 3993.40B

STATEMENT

Item No.	Quantity, Unit, Item	Unit Price	Amount
ORIGINAL WORK TO DATE:			
3	8,987 Cu. Yds. Class A. Earth Exc.....	\$.56	\$ 5,032.72
4	26,498 Cu. Yds. Class B. Earth Exc.....	.56	14,837.78
6	24,698 Cu. Yds. Stas. Overhaul .....	.07	1,728.86
148	192 Lin. Ft. H&I 15" C.M.P. ....	.65	124.80
149	48 Lin. Ft. H&I 18" C.M.P.	1.00	48.00

Total amount of Original work to date\$21,772.14

ADDITIONAL WORK TO DATE:

4 4,926 Cu. Yds. Class B. Earth Exc.\$.56 \$ 2,758.56

Total amount of Additional work to date\$ 2,758.56

SUMMARY OF WORK DONE TO DATE

Total amount of Original work\$21,772.14
 Total amount of additional work 2,758.56
 Total amount of Extra work

Total amount of Force Account work

Total amount of work done to date\$24,530.70

Less \$500.00 Nominal Retent 500.00

Total amount due the Contractor to date\$24,030.70

Less total amount of previous Estimates 20,114.93

Net amount of this estimate\$ 3,915.77

JOHN C. GAVIN
 Resident Engineer.

(304)

TESTIMONY TAKEN AT THE HEARING BEFORE SPECIAL HOUSE COMMITTEE ON FEBRUARY 17th, 1925

Mr. W. G. Black having been subpoenaed as a witness, after having been duly sworn, testified as follows:

Q. Will you state your name, age and residence? A. W. G. Black, age 40, Residence, Bismarck.

Q. And what is your profession? A. State Engineer, civil engineer.

Q. Of what school are you a graduate? A. Valparaiso University.

Q. What year? A. 1912.

Q. Have you been in the active practice of your profession since that time? A. Since and prior to that.

Q. Where? A. Indiana, northern Indiana and Morton County.

Q. How long were you in practice in Morton County? A. About eight years.

Q. Were you a member of any firm? A. The firm of Black & Griffin.

Q. Are you still a member of that firm? A. No, sir.

Q. When did you sever connections with that firm? A. April 1st, 1923.

Q. And at the present time you are Chief Engineer of the Highway Commission of North Dakota? A. Yes, sir.
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Q. And have been since that time? A. Since April 1, 1923.

Q. Will you just tell the committee what your duties consist of as State Engineer, in a general way? A. The duties of the State Engineer are principally in connection with irrigation work, water rights, water supply, etc. By virtue of being State Engineer, I am also Chief Engineer of the Highway Commission.

Q. What are the duties of the State Engineer of the Highway Commission in a general way? A. Well, it is in a supervisory capacity, in charge of the departments of the Highway Commission.

Q. And also have charge of the Federal Aid Projects within the State? A. Yes, sir.

Q. And how are the Federal Aid Projects carried out? What is the system under which they are built? A. Well, taken step by step: the first step, the county requests the work. Then a representative of this department and a representative of the Bureau of Public Roads go over the road and when they have selected routes in proper alignment, a survey is made. After the survey is made, plans are drawn; then the counties advertise for bids; when the contract is awarded, then the Bureau participates to the extent of fifty per cent of the cost.

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Q. Who pays the other 50%? A. As a rule the counties take 25% out of their state aid fund which is to their credit in the automobile license fees; the other 25% is out of the county road fund.

Q. Now who makes the survey for the counties? A. Sometimes we make the surveys; sometimes outside engineers.

Q. Now what times do you make the surveys and what times do outside engineers make them? A. Some of the counties request that their own engineers do the work. In any event, they pay for the cost of the survey out of the

state aid fund. When there is so much we can not do all the work; we do some of those, we do as much as we can of our own surveys.

Q. How much does it cost per mile when you do it yourself? A. When I first came in this position, the first survey we made cost \$52.00 and something per mile, not charging anything for transportation of cars. I might add that the previous year, surveys cost about \$85.00 a mile.

Q. For 1922 you say the cost was \$85.00? A. Approximately \$85.00.

Q. That was the average cost? A. That was what it cost the Highway Commission.

Q. And not charging up anything for the use of cars? A. No, the \$85.00 included transportation.

Q. Now what did the \$52.00 include? A. That included
(307)

salaries and expenses of the men while they were away from home.

Q. And what was the cost by the state for 1924? A. I can't tell you that, as to what that was, Mr. Graham.

Q. Could you tell us about what it was? A. There has never been any reports submitted as to just what the cost was; presume I can give it to you later during the day.

Q. Was there any contract work for surveying done in 1923? A. Yes, sir.

Q. Now what did you pay for that? A. \$60 per mile.

Q. That is the same price for all of the contract work? A. Yes, sir.

Q. And how many miles did you contract? A. I can't answer that offhand.

Q. Could you tell us approximately? A. Approximately 200 miles I presume.

Q. And could you tell us who did the contract work in 1923? A. Stevenson, Miller, Lucke, Cass County.

Q. How much did they do? A. I don't remember.

Q. Could you tell us about how much? A. Oh, approximately in the neighborhood of 20 or 30 miles.

Q. And who else did work? A. Dakota Engineering & Construction Company, Valley City.

Q. And who are the members of that firm? A. Jay Bliss.
(308)

Q. He was the former State Engineer? A. Yes, sir.

Q. How many miles did they survey? A. I don't remember, Mr. Graham. I don't remember how many miles sur-

veyed by these different engineers; I could look up the records and oblige you.

Q. You couldn't tell us about? A. No, sir.

Q. Who else did surveying in 1923? A. E. J. Thomas of Ward County did surveys.

Q. Do you remember how many miles? A. No, I don't.

Q. And who else? A. Ingram & Smith, Grand Forks, North Dakota.

Q. And who else? A. That is all I recall during the year 1923.

Q. Now could you tell us who did contract surveying during 1924? A. These same firms; in addition to that, E. R. Griffin, county surveyor of Morton county.

Q. Did not Mr. Atkinson do contract surveying? A. Yes, also Mr. Atkinson; yes, he did.

Q. And also in 1924? A. Yes, sir.

Q. Mr. Griffin is your former partner? A. Yes, sir.

Q. How much did he survey? A. All told, about 12 miles.

Q. And do you have any recollection as to the amount these other people surveyed in 1924? A. No, I haven't.

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Q. You could secure such a list? A. I could, yes.

Q. Do you have any recollection as to the total number of miles that was contracted in 1924? A. Possibly 200 miles.

Q. And how much was surveyed by your own men? A. Why, a like amount, I presume; as near as I can remember.

Q. And the same would be true for 1923? A. Possibly.

Q. Now you can do it slightly cheaper by having your own force do it? A. No, we couldn't.

Q. I thought I understood from your testimony that the cost in 1923, when done by your own force was \$52.00 a mile? A. I said that was the cost not including transportation, furnishing cars.

Q. Well what would it cost including transportation, how much would that raise it? A. Along the average, surveying about a mile a day, car and running expenses of the car is worth \$10.00 or more during a day, I should judge.

Q. Then, in your opinion, there isn't any particular difference in the cost as to which method of surveying that you use? A. Yes, there is.

Q. Which is cheaper? A. It is cheaper to have as much done outside as we can.

Q. How much cheaper? A. Well, I estimated possibly the department saved about \$30,000 last year by having the
(310)
work this way.

Q. If that be true, why do you not have it all done by contract method? A. We couldn't do that because the surveyors that are competent to do this work are, as a rule, county surveyors. We have the surveys made by the engineers from the county in which they are located.

Q. Are there surveyors in every county? A. No, sir.

Q. Mr. Atkinson did surveying outside of Burleigh County, did he not? A. Yes, sir.

Q. How did that happen? A. There didn't happen to be any surveyor in Sioux County.

Q. Nor in Sheridan County? A. No, sir.

Q. Did the department furnish any cars for Mr. Atkinson to do his surveying with? A. No, sir, he bought what cars he is using.

Q. What cars did he buy from the department? A. Since the time I have been in the department, he has bought a Cadillac which couldn't be construed to be one of our cars, and a White observation car.

Q. What was the purchase price of the Cadillac? A. \$150.00.

Q. That was the car which you first purchased from the Attorney General's office? A. Yes, sir.

Q. Was there any repairs put upon that before Mr. Atkinson bought it? A. Not that I know of.

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Q. Was that the fair value of the car? A. I would say it is all it was worth.

Q. And the White truck to which you have reference, what was the purchase price of that? A. \$395.

Q. And did he also have a Dodge car? A. He had that car when I came into the department.

Q. From whom did he buy that, if you know? A. I don't know much about that personally; he got it from the former administration.

Q. From Mr. Atkinson's testimony here the other day, we understood that he purchased that through you, did he do that? A. No, not that I remember; he may have spoken about keeping the car, I don't remember.

Q. And was any price agreed upon for that? A. No, sir.

Q. Now has Mr. Atkinson paid for any of these cars?
A. I didn't know until a month ago that he hadn't paid anything on these cars.

Q. How did it happen he didn't pay for them? A. He has written in three or four times for statement of the cost.

Q. Written in to whom? A. The department and these letters were referred to the equipment department and from them on of course I don't have much to do with the letters; also he spoke to me personally two or three times about
(312)

having a statement rendered and I advised Mr. Gettelman to send him a statement and about a month ago he came up to see me and wondered why we couldn't give him a statement for his car and I said I thought he had one.

Q. Well he knew what the price for them was, did he not, so he could have paid for them? A. I presume he did.

Q. He didn't need any statement then to pay for them?
A. Well, this old car I never made any deal with him as to that on price.

Q. Did he ever ask you to make any price upon it? A. Well, those matters are taken care of by the equipment department! I am not in position to know the value of those cars. I don't have time to look after that.

Q. You don't know whether or not he made any agreement with Mr. Gettelman concerning the purchase of this

Q. Now, did you notify the equipment department when Dodge car? A. I don't know.

you sold the Cadillac and the White car to Mr. Atkinson?
A. Yes, sir; Yes, I did.

Q. Whom did you notify? A. I notified Mr. Gettelman personally; also forwarded on to Mr. Gettelman copy of letter from Mr. Atkinson.

Q. When did you do that? A. December fourth that I forwarded the letter on to Mr. Gettelman.

Q. 1924? A. 1923.

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Q. Have you a copy of that letter? (Letter handed to Mr. Graham.)

Q. You say this letter was forwarded to Mr. Gettelman?
A. It was forwarded on the 4th of December, 1923.

Q. And received by him? A. I presume so; I discovered it in the files a week or two ago.

Q. In what files did you discover it? A. In the equipment files.

Mr. Graham: I will offer in evidence Exhibit 4.

(EXHIBIT 4)

T. R. ATKINSON

Member American Society of Civil Engineers
Civil and Consulting Engineer
Bismarck, North Dakota

December 2nd, 1923.

Mr. W. G. Black, State Engineer,
Bismarck, North Dakota.
Dear Sir:

Referring to the Cadillac car which I took from the Highway Shop to try out, I desire to advise that I will take this car at the price you quoted me.

Kindly forward me bill for same.

Very truly yours,

(Signed) T. R. ATKINSON.

W. F. G.
Forward bill
W. G. B.

NORTH DAKOTA	
STATE HIGHWAY COMMISSION	
BISMARCK	
RECEIVED	
DEC. 4, 1923	
REFD. TO	WGB
ANSD	
NOTED	12-4-23

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Mr. Black: In addition to that, on the 24th of November 1923, Mr. Atkinson also requested a bill or else told us to deduct it from the proceeds of his account for surveying in Federal Aid Project 224, Starkweather to Devils Lake.

Mr. Graham: I offer in Evidence Exhibit 5.

(EXHIBIT 5)

T. R. ATKINSON

Member American Society of Civil Engineers
Civil and Consulting Engineer
Bismarck, North Dakota

November 24th, 1923.

Mr. W. G. Black, Chief Engineer,
State Highway Commission,
Bismarck, North Dakota.

Dear Sir:

Referring to the Dodge touring car and the White truck which I took over last spring. If you will please forward me bill for them I will mail check to cover, or you may take out the amount from the proceeds of my account for the survey of F. A. P. No. 224, Starkweather to Devils Lake, which I have completed and turned over the notes to Mr. McKinnon.

Very truly yours,

(Signed) T. R. ATKINSON.

W. F. G.
Send Statement

W. G. B.

NORTH DAKOTA STATE HIGHWAY COMMISSION BISMARCK	
RECEIVED NOV. 26, 1923	
REFD. TO	WGB.....
ANSD	.....
NOTED	4-25-23

Mr. Graham:

Q. Now, Mr. Atkinson took out this Dodge car after you became engineer, did he not? A. No, he had the car on hand when I came on.

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Q. He does not so state in his letter, does he? A. He had the car on hand; he possibly asked if he could keep it, I don't remember.

Q. Then he did actually take the Dodge car out after you came in as engineer? A. No, he had the car on hand when I came in.

Q. What do you mean by "on hand"? A. Using it.

Q. Was not the car in the repair shop? A. It may have been; I wouldn't say for sure.

Q. Mr. Atkinson's testimony was, if I remember correctly, that he took the Dodge car from you in the spring of 1923? A. Of course, I don't remember much about the car and I can't remember all the details in connection with this car. As I recall it, he had the car on hand and he possibly may have asked if he could keep it.

Q. But in any event you hadn't fixed any price for the Dodge car? A. No, sir.

Q. What do you think it was reasonably worth? A. I wouldn't give \$200 for it myself; it was a 1916 or 1917 model Dodge.

Q. You didn't send down any memorandum as to the price of any of these cars to Mr. Gettelman? A. No, sir, the prices are standard prices, they ought to have been known.

Q. What was the standard price for the White car? A. \$395.00.

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Q. Do you know whether or not a White car of this same make without any body or anything had been sold for \$750 to one Dr. Gibbs? A. You mean Hibbs, do you? Q. Yes, I guess it is Hibbs. A. I believe one was sold to Dr. Hibbs and he returned it.

Q. He didn't think it was worth that much? A. It was recalled by the department as a matter of fact, not by me.

Q. Do you know whether or not it was recalled by the equipment department? A. It may have been.

Q. After Dr. Hibbs had paid \$250 down? A. It might have been, I don't know. Pardon me, I might make explanation there. They take the car as they are. Of course, when we would sell to counties and municipalities, we usually put the car in running order. Sometimes a fellow would buy a car and he would have extra work put on it and in that case he would pay the additional cost.

Q. Well, is it not a matter of fact that approximately \$285.00 was expended upon the Dodge car in the spring of 1923 by Mr. Atkinson in your shops? A. Not that I know of, it may have been done before I came in.

Q. Charged up to the department against the car? A. I don't know during my term.

Q. Anyway no payment was made upon any of these cars? A. No, sir.

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Q. Now, whose fault would that be that payment was not made? A. That would be, I would say, the duty of the Superintendent of Equipment to collect any accounts.

Q. Did you know that he had not looked after his work in the collection of the accounts? A. No, I didn't although Mr. Gettelman gave me a statement here about a month ago of outstanding accounts and I find that we have quite a few outstanding accounts.

Q. You never checked over his department to see whether or not he was doing his duty? A. Well, no, excepting in a general way, in a supervisory way to see that everything is going smooth.

Q. Have you ever been down in Richland County? A. Yes, sir.

Q. When were you down there? A. I was there in August I think 1923 and again in February 1924 as near as I can remember.

Q. Have you ever been over Project 59 down there? A. Yes, sir.

Q. When? A. During the two periods I stated.

Q. Are you familiar with the general soil conditions on that project? A. Not entirely.

Q. In a general way? A. In a general way, yes.

Q. Does the construction of a road through that territory present any particular difficulties? A. Section a of Project 59 was rather sandy which required clay surfacing

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to preserve the road.

Q. And what do you mean by clay surfacing? A. The soil was a light sand and apt to blow away and it required a heavy soil swell with some clay on it, so that the surfacing would be compact and not blow away.

Q. And in making a clay surfacing, how deep do you put the clay on? A. Four to six inches.

Q. This project was let by your predecessor? A. Yes, sir.

Q. And do you know when the work on the project was commenced? A. The date of the original contract was June 30, 1920. I haven't got the date he started work.

Q. And did the original contract provide for any clay surfacing, do you know? A. I believe not.

Q. Now, when this survey was made, was that checked over by the federal engineer in charge at or prior to the time of letting the contract? A. Yes, that is the plans were checked over and details of all plans.

Q. The federal engineer would also look over the project in person? A. Yes.

Q. And at that time no clay surfacing was asked for by the federal department? A. Not that I know of.

Q. If they had been, it would have been in the plans and specifications? A. Not necessary.

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Q. Those plans and specifications had been approved by the Federal department? A. Yes, but it was found after they awarded the contract that this was necessary. That would be taken care of by a change in plans or supplemental agreement.

Q. Was any such change in plans or supplemental agreement made during the time of your predecessor or during the time you have been in office? A. None since I've been in; during the previous administration there were three or four supplemental agreements.

Q. Have you such supplemental agreement? A. They are in the file which you have, I think, Mr. Graham.

Mr. Graham: I could not find any. Mr. Black: In the gray file. Mr. Hanley: They were introduced yesterday, they were the papers I gave you. Mr. Graham: Not for 59. Mr. Black: Pardon me, Mr. Graham, I was speaking of 58; I have 58 and 59 both.

Mr. Graham:

Q. There was a supplemental agreement for 58? A. There may have been on 59, I don't recall.

Q. There may have been? A. Yes, sir.

Q. Did you make a search and see if there was any? A. I think there is another file on 59. It was another file, that gray book which you looked at yesterday up there?

Q. You haven't that? A. No, I forgot to bring that down.

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Q. Well, was any clay surfacing done during the time you had the highways in charge? A. Yes, sir.

Q. When was that? A. During the year 1923.

Q. And was there any supplemental agreement made by you people for clay surfacing? A. I don't believe so.

Q. Then how did it happen to be done? A. Well, the division engineer in charge usually has charge of a project during construction and the contractor works either under the orders of the division engineer or the resident engineer.

Q. Who was division engineer? A. Mr. Gavin.

Q. And who was resident engineer in 1923? A. Mr. Knudtson, Oliver Knudtson, and Mr. Clifford Thorberg.

Q. Well, did any of those people give any orders for clay surfacing that you know of? A. I presume they must have.

Q. Well, did they ever tell you that they had? A. Yes, they did tell me that they had required additional surfacing.

Q. Well, was that in the way of maintenance or for extra work upon the project? A. No, some of it would have been maintenance and some would have been new work.

Q. Was there anything about that job that was hard work to do? A. No, not anything unusual.

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Q. Was there any reason that you know of that that contract could not have been finished up in 1920 provided the contractor was aggressive and had proper equipment? A. I don't think the contractor is entirely to blame. The Highway Commission in making up the plans had a faulty set of plans to begin with. The survey was made in the winter time while there was snow on the ground and the surveyors in determining where the ground was beneath the snow, would run a rod and whenever they hit the ground, they would call that the surface of the ground. Well, in fact in many places they were going through sloughs and were taking their measurement on the top of ice and ditches.

Q. Who made that survey if you know? A. I don't know who did that personally.

Q. Did you ever make any survey of it after you came in? A. No, sir.

Q. Then how do you know that the survey was faulty? A. The department sent down a man from the department at different times to straighten the thing out and finally, as I understand it, they adopted an arbitrary grade line that would fit the conditions down there as near as possible.

Q. Some of your force adopted an arbitrary grade line? A. That was prior to my office.

Q. What one of your men adopted the arbitrary grade

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line? A. Mr. J. N. Roherty in our department during the year 1922 went down there for the department and tried to get the plans in such shape so that the work would fit the topography of the land.

Q. Did anyone from your department go down in 1923 to straighten it out? A. Yes, sir.

Q. Who? A. I say we had two resident engineers there and finally I sent a practical road man down there by the name of Ackley.

Q. This division engineer and the resident engineer, they were competent men that you had? A. Yes, in some respects.

Q. Were they competent in respect to looking after the building of this road and reporting upon it? A. I wouldn't care to answer that, not knowing whether they were in all respects or not.

Q. Anyway you had them in your employ? A. Yes, sir.

Q. And they still are in your employ? A. No, sir.

Q. Which ones are not? A. Mr. Gavin is not in the employ of this department at this time.

Q. The other two still are? A. Yes, sir.

Q. And you consider them competent men? A. Not in all respects.

Q. In what respects are they not competent? A. Well, I would say in what respects they are competent is they are intelligent enough to go out and set grade stakes and possibly see that the contractors follow those grades.

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Q. But you don't consider them really competent men? A. Speaking generally, engineering is a pretty broad line, they wouldn't be competent in all lines of engineering.

Q. Were they competent for the line in which you had them employed? A. Expect so.

Q. Was Mr. Gavin competent for his work as division engineer? A. In some respects.

Q. Well, in what respects was he not? A. In this particular job, I think there was a little personal enmity between the contractor and Mr. Gavin which contributed to not having harmony.

Q. What reason have you for that belief? A. From statements of Mr. Gavin himself.

Q. That is the only thing? A. I think so.

Q. You don't think he allowed his personal enmity to interfere with his measurements or reports upon the road in any way? A. I wouldn't say that he did but a man should attempt to get along with a contractor in order to have harmony.

Q. Who was this contractor? A. Treadwell Twichell.

Q. Can you tell us why any additional work was rendered necessary upon this road? A. The additional work was practically all for clay surfacing.

Q. Is it not general and customary in your department

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whenever extra work is necessary to have a supplemental contract entered into by the department? A. Yes, sir.

Q. Why was it not done in this instance for the work in 1923? A. Mr. Twichell evidently had orders from the division engineer or else resident engineer to do this extra work.

Q. Why did you not, in order to get your department in proper shape, enter into a supplemental or written agreement with Mr. Twichell? A. We didn't know the amount of work he was to do.

Q. You had a man down there in charge did you not? A. Yes, sir.

Q. And they made reports to you at regular intervals? A. Yes, sir.

Q. Then you knew what work was being done? A. Not the amount, not yardage.

Q. Does not the report show yardage? A. No.

Q. What do they show? A. Shows the progress whether fair, poor; the modern equipment the contractor has, etc.

Q. Doesn't show anything about the yardage? A. No, sir.

Q. Did they not send in certificates showing the yardage at the regular intervals, estimates to refer to? A. No, sir.

Q. Never sent in any? A. No, sir.

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Q. Then you must have known from that fact alone that this project needed investigation? A. Not necessarily.

Q. Well, what would it indicate? A. At the time I came into this job, this work was nearly all completed before I came in and I had no personal knowledge as to just what was required to finish the project.

Q. Did not you or some member of your force check through all of these uncompleted projects to see what was necessary to complete them? A. No, sir.

Q. Why didn't you do that? A. It is not necessary to do that.

Q. Why, you knew from the contract itself that this work should have been completed in 1920? A. Yes, sir.

Q. And still you didn't look it up or investigate it in any manner? A. It was so near completed when I came in, as a matter of fact Section B of 59 was all completed when I came in office and all that remained on the Section A portion of project 59 was clay surfacing. We knew what was required to finish the work.

Q. Was anything in the contracts to show how much clay surfacing was to be done? A. Not that I know of.

Q. Then you had no written memorandum or contract of any kind to indicate how much clay surfacing was to be done? A. No, I didn't.

Q. And you or no member of your department investigated to find out? A. Well, I don't—I can't say as to that.

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We rely on our division engineers and resident engineers to look after the details of the work.

Q. Mr. Gavin and the resident engineer did look after and report upon the work? A. During the year 1923, I believe Mr. Gavin, on account of personal feeling between him and the contractor, failed to go down there, didn't have any connection with the work.

Q. You mean to say Mr. Gavin didn't go near the work? A. He may have gone there but he didn't have any intercourse with the contractor, I don't believe.

Q. You knew that fact? A. Well, not till later on in the season, no.

Q. I thought you said Mr. Gavin made reports that the work was progressing all right? A. Those reports come from the resident engineers.

Q. Are they not at certain intervals O. K.'d by the division engineer? A. They go through the division engineer's office.

Q. When was this work accepted by the federal government? A. I haven't the date here, but I believe it was November, 1923.

Q. Had it ever been examined by the federal government before? A. Yes, sir.

Mr. Vogel: You say November, 1923? A. Yes, sir.

Mr. Graham :

Q. When was it examined prior to that time? A. By our Department?

Q. By the federal government, if you know? A. I couldn't say.

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Q. Could you tell from your records? A. I presume we could find that.

Q. What was the reason it wasn't accepted in 1920, if you know? A. Have no knowledge whether all the contract was completed in 1920 or not, following that year—this is as I understand now, but the work was ready in the fall to be accepted but the Highway Department failed to get around there to take it over and when the job held over winter and spring, it was like beginning a new job because the work was pretty well disintegrated.

Q. The former department refused to accept it? A. I don't know, the contractor claimed he had it ready the fall of every year after he started, but the Highway Department neglected to take on the work.

Q. Does not the federal man come and inspect it also? A. With our department.

Q. And doesn't the record show that the federal man refused to accept it? A. I don't know as to that.

Q. Do the records show when the federal man refused it? A. No, the federal man doesn't go out to accept projects until he is notified by our department that everything is in readiness.

Q. You mean to say as far as the records show that the former head of the department never notified the federal

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man that it was ready for inspection? A. I

Q. And then you wish us to understand that on account of its not having been looked over in the fall, the roads are all to pieces next spring? A. That is what I mean.

Q. Whose fault is that? A. If the road was in condition to be accepted and the Highway Department didn't go down with a man from the Bureau of Public Roads and take it over, it would be the fault of the Highway Commission.

Q. That the road went to pieces? A. That it wasn't taken over.

Q. I thought you just said next spring the road was in no shape to be accepted? A. I am speaking about the season of the year when it is ready—in the fall, and the Highway Department doesn't go over that job when it is ready to be taken over by the man from the Bureau of Public Roads, then when it lays over until Spring, it is not in shape to be taken over.

Q. Why not? A. Well, you know how a road looks in the spring when it has been driven over with ruts in it two or three feet deep.

Q. You mean the road wasn't properly built? A. No, I don't mean that.

Q. Does not the contract of your department provide that the contractor shall keep up and maintain the road until it has been finally accepted? A. Yes, sir.

Q. Then all that would be necessary for the contractor to do would be to run a grader over it and straighten the road

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up so as to have it ready for acceptance? A. Not necessarily, the shoulders may have washed away during the spring

water; there are places down there where the water stands pretty well up into the grade and he may have lost part of his grade.

Q. And do you know whether or not Mr. Twichell did fix it up every year or do work on it? A. Not personally, I don't know.

Q. How, now when did Mr. Twichell finally notify you people that the road was ready for acceptance? A. In the fall of 1923.

Q. And did you accept it at that time? A. Yes, sir.

Q. When did you pay him for it? A. He hasn't been entirely paid yet.

Q. Now do you know what the contract price was for these subdivisions A and B of Project 59? A. Yes, sir.

Q. What was the contract price of Project A of 59? A. Well, I have the two together, for Section A and B the contract price was \$60,187. That includes the supplemental agreements that have been made after letting the contract which are the same as the contract.

Q. Where are the supplemental agreements to which you refer? A. They are in my file I spoke to you about a minute ago.

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Q. That just covers B? A. and B both.

Q. What was the original contract price for these? A. I haven't that here, Mr. Graham.

Q. Can you tell us by referring to your papers? A. I could send up to the office for those.

Q. Perhaps it would be a good idea if you would. A. I think I can tell you from this: For the grading, Section B, \$21,808.54; Section A, \$22,293.89, that is for grading; for pipe culverts \$607.20.

Q. That is culverts for which part of it? A. Both sections. Have reinforced concrete items, \$15,578.13.

Q. And the only additional or extra work done upon these two roads was on grading, is that right? A. Principally surfacing.

Q. And that was for clay? A. Clay surface, yes.

Q. And from where was the clay obtained? A. That was obtained from pits along the right-of-way on the road.

Q. And did Mr. Twichell receive his money for the original contract price for this work before this time? A. I don't recall.

Q. Would your records not disclose that? A. Yes, it would.

Q. Did Mr. Twichell ever come to see you about this work after you came into office? A. I don't recall whether he ever came up to see us about work and not until after he had finished the work and was ready for his estimate. He
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may have been in, I wouldn't say for sure.

Q. When was the first time that you knew there was any dispute about this project 59? A. Oh, by talk about the engineering department, I had known that for two or three years.

Q. You knew that then as soon as you came into the office? A. Oh, yes.

Q. And still you didn't make any investigation to find out what was the dispute or trouble? A. Yes, I knew what the trouble was principally.

Q. What investigation did you make? A. I say I knew what the trouble was, I believe it was faulty design.

Q. Did you take any means to remedy that? A. Our designs were rejected before I came into office when they discovered they were faulty.

Q. At the time you came into office there was nothing wrong with the designs? A. No.

Q. And did you yourself or did you have anyone investigate this project and see about having it straightened out? A. Well, I sent Mr. Wallace, Construction Engineer at that time, over the job two or three times.

Q. Did he make any reports? A. I think he made his report direct to the contractor as to what he wanted done.

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Q. Did he also make a report to you as to what he wanted the contractor to do? A. Yes.

Q. Have you such report? A. No, it was a verbal report.

Q. There were nothing but verbal reports upon this project? A. Well, I would say from the start of that job and then on, the job seemed to be handled principally by verbal reports as near as I could find.

Q. You followed out the same policy of verbal reports since you came into office? A. No, sir.

Q. Did you at any time have written reports? A. We have weekly reports from the resident engineers.

Q. Is that your custom upon all projects to have verbal reports only? A. No, sir.

Q. Why did you have a different rule for this project? A. Didn't have a different rule for this project.

Q. You obtained only verbal reports? A. No, sir.

Q. What else did you obtain? A. I say the weekly writ-

ten reports from the resident engineers as to progress.

Q. When was the first time you ever had a talk with Mr. Twichell about what he claimed upon this project? A. I don't believe until after he finished.

Q. Did you ever have any letter from him in regard to it before you talked with him? A. Not that I recall.

Q. And until after it was finished, he made no complaint to you that he was not receiving proper treatment from the
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engineering force? A. Well, he had at times complained about the way he and Mr. Gavin were getting along and thought Mr. Gavin was trying to give him the worst of it.

Q. When did he make that complaint? A. Possibly late in the season of 1923.

Q. Well, was that after the work had been accepted? A. No, it was prior to acceptance.

Q. Where did you see him at that time? A. I don't recall whether it was here or Fargo.

Q. He did then come to you before the work was accepted with complaints? A. Only in that respect, yes.

Q. Well, in what way did he make complain of Mr. Gavin? A. Why, I don't recall specifically what the complaint was now.

Q. Did he claim he was not getting proper measurements from Mr. Gavin? A. No, I think not.

Q. What was his complaint, if any? A. I don't recall what his complaints were.

Q. Did you investigate his complaint to see if there was any ground for it? A. No, sir.

Q. Now, if this work was completed, would Mr. Gavin send in a report or estimate as to how much money was still due Mr. Twichell? A. Yes.

Q. What was the amount which he said was still due Mr. Twichell? A. I don't remember.

Q. Have you that report? A. No, I haven't.

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Q. Can you produce it? A. I possibly could.

Q. Will you kindly produce it for us? A. Yes.

Q. Do you remember in a general way the amount of that report? A. No, I don't.

Q. How did it happen that you did not pay to Mr. Twichell the amount which was reported in by Mr. Gavin? A. Mr. Twichell refused to accept that amount for the reason that the estimate was computed on the wrong lengths of overhaul and that the pits had not been measured.

Q. Did not the reports of Mr. Gavin show that the pits had been measured? A. I couldn't say for sure; I know we measured some of the pits over after the final acceptance of the job.

Q. When you say "we", who do you mean? A. Highway Commission.

Q. Did you yourself measure any of them? A. No, sir.

Q. Were you present when they were measured? A. No, sir.

Q. Who did you send down to measure them? A. We instructed Mr. Gavin to measure the pits, being division engineer, and I think he sent down Clifford Thorberg.

Q. Well, were the figures submitted by Mr. Thorberg materially different in any way from the figures submitted by Mr. Gavin? A. As a recall it was very little difference, some difference, not a great deal.

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Q. Could you produce the measurements made by Mr. Thorberg? A. Yes, sir.

Q. What was the next done in the controversy with Mr. Twichell? A. The next question was as to where the material was placed.

Q. Did not the report submitted by your engineering force show that? A. No, sir, not correctly.

Q. How did you know it was not shown correctly? A. Mr. Myhre and I went down over the ground when we couldn't come to any decision as to where it was placed, we went down ourselves and from talking with the people that owned the pits there, found where it had been hauled; we could see on the ground where it had been hauled by the different color of the materials. From that we prepared a haul diagram from which the final quantities were computed.

Q. Did you or Mr. Myhre make any surveys or measurements while you were there? A. No, I don't believe we did.

Q. All you did was to talk with some of the people along the way? A. No, we located the pits with reference to the stationing on the ground, then we had the pits measured. Before that we inquired from the people owning the pits where it was hauled, then we had the pits measured and we knew how many yards there were in the pits and we knew how many yards were put on the road for surfacing and then we also knew where it as placed.

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Q. And who measured the pits at that time? A. Mr. Thorberg measured the pits finally.

Q. Did Mr. Thorberg then measure the pits twice or once? A. Can't say whether he measured them twice or once.

Q. These pits had been used for the years 1921, 1922 and 1923, is that right? A. I don't know whether they were in use in 1921 or not.

Q. You said he had been, Mr. Twichell had been doing some clay surfacing during each of those years? A. Don't know whether he did clay surfacing in those two years or not.

Q. And in the estimate made by you people, you gave Mr. Twichell credit for moving all of the dirt from the pits during the year 1923? A. Not all during that year; we gave him credit for the measurement of the pits less what was taken out.

Q. If he took it out in 1921, 1922 and 1923, then you gave him credit for moving all of that dirt from the pits in 1923? A. No, we wouldn't give credit for moving all during that year.

Q. How did you divide it up? A. It didn't need to be divided up by years.

Q. If he had received credit for moving a portion of that dirt during each of the previous years, he would not then be entitled to full credit for moving that amount in 1923, would he? A. No, no.

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Q. Did you make any check-up to see what amount of clay he had moved during the years 1921, 1922 and 1923? A. In any event—

Q. No, answer yes or no. Did you make any checkup to see? A. I will have to explain that in another way. If he was allowed \$500 in 1922, and the next year we found the total amount would be \$1,000, then we would deduct \$500, as stated formerly, and then he would have \$500 coming. That is the way estimates are handled.

Q. Well, did you make such deductions? A. Yes, sir, if he was ever paid anything formerly, he was deducted.

Q. Had he ever been paid anything formerly? A. I couldn't say.

Q. Could you get the record and let us know? A. I could.

Q. Now what price did you allow him for moving the clay in 1923? A. Fifty-eight cents a yard, that is, we didn't allow it, that was the contract price, I think.

Q. Is there anything in the contract providing for clay surfacing? A. You asked about the cost. For clay surfacing he was to get five cents a cubic yard station, 1,000 feet free haul, every hundred feet beyond that he would get five cents per cubic yard.

Q. Where is there anything in the contract to that effect? A. This is on Section A, 5,885 cubic yard station overhaul for five cents per cubic yard station.

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Q. Is that not for the ordinary work of grading of the road? A. Sir? (Question repeated). A. Well, there are

two classes of excavations, one was for Class A excavation 56c a yard, and Class B is 56c a yard and cubic yard station overhaul 7c per station.

Q. That is for ordinary excavation? A. Yes, then there was his supplemental agreement upon 59, that is for surfacing.

Q. Who was that supplemental agreement made by? A. Must have been made by the former commission.

Q. That provided for a price of 58c for this clay surfacing? A. I presume so, I don't remember.

Q. And you were giving him the same price for clay surfacing in 1923 as he was to have obtained in 1920? A. That was the contract.

Q. Had he not run over the time in which he was to complete the contract? A. Yes, sir.

Q. And was not all of this clay surfacing what is known as extra or additional work? A. Yes.

Q. Do not your plans and specifications provide that a supplemental agreement or written agreement must be made for that? A. All specifications provide that when the work exceeds 125% of the original amount, then a supplemental agreement shall be made but if the Highway Commission didn't enter into a supplemental agreement, they have likely acquiesced in the former figures.

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Q. Was it worth the same price to move this clay surfacing in 1923 as it was in 1920? A. I don't know.

Q. Do you not know from your records whether or not you were paying the same price for labor in 1923 as it was in 1920? A. I don't know.

Q. Do you not know from your records whether or not you were paying the same price for labor in 1923 as was the contract price in 1920? A. The fact that the work was being let for less, that had nothing to do with it; if there was a contract covering the matter, we would be governed by the contract.

Q. Did the contract provide that he should complete the work in 1920? A. Yes.

Q. And does not this contract also provide that if he fails so to do that he shall forfeit to the Highway Commission the sum of \$25.00 per day upon a contract of this size? A. I don't believe you could hold him to that.

Q. Just answer the question. A. Yes.

Q. But you didn't attempt to hold him to that feature? A. That should have been done before I came in.

Q. Did you attempt to at any time? A. No.

Q. Did you give him an extension of time in which to complete the road? A. No, sir.

Q. Then as a matter of fact, all that Mr. Twichell would have been entitled to is what the work was reasonably worth (340) in 1923 as to what he did? A. I would say so unless the contract governed the price.

Q. Will you produce us such contract whereby he was to receive 56c per yard for moving this clay surfacing? A. If I have it, I will be glad to.

Q. What, in your opinion, as an engineer, should a road of this kind with a six-inch clay top be worth per mile with pits located as they were in this case? A. Using present prices?

Q. Using the prices under which this was performed. A. Using the prices under which this was performed and the way the pits were located, he has got just what he ought to have coming.

Q. Could you tell us the total amount which has been agreed to be paid to Mr. Twichell for this road? A. Total original?

Q. The total amount which has been finally agreed to be paid. A. The final award for both sections A and B was \$117,793.

Q. And that is for the excavation and moving of the clay? A. Everything.

Q. Does that also include grades and culverts? A. Concrete items, culverts, grading and surfacing.

Q. And the original contract price for this work was \$60,287.76, is that right? A. Original contract, I have \$60,187.76.

Q. So that in your opinion, he received only what was (341) honestly and reasonably due him in the clay surfacing when he is to receive \$57,605.24? A. There were—may have been supplemental agreements there for other work that wasn't surfacing, I couldn't say as to that offhand.

Q. I thought I understood you that all of the extra work was for clay surfacing? A. No, there may have been other items, which I think there were, for extra work done to changing of plans.

Q. So you think \$117,793 for building 14½ miles of road through a level country is a fair and reasonable price? A. I wouldn't say that.

Q. Is it reasonably worth that amount? A. I would say based on contract prices, that is what he has coming; that is the best I can do.

Q. Do you mean the contract price was too great? A. It is greater than we let work now.

Q. Well, work was cheaper in 1923 than it was in 1920? A. Yes.

Q. You still allowed Mr. Twichell the same price for putting on clay surfacing in 1923 as he was to have obtained in 1920? A. Yes, we figured that was part of his contract.

Q. Well, in your opinion, what could a road of this same character be built for at the present time with a six-inch clay surface? A. Around \$4,000 or \$5,000 per mile, depending on the length of haul.

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Q. About \$72,000? A. Yes.

Q. So that this road cost the state almost \$50,000 more than it should have cost? A. Well—

Mr. Hanley: That is assuming a lot of things.

Mr. Graham: I am trying to get his idea.

Mr. Black: What was the question.

Mr. Graham: If I understand you right, Mr. Black, at the present time a fair price for building this road would be \$5,000 per mile? A. Yes.

Q. It would be \$72,500? A. Yes.

Q. Then how do you account for the fact of this road having cost nearly \$118,000? A. Due entirely to the unit prices in his bid.

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Mr. Hanley: With reference to those exhibits, Judge, I will say that we have sent to the Capitol for them, and it may take an hour or so to get them here.

Mr. Graham: We can proceed with something else until they come. Q. Does all of this road have a clay top, Mr. Black? A. No, it does not.

Q. About four miles and a half of it with a clay top? A. I don't know the exact mileage that is surfaced.

Q. Something like that, isn't it? A. Well, Section A is about eight miles long.

Q. It is more than that? A. I wouldn't say for sure how much it is.

Q. Project B is seven miles long, I believe? A. Yes.

Q. And Project A is seven mile and a half? A. Yes.

Q. And the clay surfacing is on B is it? A. All on A.

Q. All on A? A. Yes.

Q. And it doesn't cover all of A, even? A. I think not.

Q. Now, what would be the reasonable value, in your opinion, of building the fourteen miles down there without any clay surfacing? A. Present prices, or prices under contract?

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Q. Well, at the contract price? A. I don't remember

the yardage in that road, Judge, it's pretty hard to answer that question.

Q. Well, the contract prices, I suppose, would be without clay surfacing? A. Yes, without clay surfacing at that time.

Mr. Graham: Are there any questions by the Committee?

Mr. Vogel: Q. How many miles of the Highway did you say were surfaced in 1923? A. I said that I didn't remember for sure, about, I believe, approximately around 200 miles.

Q. How many miles of that did Mr. Atkinson survey? A. I don't remember that.

Q. About half? A. I wouldn't say, I don't remember, I think his distance showed about a hundred miles.

Q. Is that 1923 or 1924? A. 1924.

Q. How many miles did he survey in 1924? A. I couldn't say, I'd be glad to look that information all up and bring it down, I don't remember it.

Q. In the first place, are there any other states—you study these engineering magazines and things of that kind pretty carefully, what other states, if any are there that are using the private engineering system of survey? A. I don't know.

Q. You don't know? A. No.

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Q. Is it a fact that there are some doing that? A. I don't know, never heard much in regard to it.

Q. Never investigated to find out, in other words, the cheapest system? A. No, sir.

Q. You made a statement that the state had saved \$20,000 by that system of work? A. I think so.

Q. In one year? A. In one year.

Q. On the surveying? A. Yes, sir.

Q. And you surveyed 200 miles of highway? A. No, we surveyed more than that, nearly 500, about 500.

Q. The last records show you figured the state surveys cost \$60 a mile on surveying, around that? A. I think so.

Q. In other words, it would have cost your Department \$120 a mile to have surveyed these roads? A. When I made that statement, I was basing it on this fact—that the Government had failed to lay out the route in proper shape, it was improperly done, and wasn't done last Fall until it was

so late that we only had about sixty days left to make the surveys. We had to pick up eight crews of surveyors, which can't be done unless you really keep those men on all winter. The reason that they had adopted this plan is that we have so much dead timber to carry over the winter.

Q. You figured it cost about half as much under private engineers as it would under State with these conditions you mentioned? A. No, if we could afford to keep parties on hand all winter, whether we used them or not to make the surveys, we'd do it for the same amount of money.

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Q. Private engineers keep these men on hand all winter, do they? A. Most of them do.

Q. For what work? A. Oh, I don't know. Most surveyors work all winter.

Q. Very little engineering work of any kind done during the winter months, is there? A. Oh, it is the established firms in this state here that have work of some kind or other.

Q. What kind? You have been in that business. A. Our work is pretty much generally making plans for water works, sewerage, office work, surveys when the weather was decent.

Q. It wouldn't have been possible for the Highway to do that, the Highway Commission? A. No.

Q. Now, in respect to this truck that was sold to Mr. Atkinson, you say that truck was worth \$395? A. I wouldn't say that is what it is worth, that was what we are charging everybody else on the same kind of a truck.

Q. What did you base that price on? A. The price on the trucks was set before I came in here. I never changed

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that. They took all of the trucks on hand at that time and would average the cost of the truck and work put on it and sold each truck for \$395.00.

Q. You kept that price irrespective of whether there was any more work put on it or not? A. No, if more work, more shop work was put on—

Q. Isn't it true that there was \$916 repairs put in on this? The records so show, do they not? A. I don't think so.

Q. Do they not, Judge?

Mr. Graham: I couldn't say.

Mr. Vogel: I believe there is a statement of one of your men that that car cost the Department in repairs of close to the sum of \$916.

Mr. Black: That statement is likely not true.

Q. You question the veracity of that statement? A. Absolutely.

Q. Are you in a position to know how much work is being done on each of these trucks? A. Not of my own personal knowledge.

Q. Why do you question the veracity of that statement? A. We have never done that on any truck or car since I have been here.

Q. You know that positively? A. Yes, sir.

Q. You say you found out a month ago that these cars had not been paid for? A. That is the first I knew that the bill had not been entered.

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Q. Are you in the habit of letting things like this go a year? an unpaid bill of a \$1000? A. That isn't my duty. We hired the Superintendent of Equipment for that purpose, to take care of the details in connection with his own work.

Q. Have you notified him of the sale of these cars and prices agreed upon to sell? A. Yes, sir.

Q. He has been notified? A. Yes, sir.

Q. By letter? A. Well, I told him personally what the prices of those cars were, and who had those and also the letter referring to the Cadillac was referred to his Department.

Q. And still you let the matter go a year without checking it? A. I don't check up the cars of the Department, don't have time to do that.

Q. Mr. Gettelman is employed by you, is he? A. Yes.

Q. You have found his work satisfactory during the time he has been in your department? A. No, I wouldn't say it is.

Q. Why retain him then? A. Well, I thought for a while that we could make a better man out of him.

Q. In other words you are in the reforming business then? A. I was in that particular case.

Q. You figure this Dodge worth \$200? A. No, I don't know what it's worth, not any more than that.

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Q. You are not a judge of the value of cars then? A. No.

Q. And yet you made a statement you figure the Dodge was worth \$200? A. I said not any more than that, I don't know just what I said.

Q. How did you arrive at the valuation placed upon these cars to Mr. Atkinson, if you are not a judge of cars? How did you figure the Cadillac? A. It would have cost us six or seven hundred dollars to put it in shape, for our own use, then it would have been too expensive a car for us to operate.

Q. How did you happen to buy that car? A. The Attorney General's office wanted to get rid of it and we thought we might be able to use it as a car for surveying parties.

Q. Did Dr. Hibbs return a truck which he bought? A. I believe he did.

Q. You made the statement that Dr. Hibbs returned that truck as being not worth the money that you were asking for it, is that the reason? A. I don't think I made that statement, I don't know whether he returned it because it wasn't worth the money, or he couldn't pay for it.

Q. You don't know whether Dr. Hibbs returned the car, or whether the Department called for it? A. Not for certain.

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Q. You depend upon the Superintendent of Equipment to do all the collecting for that Department, is that true? A. Yes, that is true.

Q. When you sell anything down here at the Equipment Department where do the sales slips go? A. The sales slips are made out in triplicate; one is kept in the store room; one is sent up to the Capitol.

Q. Who gets them at the Capitol? A. Sent to the Equipment Department.

Q. The Equipment Department at the Capitol is in charge of Mr. Gettelman? A. Yes.

Q. At the Capitol? A. Yes.

Q. You don't check up at any time to find out how much is outstanding on the books? A. I haven't until recently.

Q. Until this investigation started? A. No, prior to that. I might state, Mr. Vogel, that the accounts of our Department are audited every year by a Board of Auditors.

Q. I see, yes, we have a copy of that. You have a stock-room man in the Bank of North Dakota, where you keep that equipment? A. Yes.

Q. What is his name? A. Paul Miller.

Q. He sells stuff down there also, does he? A. Yes, sir.

Q. Under whose orders? A. Highway Commission.

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Q. Through Mr. Gettelman? A. Through Mr. Gettelman.

Q. All instructions then to Mr. Miller with respect to sales must go through Mr. Gettelman's hands? A. Yes, when we can find Mr. Gettelman, around, that is the way it is.

Q. What are the instructions given in regard to sales? A. We instructed Mr. Gettelman to sell everything.

Q. In case you wish to sell anything, now, if someone comes to you to buy something, how are your instructions given to Mr. Gettelman or Mr. Miller you wish that sale?

A. Very seldom anyone comes to me, I don't have anything to do with that.

Q. You sold these cars to Mr. Atkinson, did you not? A. Yes.

Q. You have loaned out trucks at various times, yourself? A. To counties.

Q. Not to individuals? A. Not as I remember.

Q. Have you at any time instructed Mr. Miller to release certain stuff to individuals? A. I presume I may have, yes.

Q. How did you give those instructions? A. Over the telephone or a note.

Q. You have not regular requisition blanks to send? A. No, I never use them, because I don't have enough to do with that Department to bother a great deal with it.

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Q. Who was the Federal engineer on this Project 59, do you know his name? A. S. R. Sharts.

Q. The same man that is on now? A. Yes, sir.

Q. You don't know who surveyed that project originally? A. No, I don't.

Q. You say it was a poor job of surveying? A. Very poor.

Q. Was it accepted by the Federal Government before the Project was contracted for? A. The plans were accepted.

Q. Yes. Are they in the habit of accepting plans of that kind? A. You can't tell from a set of plans.

Q. Whether they are poorly drawn or not? A. It isn't a question of whether they are poorly drawn or not, when you get out on the ground, probably the same stations on the plans are not the same stations on the ground.

Q. How long was Mr. Gavin with your Department? A. About a year and a half.

Q. When was he let out of the Department? A. Mr. Gavin resigned, he wasn't let out.

Q. When? A. I don't remember, for sure.

Q. Just approximately. A. Oh, probably the last of September.

Q. September, 1924? A. Yes.

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Q. You figure it is the duty of the engineer on the job to get along with the contractor? A. I do.

Q. What is the purpose of sending an engineer on a job of road work? A. The purpose of the engineer there is to set the grade stakes, give the contractor alignments, see that he brings the grade up to the plans made.

Q. The contractor not doing so, and the engineer so instructing them, there might be a dispute between the two, might there? A. Yes.

Q. You don't suppose this could be the cause of the difference between Mr. Twichell and Mr. Gavin? A. I couldn't say what the difficulty is between those two.

Q. You say you get weekly reports from your division or resident engineer? A. Resident Engineer.

Q. Those reports do not state how much dirt is being moved at all? A. No.

Q. You never investigated to find out how much dirt was being moved on a project? A. It is pretty hard to tell from the investigation how much is being moved. It would require surveying.

Q. You say this road was accepted in November, 1923? A. Yes, sir.

Q. By the Federal Government? A. Yes, sir.

Q. And your office? A. Yes, sir.

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Q. Was this road completed with six inches of clay surfacing at that time? A. Must have been.

Q. You say that you figured that the Highway Commission had accepted that job in the fall of 1920, then this extra work of Mr. Twichell would have been unnecessary. A. I don't say that—the year 1920, I don't know from personal knowledge, from his own statements I'm making that statement.

Q. You took Mr. Twichell's word for that? A. Yes, and from the engineer in that Department.

Q. You say that road disintegrated during the winter months? A. Yes.

Q. If the Highway Commission had accepted it in 1920, that is, isn't it true, that if they had in 1920 without any clay surfacing they would have been stuck? A. They would have been stuck.

Q. You never went down there to investigate until after Mr. Twichell called for a settlement? A. No, I was there in August, 1923, and probably February, 1924.

Q. You never investigated to find out how much Twichell was doing down there? A. No, I didn't, you see the work was really nearly all done.

Q. When did you come into the office? A. April first, 1923. What I started to say, Mr. Vogel, was that the work that was nearly all completed before I came into this office, and as far as being—there only a little bit required to finish it up, I didn't pay a great deal of attention to it.

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Q. You say you went down in the first place when Mr. Gavin made his report on this project that Mr. Thorberg had measured the pits? A. I don't believe the pits were measured the first time I was down there. That was in August, the pits were not measured until after that time as I recall.

Q. They were measured how, when you went down, by Mr. Thorberg? A. Sir?

Q. They were measured by Mr. Thorberg when you went down? A. They were measured after August, I think.

Q. Explain how you measured them to figure how much dirt has been moved out of that pit. A. As a rule where there is a large pit, you get a cross section, diameter, of that pit, take elevations through the pit at different intervals, plot that on cross section paper, the elevations should show you a section right through the pit to any place that you happen to take it, then ordinarily, with a parimeter you measure the area of that section, having the area of the section, and by the sections, you could get the volume. You must have the volume before you haul out of the pit or you can't tell what the volume was after it was hauled.

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Q. You start an entirely new pit? A. Oh, yes.

Q. Mr. Twichell had not used this pit in 1920 at all, or 1921? A. Which pit are you referring to?

Q. The clay pit? A. Oh, there were several pits, several.

Q. But these pits that Mr. Twichell used for clay hauls, now were they new pits just opened up? A. Well, I don't know when the pits were opened up, I think the pits were all selected when I came into office.

Q. How can you tell then, how much clay out of that pit Mr. Twichell has hauled? A. Measured.

Q. You don't know whether that pit was used before? A. Well, we would have to assume in that case that it wasn't cross sectioned before.

Q. Was it cross sectioned before, you didn't look that up? A. I couldn't say.

Q. You gave Mr. Twichell the benefit where the pit was concerned? A. Well, I don't think anything ever was taken out of these.

Q. You don't know whether he took it out in 1920 under his contract, 1921 or 1922, or 1923? A. That wouldn't make any difference to us which year he took it out.

Q. Didn't make any difference? A. No, just the total amount.

Q. You deducted from that when he had been paid; if

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he had been paid you looked into that? A. I don't know, I don't recall, you couldn't make an estimate without deducting.

Q. That is what I would like to know, whether you made that estimate without deducting. Now, you speak about—in Project 59, that you allowed them 56c a cubic yard for moving that clay surfacing, is that correct? A. Yes.

Q. And 5c a station overhaul? A. Yes.

Q. That was according to your original contract? A. Yes, sir.

Q. When did that original contract call for completion of the job? A. I don't remember. (Referring to papers). This doesn't seem to state, I believe you have a copy of another specification.

Mr. Hanley: In any event, that is a matter of record, isn't it, Mr. Vogel?

Mr. Vogel: That is what I want to know, now, if you can get it from there. Well, we will pass that by, and look it up later.

Mr. Black: Just a minute—September 15th, 1920.

Q. Supposed to be finished September 15th, 1920? A. Yes, sir.

Mr. Vogel: There is another section, Mr. Lounsberry said—

Mr. Lounsberry: Called for December first and another September first.

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Mr. Vogel: Mr. Twichell did not complete those jobs at that time and so violated his contracts, didn't he? A. Yes, sir, that is quite a common occurrence in our work, to have contracts carried beyond the date of completion.

Q. If you speak about allowing his 56c and 5c overhaul, that was upon a supplementary agreement with Mr. Twichell? A. Yes.

Q. Have you this supplementary agreement on 59? A. Just a minute, that is in our Change of Plan Reports which are submitted to the Bureau of Public Roads and when approved by them becomes a Supplementary Agreement.

Q. You call that a Change of Plans what? A. Change of Plans Report.

Q. You have a copy of that there? A. Yes. I am just looking for a Supplementary Agreement with the Government; here we are, here's the Change of Plan Report, No. 1, January 26th, 1923, it is signed by W. H. Robinson, C. A. Myhre, and J. G. Gavin. Item 6A Overhaul of clay surfacing, 156733 Cu. Yds. Stas., Unit Price 5c. on November 28th, 1922. Item 4, Excavations for clay surfacing, 779 Cu. Yds. 58c per cu. yd., there are several items.

Q. That is what you call a Supplementary Agreement? A. Yes, that is approved by this Department and by the Bureau of Public Roads.

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Q. Who is paying for this road down there? A. Supposed to have been paid 50 per cent by the Government and 50 per cent by the County.

Q. Did you say this Supplementary Agreement has to be signed by the County? A. Not necessarily.

Q. Not necessarily? A. No.

Q. They may have signed some of these, I will look and see.

Q. Is it your practice to get these Supplementary Agreements signed by counties who are paying half of the money? A. We do sometimes, but it is not necessary.

Q. You never investigated to find out whether the county had agreed to that or not? A. I couldn't say as to that.

Q. In your administration, when you are making a Supplementary agreement, do you get the consent of the County that is paying fifty per cent. A. Yes, we do.

Q. In all cases? A. In nearly all cases unless it is some minor item, that doesn't make a great deal of difference.

Q. You have investigated this case to find out whether it was done or not? A. No.

Mr. Vogel: That is all.

Mr. Graham: Are there any other questions from the Committee.

Mr. Thatcher: Isn't it necessary that the County Commissioners sign these Supplementary Agreements? A. Not necessarily, no.

Q. According to law? A. No.

Q. Now, you stated, Mr. Black, that you were surveying down there, I think in 1920, were surveying in the winter time? A. Yes.

Q. That isn't customary? A. Well, there are times when it is necessary to make the surveys then, but it is very bad practice.

Q. Was this survey made up by the engineer employed in the State Highway Commission, or was this let out? A. I think that was done by men employed in the Highway Department as nearly as I know, I really don't know who did it.

Q. Did Mr. Twichell do any more work for the State Highway Commission outside of this one Project in Richland County? A. Yes, he did Project 58 in Sargent County, and he made, he built Project 1, that was in Cass County a good many years ago, the first Federal Aid Project in the State.

Mr. Graham: Q. Did I understand you to say that this project had been completed in the Fall of 1920, but not accepted? A. No.

Q. Now, from where do you get such information? A. I didn't say in 1920, I said that probably in 1921, or 1922, it may have been completed, that it was in September so it
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could have been taken over; now that is my understanding from the engineer in our Department.

Q. Is there any such statement in any of your records? A. I don't believe I get your question.

Q. Do your records disclose that fact? A. Well, they naturally wouldn't; such a statement likely wouldn't be in any of the records, no reason for being there.

Q. Do not the engineers when the job has been completed notify your Department at Bismarck that it is ready for acceptance? A. Yes, they should.

Q. Is there any such notice in any of your records? A. I believe not.

Q. Is there any notice or letter from Mr. Twichell to your Department that this job was ready for acceptance? A. I never looked over the correspondence back, previous to the year 1923.

Q. Then you have no record evidence that the job was ready for acceptance prior to the Fall of 1923? No, except from information given.

Q. I said record evidence. A. No, no record evidence.

Q. And when you were notified that it was ready for acceptance, you sent down your engineer and the Federal Engineer to look it over? A. Yes, sir.

Q. And it was accepted by them at that time? A. It was.

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Q. Now, you had some dispute about the money which Mr. Twichell should receive for this clay surfacing? A. Never had any dispute, we were governed entirely, have always been governed entirely by the contract price.

Q. Now, will you show us where there was any agreement in any written contract that he was to receive any price for clay surfacing? A. I just read that a minute ago from that Change of Plan Report, which was approved by the Highway Commission and the Bureau of Public Roads.

Q. That was not done until after the work had been completed, was it? A. No, that was previous to my term of office.

Q. That they allowed him for the clay surfacing? A. Yes, sir.

Q. Will you turn to that? (Witness refers to book.) A. November 8th, 1922, signed by the former Highway Commission; "Item No. 4, Excavation, 58c a cu. yd. Sta., 305 borrow for clay surfacing from station 306 to 318, they paid the

owner of the pit 10c per cu. yd., cost of material overhaul 5c overhaul of above material.

Mr. Vogel: That is all the amounts allowed Mr. Twichell for that work? A. Yes.

Q. Is that the full amount allowed him? A. No, that is just one of the Change in Plans.

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Mr. Graham: Those are the only changes that were made in November, 1922, as appears from your records? A. I think so; no, here is another one, all the Change of Plan Reports that we have are in this book, that I know of.

Mr. Graham: Then under the Reports submitted by Mr. Gavin on November 27th, 1922, it shows an allowance of \$306.24 for clay surfacing? A. Between those particular stations, yes.

Q. And also an item of \$1,276.00 for clay surfacing is that right? A. Yes, sir.

A. And then an item of \$3,300 for overhead on those items of clay surfacing? A. Yes.

Q. Now, is that all of the changes that you find in the book prior to the time you went in office, for clay surfacing? A. No, sir. Change in Plan Report No. 3, there is a notation, five sheets, that is the 5th sheet, there are several changes.

Mr. Graham: Q. No, but I said of clay surfacing. A. It appears here, that back in October, 1920, there is an allowance for covering a sandy portion with selected material.

Q. What was the amount of that? A. There isn't any amount given there, just quantities are given.

Q. Here is the date of this change. A. October 25th, 1920 up to January 26th, 1923, Change in Plan Report No. 4.

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Q. There is an item on January 26 of \$17.60 for clay surfacing, is that right? A. Yes, sir.

Q. And then an item of \$163.45 for overhaul? A. That is correct.

Q. Now, instead of these being an increase, they are a decrease in the amount previously allowed? A. Yes.

Q. Actually makes a decrease of \$181.05 on clay surfacing, is that correct? A. That is correct.

Q. Now, does not your plans and specification provide, Mr. Black, that whenever extra or additional work is ordered that it must be by a written order or instructions from the Engineer in charge? A. Yes, they do.

Q. Now, was that done during the time that your engineer ordered extra or additional work? A. Our engineers have never ordered any extra or additional work.

Q. Did not Mr. Gavin or Mr. Wallace order work in

1923? A. I am speaking of clay surfacing. I ordered some extra work done there myself, to take the sags out of the road.

Q. When was it that you ordered it? A. 1923.

Q. What time? A. Possibly August.

Q. Hadn't the work been accepted in August? A. No, sir.

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Q. Now, did you give an order in writing for that? A. No, sir.

Q. Why did you not do so? A. I was there on the ground. I just observed a low section in the road. I told them to take that sag out of the road, which would mean no increased cost to us.

Q. Why did you not instruct your engineers in the spring of 1923, to abide by the terms of your written contracts? A. Well, I went in in 1923, the work in 1923 was practically all completed under a former administration.

Q. Did not Mr. Twichell put in considerable time putting a clay surface on this road in 1923? A. He put considerable time in, yes.

Q. That was done under the instruction of your Engineer in charge? A. Yes.

Q. Why did you not have them obey rules and regulations in regard to making written orders for the work? A. I presume Mr. Gavin did give Mr. Twichell written orders down there.

Q. Was it not also his duty to have sent you a copy of his written orders up to Bismarck? A. I think you will find some in the files that I turned over to you this morning.

Q. If all of this work had been ordered, as you say by the engineers, why was it necessary to have a Board of Arbitration to determine what amount, if any, should be paid to Mr. Twichell? A. The purpose of the Arbitration Board was

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that there wasn't any question about the quantities, but there may have been a question about his authority for doing the work.

Q. But there was no question about the quantities? A. No., sir, not on 59A, as far as I know 59B was entirely completed before I came in, and therefore I had nothing to do with it.

Q. And there was no question about quantities of work on 59A? A. No, sir.

Q. Did not the Report of Mr. Gavin show that Mr. Twichell was entitled to only \$15,000 or \$16,000? A. When Mr. Gavin made that Report, as I said awhile ago—

Q. Did that Report of Mr. Gavin also show what Mr.

Carvin—A. I don't know what his Report showed.

Q. Can you produce that Report? A. I don't know. What I started to say, that the reports that have been made heretofore on that project were made with full knowledge of where the material was hauled.

Q. Do you mean to say that your engineer in charge didn't have full knowledge of what he reported? A. Evidently did not.

Q. What reason have you for making that statement. A. For the reason that I found it different when I went down on the ground in February.

Q. You found it different? A. Mr. Myhre and myself.
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Q. I didn't understand that you and Mr. Myhre made any survey of the work done? A. I believe I stated a few minutes ago that we went down and had the pits measured.

Q. The pits had been measured and reported to you prior to that time? A. Wait until I get through. We had the pits measured, then from the people who sold the pits we found where the material had been hauled and we checked that over on the ground ourselves.

Q. Checked over what? A. As to where the material had been hauled from each pit.

Q. How could you tell where the material had been hauled? A. Very easily, where the biggest deposits were there was a different colored material.

Q. Do you mean then that he had hauled clay from one pit beyond the next pit? A. Oh, no.

Q. What deposit could there be then, if he hauled the material only half way between each pit? A. There was some where he hauled more than halfway between pits.

Q. Why should he haul it more than halfway? A. One pit would give out, not enough material there.

Q. Your engineer did so? A. This Highway Commission didn't select any pits, used in this work; the pits were all selected before I came in here. And the mere fact that they were improperly selected contributed to the increased cost of the work.

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Q. If that be the case, why didn't you men in 1923 when you went down change pits and select proper pits? A. So near the end there wouldn't be much advantage in changing.

Q. Did you not make a certificate on December 2nd, 1924, that there was due to Mr. Twichell \$38,474.40 for the balance from November 30th, 1922, to November 10th, 1924, on Section A of Project 59? A. Let me see it.

Q. Did you make such certificate?

Mr. Hanley: He has a right to see the paper.

Mr. Vogel: I'll have to ask you not to interfere or be barred from the room.

Mr. Hanley: If I am barred from the room the client goes with me, we have tried to be fair here, but any time that we feel that you are not fair to us we will walk out on you.

Mr. Vogel: All right.

Mr. Hanley: Come, on Walter. The rule is, when you ask a witness the contents of a paper—

Mr. Graham: I'm not asking him the contents, I'm asking him first whether he made such a statement, then I'm perfectly willing to show it to him.

Mr. Hanley: That when you ask the witness the contents of a written instrument you ought to—

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—Mr. Graham: I didn't ask him the contents.

Mr. Hanley: Well, any time that we feel that you're not fair to us, Gentlemen, we walk out.

Mr. Black: I can't answer that question without seeing the dates.

Mr. Graham: All right. A. I have got to reach this date on the previous estimate in order to answer that. That is correct.

Mr. Graham: Then this work was done during the time in which you were in office? A. \$38,000 and something.

Q. And you so certified, did you not? A. Yes, and that last there is dated November 30th, 1922, isn't it?

Q. And there wasn't any work done after November 30th, 1922? Until the Spring of 1923? A. I couldn't say about that.

Q. Could you refer to the record and tell us? A. No, I couldn't tell whether there was any work done after that date unless it was after that had been submitted by the Division Engineer.

Q. Well, as a matter of fact, do you not know that it was frozen up after that time so that work could not be done after that time in the Fall of 1922? A. I don't know, no.

Q. Now, the additional pay that Mr. Twichell was asking for was for work done during the season of 1923, was it not? A. Some of it.

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Q. Practically all of it? A. No, not all of it.

Mr. Graham: Mr. Lounsberry, will you go down to our room and get that file of blue print of the work done in 1922.

Mr. Black: I have one here, Mr. Lounsberry, instead of going down there.

Mr. Graham: You have a chart made showing the clay surfacing during 1923, have you not, Mr. Black? A. This is the clay surfacing placed during 1923—placed prior to 1923 (indicating).

Q. Now, can you take this chart and give the number of yards which Mr. Twichell claims to have placed during 1923? A. I could by taking this up to the office and do it there.

Q. Can you not do so from the chart here in a few minutes? A. No.

Q. What, not in a few minutes, does it not show here? 1302 cubic yards? A. Yes.

Q. Is that a station? A. Yes.

Q. And is the next one 630 cubic yards? A. Yes.

Q. And the next one 3444 cubic yards? A. Yes. Here is another one, 203 cubic yards, 2372 cubic yards; 360 cubic yards—maybe those refer to that above, there is a pit down here, that should show, 500 yards.

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Mr. Graham: Then your records show that prior to 1923, according to this blue print there was 1228 cubic yards placed in one pit? A. Yes.

Q. 1538 cubic yards from another pit, 660 cubic yards from another pit, and 1775 cubic yards from another pit? A. Yes.

Q. And 938 cubic yards from another pit, and 396 cubic yards from another pit? A. Yes.

Q. And 2236 cubic yards from another pit, is that right? A. Just a minute, yes, but don't take any of those twice, now, there it is over there.

Q. 587 cubic yards and 965 cubic yards? A. I don't know for sure whether that applies to yardage in pit or to the haul.

Q. So that as a matter of fact there was as much, or more clay surfacing claimed to have been placed by Mr. Twichell during 1923, as there had been before? A. I couldn't answer that off hand, Mr. Graham.

Q. What is that? A. I couldn't answer that off hand without checking over again.

Mr. Vogel: Give him an opportunity.

Mr. Black: I'd be very glad to check that over and report to you.

Mr. Graham: All right, that will be fine, if you will. Mr. Vogel: Now, in this Change of Plans Report, wouldn't they specify the exact number of yards of clay surface to be put on? A. Specify what has been done.

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Q. Isn't this Change of Plans made out before the work is done? A. It is supposed to be, but as a rule, it isn't.

Q. They specify, however, just exactly how much, Mr. Twichell—. A. How much he had done.

Q. How much he had done. A. How much he had done.

Q. And that you call also a supplementary contract, in other words? A. Yes.

Q. Is it customary to make out a supplementary contract after the work is done? A. No, the ruling of the Bureau is now very strict but at that time it wasn't. Before you performed any extra work you had to submit a Change of Plan Report; they approve that, then we are privileged to go ahead with the extra work.

Q. Mr. Twichell then did more than his Change of Plan Report called for? A. I think so.

Q. Do you know? A. Yes, I would say that he has.

Q. That is where the point of disagreement is? A. Now, as far as the Government is concerned?

Q. No, but I mean between the County and the Highway Commission, is that where this point of disagreement that you speak of awhile ago is? A. Which disagreement was that?

Q. You mentioned that the disagreement of Richland County was on the authorization of Mr. Twichell to do this work. A. I didn't say anything about Richland County.

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Q. On Project 59? A. No, I didn't say there was any disagreement of Richland County.

Q. Mr. Twichell did do more work than the Change of Plans Report specified he should do? A. I think he did.

Q. Do you know he did? A. Yes, of course, there is a question about this Change of Plan Report, which the Government did finally approve a Change of Plan Report that covered everything, so that in a way he hasn't done more work than the Change of Plans covered.

Q. This Supplementary Contract was made after he completed the work? A. Yes.

Mr. Graham: Now, in order to get the record clear, all of the work was done under oral instructions? A. Not all of it.

Q. Was any of it done under written instructions from any engineer in charge? A. Just those Change in Plans Reports.

Q. No, but I said under written instructions to the contractor under the Engineer in Charge? A. I can't speak for the former administration, I don't know, I couldn't give an answer, not since I have been in.

Q. All that was done under your administration was done by verbal authority? A. Yes.

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Q. And who gave the verbal authority to Mr. Twichell to do the clay surfacing in 1923? A. The Resident Engineer, Mr. Wallace, the Construction Engineer, and I don't know just what orders Mr. Gavin gave him.

Q. Did Mr. Gavin make any report to you of having given any verbal authority to Mr. Twichell to do clay surfacing? A. I couldn't say, I could look through the files.

Q. You appeared and testified before the Arbitration hearing? A. Yes, sir.

Q. And before the Arbitration hearing you looked up all the records and letters and all information which you could obtain in regard to this project? A. Will you please state that question again.

Q. I say, before the hearing did you go through all of your records, files and letters to obtain all possible information concerning this project? A. Yes, I did.

Q. And everything was fresh in your mind at that time in connection thereto? A. Oh, I wouldn't say that my mind always has been fresh in connection with this project because I have never had a great deal to do with it.

Q. But you had to get out all available information? A. All that I could.

Q. Now, did you testify at that time that no written instructions had been given to Mr. Twichell for any clay surfacing? A. Well, I may have been speaking about a prior

administration, I never gave any written instructions regarding it.

Q. And Mr. Twichell also testified at that time, did he not, that any instructions which he had during either administrations were oral only? A. I don't remember what he testified to.

Q. You were present? A. Yes.

Q. Now, at that arbitration hearing did you produce before the committee the estimates and figures turned in by Mr. Gavin showing the balance still coming to Mr. Twichell? A. I think so.

Q. And you still have that estimate or report of Mr. Gavin's? A. I'll look and see today whether we have or not.

Q. And why was it that Mr. Calvin or Mr. Carroll were not called to give their testimony in regard to the arbitration matter? A. I spoke to Mr. Bliss about requesting Mr. Gavin to be present and all others who had any knowledge of this job and Mr. Gavin then was out of the state and evidently Mr. Bliss could not get in touch with him.

Q. Did you try to get in touch with him so as to give the Arbitration Board full information? A. I instructed—

Q. But did you, yourself? A. No, no.

Q. In fact, you testified at that hearing that you did not know where he was? A. I don't believe I did know where he was at that time.

Q. Did you make any effort to find out? A. I instructed Mr. Bliss, I made inquiry as to where he was, nobody knew where Mr. Gavin was at that time.

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TESTIMONY TAKEN AT HEARING BEFORE SPECIAL HOUSE COMMITTEE ON FEBRUARY 19th, 1925, NO TESTIMONY HAVING BEEN TAKEN ON FEBRUARY 18th, 1925).

Mr. W. G. Black resuming the stand, testified as follows:

Q. I think you told us when you were on the stand before that 59A and B was ready for acceptance in the fall of 1920? A. No, I didn't say the year 1920, I said possibly the years following 1920.

Q. In what year did you say it was ready for acceptance? A. Well, I couldn't say, only from hearsay of course.

Q. Then you have not looked through the letters and correspondence to see when it was ready and the word received from Mr. Twichell? A. I don't know that I have.

Q. So that you didn't have any definite information when you made those statements the other day? A. Except from statement of engineers that was connected with the Highway Commission on that work.

Q. I will ask you to refer to a letter of date December 30, 1920, from Mr. Twichell to the Highway Department asking for an extension of time. Under that date, do you not find a letter from Mr. Twichell asking for an extension of time on 59A to July 15, 1921 and 59B to August 1, 1921? A. Yes, sir.

Q. And under date of February 21, 1921, do you not find

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copy of a letter of the Highway Department granting an extension of time on this project to July 15, 1921, and August 1, 1921? A. Will, you repeat your question? (Question repeated.) A. No.

Q. What do you find? A. This covers only one extension to July 15, 1921, unless there are two letters here.

Q. It shows an extension of time to August 15th. Is it August first or July fifteenth? A. July 15, 1921 for one and August first for another. That is the request made by Mr. Twichell.

Q. Letter extends time of both to July 15, 1921? A. That is right.

Q. Then under date of June 3, 1921, you find a copy of a letter from the Highway Department to Mr. Twichell extending the time to August 1, 1921? A. Yes, sir.

Q. Then under date of October 8, 1921, do you find a copy of a letter from the department to Mr. Twichell concerning the unsatisfactory character of the work and the progress being made? A. Yes, sir.

Mr. Thatcher: What year was that?

Mr. Graham: October, 1921.

Q. Then under date of November 10, 1921, no, November 7th, do you find a letter from Mr. Twichell about the snow and frost and stating that he cannot do any further work that year? A. Yes.

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Q. And under date of November 10, 1921, do you find a copy of a letter from the department to Mr. Twichell giving him authority to discontinue the work for that year? A. Yes, sir, there is a letter here, an unsigned letter.

Q. Then under date of July 7, 1922, do you find a copy of a letter from the Highway Department to the Northern Trust Company, assignee and bondsman, notifying them that Mr. Twichell has not commenced work on 59A and B? A. This letter states Project 58 Sargent County and 59 Richland County.

Q. In regard to 59? A. Yes.

Q. And under date of July 15, 1922, do you find a letter from Mr. Twichell to the Highway Department asking additional time to commence the work and stating that he will be able to complete it in 1923? A. I see this letter refers to Project 58 in Sargent County.

Q. I think you will find it also in regard to 59? A. He states in this letter that he will—says: "I hope I have made a deal with Stevens Bros. to complete Sargent County work. They will let me know in a very few days and begin at once. They figure one outfit will complete it in ten days."

Q. Look through it and I think you will find in regard to the length of time he can complete Richland County project? A. It states: "The road, both Sargent and Richland,

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are in good shape to travel. The public will be in no way inconvenienced. The work is largely a lot of non-essentials that should be done under the contract but in which only the engineers would have any interest. There is not to exceed two weeks work on either job."

Q. And under date of August 8, 1922, do you find a copy of the letter from the department to Mr. Twichell and the request to complete the road so that they can be accepted before winter? A. Yes, sir.

Q. Then under date of August 12, 1922, do you find a letter from Mr. Twichell to the department asking for a personal meeting? A. I don't know as you could call it a personal meeting. I will read the letter. The letter is addressed to W. H. Robinson, Bismarck, North Dakota. My dear Sir:

Will you kindly send me the substance of your answer to letter to Mr. Gavin. I don't understand what is being done to me. Also advise me if you will be in Bismarck the latter part of the week. I feel I must advise you something pertaining to my work. Respectfully, T. Twichell.

Q. I ask you to look at the letter of May 14, 1923; letter from Mr. Twichell to yourself in which he advises you that he will let you know when he considers the work as completed on B? I believe it would be good to read it right into the record. A. "W. G. Black. My dear Black: Have sent men to put new top on Richland County, Division B. Also to smooth up A in good shape. Will send teams there as soon

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as pits are fit to furnish covering. Have notified Gavin and will advise you when I consider B finished. I wish you would put me on your list so I may be advised of lettings. Should have something to move to when my two jobs are done. Thank you for bids on lettings. With personal regards, T. Twichell.

Q. I will ask you to turn to letter from Mr. Twichell under date of October 15, 1923, and stating that he expects to finish 59 before it freezes up. Do you find that? A. No.

Q. Maybe I got the wrong date on that. Strike out the question. I call your attention to letter of October 15th, copy of letter from your department to the Northern Trust Company in which they state that Mr. Twichell expects to finish the job before the freeze-up. A. Yes, sir.

Q. I call your attention to copy of letter from your department under date of November 20, 1923, to Mr. Twichell, that final estimates are being prepared. A. Yes, sir.

Q. Call your attention to letter from your department to Mr. Hollister of the Northern Trust Company concerning 59, in which you state, among other things, that estimates are being prepared for the county commissioners for this job? A. Yes, sir.

Q. Have you such estimates as were prepared for the county commissioners? A. Oh, I don't know that we have.

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Q. What became of them? A. Simply is a question of not being able to agree with the contractor, as I remember it, no definite estimates were made.

Q. In making your estimates up, you do not have any occasion to call in the contractor to see if the estimates agree with what he claims or not? A. We do in case there is any particular use of making estimates as the contractor will not accept if he feels we are not giving him a fair deal.

Q. Do you mean to say your department goes out to each contractor and asks whether the estimates which your engineer has prepared will be acceptable to him? A. No, sir. What I mean to say is that this is an unusual case, a good deal we had no knowledge of as a good deal was completed prior to our term.

Q. From the letters which we have gone over this morn-

ing, Mr. Black, it appears you were mistaken in the testimony you had given before as to these roads being completed prior to your going into office? A. I wouldn't say.

Q. Does it not so appear from the letters? A. I wouldn't say so.

Q. You think the correspondence shows that the work was all completed before you went into office? A. I don't think it does show or doesn't show.

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Q. What do you think that Mr. Twichell meant in his letter of May, 1923, stating he would let you know when the work was completed? A. What he meant was that the work being held over winter, it had to be practically gone over again in some instances almost like a new job and it was simply a case of re-building the road in each year with him in parts.

Q. And the correspondence shows that these estimates were asked each time by Mr. Twichell? A. Yes, sir.

Q. So that it was not then the fault of the department that the roads had not been completed? A. Oh, no.

Q. On February 6, 1924, did you receive a letter from Mr. Twichell in which he claims that there is about \$35,000 still due him? A. He states that—in part, the letter states: "That he would not or could not any longer believe that I was owed about \$35,000 and could not get either the money or some evidence that it was owed."

Q. Is it not a fact that at that time Mr. Twichell was claiming a bill of \$34,000 or about that? A. I never knew just what Mr. Twichell did claim. I am not sure that he even knew himself what he had coming.

Q. You had several talks with him? A. We had conferences but we never arrived at any result.

Q. In any of these conferences did he state to you what he claimed? A. No, I don't believe Mr. Twichell knew what he did have coming.

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Q. You don't think he knows yet? A. I couldn't say as to that.

Q. Did you send Mr. Myhre down to appear before the Board of County Commissioners in Richland County in the month of February, 1924? A. Yes, sir, I presume that was the date, I don't remember the date.

Q. And do you know whether or not Mr. Myhre stated to the Board of County Commissioners that the estimates sent in by the department engineer was approximately \$18,000 balance due, and that Mr. Twichell claimed \$34,000 and that he thought a settlement could be obtained for \$18,000? A. I don't recall the figures.

Q. Well, did Mr. Myhre tell you anything about it when he came back? A. I don't recall what was said about that.

Q. Have you no recollection of anything? A. No, nothing that I could answer specifically.

Q. Now is it not a fact, Mr. Black, that from the correspondence which you have looked over here this morning that it now appears that no claim was ever made by Mr. Twichell that either Project A or B had been completed until in the fall of 1923? A. Well, I wouldn't infer that from the correspondence.

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Q. Would you not so infer from the letter of May, 1923, in which Mr. Twichell states that he will let you know when these projects are completed? A. Yes. The date of May wouldn't be much of a criterion to go by.

Q. That shows the theory under which Mr. Twichell went? A. If such letter was received in the fall, it might mean something; along in May is about the time of the year he was going back to rebuild the road.

Q. You wouldn't believe then the letter that Mr. Twichell wrote, is that what you desire the committee to understand? A. No, I don't desire—I desire the committee to get the right understanding.

Q. Can you point out for us any place in the correspondence where Mr. Twichell claims that the roads had been completed prior to the fall of 1923? A. No, I don't know as I can.

Q. Well, it is usually customary among contractors whenever they complete a road to promptly notify the department in writing? A. The practice is, the contractor notifies the division engineer and they in turn notify the Bismarck office.

Q. And there is nothing of that kind in any of the correspondence or letters from any of the engineers? A. Not that we can find in the files at present.

Q. And no final inspection was ever demanded? A. Not that I know of.

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Q. Now was there any change in plans made under Mr. Robinson's regime for an increase in the cost of this road? A. Yes, sir.

Q. And when was that change made? A. One increase submitted November 27, 1922, another in November 27, 1922.

Q. You haven't reference to what I asked. If any increase was asked from the Bureau of Public Roads to change the estimated cost of the road? A. There is, during the term of Mr. Robinson, a revised detailed estimate submitted on February 23, 1923.

Q. And permission was secured from the Bureau of Public Roads for this change? A. Yes, sir.

Mr. Lounsbury: I think he got the date wrong, is it 1922?
A. Yes.

Q. What was the original estimate of the cost of this road submitted to the Bureau of Public Roads? A. The original estimate submitted to the Bureau of Public Roads is more or less of a general statement of the project.

Q. I am asking you for the amount of it? A. I couldn't tell you that.

Q. Can you not tell from the records before you? A. No, but by the correspondence, but by going through the project statements that are made out.

Q. I would like to call your attention to project statement under date of February 18, 1921. Does it not therein state (387)

that the amount of it is \$67,135.26? A. This is not a preliminary estimate to the government, this is an estimate based on the contract after the contract is awarded.

Q. This is the project agreement made with the government? A. After the contract is awarded.

Q. For the amounts which I have read? A. Yes, sir.

Q. Then will you turn to the next change made by Mr. Robinson? A. Sir.

(Question repeated). The next change, as it appears here, was recommended by the district engineer of the Bureau of Public Roads prior to the time that I came in office on February 6, 1923.

Q. And was signed up by the department on what date? A. This was okayed in February, 1923, but finally signed up October 13, 1924.

Q. Is there not one signed up by Mr. Robinson in March, 1923? A. March, 1923? I don't know.

Q. Well, will you look and see? A. It is marked 19, 1923.

Q. It was signed by Mr. Robinson? A. Yes, sir.

Q. And Mr. Kitchen and by the acting Secretary of Agriculture? Is that right? A. Yes.

Q. And that changed the amount from \$67,135.26 to what amount? A. \$89,983.98.

Q. Then was there still another change made by you after the work had been completed? A. Yes, sir.

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Q. Now on what date was that made? A. October 12, 1924.

Q. And what was the amount of that? A. \$119,179.09.

Q. Now, why did you have that change made? A. That change was made after we found out what the quantities were.

Q. Well, if the work was completed in the fall of 1923,

did you not receive an estimate from the engineer in charge showing the final estimate and the total cost of A. & B. of 59? A. Yes, I presume we did.

Q. Now would you produce that, the one for A? A. It is hard to submit any of these; none of these are signed, so many were made up—

Q. I think we can show you some that were signed. I call your attention to Exhibit 6 and ask you if that is not the certificate of completion made by Mr. Thorberg and Mr. Gavin for Project 59 A? A. Yes, sir.

Q. Calling your attention to the last page of that, does it not show the total construction cost including concrete bridges and all departments of the road at \$48,977.94? A. I will look through this and see if it includes all the items or not. That was an estimate sent in by the division engineer before the quantities were correctly arrived at.

Q. Just a minute, I am asking you if that is not report of certificate of completion made by Mr. Thorberg and Mr. Gavin under date of December 8, 1923? A. Yes, sir.

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Q. And it shows the total cost of construction of A as \$48,977.94? A. That is what that shows.

Mr. Graham: I offer in evidence Exhibit 6.

(EXHIBIT 6)

NORTH DAKOTA STATE HIGHWAY COMMISSION

Office of Division Engineer
Valley City, North Dakota.
Dec. 3, 1923.

Certificate of Completion

Federal Aid Project No. 59, Richland County.

I hereby certify that Federal Aid Project No. 59A Richland County has been constructed substantially according to plans and specifications; that the centerline grade as constructed approximates within allowable variation the grades shown on the plans and authorized changes; that the fills are to the required width shown on the plans and authorized changes; that the drainage structures, guardrail, riprap, etc., have been installed and constructed according to the plans, authorized changes and attached list as measured in places on the project; and that the project is ready for final inspection by the Construction Engineer.

(Signed) JOHN C. GAVIN,
Division Engineer.

(Signed)
C. A. THORBERG
Resident Engr.

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NORTH DAKOTA STATE HIGHWAY COMMISSION BISMARCK RECEIVED DEC. 10, 1923 REFD TOJ.A.W..... ANSD NOTED	
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Sheet No. 2. Accompanying Division Engineer's Certificate of Completion.

F. A. P. No. 59, Section A, Richland County.

**DRAINAGE STRUCTURES IN PLACE
BRIDGES AND BOX CULVERTS AS CONSTRUCTED**

Station	Size	cu. yd. Concrete	Reinf.	Exc.	Exc.
			Metal lbs.	D.Str cu.yd.	W.Str cu.yd.
0-00	1½'x1½'x30'	7.67	364	12	21
26-47	3'x2'x30'	11.30	537	12	
26-47	3'x2'x30'	11.30	537	6	
75-75	3'x1½'x26'	9.35	468	10	
78-06	5'x2'x30'	15.98	1,129	10	
78-06	1½'x1½'x30'	7.67	364	10	
129-95	1½'x1½'x30'	7.67	364	8	
181-10	2'x1½'x26'	8.01	351	10	
181-62	2'x1½'x30	8.73	403	8	
203-95	3'x2'x26'	10.34	468	10	
255-23	1½'x1½'x26'	7.00	317	6	
310-51	1½'x1½'x26	7.00	317	10	
340-00	5'x1½'x30'	14.09	966	12	
340-66	3'x2'x30'	11.30	537	12	
392-40	5'x2'x26'	14.48	976	20	
TOTAL		151.89	80.98	156	
					244.31
					65.29
					309.60

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Sheet No. 3. Accompanying Division Engineer's Certificate of Completion.

F. A. P. No. 59, Section A, Richland County.

**DRAINAGE STRUCTURES IN PLACE
PIPE CULVERTS AND HEADWALLS AS CONSTRUCTED**

No.	Station	15"	18"
3	21-50		24'
10	99-95	24'	
12	166-40	24'	
17	206-00	24'	
18	208-70	24'	
21	331-22	24'	
25	354-17	24'	
26	390-70		24'
-		144'	48'

Sheet No. 4. Accompanying Division Engineer's Certificate of Completion.

F. A. P. No. 59, Section A, Richland County.

GUARD RAIL AS CONSTRUCTED

Station to Station	Lin. Ft. R. of C. L.	Lin. Ft. L. of C. L.	Total	Remarks
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None

RIP RAP AS CONSTRUCTED

None

(391-a)

Sheet No. 5. Accompanying Division Engineer's Certificate of Completion.

F. A. P. No. 59, Section A, Richland County.

SNOW FENCE AS CONSTRUCTED

Station to Station	Lin. Ft. R. of C. L.	Lin. Ft. L. of C. L.	Total	Remarks
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None

COBBLE GUTTER AS CONSTRUCTED

None

Sheet No. 6. Accompanying Division Engineer's Certificate of Completion.

F. A. P. No. 59, Section A, Richland County.

Final Estimate

FINAL ESTIMATE

No.	Quantity	Unit	ITEM	Price	Amount
1	.....	acres	Clearing and Grubbing	\$.....	\$.....
2	.....	acres	Plowing and Harrowing	.....	.....
3	13,829	cu. yds.	Earth excavation Class A	0.58	8,020.82
4	28,872	cu. yds.	Earth Excavation Class B	0.58	16,745.76
6	8,793	C. Y. Sta.	Overhaul	0.05	439.65
11	.....	Lin. Ft.	Tile Underdrains	.....	.....
13	.....	Cu. Yds.	Riprap	.....	.....
14	.....	Cu. Yds.	Riprap grouted	.....	.....
15	.....	Sq. Yds.	Cobble Gutter sand joints	.....	.....
16	.....	Sq. Yds.	Cobble Gutter cement joints	.....	.....
20	.....	Lin. Ft.	Wood Guardrail	.....	.....
20A	.....	Lin. Ft.	Wire Rope Guardrail	.....	.....
21	.....	Each	Wood Guardposts	.....	.....
22	.....	.....	Snow Fence	.....	.....
148	144	Lin. Ft.	Haul and Install 15-inch pipe culvert	0.65	93.60
150	48	Lin. Ft.	Haul and install culverts 24-inch	1.10	52.80
4	10,573	C. Y.	Earth Excavation for clay surface	0.58	6,236.74
40	.....	Lin. Ft.	Furn. and deliv. 12-inch ....culverts.....	.....	.....
141	144	Lin. Ft.	Furn. and deliv. 15-inch ....culverts	1.24	178.56
42	.....	Lin. Ft.	Furn. and deliv. 24-inch ....culverts.....	.....	.....
143	.....	Lin. Ft.	Furn. and deliv. 24-inch ....culverts	2.43	116.64
44	.....	Lin. Ft.	Furn. and deliv. 36-inch ....culverts.....	.....	.....
4A	10,573	C. Y.	Clay surface material in pits	0.10	1,075.30
30	.....	Cu. Yd.	Class A Concrete headwalls	.....	.....
31	.....	Cu. Yd.	Class B Concrete headwalls	.....	.....
33	.....	Lbs.	Metal Reinforcement	.....	.....
201	151.89	Cu. Yd.	Class A Concrete box culvert	41.00	6,227.49

No.	Quantity	Unit	ITEM	Price	Amount
31		Cu. Yd.	Class B Concrete box culvert		
202	8,098	Lbs.	Metal reinforcements box culvert	0.11	890.78
200	156	Cu. Yd.	Dry Struc. excavation	5.00	780.00
30		Cu. Yd.	Class A Concrete bridges		
31		Cu. Yd.	Class B Concrete bridges		
32		Cu. Yd.	Class C Concrete bridges		
33		Lbs.	Metal Reinforcement bridges		
34		Lbs.	Structural Steel bridges		
64		Cu. Yd.	Dry Struc. excav. bridges		
65		Cu. Yd.	Wet Struc. excav. bridges		
70		Lin. Ft.	Timber Piles bridges		
71		Lin. Ft.	Concrete Piles bridges		
6A	162,396	C. Y. Sta.	Overhaul Clay Surfacing	0.05	8,119.80
82		Cu. Yd.	Gravel material in pit		
82A		Cu. Yd.	Gravel load, spread, etc.		
82B		C. Y. Mi.	Gravel hauling		
82C		Cu. Yd.	Gravel screening		
82D		Cu. Yd.	Stripping Pits		

*Length Miles.

*Average cost per mile, \$.....

*These spaces will be filled in by Bismarck office.

Total Construction Cost

*Construction Engineering

*Grand Total Construction Cost

(391-c)

\$48,977.94

Q. Call your attention to Exhibit 7 and ask you if that is not the certificate of completion made by Mr. Thorberg and Mr. Gavin for Project No. 59 B? A. Yes, sir.

Q. And was the total cost of the road, including concrete bridges and everything, \$33,870.61? A. That is what this shows.

Mr. Graham: I offer in evidence Exhibit 7.

(EXHIBIT 7)

NORTH DAKOTA STATE HIGHWAY COMMISSION

Office of Division Engineer
Valley City, North Dakota.
Dec. 8, 1923.

Certificate of Completion

Federal Aid Project No. 59, Richland County.

I hereby certify that Federal Aid Project No. 59B, Richland County has been constructed substantially according to plans and specifications; that the centerline grade as constructed approximates within allowable variation the grades shown on the plans and authorized changes; that the fills are to the required width shown on the plans and authorized changes; that the drainage structures, guard-rail, riprap, etc., have been installed and constructed according to the plans, authorized changes and attached list as measured in place on the project; and that the project is ready for final inspection by the Construction Engineer.

(Sign)

JOHN G. GAVIN,
Division Engineer.

C. A. THORBERG
Resident Engr.

J. A. W. (pencil notation)
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Sheet No. 2. Accompanying Division Engineer's Certificate of Completion.

F. A. P. No. 59, Section B, Richland County.

DRAINAGE STRUCTURES IN PLACE
BRIDGES AND BOX CULVERTS AS CONSTRUCTED

Station	Size	Concrete cu. yd.	Metal D.Str Reinf. Excv. lbs. cu.yd.	W.Str Excv. cu.yd.
396-32	4'x2'x29'	13.23	742	21
446-20	1½'x1½'x28'	7.34	335	10
447-00	2'x2'x28'	9.79	370	13
499-11	1½'x1½'x30'	7.67	364	10
530-20	24' clear span	65.29	5,172	50 12
551-54	1½'x1½'x30'	7.67	364	10
604-00	1½'x1½'x30'	7.67	364	10
604-74	1½'x1½'x30'	7.67	364	12
657-12	1½'x1½'x30'	7.67	364	12
657-12	1½'x1½'x30'	7.67	364	12
681-12	2'x1½'x28'	8.37	370	10
760-00	1½'x1½'x30'	7.67	364	12
		157.71	95.37	182 12

Sheet No. 3. Accompanying Division Engineer's Certificate of Completion.

F. A. P. No. 59, Section B, Richland County.

DRAINAGE STRUCTURES IN PLACE

PIPE CULVERTS AND HEADWALLS AS CONSTRUCTED

No.	Station	15"	18"
31	399-39	24'	
35	504-10	24'	
40	622-21	24'	
41	646-39		24'
44	677-35		24'
46	684-66	24'	
47	687-95	24'	
48	688-10	24'	
49	716-80	24'	
50	739-46	24'	
		192	48

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Sheet No. 4.

Accompanying Division Engineer's Certificate of Completion.

F. A. P. No. 59, Section B, Richland County.

GUARD RAIL AS CONSTRUCTED

Station to	Lin. Ft. R. of C. L.	Lin. Ft. L. of C. L.	Total	Remarks
	None			

RIPRAP AS CONSTRUCTED

None

Sheet No. 5.

Accompanying Division Engineer's Certificate of Completion.

F. A. P. No. 59, Section B, Richland County.

SNOW FENCE AS CONSTRUCTED

Station to	Lin. Ft. R. of C. L.	Lin. Ft. L. of C. L.	Total	Remarks
	None			

COBBEL GUTTER AS CONSTRUCTED

None

(392-b)

Sheet No. 6.—Accompanying Division Engineer's Certificate of Completion.

F. A. P. No. 59, Section B, Richland County

FINAL ESTIMATE

No.	Quantity	Unit	ITEM	Price	Amount
1					
2					
3	987	Curve	Earth Excavation Class A	0.56	5,032.72
4	31,798	Curve	Earth Excavation Class B	0.56	17,806.88
6	24,698	C. Y. Sta.	Overhaul	0.07	1,728.86
11					
13					
14					
15					
16					
20					
20A					
21					
22					
148	192	Lin. Ft.	Haul and Install 15-inch pipe culvert	0.65	124.80
149	48	Lin. Ft.	Haul and Install Culverts 18-inch	1.00	48.00
40					
141	192	Lin. Ft.	Furn. and Deliv. 15 inch Culverts ..	1.24	238.08
142	48	Lin. Ft.	Furn. and Deliv. 18 inch Culverts ..	1.54	73.92
43					
44					
30					
31					
33					
201	92.42	Cu. Yd.	Class A Concrete box culvert	1.00	3,789.22
31					
202	4365	Lbs.	Metal Reinforcement box culvert ...	0.11	480.15

HIGHWAY INVESTIGATION REPORT

No.	Quantity	Unit	ITEM	Price	Amount
200	132	Cu. Yd.	Dry Struc. excavation	5.00	660.00
401	65.29	Cu. Yd.	Class A Concrete bridges	41.00	2,676.89
31					
32					
403	5,172	Lbs.	Metal Reinforcement bridges	0.12	620.64
34					
400B	50	Cu. Yd.	Dry Struc. excavation bridges	5.00	250.00
400A	12	Cu. Yd.	Wet Struc. Excavation bridges	25.00	300.00
70					
71					
82					
82A					
82B					
409	6.1	Cu. Yd.	Gravel wearing surface	5.50	33.55
82D					
411	13.8	Lin. Ft.	2-inch W. I. drain pipe	.50	6.90
					\$33,870.61
*Length miles:			Total Construction Cost		
*Average cost per Mile, \$.....			*Construction Engineering		
*These spaces will be filled in by Bismarck office.			*Grand Total Construction Cost		
			(392-c)		

Q. Were these figures submitted to Mr. Twichell by your department? A. I believe in conference in Bismarck they were submitted to Mr. Twichell, don't recall whether they were or not.

Q. Why was not the settlement made upon the basis of the figures shown by your engineering force? A. For the reason that the overhaul had never been figured correctly.

Q. Did you ever call in either of these engineers to find out if that was th fact? A. Yes sir.

Q. Who did you call in? A. I had Mr. Gavin in the office two or three days trying to check this up.

Q. What did Mr. Gavin say? A. Don't recall what he said.

Q. He didn't say they were incorrect? A. Can't remember what he said.

Q. Have no recollection? A. No.

Q. Did you ask Mr. Gavin to sign an estimate of \$34,000 for this work? A. I did not.

Q. Did you ask him to sign any other or different estimates than what he had sent in for Projects A and B? A. I never asked Mr. Gavin to sign any estimate.

Q. What did you ask him to do when he was up at the department? A. When he was in here, we tried to arrive at the amount of overhaul and from what we could see, he did not have that point in mind very well, and the only way we could find out what the credit was we had to get
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out on the ground and find out what it was for ourselves.

Q. You had been down prior to this time, had you? A. In August, 1923, I think.

Q. The work was not completed at that time? A. No, sir.

Q. And you didn't know anything about the overhaul at that time? A. There was no particular reason for checking it up at that time.

Q. What led you to believe that Mr. Gavin was wrong in the figures he had sent in? A. Dispute between the contractor and Gavin as to where the materials had been hauled.

Q. From whom did you obtain that information that there was a dispute? A. Mr. Twichell.

Q. You can give us the figures or raise which Mr. Twichell claimed? A. No, I couldn't.

Q. Did he ever submit any figures? A. No, I don't know as he did.

Q. How did you determine—strike that out. What made you think then that your engineer's report was wrong? A. Mr. Twichell's knowledge of where the material had been hauled to. I could see that it didn't agree with where Mr. Gavin stated it was hauled.

Q. Then you assumed that Mr. Gavin was wrong? A. No, I did not.

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Q. What reason did you have for changing it if you state you think Mr. Gavin was right? A. My reason for trying to ascertain the facts was in order to be fair to both sides.

Q. How did you ascertain as to what you say are the facts? A. By going over the job on the ground.

Q. What do you mean by going over the job? A. We went down over the project, took along a set of plans as they were actually on the ground and from consulting the owners of lands where the pits are, we found where the material was hauled and placed.

Q. You did not measure the road up to find if Mr. Gavin's measurements were or Mr. Thorberg's measurements were wrong in any particular? A. I don't believe your question is very well put. I don't know what you mean.

Q. Did you make any new measurements to ascertain whether the measurements sent in by Mr. Thorberg and Mr. Gavin were wrong in any particular? A. We did to this extent: We noted on the plans where the materials from the pits had been hauled and from the stationing on the plans, we could then figure the overhaul correctly.

Q. Where are your figures for that? A. The figures are transcribed on this print that I showed you yesterday.

Q. The point I want to get at is, you people made no new measurements of the dirt on the road to see if Mr. Gavin or Mr. Thorberg had made a mistake? A. Well,

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to this extent—

Q. You can answer it yes or no? A. I have to explain.

Q. Answer yes or no; I will give you a chance for explanation? A. Yes.

Q. Now, what did you do? A. The pits were measured correctly. There wasn't any dispute about the yardage in the pits and from the testimony of the two resident engineers on the job they swore that none of the materials from the pits had been used in shouldering.

Q. Just a minute. They hadn't sworn to this at the time you were down to look this over? A. I made inquiry to find out exactly where it was.

Q. Who were the two resident engineers to whom you have reference? A. Mr. Thorberg and Mr. Knutson. I

want to explain that, Mr. Graham. The pits—there was no question about the yardage in the pits; the question then was where was the material placed so that the overhaul could be figured correctly.

Q. You had never been down until this fall? A. A diagram was prepared by personal representative on the job.

Q. And the information upon which you based this was from people who lived there, and took their statements that Mr. Gavin and Mr. Thorberg were wrong in the estimates which they had sent in? A. We didn't depend entirely upon their statements.

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Q. What else did you depend on? A. In some cases we could see where the material was hauled without asking anybody questions.

Q. Do you mean to state that by going over the road you can tell how much dirt has been hauled upon it without taking measurements? A. Not how much. You can tell the distance it was hauled from the pits.

Q. You mean to say then that Mr. Gavin and Mr. Thorberg did not show upon the plans the distance apart that the pits were? A. I mean to say that they didn't show all the pits and didn't show correctly where it was hauled to from the pits.

Q. Then you mean that the dirt was hauled more than half-way between the pits? A. I don't recall whether it was or not. The pits were poorly selected to begin with.

Q. Just answer the question. A. I don't know.

Q. In what particulars were the reports sent in by Mr. Gavin and Mr. Thorberg wrong from the investigation which you made? A. They differed in regard to overhaul from the pits.

Q. How much did they differ? A. Couldn't say offhand.

Q. Can you refer to your records and tell us? A. No, I couldn't tell without looking over their estimates. Such questions are hard to answer offhand, they require investigation, going over and checking up the quantities.

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Q. Now, in the amount of dirt which you gave Mr. Twichell credit for, how deep a clay surfacing did it provide for? A. The surfacing was put on the road at different times.

Q. How deep? Can you answer that? A. No, I can't answer that.

Q. What did the plans provide for by your people in 1923 as to how much clay surfacing Mr. Twichell should put upon the road? A. Between four inches and six inches.

Q. And how much clay surfacing did you give him credit for? A. I will have to answer that—you see what he put on one year would be lost the next year, and a good deal would have to be gone over again.

Q. Does not the contract provide that the Highway Commission is not responsible until the road has been finally accepted and that it must be kept up and maintained by the contractor until that time at his own expense? A. Usually provides that.

Q. You knew of this provision? A. There are special provisions where that wouldn't apply to.

Q. These are the general provisions? A. Yes.

Q. That is the provision of this contract? A. No, I wouldn't say it was.

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Mr. Graham: You are familiar with the provisions in the contract and specifications sent out by your department under the head "No. 65, Contractor's Responsibility for Damage to Work?" A. Yes, sir.

Q. This is from the specifications of your department? (Indicating paragraph in contract). A. Yes, sir.

Q. Now, I will ask permission of the Committee to read into the record section 65, "Contractor's Responsibility for Damage to Work." "Until final acceptance by the engineers the work shall be under the contractor's charge and he shall take every necessary precaution against accident or injury to the improvement of any part thereof by action of the elements or from any other cause whatsoever arising from the execution or non-execution of the work. He shall rebuild, repair, restore and make good at his own expense all injuries or damages to any portion of the work occasioned by accidental causes or by action of the elements, or from any cause whatsoever before the final acceptance of the work by the engineers, except where a section of the improved road has been inspected and accepted by the latter as hereinafter specified. Whenever in the opinion of the engineer any roadway or portion thereof, is in acceptable condition for travel, it shall be opened to traffic as may be directed, and such opening shall not be held to be in any way an acceptance of the roadway or any part of it, or as a waiver of any of the provisions of the specifications and contract. Necessary repairs of or renewals made on any section of the roadway after it is opened to travel under instructions from the engineer, due to defective materials or work, nature causes, or to ordinary wear and tear and otherwise, pending completion and acceptance of the roadway, shall be performed at the expense of the contractor."

I presume you are also familiar with Section 121, concerning Maintenance of Highways until they have been accepted (indicating paragraph in contract to witness). A. Yes, sir.

Q. I will ask permission of the Committee to read into the record Section 121, covering Maintenance: "As fast as the cuts and embankments are completed the contractor shall maintain the roadway with blade machine or road drag. This maintenance shall continue daily or at frequent intervals, depending upon the effect of the traffic and ele-

ments upon the roadway. When a sufficient length of road has been constructed to permit the use of a drag or road hone, a patrolman, or patrolmen, provided by the contractor, shall maintain the roadway with a roading and shoulders in a smooth condition. Ditches and culverts shall be

(400)

kept free from obstruction so that water will flow freely at all times. This maintenance shall continue until the final acceptance of the work."

Q. Now in measuring up these clay pits you gave Mr. Twichell the full amount of dirt which you say had been taken from the pits? A. Yes, sir.

Q. And do you know how much of the clay from the pits had been used in keeping up and maintaining the roads by Mr. Twichell under the conditions of the contract? A. No, I wouldn't know that.

Q. And no deductions were made for that feature? A. I wouldn't know anything about that, about materials being used for such purpose.

Q. I say no deductions were made by you for that purpose? A. No, there wouldn't be any.

Q. And you gave him full credit, gave him full credit for the pit measurements? A. Yes.

Q. You know that clay had been used from these pits prior to 1923 for clay surfacing? A. Yes, sir.

Q. Why did you not take that off? A. Well, I don't believe you have a clear understanding of that. If he hauled so much, say in 1922, so many cubic yards, then the following year, if you measured the pits up, in paying him you would deduct what he had been paid in the previous year.

Q. But much of this he was expected to do under the terms of the contract, to keep the road in proper condition

(401)

and repair. A. Not in this particular instance. I don't believe.

Q. This is the contract, is it not? A. Yes, but the contract—

Q. There was no change in writing made in regard to Sections 65 and 121, as appear in the records in your office? A. No change and—

Q. And you made none after you came into office. A. No, sir.

Q. As a matter of fact, was not a large proportion of this clay used for building up the sides of the road and straightening out the shoulders? A. From personal knowledge I wouldn't know, but inquiring from the Resident Engineer that we had down there, they advised me that none of the material was used for that purpose.

Q. Did Mr. Thorberg and Mr. Gavin so advise you? A. Mr. Gavin was not there on the job much of the time and Mr. Knudson and Mr. Thorberg advised me that—to the effect.

Q. Mr. Gavin was upon this work during the time when it was completed in 1923? A. He wasn't around there a great deal.

Q. And he had the work in charge? A. Yes, but he wasn't on the job a great deal.

Q. And he and Mr. Thorberg filled in the Certificate of Completion? A. Yes, sir.

(402)

Q. Do you know how thick this clay had been put on all over the Project for four and a half miles? A. Well, it had been put on during, say, during 1922, or—1923. Certain of that material had wore out, disintegrated, and much of the road; the following year portions out of that road needed rebuilding; the letting specifications, the old Highway Department never made any agreement with Mr. Twichell as to how much clay that he was to put on; they didn't tell him whether to put on two inches, or three feet.

Q. Do not the reports at your office show that he was recommended and ordered—that they told him to put on clay covering of four to six inches? A. No, I never saw any reports.

Q. Will you not go through their letters and reports after today and tell us when you come before us again if that is not so? A. I'd be glad to do so.

Q. And you don't know of your own knowledge how dense the clay is of any portion of this road? A. No, sir.

Q. And you never made any measurements yourself to make the— A. Such measurements wouldn't be practicable.

Q. And you didn't make any? A. No, sir.

Q. All that you know about the clay then, is what the neighbors who lived down by the side of the road, don't

(403)

you? A. No, sir, that isn't all.

Q. What else do you know about it? A. I know how much came from the pit. I am only interested in the portion of the work done during my term of office. Most of the surfacing and work was done prior to the time I came in. There was very little left to do and I made inquiry from all the Resident Engineers as to where this material had gone. They told me. I must rely upon them because I can't be there personally myself.

Q. Why did you change from what Mr. Thorberg and Mr. Gavin sent in if you relied upon the reports of your engineers? A. For the reason that they never made a close check as to where the haul extended to.

Q. They so report to you, do they not, in the Certificate of Completion? A. Yes, but we found they were not correct.

Q. Do they not so report? A. No.

Q. I will ask you to examine the report of 59A and state if it does not show the amount of the clay dug and the amount of the overhaul. A. Yes, it does.

Q. Then the report does so show? A. No, it does not show where the material, the length of the haul. It does not show where the material from each pit was hauled to.

(404)

Q. It shows the measurements which they gave, and the amount of cubic yards overhaul? A. It shows measurements which they likely assumed.

Mr. Vogel: They likely assumed? A. Yes.

Mr. Graham: Your engineers likely assume? A. They did in this particular case.

Q. Did you give them instructions to assume and not to make measurements? A. Do not give them, no.

Q. Now, would there be any reason for these engineers not to send in correct final estimates upon this project? A. Yes.

Q. What was the reason? A. For the reason that most of the work was done prior to our term, and there has been so many changes in the work done, and so many engineers, that the next engineer that goes on does not know what transpired before his period.

Q. Then how did you find out from any of the men that you sent down as to what was done during all the time this work was in course of construction? A. During what term?

Q. Any terms. You say that you were making a settlement for mistakes and errors made by the previous administrations. A. I don't believe I understand you, Mr. Graham.

Q. How did you ascertain that mistakes had been made by the engineering force? A. By my own personal observation on the job.

(405)

Q. How many times were you down there to observe? A. I am basing that all on one trip that I made there.

Q. How long did you stay and investigate this road. A. Oh, it took us a day to find out where the materials were hauled from and which of the pits.

Q. You have more reliance in the day you put in down there than you have in the report of the other engineers who made the Final Certificate for this work? A. I do.

Q. When did you first determine that there had been mistakes or errors made upon this job? A. I discovered that

the plan that they brought in showed—when they brought in a sketch showing where the material—

Q. You did not answer the question. I asked you when you first discovered it? A. I don't know. Somewhere along—during the fall or winter of 1923 and 1924.

Q. You discovered it, did you not when Mr. Twichell first claimed that he had a lot of money coming? A. No, not exactly.

Q. Wasn't that when you discovered it? A. I discovered it when we went over the project bringing in everybody who knew anything about the Project, as to where the clay was hauled to.

Q. Mr. Twichell never kicked on any of the previous estimates? A. So far as I know, I would—I believe he did.

(406)

Q. When was the first time that he raised any kick, to your knowledge? A. I couldn't say.

Q. Is there any correspondence as to when he first kicked? A. I don't remember.

Q. Have you any such correspondence? A. It may be there, I haven't looked for it carefully.

Q. Will you look through and produce any? A. If you will tell me what you want.

Q. For the next day. A. Oh, yes, unless you have it here.

Q. Was there any error that you know of in which he complained at any time in regard to the estimates which had been given by the estimates? A. I don't recall, I don't remember.

Q. Do you know the amount of surfacing which was originally ordered? A. No, I don't know, no, no word of it.

Q. Each report sent in by the engineer upon this job would show the amount of clay surfacing which had been done during the time when they were in charge? A. No, I believe not.

Q. Do you mean that the engineers never do that? A. I don't know what the previous administration did. The pits were never measured until 1923 and 1924.

Q. Does not each report show the amount of clay that had been used and the amount of overhaul? A. No, I think

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not.

Q. Would not Mr. Twichell, if he had been getting less than he was entitled to have claimed at the time that the estimates were sent in that that was so? A. Which estimates do you mean, Mr. Graham?

Q. The estimates for the work completed at the end of

each month or period. A. If such estimates were issued Mr. Twichell wouldn't know anything about it anyhow.

Q. Do you not, when an estimate is issued send him a copy of the estimate and also a copy of the estimate to the State Auditor authorizing him to—or to the County Auditor, authorizing them to make payment? A. I think if you will examine that record there you will find that there were no estimates issued to Mr. Twichell until the final estimate made during my term.

Q. No payments made to Mr. Twichell during the previous administration? A. What the previous administration did, I don't know, I don't know anything about that.

Q. Would it not be probably that Mr. Twichell would have complained about these estimates if he thought there was anything wrong with them? A. No, I don't think that would be probably because the contractor always figures that it will be cleaned up on the final estimate anyhow.

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Q. Under each estimate sent in he is entitled to a check for ninety per cent of the work accomplished to that time? A. He is.

Q. And if Mr. Twichell had not received that amount it is very probably he would have kicked to the engineer in charge? A. No, it isn't probably.

Q. You don't think he would have? A. No. Most contractors understand that the intermediate estimates are approximate anyhow.

Q. If Mr. Twichell spread more clay than he was ordered to would he be entitled to pay for it? A. No.

Mr. Graham: I will call your attention to a letter in your files under date of August 25th, 1923, being Exhibit 1-X, written by Oliver Knudson, Resident Engineer, stating that only from four to six inches of clay surfacing was to be done and the holes fixed up where necessary. A. This letter is instructions from Mr. Twichell to his foremen. This letter is from Mr. Knutson to Mr. Twichell. I will read this paragraph.

Mr. Graham: Read it all. A. "Dear Sir: While inspecting No. 59 this date, your foreman showed me your letter of instructions to him with reference to work on above project. In this letter you instructed him to place six inches of clay surfacing between stations 131 and 163. This is in accordance

(409)

with instructions from Construction Engineer Wallace. You further instructed your foreman to place four inches of clay surfacing after patching holes, between stations 166 and 262. Now, your willingness to do this additional work is certainly mighty fine, in view of the fact that most of this stretch has already been surfaced, but when inspecting this job, in company with yourself, Mr. Gavin and Mr. Wallace, it

was my understanding that, according to Mr. Gavin and Mr. Wallace, only the filling of holes will be necessary, with the exception of the two or three spots which are very sandy and on which the regular course is advisable. By the way, Mr. Twichell, I have repeatedly requested of your foreman, that he blade the portion already surfaced, as it is in extremely rough condition, but to date nothing has been done. Will you kindly take this up with him? Thanking you. Yours truly, Oliver Knudson, Resident Engineer."

Mr. Graham: I will offer in evidence Exhibit 1-X.

"NORTH DAKOTA STATE HIGHWAY COMMISSION.

Letter No.....
Job No. F. A. P. No. 59

Milnor, No. Dak.
August 25, 1923.

T. Twichell, Contractor,
Mapleton, North Dakota.

Dear Sir: While inspecting No. 59 this date, your foreman showed me your letter of instructions to him with reference to work on above project.

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"In this letter you instructed him to place six inches of clay surfacing between stations 131 and 163. This in accordance with instructions from Construction Engineer Wallace.

"You further instructed your foreman to place four inches of clay surfacing, after patching holes, between stations 166 and 262. Now, your willingness to do this additional work is certainly mighty fine, in view of the fact that most of this stretch has already been surfaced, but when inspecting this job, in company with yourself, Mr. Gavin and Mr. Wallace, it was my understanding that, according to Mr. Gavin and Mr. Wallace, only the filling of holes will be necessary, with the exception of the two or three spots which are very sandy and on which the regular course is advisable.

"By the way, Mr. Twichell, I have repeatedly requested of your foreman, that he blade the portion already surfaced, as it is in extremely rough condition, but to date nothing has been done. Will you kindly take this up with him? Thanking you,

"Yours truly,

OLIVER KNUDSON,
Resident Engineer.

Copies to—

W. G. Black, Chief Engineer, S. H. C.,
Bismarck, North Dakota.
J. G. Gavin, Division Engineer, S. H. C.,

Valley City, North Dakota." (Stamp) State Highway
Commission STATE OF NORTH DAKOTA

Received Aug. 28, 1923

Referred to J. A. W

Answered.....

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Mr. Graham: Is it not apparent from that letter, Mr. Black, that Mr. Twichell was hauling on more clay surfacing than he had been ordered to? A. I couldn't say as to that, I don't know what he had been ordered to do.

Q. Mr. Knudson was one of your engineers in charge for that work? A. He was there a short time.

Q. For all you know Mr. Twichell may have been putting this clay on a foot thick or two feet thick in places? A. No, I think not.

Q. Do you know of your own personal knowledge? A. No.

Q. You didn't go over the road and inspect it in any way to find out? A. Not as to the depth of the material.

Q. And as to whether he had been using it to build up the edge of the road, shoulders? A. What is this?

Q. As to whether it had been used to build up the shoulders and edge of the road? A. From personal knowledge, I wouldn't, no.

Q. Before the Arbitration Committee did Mr. Twichell produce any evidence in regard to what he had done upon the road, except his own statements? A. Well, I don't know what kind of evidence he could produce.

Q. He didn't produce any of his foremen or men who had worked upon the road? A. No.

Q. Or any of the residents who lived near the road? A. No.

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Q. And you did not have any of the County Commissioners and residents from Richland County appear before the Board of Arbitration to give their testimony? A. Well, in order to get that clear—

Q. Did you do that? A. No, it isn't my duty to do that.

Q. And you didn't call in Mr. Gavín, who had the matter in charge? A. It isn't my duty to do that.

Q. Not what your duty is— Just answer the question. A. No. No.

Q. You didn't call in Mr. Topping, who had charge of the road? A. No.

Q. Or you didn't call in the man who had drawn up the plans and specifications? A. No, I think it would be well to give the Committee some explanation on that, though.

Q. We can do that later, I want to get these matters disposed of. You or your Department had made up a statement as to what Mr. Twichell claimed before the Arbitration meeting was held? A. Yes, sir.

Q. And in that statement you had all of the claims made by Mr. Twichell? A. Not all.

Q. What did you leave out? A. I don't recall what they were, there is a difference in the amount between what we allowed, that is what the Arbitration Board allowed, and what he claimed.

(413)

Q. Could you produce those figures for us? A. No, I couldn't produce what he claimed.

Q. How did you get at what Mr. Twichell claimed? A. This was presented to the Board of Arbitration, I wasn't paying a great deal of attention to what Mr. Twichell claimed.

Q. But you did produce figures as to what Mr. Twichell claimed? A. Yes, sir.

Q. Where are those figures? A. They are as I stated three or four times, those figures are based on the measurement of the pits and location of where the material was hauled, entirely.

Q. Yes, I understand that, but where are the statements that were made up by you or your engineers? A. I don't know.

Q. Have you any such figures? A. Possibly, I will look it up.

Q. Will you produce them before the Committee the next morning? A. Yes, I will.

Q. Did you have a cross section made of B? A. Yes, sir.

Q. And by whom was that made? A. I don't recall who the party was composed of.

Q. Did you bring the figures or computations for the cross section before the Arbitration Committee? A. Yes, sir.

Q. Would you produce those figures for us? A. I'll be glad to.

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Mr. Graham: Exhibit 2-X is the copy of the proceedings had before the Arbitration Committee? A. Yes.

Q. Will you show us in that where the cross section of B was brought to the attention, and the computations were brought to the attention of the Arbitration Committee? (Handing paper to witness. Witness indicated paragraph.)

Mr. Graham: Can you point out the specification where there is any reference to the cross section made of 59B? A. This may not be in here. (Witness examined paper and returned it.) It is possible that that isn't in there.

Q. Who made those computations? A. I don't remember.

Q. If you had such computations why did you not produce them before the Arbitration Committee so they might have all of the facts? A. They were presented to the Committee and it was under general discussion for sometime.

Q. Why was it not so shown in the record? A. The Committee examined that and discussed it and it was going over and looking at the plan, which, of course, could not be made a matter of record, by their actions.

Q. I understood you to say that this was a record of the proceedings of the Board of Arbitration. A. It was in main, (415)

it is.

Q. You mean it doesn't contain all that was actually done? A. Oh, yes, I would say that it does.

Q. There is nothing in here to show that a cross section of B was presented to their attention in any way? A. Possibly not.

Q. And you have no distinct recollection that it was in fact brought before them? A. I have a very distinct recollection that it was discussed for some time.

Q. Can you bring us that cross section B and computations made? A. Yes, sir.

Q. Do you recall what these computations showed? A. No.

Q. Don't recall anything about them? A. No, I have little interest in Section B because it was all completed entirely before I came in. I know nothing about it personally.

Q. It was all completed? A. Section B was entirely completed.

Q. Why, the report of your engineers does not so show. A. The report that you called to my attention a while ago was a voucher for blading the road up making it passable.

Q. And Mr. Twichell's letters show that it was not completed until during your term of office? A. No, they do (416)

not. And if I remember, right here is a letter of May 14th, 1923, stating that he would let me know when B—A and B were completed.

Q. Is not that true? A. That isn't what he means.

Q. It isn't? Mr. Twichell doesn't write what he means then? A. No, it doesn't express it. The job was entirely completed prior to 1923, held over until spring; therefore, it required maintenance, blading and making it passable for the autos, that is what he has reference to.

Q. Then you don't think Mr. Twichell knows what he is talking about when he wrote those two letters. A. Yes, I do, I don't think you understand what he meant.

Q. Perhaps I can't understand English. There was no

demand made for acceptance of this road until in the fall of 1923 to your Department? A. I couldn't say, I wasn't in the Department until 1923.

Q. I say until the fall of 1923? A. I don't know because I was not in office.

Q. That was the first demand while you were in the office in the fall of 1923? A. Yes, sir.

Q. Does not Mr. Twichell state in his letter of May 14th, 1923, that he will advise you when the road is ready for acceptance? A. That is what the letter states, but there wasn't a cubic yard of material hauled on Section B after I was in office.

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Q. How do you know that, Mr. Black? A. Entirely completed so far as I know.

Q. But, I say, how do you know that, were you down there? A. For the reason that there was no money allowed him for it, if he did do it.

Q. I say, were you down there during 1923? A. Yes.

Q. Mr. Twichell in his letter states that he has some work to do on both these projects? Q. Oh, yes, what he means is that road in May, after the road had been through the winter, it needs blading up, trimmed up.

Q. That is what he refers to, you are sure of that? A. I would think so. Yes, because he received no further compensation from us.

Q. He didn't receive any compensation from you people until sometime in 1923? A. Sir?

Q. When was the first time he received any compensation from the Department after you were in charge? A. I think it was probably in 1925.

Q. After he received all of the compensation claimed by him at this time? A. No, sir.

Q. What amount is still unpaid to him? A. About \$8300.00.

Q. When will that be paid, do you know? A. I couldn't say.

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Q. Has your Department made no arrangements to pay it? A. They agreed to pay it as soon as the funds are available.

Q. What funds are available? A. We have a portion of the registration fee, of the license fee of the automobiles, what is set aside to be spent at our discretion, it is what is known as the ten per cent fund.

Q. And it is to be taken from the ten per cent fund? A. Yes, sir.

- Q. And not charged to Richland County? A. No, sir.
- Q. What portion was Richland County to pay? A. They agreed to pay \$9300.00 out of the final settlement.
- Q. Has that amount from their automobile fund been paid? A. Yes, sir.
- Q. Has the receipt been sent down to Richland County?
A. I think it has.
- Q. By whom would it be sent? A. It would be sent when the job is finally cleaned up. I presume that they re-
ceived, haven't they, Mr. Lounsbury?
- Q. Was there any additional work to be done on B 59 after you went into office? A. No, that was paid for.
- Q. What is that? A. That was paid for. May have been work done, but nothing paid for.
- Q. Was there any dispute about the amount of work that had been done on Project B?
(419)
A. Yes.
- Q. What was the dispute there? A. The dispute was over changing from a crown top to a flat top.
- Q. Was it changed? A. I don't know, I couldn't say.
- Q. You don't know whether the road was made to a flat top or not? A. No, only, I knew at that time there was a general order in the Department that roads with crown top would be made with a flat top.
- Q. Yes, but you don't know whether Mr. Twichell made a flat top of it? A. No, it is hard to tell at that time.
- Q. You were down there in the summer of 1923? A. Yes, sir.
- Q. Had a flat top been made at that time? A. It is hard to tell by looking at it with the eye.
- Q. You say the order was made in 1923 that the crown top should be changed to flat top? A. Oh, no, this was all changed prior to 1923.
- Q. When was the order made? A. Probably 1921 or 1922.
- Q. Did not Mr. Twichell testify at the hearing that he made the change from a crown top to a flat top in 1923? A. No, he couldn't have.
- Q. Can you produce such a general order from the Federal Government? A. No, I don't think so. I will look it up and see whether I can or not.

(420)

Mr. Graham: Any questions, Mr. Vogel?

Mr. Vogel: Q. Was Mr. Twichell to make this change—was Twichell to be paid for making this change, from a crown

to a flat top? A. If he built the shoulders up to the elevation of the side of the road, it would require additional yardage of materials.

Q. He would have to be paid for that? A. If that is the way he did it, he would be entitled to extra pay.

Q. Wasn't this Project B a part of this arbitration? A. Yes, sir.

Q. Didn't you know then whether he had done this work and was requiring additional money for having done it? A. No, in the Arbitration Agreement there, I admitted that I know nothing about Section B.

Q. It was part of the Arbitration, however? A. Part of the agreement.

Q. You represented the Highway Commission on that settlement, did you not? A. No, sir.

Q. You were present at this arbitration? A. I was present.

Q. Wasn't Project B spoken of there? A. Yes, sir.

Q. And you appeared as entirely ignorant of Project B, 59 B? A. Absolutely.

Q. Who did you depend upon in this Arbitration to give the information with respect to Project B to the Arbitration Board? A. I depended upon the Arbitration Board to investigate the facts.

Q. Did you give them any information upon Project B from which they could investigate the facts? A. All that we had.

Q. And you admit that you knew nothing about Project B? A. Absolutely.

Q. How did you give them any information? A. I am speaking of myself personally, that I knew nothing about it personally.

Q. You gave them certain information with respect to Project B? A. All that we could dig up.

Mr. Graham: Mr. Black, in this Arbitration hearing when you were giving testimony regarding Project B wasn't this question asked by Mr. Crabbe from you? "Q. In your opinion, Mr. Black, provided the road was constructed in strict conformity to the plans and specifications for the crowned roadway, what would be the additional allowance that would be due the contractor, provided he was instructed to change the form and make it conform with the new federal idea on the subject?" Was that question asked you? A. I think it was.

Q. And did you not make the following answer: "A. I don't think the new federal idea rules in this case." A. I don't know whether I did or not.

Q. Would you say that you did not so testify? A. No,
(422)

I would not say so, I possibly said so.

Q. I call your attention to the testimony, you did so testify? A. That is all right, I possibly did.

Q. The record shows that you did? A. Yes.

Mr. Vogel: You mean to say Mr. Thorberg and Mr. Gavin furnished estimates on this project? A. Yes.

Q. How much difference was there between Mr. Thorberg's estimate and Mr. Gavin's estimate? A. That is combined.

Q. The two of them together? A. Yes.

Q. How much difference was there between their estimate and your final estimate? A. Oh, that is hard to say in a hurry, such information as that should be noted here.

Q. Approximately, just approximately. (Witness referring to books.) A. I believe you have those estimates over there. On Section A the final estimate is \$67,457. as turned in by Mr. Gavin.

Q. Your final estimate was what? A. \$67,457.

Q. Yours, I mean. A. Yes.

Q. What is Gavin's? A. Approximately \$49,000.

Q. \$49,000. And this difference you say was due to the difference in overhaul? A. Principally.

Q. Principally, yes. A. Yes.

Q. You say that your testimony which you gave, Mr. Black—that is sufficient there, that is all I wanted. A. There was some difference in the cubic yards.

(423)

Q. Yes, just a small item. You say you do not know whether Mr. Twichell had hauled more than half way between these pits? A. No, I couldn't say offhand.

Q. How did you figure it was overhaul then? A. It is figured according to this diagram that was made up from the actual conditions.

Q. Wouldn't that show whether he had hauled more than half, or not? A. Yes, it would.

Q. Would you take that and show me whether he has or not. A. (Referring to blueprints) Yes, from the Mahler pit at the east end of Section A it was hauled more than half-way, for the reason, I presume, that the pit east of it ran out, not large enough.

Q. The pit at the west end ran out? A. Yes.

Q. You say you presume that was the reason? A. That must have been.

Q. You were down there and saw these pits? A. Yes, sir.

Q. You saw that the pit at the west end had run out?
A. I don't know whether any of the pits ran out or not.

Q. Didn't you know by looking at them whether they had run out or not? A. We didn't select any of these pits.

Q. The pits were there when you went down there? A.
(424)
Yes.

Q. You can't tell from looking at a pit whether they ran out or not? A. Yes.

Q. When you were there and there was this more than half overhaul here, didn't you inquire as to the reason why he hauled that more than half way? A. If the pit at the east end ran out they would have to move it, he would have to move the pit to the west, back further west to get good material, so that wouldn't make any difference whether he hauled past the center line or not.

Q. You didn't look into that west pit to see whether it had run out or not? A. Oh, yes, it was very hard to select pits down there, as they had several, he had—

Q. Did you investigate the west pit to see whether that had run out? A. As I remember the pits a good many pits ran out, in fact they selected pits and put materials on the road that wasn't any better than the sand itself in the road which we were trying to cover.

Q. That accounted for some of the work having to be surfaced again? A. Yes, sir.

Q. Isn't it a fact, Mr. Black, that they ran into water in some of these pits? A. Oh, yes.

Mr. Vogel: You say that you couldn't tell how much clay had been put on there from time to time because it had settled or was washed. A. I couldn't tell, no.

(425)

Q. You couldn't tell, for that reason you wouldn't know how much the Highway Commission was paying for the road, to put the road in good shape? A. Yes, I would know how much they were paying, for I based my opinion entirely in the yardage of the pits and where it was hauled.

Q. You couldn't tell us how much was paid Mr. Twichell in 1921, 1922, 1923, from these different pits for work under his original contract? A. That would be rather hard to tell.

Q. How would you deduct those amounts, then in your final estimate? A. The estimate shows the total of all the pits, we didn't separate pit by pit.

Q. If that shows the total, how could you tell how much additional Mr. Twichell was to be paid if you didn't know how much he had already been paid on his original contract? A.

When the job is finally completed, then the pits are measured, then we know the total amount of surfacing that went on the road, the total amount would be the amount shown in the final estimate, and in the final estimate you deduct all previous payments; therefore, if he is paid anything previously it would be deducted from the final estimate.

Q. You deducted that? A. Oh, yes.

Q. Can you give us the figures? A. No, I couldn't.
(426).

Q. Did you deduct that in this case? A. Yes, I presume it was. It should have been.

Q. Now, was it? A. Oh, yes, couldn't help but be.

Q. You couldn't give us those deductions? A. No, not offhand.

Q. But could you get them for us? A. Oh, yes.

Q. You say that Mr. Twichell was required to go back on that road to fix it up in the spring, the road had disintegrated? A. Yes.

Q. Now, by measuring the entire pit, as you said, you paid him for the hauling and to fix up the job that was uncompleted; you paid him for that hauling I suppose? A. Well, I don't know how you'd figure that.

Q. He finished the road in the spring—in the fall, it laid until spring? A. Yes.

Q. You say the road disintegrated? A. Yes.

Q. You immediately advised that he fix the road up? A. Yes.

Q. You paid him for the additional dirt that was hauled to fix up this road? A. Yes.

Q. And you continued to do that until 1924? A. Well, to make that clear to the Committee, there was very little work done during my term, it was all done previous to my term.

Q. I see, but in measuring this pit, you would naturally be giving him credit for all the dirt hauled to fix up the unsatisfactory jobs? A. Well, I don't know, I haven't been advised myself, if they unsatisfactory.
(427)

Mr. Vogel: That is all.

Mr. Graham: Mr. Black, at the Arbitration hearing did Mr. Crabbe ask you the following question: "When was this contract on Section B let?" A. I presume so.

Q. And did you make the following answer: "A. In May, 1920"? A. I couldn't say, I don't know what I answered. I answered whatever it was.

Q. Then was this question asked you by Mr. Crabbe? "Q.

When was the original contract according to plans and specifications, with round top, completed?" and did you make the following answer: "A. It was completed the same time as Section A in November, 1923?" A. Yes, I presume I did.

Q. So that as a matter of fact Section B was not completed until November, 1923? A. No, I didn't answer that, it was not accepted until November, 1923,

Q. You say here it was completed in 1923. A. Well, that is what we call it; we call "acceptance" "completed," it may have been completed a year or two before, but not accepted.

Q. But you say in your testimony before the Arbitration Committee it was completed in 1923? A. Well, we know that is not so.

Q. Then you want to change your testimony? A. No,
(428)

I don't care about changing anything, but I say it wasn't accepted until 1923.

Q. And you wished to say in your testimony before the Arbitration Committee that it was completed in November, 1923 with a round top? A. Well, that calls—

Q. Well, we'll refer you to the page (handing paper to witness and reading therefrom) "When was the original contract according to plans and specifications, with round top, completed?" and your answer, "It was completed the same time as Section A, in November, 1923." A. Yes.

Q. That was what you testified to? A. Oh, what they mean is that it was accepted at that time.

Q. With the round top? A. Yes.

Q. With the round top? A. No, it must have been a flat top.

Q. But you say here it was completed with a round top? A. I don't know what that stuff is—

Q. But you testified to whatever— A. I know, but we had a young lady take that work that was inexperienced, she may not have made that a correct—

Q. You testified here a few minutes ago that this was a true and correct record of the proceedings had before the Arbitration Committee. A. As far as I know it is.

Q. Now, Mr. Black, did I understand you to testify a short
(429)

time ago that these clay pits were not located in the most economical and proper places? A. They're not located at the most economical distances I would say.

Q. At the hearing before the Arbitration Committee was this question asked you by Mr. Bliss: "Q. It might be well to have entered into the records the manner of locating the pits and if such pits were located by the Highway Commission and represented the best haul," to which question the record

shows that you made the following answer: "A. Yes, the barrow pits were located by the Highway Commission and they were located in such manner that they represent the most economical haul for surfacing. There was not much choice as to where to take pits, the soil in most places being the kind we are trying to get away from, and the choice was limited to only two or three places. That is what I have been told and what I have seen." A. Yes, I think that is the fact.

Q. Then as a matter of fact the pits were located in the proper places? A. Couldn't have a great deal of choice down there as I understand.

Q. What did you mean by your former testimony here where you stated that a lot of this cost was due to improper location of the barrow pits? A. Well, it is improper location.

(430)

Q. In what way? A. It is the best you can do, I presume, as nearly as I know about the conditions down there. I don't know what the materials are along the side of that road, personally.

Q. Then why did you tell the Committee that a large amount of this cost was due to improper location of the pits? A. Well, it is due to improper location, I would say.

Q. In what way? A. They are improperly located; that is, it can't be avoided.

Q. Then they are not improperly located if it could not be avoided? A. Well, in a theoretical way, they are improperly located.

Q. Why did you tell the Arbitration Committee that they were improperly located then? A. Well, I guess there isn't much choice as far as location of the pits down there is concerned.

Mr. Vogel: You would hardly call that being located improperly, if it was the only location they could get, would you? A. Well, I don't know if it is all you could get, guess it is the best you could do.

Q. No, so the Highway Commission in the location of these pits, if it was the only pits they could get they would be properly located, would they not? A. No, I wouldn't say so.

Q. You said, what did you mean when in your former testimony you said that it was due to improper location of the

(431)

pits by the former Highway Commission of this excessive cost? A. Well, just a question of how you take that answer. I take it as improper location by comparing with other jobs.

Q. You admit it wouldn't be improper if that is the only pit they could get? A. That is the best you could do.

Mr. Graham: Q. Why didn't you go on and explain, Mr. Black, that this was the best that could have been done with the location of the barrow pits? A. Well, I don't know

from my own knowledge that it is the best that can be done, it is hearsay, as far as I am concerned.

Q. You testified before the Arbitration Board that they were properly located? A. Properly located?

Q. Yes. A. Well, I don't know how anybody could say that.

Q. Well, which way do you want to leave your testimony now? A. I don't know, I admitted that I don't know anything about Section B, and I didn't pay any attention to it.

Q. And you don't know anything about the dirt moved up on here? A. No.

Q. No information whatever concerning it? A. No, nothing to do with it.

Q. Where you have a pit,—after you dug into that pit and you find out that it isn't the material you expected it to be,
(432)

you would call that improperly located? A. Yes—another instance where it was improperly hauled material, they put on the road material that was as bad as the material they were trying to cover, necessitating going over the same piece several times.

Q. Isn't it a fact that you hadn't dug down to that pit to see what material was down there? A. No.

Mr. Vogel: Is that true of these pits? A. True of some of these pits.

Mr. Graham: Why did you testify before the Arbitration Board that they were properly located. A. I don't know now about that, I don't remember testifying to that effect.

Q. I will show the record. A. I don't dispute those things in there, but I don't remember testifying to that.

Q. What you testified to before the Board of Arbitration was the truth as you saw it at that time? A. Yes, but I don't say that the record is correct. I don't see how anybody could testify to that.

Q. You don't want the Committee to understand that the girl in your office didn't take your testimony down correctly? A. As far as I am concerned, Mr. Graham, you can take that 59B any you wish, I don't know anything about it.
(433)

Q. You wish the Committee to understand that you do not? A. That is what I want them to know.

Q. Still you recommended that \$7300 additional pay be given to Mr. Twichell on Section B? A. No, I didn't make that recommendation, the Board of Arbitration did that.

Q. But you presented figures showing that amount to be due to Mr. Twichell? A. No, what was presented to that Board was what would be required if it were changed from a crown to a flat top. It would require additional material for yardage.

Q. And you submitted no evidence to the Board of Arbitration that any such orders had ever been given. A. Not that I know of, we haven't any orders to that effect.

Mr. Vogel: On that Board of Arbitration you were representing one side of this controversy, were you not? A. No. I appointed a man to represent the Highway Commission.

Q. He was one of the arbitrators? A. He was one of the arbitrators.

Q. You were giving the testimony from the side of the Highway Commission? A. Yes, I was trying to give impartial testimony.

Q. And part of that was this payment of \$7300, wasn't it? A. No, you will find in that evidence that I admit that

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I don't know anything about 59 B.

Mr. Graham: Q. If you did not know anything about it, Mr. Black, how did it happen that you attempted to give testimony concerning it? A. Well, read the first of my testimony if you will.

Mr. Vogel: Who on the part of the Highway Commission then gave testimony before this Arbitration Board with respect to this \$7300 on Project 59 B? A. I don't recall off-hand who were there, Mr. Vogel.

Q. Was anybody appearing on behalf of the Highway Commission? A. Yes, Mr. Knudson and Mr. Thorberg.

Q. For what? A. I instructed Mr. Bliss to notify anybody that had ever had anything to do with this project in any manner to be present in this hearing, specifically pointing out a few men like Mr. Gavin and others to be present.

Q. Who appeared there then in behalf of the Highway Commission on Project B outside of yourself? A. Mr. Thorberg and Mr. Knudson.

Q. Their testimony is in there? A. Yes.

Mr. Graham: Q. Was this question asked by Mr. Crabbe from you: "Q. Has anything been determined as to how much he would be entitled to under these conditions?" And you answer, "A. One of these estimates determines that about \$8509.12 would be due Mr. Twichell on this project." Who determined that? A. What was the answer to that?

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Q. "One of these estimates determines that about \$8509.12 would be due to Mr. Twichell on this project." A. That is basing this theoretical yardage in changing from a crown to a flat top.

Q. Why put in a theoretical yardage when you knew nothing about it? Why have an estimate made showing that there was due \$8509.12 to Mr. Twichell? A. I never made any estimate.

Q. Did you order one made? A. No, not that I recall.

Q. Who did order it? A. I don't know that anybody ordered it.

Q. Was it made in your Department? A. Not that I know of, nobody in our Department offered to give anything on Section B.

Q. Well, in what way, then, did the Committee obtain the information? A. They obtained it in part from Mr. Twichell and from outside sources, as nearly as they could, I don't know.

Q. Didn't you testify also in regard to what was coming to him? A. I figured on a theoretical basis; if he changed it from a crown to a flat top it would require a cubic yard of earth per running foot for most of the road.

Q. But you had just testified in that hearing that it had been completed with a round top? A. Well, I think that testimony is not correct there on that, or it is a misunderstanding.

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Q. Possibly it wasn't completed with a crown top, if you don't know anything about it? A. I said a minute ago that I did not know anything about it. It isn't my job.

Q. If that be the case, why did you then wish the Department to pay an additional sum of \$8509.12 when you were not yourself convinced that such work had been done? A. What makes you think I wished the Department to do that?

Q. Just answer the question. A. There was never any such estimate made. I never wished the Department to do anything like that.

Q. You did not? A. No.

Q. Where did this estimate come from? A. Based on a theoretical yardage.

Q. But I say, who made up this estimate, the Board of Arbitration? A. The Board of Arbitration made it as far as 59 B is concerned.

Q. Was not this estimate made and presented to the Board of Arbitration? A. Not on Section B.

Q. In your testimony did not Mr. Crabbe ask you this question: "Q. Has anything been determined as to how much he would be entitled to under these conditions?" and did you not answer, "A. One of these estimates determines that about \$8509.12 would be due Mr. Twichell on this project"?

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A. Based on theoretical yardage.

Q. This estimate, was that down in writing? A. I don't know what estimate you are talking about.

Q. The estimate on Section B. A. I don't know what estimate you are talking about.

Q. You were the one testifying? A. Yes, I don't know what estimate, in such a theoretical estimate speaking of—

Q. Was there any estimate made by your Department in writing in regard to Section B? A. Not that I know of.

Q. Then from the record this question was asked by Mr. Crabbe from you: "Was there any extra work other than the change in top on this road?" "A. Yes, there is about 5300 yards of extra work, I believe." Where did you get your information for that statement? A. I couldn't say offhand without looking up. May have been a change in plans on the grading job there, I don't know.

Q. Will you look it up? A. I will look it up right now if I can find it.

Q. If you did not know anything about the project why did you make such a statement? A. It would be in the record somewheres close (examining records) if there is any estimate. I find that the former State Highway Commission here has allowed additional yardage for earth excavations, I couldn't say now what the purpose of it was.

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Mr. Vogel: Q. You know that Mr. Twichell was coming before this Board of Arbitration with a request for additional money on Project B? A. Why, I would say I thought he would, yes.

Q. Don't you think it was the duty of your Department to appear before that Highway Commission (Arbitration Committee) with your estimate of what that additional work should be worth? A. On Section B?

Q. Yes. A. Well, I don't know if he had; in fact, I couldn't swear whether he made a flat top or round top.

Q. It isn't your duty to find out? A. You can't find out if there was a flat top there, the maintenance of the road would take it off, the man maintaining the road is always inclined to drag the shoulders down into the center of the road, if there ever was a—

Q. How did you suppose this Board of Arbitration was to find out whether this eight thousand some dollars was a justified claim or not? A. Makes that possibly from the fact—due to the fact that the Highway Commission would take the, what the roads built with a flat top—

Q. You don't know whether it was done or not? A. Whether Mr. Twichell did it or not.

Q. Did you in your answer to a question asked you in that Arbitration hearing, you made this reply did you not? "I

(439)

don't think the new federal idea rules in this case"? A. No, that wasn't—it wasn't a federal regulations, it was a state regulation.

Q. State Highway Department here? A. Yes. Mr. Twichell in claiming that that amount of extra yardage on B swore to the vouchers that that amount was due him.

Mr. Graham: But your engineers' report showed to the contrary? A. What sort of report do you mean?

Q. The Certificate of Final Estimate sent in by Mr. Thorberg and Mr. Gavin. A. Oh, it may have, yes.

Q. It did? A. As a matter of fact I haven't looked.

Q. Will you refer to it? A. I couldn't tell by this whether it is a flat top or round top.

Q. When was this order made by the State Highway Department in which the tops were changed?

A. During 1921 or 1922, I don't know which.

Q. How do you know that such a change was made? A. Speaking from the impression of the Department.

Q. In making that statement—is there no records of that? A. No, not that I know of.

Q. What did you make the statement then to the Board of Arbitration that the flat top would not apply to this case for? A. I would like to read this—read that over, just what I did say.

(440)

Mr. Graham: (Handing paper to witness.) Read it over yourself.

Mr. Black: Well, I don't know just what you are referring to.

Mr. Graham: Right here (indicating.)

A. "I don't think the new Federal idea rules in this case?"

Q. Yes. But what about it?

Q. Did you make the statement to the Arbitration Board that the change from a crown top to a flat top did not apply in this case? A. No, I did not make any such statement as that, I don't believe.

Q. The record shows. A. No, it does not show it, the answer is, "I don't think the new Federal idea rules in this case," the answer is unfinished (indicating), possibly the stenographer did not get the balance of the answer, it isn't a Federal rule, it is a state rule.

Q. It must have been based upon the Federal regulations? A. No.

Q. What do you mean by the Federal idea then? A. Let me take that again, please. (Examining paper.) All of the answer is not in there, so I couldn't give an intelligent answer before I finished answering the question.

Q. Will you explain to us now what you mean by the "Federal idea"? A. I don't mean anything by it right now.

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Q. Is there any Federal idea about having flat tops in place of crown tops? A. None, so far as orders for flat top or crown top.

Q. Does the Federal Government believe in the crown as well as the flat top? A. Well, to make that clear; we make up our own plans for roads; those plans are forwarded to the Government; they are approved; we could build our roads flat or crown topped if we so desired; so the ruling of making the flat top is entirely a state rule.

Q. And it is acceptable to the Federal Government in either case? A. It is.

Q. Have you the findings of the Board of Arbitration? A. Not here, I don't think; it might be in the estimates, if there is a copy filed in that. Here it is, this isn't the finding, but it is a copy of the findings.

Q. Now, have you any information, Mr. Black, as to who ordered the remodeling of the crown on Section B? A. No.

Q. Did you have at the time of the hearing before the Arbitration Committee? A. No, not the one who ordered it personally, merely basing it on the fact that there was a general order at that time out of the Department.

Q. Was this question asked you: "Now, who ordered this (442) remodeling of the crown?" and did you make the following answer, "It was ordered by the Highway Commission during the year 1922?" A. Yes

Q. "Mr. Carroll ordered this flat top on the roadway in 1922; he was then Division Engineer?" A. Yes, possibly; he was Division Engineer; he would have made the order.

Q. Do you remember whether or not he did, in fact, make such order? A. I couldn't say; no.

Q. Why did you testify that he did? A. From the—due to the fact that all orders would go through the Division Engineer.

Q. If they were made? A. Why, yes, if they were made.

Q. Now, do you remember whether or not he did give any specific instructions? A. No, I just explained in this connection a few minutes ago that I don't know anything about 59 B.

Q. Why did you testify before the Arbitration Board that you did? A. Did what?

Q. Did know. A. I never did state that; I don't know. If you will read the first paragraph of that testimony you will find that I said that I don't know.

Q. You made this answer, did you not, "It was ordered by the Highway Commission during the year of 1922?" A. Yes.

Q. "Mr. Carroll ordered this flat top on the roadway in 1922; he was then Division Engineer?" A. Yes; that is the way the order would be given.

Q. You testified that he did give such order? A. I don't know whether or not; what I testified to.

Q. Did you not make response to this question asked you by L. L. Twichell: "You know as a matter of fact that the road was originally built as a round top road and afterwards this office ordered it changed to a flat top road? and your answer being "yes?" A. Yes.

Q. As a matter of fact, you didn't know anything about it? A. No. I did not know anything about it, except that that was a general order at that time.

Q. You so testified then? A. Well, I believe I'd be safe in testifying to that effect.

Q. When you knew absolutely nothing about the road? A. No.

Q. Was there any crown on the road when you went down and inspected it? A. There may have been, likely would have been, yes.

Q. And when you testified did you make this answer to the question, "Has the item of changing the roadway from
(444)
a crown to a flat top been calculated as to yardage, etc?" and did you make the following answer, "There really is no way of telling. We took cross sections of the job down there and it shows that there still remains a crown; possibly more than was originally specified, but that may be due to the fact of maintenance. The notes I took were taken a long time after Mr. Twichell finished the flat top." Did you so testify? A. Yes.

Q. Then was this question asked you by Mr. Bliss: "Was that job re-cross sectioned after the flat top was on?" your answer being "Yes?" A. Yes.

Q. That is correct, is it? A. Yes.

Q. Now in changing this from a crown top to a flat top could not the dirt from the middle of the road have been moved to the edges at a great deal less expense than building up the edges? A. I couldn't say, not being the engineer on the job at that time. If the center line of the road is supposed to be a certain height, if you moved the crown out to the shoulders you would be reducing the height of the road.

Q. And you don't know which way Mr. Twichell did? A. No.

Q. And he didn't offer in his testimony as to which way he did it? A. I don't remember, he claimed he built from the shoulders up.

Mr. Black: Before you adjourn, I would like to have you read this letter regarding what I spoke to you about this

morning (producing letter and handing it to Mr. Graham.)
Letter read by Mr. Graham:

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"To the Investigation Committee of the Highway Department:

"Gentlemen: This committee, appointed by the House of Representatives and Senate to confer with a like committee of Minnesota, Wisconsin and South Dakota, would like to have Mr. Black, chief of the Highway Department of North Dakota, to accompany this committee. We would deem it a favor to have the investigation postponed until Monday, February 22nd, as we leave Thursday evening and return on Sunday. Asking for your favorable consideration of this request, we remain, very respectfully yours, House Members Robert J. Boyd, G. W. Morton, Fred Eckert. Senate members: W. D. Lynch, A. S. Marshall."

Mr. Graham: If satisfactory to the Committee I think we could use other witnesses until Monday morning and excuse Mr. Black.

Mr. Yeater: I think Mr. Black could be excused, but the time being so short it would be necessary for the Committee to continue working.

Mr. Black: Oh, that wasn't the idea, of course.

Mr. Graham: You will be excused until Monday morning. You have no objection to the Committee proceeding in your absence?

Mr. Black: No.

Meeting adjourned.

(146)

TESTIMONY TAKEN AT THE HEARING BEFORE THE
SPECIAL HOUSE COMMITTEE ON FEBRUARY
20, 1925

Mr. R. H. Myhra, having been recalled to the stand, testified as follows:

Examination by Mr. Graham.

Q. You were sworn the other? A. Yes, sir.

Q. Let's see. your initials are? A. R. H.

Q. Are you acquainted with Mr. Myhre of the Highway Commission, Assistant State Engineer? A. Yes, sir. I have met him, seen him a few times.

Q. Did you meet him some time in the months of February, 1924? A. Yes, sir.

Q. Where did you meet him? A. At Wahpeton, in the County Auditor's office.

Q. He was down there in connection with the Twichell claim against Richland County? A. Yes, sir.

Q. During the course of his conversation, did he say how much Mr. Twichell? A. He said something like \$34,000 in round numbers.

Q. Did he say how much the statements of the engineers showed was due Mr. Twichell? A. He said the estimates submitted by the engineers ran to about \$18,000 but he thought he could settle for \$18,000.

Q. That was about all of the conversation that you remember? A. Well, there was some more conversation about the road. I don't recall it now but it was more or less immaterial.

(447)

Q. And was there any bill presented to the Board of County Commissioners of Richland County for grubbing out trees, etc., on this Project 59? A. Yes, sir.

Q. Have you such bill? A. Yes, sir.

(Bill produced—handed to Mr. Graham.)

Q. Exhibit 7, is the bill to which you refer? A. Yes, sir.

Q. That bill was presented to the County Commissioners and approved and paid by them in the sum of \$1,449.91 as appears from the records? A. Yes, sir.

Mr. Graham: I offer in evidence Exhibit 7.

(448)

(EXHIBIT 7)

Wahpeton, North Dakota, 11-1-1920.

COUNTY OF RICHLAND, Dr.

State of North Dakota.

To Treadwel Twichell,

Address: Mapleton, N. D.

June 24	Grubbing and pulling—10 miles—1 man 1 day	\$ 7.50
Sept. 14	Removing ½ mile, telephone poles east of Theeds, 3 men, 1 day	22.50
Sept. 15 and 16	Removing 2 rows of trees at Theeds and pulling on land, engine and engineer, 2 days at \$65.00	130.00
	Two extra men, 2 days	30.00
Sept. 19	Removing telephone line at Mawler, \$. Engine ½ day	32.50
	2 men ½ day	7.50
Sept. 20	Removing trees south of Meyers—engine engineer, 1 day \$65.00	65.00
	2 extra men, 1 day	15.00
		<hr/> \$ 310.00

DEPARTMENT Approval

The County Commissioners

GOODS Received—Service Performed

Approves \$.....

.....

 Official Position.

Chairman of Board of
 Co. Commissioners

.....19.....

.....191.....

(2) Wahpeton, North Dakota.....191.....

COUNTY OF RICHLAND, Dr.
 State of North Dakota.

To: T. T.

Address
 (449)

	3 Lb. dynamite 1.95, 3 feet fous 9, 3 caps 15	\$ 1.19
	1 man culling brush—N & S Road 1 day	7.50
Sept. 21	Moving ½ mile telephone west of Mahlers Engine ½ day	32.50
	2 men ½ day	7.50
Aug. 29	Cutting trees at Johnson; 8 men 1 day; 6 men 1 day; 14 days	98.00
Oct. 13	Engine pulling stumps and moving logs 1 ½ days at \$65.00	97.50
	190 pounds dynamite, 112 fues, 90 caps....	123.50
	6 men ½ day moving stumps—7	21.00
	Engine ½ day at \$65.00	32.50
		<hr/>
		\$ 421.19
Sept. 11	Removing stumps at Mahlers engine ½ day	\$ 32.50
	2 men, ½ day	7.00
	50 pounds dynamite, \$32.50; 50 feet fuse, \$1.50; 40 caps, \$2.00	36.00
Aug. 28	2 men dynamiting, ½ day.....	7.50
	Engine 1 day moving fence posts, 5 miles out of Fairmount	65.00
	1 man 1 day	7.50
Oct. 20	Removing trees west of Nelson engine, ½ day	32.50
	Extra man, ½ day	3.75
	8 pounds dynamite 6 feet fuse, 6 caps.....	5.72
Oct. 3	Helping move Aug. Schaat fence, 1 man 1 day	7.00
Oct. 25	Pulling Johnson's fence, engine ½ day; extra man ½ day	36.25
		<hr/>
		\$ 240.72

Sept. 1	Digging, pulling, trimming and moving trees on Meyer's farm; grubbing and	
to	removing Pioneer engine and engineer	
Sept. 8	6 days at \$65.00 per day	390.00
	Man and team 6 days at \$10.00	60.00
	2 extra men, 2 days each at \$7.00 per day	28.00
		<hr/>
		\$ 478.00
	As per bills attached	\$1,499.91

The County Commissioners DEPARTMENT Approval

GOODS RECEIVED—Service Performed

Approves \$1,449.91.

AUGUST HOEFS

Chairman of Board of County
Commissioners

Official Position.

November 9th, 1920.

191

(450)

(CERTIFICATE on back of Sheets 1, 2 and 3:)

CERTIFICATE

I do hereby certify that the within bill, claim, account or demand, is just and true; that the money therein charged was actually paid for the purpose therein stated; that the services therein charged were actually rendered and are of the value therein charged; that no part of such bill, claim, account or demand has been paid; and that the goods therein charged were actually delivered and were of the value charged.

Sign here.....VICTOR PETERSON.....

Foreman.....

If signed for a Firm or Company
show authority on this line.

(CERTIFICATE on back of Sheet No. 4:)

CERTIFICATE

I do hereby certify that the within bill, claim, account or demand, is just and true; that the money therein charged was actually paid for the purpose therein stated; that the services therein charged were actually rendered and are of the value therein charged; that no part of such bill, claim, account or demand has been paid; and that the goods therein charged were actually delivered and were of the value charged.

Sign HereW. F. BENJAMIN,.....

Foreman.....

If signed for a Firm or Company
show authority on this line.

(451)

(Back of Page 5:)

EXTRA WORK (Pencil Notation)
No. 10988

Claim of
T. TWICHELL
Against
RICHLAND COUNTY

Amount of Claim\$1,449.91

Amount Allowed\$

Filed this 9th day of November, 1920.

F. A. BURTON,
County Auditor.

.....
Deputy.

COUNTY ROAD FUND
(452)

Q. And if I remember your testimony correctly, you stated that Richland County was compelled to do maintenance work upon Project 59 during the time Mr. Twichell was working upon it to something over \$1,200? A. Yes, sir.

Q. Do you remember the exact figures? A. No, sir, I think it was \$1,254.

Q. You say this was the Assistant Engineer? A. Assistant Chief Engineer.

Q. He stated to you that—that is, to the County Auditor in your presence? A. He stated it in the office.

Q. That Twichell had \$34,000 coming? A. He said that that was what Twichell had claimed.

Q. That was what Twichell claimed, \$34,000 claim? A. Yes, sir.

Q. You mentioned \$18,000.00. You say he thought he could settle? A. He thought they would be able to settle for \$18,000 and he got that figure from the estimates turned in by the engineers on the job.

Q. \$18,000 for the total cost of the job? A. \$18,000 for the final estimate.

Q. One-half of that Richland County would pay? A. Yes.

Q. Which would be \$9,000? A. Yes.

Q. Why did Richland County pay this amount for maintenance? A. Because the maintenance was ordered when
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the road wasn't in shape. The road was in very poor shape a good deal of the time and it was necessary that something be done in order that it be made passable and there were several men that were on the road or lived near the road

that did maintenance work on it. These were allowed at the regular sessions of the county commissioners, the bills.

Mr. Halcrow: It was voluntary on their part, they considered it right to do that? A. They did insofar as making the road passable was concerned because there was no other way of making it passable. They spoke to the contractor and he didn't seem inclined to maintain it himself.

Mr. Halcrow: Has he ever refused to maintain it? A. I Don't know that he did, the commissioners said they couldn't get him to do that.

Mr. Halcrow: They must have considered it right to do that before they did, they should do that before they allowed a bill of \$1,254? A. It was not in one bill, it was in separate bills, perhaps the largest of which was not over \$50, and bills to different men, for maybe twenty miles of dragging or something of that sort. Some bills run from \$1.00 to \$20.00 and for the most part, they were small items but the total amount was about \$1,200, something over \$1,200.

Mr. Vogel: Was Mr. Twichell's outfit on the job at that time? A. Yes, sir. It was located near the job at least.

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Part of the time it was tied up in a farmer's yard.

Mr. Vogel: Was Mr. Twichell down there most of the time? A. Well, I don't know what part of the time he was there.

Mr. Vogel: You were not on the job? A. No, sir, not during 1923.

Mr. Vogel: This was for maintenance during the year 1923? A. It was over the entire period, not confine to one year.

Mr. Vogel: These amounts were allowed in small items at various times, were they? A. Yes, sir.

Mr. Vogel: They figured on a deduction of that when they allowed Twichell's account? A. I don't know but I think they did.

Mr. Vogel: That is your personal opinion? A. Yes, sir, never had any motion to that effect.

Mr. Vogel: Did you ever hear any talk among the county commissioners that that would be deductible? A. Several of them were under the impression that it would be.

Mr. Vogel: That they would be allowed to offset that? A. Yes, sir.

Mr. Graham: Q. What years did you work upon this project? A. I was on it in 1921 and 1922. Just a short time in 1922 as we were on other work also.

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Q. Do you know anything about whether Mr. Twichell obeyed the instructions of the engineers in charge or not, or have you any knowledge as to that? A. He was a pretty

hard man to get to obey the instructions sent out by the engineers.

Q. And it was your understanding and the county commissioners' that this maintenance should be taken from what was coming to Mr. Twichell in the final settlement? A. Yes, sir, but they had no definite assurance that that was what to be done.

Q. And it was your understanding that they had tried to get Mr. Twichell to maintain this road in accordance with the terms of his contract? A. Yes, sir.

Q. And he failed so to do? A. Yes.

Mr. Vogel: Who was the engineer during the time you were on this job? A. Gavin.

Mr. Vogel: First name? A. John Gavin.

Mr. Graham: You don't know whether Mr. Gavin ever ordered Mr. Twichell to do maintenance work which he did not do, or any other work? A. I don't recall the specific order. He certainly did if he was on the job.

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Mr. J. R. Poupore having been called as a witness, after having been duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence? A. J. R. Poupore, Grand Forks, North Dakota, age 65.

Q. What is your business? A. I am interested in farming and brick manufacturing.

Q. And you are a member of the State Highway Commission? A. I am.

Q. When did your term commence? A. Commenced April 15th, I believe, 1923.

Q. And when does it end? A. April 15, 1925.

Q. Two-year term? A. Yes, sir.

Q. And what are your duties as a member of the State Highway Commission? A. As I understand it, my duties are to see that we get the most value for the money expended on highways, also to select the best locations that will serve the most people and to meet with the other members of the Board to settle for the work done.

Q. Who was the other appointive member of the Highway Commission? A. Mr. Brown of Dickinson.

Q. When does his term expire? A. The same time I understand.

Q. Then the other three members, who are they? A. Well, the Governor and the Secretary of Agriculture and Labor and Chief Engineer.

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Q. And the Chief Engineer is the man who is virtually in charge of the Highway Commission? A. Yes, sir.

Q. How often do you people meet with him? A. I can't hardly say. We meet at his call, couldn't tell you just how often that is. Here at the Capitol, of course, there is times when I have been called out on the road, inspecting roads.

Q. And did you have a meeting soon after you and Mr. Brown were appointed? A. We did.

Q. It is your understanding that the State Highway Commission has authority to purchase automobiles? A. It is.

Q. From where do you get such understanding? A. Well, they are permitted to have automobiles in order to look after the work that is going on over the state.

Q. Is there any provision in the law that has ever been called to your attention giving the State Highway Commission authority to purchase automobiles? A. I haven't seen any law.

Q. And you never asked the Attorney General for an opinion as to whether or not you people had such authority? A. I haven't, no.

Q. And there is none on file in the office so far as you know? A. Not so far as I know.

(458)

Q. Do you remember whether or not at the first meeting that you held, a resolution was passed purporting to give Mr. Black authority to purchase a seven-passenger automobile? A. I couldn't say, couldn't remember, we may have, may not. I know there was something taken up about the purchase of automobiles, but I can't tell you just what it was.

Q. For what was this 7-passenger automobile to be used? A. It was to be used by Mr. Black as I understand it.

Q. In what way did Mr. Black need a 7-passenger automobile to look after the highway? A. Well, there is, in taking over the work, there is usually four or five people making those trips, a lot of plans and specifications that they carry with them and we figured that it would be better to have that size of a machine than to run two cars as they had been doing for the same kind of work, as I understand.

Q. Mr. Black ordinarily only goes out on inspection trips, does he not? A. Of course, I couldn't say as to that. I would imagine, however, that he would be calling on his different engineers, division engineers over the state.

Q. The division engineers had cars of their own, didn't they? A. I think they did.

Q. Why would he use 7-passenger cars for the division engineers? A. That, of course, is something I can't answer.

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Q. And the resident engineers upon each of the projects

also had cars, did they not? A. So I understand, I am not so sure about that.

Q. Do you know whether or not it is a fact, Mr. Poupore, that a car is being used to carry the help back and forth to the Capitol at the present time? A. Well, I didn't know that until I heard some testimony stating that it was a fact.

Q. Did you make any investigation to find out whether or not such testimony was correct? A. I have not, took it for granted that it was true.

Q. Well, is that being done with your consent and approval? A. Well, I don't know if that is being done at present. In fact, I don't know of my own knowledge if it has been done at any time, only hearsay.

Q. Did you make an investigation? A. I did not.

Q. Well, do you consider that is a proper procedure for a man to spend three or four hours a day in that kind of work and the State to pay for it? A. I would say that it may be and may not. It doesn't—It just depends on the man who is doing this work, if he is not busy with anything else and he took the help there, I don't know but what it would be nothing wrong about it.

Q. You think it would be a legitimate expenses then, do you? A. Not to keep a man especially for that work, no,
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but if a man was going that way, I don't see anything wrong about him taking up the help.

Q. The testimony which was adduced here was to the effect that it was one of the shopmen who was employed in the shops. A. Yes, I heard that testimony. That was the first I heard of it and have talked something about it since. I haven't satisfied myself that that was a regular part of the work of that job.

Q. Well, was it ever done with the—Strike out that question. Was this matter ever brought to the attention of the Board? A. Not to me, not to my attention.

Q. Do you know of any other department up at the Capitol which pursues the same method of carrying the help? A. I do not.

Mr. Graham: Is the minute book here yet, Mr. Brown?

Mr. Brown: No, I sent a man up to the Capitol for it. It will be here in a few minutes.

Mr. Vogel. Did you return it to them?

Mr. Graham: Yes, they came in after it.

Q. On what roads have you been out and made an investigation? A. Oh, I have been on several trips, I couldn't tell you just the number of the projects. I was sent as far as Williston, north as far as Crosby, south to Richland County and west to Oakes.

Q. Did you ever go down and look over Federal Aid Project No. 59 in Richland County. A. Yes, I was over that one time.

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Q. When were you over that? A. I think it was the fall of 1923. I know it was the fall of 1923, rather late in the fall.

Q. Whom were you with? A. Mr. Wallace, I believe, and Mr. Gavin, and I believe Mr. Sharts. I don't think Mr. Gavin was all the way with us, I think we went further than that division.

Q. Mr. Wallace, Mr. Gavin and Mr. Sharts? A. I think that is the party that left Richland County.

Q. How long were you inspecting Project 59? A. Well, we just drove over that project, I presume more than 59 in one day, that is, we went from Richland County over that road.

Q. You just drove along over the road, didn't make any stop or anything? A. I think we did, the engineers got out and inspected the road, I don't know. Sometimes I got out of the car and sometimes I didn't.

Q. Do you have any recollection as to any particular features of that road at this time? A. Not particularly, except that they were just finishing a part of it that was close to a town, don't know what that town was, Forman, I believe.

Mr. Lounsbury: Fairmount? A. Might have been Fairmount, couldn't tell. This was the last and they were finishing, I think it was the west end of that work.

Mr. Lounsbury: Hankinson? A. That is probably what it was. This was an inspection trip for final acceptance by the Federal Government; as I understand, it was all taken

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over except that mile or so that was to be finished and wasn't quite finished.

Q. Who was doing the work? A. Well, there wasn't—I understood that Mr. Twichell was the contractor, but they wasn't working the day we were there.

Q. Did you see Mr. Twichell at that time? A. No.

Q. Did Mr. Twichell ever come to see you about the final estimate upon this project? A. I don't think he ever came to me to see about it, but he talked to me several times.

Q. Where did he talk to you? A. At Fargo, I believe.

Q. When was the first time? A. Well, I can't tell you that; it was right along this, shortly before I made that trip, if I remember right.

Q. He didn't make any complaint to you about the road at that time? A. No, he made complaint about the way he had to do the work. That was all, he didn't say—claimed that he had finished the road once and had to rebuild it.

Q. Well, did you ever look through the correspondence in the office? Strike out that—Did you ever look through the correspondence received from Mr. Twichell concerning this road? A. We looked for correspondence but I don't remember that we found very much. I think there were a few letters.

Q. Did you not find from going over the correspondence that Mr. Twichell, in his letters, never claimed that the road was ready for acceptance until the fall of 1923? A. Well, I
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couldn't tell you anything about that. I think not.

Q. Did you see any correspondence in the office prior to 1923? A. No, not that I know of.

Q. Did you ever look through the records to see if there was a claim? A. No, I didn't.

Q. Did you ever at any time? A. No, I never looked over the records, simply acted on the business that was brought before us at our meetings.

Q. You were present when a certain resolution was passed stating that this work had not been carried on in proper condition and that there was a large amount of work for which Mr. Twichell had not been paid? A. I was present at several of those meetings when this matter was under consideration.

Q. Do you remember of such a resolution being passed. A. I do not, in 1924, I do not.

Q. Well, would you say that such a resolution was passed? A. Why, I wouldn't say; it may have been and it may not.

Q. Well, if such a resolution was brought to your attention, did you make any investigation as to the statements contained in the resolution? A. Well, if the resolution was brought to my attention at the time, I know that I did.

Q. What investigation did you make? A. Well, we—I
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would look over the resolution and find out why there was a necessity of any such a resolution.

Q. And from whom would you receive—no—to whom would you go for such information? A. Why our engineering department, our engineer, of course.

Q. That was Mr. Black? A. Yes.

Mr. Vogel: How many times during the year are you in the habit of meeting? A. Now, I couldn't just tell you, Mr. Vogel.

Mr. Vogel: Approximately how many times did you meet in 1924? A. Oh, I would say around seven or eight times possibly, I am talking now about the regular meeting at the office. Of course, I have met the engineers much oftener than that. There are different things come up such as disputes on the location of roads.

Mr. Vogel: This car that was purchased was a new Hudson? A. I understand it was, I understand it was a trade-in some way.

Mr. Vogel: The time this car was purchased did you, as a member of the Highway Commission, investigate to find whether there were other cars that were available. A. I didn't investigate, I understood that there wasn't.

Mr. Vogel: You understood so? A. Yes, sir.

Mr. Vogel: From whom did you understand this? A. Well, I understood it from Mr. Black, and I also understood

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that there wasn't any car that was in condition down at the shop.

Mr. Vogel: Q. From whom did you get the request for the purchase of this new car? A. From Mr. Black, I think.

Mr. Vogel: Mr. Black requested the purchase of that car? A. It was talked about, I don't know whether he requested it, I presume he did.

Mr. Vogel: You heard the complaint with respect to the carrying of these employees to the Capitol? A. Yes, sir.

Mr. Vogel: Do you know of any State Department that follows out that? A. No. I think I so stated.

Mr. Vogel: Didn't you inquire as to why this department should do this and no other department? A. I didn't know this department was doing that until at this time.

Mr. Graham: You realize the number of trucks out there at the plant out east of town that are in need of mechanical work on them? A. Well, there are a great number of trucks that, in my opinion, are not in need of any mechanical work. I would call them junk myself.

Mr. Vogel: Q. You would consider it good business to pay a man \$150 a month and spend three hours a day for transporting employees would you? A. No, no, I would not.

Q. This testimony was taken some two weeks ago, was it not? A. I couldn't tell you just the time.

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Q. You and the other members of the Commission have been in town since that time? A. Practically all the time, yes. I think I was home once.

Q. And have taken no steps to see if there was any truth in that statement? A. Well, we have taken no steps except to ask Mr. Black about that and about the time that was testified to that had been taken in the transportation of the help up there seemed to have been done for very much less time.

Q. What did Mr. Black say with respect to that? A. Mr. Black stated that it wasn't a steady thing, but that there were times when this man had hauled the help.

Q. Do you know whether they are still doing it or not?
A. I wouldn't say whether they are hauling help now or not.

Q. Isn't it a fact that it was done up to a few days ago?
A. I couldn't say as to that.

Q. You took Mr. Black's word? A. I did.

Q. Mr. Black stated that it was not being done now? A. I haven't asked him but in talking the matter over, he said it hadn't been done as a steady thing and I understood it was not being done.

Q. Was Mr. Black present when you drove down to Project 59? A. No.

Q. Not along with you? A. No.

Q. You say you understood Mr. Twichell was contractor down there? A. I knew he was.

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Mr. Vogel: I just want to straighten it. A. Yes.

Mr. Vogel: Who in your Highway Commission knows anything about the organization? A. Beg pardon?

Mr. Vogel: Who in your Highway Commission knows anything about the organization? A. Well—

Mr. Vogel: We have been spending a week with everyone passing the buck and I am getting tired of it. The Highway Commission doesn't know, the Chief Engineer doesn't seem to know anything. A. We have done considerable work. I have been out on the road with the project engineers and inspection engineer.

Mr. Vogel: They keep passing the buck from one class of an engineer to another class of engineer; project engineer, detail engineer, chief engineer, assistant chief engineer.

Mr. Graham: Q. They have spent considerable money, have they, in the Highway Commission? A. Yes, they have.

Q. A great deal of money—quite a large amount of money, a great deal of it has been spent extravagantly? A. Would not say as to that.

Q. Would you say that any of it had been spent extravagantly? A. Not to my knowledge.

Q. Do you not think that was an extravagant expenditure of money when the engineers in charge of the work under Mr. Black reported that there was due, in full payment for
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the Federal Project 59 in Richland County \$82,000 and when you people eventually okayed the expenditure of \$124,000?
A. Not if the work was necessary to be done.

Q. Did you satisfy yourself that it was necessary to be done? A. I did.

Q. In what way did you so satisfy yourself? A. Well, in the way that the material and construction of that road

was not suitable for road building and after the road had been built, it was found out that it would not stand up and it would require clay surface.

Q. Well, the report of the engineers when this work was completed showed all of the material that had been put into the road, did it not? A. I presume it did.

Q. If the report of the engineers was correct why did you go over their heads and make this additional allowance? A. Well, we didn't know that it was correct and there was a dispute between the contractor and the engineer.

Q. Did you have any reason to disbelieve the report of the engineers? A. Well, I had reason to believe that if there was a dispute about quantities that that should be ascertained so that there wouldn't be any mistake on either side of the question.

Q. You never did have any other engineers measure the
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work up to see if there had been a mistake made in the measurements? A. Well—

Q. You can answer that question yes or no. A. The engineers—I can't answer yes or no—I can explain why—

Q. Did you ever have any other engineers measure up the work other than the ones who turned in the final estimate? A. Well, there was other engineers that measured up the work, I presume. Before the final estimate was rendered, we depended upon our Chief to see that the proper quantities was gotten out of that contract so that it could be settled without litigation.

Q. There was no complaint ever made to your department until after the final estimate had been turned in, was there? A. I don't know as to that. As far as I know there wasn't. There wasn't any complaint from the men on there.

Q. And when was the first time that you knew of any complaint? A. Well, it was shortly after we made that trip when most of the work was taken over by the Federal Government.

Q. Well, now, did you ever examine the final estimates which were turned in by the engineers? A. I did not.

Q. Then from what source did you get the information that there was any dispute? A. Well, we got the information from several sources. We were threatened with lawsuit.

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Q. Who did you get any information from to that effect? A. We got information from Mr. Twichell.

Q. From anyone else? A. Not that I remember of.

Q. Well, then you took Mr. Twichell's word as better proof of what was done than the reports of your own engineers that had been sent in? A. No, but there has been disputes on other work so we wanted to ascertain which one

of those parties was right; that is why we ordered a final measure-up of that work.

Q. You ordered a final measure-up? A. We didn't order it—I don't know as we ordered it—we wanted a final measurement on the work.

Q. Did you have such a final measurement made? A. That was my understanding when the Board of Arbitrators met up there at the Capitol.

Q. Who did you have make such final measurement? A. That was the Chief Engineer's business. I don't know who made it. He was the man that was supposed to get it.

Q. Do you know whether or not he did make such final measurement? A. I am satisfied he did.

Q. I say do you know whether he did or not? A. I know as far as any one can know by the word of the man who was doing the work.

Q. He told you he had made final measurements? A. He had a final check-up on that work.

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Q. Did he tell you he had another measurement made? A. He didn't tell whether it was a measurement or what it was, he had a check-up on the work down there and was trying to make settlement.

Q. He did tell you he had a final measurement made? A. don't know as to whether you would call it final measurement or not.

Q. Or did he say that he had a re-check-up made or a cross-section made of any of the work? A. Well, he said he had a re-check made, my understanding is of all the work that was done.

Q. By this re-check, you did not understand that he had new measurements made? A. Well, I couldn't say as to whether they were new measurements. I presume he would have to measure something in order to make a check.

Q. You don't know in fact whether he did have anything done or not, of your own knowledge? A. Well, I wouldn't say the work was done. I was satisfied that it was done.

Q. All you know is what Mr. Black told you? A. Yes, sir.

Q. Did he ever show you any new figures or statements except those which he caused to be prepared to show the figures claimed by Mr. Twichell? A. I couldn't say as to that. I seen quite a number of figures.

Q. On account of the big amount of money involved, do

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you not think it would have been good business, Mr. Poupore, for you and the whole Board to have down with some engineers and get a complete re-survey of this road and convinced yourself that there was some grounds for Mr. Twichell's

claims? A. I don't think it would be necessary if we had confidence in the men who were looking after that part of the work.

Q. Is that the way that you carry on your business; if somebody makes a big claim, you always go and give him what he claims in order to satisfy him? A. No, but we investigate to see whether our man is wrong or the other party.

Q. And in this case you yourself made no investigation but depended upon what Mr. Black told you that he himself had done? A. That was all. I had confidence in Mr. Black that he was trying to get at what was right and fair.

Q. Well, what made you think that the reports of Mr. Black's engineers that had been handed in when the work was completed, were not correct? A. Well, nothing in particular, only I know that men do disagree on that class of work and other classes of work.

Q. And you people then decided upon Mr. Twichell's statement that his words were of more value than the reports of the engineers? A. I did not.

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Q. Well, upon what did you decide? A. I decided that there was a dispute between the man who done the work and the engineering force.

Q. Did you make any decision as to who was right or wrong in the dispute? A. I made—I personally made up my mind it would have to be gone over by the Chief of the Department.

Q. Did you think that that was a fair and reasonable price, \$124,000.00 for 14½ miles of road? A. Well, I couldn't say as to that, depends altogether upon the conditions.

Q. Conditions down there are that it is flat, level country, is it not? A. Not exactly level, it is somewhat rolling in places, I noticed.

Q. How many cuts were there in that 14½ miles? A. Don't think there were many cuts. What I mean by rolling, the land is high and low, not all low, and of course there isn't any hills, but there are some places where it is much lower than others.

Q. There were in fact only one or two low spots filled up in the entire 14½ miles? A. Well, of course, it depends upon what you call low spots. There was a great many more places than that that was lower than other places.

Q. Have you been out to the storehouse out east of town here where the cars are stored? A. Yes, sir.

Q. And there are a lot of cars out there that need repairing and putting in shape for the coming season? A. Well, I haven't been out there just lately. I understood that there wasn't but a very few that were worth repairing.

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Q. Has your Board taken any steps to have some of the shop force discharged if there is not sufficient work to do so that their time will not be occupied in carrying the employees back and forth? A. Some time ago we figured that there was too much force up there.

Q. Have you taken any steps since this hearing has been going on to have that practice of carrying employees stopped? A. No.

Q. Do you expect to take any such steps? A. I didn't think that this thing was going on at this time. Don't think—in fact, we talked about it but we understood that there was no such work going on at this time.

Q. Now did your Board ever pass any resolution giving Mr. Black authority to purchase automobiles for the use of all of the engineers? A. I think we have. I don't know whether it was in the shape of a resolution or motion, although I am not sure just what we done, but it was my understanding that Mr. Black would have charge of that work of supplying engineers with what they wanted to work with, including cars.

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Q. Your Board didn't take up the matter as to how many cars were necessary or anything of that kind? A. I think we did make an estimate, couldn't tell you just what that was but we talked about it.

Q. Does it show in your minutes. A. I don't think so.

Q. Then you did not put down in your minutes—Strike out the question—Then your minutes do not show all of the transactions that occurred at the meetings of the Board? A. I wouldn't say as to that.

Q. Well, do they or do they not? A. I presume they do; it is my understanding that they do.

Q. Are not the minutes read over to you at each subsequent meeting? A. Yes.

Q. And approved? A. Yes.

Q. And if there are no corrections made, then they are correct as to the proceedings of the previous meetings? A. They are.

(Minute Book handed to Mr. Graham.)

Mr. Vogel:

Q. How many trips did you make to 59? A. Just that one trip, as I remember.

Q. Half day? A. I presume so.

Q. You have had highway experience and road construction prior to your appointment? A. Some experience.

Q. You are not an engineer? A. No.

Q. Do you know the difference between a check-up and measurement? A. Well, I don't know as I do. (475)

Q. When Mr. Black said he had made a check-up of the work, you didn't know exactly what he meant?

A. I understand they measured the pits and presume their measure checked up with any former measurement would be check-up.

Q. You didn't know in detail what a check-up consisted of then? A. Well, I would call that a check-up. Anything that was disputed and gone over by two different parties I would consider to be a check-up.

Q. You would presume then that the check-up that Mr. Black made would be a check-up of Mr. Twichell's figures and a check-up of his own engineer's figures, Mr. Black's engineers? A. That is what I would infer.

Q. Mr. Black stated he made a check-up of the work? A. I can't tell just what words he used, but my understanding is that that was done.

Q. How did he know then after he checked up Mr. Twichell's figures and then checked up the figures of his engineers, who was right and who was wrong? A. He did not know unless he measured the pits himself. That would be the way to find out.

Q. You figure the measurement of pits would give him accurate knowledge as to the exact difference between the two estimates? A. I would.

Q. You say the Highway Commission relied upon their confidence in their men in determining these matters? A. (477)

In the engineering department. Personally—I am not talking for the rest of the Highway Commission,—I rely on the Chief Engineer.

Q. Not upon the other engineers? A. The other engineers was put on his force and I don't go to any of the subordinates in any business, I go to the head of the department.

Q. Now, Mr. Twichell had a great financial interest in this contract did he not? A. No doubt.

Q. These engineers had no financial interest, did they? A. Not that I know of, except their salary of doing work.

Q. They were being paid by the month? A. I presume so.

Q. You presume so, you know so? A. Yes.

Q. I don't like the word "presume."

Q. Since Mr. Twichell was financially considerably interested in this and the engineers had no financial interest in that, from which party do you think you would be likely to get the most correct figures? A. Well, that would be hard to

say if there was a dispute between a man on the job and the contractor, whether Mr. Twichell or any other contractor, I would want the work gone over by the Chief of the Department to ascertain who was right.

Q. You would think that the engineers would be only interested in seeing that Richland County and the Federal Government should pay just what they owed, would you? A. I

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would.

Q. In other words, they would be reasonably fair since they are not financially interested in it? A. I would suppose so although I have dealt with engineers who were not reasonably fair.

Q. Why wouldn't they be reasonably fair? A. Pretty hard for me to tell why.

Q. They were there to protect the interests of the people, were they not, these engineers? A. They were there for that purpose, yes.

Q. There was no financial gain for them to do otherwise? A. Not that I know of.

Q. You say you cut your force out here? A. Well, we dropped some I think in 1923. We thought the expense of repairing the trucks was too high and we asked Mr. Black to.

Q. Do you know whether Mr. Black has cut his force since this investigation started? A. I do not.

Q. He has full power to hire or fire? A. Yes.

Q. You wouldn't say positively, yes or no, whether he has cut the force since the investigation started? A. No, I would not.

Q. You have a son on the force? A. Not now.

Q. You did have? A. I had a son that worked there a little over a month.

Q. Mr. Black told you that they were hauling no employees back and forth? A. That was my understanding of what

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he said when I asked him about this. I said, "Are they hauling the help up there?" and he said "No."

Mr. Graham:

Q. Mr. Poupore, did you and Mr. Brown authorize Mr. Black to purchase 5,000 enamelled Indian head road markers and the necessary T-type metal posts for erecting the same on October 30, 1923? A. I couldn't tell you just how many we authorized him to purchase. We did authorize him to purchase. You mean the road markers.

Q. Calling your attention to the meeting under date of October 30, 1923, (showing book to witness). A. Yes.

Q. Now did you give any instructions as to what way

these should be purchased? A. I don't remember if we did.

Q. Do you know whether or not he did purchase them? A. I do not personally. I have no personal knowledge whether he did or not. I presume he did because the roads have been marked.

Q. Do you know what was paid for them? A. Couldn't tell you offhand, did at the time.

Q. The Board does not pass on the paying of any bills incurred by Mr. Black? A. Oh, yes we do.

Q. Where is the record of such passing upon the bills? A. We probably don't pass on the bills. We do pass upon

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the price of material of this character when it is ordered.

Q. Did you pass upon the price of those at that time? A. I don't know whether you would call it passing on the price or not. Mr. Black told us what they could be purchased for, is my recollection, and we authorized the purchase of that material.

Q. You have been a member of the Board of County Commissioners of Grand Forks County? A. Yes, sir.

Q. Is it not customary for the Board of County Commissioners in the purchase of materials of this character to always have bids submitted? A. It is.

Q. Were any advertisements made and bids submitted for the purchase of these items? A. I don't think there was, although I am not so sure about that.

Q. Do you consider that a good business method? A. It appears to me that there was some of those purchased before and we had thought the price was reasonable. That is my recollection of it.

Q. Is that a customary way to buy material of a character of this kind without advertising for bids? A. Not customary, no, but it does happen even in counties.

Q. Why did it happen here? A. I couldn't tell you. It might be that those markers were needed at once.

Q. Mr. Brown being engineer in charge would know in advance when he would need these Indian head markers and

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other material?

Mr. Lounsbury: Mr. Black. Mr. Vogel: You mean Mr. Black. Mr. Graham: Yes, Mr. Black.

A. There was—it might not—at the time that the question came up about marking the roads, it may have been the time of year when the work ought to be done.

Q. Well, was that a time of year when the work would be done on October 30, 1923? A. Well, I don't know but there has been some marking done in that year after that date.

Q. Would there be anything there to indicate there was any emergency whereby you would not have had time to advertise for the purchase of material? A. Not if the work was going on and you were short of that material.

Q. You were a member of that Board? A. I was.

Q. And should be able to tell us whether there was any emergency or not. A. I couldn't tell offhand how that came about but I can assure you the Board was satisfied the markers were needed and the price was medium.

Q. What price was quoted upon them? A. Couldn't tell at this time.

Q. Would you want to swear that any price was quoted at that meeting? A. I do not.

Q. And do you want to swear that there was any emergency at that time? A. I do not.

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Q. Can you tell us now what price was paid for these? A. I could not.

Q. Did you ever know? A. I presume I did.

Q. When did you know? A. At the time this matter came up before the Board.

Q. You just now told us you had no recollection that any price was quoted? A. I have a recollection that I haven't purchased anything unless there was a price quoted that I know of.

Q. Well, under this resolution here you gave Mr. Black authority to purchase them? A. Well no doubt Mr. Black had the price, showed us what they would cost, that is my recollection.

Mr. Vogel:

Q. Why was the price not quoted in the minutes of the meeting? A. Couldn't tell you as to that.

Q. Don't you think it would be better business to have quoted the price in the minutes of the meeting? A. I suppose it would.

Q. Don't you think it would have been? A. I admit that.

Q. Can you tell us how an emergency could exist in the marking of the highways? A. I do not know whether you would call it an emergency or not, but if you had a crew of men working on the highways and they were about to run out of material, I believe it would be wise for to furnish them the material they needed to complete the work.

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Q. That would be the cheapest kind of help that could be hired? A. I know but if you have men on the road, it would not be good idea to hold them up thirty days to advertise for bids.

Mr. Graham:

Q. You wouldn't call it good business for Mr. Black to get in any deal of that kind, or for your Board? A. I don't understand what you mean.

Q. Strike out the question. For a man in Mr. Black's position, the proper procedure would be for him at the beginning of the year to make out an estimate of all material which he was going to use and things of that nature, would it not? A. In this class of work, Mr. Black would have to be quite a business man in order to do that, in fact, I don't think it would be possible.

Q. And he wasn't businessman enough to do that? A. I don't think it would be possible for him to order all material he would need for the season.

Q. Will you show us in the minutes where any other Indian head markers had been bought prior to this time? A. I would not attempt to. I do not know whether there was or not.

Q. You know as a matter of fact, do you not, Mr. Poupore, that this was the first time that any Indian head markers had been bought? A. I didn't know that as a fact until you presented it to me now.

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(Minute book shown to witness.)

Q. Would you look through the minutes from the time you came in and see whether there was? A. I wouldn't know whether there have been any purchased prior to that time.

Mr. Vogel:

Q. Isn't it true that you had no sign force out at this time? A. Couldn't tell you that.

Q. Is it true that your sign force didn't get out until the spring of 1924? A. Couldn't say as to that, the records would show that.

Q. The records would show that? A. I presume they would.

Q. Could you produce that evidence here? A. It appears to me that there was some road marking done before we put on our force.

Q. Before you put your own force on? A. Yes, by contract.

Q. Approximately what was the price paid for these markers? A. Why, I couldn't tell; I couldn't even make a guess.

Q. You have no knowledge as to what the price was? A. Couldn't tell you at this time. I no doubt looked into the matter at the time.

Q. Fifty cents apiece? A. I hardly think it. I don't

know just what they would cost, probably small quantities cost that.

Q. Ten cents apiece? A. No, I don't think they would
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be as cheap as that. I am just taking it from my recollection from the kind of sign. I couldn't give you any idea what the price was.

Q. Are you in the habit of marking highways in the wintertime? A. No, but we mark them rather late in the fall, especially a year ago.

Q. You could find out whether there was any Indian head markers bought prior to the date of this meeting? A. I could find out, no doubt.

Q. Could you get this information for us? A. I could get it from the Highway Department, from the office force.

Mr. Graham:

Q. You know as a matter of fact do you not, Mr. Poupore, that none of these signs was put up anywhere in the State until the spring of 1924? A. I do not, couldn't tell you just the date when they were put up.

Q. Can you get such information for us? A. I can.

Q. Now can you tell us who they were purchased from? A. I could not offhand, but I presume it was from the same firm that we purchased the tags.

Q. Now, in purchasing the tags, you advertised for bids? A. Yes.

Q. Now, why did you not do so in this instance? A. My recollection is that we hadn't decided on the design of those markers.

Q. But it showed from this resolution that you had decided
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on the design? A. That may be, that was the only reason I know of why we wouldn't advertise for bids.

Mr. Graham: I offer in evidence this portion of the minutes of October 30th, 1923:

"Moved by Mr. Brown and seconded by Mr. Poupore that the Secretary of the State Highway Commission be authorized to purchase five thousand enamelled Indian head road markers and the necessary special T-type metal posts for erecting same. On roll call the vote was: Nestos, absent; Kitchen, aye; Poupore, aye; Brown, aye; Black, aye."

Q. Do you know whether or not any other Indian head markers and metal posts were purchased after this? A. I do not.

Q. Did you at any time know? A. Well, I knew there was Indian head markers being used; didn't know whether 5,000 had been used up or not.

Q. I call your attention to the minutes of the proceedings of April 16, 1923, commencing on Page 394 and ending on Page 399 and ask you if you were present at such meeting? (Minute book handed to witness.) A. Right through to there, is it? (indicating page.)

Q. Yes, read through it.

Mr. Graham: Q. Do you find the minutes of April 16th, 1923, commencing on page 394 to 399 to be a true and correct copy of the proceedings under that date? A. I think so, as far as I know.

Q. And they are signed by Mr. Black as Secretary? A. They are.

Q. I will offer in evidence the following portion of the minutes found on page 394: "Moved by Mr. Poupore and seconded by Mr. Brown that Mr. Black be authorized to salvage such old passenger cars as are in a condition that repairs are unwarranted; also that he be authorized to purchase one seven passenger touring car;" and all of the members present voted in favor of such resolution, did they, Mr. Poupore? A. Yes.

Q. All members being present except Governor Nestos? A. Yes.

Q. I will also offer in evidence the following portion of the proceedings found on page 396: "Moved by Mr. Brown and seconded by Mr. Poupore, that W. G. Black, State Engineer, be and he is hereby authorized and empowered as Chief Engineer and Secretary of the State Highway Commission to approve, sign and execute for and in behalf of the State Highway Commission all plans, projects, statements, project agreements, vouchers and any and all other documents required by the United States Secretary of Agriculture, or the

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Chief of the Bureau of Public Roads in making out the provisions of the Federal Aid Act approved July 11th, 1916, and the Federal Highway Act approved November 9th, 1921, and all other acts supplementary thereto or amendatory thereto." The record showing that all members present voted aye except Governor Nestos, who was absent? A. Yes, sir.

Q. Calling your attention to the meeting under date of June 18th, 1923, found at page 400, I will ask you to state if you were present at such meeting, Mr. Poupore? A. I was.

Q. I will offer in evidence the following portions of the minutes, reading as follows, commencing on page 400: "Moved by Mr. Poupore and seconded by Mr. Black that the State Geologist be instructed to make gravel and scoria locations for the Federal Aid Projects under contracts, and that the reports be rendered this Department not later than November 1st, 1923; the state's share of the cost to be \$1,000." On roll call the vote was "Nestos absent, Kitchen aye, Poupore aye, Brown aye, Black aye." A. Yes, sir.

Q. Now, what was the purpose of that resolution and its object? A. My recollection of that matter was that the State Geologist, or whatever that department is called, asked for an appropriation which they had been accustomed to get-

ting, as I understand it right, if I remember it right, and were making those tests. (489)

Q. Did the State or the Highway Department have any interest in the location of these gravel and scoria locations?

A. They did.

Q. They were going to purchase such locations for use?
A. Well, if they happened to be convenient for road construction. We thought it would be advisable to know the quality of the material and where they were located.

Q. Did the State purchase any such locations? A. I don't remember that they have.

Q. And what was done with this information? A. I presume it was turned into the Highway Department, although I have never seen it.

Q. And was the information given by the Highway Department to certain private individuals so that they could purchase such locations and sell the gravel or scoria to the State Highway Commission? A. Not to my knowledge.

Q. Would you say that it was not done? A. Well, that would be hard for me to say something that was not done that I did not know.

Q. You don't know whether any member of the Department did give such information? A. I did not.

Q. All you know is that you never did? A. I certainly know that.

Q. Did you ever see this report? A. I have not. (490)

Q. Did you ever ask for it? A. No, I don't think I have.

Q. Is such a report on hand at the present time? A. I can't tell you that.

Q. Will you make a note of that and bring us such report tomorrow? A. Yes.

Mr. Vogel: Was this thousand dollars spent in making this investigation? A. My understanding is that the appropriation at that time, was that it was turned over to that Department of the University of North Dakota.

Q. You don't know whether it was used for the purpose for which you designated it should be used? A. I do not. You wanted a record of the report of the sand and gravel locations?

Mr. Graham: Yes, locations.

Mr. Vogel: Scoria.

Mr. Poupore: By the State Geologist.

Mr. Graham: State Geologist. Call your attention to

paragraph at the top of page 410 of the minutes under date of June 18th, 1923, which reads as follows: "Moved by Mr. Pourpore and seconded by Mr. Brown that Secretary Black be authorized to make an exchange of materials and stock on hand for a tract of land beginning at the northeast corner of Lot Three (3) of Lincoln Addition to the city of Bismarck, thence east along the south line of Front street as or
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if extended in the present direction thereof a distance of One Hundred and Eighty (180) feet; thence south along a line parallel to the east line of the said Lot Three (3) a distance of Three Hundred and Thirty-nine and Seventy one Hundredths (339.70) feet; thence west a distance of One hundred and Eighty (180) feet to the southeast corner of the said Lot Three (3); thence north along the east line of the said Lot Three (3) a distance of Three Hundred and Thirty-nine and Seventy-five One Hundredths (339.75) feet to the point of beginning; the said tract lying and being in Section Three (3), Township One Hundred and Thirty-eight (138), north of Range Eighty (8) West of the Fifth Principal Meridian and containing 1.4 acres, more or less. On roll call the vote was: Nestos (absent), Kitchen "aye," Pourpore, "aye," Brown "aye," Black "aye," You were present at such meeting? A. I was, yes.

Q. What material and stock was meant by this resolution? A. Well, there was among other things that could be exchanged for that, I believe, was a lighting plant, and I have forgotten just what the other stuff was, but we put that up to the judgment of the Department to exchange material that was on hand for this property.

Q. By the judgment of the Department you meant Mr. Black? A. Well, Mr. Black and Mr. Gettleman, who was
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head of the Equipment Department, who had that in charge.

Q. What was this land to be used for? A. Well, the shops, there was some shops on the land at that time, and I understood that they were paying rent for it.

Q. Now, from whom was this land to be obtained, if you know? A. I understood it was from I. P. Baker.

Mr. Graham: That exchange was later made? A. I understood that it was.

Q. And does the Department have a warranty deed for this land at the present time? A. I think so, although I didn't see the instrument myself.

Q. You never made any investigation to find out? A. No, I haven't.

Mr. Vogel: You don't know the value of the material that was exchanged for this lot? A. I do not offhand, but they mentioned what Mr. Baker wanted at that time.

Q. What was that? A. I couldn't tell you, I say I think among that material was a lighting plant and other

things there that in my opinion wasn't suitable for road construction.

Mr. Thatcher: Q. There was no invoice taken of the material? A. Not before us at that time.

Mr. Vogel: The warranty deed would so state the amount of it, would it, or was it made out— A. I would think so,
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I didn't see it.

Mr. Graham: Did you take up the question at that time as to whether or not the Department had the right to purchase land and take a deed for the same? A. Well, I didn't take that up; that question—didn't think there was any question about that.

Q. Or did you secure any opinions from the Attorney General? A. No, we did not.

Q. You just assumed that you had such right? A. I assumed that we had such right.

Q. Calling your attention to paragraph commencing at the bottom part of page 410 of the minute book, which reads as follows: "Moved by Mr. Black and seconded by Mr. Poupore that the action taken at the meeting of April 16th appropriating \$50 as dues to the American Association of State Highway Officials to cover membership fees for the State Highway Commission be rescinded, inasmuch as this amount would not be accepted and that the regular membership fee of \$200 be paid. On roll call the vote was: Nestos (absent), Kitchen 'aye' Poupore 'aye,' Brown 'aye,' Black 'aye.'" Were you present at that time? A. Yes, sir.

Q. Will you explain to us what this—in what way the State Highway Commission would be benefitted by this \$200 to be expended as a membership fee? A. Well, I al-
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ways understood that the information that was gotten up by this association would be valuable to the State Highway Commission.

Q. Who gave you such information? A. Well, I don't know as anybody did, but I knew that the Highway Officials have been looking up and exchanging views on the best methods of highway construction and I think at a prior meeting, if I remember right, we cut that down to \$50. It seems that that had been paid by the state before, \$200. I think that at that prior meeting, if I am not mistaken, we cut it down to \$50 and they wouldn't accept it.

Q. Could not this same information have been secured at any time by writing to the State Highway Commission of any state? A. Well, I don't know.

Q. —from which information was desired. A. I don't know as to that.

Q. And thus save the expenditure of \$200? A. I couldn't tell you.

Q. What information did you ever secure from such Association that you know of? A. Well, I don't know of any, although I presume that the Department gets reports of what is doing by that Association. Q. And are these reports sent out? A. Sent out where?

Q. Sent out by this Association? A. I am not so sure, but I presume there are, I think I can look it up, however.

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Q. Will you bring us one or two of such reports, if any there are? A. I will.

Mr. Vogel: You have read over the testimony of the engineers and Chief Engineer before this Committee? A. I think I have—not all of it, however, I don't know as I have, I think the only transcript I got was Mr. McKinnon's, I believe, I don't think—I may have got part of Mr. Black's testimony, I am not sure.

Q. You read there where they state that they did not know what other states are doing with respect to private contracts for engineers? A. I don't recall that.

Q. Or that they knew nothing about strength of concrete in other states? A. Yes, I would state, however, that there was something on the paving question.

Q. You take it from that that they haven't read these documents of this National Association, haven't you? A. Not necessarily. My recollection of Mr. McKinnon's testimony was that he had read different reports, and that they were divided, but he wasn't testifying to anything that he did not know of his personal knowledge, that is my understanding of his testimony.

Mr. Graham: Calling your attention to the minutes of the meeting under date of August 2nd, 1923, and the portion at the middle of page 424 of the minute book, reading as follows: "Moved by Mr. Black and seconded by Mr. Poupore that the Highway Commission publish a monthly highway bulletin as soon as it is in a position to do so. On roll call the vote was: Nestos (absent), Kitchen (absent), Poupore 'aye,' Brown 'aye,' Black 'aye.'" Were you present at such meeting? A. I was.

Q. Now can you explain to us what was the purpose of this monthly highway bulletin? A. Well, the purpose was to get public information as to what was being done in highway construction in our state as they publish those bulletins in other states.

Q. What was the cost of this bulletin to be? A. Well, we didn't ascertain it, but figured that it could be gotten up by the Department without any very great cost.

Q. Was such bulletin ever issued? A. I think there was just lately a bulletin.

Q. What was the cost of such bulletin? A. I can't say.

Q. Do you refer to the statement recently put out in which the claim was made that Mr. Black had saved the state many thousands of dollars during the time he has been in as Commissioners? A. I don't know as to that, being in the bulletin or not, I haven't read it, I have seem—that is, I may have read portions of it, it is a small folder, I don't

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know whether it is—

Q. If there is such bulletin will you produce it for us?
A. I will.

Q. This bulletin was to be a boost for the Highway Commission in the news which they would put out? A. I don't know, I couldn't answer that.

Q. Do you know whether or not the information has been given in any of these bulletins that over \$30,000 more was paid out for 59, Project No. 59, Richland County than the reports of the Highway engineers showed was coming to Mr. Twichell? A. I do not.

Q. That would be an item of considerable interest to the people, would it not? A. That would not be facts chargeable against this administration.

Q. Well, they could put in the facts as they were then as to where the blame was. A. Well, there is some discussion as to where the blame is—up to this time.

Q. Who made the settlement that was made under this administration? A. The settlement made under this administration?

Q. Yes, if it is made? A. I rather thought by the looks of this investigation that the settlement was not made.

Q. We will come to that later as to whether it has been made or not.

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Mr. Vogel: Who wrote up this bulletin? A. I couldn't tell you that.

Q. Your son is not connected with it in any way? A. He may be.

Q. Do you know whether he was or not? A. I think he was.

Q. He was connected with it; in what capacity was he connected with this bulletin? A. Well—looking up the records, I presume, of the work that had been done in the State, in fact, his connection with it was probably—

Q. What was his official title in that Department? A. I couldn't say that.

Q. You don't know where he worked, or anything about it?
A. Oh, yes, I know where he worked, he was in Mr. Plum-assen's office.

Q. You don't know what his official title was? A. No, I do not.

Q. Or what his duties are? A. I do not.

Q. Or his salary? A. Yes, I think his salary was \$125, I understood that.

Mr. Graham: How long was he connected with the Highway Department? A. A little over a month.

Q. When did he sever his connection? A. Well, he did not sever his connection, he has been taken with small pox and is now at the Detention hospital.

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Mr. Vogel: He is still on the payroll; he is still an employee? A. I presume he is not in discharge.

Mr. Graham: Calling your attention to the meeting under date of February 25th, 1924, about the middle of page 431 of the minute book, reading as follows: "Moved by Mr. Black and seconded by Mr. Kitchen that the following bill be paid: Departmental Membership dues for 1924 in the amount of \$200.00 for the American Association of State Highway Officials: On roll call the vote was: Nestos (absent) Kitchen 'aye,' Poupore 'aye,' Brown 'aye,' Black 'aye;,' also the following paragraph on the same page: "Moved by Mr. Brown and seconded by Mr. Poupore that 3,000 metal posts be purchased for the purpose of road marking. On roll call the vote was: Nestos (absent), Kitchen 'aye,' Poupore 'aye,' Brown 'aye,' Black 'aye.'" That is correct is it, this \$200.00 was for the same Department about which you have testified before? A. The \$200.00—it was the identical \$200.00 that we talked about before.

Q. I mean it is for the same membership, for the year 1924? A. It is the same \$200.00 stated in the other meeting; the other was authorizing and this is paying it.

Q. I think you are wrong on that? A. I don't think it.

Q. The other says for the—— A. I may be, but
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that is my understanding, that that is the same.

Mr. Vogel: One was for 1923, and one for 1924. A. Oh, that may be.

Mr. Graham: Then it was your understanding that it was for the year 1923 and 1924, making \$400.00 altogether? A. For the two, the two annual dues, yes.

Q. Now were these 3,000 metal posts purchased by bid or not? A. I think not. We authorized Mr. Black to purchase them.

Q. Do you know what price he paid for them? A. I do not, I did at the time no doubt.

Q. Will you get us such information? A. Yes, I will. What time was that authorization given, Mr. Graham.

Mr. Graham: February 25th, 1924.

Q. Calling your attention to the minutes under date of February 25th, 1924, and to the resolution commencing on the bottom part of page 440 of the minute book: "Moved by Mr. Black and seconded by Mr. Poupore that the following resolution be adopted:

"We, the North Dakota State Highway Commission, in meeting duly assembled at Bismarck, North Dakota, this 25th day of February, A. D. 1923, having duly considered and examined the figures and date upon which the proposed final estimate of the account due Treadwell Twichell, contractor, upon Federal Aid Project No. 59, Sections A & B, Richland County, prepared by the State Engineer, do hereby find that

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such figures and estimates so made and prepared having to do with any work performed during the administration of this Commission and the present State Engineer, are correct in all respects and are based solely upon adequate records and data of this Department; that the figures and estimates made and presented to us, with respect to work performed by said contractor under the administration of the former Highway Commission and State Engineer, are based upon such records and data as were left in the files and records of this office upon the retirement of such former administration of this Department, and upon other available proof and known facts respecting work completed under the former State Engineer.

"That much correspondence, many orders with respect to such work, and material data which should be available as part of the office files of the State Engineer, were missing from such files at the time the present State Engineer took over the duties of his office.

"That the figures and estimates presented to the Commission by the State Engineer are correct figures and estimates covering the work done by said contractor under the provisions of these contracts, upon the order of the Highway Department, and for which said contractor has not been paid and has not received final estimates, and such final estimates

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are hereby directed to be prepared in proper form and delivered to said contractor. That the records show that the former State Engineer and Highway Department officials, inadvertently or intentionally, wholly failed to submit to the Federal Bureau of Public Roads, for their approval, changes made in plans of these projects and without such approval ordered such changes and additions to be made by the contractor at an expense of many thousands of dollars, for which the said contractor, under the terms of his contracts, is entitled to be paid, but in which payments the Federal Bureau of Public Roads refuses to share by reason of such changes and additions not being at the proper time submitted for approval; this, notwithstanding the fact that federal engineers overlooked and approved this additional work and these changes to the same extent as though this work was to be paid for jointly by federal aid and Richland County.

"That in the construction of this road as completed, there is the same reason for contribution of federal aid as in any project which receives such aid. That there are hundreds of thousands of dollars available in the federal aid road fund for use in North Dakota, which there is no prospect of the state being able to use. That the road covered by these contracts, as approved, is as good as any like road constructed with federal aid, in the state.

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"That the State Engineer, together with a member of this Commission, is directed to immediately take up with Mr. Hathaway, District Engineer for the Federal Bureau of Public Roads, this matter; and if unable to procure assurance from him of the Federal Bureau contributing to such expenses of changes and additions made to such road, to go to Washington, requesting Mr. Hathaway to accompany them, and place the matter before the Chief of the Bureau, that Richland County may not be required to bear all of this added cost of changes and additions made on these projects.

"That a copy of this resolution be presented to the head of the Bureau of Federal Roads at Washington, D. C., to Mr. Hathaway, District Engineer, and to the Chairman of the Board of County Commissioners of Richland County, North Dakota." You were present at the time? A. I was.

Q. The resolution read was adopted? A. It was.

Q. And voted in favor of it? A. Yes, sir.

Q. Now, Mr. Poupore, what data or figures did Mr. Black present to you at this time, if any? A. He had the final figures on the work on that project. Not that I have gone over them myself, because they wouldn't mean anything to me, but Mr. Black assured me that he went over this project carefully and had made the proper estimate of the amount of work done on the project.

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Q. Did he tell you that these figures which he prepared were the figures that were claimed by Mr. Twichell and not the figures as given in the final estimates by his own engineers? A. No, he did not.

Q. You knew that such was the fact, did you not? A. No, I did not.

Q. You never made any investigation yourself? A. No, I found that that wasn't all of the money that Mr. Twichell claimed.

Q. How did you find out? A. Well, Mr. Twichell claimed more money, and I believe I asked Mr. Black that question, or it came up anyhow through the conversation we had over this matter and I said to him, "Is that all of the work that Mr. Twichell claims?" Mr. Black said "No, but he will waive any other claim if we settle now with this project." That may not be just exactly the words used, but that was my understanding at that time.

Q. Wasn't the only other claim that Mr. Twichell made

that was not included, a claim for putting in additional culverts upon the road? A. No, I think, in fact, I know that in the final—at the Arbitration, Mr. Twichell still claimed more money coming on that contract.

Q. Can you give us the figures and estimates that were presented to you by Mr. Black at this meeting. A. I could not.

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Q. And can you also give us all the figures presented by Mr. Twichell? A. I could not, I don't know as I ever looked at Mr. Twichell's figures.

Q. Well, did you ever look at any figures? A. I don't think I have.

Q. All that you know about it is what Mr. Black told you? A. I certainly didn't figure it up because that was the work of an engineer.

Q. Did you look it over to see how much difference there was in dollars and cents? A. I don't know as I looked it over, but I heard them talk about the difference. I couldn't tell you at this time what it was.

Q. Who prepared this resolution? A. I couldn't tell you that.

Q. Who dictated it to the girl or— A. I wasn't present when it was dictated that I know of.

Q. Who read off the resolution? A. It was read by the Chief Engineer, Mr. Black, if I remember right.

Q. And so far as you know it was made up by Mr. Black? A. I presume so.

Q. You spoke about the Arbitration Hearing. Can you secure for us the Arbitration Agreement, so-called Arbitration Agreement? A. If it is in the files, I can.

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Mr. Vogel: Was this resolution drawn up before the meeting and presented to the Committee by Mr. Black? A. It was presented to the meeting, I don't know whether it was drawn up before the meeting or not, or whether it was drawn up during the meeting, my recollection is that it was in that form when I heard it read. It was something along that line, I don't know whether it was typewritten form or not.

Mr. Graham: It was in pencil form and read by Mr. Black at that meeting? A. I couldn't say as to that, what form it was in. Now, what do you want, the Agreement arrived at by the Arbitration meeting?

Mr. Graham: No, the so-called Agreement providing for arbitrators. A. I don't know that there is a record, I presume there is a record of that agreement, although—

Mr. Graham: Now, at this time I would like to read into the record from the testimony given by Mr. Twichell, who was then upon the stand: "Now, to finally make our record

complete regarding the estimate to which has been submitted by the state department, I would just like, Mr. Twichell, to ask you this question. Provided this board finds that this amount of \$65,257.28 is the total amount of your contract,

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including extras, a portion of which has been paid, is the amount of Section A of F. A. P. No. 59 that resulted from the conference with you by the State Highway Department, the checking of the borrow pits and the condition of the road, ditches, etc., I would like to ask you if that is satisfactory to you. A. Whatever you gentlemen do will be satisfactory to me."

Q. And which work was approved by the Federal Government based on said figures? A. Whatever your judgment is will be satisfactory to me.

Mr. Lawrence, representing the contractor's assignee, the First National Bank and the Northern Trust Company, also stated that he would waive any objection to this matter. Now, were such estimates or figures presented to your Board at the time of the passage of this resolution by Mr. Black? A. I don't remember if they were.

Q. Your best recollection is that no figures were presented? A. I wouldn't say that. The figures were presented or an explanation given as to that they arrived at.

Q. Were you present at the time of the Arbitration Hearing? A. Yes, sir.

Q. Was there any record or evidence entered by Mr. Twichell that he claimed any other amount than the amount which was submitted to the Board of Arbitration by Mr. Black? A. No evidence except a statement from Mr. Twichell as I remember it.

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Q. What statement do you mean, the statement which I just read into the record from Mr. Twichell? A. No, a statement from his saying that there was other work that he wasn't paid for, and if my memory serves me right, Mr. L. L. Twichell said, "The other—that you'll waive any further claim on this proposition," and Mr. Twichell said "Yes," if my recollection is right.

Mr. Vogel: In other words, Mr. Poupore, Mr. Twichell claimed then more than \$124,000, he claimed that this estimate didn't cover all the work that he did? A. Yes.

Mr. Graham: But he never produced any figures by engineers representing him to prove such statement? A. Not that I know of.

Q. What orders do you refer to in this resolution, Mr. Poupore, as being missing? A. The contention was that on the change—

Q. No, I say, what orders do you refer to as being missing in this resolution? A. Well, I'll have to explain that the orders that should have been filed with the Federal Bureau

were missing, so we supposed that there should have been some orders for this extra work.

Q. Did you not look through the records that were in the office? A. Well, Mr. Black looked through the records and reported to us that he couldn't find any record of those orders.

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Q. You never looked thorough the records yourself? A. No, I haven't.

Q. Did you not know at that time that Mr. Robinson had already asked for an increase in the amount of the cost of this road? A. I did not at that time, but I—

Q. Mr. Black did not tell you at that time? A. No, in fact, we didn't have anything to do with the road, that was completed prior to that time and I supposed that that project was completed.

Q. Then Mr. Black did correctly state to you the facts in relation to this project as you have since found out? A. Well, it wasn't necessary to do that, he didn't state to me because I presume that the claim wasn't made that all of the orders wasn't found, that some of the orders for the charges were not found.

Q. You passed on this resolution without any other information than what Mr. Black told you? A. Absolutely.

Q. And you have since found out that there had already been one increase provided for by Mr. Robinson? A. I didn't know whether there was one or not, but I have heard that there has been an increase in the amount asked for from the Federal Government.

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Q. Didn't you hear it read into the record yesterday, Mr. Poupore? A. I presume that is where I did hear it, I heard it somewhere.

Q. And that was the first time that you had such information? A. Yes.

Q. Then, Mr. Black did not correctly give the facts in relation to this resolution? A. Well, I presume that resolution does not state that there was no such orders found.

Q. You state in there, do you not, that the Highway Department officials, "inadvertently or intentionally, wholly failed to submit to the Federal Bureau of Public Roads for their approval, changes made to the plans and projects?" A. Well, that might happen because they may have made changes in some of the plans and projects, but not all of them.

Q. "Wholly failed," you mean, your resolution says they "wholly failed." A. Yes.

Q. Then that was not correct? A. I don't know.

Q. You heard Mr. Black? A. Oh, I didn't know at that time, of course, there may have been some of that work where that Department failed.

Q. There is no doubt in your mind at this time, is there, Mr. Poupore, that there had been a change made by Mr. Robinson? A. No, I am satisfied that the changes have been made.

Q. And that, therefore, your resolution is wrong in that
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respect? A. Well, I don't know whether it is or not, it may not have referred to the changes that was made on a certain project; there was, there is two or three projects there as I understand it.

Q. Your resolution reads that they "wholly failed?" A. Well, they may have wholly failed on reporting giving orders or changes on certain projects.

Q. Well, anyway, you got information yesterday here at the meeting that you did not have at the time you passed this resolution? A. Yes.

Q. That Mr. Black did not give you? A. Well, I don't know; that I didn't know whether there had been any changes made prior to our administration or not.

Q. Why did you pass such resolution then, if you did not know all of the facts? A. Well, the resolution was presented to me explaining what I thought was the facts and still think are the facts, and of course, I had no reason to doubt it, although I didn't know at that time that the prior Highway Commission had made any changes.

Q. Then the resolution does not correctly state the facts as they actually were at that time? A. Not if they referred to that certain change that was made on the other project.

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Q. It is your custom, isn't it, Mr. Poupore, to take up and pass whatever resolutions Mr. Black lays before you without any personal investigation as to whether or not they are correct? A. Well, we are satisfied they are correct so far as the—

Q. Taking his word? A. Of course, what the Highway Commission is concerned in connection with the resolution, with reference to that resolution refers to work that was not completed, and my understanding is that the changes that were made was allowed by the Federal Government, was completed so that as a matter of fact they did on a certain project, and I don't know the occasion of where one of them "wholly failed" to get the changes approved by the Federal Government.

Q. It is all one project, Mr. Poupore. A. It is all one, I thought there was two sections in the project.

Q. All one project with the two sections. A. Well, there was one section of that completed, as I said.

Q. You were present here yesterday and heard Mr. Black's testimony, and the letter from Mr. Twichell stating that that

had not been completed in May, 1923? A. Well, Mr. Black stated that it was completed.

Q. Did you hear Mr. Twichell's letter read stating that he would let the Commission know when the roads would be completed in 1923? A. Yes, but it wasn't the construction of the road to be completed, it was the maintaining.

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Q. Then Mr. Twichell did not know what he was writing about when he wrote that letter, is that your construction? A. I don't know whether you'd think that, or what Mr. Twichell knew. I don't know anything about what Mr. Twichell knew, but I know that there has been work completed ready for taking over in the Fall of the year, that had to be maintained in the Spring before it was fit to ask the engineers to come and look at it.

Q. You mean to say that Mr. Twichell notified the Highway Commission to the effect— A. No, I'm not testifying to what Mr. Twichell knows now, what I know, I'm giving you.

Q. Do you mean to say that Mr. Twichell had notified this Highway Department that the work was ready for taking over prior to the Fall of 1923? A. Will you repeat that, I don't get that.

Q. Did you say that Mr. Twichell notified the Highway Commission that all or any portion of Project 59 was ready for taking over prior to the Fall of 1923? A. I don't know.

Q. Do you not think that Mr. Twichell knew what he was saying when he wrote the letter to the Commission in May, 1923? A. I presume he did.

Q. He is an intelligent man, isn't he? A. Yes, but when it would be ready to look at—he wouldn't want them to look

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at it after it went through the winter and was all cut up, it would have to be smoothed down and maintained to put that road in shape to be accepted by the Federal Road Bureau.

Q. That is your interpretation of Mr. Twichell's letter? A. I was not referring to Mr. Twichell's letter at all, but in case the road was—

Q. That is the thing you're being asked about, Mr. Poupore, Mr. Twichell's letter. A. Mr. Twichell's letter, as I understand it, is that it would be ready to put that—well, I understand that Mr. Twichell did no work the summer of 1923 that was paid for, so it would certainly be a matter of maintenance before he asked the engineers to come and take it over.

Q. You mean to say that Mr. Twichell did no work

Q. You mean to say that Mr. Twichell did not work upon these roads in 1923 except maintenance work? A. This certain project, that one, it was in Richland County, I understand that he didn't receive pay for any construction work—

Q. That isn't the question. A. I understand that on this certain project—

Q. What do you mean by project A. What was the number of the project?

Q. 59. A. That was completed in 1922.

Mr. Vogel: B.

Mr. Graham: There was none completed in 1923 from the records. A. That was the project I'm referring to.

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Mr. Graham: You mean A section? A. A section.

Q. It was Mr. Twichell's duty under his contract to keep these roads in condition and maintain them until they were finally accepted, was it not? A. Yes.

Q. At his own expense? A. Yes. And the people of North Dakota paid the bill, paid the freight. I have known of projects that was completed for a year and wasn't taken over in this state myself.

Q. Wouldn't that indicate a great deal of incompetency then? A. No, it does not, I have known of projects to be taken over after going through the winter without any more construction work done on them.

Q. Why should the Highway Commission do that under the terms of the contract which they have with the contractor? A. Well, the Highway Commission, of course, the Highway Commission—not the Highway Commission, but the Federal Government have commonly one man here for to take over projects and when the work is done, ready to take over, the contractor notifies the Highway Commission and possibly it is three weeks or a month before they can get onto that work. Meantime there comes a rainstorm and people drive over that road and the water washes some of the shoulders off and when they come the project is not in shape to take over until it is maintained.

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Q. And it is the duty of the contractor to put that road back in shape before it is finally accepted? A. Well, yes, but the terms of the contract—

Q. Why does not the Highway Commission insist on that? A. Well, they have been trying to insist and have these roads taken over and because it is hard to get on all the different projects at the same time—

Q. What you mean then, Mr. Pourpore, is that they do not compel the contractor to abide by the terms of the contract? A. Well, he has been compelled to comply with them before he gets his work taken over.

Q. Then how does it cost the people of the state any additional money for the maintenance of the road until it has been finally accepted by the State Highway Commission? A. They pay for it in the bid that the contractors put in for this work. The contractors realize that they have got to maintain this road for six months or a year before they get

their pay for it, and they put in their bill in the completed work.

Q. Then your views are, Mr. Poupore, that the construction of roads by the methods used by the State Highway Department are very uneconomical and inefficient? A. In what way?

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Q. By not being ready to have the roads finally accepted by the contractors? A. The State Highway Commission is ready to take them over, but they can't take them over without the Federal Government.

Q. Then this method is very expensive? A. I would say that the Federal man has got more work than he can attend to. Of course, that is their business, not mine.

Q. Then it is a poor method to be hitched up with the Federal Government in the building of the roads? A. Well, not altogether, things can be remedied; and we are trying to get them remedied.

Q. That makes a large additional cost you say to the people of the State on account of the fact that the Federal Government does not have sufficient men on hand so that the roads can be accepted when they are completed? A. There hasn't been any trouble about the contractors getting their work taken over in the last year and a half, or two years. It has been gone over when their work was completed and we are able to have the Federal man get out on the work when it was ready to be taken over.

Q. Don't you know Mr. Twichell claims he has been having trouble? A. Well, his troubles was before that time, most of them.

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Q. His trouble was in getting his work accepted, wasn't it? A. Yes, that was one of the troubles.

Q. And that he wouldn't obey the instructions of the engineer in charge? A. I can't say as to that.

Q. In one part of this resolution you state that this work had been ordered by the engineer in charge, is that so, or don't you know anything more about it than what Mr. Black told you? A. Well, yes, that is my understanding of it.

Q. That is what Mr. Black told you? A. That the extra work was ordered by the engineer on the ground.

Q. And were any written orders given in accordance with the terms of the contract, if you know? A. I don't know of any.

Q. Or any supplementary agreements executed that you know of? A. No, I don't know of any.

Mr. Vogel: You know of no supplementary agreements? A. No, except that the work was declared as necessary by the Federal Government as well as the Highway Commission, and the plans did not cover necessary work.

Q. Do you not know, Mr. Poupore, that these contracts provide that no work which is not ordered in writing by the engineer in charge shall be paid for to the contractor? A. I know that, yes.

Q. Then, Mr. Twichell would not be entitled to recover for work unless it had been ordered in writing by the engineer in charge under the terms of his contract? A. I don't know
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as to that, if the work was necessary to make the road and the engineer told him to do the work, I believe he'd be entitled to his pay.

Q. You know the terms of the contract in regard to work of that character? A. Yes, I know the terms of the contract.

Mr. Graham: Q. Does not that clause mean what it says? A. I presume it does.

Q. Why did not you people insist then on the terms of that contract being fulfilled? A. The strict terms of the contract in road building cannot be complied with to the letter.

Q. Those provisions are put in for the protection of the taxpayers of the State of North Dakota, and of the Federal Government, were they not for these very contingencies? A. Well, this work was necessary and demanded, I understand, by the Federal engineer.

Q. Will you point out here; produce the records which show that the Federal engineer ever demanded any such work to be done? A. No, I cannot do that.

Q. Will you make a note of it and produce any such records, if there are any? A. I don't know that there is any.

Q. Will you make an investigation and see? A. Yes, you mean of any written—

Q. Any written instructions by the Federal Engineer. A.
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I can probably find out from there, I don't know of any written.

Q. Find out if there were any oral requests by the Federal Engineer.

Mr. Vogel: You say, Mr. Poupore, that this work was done on the oral instructions of the engineers in charge is that true? A. That is my understanding of it, Mr. Vogel.

Q. And yet when you settled for this work you refused the estimates of those same engineers as to the amount of work done? A. Well, we did not refuse it entirely, it was mixed up, and hard to find out how much work there was to be done. I don't think the engineers, any of them, ever testified that this work wasn't necessary.

Q. No, but I mean that these same engineers had instructed Mr. Twichell to do this work here; the same engineers that brought in the final estimate as to the amount of work that

was done. A. I think not; I think there was a change in the engineers; several changes, in fact.

Q. Are you sure of that? A. Well, as sure as I can be, but what the Chief Engineer as to that—

Mr. Graham: Did you ever talk with Mr. Gavin, the Division Engineer who sent in the final estimate on this work?

A. Well, I met Mr. Gavin once, I believe, and rode over this (521)

work, and we talked about different things, but I did not talk about the estimates.

Q. And you never did talk about it? A. No, I think not.

Q. And you never have even looked it over—the report which he sent in? A. No, I didn't.

Q. All the information which you had was from Mr. Black, or from Mr. Twichell? A. Well, I didn't have any information from Mr. Twichell except that he was doing a lot of work he wasn't getting paid for; he never showed me any figures.

Q. Was Mr. Twichell present at the time this resolution above read was passed in February, 1924? A. I don't think he was, although I'm not so sure.

Q. He had been up prior to that time and had the conference with your Board or Commission? A. He had several conferences with the Board, and he may have been there at that time, I don't know whether he was or not.

Q. And he may have drawn up this resolution which was passed? A. Well, I can't tell you who drew it up.

Q. Mr. Black brought it in and presented it? A. Yes, our Secretary presented that resolution.

Q. If you were satisfied at that time, Mr. Poupore, that there was actually \$119,000 of work performed on this project, what was there to arbitrate between the Highway Commission and Mr. Twichell? A. I was not satisfied; that (522)

resolution was offered and so we had to get down to the facts.

Q. In this resolution you said that the figures of Mr. Black were correct? A. Well, they were so far as I know.

Q. You never made any change whatever? A. I don't know as to that; whether there has been any changes made as to that or not.

Q. And you were just as well satisfied then as you are now that Mr. Twichell has received no more than he was entitled to? A. I was just as well satisfied then as I am now.

Q. Are you satisfied at this time that Mr. Twichell has received no more than he was honestly entitled to? A. I am.

Meeting adjourned.

TESTIMONY TAKEN AT THE HEARING BEFORE THE
SPECIAL HOUSE COMMITTEE ON FEBRUARY 21st,
1925.

T. TWICHELL, having been called as a witness, after having been duly sworn, testified as follows:

Mr. Twichell: Might I say a word before I am put under oath. I appreciate that I have had some courtesy shown me here. I have had the full opportunity to study the transcript of the testimony; I appreciate it. In addition to that, I am extended the further courtesy, which I more fully appreciate, an opportunity to tell in a fair way the history of the road under controversy and I shall try not to abuse that.

Mr. Graham: I might say in reply that we expect to give Mr. Twichell a full and fair opportunity to tell his version of the controversy of Federal Aid Project 59, of course reserving the right to make such cross-examination as we deem necessary to bring out all of the facts in relation to that project and to project 58.

Mr. Green: I might state, as Mr. Twichell's counsel and advise that in the cross-examination, he shall answer each and every question whether he regards them material or not so that the matter may be presented as fully and fairly as possible from every standpoint and that in the relation of the story of the road, he shall confine himself and will entirely to the facts as claimed by him with reference to the construction

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of this project.

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence? A. Treadwell Twichell, 60 years, Mapleton, North Dakota.

Q. What is your business, Mr. Twichell? A. I am a farmer and road builder.

Q. How long have you been engaged in road building? A. In road and ditch building for twenty-four or five years.

Q. How long have you been engaged in building roads with Federal Aid? A. Federal Aid, I built Project No. 1 in this state.

Q. And what other project have you been connected with? A. 58 and 59.

Q. You are the successful bidder for Project 59 in Richland County? A. Yes, sir.

Q. And when was that contract awarded? A. In May or June, 1920.

Q. When did you commence work upon it? A. Sometime in June within the ten day limit after which I received notification to proceed.

Q. This contract was an agreement in writing? A. Agreement in writing.

Q. As to how the road should be built and specifications in regard thereto? A. Yes, sir.

Q. Now will you go ahead and tell us what work you performed upon the same in the year 1920? A. Starting (525)

out from the very inception, I was ordered to get on the road which included the time of ten days. The necessity of that is that the engineers be on the ground and ready to proceed when I should get there. I immediately wired for plans for the road, which I didn't have, to be sent me to Mapleton; the plans didn't come. I repeated and I finally got word that they were sent by mistake to Wahpeton. My outfit was on the road. I started down in time to—anticipating to overtake them at Fairmount. I stopped at Wahpeton and asked for the plans and found they weren't there. I overtook my outfit about seven miles west of Fairmount, proceeding to where I should have gone, station One of this project, which was the west end. They were stopped because they had not been able to find any way they could get across country before Fairmount and—

Q. Hankinson you mean? A. Hankinson. I could find no road through. I looked over the surroundings and picked out a mile of road that to me was apparently in place and proceeded to cast in dirt and notified Bismarck that there was no engineer nor no plans, send somebody. I proceeded to work on the road some four or five days when Mr. Distelhorst, who was division engineer, got on the job; still no plans. Nobody to set any stakes, no stakes set. I did all that I dared do on that road so as to be sure that I wouldn't do something I had (526)

to undo and then picked another mile of road and the engineer came and I notified him I was moving in a very little, just as soon as it was dry and I went to the west end and finished setting stakes. I proceeded a little longer and then started around to get into Hankinson by making a detour of four miles north, going straight west into Hankinson, getting into the dome sand north of Hankinson, then going 1½ miles and came back through Hankinson and back onto the third mile of the west end of the road, passing the first and second miles because those ditches were nearly full of water and therefore I could not work. I proceeded to the south end of the south mile and then found I had no stakes but I did discover that a blue pencil mark had been placed on each of the power line poles which were 300 feet apart. I began to appreciate my possible difficulty, as my divisions, so far as handling dirt was concerned, were divided into stations of 100 feet each and the specific amount of dirt that I was to move was figured for each one of those 100 feet and, in many instances, I would have a part of three stations between two poles carrying the markings of three. The place where my stake should have been, was indicated by the plus or minus, and the number of poles so that for instance, to find out Station 125, I found the station that was closest to where the stake for 125 should be; then I considered the markings on the post and measured (527)

back so many feet one way or plus so many feet to find out where the stake was and then I had to furnish my own stakes.

Q. Well, how much work did you do that season? A. We

started this work on the mile that I have indicated. The road was very, very sandy. I continued there with four machines, there was no elevating work, and casting in at least 95%. I proceeded with the work and at the end of about 8 days, I had managed to rough up the approximate yardage that I was to move under the plans. I had fully made up my mind or I fancied that I or no-one else could build a road out of the material that I there found and the plan under which I had to build it. I commenced to figure what was possible; I commenced to look around. In running my furrows, in spots I found I was running into a very unusual quality of marl. It showed in a good many instances when I was down 16 inches, some few places in six, more of it when the bottom of my ditch was 20 inches. I took a spade and I went up through the bottom of that ditch and tried to ascertain how much of a deposit and how full a deposit it was. I found from the corner where I started, which is $3\frac{1}{2}$ miles south and each and south of Hankinson, I found that through that mile, I could find marl most everywhere, practically everywhere that I looked. I discovered that that marl deposit got a little

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closer to the top of the ground as I went north further, closer, nearer to the top of the ground as I went west up to the city line of Hankinson. In going the other way, I found that the marl was not quite so good when I turned east for about 80 or 100 rods and then it again improve until I got down to the half-mile line and then it was a solid body of marl to the end of the next section line east; that it was broken after I had crossed the road a little ways and when I had gone half a mile and a little more, I had lost the marl; in other words, it was the topography of the land had changed and there was more dome sand and it was too far down below any place for me to reach it, I considered it a very serious situation for myself and for the people of Richland County. The road was going to cost much money and I didn't figure it would be of service to anybody. Took it upon myself to ask the chairman of the Richland County Board—he who was chairman and is still—Mr. August Hoefs, to come out and look over the road. I advised him to come by horse because I knew he couldn't pull over the mile which I had pulled, with his or any other car in Richland County. He came by horse. We walked over the road and examined it and I called his attention to it being all sand. He said, "Of course, I know that," but he said "when you get down deep you are going to find some splendid dirt." I said, "That is the trouble with

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the plan. You are right, the dirt is there, but I can't go down." "Oh, yes, you got a long ways to go yet. We are to have deep ditches." "You are to have ditches that are shown on the plans. I have a copy of the plans," so I brought it out. I explained it to him and he studied it out. "Study that, and I will show you, Mr. Hoefs, just where you are at." I said, "Indicate any station that you want here and I can show you what my depth will be when the road is completed," and he picked out either station 130 or 131, I've forgotten which, and we measured—I did the measuring back to find out so as to be exact where my stakes should be, which never did exist on that road, and I brought the measure and plan and he found out by measurement that my ditch at

that time, as he found it on Sunday morning, was at that time at that particular point he had selected, nineteen inches deep. I referred to the plan and showed him that when my road was completed that it would be twenty inches deep at that point and that was practically the entire—that condition maintained practically all over that marl road. I had gone just as deep as I dared to go because I had to have a little room in which to finish. Mr. Hoefs immediately went up in the air, which he can do. He said that Richland County would never pay for such a road; that they had been promised that they were to have not only a good, big road but very deep ditches

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because it is an excessively wet country, and that he as chairman—

Mr. Graham: I can't see how this is all material in regard to Mr. Hoefs. It seems to me you should tell us what work you did on the road. A. That is what I am doing, giving you a statement of everything to explain in connection with all the changes, the changes were incident to this.

Q. Mr. Hoefs didn't have any authority to make any changes? A. Mr. Hoefs supposed he had at the time he was chairman of the County Board as the County Board was to pay for this road.

Q. I understand that, but you were going according to the terms and conditions of a written contract. A. I can explain—

Q. Let's make it as brief as we can.

Mr. Green: A change was made in the plans afterwards. A. I will have to give these facts to bring the Highway Commission in. We looked over the ground and talked about the dirt. I showed Mr. Hoefs some samples that I had dug up and put on the fence post to dry out, pure marl, combination of marl and sand of equal volume, two-thirds sand and one-third marl and took him to the post and showed him. We found that the marl that was all pure mari was practically hard, as good as any dirt material; the mixture half and half was very good material and the two and one questionable. Mr. Hoefs sked me if I would request Mr. Distelhorst, who

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was engineer, division engineer—Mr. Hoefs inquired if I would take it on myself to ask and request Mr. Distelhorst to come down there the next morning for a conference. I said I would. Mr. Hoefs called in the two members of the County Highway Commission, Mr.—what's his name, of Wahpeton, he lived in Wahpeton—

Mr. Lounsbury: Mr. Swank? A. Mr. Swank, and whoever the other member was, I think it was Mr. Hanson, I am not sure. At least, Mr. Distelhorst appeared and Mr. Swank and Mr. Hoefs and myself. We went over the situation. Mr. Swank took the same position that he wouldn't pay for a road of that kind. Then it come to a question of what we could do. I said, "I don't know that you have anything more to do with changing plans than I have. It is up to the Highway Commisison," who was represented by Mr. Distelhorst. Mr. Distelhorst was employed by the Highway Commission, he

was a very young man. Distelhorst was a nice gentleman but he was a young man. It was a question that concerned us all. I couldn't do anything, they couldn't do anything, was a question whether anything could be done. I had a bond up.

Q. It seems to me, Mr. Twichell, that you could tell what you did and just give your reasons without going into so much detail. I am perfectly willing if you tell what you did here
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with the county commissioners or any conversations you had with the Highway Commission.

Q. I have the Highway Commission right here. I was concerned because I had a bond up. Mr. Distelhorst was slow to feel that he should change anything, but finally I made a proposition for them to consider and work out if they could. It was this: that the plan of the road be abandoned; that I be permitted to continue straight down from where I was. I could follow that slope with my machine and be allowed to go out far enough until I had reached depth enough so that I had marl enough to make a top on the road. The only concession that I would ask was that five little knolls, none of them over a foot high, be not wagoned off the road but that I be allowed to spread these little bumps in the road far enough so as to leave no objectionable raise on the top of the road; that I be allowed to change the plan or they change it so that the slope of the deeper ditch be not cut down for the reason that the slope of the ditch, as established by the instructions, would make the dirt put in from that, practically all sand instead of marl as we had no place to put it. I was asked how much more the big road would cost. I said, "This is a chance of me not making money but saving myself. I will build a big road for the price of a little one." It was agreed to by the Highway Commission and the County Commissioners.
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missioners.

Q. Just a minute, you are giving your conclusion, there, Mr. Twichell. We would prefer if you would state what they said? A. Who?

Q. The Highway Commission and the County Commissioners. A. They accepted the proposition.

Mr. Green: He says to tell what they said instead of giving conclusions. What Mr. Distelhorst said and— A. They accepted the proposition.

Q. That doesn't tell it. A. I don't just get you.

Q. Could you tell us what Mr. Distelhorst said and what the chairman of the county commissioners said? You can tell what they said about the changes? A. They said they would accept them with one limitation: that Mr. Distelhorst be allowed, if he saw that I was making the road worse, to stop it, which I agreed to. I proceeded to build a road and built it, building the road, with deep ditches, a wider road and higher than it was, into Hankinson. I then started from where I had started east and I found that the first mile east could be done equally well and that I got about half-way into

the second mile when I had to wait for the reason that I couldn't move anything, had no tractor to haul anything. Prior to the time that I moved away from the first work that I had started on, I met, for the first time, the federal man in this state, a Mr. Wray who was afterwards Mr. Robinson's assistant. He was in a car with Mr. Distelhorst who intro-

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duced him to me. He called me out of the garage so there is nobody there but ourselves and he said to me, What do you think of this plan. It is the greatest mistake that a contractor could make to complaint about his contract on the start but I want to know your opinion. A road will never be built here. A good road can never be built here with this material under this plan. He said, coming over here Mr. Distelhorst and I got stuck; we were pulled out; I came ahead and while they were pulling us out, I took out the plans, I had never looked at them before and I discovered that the particular place where we got stuck that the plan for the new road would have the seven inches above where what was evidently the water table. He asked me what pull, if any, I had or influence with the Richland County Commissioners. I told him none, that I had a speaking acquaintance with one member. He said, I hoped that you would have influence enough so that you might go to the county commissioners and tell them that this road can never be built and be of any value. Get them to pass a resolution condemning these plans. Send a copy of that resolution to our Mr. Hathaway, division superintendent in Saint Paul. He will get busy with Washington and stop this whole procedure. I had never seen him before. I didn't think it a proper time for me to condemn the road so thoroughly as he had. Instead of doing that, I called

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the commissioners after I had furrowed up a mile. I then moved on further east, got a horse outfit and fresnos and everything of that kind and started to move the sand east, having found that I couldn't load it nor could I push it with a blade. It was so drifty that the only system we could adopt was to saw pieces of cord wood, sharpen them and drive them into the ground and then fill the holes, filling behind, spreading with shovels, the sand so as to make it level and conform with the top of these posts which were our supposed grade line. I had started there and had started off further east, not being able to use the machines there, I started the machines where I could work. It was then September. On division B, I had 1500 feet of work that was all under water when I took the contract and yet I learned from neighbors that ordinarily the land was cut for hay. I took it on that theory that it would dry out after a dry season and I asked permission to get out on division B and cast that in. In that instance, stakes were set for me at my request because I had a grade line in the bottom of the ditch, making a ditch to carry water. I was working on the road about that time when I next saw Mr. Wray. We ate at the same hotel, Mr. Distelhorst being there. After supper, we sat down under the trees. Mr. Wray asked Mr. Distelhorst when his eyes had got so bad.

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Q. I can't see how a lot of what you are telling here is material.

Q. I'll tell you this and if you don't want it you can strike it out. Mr. Distelhorst he said, looking at this road you had built, I thought your eyes had gone wrong or you needed new glasses. Mr. Distelhorst started to explain the arrangement between him and the county commissioners. Mr. Wray says that was none of your concern and I now issue an order to have this work all undone and this road made as near as it is physically possible like the old plan and he advised me that if I didn't do that, he would see that the government never paid me a nickel for the work I was doing. I did it. I have never been compensated for it. I put it back to the best of my ability, filled in the ditches, draw the top of the road, smooth the top in and took off the marl that I put on it. I moved back—I moved back to the portion of the last end of the Division A; half mile that was good soil and out of the sand I put the road up so far as my plans showed and I had nowhere near dirt enough. On the theory that there would be enough dirt, I was allowed and ordered to cast in to the 66 feet the road unit on the north side of that half mile of road, the east half mile of Division A.

Q. Was that by written order, Mr. Twichell? A. No, sir, not by written order, no written orders were ever given
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me.

Q. Your new contract provided for written orders? A. No sir, it doesn't necessarily at all. I had a right to ask for them.

Q. Provided for them? A. I had a right to ask. I asked for several and never got them. After that dirt was all in, I was ordered to take the balance of the dirt that was on the other side to build it up to the grade line in each instance. It was impossible for me to work but from one side, go empty half the way. We came on with the sand with the other outfit and when we had got down to within two miles of the end of the division, it became apparent to everybody that the road couldn't be a road because one machine couldn't go in place. We, however, finished up the yardage and put it in place, smoothed it as best as I could, constant changes in plans by Mr. Distelhorst, minor minor made necessary by the faulty survey and bad material which was admitted. While I was digging, working in the sand, a gentleman by the name of Henry Nelson came along, asked how I was getting along.

Q. Just a minute, Mr. Twichell— A. This is very important or I wouldn't tell it.

Q. I can't understand how Mr. Nelson would have anything to do with this matter. A. You will find out, I imagine you will want to subpoena him.

Mr. Green: As I understand it, Judge, this matter has largely to do with the Richland County road and the time it took to complete it; these matters all have a bearing on the time that he took to complete the road.

Q. I have no objection to that but I can't understand how the conversation with every Tom, Dick and Harry has any

bearing on this. A. I charge that there was a faulty plan of the road. I cite certain facts told to me by Henry Nelson and others. The plan of the road, the survey of the road was done in the fall of 1919, beginning late in the month of October and continuing through the month of December.

Q. Just a minute, were you present when the survey was taken? A. No, sir.

Q. Then you don't know anything about the survey— A. Except what the engineers told me and the notes I have seen here. Is that evidence? I know that in the fall and so do you, that in the fall of 1919—

Q. Let us have—if you claim the plans are faulty, say so, and we will get the records afterwards.

Q. I would state this fact that Henry Nelson told me he drove a bob-sled that carried the engineers. He told me Mr. Hoffman, the blacksmith at Hankinson, made rods which were five feet long to reach down through the snow to find where the ground was. Mr. Distelhorst, however, connected with the road, appreciated the fact that the road wasn't going to stand up in places. He argued—
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Q. Just a minute, it seems to me that we could shorten this if you will tell the work you did.

Q. Mr. Distelhorst ordered me to take certain parts of the earth left between the 66-foot limit and the width of the road where they appeared to be better than the average and haul them onto selected spots that to him were worse than the others, and I continued to do that work in that part of the work until it froze up in the fall, not quite completing the material that he had staked for me to move. Mr. Distelhorst went to Wisconsin, wasn't there to complete his work, and Messrs. Carroll and Gavin came on the job.

Mr. Vogel: Did they come on in the fall or spring? A. They came in the spring.

Mr. Vogel: Of what year? A. 1921.

Mr. Graham:

Q. Now what time did you commence work on the job in 1921? A. When?

Q. Yes, what time? A. I commenced as soon as the pits were fit and as quick as Mr. Gavin ordered, I brought some men. I can't remember, it was early in the spring.

Q. How much work did you do in 1921? A. I did all the work that Mr. Gavin told me to do and from where to where he told me.

Q. You finished up the work then in 1921? A. No, sir,
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I did not. We continued throughout—I will make it short—we continued through, doing over what Mr. Distelhorst had done which had proved absolutely futile. This land was better ground than the three feet of blow sand that wouldn't stay

anywhere, and those pits that were procured from out of the roadway were abandoned because there had to be selected better pits and the first pits that Mr. Gavin selected were chosen more particularly to their proximity to the road than to the quality of the material. It was, however, better than the other and during the entire time through Mr. Distelhorst and Mr. Gavin, there was purchased or borrowed ten pits of ten different owners. This includes the two that Mr. Distelhorst—I have a little mistake—the other pits were bought by Mr. Gavin and paid for because of the quality of the dirt. In the building of the road, it became patent that three of the pits that had been bought were no good and after I had taken from two or three they kept getting worse and worse, we got down to quicksand and those pits were abandoned. We might as well clean this whole covering proposition now. The three pits or the two pits close together and the one just immediately across the road on the north side were abandoned because I had practically nothing but water and quicksand and you couldn't go more than eighteen inches deep and all the pits were abandoned in the fall of 1922, except pit 3 and 10

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—3, 10 and 1. One was—No. 1 was abandoned in 1923 by Mr. Black and found an easier way to do the work. In 1922 I again saw Mr. Wray who was then working for Mr. Robinson and with him was a government inspector. We were covering the road, part of it was not approved—not approved as proper material and Mr. Wray was told in my hearing by his superior that only such dirt as would make a top that would last could be used and expect the United States government to pay for the road, and all pits but 3, 10 and 1 were abandoned. I finished, so far as I know, division B excepting 300 yards in the fall of 1921 where I had no dirt and no place to get it. It was bought afterwards and placed there. In 1922 the road wasn't accepted, was completed and could have been accepted but none came. In 1922, I started to maintain that road, get it ready, got in the dirt and Mr. Carroll notified me that the government's plan of roads had been changed since I had taken the contract and that the order now was that all roads that hadn't been accepted should have a flat top instead of a round top or a top with a slope grade of nine inches in twelve feet, and I was ordered to go into the ditches and take out enough dirt to put on that sliced piece from nothing to nine inches on the outside, bringing my outside up to the centerline. I hired a man by the name of Huddel-

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son—

Q. Who gave the order for the change? A. Mr. Carroll. I wired a man by the name of Hetherington from over in Minnesota, who came over and started on the work and supplemented the teams that I had started there. He kept on that work until some time in October when I put him on the beginning of the long hauls from the pits. The road was completed in all positions in October, 1923. I, however, as is customary, held my outfit there to prepare for final inspection. Mr. Black came down and looked over the road and approved it personally except in one place, a place of 1100 feet where he figured that I hadn't put on enough top and he ordered me to open up a new pit on the farm of Ed. O'Meara and haul that dirt and spread it to this particular place. The road of

Division B lay there done and I never done a tap to it during the year 1923 except to maintain it and except to go out when I was notified that the federal inspector would be out there. I kept my outfit there all the time, would go out just before the appearance of the federal man and put that road back just in as perfect a condition as it has to be to be accepted by the government, without a ripple, without any loose stuff, and it lay there done that year. Now, Mr. Black made no changes on the plans that had been agreed to in 1922 on any of the work that I done in 1923 except that he ordered me to not haul any more dirt which—I hadn't hauled any that year out of

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pit No. 1, that he believe it was possible to get good enough dirt out of the ditch. We examined it, I told him that I knew he could so he ordered me to do it, so I started at the east end of the west end of the road with the same rig and the same machine that I had in 1920 and did the same thing over that I did—and did over again the same thing that I had done in 1920, in 1923. I went down into those witches and again found the same marl, more mixed with sand and which made it possible to have the stuff put on the road and saved the cost of hauling. Mr. Black—I want to correct his testimony for him a little in three or four places—

Q. You can give your testimony. You can't correct Mr. Black's. A. I want to give other testimony for the purpose. Mr. Black visited the road three times in 1923, in June, August and October. A bill has been presented to you in the last few days of fourteen and some dollars brought from Richland County. Let me clarify that for you or at least let me clarify it under oath. There is a peculiar condition in that portion of Richland County, something that I have never seen anywhere else. There are angles at the quarter miles and when I set up my stake to go through straight, I found I was as much as seventeen feet off straight, half ran zigzag, each particular half mile on a base line different than any other.

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I called the attention of the chairman of the County Board who lived right there that that would make a very strange looking road and I assumed it was the fault of the engineer. I do not know but what I said so, but I learned that an error of that kind—where there was an error of that kind—was made in the original survey and the county commissioners asked—and it was granted—whether they had the right or authority or not so they could correct that line by straightening it up and in staking out the line, it ran into several bunches of trees; that the new line as drawn ran into fences and things of that kind; that the plat that I had, didn't show the obstructions, all obstacles being noted on your plan when you get it. Finding that we were going to run into fences, trees and that kind of things, they made a futile effort to direct and command the people who owned land to move the trees and move the fences, and I was coming along with my work and nobody moved any of that, and then the chairman of the County Board who was chairman of the Highway Committee in that County, came out and authorized me to go ahead, take out all the trees, all the fences, pull the trees, dynamite three or four hundreds of them, take the trees out of old Bill Meyers' yard that Bill Meyers said he would never allow anybody to touch. He stopped me from dyna-

miting any because the law protected him against us being
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too close to his house. I took them out. Five years is a long time to have to remember, I am doing the best I can. I presented the bill to Richland County, I've forgotten what most of the items were. It was paid without dissent and none of those items have ever been included in any bill to anybody else or by no-one else beside me. I did the work on their order, they paid the bill. Let me clarify a little further for you. Mr. Gavin and I are not friends. Mr. Gavin worked a long while with me and I with him, I think both of us never feeling especially kind toward each other. Mr. Gavin is a good worker—Mr. Gavin is a good worker, but since the first and only time that I ever saw him since Mr. Black came in, not feeling that he had treated me fairly, I said some things to Mr. Black very, very plain which he evidently has taken very deeply. We have never spoken since nor was he ever on that job during 1923 so far as I have been able to learn from my men

Mr. Lounsbury: I think he said "Black," he meant Gavin. A. No, since Black came in, Gavin had never been on the job. He has some signs of a man who has a grievance and is trying to get even and I don't know whether he will or not. Before I started work in 1923 after Mr. Black was installed in office, I met him and asked him to my room, I am quite posi-
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tive the Annex Hotel in Fargo, and I went over the year's work and something of the history in a rough way, of this road. After we had talked, he had some better understanding of what I contended; he figured out, he offered a suggestion to me which I accepted though it wasn't easy to accept: that I go on and finish the job during 1923 without asking for or receiving any of the monthly estimates that the contract provided that I should have. I told him I thought possibly I could swing it. I did that for the reason that to me it looked like the best way to remove a lot of questionable things that I had in mind. To illustrate: a pit had had some dirt taken out in 1921. Somebody had reported that I had taken so many yards. I hadn't measured it. Then some more dirt was taken out in 1922 and I didn't know of my own knowledge that it ever had been measured or that it had been measured right and if those pits were left just as they were, taking out whenever we had to and did, then the entire yardage that had been removed from that pit from the beginning to the end would be as easily ascertained as it would be to get the cubic capacity of this room, and if some of them had been overlooked, which wouldn't have been material to anybody, or if intentional mistakes had been made, this method would correct them and the only fellow that could possibly be the loser would be a possibility of some slack lost to myself be-
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cause this is a blowy country and a lot of sand falls every year on the ground down in that country. I was satisfied to take the final measurements as found instead of the three or four efforts that had been made. In the First National Bank of Fargo in the presence of Fred Irish, cashier, H. B. Crosby, cashier, Aubrey Lawrence, the bank's attorney, my brother who was my attorney, and myself, Mr. Black told us why he

had been forced to abandon the figures that had been furnished him by Mr. Gavin. He said they were not honest; they were not true. Mr. Gavin—Mr. Black possibly too polite to say that, but I am not troubled that way at all; that is what he told us. He told us they were abandoned. I am telling you the reason why he said they were abandoned. Let me say further that I never had any understanding with Mr. Black about any amount of money that I had coming or about any amount of money, because I didn't know, but I expected to get all that was coming to me; didn't know how much it was. I never, as Mr. Jones testified, offered to make any settlement with Richland County for \$9,000, for \$50,000 or for \$47,000 or any other dollars. I never consulted with any officer of Richland County or any Board in Richland County with reference to anything pertaining to this settlement nor with anyone representing them. I started out on the assumption that I had faithfully completed my first contract. I knew

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that I had never refused to do anything that I had been ordered to do; that I always did do the things that I was ordered to do and I always change and corrected every mistake that I had made. If permitted, I would like, as a matter of fairness to me and of more comprehensive understanding to you, to go a little further along with Mr. Jones testimony.

Q. I don't think there is any necessity of that. You have told us your story here and we would want to have some time for cross-examination.

Mr. Green: Take the outline of your facts and see if you have covered what you want to cover. A. After division B of Richland County was completed and to me approved as done, by Mr. Gavin, which was his business not mine, no one came to examine the road which froze up the same winter so he couldn't. Sometime after I had left the work, I met Mr. Gavin in Fargo and he told me that he had been sent back to check up the road; that he hadn't completed it but he had gone over a little more than half of it and I asked him what he found and he said about seven thousand dollars and possibly ten when he would get done. The figures that were finally included in the estimate—this is prior to Mr. Black—show \$4,900, that is the total with the single exception of one point in the road, namely the extreme east end of Division One, there was no dirt taken out.

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Mr. Lounsbury:

Q. Do you mean Division One or B? A. Division A. There was no dirt taken out of any pit and placed on the road to shoulder it up. The separation is then within two or three or five rods of the end of that division. When I put the dirt in place, there was a old culvert, the concrete one not having been put in. I was ahead of the concrete at that time and on the south side of it was some trees. I would have had to refill after the new culvert went in and so I pulled enough dirt down there to refill as was customary for traveling up to the height, leaving the old bridge in with a drop of six or eight inches, the road had been raised that much and it stayed that way. In the selecting of pits, Mr. Gavin bought a pit, pit No. 10 of Mr. Mahler. The pit of Mr. Mahler happened

to lie within about 100 feet of the roadway running north and south and I hauled out of that pit as I had no other place to do it. This was where I finished as I had no other place to get it after this pit having been exhausted. I hauled out enough dirt—I have no exact count, possibly thirty loads—and spread it from the entrance of the pit to the end of the division which was approximately less than twenty rods. I do not know if that was ever taken out but the facts were all given to Mr. Black and you couldn't, from their system of

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bookkeeping, ascertain whether those things are taken care of or not. However, I can have my conscience clear because I find on examining the records that the gentleman who owned the dirt was paid for more yards of dirt than I was, enough to amply cover the yards that I might have taken. He was paid for more dirt than I hauled.

Mr. Lounsbury:

Q. How much yardage do you claim you hauled out of the Mahler pit? A. 4041.

Q. Out of both pits? A. No out of the Mahler pit.

Q. Are there not two Mahler pits? A. No, one pit, pit No. 10. The records show, I guess in Richland County, they paid him for 4194 yards. The records in Richland County also show that the O'Meara pit, that you have in mind, the records in Richland County show that the County Commissioners of Richland County paid Mr. Mahler for approximately 600 yards of material more than Mr. Black has allowed me.

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Mr. Graham: Will you try and make this as short as possible.

Mr. Twichell: I am going to cut it as short as possible. The information that a proposal to arbitrate this proposition came to me through a telephone message from my brother, who was my attorney, who reported that Mr. Aubrey Lawrence, who was the attorney of the assignee, the First National Bank of Fargo, had a proposition from Mr. Black that this matter be arbitrated. The work was up to my acceptance. I accepted it; when the Articles of Agreement were drawn I read them and signed them and they were sent back to Mr. Black. They hung fire for some time but were finally signed by the Highway Commission. They appointed an arbiter; I appointed an arbiter, and they together chose another arbiter. The arbiter chosen by the Highway Commission, Mr. Bliss never exchanged words, he and I about any feature of this case until I appeared before them. Everything between Captain Mudgett, who was their choice, he and I never in our entire lives had exchanged a word about this matter. The assumption that Mr. Black spoke for me, or that he had agreed to any price that had been acceptable to me is not only mistaken, but untrue in fact. I came before that Arbitration having fully made up my mind that I would accept no figures until not the dollars, but the particular things, and all of the

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particular things that I had done on that road were included and figured at a right price, I can mention that, amounted to what I had coming, mention of most of them; then I had my ideas. The records of that hearing—I never read them, I was there—will not disclose that Mr. Black acted for me at all in any way. I had, and was bound by the terms of that Arbitration, we were bound, the Board and myself. It was arbitrated under our statutes. It was arbitrated under our own statute that provides for such methods of settlement where parties cannot agree; it has that peculiar quality that applies to all decisions rendered under such a Board of Arbitration, that the award becomes in fact a judgment.

Mr. Graham: Just a minute, there isn't any necessity of you giving us a lecture on the law here.

Mr. Green (Appearing with Mr. Twichell): You don't need that—

Mr. Twichell: Well, I have a right to say where I was placed. The figures in dollars that constitute the total of my bid on either division of Project 59, the total was in no way binding on me, the Highway Commission, or the Government. That is not their purpose, the price per unit is fixed. I understood when I took that contract that that was to be my price, not for that number of yards, but for an amount

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not less than 75 per cent of the yards stated, or the feet stated, or more than 125 per cent of the amount of the stated feet or other quantities. I also understood that the specifications which are a part of these contracts provide that in the event of going beyond either of the extremes, either party to the contract has a right to ask for a new contract for extra entered into, which becomes what is called a supplemental contract. In the Richland County there was no supplemental contract ever proposed to me and therefore none signed. In the absence of that contract it naturally follows that the price that I had contracted covered whatever the amount might be. Now as to the differences, in fact, between building the road out of dirt and covering the same road with clay, my contracts provide for two kinds of excavation, which are different, but I bid the same price. Section A is excavation where you don't have to move dirt in longitudinally.

Mr. Lounsbury: Class A.

Mr. Twichell: Yes, class A. Class B is where I have to move it longitudinally. You use the same implements, same method, same machinery, same wagons to haul dirt for any portion of the road to make the portion of the road that you do hauling clay on or off of the road. When I have moved from the road or pit here, a rod or yard of Class A excavation,

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I get the excavation price up to moving it a thousand feet. If I move it beyond a thousand feet I get an addition to that excavation price, the amount I have bid per station per yard for overhaul. When you haul clay out of a pit you go through just the same performance except that your distance figures from the—longitudinally—from the center of that pit, the distance covered, whether you haul a mile until you get

to the road, or whether you haul all over the road. That is the only difference there is in these two; it is all just a question of how you arrive at the point for measurement. I did not, nor did anyone for me, compromise in any way the claim I had against Richland County incident to the building of this road, and anyone who states so states it through ignorance or as camouflage to Richland County. I accepted nothing less, and Richland County pays nothing less. The Richland County people have acted very decently, I have very high regard for the officials of Richland County, much as you'd be surprised to hear me say it. Also the money that they had left, that they had raised to contribute towards the payment of this road; they had \$9300.00 that belonged to them for expenditure on road projects and they offered to give it to me in settlement, I wasn't there, but they had given an order to Mr. Black that he could transfer that \$9300.00; it

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has been transferred and Richland County has their receipt for the money; and Mr. Lounsbury, who is in this case I am informed, is the gentleman who consummated the agreement.

I was very glad to see Richland County discharged. Richland County should have never paid more than that, especially when I was assured that that had come from former years; the Government has paid every cent of this claim. I have received the money and they have got the receipt for it. The balance of it has been arranged and I am patiently waiting for that arrangement to be carried out by your state officers here; which will be done.

The only concession that I have ever made on this settlement was at the time of the Arbitration. I was disposed and fully intended to go in and thresh out every bit of the claim that I had made, if I could, or be beaten if I couldn't. I was represented by my brother; another attorney there represented the assignee. I fancy that they thought it was more a matter of pride with me than it was of business, and I fancy they got a little bit tired, possibly, of the attitude that I took, that I had a right to have a full and complete hearing of everything before this Board; and at the rather insistent, rather strong insistence of Mr. Lawrence, attorney for the

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assignee, I was more or less driven to yield some of the things that I wanted disposed of. Mr. Lawrence was representing not me, but he was representing the assignees and as a good attorney for the assignees, I presume, the bank getting back what they had put into this, rather than for the satisfaction of proving I was right. In every instance I yielded the same as you would. Now, let me finish up this way. I have never refused to do anything ordered; I have never failed to do what was ordered; I have never done anything that wasn't ordered, and I have corrected anything that I did do that was wrong. I think it is just as well for me to stop there as anywhere, that covers everything. I shall be very glad to answer; there are some things you could mention, if you are so disposed and I think I could furnish you for your own guidance. I worked out a statement last night that would show just what the extra money as expended in Richland County was and what it was for and what it was for and where it went, and if any individual or member of

this inquiry Committee would express the desire I'll complete that for you and you can use it, or if you don't want it I'll let you dig out the matter yourself. You can ask a great many questions I could give to you.

Mr. Lounsbury: Have you got it with you? A. No, I have not, I told my brother to find it; I don't remember just where I laid it myself, it is somewhere about my room. But I can get it.

Mr. Lounsbury: Will you let me have it when you complete it? A. Yes.

Mr. Graham: When did you complete the actual work on Project No. 59? A. In June sometime, 1920.

Q. What section of the project did you commence work on? A. I commenced work on Division B.

Q. That is the east end of the job? A. Yes, the center, in the center of the east end.

Q. What sized outfit did you put on the job? How many and what sized tractors, blades, fresnos, horses, wagons and so forth? A. I went down there with four sixty-horse engines, two Harvey graders, and two 12-ft. blades and cook cars and the things that go with an outfit of that size.

Q. Had you ever done Federal Aid work before? A. I had just completed Division No. 1, the first one in the state.

Q. Where and what was the number of that project? A. That was No. 1.

Q. And where? A. Run from Fargo to the south line of Richland County.

Mr. Lounsbury: South line? A. North line. Military road.

Mr. Graham: Was the type of road construction on Section B changed during construction? A. Was the type of road construction changed on Section B? Yes, sir.

Q. By whom? A. By the Government, I understand. First information coming to me in an order from Carrol.

Q. When was it changed by Mr. Carrol? A. In 1921.

Q. What were those changes? A. That the road should be changed over from the round road top to a flat topped road.

Q. Did the original plans provide for a round top? A. Round top road.

Q. Had you completed the round top road when these orders for changes were received? A. I had.

Q. Fully completed? A. What do you mean by completed?

Q. So it was ready for acceptance? A. That is a matter of judgment.

Q. Had you fully completed it? A. I figured I had, that is a matter of judgment.

Q. Had you so notified the State Highway Department?
A. State Highway Department?

Q. That the road was ready for final examination? A. Ready for acceptance except for some extra work that had to be put on outside of this.

Q. On Section B? A. On Section B.
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Q. In 1921? A. In 1921.

Q. How did you notify them? A. How did I notify them? I couldn't tell you; in the ordinary way, probably through the engineer. I never sent any letter. I'd have sent it in the ordinary way that they would get it.

Q. What was the ordinary way? A. By letter would be by telephone; I can't remember five years back just how I did that.

Q. Did you not write a letter in the fall of 1921 to the State Highway Commission requiring additional time to complete the work? A. Yes, and got that.

Q. Division B? A. Yes.

Q. Then it was not ready for examination in 1921? A. The final was in 1922. No, no, in 1921. They didn't agree with all of my plans as submitted to make my road of the proper width and proper height. During that summer I had the entire summer a fresno outfit of my own on Division B.

Q. During the entire summer of what year? A. 1921.

Q. Commencing when? A. When we started in the spring.

Q. What time? A. I couldn't tell you, as early as I could get started. They had floods that spring that when I started drowned my borrow pits on Section B.

Q. What is a borrow pit? A. It depends on what you call pits. There is a good many different kinds.
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Q. What do you mean by a borrow pit? A. Oh, what I call a borrow pit, is where you have a straight line on the road; that is the type of road down here (indicating), where you haven't enough dirt from where you are hauling, to fill in, so then they cut out a little piece here, maybe three feet wide and a thousand feet in length, whatever the need is, or six feet, keeping always inside the sixty-six feet, and that stuff is taken out for the road, and used to fill up those roads. Of that kind of soil including the round turn at the end, approximately 45 or 55 yards. Mr. Robinson's report will show that. I made my 45 yards of that kind of work.

Q. What the engineers mean by a borrow pit is where you haul dirt out of a pit, isn't it? A. No, more properly one is called a borrow pit.

Q. Which one is called a borrow? A. The one that lies adjacent to the road, is known as a borrow.

Q. Did that change from a round top to a flat top road require any extra excavations in addition to the quantities shown on the plans? A. Every part of it shows that—

Q. You can answer that question by Yes or No. A. Yes.

Q. How much additional did it require? A. It required
(561)

just an even yard to every linear yard, or 1760 yards to the mile.

Q. How much of that did you do? A. I did it all.

Q. How many additional yards was there? A. That would approximately be seven times 1760, it was all just alike, my road was in the first instance.

Q. Did you then have a flat top road? A. Then I had a flat top road.

Q. And it was so accepted by the Highway Commission in November, 1923? A. So accepted by the Highway Commission, or rather, the pay for it was forwarded to me, being—

Q. I asked you if it was accepted? A. It was accepted by the Government and the Highway Commission in November, 1923.

Q. When did you complete this flat top road? A. 1922.

Q. Fully completed in 1922? A. I never touched it in 1923 except to get it ready for final inspection.

Q. You never notified the Highway Commission it was ready for inspection until 1923, did you? A. I did.

Q. You notified them? A. Yes, thirty times, personally and every other way trying to get my pay.

Q. In 1922? A. Oh, 1922. I notified them in the
(562)
fall. Then Mr. Gavin was ordered to go back to check up.

Q. Didn't you write a letter in the Fall of— A. Oh, I most always—

Q. Just a minute until I finish the question. Did you in the Fall of 1922 write in a letter to the State Highway Commission asking for additional time to complete Division B? A. In 1922?

Q. Yes, A. I think not.

Q. And didn't you in the Spring of 1923 write a letter to Mr. Black stating that you would notify him when Division B was ready for final inspection? A. Oh, there is always—

Q. Just answer the question. A. The first statement is that I wrote in wanting time in the Fall of 1922?

Q. Yes. A. I think not.

Q. Did you in the Spring of 1923? A. Write to Mr. Black?

Q. That you would notify him when Division B was ready for final inspection. A. That would be very natural.

Q. Did you do that? A. I don't remember, but it would have to be, naturally must, would have to be gotten ready before—

Q. It was your duty under the terms of the contract to keep the road up in shape until it was finally accepted by the government? A. Forever? (564)

Q. Until it was finally accepted? A. Forever?

Q. Just answer the question. Was it under the terms of the contract, I asked you. A. If accepted in a reasonable time.

Q. Does the contract state that— A. What?

Q. That they have a reasonable time? A. I think the law covers that.

Q. Does the contract? A. I don't think so, I think the law covers that.

Q. Now, here, were these orders for changes given to you in writing? A. No, sir, never was.

Q. You know that under the terms of the contract, do you not, that all changes in excess of 125 per cent of the original contract must be done in writing in order for you to recover under the terms of the contract? A. No, I don't believe so.

Q. You have read the contract? A. Yes, and don't believe it.

Q. You don't believe the contract? A. No.

Q. You don't believe the contract means anything? A. Oh, yes. I think the contract means a lot, been in the habit of keeping it.

Q. But all of this contract that you have was oral? A. All of this contract was oral, and what of it?

Q. Just answer the question? A. O, yes, on this road work.

Q. Now, did you maintain this road, Division B, and keep it up in shape until it was accepted by the Highway Department? A. No, sir, I didn't, somebody else did. (564)

Q. Just a minute, why did you not? A. Because Richland County had volunteered to do it.

Q. Who volunteered to you that they would do so? A. Mr. Carroll came. He got this from the Chairman of the Board of County Commissioners at that time. I haven't seen him in two years.

Q. Who of the Board of County Commissioners volunteered to you that they would keep it up and maintain it? A. I understand the whole Board did.

Q. Did anyone of them so tell you? A. Mr. Hoefs.

Q. When and where? A. Somewhere on the road, he reported this to me that Mr. Carroll had gone down there and had appeared before them and said that I was not maintaining the road properly and wanted authority to come out and make me maintain the road. Now, I didn't see why it needed that, but this is the story—

Q. Did the County Commissioners tell you this? A. The County Commissioners? Mr. Hoefs told me this.

Q. Where? A. Somewhere on the road, one side they had to turn out on, I ain't denying it.

Q. When did he tell you this? A. Right after Mr. Carroll was there.

Q. What year was that? A. That should be 1921,
(565)
I fancy.

Q. Richland County would not maintain the road? A. They did, and they answered Mr. Carroll so, I am informed.

Q. You did not maintain the road? A. Well—

Q. Answer the questions, you have made your volunteer statement here. A. What is the question, did I maintain the road? In part.

Q. And Richland County maintained it in part? A. Yes, that is in part.

Q. And they paid for the maintaining which they were compelled to do? A. They paid for the maintaining they ordered done.

Q. And why didn't you maintain it in accordance with the terms of your contract? A. Mr. Carroll did not come to me but preferred to go to Richland County, and Richland County, so I am informed, told him that they figured they had trimmed me plenty, that they would take on the maintenance. However, they were so decent in the matter that I left an outfit on there, and every once in awhile went over it with the big machine so as to make it travelable, and decent, I shared the responsibility and—

Q. But under the terms of the contract the full responsibility was yours to maintain it? A. Oh, my contractual relations, you know, were not with the real parties, but the

gentlemen who represented them, you know, so that when I neglected anything in particular they said you do this work or we will forfeit your bond.

Q. You think Richland County was out to try and trim you? A. Who? Oh, no, the Highway Commission trimmed me. Oh, no, Richland County never trimmed; and the Highway Commission did beautifully, oh, to a fare-you-well!

Q. Which Highway Commission? A. No, Richland, nor nobody else, except the Highway Commission ever tried to trim me.

Mr. Vogel: Which Highway Commission have you reference to? A. I mean the first and primary, and the one that you have in this State.

Mr. Graham: All of the Highway Commissions have trimmed you? A. The system trims me, not the Commission. The system trims anybody.

Q. Now, did you have any difficulty or trouble over getting a settlement for Federal Aid Project No. 1 in Cass County? A. I did, yes.

Q. Yes? A. Why, yes, I did.

Q. Did Cass County try to trim you, too? A. No, they did not.

Q. Who did try to trim you? A. Well, that was the first I had done, Federal Aid and the Government seen to it—

Q. Who was the engineer? A. Mr. Bliss was the engineer. (567)

Q. Wasn't it Mr. Stevens who was the engineer? A. No, sir, Mr. Bliss was the engineer.

Q. All right, and the engineers in charge of the project down there, they gave you the raw deal, did they? A. Not a bit of it. You are mistaken.

Q. Who did give you the raw deal? A. The lack of understanding.

Q. The engineers that they sent down weren't competent to do the work? A. No, the engineers in Cass County wouldn't try to learn anything.

Q. They didn't try to send in the reports showing the amount of work which you actually claimed to have done? A. Let me inquire who's "they."

Q. The engineers? A. The Highway engineers.

Q. Yes? A. Yes, they didn't send in the reports.

Q. They didn't send in the report showing sufficient work? A. No sufficient pay.

Q. They didn't send in the report showing the proper number of yardage? A. No. Short work means short pay.

Q. Then you would have received sufficient pay if the reports had been in proper shape, would you not? A. Why if the half and half cost between the Cass County and the government had been retained and the engineers on that project hadn't failed to do just what the engineers, both Mr. Black
(568)

and his predecessor—and had kept that balance between the local spread and the Federal there wouldn't have been any trouble, but as a matter of fact—

Q. Just a minute, I want to ask you a question. Were you claiming to have done more work on project in Cass County than what you were paid for? A. Yes, was—

Q. How much more work than what you were paid for did you do in Cass county? A. Well, I think my bid was about \$10,000. That is fixed price \$10,000. I think that is what I bid.

Q. How much did you claim to have done, about, in dollars and cents? A. About \$60,000.

Q. It was about five times as large— A. I think—make it five or six—I want to be conservative.

Q. The great number of these engineers, they are not competent in laying out the plans for the roads that you have had experience with? A. I wouldn't say that. The plan of the Sargent County road is a very good one.

Q. What was wrong with the Cass County plans? What was wrong with the Cass County plans? A. Well, I will be frank, Mr. Bliss had never drawn a plan in his life, that I know of, and I think he was the state engineer.

Mr. Vogel: Mr. Bliss, who was one the—is that the Mr. Bliss who was one the Board of Arbitration? A. Mr. Bliss who was located at Valley City, yes, They built—I don't
(569)

want to be made ridiculous here, and I don't want to make anyone else ridiculous. The plan as I remember for that road starts at the south and I think the road bed is 32 ft. wide and at the widest point 42 ft. wide, I think that was it. I bid on that work I was the lowest of 11 bidders, and inclosed with that bid a recommendation to the Board of County Commissioners, of Richland County that if they built that road that way they would be sorry but I might just as well build it as anybody.

Mr. Lounsbury: You mean Cass County? A. Yes.

Mr. Graham: Did they pay you for it? A. Well, there was—

Mr. Graham: Now answer the question. A. And they paid me for it.

Q. Did they pay you the full amount you claim? A. They practically paid the full amount.

Q. How much did they deduct from what you—

A. I don't think they deducted anything, I am not sure the settlement was made by Mr. Bliss and Mr. Moyer, who was on the Board then; and they gave me if I remember rightly some eight or nine thousand dollars more than they had intended to pay me.

Q. And that was still ten or eleven thousand dollars less than you asked for? A. I don't know what I asked for, I don't remember, but I can get all that.

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Q. Did you ever have any difficulty with the Federal Aid Project over in Sargent County, that the engineers didn't report in the proper amount of work which you had done? A. Oh, Sure, wasn't they the same bunch, what did they care about roads? It's me.

Q. Oh, it's you? A. Yes, me. There wasn't any other reason.

Q. And they and the whole State Highway Commission, no matter who, had it in for you, is that it? A. Well, they seemed to have, and there is probably some reason. Do you want me to tell them? I can tell them.

Q. You didn't obey their orders, is that the reason? A. Oh, no, that isn't it. I could give you quite a lengthy discussion—

Q. You have given us a long discussion already. A. I hope it has as good quality as it has quantity.

Q. Did you have any construction stakes to go by on Section B in Richland County? A. On Section B in Richland County? Yes, I had some stakes in Richland County. Not as they had marked it, because it was off.

Q. Just answer the question. A. Yes, I had some stakes.

Q. Did the engineer in charge of 59 at any time order maintenance on this road that you failed to do? A. Not that I remember.

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Q. There was quite a lot of longitudinal or end hauling provided for in the original plans on Section B. Was there not? A. Yes, that is excavation B.

Q. Did the change in the plans from a round top to a flat top require more or less end hauling? A. Why, if that—

Q. Just answer that Yes, or No. A. It wouldn't change any.

Q. Did you do the full amount of end hauling that was required by the plans? A. Yes, I did.

Q. Did you do any more than what's required? A. I wouldn't haul the stuff—

Q. Just answer that yes or no. A. Yes, yes.

Q. Now what amount of Section A was clay surfaced?

A. What amount of Section A was clay surfaced? Clay surfaced the entire length; the entire length of Section A was clay surfaced in two days; from Station 1 to Station 70; it was surfaced both ways. I think I hauled out about a thousand yards from pit No. 1 and used to build the inter-sections at the beginning of the road and strung out for about 800 ft. at the same time I deposited about 100 loads just half a mile east at the mouth of the pit. Subsequently that whole work was gone over and the finish was abandoned. That was to come out of pit A—abandoned by Mr. Black, and I went

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down into the ditches and got the marl out of the bottom of the ditches to complete the road up to the same height as though it had the six inches of cover on; and including Station 70 and turned on the end corner at 80, the balance of the road from there on a mile and a half out of Hankinson was all covered with a clay top hauled out of pits.

Q. Now at whose orders was this clay surfacing done?

A. At whose orders? Began first as an experiment.

Q. Just a minute. Tell us whose orders it was. A. Mr. Distelhorst, Mr. Carroll, Mr. Gavin, Mr. Ray, and about 700 under strappers that were too small for me to even remember the names.

Q. Did Mr. Black order any more? A. Mr. Black? Yes, Mr. Black order 1100 ft. Mr. Black order 1100 ft. on about the center where he figured on examination that there hadn't been enough dirt.

Q. Then outside of this 1100 ft. how much clay surfacing were you ordered to put on in the first place? A. Probably in the first place I was ordered to put on 150 yds. I should say between the two stakes that were driven.

Q. How many miles would you make that? A. Why up to that knoll up there.

Q. How many miles? A. I don't know, no miles. It was just close.

Q. At any time was any clay surfacing ordered for any number of miles? A. No, it was order from time to time until the final plan was made up in 1922.

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Q. How many miles were provided for in the final plans? A. All of the road except what I have told you, 70 stations or 7000 ft. of the total length.

Q. 7000 ft. of the total length was ordered clay surfaced? A. No, all but 7,000 ft. was ordered.

Q. Now in putting on this contract down there you accepted orders for changes from all of 700 under strappers? A. Any man that was put in charge there.

Q. You accepted orders from all of those under strappers?

A. Oh, no, but they were given to me, I didn't accept them all.

Q. Under the terms of your contract you were to accept orders only from the engineer in charge? Well this was—

Q. Is that so under the terms of your contract? A. Orders from anybody—

Q. Answer it Yes or No. A. Any engineer there would be in charge.

Q. Answer it Yes or No. A. What is the question?

Q. No, under the terms of your contract you were only to accept orders under the engineer in charge? A. Contract reads for itself.

Q. Why did you accept orders from 700 under strappers? A. I didn't say that I did; I say that I got them.

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Q. You didn't pay any attention to the orders of the 700 understrappers? A. Oh, no, it wasn't anything serious with me.

Q. You figured the orders were more or less of a joke then? A. No, I didn't anything of the kind. If I had an order from Mr. Gavin or an order from Mr. Carroll or I had an order from Mr. Distelhorst, and an order from M. Payne, who was—

Q. And the order that was given by Mr. Gavin or any other of the engineers you considered more or less of a joke, did you? A. No, they had some business there.

Q. When did you start the clay surfacing? A. When did I start the clay surfacing?

Q. Yes. A. In 1920.

Q. When did you finish the clay surfacing? A. In 1923.

Q. Were you ever ordered to haul any clay by any of the engineers in charge for patching or maintaining Section A? A. No, and I didn't.

Q. Did you ever haul any more clay on Section A than was ordered by the engineers in charge? A. Did I ever order any more? Not knowingly, no.

Q. Do you remember whether or not you did haul any? A. Well, I think I didn't then.

Q. Which is the truth? A. Well, I think they both could be, couldn't them? I never hauled any clay, any more

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clay than, in any other places, than I was ordered by somebody that was in charge.

Q. Were the pits well located as to economy of hauls? A. As a matter of fact—

Q. Just answer Yes or No. A. Economy of haul?

Q. Just answer whether or not they were well located. A. Why for the economy of haul No. 10 was located the worst.

Q. Who located that pit? A. What?

Q. Who located that pit? A. Mr. Gavin.

Q. What other pits? A. The next worst?

Q. Yes. A. Pit No. 1.

Q. Who located that? A. Mr. Gavin. Want me to tell you—

Q. Well, we will ask you such questions as we desire answers for. What other pits were poorly located? A. The others were none of them especially poorly located.

Q. Would you have located these pits better than Mr. Gavin did? A. Oh, if I had anything to take out of them it would be—

Q. What did they take out of them? A. What Mr. Gavin bought.

Q. What was that? A. Largely sand.

Q. Didn't you tell him he was making a poor choice? A. Why should I tell him? Unfortunately I am told that this Highway Commission has no—
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Q. We don't care— A. But I do.

Q. Just stop now, so we can get an understanding. Taking the road as a whole did the plans fit the ground, the plans for 59? A. The plans for 59? for Division B fit very nicely.

Q. What was wrong with Division A? A. Well, where you haven't any material you've got to have different plans, you can't build a road out of just sand.

Q. Were you down and looked over this proposed road before you entered a bid? A. Yes.

Q. At any time before the opening of the bids you did not make any complaint as to the plans? A. It would have been improper.

Q. Did you? A. No. It wouldn't have been any use if I had.

Q. When was the first time that you made any complaint about the plans? A. Why the first time that I made any was to the County Commissioners.

Q. Now were there grade stakes set on Section A? A. No.

Q. Never had been? A. Never had been.

Q. Had there ever been any surveying made on Section A? A. Why you told me a while ago that I wasn't there.

Q. I am asking you if you know? A. No, I don't know.

Q. You don't think there was any, ever made? A. No, I didn't say that; don't put words in my mouth that I didn't
(577)

say. I said that I didn't know whether that had been surveyed.

Q. There was nothing to indicate whether the surveying engineers were out there or not? A. Well, there were some marks on the pole line which said that that is where it ought to be and that back this way, or that way is where my stake ought to be, but it wasn't there.

Q. Did you follow these plans as closely as they could be followed? A. As closely as I could. I didn't have any notion at this time that I was going to get away with anything.

Q. Have you since changed your opinion? A. Which?

Q. About getting away with something? After the job was first accepted what amount did you claim was still owing to you? A. I never made any claim, to any person as to what was owing me—

Q. When did you ever make any claim to any person as to what you said was owing to you? A. I believe—

Q. When did you first make any claim— A. Oh, I couldn't just tell you; sometime in 1924, you spoke of a letter you must have it there.

Q. I am just asking you when you made a claim to anybody. A. Yes, I may have possibly—but it wasn't material—I may have possibly written a letter—that all of the contract that I had claimed, had been figured and figured prop-
(578)

erly and it amounted to somewhere around thirty-three or thirty-four thousand or thirty-five thousand dollars; and if all those things were included—I couldn't tell you within five thousand dollars what was coming to me, nor any other contractor—when you first figure up as to what you claim in dollars and cents—I first figured up as to what I claimed in dollars and cents after I commenced to understand how I stood, the figuring had been done and all of the items had been ended—I am trying to make it very clear to you that I had no fixed totals given.

Q. When did you first determine that you had fixed dollars coming? A. When I became satisfied that the items which—I made up a list of the items I have discovered, and put them in and figured the claim—

Q. When was that? A. I can't tell you.

Q. And did you ever figure out in dollars and cents what you claimed? A. Never did, because I had no means of knowing.

Q. Did you ever have any one else figure? A. Couldn't have anybody.

Q. Do you know whether you got what was coming to you? A. Yes, approximately, no I can't tell you because there are things—

Q. You never had anybody figure up for you in dollars and cents? A. Oh, yes.

Q. Did you ever have such figuring done? A. Yes, I
(579)
had a set of figures compiled, including everything that I was entitled to, I think it had all been found and put in, and the claim put in and it amounted to so much. That was all I was asking for.

Q. You have the figures for that which they compiled? A. Why, I don't remember, I think I have a copy of that, I didn't, however.

Q. Wait a minute, if you will just answer the question we will get along faster. In this letter which you wrote to Mr. Black didn't you claim that you had coming the sum of \$34,000 or \$35,000? A. No, I didn't figure—write any such letter to Mr. Black unless I wrote it to him in reply to a letter which Mr. Black requests these figures to be compiled, and that is what the amount is, have you the letter?

Q. At the proper time I will show you what was done with that. Did you ever look over the statement which was sent in by Mr. Gavin and Mr. Thorberg, as to what was coming to you under the figures on Section A and Section B? A. Did I ever look over them?

Q. Yes. A. Yes, later.

Q. When? A. After Mr. Black had gone down to Richland County and talked settlement with Richland County, and he sent me a copy of the figures that he took down to Richland County, and I looked those figures over and found
(580)
that there was a good many thousand dollars still coming to me I took it to my attorney.

Q. When did Mr. Black go down to Richland County? A. Oh, Mr. Black went down to Richland County in the spring, last spring, a year ago sometime.

Q. And without going over the figures turned in by Mr. Gavin and Mr. Thorberg you knew that they did not carry sufficient number of yards? A. Why, I took one peek at it.

Q. Where did you take a peek at it? A. Well, I seemed to get it all in at once, I found this—

Q. Where did you take a peek at it? A. Mailed to me.

Q. There was a copy of their figures mailed to you? A. Mailed to me? A. Yes, the copies that Mr. Black had allowed Mr. Gavin to make the figures, I took one peek to see if we could dispose of the matter.

Q. From that peek could you determine whether or not

they had given you a proper number of yardage and correct levels? A. I discovered that—

Q. Could you determine? A. Why, well—

Q. You can answer that Yes or No. A. Yes, and it was wrong.

Q. In what particular was it wrong? A. I discovered that I was given credit for moving twenty thousand some (581) hundred feet of clay, when as a fact that all of it that I had moved—

Q. Just a minute, it was wrong in so many yards of clay, is that it? A. No, I didn't say that.

Q. Just tell what particulars it was wrong in? A. Possibly you know those things?

Q. Go ahead and tell. A. That is what I have been trying to do. I discovered that they had twenty thousand and some hundred yards of clay and that I had hauled that stuff over the roads; that I was allowed for hauling that, as I remember, something like eleven thousand dollars for hauling that—fifty cents a yard for hauling that, and I didn't understand how you could cover—

Q. Go on with the other changes that you found? A. That is all, those two items, or nearly that I knew.

Q. Did you have any mistakes or errors in the estimates for Section B as rendered by Mr. Gavin and Mr. Thorberg? A. Nothing except that the top, the yardage for the top had not been included in changing from a flat top—from a round top to a flat top road.

Q. When was the entire project completed so that it could have been taken over by the Highway Commission? A. In October.

Q. Of 1923? A. 1923, yes.

Q. Where is Section No. 180 on Section A or B? A. Here (582) is Station 180 (indicating on blue prints).

Q. Yes. A. Yes, Station 180 must be about here at the entrance to the O'Mara pit. (Indicating.)

Q. What section? A. Section A. It would be 1800 feet, each station represents a hundred feet.

Q. Was this ready for acceptance on the 19th of October, 1923? A. On what?

Q. Was this Section A ready for acceptance on October 19th, 1923? A. Why, I hardly think so, I think it was ready—

Q. Who made the final inspection? A. The final inspection?

Q. Yes, what engineer? A. I wasn't there.

Q. Did you ever get any information as to this matter of the final inspection? A. Why, I had a letter from Mr. Wallace, I fancy, that somebody sent the Government man, that I did not know, and he and Mr. Sharts were to go over the road and I got a letter back, I fancy from Mr. Wallace, that he had found the road very satisfactory.

Q. Did you get any letter from Mr. Sharts to the following effect: "An inspection was made on October 17th of North Dakota Federal Aid Project No. 59, Richland County, and it was found that the roadway near Station 180 was less than the required width; the surface on Section A as wavy and rough, on miles 3, 5, 6, 7, and 8, and miles 1 and 2 of Section (583)

A are merely roughed in. As soon as these unsatisfactory conditions are remedied we are prepared to recommend the payment of the final voucher on this project. Very truly yours, (Signed) Stanley R. Sharts, Senior Highway Engineer."

Mr. Twichell: And what year was that?

Q. 1923. A. 1923. (Examining record.) No, sir, I never saw that.

Q. Was any of the information in that letter called to your attention in any by Mr. Gavin? A. No, sir.

Q. Mr. Thorberg? A. No, sir.

Q. Mr. Black? A. No, sir.

Q. You are very positive of that? A. I think so. I never saw a copy of the letter, or the information. What Division was that (consulting letter)? Station 180. Yes, that is Division A. Mr. Black had a man, Mr. Auker, on the road, and that kind of a letter wouldn't necessarily have come to me, it would properly go to Mr. Auker.

Q. In some way these conditions complained of were afterwards remedied, was that done by you? A. Done by my men, my outfit, because the same man prepared the road, but Mr. Black never informed me of that at all; and it is fair to assume that he passed it on to the fellow who was locally on the road.

Q. And this man, who was locally on the road must have— (584)

A. I made the statement that he didn't.

Q. How did you change those conditions on the road? A. I didn't move any dirt, you mean—

Q. No, but I say were these conditions changed by you? A. Got to have everything agreeable, and have it done in every way that is possible, the Highway Commission put a man by the name of Mr. Auker, who had never seen an alleged practical road builder on the job as an inspector of conditions. This road wasn't very much in the hands of Mr. Gavin or Mr.—

Mr. Graham: That is just killing time. Isn't it a fact that Carroll and Gavin simply ordered you to make Section as flat as possible, but never authorized any additional excavations or changes in plans. A. The approval—

Q. Just answer that Yes or No. A. No, sir, it is not so, let me say—Mr. Gavin told me that I would have to get it in the ditch and put it—

Q. Isn't it a fact that no additional excavation was done by you on Section B, and that the cross-section of that Section was— A. I don't know anything about the cross-section.

Q. Is it a fact that no excavation was done? A. It isn't a fact which was proved by our own figures right in front of you there; they have been made showing the yards paid me.
(585)

Q. Isn't it also a fact that the cross-sections in Section B show in very few places the road is up to plan widths as to crown or ditches? A. It is not correct.

Q. And isn't it a fact that only a very small amount of end hauling provided for in the plans had ever been done? A. That is in a measure true. That is in a measure true of the end hauling.

Q. Isn't it a fact that when you took your contract you figured all these things in the entire job and made the statement that you would have the entire job completed in two weeks by this method? A. No, I didn't. I intended to put in all—

Q. That answers it. It is a fact, is it not, that you went on the job with no equipment whatever for end hauling and you had no such equipment on the job until late in the fall of 1920? A. I put it on when I deemed it was necessary.

Q. You can answer that question. A. It come on the job sometime during the summer, some time, if I had—

Q. Isn't it also a fact that you put on no equipment for end hauling until after the reports of the Federal inspector had complained about the manner in which you were doing this work several times? A. I had no reports, I have no reports from the Federal Inspector.

Q. Did he bring them to your attention? A. No, sir,
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he didn't bring them to my attention. The contractor gets no reports.

Q. Didn't the engineer tell you whether or not you were doing the work in proper shape? A. He tells you if he wants you—if he thinks you are doing it wrong.

Q. You think then there was a kind of a conspiracy? A. Yes, I want to say I—

Q. You think there was no question but what there was a conspiracy among the ones in charge upon this work to keep

you doing it over, at least twice? A. Well, three times; no particular effort to keep it right.

Q. Do you think they were receiving some money from somebody? A. Oh, I never have those suspicions about money.

Q. What reason do you think there was for their doing it? A. I was Chairman of the Anti-Townley Republican State Central Committee.

Q. Would that have anything to do with the proceedings in the matter? A. Well, I wouldn't blame them much if it did.

Mr. Vogel: You think the reason was political then? A. What else could it be? It wouldn't have been personal, how could anybody help but like me? It wasn't because I couldn't
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build roads; I have built more roads than any man in the state; what else was there?

Mr. Graham: Q. Was Mr. Gavin Nonpartisan? A. Yes, sir.

Q. Did you write to Mr. Robinson and ask him to retain Mr. Gavin? A. Yes, sir.

Q. And in that letter you stated that Mr. Gavin was a good man for the job and you were getting along with him in good shape? A. Yes, sir.

Q. Why did you write such a letter if Mr. Gavin was in a conspiracy against you? A. Mr. Gavin was proceeding under orders. We were there and he was a hired man under the Division Engineer. I am not saying this is a fact; I am just saying it might be possible.

Mr. Vogel: Who was the Division Engineer? A. On the start?

Q. Mr. Bliss? A. No, Bliss never was there. The first Division Engineer on the job was Distlehorst. He left, then there was Carroll. Carroll was let out and Gavin substituted. Gavin substituted.

Mr. Graham: Calling to your attention report given by Mr. Wray dated July 14th, 1920, I will ask you if this report was brought to your attention in any manner—earth road—to the remarks under Section 10 This work was designed for wagon outfit and contractor has none on the ground.
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Recommend that Resident Engineer give ditch drainage particular attention on account of the topography of the country and machine casting by contractor."

Mr. Twichell: What date is that?

Q. July 14th, 1920. A. I was out on the west end at that time.

Q. Was that information brought to your attention in any way? A. No.

Q. Was the information true which Mr. Wray gives in this report? A. That the road was intended for wagon job?

Q. Yes. A. It is almost as flat as a floor. I don't remember—

Q. In your opinion it isn't, wasn't designed for wagons? A. No, because I could do it cheaper by removing the little things. I entered into no contract to do anything with wagons at all. I moved everything as I liked.

Q. Now, was this information—didn't the contract provide for end hauling? A. What?

Q. The contract which you entered into— A. Moved in any way, in any particular way I wanted to.

Q. Did it provide for end hauling in the plans? A. The plans showed where end hauling was indicated, but it did not say how I should put it there; that is my job: I could carry it in a basket if I wanted to.

Q. How is end hauling usually done? By carrying in a basket? A. No, they usually do it with wagons, if contracts—

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Q. That ends it. Now, calling your attention to a report made by Mr. Wray to E. O. Hathaway, District Engineer, on April 11th, 1920, and to paragraph 10 of his remarks: "Conditions on the project are very unsatisfactory. Contractor has not provided proper equipment to construct project as planned. Work is being done by elevating graders and blade machines; no wagons, wheelers or slips have been provided to move dirt longitudinally. Contractor apparently has not considered the plans or design of the road and is making a cast in job of this project. Recommended that some provision be made at once to require contractor to provide proper equipment and proceed according to plans. A. What is the date?"

Q. August 11th, 1920—must have been August 3rd, 1920. A. That would be about the time that Mr. Wray came back and tore down the arrangements entered into by the County Commissioners and myself in good faith; that is about the time.

Q. That ends it, that answers it.

Mr. Vogel: This Mr. Wray was the State Engineer? A. Federal Government Engineer. He had nothing to do with me, never received any orders from him.

Q. He was not politically inclined in any way? I don't know.

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Mr. Graham: Was he in this conspiracy with the Non-partisan Leaguers? A. No, he hadn't been in here long enough, they hadn't got hold of him yet. We had a hell of a good fight, and I was captain of one side.

Q. Was Mr. Wray in this fight? A. No, he didn't live in this state?

Q. How do you account for the fact? A. I don't know. He had a perfect right to, but he had nothing to do with me.

Q. Were these reports untrue that he made? A. It might have been his judgment, he evidently figured that I didn't do the work right because he made me do it over three times.

Q. And the State Engineer in charge acquiesced in his judgment? A. The State Engineer didn't acquiesce in his judgment. He agreed to it. Quite different. They disagreed and I had to suffer.

Q. Then under date of August 17th, 1920, in a report made up by Mr. Wray to Mr. Hathaway, District Engineer of the Bureau of Public Roads, was the following information brought to your attention: "Conditions on this project are very unsatisfactory. Contractor has not provided proper equipment to construct project as planned. Work being done by elevating graders and blade machines, no wagons, wheelers or slips provided to move earth longitudinally, contractor re-

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ports shipment of horses and wagons to work. Contractor apparently has not considered the plans or design of road and admits the same. Mr. Moyer gave instructions to foreman to move back on work Station 0&00 to 182 and finish the same in accordance with the plans and to refrain from opening up any new work until this first portion should be made satisfactory." A. I didn't see it, but I should not be startled at all; it would have been nothing unusual if no order had been made.

Q. In the report he says that you did not "apparently consider the plans and design of the road and admitted the same." A. Admitted that I didn't? Oh, no. I admit that I differed with him, but I didn't have anything to do with this gentleman, nor did this gentleman and I—his duty was to approve it or reject it when it was done.

Q. In this report he states that he had talked with you, is that true or false? A. That he talked—

Q. That he talked with you— A. Possibly, probably did. We stopped at the same hotel.

Q. Would you care to say that his statements in here are false or true? A. Oh, no, no, his judgment and mine are different. He had a right to his judgment.

Q. But your judgment is, of course, better than the Federal Engineer's? A. It is better with me, yes, always has

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been, guess it is with you, isn't it?

Q. Isn't it a fact that when the job was completed and accepted that it was not a flat top road, and that the fact is shown by the final cross section of Section B? A. I haven't seen the cross section, I saw the road.

Q. Isn't it a fact that Mr. Gavin ordered you time and again to maintain this road, and that you neglected to do so?

A. I think it is very possible that Mr. Gavin did, being fifty or sixty miles away.

Q. Just answer the question. A. That is very possible.

Q. Why didn't you maintain these roads in accordance with Mr. Gavin's instructions there? A. I fancied I did, with a little assistance from Richland County.

Q. You couldn't do it alone? A. Oh, I like to work with them.

Q. Isn't it a fact also that Richland County was obliged to and did spend over \$1200 in maintaining this road before acceptance of the road so that it could be traveled on? A. I don't know anything about it, I know that they chose to spend some money, and I presume they paid it, I didn't ask them to.

Q. You didn't do the work in accordance with the terms of the contract then? A. That is possible.

Q. Now, why didn't you do the work in accordance with the terms of your contract? A. Well, I figured that I was
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done, I didn't think I had to wait forever.

Q. You never notified the Highway Commission? A. How do you know I didn't?

Q. I say, did you? A. Certainly, yes.

Q. How did you notify them? A. Oh, several times in the ordinary way of doing business.

Q. What way? A. I don't remember, I have got a lot of work, I can't remember everything.

Q. You have no recollection? A. I have a right to use the telephone, telegraph, letter, or send a message in some way. I swear that they were notified.

Q. What is your best recollection as to what method you used for notifying them? A. My best recollection would be that I would ask Mr. Gavin or somebody if they were supposed to be free and we were working along fairly well, and I know at the time that they could be depended on, or, I might request it, I might have written a formal letter, might have written it from the camp, might have been written from any place, as you would do in ordinary business, with an open deal like this—

Q. Isn't it a fact that in the fall of 1920, you wrote a letter to Mr. Robinson, the State Highway Engineer, requesting additional time to finish the construction of Division A and B, and stating, is it not also a fact that in the fall of 1921, you wrote a letter requesting additional time for the construction of Divisions A and B?
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A. I did.

Q. And isn't it a fact that in the fall of 1923, you wrote a letter to Mr. Robinson requesting additional time to construct the—to complete Divisions A and B? A. I might have

written that—might be possible, it was completed, however, before we went home. Let me just see that, it is customary for all contractors to do that.

Q. Then as a matter of fact, the road wasn't ready for final acceptance for the fall of 1922? A. Well, wasn't it?

Q. I am asking you, when was it ready for final acceptance? A. When? I think the last dirt that I ever put into it was in 1922.

Q. Why didn't you notify the Commission? A. There was nothing more done in 1923, therefore, it must have been ready before.

Q. What did you testify for, then, that you put in 1500 yards of dirt on Section B at Mr. Black's request? A. B? A. I didn't, it was the other, Mr. Black did not touch anything in B.

Q. You didn't put 1500 yards here? A. 1500 feet.

Q. 1500 feet, you put on— A. It wasn't on B, it was on A. And the dirt was taken from Mr. O'Meara's pit.

Q. But the fact of your not notifying the Highway Commission and asking for additional time must certainly mean that the road wasn't ready for acceptance? A. Well, you
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can put one construction on it.

Meeting adjourned.

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TESTIMONY TAKEN BEFORE THE SPECIAL HOUSE COMMITTEE ON FEBRUARY 23rd, 1925.

TREADWELL TWICHELL, resuming the stand, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Mr. Twichell, will you describe as best you can the kind of clay that was used for surfacing on Project No. 59, Richland County? A. There was no real clay used on 59; there was different combinations, depending on which pit it was taken from. The pit on the east end had the difference that there is between gumbo and clay; that was a gumbo pit.

Q. What color is it? A. Black.

Q. Is it about the same texture and color? A. It is on Red River land, and gets lighter in color as it goes down.

Q. That is the only difference? A. That is the only difference. That pits that—from the center the first three pits were fairly good ground except that they tended a little toward being peat—too much vegetable matter. The pits to wards the west end, after the light soil was taken off, which was about a foot deep run into marl, yellow, a peculiar kind of marl that looked like putty, felt like putty, except it was yellower. The west end pit, No. 1, was taken out of a

slough, it was better than the other pits that were used, but
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it had vegetable matter on the top, and under all of the pits except 10, 3 and 2, we run, after we got down eighteen or twenty inches, into quicksand. In pit 2 I took it down to the water table until the water came up from the bottom and chased me out, but in pit 3 we never struck water.

Q. As I understand your testimony, Mr. Twichell, you never, at any time, made any specific claims to the Highway Commission, or to the Board of Arbitrators for any definite amount of yardage, or any specific amount of money? A. No, sir, I did not.

Q. As I understand the situation, you wanted all of the items included and depended upon the Highway Department to figure the yardage correctly? A. I did.

Q. Did you ever present to the Highway Commission a claim for any specific yardage on overhaul in the year 1923? A. Year 1923? I was advised when I came up here—

Q. Just a minute, answer that—whether you presented a claim? A. Did I present a claim?

Q. Yes. A. In any way? I did it orally, possibly.

Q. Have you any notes or memoranda of such claim? A. Have I?

Q. Yes. A. I think they are in the Highway Department.

Q. Were they made up in your handwriting? A. They
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were.

Q. And you never took them away? A. I don't think so, don't remember.

Q. And if I understand you correctly you moved no dirt on Section B in 1923, except to maintain it? A. Except to maintain it.

Q. What is the meaning of your letter of May 14th, 1923, in which you state that you will put a new top on Section B? A. That I would put the blade on and put the road in the condition that it has to be which is as near perfect as possible before the Government will accept it.

Q. I am going to read this so that—dated May 14th, 1923: "W. G. Black: My dear Black: Have sent men to put new top on Richland County road, Division B; also to smooth up A in good shape. Will send teams there as soon as pits are fit to furnish covering have notified Gavin and will advise you when I consider B finished. I wish you would put me on your list so I may be advised of lettings. Should have something to move to when my two jobs are done. Thank you for bids on lettings. With personal regards, T. Twichell."

Q. You wrote such letter? A. Yes, sir.

Q. How many yards did this new top consist of that you put on in 1923? A. Not a yard.

Q. What do you mean by your letter stating that you would put a new top on? A. That was putting a new top on which you would call maintenance, which wouldn't be correct. (599)

Q. You didn't mean what you said in your letter A. I didn't mean what you said I said, I meant what I said I said.

Q. I read the letter correctly? A. Yes, Before the government accepts a road every contractor is notified by somebody that about in a certain time you must have that road ready, if it has not been maintained and made as nearly perfect as possible. I didn't move a yard of dirt.

Q. How many yards did you use when you put the top on, about? A. What top are you talking about?

Q. The new top on Section B. A. The new top in 1923?

Q. Whenever you put it on. A. I think I put it on in 1922, you can figure it. The plan was changed from a round top road that had a crown on, nine inches from the center to the outside on both sides.

Q. I asked you— A. I'm coming to that. 1760 yards to every mile. A yard to every running yard.

Q. Were you ever shown the profile made up by the Highway Commission from cross sections of the said road taken after the same was completed and accepted? A. Which part of the road are you talking about, there was two divisions.

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Q. Section B (referring to records.)

A. After it was accepted?

Q. Yes. A. No, sir.

Q. Did you know that such a cross section was made up? A. I understood that Mr. Gavin had made up one.

Q. Did you know that Mr. Roherty had made up one on B? A. On B?

Q. B? A. No, sir, I did not.

Q. This surfacing, as I understand it was ordered only on places where there was blow sand? A. There was no blow sand.

Q. On Section A? A. At what time are you talking about?

Q. At any time. A. It was ordered all over at different times, and then on parts finally.

Q. How many miles of Section A contained blow sand?

A. Between three and four miles, if you will change it to dome sand that will make it; it is all blow sand except what wasn't dome sand.

Q. What do you mean by dome sand? A. Dome sand is otherwise known as sugar sand, it is very light, it is very fluffy, it has practically no grit in it, it is like—they have more of it in Northern Indiana, around Goshen.

Q. What do you mean by blow sand? A. Blow sand is any sand that blows and drifts. Blow sand is the sand that has been blown out of said hills where the sand hills have
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migrated; have moved bodily, and move every year.

Q. Dome sand does not blow? A. Dome sand does blow, and the whole hill blows and moves miles and miles.

Q. What was the first surfacing ordered to cover, only one-half mile? A. Why, the surfacing, the first surfacing ordered by Mr. Distelhorst didn't cover any particular distance that I could give you, it covered particular spots.

Q. Calling your attention to your letter addressed to Mr. Robinson, dated November 10th, 1920, did you not write (indicating letter shown to witness.) A. This is to Mr. Moyer.

Q. To Mr. Moyer of the same date, did you not write the following paragraph about Division A? A. I would like to read the whole letter, I won't answer part of the letter. No, I won't look at it.

Q. We will ask you the question, Division A should be acceptable commencing—

Mr. Vogel: (Consulting letter.) I guess you will have to read your own writing. A. That's one advantage I have. I will read it very honestly.

Mr. Graham: I think it is fair that Mr. Twichell should read his own letter. Well, I will ask him to read this paragraph (indicating). I won't read it—my constitutional rights
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as a witness, unless I can read the whole letter.

Mr. Graham: Division A should be accepted considering material excepting some surfacing that was ordered on Thursday, about one-half mile which is added work." Did you write such paragraph? A. I wrote that letter, all of it.

Q. And this paragraph was included in the letter? A. I suppose that it is there, you have read it, I haven't read it.

Q. It is in your handwriting isn't it? A. It is my handwriting.

Q. Well, read the whole letter then. A. All right. "11-10-20. Dear Mr. Moyer: Mr. Distelhorst advised me that you will inspect the Richland County road shortly. Division A should be acceptable considering material excepting some surfacing that was ordered on Thursday about one-half mile, which is added work. You will find road in good shape

barring cutting of Monday and freezing following. It is no disgrace to admit that after working on such a job together with general financial conditions that I am very hard pressed to meet my obligations. The road shows a considerable loss. Division B requires some considerable work to complete it, but it is very much nearer done than Mr. Distelhorst honestly thinks. I would be very grateful to you in helping me get as

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large an estimate as safe for your Department? The County has the money idle. I have pressing debts. You have your bond. Treat me as nicely as you can. I would appreciate it. Yours, T. Twichell."

Mr. Twichell: Would I be giving a query to tell what that paragraph meant?

Q. It answers that. It is self-explanatory.

Mr. Twichell: Am I refused the right? I have a right, have I not, Mr. Attorney?

Q. What? A. I have the right to explain what was written and what it means, that is my constitutional right as a—

Q. I think it is self-explanatory. I will leave it to the committee, if it needs any explanation.

Mr. Vogel: Proceed.

Mr. Halcrow: I suggest, Mr. Judge, that the witness be allowed to explain the letter.

Mr. Twichell: I shall explain—

Mr. Vogel: We can't spend the whole morning on this stuff.

Mr. Green: I will ask leave to have a question asked later.

Mr. Yeater: Proceed:

Mr. Twichell: The date of the letter is what?

Mr. Graham: November, 1920.

Mr. Twichell: Late in the season Mr. Distelhorst prior to that time I had been working and trying to find where on

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the road I could find dirt to put over the rough spots in this road. After that time on Thursday or Tuesday, that I found it necessary to put on more dirt on the different spots, that is the explanation of that.

Mr. Graham: Q. Are you acquainted with Mr. Oliver Knudson, who was at the time Resident Engineer on this work? A. Yes, sir.

Q. He was Engineer in 1923, was he not? A. Yes, sir.

Q. Did he ever notify you to stop putting on surfacing here that had not been ordered, and only to patch the road

where it was needed? A. Yes, sir, do my constitutional rights allow—

Q. I am asking you questions. We let you finish the other day. Did you do any patching or maintaining of this road with clay surfacing? A. I do not—No, patching in 1923.

Q. Did you do any maintaining? A. The road was open every day from the time it started, except the few spots that the public had to go around because of the material.

Q. On Project No. 58, in Sargent County, did you have supplemental agreements to cover all of the extra work that you did? A. No, sir.

Q. How many supplemental Agreements did you have for 58? A. Two thousand yards of additional riprap were ordered by Mr. Wray, and a Supplemental Agreement was made for it.

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Q. I said, how many different Supplement Agreements did you have in Sargent County? A. I was enumerating them, as I call them back to my mind. The first one was No. 1, which was for the two thousand more yards of additional riprap. The Supplemental Agreement changed the price from \$5.00 a yard to \$3.00. I was asked to sign it and did. The next Supplemental Agreement was for a piece of shale work, that wasn't contemplated in any part of my contract. I was asked for a Supplemental Agreement and made it.

Mr. Graham: You had no other supplement— A. I don't think that there was, but those two. There might be some minor things, there was some little things, say for \$12,00, that was after Mr. Gavin had been deposed, after he was; and Mr. Wray had authorized Mr. Gavin, or Mr. Carroll—and Mr. Wray had authorized Mr. Gavin to go over the work I had and to make all reports to him because I had said that I would not proceed to move one yard more dirt under the supervision of Mr. Gavin, and Mr. Wray—

Mr. Graham: That is enough. You have answered the question. You had no supplemental agreement in Richland County in writing? A. I don't remember any.

Q. Would you say that you didn't have any? A. I would say to the best of my remembrance that I didn't have any.

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have any. It is a long while ago.

Q. How did it happen that you had Supplemental Agreements in Sargent County and did not in Richland? A. When Mr. Gavin was placed in charge and Mr. Carroll, who was Mr. Gavin's choice, he, acting temporarily, asked for Supplemental Agreements as instructed by Mr. Wray.

Q. Now, if you had Supplemental Written Agreements in Richland County for the extra work you did there, there would have been no chance for a disagreement as to the work? A. No chance at all except to get my money. Fig-

uring it and getting the money seemed to be two different things.

Q. After this work was completed and accepted did the Highway Commission send you any Supplemental Agreements to execute? A. No, sir.

Q. Did not Mr. Myhre send you a letter on March 10th, 1924? A. That I don't remember if he did. If you have the letter, I presume he did, I don't remember. I can tell you all about it when I know what it contains.

Q. Calling your attention to the copy of letter under date of March 10th, 1924, "Supplemental Agreement. F. A. P. No. 59, Sections A and B, Richland County. Dear Sir: Herewith inclose Supplemental Agreements in triplicate for the above mentioned project along the lines suggested in your re-

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cent visit to Bismarck in re: final settlement. Kindly look them over and if in satisfactory form sign all three copies and return same to us for our further consideration." Did you receive such a letter? A. Possibly, I could not tell, but if I knew what they covered, what the things was.

Q. Supplemental Agreements, F. A. P. No. 59. A. That would not—

Q. What were the Supplemental Agreements? A. What did they cover?

Q. That's what we're asking you? A. I'm asking you what this covered, then I could tell you.

Q. You have it there in the files? A. No, I haven't You have the contract up here—

Q. Would you say that they sent these Supplemental Agreements down to you and that you never returned them? A. I never received them because I was never so discourteous to anybody in my life.

Mr. Vogel: You suggested the Supplemental Agreements to the Department, did you not? A. I did not. I am very positive as to that, I ought to know what I am talking about.

Q. Well, when did you return them? A. What are they, if you can tell—

Q. Supplemental Agreements covering your work on those projects? A. That could mean a good many things.

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Mr. Graham: Did you ever receive any Supplemental Agreements from the Highway Commission? A. I never received any Supplemental Agreements from the Highway Department without answering their letter and returning it, or saying that I wouldn't sign it.

Q. Now, did you have a meeting here with the Highway Commission in the month of February, 1924, at Which Mr. Black was present, yourself and Mr. Poupore, Mr. Brown and Mr. Sharts? A. Did I? Oh, yes, yes.

Q. What was that concerning? A. Oh, I don't know, I was here most all of February and most of the time for the last year trying to get a settlement, I had a million meetings.

Q. It was concerning a settlement that you desired? A. Yes, that I desired? No, that I was entitled to.

Q. You didn't desire a settlement then? A. I was entitled to it.

Mr. Vogel: At any of those meetings was the matter of the Supplemental Agreements discussed? A. I don't remember that it was, if I knew what you was talking about.

Mr. Graham: Q. Was your brother, L. L. Twichell acting as attorney for you? A. He was.

Q. Under date of March 16th, 1924, he addressed a letter to Mr. Black, the first paragraph of which reads as follows: "Mr. Treadwell Twichell has submitted to the assignees of moneys due him upon the Richland County Road contracts, (609)

the statement sent from your office for his signature, apparently to be then approved by you if the Richland County Commissioners are satisfied that this is an amount that they would like to pay." Q. Did you make these statements to your brother? A. Yes, sir.

Q. Then you did receive them? A. That isn't a supplemental agreement.

Q. It is something to be signed by you? A. Why, Supplemental Agreement, that is the contract, that he prepared on his assumption that I would take the money not—Read the balance of the letter.

Q. Did you get anything to be signed? A. Yes.

Q. What was it? A. A compilation of figures made up showing that they owed me some \$34,000. It is all there right in front of you, right in that file.

Mr. Vogel: We are asking you.

Mr. Graham: Just answer the question. A. And Mr. Black without my own consent, sent somebody, I believe Mr. Wallace, down to Richland County and showed them what I had been able to find as due me, and they made out another statement that you must have, if you haven't I have got a copy of it.

Mr. Graham: Go ahead with your story here now. A. Well, I looked at it and made up my mind that the figures were wrong and I took it to my brother and we went over (610)

it and we did some figuring and it never was signed.

Q. Can you produce that statement? A. Which statement? I can.

Q. Have you it with you? A. No, I haven't, but it is here, I can produce it.

Q. All right, will you produce it? A. Will you ask me to produce all of that letter? I shall produce it—

Mr. Graham: We are taking our side of the case now.

Mr. Twichell: And I seem to be taking my turn, I—

Mr. Graham: You seem to be wanting to take the whole thing.

Mr. Twichell: Well, I have that weakness, possibly.

Mr. Graham: I think you have.

Mr. Twichell: But I've always had it.

Mr. Graham: Isn't it a fact that Mr. Wray told you that these fills would be done at a new price, less than the old price down here? A. There were no fills in Richland County. What are you talking about now? Wasn't any frills in Richland County.

Q. He didn't tell you any such thing? A. No, he didn't because there wasn't any frills.

Q. Will you read into the record, Mr. Twichell your letter of November 10th, 1923, to Mr. Black- (handing letter to witness.) A. "11-10-23. My Dear Black: As you have (611)

long been advised by me and others the old lot has given me the worst of it in figuring my work. To correct that it seems to me that the work should be gone over so you will understand my claims at least. There are many grave errors running into much money that you will feel should be corrected. I only want to suggest such an opportunity to give you my contentions to prove that some yardage is under what it should be; that some overhauls were short; that some work done as ordered has to be worked (which doesn't make very good sense. I sometimes am guilty of that, but it's not the rule) That certain fills were ordered refilled by Mr. Wray, at a new price. In fact there are a hundred things that should be known, considered, and made a part of the deal, whether it be on the road or in your office. Your choice will be satisfactory to me. My last sheet of paper. But I want you to give me the chance and not let the things get too awkward to close. The entire surveys on both of these roads were so bad that I should be not too much bound by them. I should not lose \$50,000, or be shorted because in their efforts to trim me they have failed to get the acceptance of the government. There will be nothing asked that I do not feel is mine. It has been almost an impossibility for me to finance these roads with fair condidtions. I owe much money on them. The

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sooner we can arrive at the settlement I will know what I owe, that the road won't pay. Let me hear from you. Yours, T. Twichell."

Mr. Graham: What do you mean about the new filling? A. That was my entire job, in Richland County. I was speaking of both roads. I came to Bismarck in the Spring of 1922, and met first with Mr. Black or Mr. Wray, and after-

wards with Mr. Wray and Mr. Robinson. I called their attention to some things that had been—

Mr. Graham: I'm just asking you about that new refill?
A. Well, I haven't got up to that. I'm telling you here.

Q. You're telling us about a trip to Bismarck, A. It goes to the fill. I most always land where I start.

Mr. Vogel: Takes you a long time to get there.

Mr. Twichell: The people of this state are entitled to something. I have some reputation to sustain.

Mr. Vogel: These fills, then, refer to the Sargent County job? A. Sure. There's no fills in Richland County. Let me tell it now, I'll tell it unless you stop me, which you can physically—not mentally—I told him that was owing to the faulty engineering.

Mr. Vogel: You are referring now to Sargent or Richland County? A. I am talking about the fills. The guard rail was up. Everything in place. I had notified them that the
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farmers along that road told me that the riprap would be worse than useless.

Mr. Graham: Just a minute. Now, this letter does not refer to Richland County. A. It is all of my work. Why do you divide the work? It is all of my work, both projects.

Q. To the refills, did you make refills? A. In Sargent County, yes, yes, and they were ready to give me—

Q. In Richland County? A. No, not in Richland county. In Sargent County. The conditions haven't changed since I last stated it.

Q. What time in 1922 did you quit work on the Richland County Project? A. In 1922? When the Lord chased me in.

Q. What date was that? A. The day before Thanksgiving. I couldn't tell what date Thanksgiving was. I landed home that night. Am I now going to have a chance to tell you about the fills?

Mr. Vogel: We've got all the information we need.

Mr. Green: What is the date of that letter, the one you just referred to, the one to Mr. Black about the fills?

Mr. Graham: November 10th, 1923. I will ask you, Mr. Twichell, if the information contained in the letter from Mr. Sharts to Mr. Robinson under date of November 18th, 1922,
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reading as follows was called to your attention? "Reference is made to the inclosed copy of the report on construction, inspection made November 14th of North Dakota Federal Aid Project No. 59, Richland County."

A. What date did you say the letter was?

Q. November 18th, 1922. "it will be noted that the contractor has part of the project in such a condition that it is almost impassable for traffic. As the close of the construction season is very near, if not already here, please endeavor to have the unsatisfactory portion of this project placed in suitable condition for use by traffic during the Winter. (Signed) Stanley R. Sharts, Senior Highway Engineer." A. I presume that was, must have been the Fall I stayed ten days longer and put it in passable shape.

Q. It had already frozen up, had it? A. I didn't go in, I tell you, until the day before Thanksgiving

Q. How long did you quit before the road was— A. I didn't quit work. You can smooth a road when you can't haul dirt over it.

Q. You were very positive that these conditions were ready in the Fall of 1922? A. 1922, and let me, in fact, something—

Q. We have had plenty of "in facts." A. All right.

Q. I am going to ask you to read into the record your letter, apparently written about December 21st, 1922, to
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Mr. Wray. A. No. date. No date on the letter. "H. O. Wray, Bismarck, North Dakota. My dear sir: Was both sorry and concerned to learn today that Gavin stands a good chance of being fired, or quitting. He shows too much feeling and has taken a probability for a certainty. I happened as you know to hear your talk in his house. He puts it a little stronger than I would. He says you promised him you would see that he be furnished work that he could do in Wahpeton, and be allowed to work there this winter. My remembrance is that you said it could be so arranged. It evidently has not been so arranged. Gavin isn't perfect. He had a good deal of a will of his own, but he is far more able than the average. Has enough courage to take responsibility when put to it. Wonderful physical endurance and a tireless worker, impulsive, hot-headed, possibly, but a competent hard worker. Personally I shall feel I am again most unfortunate if he is fired, or as he puts it forced to go. I have already had too many damned engineers on my unfinished work, with too much unsettled, or not included or disputed tail ends. Am so near done and not done, through no fault of mine, at least this year, that it seems a great error and an unnecessary hardship on my and your organization, if a new man is again put in charge, and a new start to untangle is to be made. The
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very fair promises and assurances you and Mr. Robinson made me, and you have kept them so far, are to be carried out it would seem wisdom to let Gavin stay. These things I complained of and you have showed complete disposition to be fair about are such things as will have to be ultimately closed to my reasonable satisfaction, or I be turned down at the time of my most effective protest. It is moving well now. I haven't concerned myself about the figures yet, but am satisfied that they will be made right at the finish with the help

and approval of Mr. Robinson and yourself. I have about three hundred yards of dirt to move in Sargent County. Road looks done to me, though the top was badly cut during recent rains and impossible to put in first class shape, though good to travel. Section B, Richland County done in good shape. Cover on A, 60 per cent done and top in good shape. I want to call your attention to the fact that B59, Richland, Planned with nine inches crown then on Carroll's orders shouldered up, so as to make it practically flat top, up to original grade line, thereby increasing the yardage very considerable. I expect this increase to be included. Do not know whether final yardage has ever been figured or approximated, but it should be included. I have never talked to Gavin on this matter, as you assured me you would see I was taken

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care of fairly on all of these matters. Don't think I want to tell you what to do, but you told me you would be glad to have me call your attention to any mistakes being made. Possibly Gavin is wrong, possibly my work is wrong, but you are diplomatic enough to smooth it all out. I think Mr. Robinson would be glad to have it smoothed. We are getting on; Carrol and I spent a pleasant evening and went to dinner together. Spent an evening with Cooms—unless he has gone crazy, there is a lot of things ordinarily unusual occurring either in his head, or in Wells County. I have been sick, but mending. You are not so good a correspondent as talker. Let me hear from you. With regards, T. Twichell." Now that will need explanation, anybody know what Wells County—

Mr. Graham: Well, up to the time that you wrote this letter Mr. Gavin had been giving you fair treatment? A. Oh, yes, Mr. Gavin had been giving me fair treatment.

Q. Mr. Robinson had been giving you fair treatment? A. As Mr. Wray and Mr. Robinson made terms that wasn't carried out by them; whenever anything was agreed to and ordered by Mr. Wray, Mr. Gavin being present—

Q. The trouble was they didn't keep their agreement: what agreement did they make with you at that time? A. They made—we went over Sargent County first and

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at the end of the division Mr. Gavin not knowing what was about to occur, Mr. Wray said to Mr. Gavin "What is the matter with this road?" and he said "There is no material to put—he said it's one of the rottenest pieces of engineering that I ever saw."

Q. Did you agree with them? A. Well, I don't know the superlative beyond that.

Q. Was the engineering all right on Section B? A. The engineering wasn't right anywhere on any part of the road except by mistake.

Q. Didn't you testify the other day, Mr. Twichell, that the engineering on Section B was all right? A. Which?

Q. The engineering on Section B. A. In Richland County? Well, no sir I did not.

Q. Did you make such a statement? A. I did not, I said the dirt was fine.

Q. Didn't you say that the plans were all right? A. Plans, fine That has nothing to do with the engineering

Q. Were the plans all right on Section A? A. I believe so But there was sand there and they are not sand plans.

Q. But on Section B they were all right? A. The plans were all right, and they fit that kind of a road.

Mr. Graham: That is all, I think.

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Mr. Green: I would like to ask on behalf of Mr. Twichell that certain questions be asked him to clear up certain matters asked on cross examination. I understand it is the rule of the Committee that no one is permitted to ask any questions except Judge Graham, but I would like to hand these in.

Mr. Vogel: You may hand them in. (Papers handed to Mr. Graham and examined and discussed by the Committee, whereupon it was decided that Mr. Green might take the questions and clear up the points mentioned therein himself to save time.)

Mr. Green: I have asked certain questions here with reference to the figures which are shown by the original records, and Judge Graham has consented that I should dictate a statement into the record, to show Mr. Twichell's position on this feature. The first question was, how much more than the original estimate was the final estimate? How much more than the original estimate was the final estimate allowed by the Board of Arbitration for completing Section A according to the original plans; and we call attention to the fact that the record shows that the only additional charge for completing Section A according to the original plans was \$2324.64; that the only additional charge for completing Section A according to the original plans was \$2324.64, this being occasioned by minor changes as they went along and by a vari-

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ance between the survey and the actual condition of the road in various places that the correct additional charge of \$42,377.26 on Section A—

Mr Vogel: What was that amount?

Mr. Green: \$42,377.26. On Section A was the cost of clay surfacing ordered after the construction of the road had been started, made up as follows: the additional charge for clay surfacing where it was hauled a distance of less than a thousand feet, \$11,995.

Mr. Twichell: Let me get that, the eleven thousand and some dollars was 58c a yard for all of the clay that was taken out of the pit without any reference to where it was hauled.

Mr. Green: Now I will change that. The charge for digging the dirt and loading it, \$11,995 were the hole changed, applying \$28,181.10 with interest allowed by the arbitrators of \$2200.60.

Mr. Vogel: What rate did that draw?

Mr. Twichell: Legal rate, no contract.

Mr. Green: That on Section B the only additional charge for changing the contract, according to the original plans on contract was \$3709.44; that the extra cost of \$7531.43 was made up of extra work necessary to make a crown top into a flat top road of \$7058.34 and \$473.19 interest allowed by
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the Board of arbitration. Now is the original agreement and report of the Board of Arbitration in the record?

Mr. Lounsbury: Went in after Mr. Black's.

Mr. Green: We would ask that they be made a part of the record.

Mr. Twichell: Might I ask another question?

Mr. Graham: Not at this time.

Mr. Twichell: All right, I will wait.

Mr. Green: You did not go into the question of Sargent County at all?

Mr. Graham: We asked him a little about it.

Mr. Green: Hadn't you better keep them separate?

Mr. Twichell: He asked if a transcript of the testimony before the Board of Arbitration is in the record or do you intend to cover?

Mr. Graham: It is in evidence, now. I think that is all.

Mr. Green: I had some more questions then that haven't been asked. (Handing papers to Mr. Graham and Mr. Lounsbury.)

Mr. Graham: Make your statement on it. (Returning papers.)

Mr. Green: Judge Graham has also requested that on the next question this big charge of overhaul, \$28,000, and the question that I had asked was to the method of figuring over all of these particular jobs and Mr. Twichell's statement
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would be that this overhaul of these particular jobs—and Mr. Twichell's statement would be that this overhaul of the clay was done from time to time as the job progressed and the clay was hauled from—pit by pit, which was designated by the engineer at that time. For instance at one time the engineer had ordered certain hauling done and the clay had to be hauled a mile from the pit that was designated at that time and it was done, and a second time and different pits were designated, and then it was done a third time and the third time it was done the clay was hauled all over the road; and the method of figuring used by the Board of Arbitration and Mr. Twichell was to figure the distance hauled at the time it was actually put on the road, conditions existing at the time the clay was actually put on, it had been hauled a mile they

figured the mile and I think that was the distance covered by Mr. Gavin. But taking the road as it was when it was finished without regard to when the clay was put on and taking the certain section of the road figuring the distance of that section from the nearest pit and figuring the overhaul on that—he figured the actual hauling that was done—if that is understood by the Committee. I don't know whether I have made that clear or not.

Mr. Yeater: I think you have.

Mr. Green: The next question that I have asked to have asked here was why was Richland County not represented

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on this Board of Arbitration which was for the reason that all the dealings of the contractor were with the Highway Commission and not with the County; that the Highway Commission must make the estimates and decide whether it could be paid, and then the county pays on that.

Here is another question: There was some intimation about certain end hauling, which actually was done, and whether the road could have been finished without doing the end hauling provided for in the contract.

Mr. Graham: Q. Could the road have been completed without doing any end hauling?

Mr. Twichell: Oh, no, but the vehicles could have been different.

Mr. Green: The next question, three questions together, did you have end hauling equipment on the job prior to 1920? What was this equipment and was it necessary up to that time to have wagons?

Mr. Graham: Did you have end hauling equipment on the job prior to 1920? A. I did.

Q. What was this equipment? A. I think twelve fresnos and 12 wheelers instead of wagons, moving the dirt, away from where it had been moved.

Q. Was it necessary up to that time to have wagons? A. That is a question of my judgment, as to whether it was necessary, my judgment there.

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Q. When were wagons put on the job? A. Along in the late summer of 1920, when I figured it needed it.

Q. What was the fact with reference to the orders of Mr. Knudson as to quitting surfacing which you received? A. I never had any orders from Mr. Knudson. I received a letter from him that said that he was of the opinion after a talk that he had with my son and read a letter that I had written to my son that there was a misunderstanding on his part and mine, but not as between us as to where and how much dirt I should place and I went down to see Mr. Knudson in response to that letter and told him that I was building the road, never having had any instructions other than the ones issued by Mr. Wray.

Q. What was your reference to refills in letters to Mr. Black? A. Refills, it was taking fills that are seven or eight feet high where the dirt had washed out after the guard rail was on, after the road had been completed.

Q. What was your reference to refills in your letter to Mr. Black? A. There is no refills—there was a letter covering the whole project, my final settlement.

Mr. Vogel: You say in the Sargent County Project you had Supplement Agreements? A. Yes, wherever I was asked to, Supplemental Agreements were made out.

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Q. Were they made out before you started the work? A. Oh, no, when they found the need of these things.

Q. I know, but before you would start this extra work? A. I say that I don't think that was true, but I had an agreement and an understanding with the engineers as to what I should do and what I should be paid for it. That was afterwards put in writing or maybe at that time.

Q. In this Supplemental Agreement they cut the price of riprap from \$5.00 to \$3.00? A. Yes, sir, they didn't cut it, they offered me and I accepted it.

Q. In other words they lowered the price? A. No, I lowered it.

Q. You put in a bid on it? A. No, they asked for a bid—no, we talked it over. I had the right under the law, first bid, and I agreed that \$3.00 would be satisfactory at the time, and it was satisfactory to them.

Q. Why was that price made lower? A. Well, in the first place, there was very, very little riprap on these roads to start with and I had found where I could, two years later, where I knew where I could sublet the price, where I could get a profit, I knew and I was disposed to close up on these things just as fast as possible.

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Q. In other words, labor charges were cheaper? A. Labor charges were cheaper.

Q. In this project on A in Richland County you had no Supplemental Agreements? A. None at all.

Q. Your price for work done, extra work done, was based on the same price as you originally contracted for, was it not? A. Based on the unit price, that I bid.

Q. Two or three years before? A. Two or three years before.

Q. There was no lowering of the bid price caused by the lowering of the labor? A. No, no lowering at all, it was never asked.

Q. Had you had a Supplemental Agreement at that time then the price would have been lowered for the same reason,

would it? A. That is entirely possible, but it wasn't up to me.

Q. Oh, I'm not blaming you for it, I am just asking you the question is all. A. You wouldn't, would you?

Q. Oh, no.

Mr. Green: There is one thing I would like to ask the Committee. I realize that the stenographers have hard work getting Mr. Twichell's testimony, and I would like to have the privilege of having him furnished a copy of the transcript as soon as it is out so I can go over it and have the opportunity of appearing before the Committee if there are any changes (627)
or corrections to be made.

Mr. Graham: All right. Q. Isn't it a fact, Mr. Twichell, that before you did any extra work on the Sargent County Project that you wrote into the State Highway Commission that you would not do such work unless you had a Supplemental Agreement in writing? A. In writing. As to what for? There is a million things, I didn't get any until Mr. Gavin got on.

Q. Did you ask for a Supplemental Agreement in writing for the Richland County work? A. I did not, not being foolish.

Mr. Green: I may say, if I may, to the Committee that Mr. L. L. Twichell would like to be called because he conducted the negotiations with Mr. Black for a settlement of this and certain correspondence, or negotiations for the settlement, were in the hands of Mr. L. L. Twichell, who talked with the officers of Richland County and this note is in his possession and in that of Mr. Treadwell Twichell, and in justice we would like to ask that Mr. L. L. Twichell be permitted to come before the Committee and tell it.

Mr. Graham: The matter will be taken up before the Committee.

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C. H. LUCKE, being called as a witness, after having been first duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence? A. C. H. Lucke, 38, Moorhead, Minnesota.

Q. What is your profession? A. Engineering.

Q. What school are you a graduate of? A. Wisconsin University.

Q. What year? A. 1914.

Q. You have been engaged in the active discharge of that profession since that time? A. Since I have been out.

Q. Were you at one time employed by the State Highway Commission of North Dakota? A. I was.

Q. During what period of time? A. I think I started with them about the first part of August 1919, until sometime in January, 1920.

Q. Are you familiar with F. A. P. 59 in Richland County, North Dakota? A. With the survey only.

Q. Who made that original survey? A. I made the survey under protest.

Q. At what time did you make it? A. It began about the first part of November, I could not tell you the exact time, but it was somewhere around there.

Q. When did you complete it? A. The first of
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Q. Was there possibly some snow on the ground at that time? A. Yes.

Q. And possibly some ice in the ditches? A. Considerable snow and probably some ice in the ditches.

Q. Snow maybe three or four inches deep on the level? A. Well, it run from three or four inches up to some places three or four feet, in the drifts along the roads it was about six feet.

Q. That was about a mile out of Hankinson where the drifts were the worst? A. That occurred the first mile out, that is as you drive out.

Q. Going into Hankinson? A. No, coming out of Hankinson to the turn south, the first half mile was the heaviest.

Q. That was where you commenced surveying? A. I commenced at Hankinson.

Q. And a portion of that had been surveyed before the snow came? A. Only half a mile.

Q. It is a fact that there might be some slight variations in the survey due to the snow? A. I think there would be some variation.

Q. If there was any error would it be any greater on the south road than it would be on the north? A. I see no reason why it should be.

Q. Then if the survey was found to be approximately correct on Section B the same would be true of Section A? A.
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I would think the same would be true.

Q. Now, from the work which you did with the State Highway Commission, do you know what was the average cost of the preliminary survey per mile on roads at that time? A. No, I don't recall, I did it by the month.

Q. Have you done any contract surveying for the State at any time? A. We have.

Q. What was the contract price? A. Well, it varies

from around \$58.00 to \$60.00 a mile depending on what the work is.

Q. Speaking from the position both as an employee of the Highway Commission and as a private engineer what would it cost the State Highway Commission to make their own surveys under the same conditions? A. Well, now, that would depend on what they include in their cost. I wouldn't know what to state until I knew just what you would include in the cost; by that I mean for any of the engineers' time, or the main office would be charged to the survey.

Q. No. A. No office rent or anything like that here?

Q. No. A. Just the pure cost of the men that are on the job?

Q. Yes. A. Well, I should say that they ought to do it for somewhere around \$35.00 to \$40.00.

Q. What is your experience, do private engineers keep (631)

their whole force including rodmen and chainmen employed during the winter in this state, or do they keep only the instrument men? A. We make a practice of carrying only the instrument men, unless we have something definite for them to do, of course. We don't carry rodmen as a general thing.

Q. You can get rodmen any time that you want them? A. We can get rodmen any time we want to—change rodmen to chainmen, we don't use rodmen, we use chain men.

Mr. Graham: I think that is all.

Witness excused.

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JOHN N. ROHERTY, called as a witness, being first duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. What is your name? A. J. N. Roherty, John.

Q. Where is your residence? A. Bismarck.

Q. And your age? A. 41 years.

Q. Are you a graduate civil engineer? A. Yes, sir.

Q. What year? A. 1910, University of Wisconsin.

Q. And you have been engaged in the practice of your profession since that time? A. Yes, sir.

Q. And are you connected with the State Highway Commission? A. Yes, sir.

Q. In what position? A. I am designer.

Q. How long have you been connected with the State Highway Commission? A. Well, I was with them for two different periods; from the first, about the first of January,

1918, until April, 1919, and again from about the first of October, 1922, until the present time.

Q. Did you make the computations and profile from the cross sections of F. A. P. No. 59, Richland County, made after the road was completed? A. Yes, I re-platted the cross sections and we didn't make a new profile, but we platted from the points on the original profile.

Q. This was made from the figures turned in upon the
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final estimates or final certificates made by Mr. Gavin; this cross-section is made from figures submitted to you by whom? A. Mr. Gavin's notes.

Q. Have you these computations and profiles with you? A. There were really no computations made; the work was done on these original—it is platted on all these original cross-sections, by referring to them—

Q. Will you examine them and tell the Committee what they show as to whether the road was up to plan width as to crown, ditches, fills, cuts and hills, etc. Give us the average as to the width of the crown on Section B, as to whether it is up to plan specifications or not. A. Yes, sir, it is in nearly all instances, if not a little in excess.

Q. How about the fills and cuts upon the average? A. There was very little difference between the plan at any point and the final cross-section of the grade varied both ways. Some places it was a little high, and some places it was a little low. Take for instance there (indicating on papers) it is about eight inches higher in here; it is about three or four inches higher in here; it is higher again here. It would be difficult to say what it would average.

Mr. Lounsbury: Now, as I understand it, the widths as shown by the pencil notations are the final cross-sections?
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A. Yes sir.

Q. And they show that on the average they are up to the original places and in some places they are in excess? A. Yes, not all in excess, I believe, though there are deficiencies in some places.

Q. But the difference is slight? A. Comparatively yes. In some places it is a foot, depends on what standard you use for it.

Q. Yes, but the average would be about the same, that is with the shortage and excess about a balance? A. There is—I think the excess will exceed the shortage.

Q. Can you give us any idea how much the excess would exceed the shortage? A. I made no exact computations for you can see very plainly right here (indicating) the ground line on the original survey was here, and the final cross-section showed here.

Mr. Lounsbury: That would be where you have indicated it would be short would it not? A. That shows here as the

ground line on the original survey is higher than where the ground line was found to be on the final cross-section.

Q. What would that indicate that the road in this particular point was not up to the plan height as to grade? A. Well, my idea is that probably there was snow at the time of the original survey.

Q. What I'm getting at is, what these show? A. It shows that the ground line on the original survey does not prove to be where the ground line was found to be on the final cross-section.

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Q. Does it show in the final cross-section that the line is lower than it should be, in the height? A. Not the plan height you see that corresponds almost exactly.

Q. This is your ditch line? A. This is the ground at the edge of the road.

Q. Edge of the ditch? A. Outside edge of the ditch at the top of the bank.

Q. And in the original the top of the bank would be higher than shown in the final cross-section? A. Yes, sir, and that was my contention. I told him, I says, "I don't think you fellows got a leg to stand on in court, when they show that the ground at the same place on the two surveys is narrower at least a foot."

Q. You are referring to what conversation? A. Mr. O'Neil, Mr. Overby, and Mr. Carl Myhre, they came to me they gave me these two and asked me what my deductions were and I told them when you have got two surveys over the same ground that show discrepancies of a foot, I think any lawyer would throw that out.

Q. Your contention was that the discrepancies showed—
A. I thought there was too much that any lawyer would throw the evidence out.

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Q. I don't see just what you're getting at, Mr. Roherty?
A. Well, nowhere this cross-section here particularly (indicating) would show that we had all of this in here to make fills with. The cross-section shows that there is a foot of that dirt that doesn't exist.

Q. I see, your deduction is that there was an error in the original survey, possibly caused by snow and ice. A. Yes, sir.

Q. Can you give us the date of the original cross-section of this work? A. Well—

Q. Is it shown on this? A. I was not with the Commission at that time.

Q. No, but is it shown? A. It is on the plans somewhere, but I presume this is in the summer of 1919.

Q. Would you say that from an examination of the ori-

ginal cross-sections and the new cross-sections of the road that the full amount of end hauling provided for in the contract have been done? A. My contention is this: that if the end hauling had been done at the time that dirt would have been piled up in the roadway and would show a higher grade line than we had contemplated.

Q. Yes, does it so show? A. Very little.

Q. Would you say that all of the end hauling provided for in the contract had been done? A. No, my contention is (637)

that the dirt did not exist there, due to the fact that there was snow on the ground and therefore the dirt wasn't there to be hauled.

Q. That is your contention based on what, Mr. Roherty? A. These cross-sections. For instance, at that point there, there is a foot of dirt that doesn't exist (indicating) according to the final cross-sections, and if he had hauled enough out of there to make the fills where shown that the road would necessarily be low at that point.

Q. Now this point to which you refer is the outside edge of the work? A. Outside edge of the work.

Q. If there had been an old road here at this place (indicating) it would have been approximately in the center line of this? A. Yes, sir.

Q. And there would have been more snow and ice along there caused by weeds and so on at the outside edge of the work than there would be in the center? A. Yes, sir. My idea is this, if there is snow on the ground your cross-section in places would show more dirt in here where you want to make the fill, but less dirt out here to make it; that is, there would be a shortage in your earthwork and I think it so proved out.

Q. Would you say that shows on that that all of the end hauling had been done? A. Not all that was contemplated on the plans, because I don't think the the dirt existed that (638)
was intended to be hauled.

Q. This is section B, F. A. P. 59? A. This is section A, section A is eight miles long, isn't it? Yes, this must be Section B.

Q. This is Section B? A. This is Section B.

Q. We have been asking about Section A have we? A. No, sir, I don't think so. I don't know where Section A starts definitely.

Q. Can you take the original plans and tell? A. Yes.

Q. Just a minute, I will get them. (Producing papers and handing to witness.) Can you take those and tell us how Section B starts? A. Station 392 and 98 is the beginning of Section B.

Q. The ones we have been referring to are on Section B?
A. Section B.

Q. Would it be your contention based on the original and the final cross-sections of the work that the plans did not fit the ground? A. The plans did not fit the ground on the sides.

Q. On Section B. A. Yes.

Q. And if Mr. Twichell testified that the plans did fit the ground he was mistaken? A. He knows more about them than I would, I was never in the county. All I know about it is this (indicating papers).

Q. You wouldn't say that he was mistaken in that respect?
A. No, sir.

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Q. Now do these cross-sections, I refer to the final cross-sections, indicate that any great amount of extra work had been done that was not called for by the plans? A. The areas outside of these red lines (indicating) are in excess of the original contemplated work.

Q. And have you made any computations as to the excess yardage, deducting wherever it is short? A. No, sir, because when I came to a place like this (indicating) I showed those men that I have mentioned, Mr. Myhre, Mr. O'Neil, Mr. Overby, that it would be impossible for me to know whether that line should go there and compute with that line or what I was to do with this discrepancy, and so no actual figures were made the only thing that we could show was the widths and height of the road.

Q. No you say that the widths are in excess, that is referring to the crown, they would average about the same as the original plans? A. A little in excess, I should think.

Q. Yes, but that excess would be trifling would it not? A. Well, it is a matter of what you call trifling.

Q. Well, would it exceed an average of six inches throughout? A. Not an average.

Q. Would you—what would you put as an average of the excess quantities there? A. Well, I would hate to state.

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Q. We can't be accurate, Mr. Roherty, can you tell us approximately? A. Well, that is a foot of discrepancy there—

Q. In the height? A. But the widths are apparently short on the right hand side and a little long on the left hand side (indicating) at red lines at that point.

Q. Would you say a foot excess on a cross-section of that amounts to about 150 yards to the station? A. Yes.

Q. Now, so that you will understand exactly what I am getting at; if the road had been made considerably wider through a change in the plans later on as these cross-sections

were properly made it would be so indicated on here, would it? A. Yes.

Q. And there is no evidence that any great amount of yardage has been added to the shoulders of this road, is there? A. In some places there is quite an excess and in some places there is quite a deficiency.

Q. And you say it wouldn't average—that the excess yardage would average six inches there? A. No, it would not average six inches here is a strip (indicating) that shows approximately a foot and here are some others, that show only a few inches, that is excess work, and that is excess work in (641)

there (indicating) and there is a very slight deficiency, but you will notice these point here don't agree with the original and I did not want to make any different figures, because somebody will tear them to pieces.

Mr. Halcrow: Q. Was this survey made—cross-sections made before or after Richland County did \$1254.00 worth of maintaining on the road? A. These were made in the fall of 1924 I believe.

Q. Might not Richland County officials have changed that road top so that it would be almost possible to get the——

A. They might change the shape of it, but I don't think they would change the yardage in any way. Of course, these cross-sections here show that there is a little crown on it, but whether it was built that way or maintained I couldn't say.

Q. The evidence shows that when Mr. Twichell finished that road there was a flat top? A. As I have never seen the road I can't say what anything but these cross-sections show.

Mr. Lounsbury: These cross-sections, final cross-sections do show that the road was completed at the time the cross-sections were made, with a slight crown? A. Yes, but I say I don't know who put it there.

Q. Have you anything in your records to show the date when these final cross-sections were made? A. They were (642)
all on file up there and are dated.

Q. Would you look up that date and advise the Committee as to that date? A. Yes, sir.

Q. Did any one from the Highway Department ever ask you for the results of this cross-section? A. I don't know whether they asked me or whether I took them down voluntarily.

Q. At least you delivered them to someone at the Highway Department? A. Yes, sir.

Q. Who was that? A. Carl Myhre.

Q. He is assistant chief engineer? A. Assistant chief engineer.

Q. Do you know what Mr. Myhre did with them? A. No sir I do not.

Q. Do you know whether these were ever before the Arbitration Board? A. Mr. Myhre had them that morning, whether they were put in or not I don't know, because I wasn't present.

Q. Were you called before the Arbitration Board as a witness to explain the final cross-sections as compared with the original? A. No, sir.

Q. And of your own knowledge you don't know whether these cross-sections appeared as evidence before the Arbitration Board or not? A. No, sir, I don't but I told them my advice was not to put them in because there was so great a discrepancy that I was afraid that would discredit them.

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Q. You are referring to the original? A. Yes, sir.

Mr. Lounsbury: I guess that is all on these, unless you want to ask some questions, Mr. Halcrow?

Mr. Halcrow: A. No.

Mr. Graham: Q. Is this what you would call an overhaul diagram? A. No, this is what we call a clay surfacing diagram.

Mr. Lounsbury: Will you take this overhaul diagram and tell us how much overhaul was done in the year 1923 (handing paper to witness). A. This is something I have never seen before.

Q. No I realize that. A. It says clay surfacing placed during 1923 according to claims of T. Twichell, contractor. One place it shows 27993 cubic yard stations; 540 cubic yard stations and 124509 cubic yard stations; 13530 cubic yard stations; 166217 cubic yard stations; 1551 cubic yard stations.

Q. That is the total of it according to this during 1923? A. During 1923.

Q. Will you check over those? (Handing figures to witness.) A. 234,340 cubic yard stations.

Q. Of overhauled placed during 1923? A. Yes.

Q. Now will you make the same computation in regard to the surfacing placed prior to 1923? A. 18843 cubic yard stations; 7452 cu. yd. sts; 12960 cu. yd. sts; 8978 cu. yd. sts; 43064 cu. yd. sts 7068 cu. yd. sts. 119 cu. yd. sts; 43656 cu. yd. sts; 24948 cu. yd. sts 62194 cu. yd. sts; total 239,282 cubic

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yards stations.

Q. Overhaul prior to 1923? A. Yes.

Q. Is there anything to indicate on this plat the thickness of the clay covering? A. No, sir, in the cubic yard stations per station it would indicate to a large—

Q. Well, what does that indicate? A. 26 cubic yards per station would indicate about four inches.

Q. It would take 44 yards to make six inches per hundred foot station, if you figured it that way? A. No, you come out here this way (indicating) you would come out a little bit more between 44 and 50, I presume they used a basis of six inches.

Q. Can you take between the various stations on this plat and tell us according to their figures on the plat the thickness of the covering between the stations, using both years? A. This 43 cubic yards per station plus the 26 and a half cubic yards per station would amount to approximately seven inches not considering shrinkage.

Q. Wouldn't the 42 cubic yards be about six inches alone? A. No, not quite, it wouldn't prove out quite that way.

Q. Now, the surfacing on a road of this kind would be simply on the crown, would it not? A. Yes, sir.

Q. And figuring just the crown doesn't that figure approximately 44 yards for six inches of surfacing, figuring it (645) exactly 24 feet. Well, if your crown would be 24 feet wide it would be, but you come out a little more here on the edges of that slope.

Q. What would you take as an arbitrary figure for 24 feet for the crown and six inches of surfacing? A. Figuring just the 24 feet wide, 44.4 without shrinkage.

Q. 24 feet wide? A. Yes, sir.

Q. And then adding the 26½ cubic yards per station what would that make the thickness, figuring on the same basis? A. Well, it is 9.6 inches without shrinkage.

Q. Will you figure up from this plat the amount of clay that was taken from the various pits indicated on the over-haul diagram. I mean the total for all the years, Mr. Roherty. A. 9126 cu. yds. taken out of the pits prior to 1923.

Q. Is that correct? A. Yes, if I have made no mistake.

Q. What is the cubic yardage of the pits during 1923? A. 9625.

Q. And the total for both years? A. 18751.

Q. And that is according to the figures that are on here? A. Apparently, yes, if I have made no mistake. (646)

Q. You don't know whether this is an accurate diagram or not, of course? A. I have never seen it before.

Mr. Lounsbury: I believe that is all.

Mr. Halcrow: I would like to have Mr. Lucke called to the stand.

C. H. LUCKE recalled.

Mr. Halcrow: Mr. Lucke, you made the first survey on Federal Aid Project No. 59 in Richland County? A. I did.

Mr. Vogel: Q. A and B? A. Both.

Mr. Halcrow: And if I remember correctly you stated that the snow was from four inches to six feet deep? A. From four to six? Well, I think my statement was from around three or four inches to four feet, and the most was six feet.

Q. Did you protest against taking a survey under those conditions? A. I did following that visit. I called up the Division Engineer.

Q. Who is the Division Engineer? A. A man by the name of Distlehorst. I told him that the conditions there were such that we couldn't make a proper survey and he told me he would talk with Bismarck and call me again. I don't know whether he talked with Mr. Black or Mr. Kaulfuss, he was the Assistant Engineer at that time, and the Division Engineer called me up and told me that the survey would have to be done regardless of conditions, that they would have to

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have the work in the office that winter.

Q. In your judgment as an engineer, though, under the conditions of snow and ice that existed at that time, such a survey wouldn't be a proper basis for building a road on? A. I don't think a survey should be used for a basis of payment for the contract and there should have been a cross-section party cover the work ahead of the contractor. The survey would have been all right for preliminary work and for getting out plans, but I think there should been—construction work should have been handled differently as long as the survey had been made under those conditions.

Mr. Halcrow: I think that is all.

Mr. Vogel: Was there snow also on Project B? A. Yes, there was snow over the whole project, as far as I was concerned it was all one job, it isn't divided until the plans are made.

Mr. Yeater: You stated that there was snow on the ground, had you reason to suppose that there was ice on the ground underneath the snow? A. I had no way of knowing because there was a slight amount of snow when I first went over it.

Q. You don't know whether there was any standing water or anything of that kind? A. I couldn't say, the ground was covered with a slight fall of snow when I went down there the first time.

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Mr. Vogel: Do you see any reason why Project B should be better surveyed than Project A? A. No, I don't see.

Mr. Lounsbury: The survey which you made would be a perfectly good basis for plans, as I understand it, Mr. Lucke,

if the work was properly followed out? A. Yes, it is common to do that if you are in a pinch; for instance, if you have got to have a bunch of men in the office kept busy—you can't do all this work in the Spring, practically all you can do in the Spring is to get the work the best you can and then cross-section ahead of the contractor.

Mr. Halcrow: Was that done? A. I don't know whether it was or not.

Mr. Lounsbury: You never were on it after— A. I never was on it after the survey.

Q. Mr. Twichell testified before the Committee that it was necessary for you to go to the blacksmith shop in Hankinson and have a large amount of steel rods made, is that true? A. No, that is not true. I recall having some repairs—repairs on the rod—I refer to the standard rod used for that work.

Q. That is a telescoping rod with a steel shoe, is it? A. Yes, it is adjustable, and measured about six feet when folded and about 12 feet when extended, and the clamp I had to have made was to keep it up.

Mr. Vogel: In other words, then, the statement that Mr.

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Twichell made that you had to have iron rods made to go through the snow was absolutely wrong? A. Absolutely wrong.

Mr. Halcrow: Did you have any work done? A. Yes, as I said, I had a clamp fixed, repair work in the shop, I believe the work was done in the blacksmith shop that he referred to.

Mr. Lounsbury: The only error that could creep in would be where you did not get down clear to the surface of the ground? A. Where I did not get down clear to the surface of the ground, where there was ice in the ditch that we couldn't see, and we might stop on top of the ice.

Mr. Lounsbury: I believe that covers it.

Mr. Graham: Do you think that did happen in any instance? A. Well, we have no way of knowing.

Mr. Halcrow: If you were on top of the ice your plans would all be lower there than they should? A. No, the ground at that part would show lower than the plans.

Q. Well, but your road wouldn't be built up high enough. A. We didn't hit any ice in the center of the road. The center of the road would be practically all right, and it would be in the ditches.

Q. If you struck ice when you put your rod down through the snow your completed plans then wouldn't show the road high enough at that particular place? A. No, your plans

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wouldn't show it low enough, it wouldn't show the ditch deep enough, it wouldn't show the ditch deep enough, don't you see, the ditch is filled up with ice in that place, you may have a few inches—

Q. Well, I was referring to the top of the road and you are referring to the—— A. Your top of the road I can say safely that that would be all right, because there wasn't much snow on top of the road.

Mr. Thatcher: What you were trying to get at, Mr. Halcrow, is it wouldn't show as much dirt as there should be.

Mr. Halcrow: He wouldn't get up as much dirt.

Mr. Lucke: It would work this way. We would have to take more material to fill that old ditch, you see. In other words, the plans would not be true. He would have to go somewhere to get some dirt to make up those fills.

Mr. Lounsbury: Is it usual when a survey is made under those conditions, and it isn't possible to see the soil or ground, do you consult with the people who are familiar with the conditions as to the quality of the soil and so forth? A. We make a practice of consulting with the local people under any conditions, but in a case of that kind we would have to depend on local men until we could see it the next Spring.
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Q. And who did you talk with, with reference to the soil and so on? A. I don't recall his name, he lives at Hankinson.

Q. Is his name August Hoefs? A. I really couldn't say.

Q. Gentleman with white whiskers? A. I don't know that, I can't recall the man, all I know is that he was a County Commissioner and he lived at Hankinson. He is the only man that lives at Hankinson, isn't he? And he was the man that I talked with of the conditions.

Q. You don't know how long Mr. Hoefs had been a resident of that community? A. Oh, I believe he had been there practically all of his life from his stories, I don't know.

Q. Some sixty years? A. Well, I don't know as to how many years, I believe he was an old resident there.

Q. You took it that he was a man that was perfectly familiar with all the soil conditions? A. I did. I picked him as being the man that was the best acquainted.

Mr. Lounsbury: That is all.

OLIVER KNUDSON, recalled.

EXAMINATION BY MR. GRAHAM:

Q. Did you have any connection with the building of Federal Aid Project No. 59? A. Yes.
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Q. What period of time were you connected with it? A. In 1923 from April until the first of September.

Q. Who was the contractor doing the work? A. Mr. Twichell.

Q. Did you see him when you first went down in April?

A. No, I didn't see him until in July, about the middle of July.

Q. That was the date that he commenced work upon it?

A. Yes.

Q. Did you have any talk with him at that time about the work, the clay surfacing? A. Yes, I gave him any instructions given me by my superiors.

Q. What were those instructions? A. That we do no more new clay surfacing, but would patch up, have the contractor patch up the holes that had worn through where he had surfaced the road and blade it up and get rid of it.

Q. What did he say? A. Why, he said he expected to surface every foot of that road.

Q. Did he have reference to Section A— A. Yes.

Q. —or both sections? A. Yes.

Q. What else did he say, if anything? A. Well, he further told me that he didn't expect to take any instructions from anybody except the Chief Engineer.

Q. Who was the Chief Engineer at that time? A. Mr. Black.

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Q. Did he say what instructions he had from Mr. Black? A. No.

Q. What work did he do while you were there? A. Well, he proceeded to patch up the holes and went on with the surfacing.

Q. Do you know anything about how much clay surfacing he put on? A. No, I don't, the work other than the patching up of the holes was unauthorized and for that reason I didn't check up on him.

Q. You never had any change in orders from your superior officers as to the work he was to do? A. Yes, I did, in the first part of the work Mr. Wallace came down and agreed to let Mr. Twichell surface another half mile that was in pretty bad shape.

Q. That was done under your supervision? A. Well, it was just started and I was called into Bismarck before the work was completed.

Q. Is that the last you had to do with it? A. Yes.

Q. How did you find Mr. Twichell during your connection with him, was he willing to obey the orders and instructions from the engineering force? A. Well, I had—I can't say that I had any more disagreements with him because I didn't attempt to give him any further instructions.

Q. He went ahead and fixed it as he saw fit? A. Yes.

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Q. And contrary to your instructions? A. Yes.

Q. Did he give any reason as to why he did that? A. Well, he said he'd been building the road for four years and he thought he ought to know what it needed.

Q. Did he ask you for any supplemental contracts or anything? A. No.

Q. Now, did you have anything to do with the building of Federal Aid Project No. 58 in Sargent County? A. Yes.

Q. Who was the contractor that had the work on that? A. Mr. Twichell.

Q. How long were you connected with that and during what period of time? A. During the same period as 59.

Q. Was 58 completed before you left? A. No, not quite, he still had some blading to do and shouldering up.

Q. Did you do any of the measurements on 58 or final estimates? A. I did measure the riprap, guard rails, culverts and so on.

Q. When did you do that? A. Sometime in August.

Q. Now, when was the work commenced upon that? A. Well, they had been working off and on all summer, that is the riprapping had been in progress all summer.

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Q. Was there any dirt placed during the summer of 1923? A. Only a couple of places that had been washed out and a few fresnos were put in to make the road full.

Q. Do you know who measured up the amount of dirt on 59? A. No, I don't.

Q. Did you have anything to do with sending in the final certificate or estimate for the work on 58? A. No, it wasn't sent in until after I came in, the final estimate was made up after I came in.

Q. Did you send in any estimates on B during the time you were there? A. No.

Q. Did you make the figures for any of them after you came up to Bismarck? A. Well, I did make up some figures after I came in, yes.

Q. How did you happen to make up any figures after you came in, what were the conditions? A. Well, the certificate of completion had been sent in, I think by the Division Office and there were some changes to make and it was sent down to the drafting room, and they were given to me to correct.

Q. Who gave you those instructions to make the changes? A. Well, they were given me by the Chief Draftsman.

Q. Who was that? A. Mr. Peters. The plans and notations were given me by him.

Q. Do you know what the purpose was of making these

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changes on the certificate of completion after sent in? A. Well, the job was completed and there were certain changes, certain increases and decreases that had to be taken care of.

Q. Mr. Twichell claimed more than what the final certificate of completion showed? A. Well, yes, there would be an increase over the contract.

Q. Do you know how much of a change is claimed? A. No, I couldn't say exactly, it is two years since that job was taken care of.

Q. If we had the estimates and certificates here, from that you could give us that information? A. Well, I am not sure that I could give you the exact increases; no, the increases would be the difference between the last estimate and the next to the last estimate.

Q. Do you know whether or not Mr. Twichell claimed anything for maintenance? A. I believe he did.

Q. This road was commenced in 1920, was it? A. This was the third season, I believe, yes.

Q. Do you know whether or an allowance was given him in this change for maintenance in the way of adding an additional amount of riprap, guard rail and excavation? A. I couldn't make any definite statement.

Q. After this was completed did you sign it up under any instructions from some of the engineering force these changes
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made? A. Well, I did whatever was necessary to complete the job and make it check, make the plans check with the final estimate.

Q. I will show you Exhibit X-3 and Exhibit X-4 and ask you if those are papers and instructions given in connection with the changes made? A. Yes, I believe they were attached to the plans.

Mr. Vogel: These were attached to the plans, you say?
A. Yes.

Mr. Graham: Now, reading over Exhibit X-3, can you tell us how much of an allowance was made to Mr. Twichell? (Handing paper to witness.) A. No, I couldn't.

Q. Can you if we get the files and so forth from the—
A. The different estimates, the difference between the final estimate and the estimate rendered before that would show the difference.

Q. Can you give us the information in regard to the distribution of 230 cubic yards of rock, 230 cubic yards of riprap proportionately over Sections A and B, 1480 cubic yards Class B excavation can be included in Section A where most convenient? A. Well, that was evidently work that was not taken care of, that Mr. Twichell had no unit price bid on it, and he would be paid in that way, increase in quantity.

Q. Did the plans or estimates show that he had ever moved
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those quantities alluded to ? Did the plans and estimates show, that is, the engineering plans as first submitted and the certificates of the engineer in charge up to the time that this change was made? A. Well, I couldn't say as to that.

Q. If we had the files here you could give us such information as they disclose? A. Well, I suppose it could be gone into.

Mr. Vogel: What were you sent down on this job for?
A. I was sent down to take charge of it and see that it was completed.

Q. Who sent you down there? A. The office here.

Q. Here in Bismarck? A. Yes.

Q. You were to act, then, as the engineer in charge to see that Twichell followed instructions? A. Yes.

Q. You gave him those instructions? A. Yes.

Q. According to your testimony he said that he was to take no instructions except from the Chief Engineer? A. That is what Mr. Twichell told me, yes.

Q. The work he was doing at that time you say was unauthorized by any orders given to you? A. Well, the new surfacing, yes, would be.

Q. You were recalled to Bismarck? A. Yes, the latter part of August.

Q. Who took your place there? A. Mr. Thorberg.

Q. You don't know why you were recalled? A. Well,
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it seems that I was needed here in Bismarck is the only explanation I have had.

Q. You found that that was the reason you were taken off there, because you were needed here in Bismarck? A. Well, I don't know, I have no reason to think otherwise.

Q. Now, when they asked you to adjust these plans the purpose of that was to get in this extra work on those plans, was it not? A. Yes, and make the final check, to make up the final check.

Q. There was 1480 cubic yards of Class B excavation you were instructed to spread that over the plans where most convenient? A. Yes.

Q. You didn't know whether the dirt was placed there or not, did you? A. Well, no, as I say, that dirt was evidently to take care of some additional, some other work.

Q. The plans then wouldn't show that the exact location of this yardage, it was just simply a spread without regard to whether that dirt had been placed there or not? A. Well, it was added to the plans, yes.

Q. The same would be true of this 230 yards of riprap, and 230 cubic yards of rock? A. Yes.

Q. They were placed there in order to bear out what Twichell had coming, is that the idea? A. Yes.

Mr. Graham: He claimed to have coming? A. Yes.
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Q. Do you know in round numbers about how much more he claimed to have coming than what the original plans provided for? A. No, I don't.

Q. I will offer in evidence Exhibits X-3 and X-4.

EXHIBIT X-3

Job No. 58 Sargent
To the attention of F. H. Peters

Bismarck, N. D.
Dec. 28, 1923.

Dear Sir: We are sending you herewith tracing and change in plans as well as allowances made to Contractor Twichell to have brought up to date.

Enclosed find final estimates as rendered and which plan should check when completed.

Yours, J. E. O'Neil.

EXHIBIT X-4

Distribute No. 11, 230 cu. yds. Rock and 230 cu. yds. Rip Rap proportionately over Sections A & B. 1480 cu. yds. Class B Excav. can be included in Section "A" where most convenient.
C. A. W.

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JOHN N. ROHERTYB, recalled.

Mr. Graham: Q. You testified that according to the final cross-section of this work on Section B, F. A. P. 59, that there isn't an increase in the plan widths of to exceed six inches—I believe you testified that it wasn't quite that amount? A. I don't think it would exceed that.

Q. That is the six inches, as an arbitrary figure, how much additional yardage would that figure per mile, I believe you figured that up? A. A ditch from the shoulder down according to the contemplated plan was two and a half feet deep and six inches additional over that figures out about 490 cubic yards per mile.

Q. And if this project was seven miles long how much additional yardage would that make? A. 3430 cubic yards.

Q. For the entire section? A. For seven miles.

Mr. Graham: That is all.

Meeting adjourned.

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TESTIMONY TAKEN AT THE HEARING BEFORE THE
SPECIAL HOUSE COMMITTEE ON FEBRUARY 24th,
1925.

W. G. BLACK, being recalled, testified as follows:

Examination by MR. GRAHAM:

Q. Mr. Black, I believe that you testified when you were on the stand Friday that a change of plans approved by the Bureau of Public Roads became a Supplemental Agreement, is that correct? A. Not exactly a Supplemental Agreement, but it becomes an agreement between the Highway Commission and the contractor.

Q. Your specifications provide, do they not for a Supplemental contract to be signed by the contractor and the engineer in charge, that they shall agree upon the price for the extra work? A. Well, in the event that the contract exceeds 25 per cent of the original contract.

Q. And doesn't that paragraph of the specifications further provide that in case no agreement can be reached, the work should be done on a force account basis? A. I don't remember just how it does read.

Q. You know what a force account basis is? A. Oh, yes.

Q. The work shall be done at the ordinary price for doing work at that time plus 15 per cent? A. I don't remember how that paragraph reads off hand.

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Q. Is that approximately correct? A. I wouldn't say.

Q. Calling your attention to paragraph 52 of the specifications of the North Dakota State Highway Commission, concerning force account work, will you read that over and state if the answers as given by you as approximately correct? (Handing paper to witness.) A. I don't believe that is referring to what you think it is.

Q. To what does it refer? A. It refers to force account work.

Q. What do you mean by force account work? A. Force account work is work that is done at cost plus.

Q. That is where no price is agreed upon between the contractor and the State Highway Commission? A. That is right; what you were asking just a few minutes ago, though is about excess work.

Q. Well, in excess work there shall be a written contract entered into between the contractor and the State Highway Commission under the terms of the specifications? A. I don't exactly know what you mean by that question, Mr. Graham.

Q. For new work in excess of 25 per cent of the contract price there should be a written agreement of some kind entered into between the contractor and the State Highway Commission prior to the time that the work is done? A. That should have been done, oh, possibly two years ago.

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Q. And calling your attention to 58 in Sargent County, I

will ask you is it not a fact that supplemental agreements were in fact entered into? A. Yes, they were.

Q. You testified, I believe, that you issued no orders for extra work on F. A. P. 59, after you came into office involving the payment of any money, is that right? A. That is correct.

Q. I believe, that in response as to what orders were issued on the job you testified that you did issue one order, and when interrogated concerning that order that your reply was "I just observed a low section in the road. I told them to take that sag out of the road, which would mean no increased cost to us," is that correct? A. That is correct.

Q. Then if Mr. Twichell testified that you did order quite a little additional yardage he is mistaken. A. I don't know what he testified to.

Q. I say, if he testified so? A. I wouldn't say that he is.

Q. Did you testify that you did order some work? A. Might not be directly by me.

Q. Was there any directly by you outside of this one place? A. No, I think not.

Q. Who ordered the clay surfacing on Section A of (665) Project 59, in 1923? A. The Resident Engineer and the Division Engineer.

Q. Who were they? A. The Division Engineer was Mr. Gavin, the Resident Engineers were Oliver Knudson and Clifford Thorberg.

Q. Now, as I understand you, you gave no order for any clay surfacing in 1923? A. Not myself, no.

Q. Did you instruct any of your Department to give such orders? A. Well, I don't remember, I had so little to do with that job that about all I did was to put the finishing touches on it; that work was practically all completed under the prior administration, I have tried to make that clear to you several times since I have been here.

Q. So that there was nothing except this one order that you gave yourself, or that you instructed anyone in your department to give? A. That is all that I remember of personally.

Q. Did you, or anyone else in your Department give Mr. Twichell any written orders to put a clay top on Section A in 1923? A. All those orders were given prior to 1923?

Q. And so far as your records show there were no written orders? A. Not that I know of.

Q. You required Mr. Twichell to sign no Supplemental Agreements for this extra work? A. Not while I was in office.

Q. Who made up that overhaul diagram upon which you relied in making settlement? A. It was made up by our office, I don't recall who made it, Mr. Myhre or Mr. Overby, I think, worked on it.

Q. And that was made under your directions? A. Yes sir.

Q. Where did the data come from as to where this clay was hauled from? A. Why, I procured that myself in company with Mr. Myhre.

Q. Did you make any notations at the time that you procured such information? A. Any notations?

Q. As to the amounts? A. Well, as I have testified heretofore, the pits were measured. I used the pit measurement as the basis in arriving at the quantities.

Q. And who measured the pits? A. It was measured under Mr. Gavin by Mr. Thorberg, I believe.

Q. And you used the same pit measurements for making up this diagram? A. Yes.

Q. And as far as you know that overhaul diagram is substantially correct? A. I would say that it is.

Q. You felt that it was sufficiently correct so that you could rely on it in figuring the overhaul? A. Yes.

Q. When Mr. Roherty was on the stand yesterday he was asked to take that overhaul diagram and figure up the overhaul prior to 1923 and he computed it to be 23,282 cubic yard

stations. Will you please take his figures and check the same to see whether they are correct? A. Well, I hardly think that is a fair question, asking a man to check up the overhaul here in a few minutes. I wouldn't check it up for the reason that there is no cut-off, you will notice that diagram that it is according to the claims of Mr. Twichell as to the time it is put on.

Q. You said that in your opinion it was substantially correct? A. It is correct, but I don't know whether it was put on in 1923 or put on prior.

Q. How do you know that it is substantially correct? A. I am speaking about quantities, they are correct. I don't know just where the cut-off was, where it was put on in 1923 or 1924.

Mr. Vogel: There wasn't anything in 1924, was there? A. I mean 1922 and 1923.

Mr. Lounsbury: Well, couldn't you take the diagram and check Mr. Roherty's figures there that he took from the diagram? A. I'll not check it.

Mr. Graham: It is substantially correct? A. I said it is, it is hard to tell where the cut-off is between 1922 and 1923.

Q. But you convinced yourself as to that before you had that chart made up, did you not? A. If you will read that chart you will see that it is according to the claims of T. Twichell as to the time it was put on.

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Q. And you testified that in your opinion the claims of T. Twichell were substantially correct? A. I don't know what his claims were.

Q. Did you not know at the time that you ordered this chart to be made? A. I think, Mr. Graham, you are unfair about this because I don't know where he ended in 1922 and what was done in 1923.

Q. But you are not answering the question. A. I know it, but I want to be fair about this, if you will be fair.

Q. I asked you a few minutes ago if this chart was substantially correct and made up under your directions and you said that in your opinion that it was. A. That is correct.

Q. And you believe in the statements made by Mr. Twichell as to the amounts of dirt that he hauled at the various times? A. What I was interested in was the total amount, I didn't care whether it was put on in 1922 or 1923.

Q. But you took his statements as to when he put it here? A. Yes.

Q. You believe that what Mr. Twichell told you was the truth? A. I don't know, I presume it was, he knew more about it than I did.

Q. Then you accepted his statements as being true? A. Yes.

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Q. And on that basis you fixed up this overhaul chart? A. I don't know exactly what you mean by that question. This chart is made up as to the actual conditions on the ground as to where the pits were and where it was hauled to, I don't know what year it was put on.

Q. You took Mr. Twichell's statement as to what year it was put on? A. I wouldn't say entirely.

Q. If Mr. Twichell's statement to you is correct as to when the clay was put on the road, then the chart is correct? A. I presume so.

Q. And you relied upon the statements which Mr. Twichell gave to you? A. Oh, no. I have told you two or three times we have got to get this evidence from people living down there and our own measurements of the pits.

Q. You got your statement from residents as to when the clay was put on the road? A. Some of it, not all of it.

Mr. Lounsbury: Mr. Black, assuming, just for the purpose of computation that the cut-off there is correct, not as being

binding upon you, as to when it was actually done, but simply for the purpose of checking the computation, can't you take those figures and check them for us? A. I can, but I'm not going to this morning for the reason that that is unfair to ask an engineer to come in here and check that stuff up in a

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hurry, that is office work.

Q. Mr. Black, doesn't the diagram indicate the number of cubic yards hauled between certain stations? A. Yes, it does.

Q. And isn't it simply a matter of adding those? A. Yes, well, you gentlemen can add as well as I can.

Q. Well, in order to have these figures verified, that were made yesterday, and for the purpose of information for the Committee, can't you recheck those figures, Mr. Black? A. No, as a matter of fairness, I'll not do that; that is unfair testimony.

Q. To make a simple addition is unfair? A. I will say that it is unfair for the reason that one may make an error on this and it may go into the record as being correct.

Q. That could be corrected any time. A. I'm not going to bother with it.

Q. Mr. Graham: You refuse to make such computation? A. For the reason that it is unfair to ask an engineer to make computations on the witness stand.

Q. Will you make such computation and bring it in to us? A. I will be glad to if I have time. But I have a great deal of work that I have got to look after.

Q. The situation is here, Mr. Black, that this Committee has only a limited time and you assured them that you would give them every assistance in making this investigation that you could. A. I believe I have given every assistance that I could.

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Q. If the figures given on the overhaul statement are correct, why did you allow Mr. Twichell in excess of the figures appearing on the overhaul statement? A. I don't think I did.

Q. Well, if it so shows upon the statement, why did you do it? A. I don't say that I did.

Q. I say, if it does so appear on this statement, why did you give him the additional amounts? A. Upon what statement?

Q. Upon the overhaul statement? A. Are you referring to the estimate?

Q. No, to this overhaul statement here.

A. I don't think he was given any more than this blue print shows.

Q. Will you make such investigation and report to us tomorrow? A. If I have time I will.

Q. And why was he also allowed a difference of ninety thousand cubic yard stations in excess of the amount appearing upon the overhaul statement? A. I don't think he was.

Q. If he was, why did you so do? A. I think that is a very unfair question to ask me, when I don't know that he was, then to ask me if he was, why did I do it.

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Q. We have checked it up and it so appears from the overhaul statement and we would be very glad to have you explain why. A. I just got through telling you that we didn't.

Q. I'm telling you that the overhaul statement so appears. A. Who checked that, Mr. Graham?

Q. Mr. Roherty. How long a time would it take you to check this up this morning and we will wait for you? A. Oh, I couldn't say for sure. I'd rather take it up and report to you some other time.

Q. Is there any reason that it would take you more than ten or fifteen minutes to add up these figures? A. I wouldn't do it here for the reason that when I do that I want somebody to check with me and be sure that my answer is correct.

Q. Haven't you Mr. McKinnon here that could check you here? A. Yes, but I'm not going to check it this morning. I have answered that question a couple of times.

Mr. Lounsbury: If you refuse to do that, you couldn't complain of the unfairness of it when that information is all before you and it wouldn't take you more than ten or fifteen minutes? A. I say it is unfair to ask a witness to check up computations during testimony.

Q. I believe that you stated Friday that the change from a round top to a flat top road was done on the order of the

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Highway Department of North Dakota, did you not, the general order? A. Well, prior to 1923.

Q. Have you been able to find such order? A. No.

Q. Then how do you know that such order was made? A. Well, for the reason that they had changed their plans at that time from round top to flat top.

Q. Have you any copy of such plans? A. I think so.

Q. Would you produce it? A. Yes, sir.

Q. Such order? A. There isn't order that I know of.

Q. Then what did you have reference to by order, you mean a change of plans? A. Yes.

Q. Have you any plans made with that provision prior to 1923? A. I think so.

Q. Will you produce it? A. Yes.

Q. Do you know who prepared the findings of the so-called Board of Arbitration? A. The Board of Arbitration did.

Q. Which member of them? A. I wasn't in session with them at the time that was passed.

Q. Did you see the findings prior to the time they were signed up by the Board? A. I did not.

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Q. In Section B of these findings it is stated that this change in the type of road was made so as to secure Federal Aid, do you know where the Board of Arbitration got their facts on which to base that finding? A. I don't believe I understand what you are getting at, Mr. Graham.

Q. You have read over the findings of the Board of Arbitration? A. Yes.

Q. And in those findings it said that the change in the type of road from a crown top to a flat top was made so as to secure Federal aid? A. I don't remember what it states, I didn't write that.

Q. But you have read it over? A. I have read it, but I don't recall what it said.

Q. Do you know where the Board of Arbitration got their facts on which to base this finding? A. No, I don't.

Q. Is it a fact that Federal Aid will not be allowed on a crown top road? A. No.

Q. They are given Federal Aid on either type of road? A. Yes.

Q. It is a fact, is it not, that on Federal Aid Project No. 71, from Wahpeton to Mooreton, North Dakota, that the plans were changed from a flat top road for the last half of the distance, to a round top road? A. Mr. Graham, I think that you are going too far back for me. I had nothing to do with building Project No. 71, don't know anything about it.

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Mr. Lounsbury: Wasn't it finished up under your administration, Mr. Black? A. No, sir.

Mr. Graham: All right. I wish to call your attention to a few questions and answers appearing in the record for Friday, touching Section B of Federal Aid Project No. 59. You were asked the following question, "What was the dispute there?" and you answered "The dispute was over changing from a crown top to a flat top," that is correct, is it not?

A. You are referring to Section B?

Q. Yes, to Section B. A. Yes.

Q. And you were then asked "was it changed?" and you answered. "I don't know, I couldn't say," that is a fact, isn't it, Mr. Black? A. As far as I know, I had nothing to do with that job, don't know anything about it.

Q. As I understand it, Mr. Black, you don't know of your own knowledge that any order was ever issued to Mr. Twichell to make a flat top road out of this Section and do not know whether it was, in fact, changed? A. Personally I could not know that because I wasn't in office at that time.

Q. And there is nothing in the records to show that there was any written order for this change? A. Not that I know of.

Q. And no Supplemental Agreements covering the cost of
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any such changes on file in your Department? A. Not that I know of.

Q. And no evidence, whatever, was submitted to the Board of Arbitration upon that point outside of the oral statements of Mr. Twichell? A. I believe that is all.

Q. And your own engineer's estimates rendered for this Section of the road allow no such amount of yardage as was allowed in the final estimate issued after the meeting of the Board of Arbitrators, and signed by Mr. Wynnopp? A. I don't know anything about any previous estimates. There were estimates made but none of them were accurate.

Q. You have reference to the estimates made by Mr. Gavin and Mr. Thorberg? A. Yes.

Q. How do you know they were not accurate? A. Basing that on my knowledge from going over the job personally, discovering where the clay was hauled to.

Q. Referring to Section B? A. Oh, I don't know anything about Section B. I have tried to tell you several times, I don't see why you persist in asking me about Section B when I don't know anything about it.

Q. Why did you allow Mr. Twichell in excess amount on Section B. if you knew nothing about it? A. I didn't allow, it was allowed by the Board of Arbitration.

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Q. You submitted the figures to them? A. No, I did not submit them any figures, on Section B.

Q. Didn't you in your testimony state that Mr. Twichell should receive an allowance of something over five thousand yards additional? A. I answered that question the other day. I told you that that would be a theoretical allowance if he made that top from a flat top to a round top, it would require a cubic yard of earth to every running yard to put on the flat top.

Q. You accepted Mr. Twichell's word that a change was

made? A. Oh, I don't know anything about it, if you will read that Arbitration Agreement you will see that I told them I didn't know anything about Section B.

Q. Calling your further attention to your testimony on Friday, I wish to ask you if the following question on this same subject was asked of you, "Well, which way do you want to leave your testimony now?" and you answered, "I don't know, I admitted that I don't know anything about Section B, and I didn't pay any attention to it," That is absolutely correct? A. No, I don't think it is. As I recall the answer to that question I told you that "I want you to understand that I don't know anything about Section B and I am willing to leave it that way."

Q. "Q. And you don't know anything about the dirt (678)

moved up on there?" And you answered "No;" and the further question "No information whatever concerning it?" "A. No." that is substantially correct? A. That is correct.

Q. And your testimony gives a correct statement of the facts, does it not? A. I does.

Q. I also wish to call your attention to your testimony where you were asked the question, "Q. Why put in a theoretical yardage when you knew nothing about it, why leave an estimate made showing that there was \$8,509.12 due to M. Tiwchell" and you answered "I never made any estimate." You were then asked "Did you order one made?" and your answer "Not that I recall," that is correct? A. No, we never made any estimate on Section B.

Q. And the question "Was it made in your department?" and your answer was "Not that I know of. Nobody in our department offered to give anything on Section B." A. I. don't believe I made that statement, possibly I didn't.

Q. What are the facts? Did anyone in your department? A. Mr. Graham, I think that I have answered those questions. I have told you that the Board of Arbitration made that settlement.

Q. But we are trying to find out what your department did. A. Well, we made up the estimate on Section B, yes, of course.

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Q. When? A. You will find it on the file there, the last one there.

Q. When did you make it up? A. Look and see. I can't remember without looking at the book, if you will give me the book I will tell you.

Mr. Graham: All right (handing book to witness.) Look at the book and tell us. A. It is December 2nd, 1924.

Q. Prior to that time was any kind of an estimate made

at your office or under your direction covering Section B? A. No, not that I know of.

Q. Calling your attention to your testimony given on Friday, you were asked as to that being the case, "Q. Why did you then wish the Department to pay an additional sum of \$8,509.12 when you were not yourself convinced that such work had been done?" and you answered "What makes you think that I wished the Department to do that?" and you were asked "Just answer the question," and you stated "There was never any such estimate made. I never wished the Department to do anything like that." Do you wish to make any change on that? A. I don't think you and I agree as to what we have in mind. What I have in mind is the final estimate that is made based on that work, possibly what you have in mind is that there were computations made for an estimate, is that what you mean?

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Q. Were there any computations made? A. The Board of Arbitration made the settlement.

Q. Were there any computations made by anyone in your office prior to the meeting of the Board of Arbitration concerning Section B? A. Well, I think that—of course, there were estimates made years before on that job; you were referring to the final quantities?

Q. I am referring to any estimates made in your office after December 8th, 1923, and prior to the meeting of the Board of Arbitration? A. No, no.

Q. Of no kind? A. Not that I know of.

Q. I wish to call your attention to the Modification of Project Agreement signed by you as State Engineer on September 24th, 1924, over two months before the meeting of the Board of Arbitration and signed by the Secretary of Agriculture on October 13th, 1924, over a month before said meeting and I show you the Revised Detail Estimate accompanying the same and ask you who made it? (Producing papers and handing to witness.) A. This Detail Estimate is made up after the pits were measured, and where it was found that the clay was placed. The other estimate was made up as to the actual conditions on the ground.

Q. Then you did make an estimate before the meeting of the Board of Arbitration? A. Yes, of course, I did.

Q. Why did you tell us then that no such estimate was

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made prior to the meeting of the Board of Arbitration? A. I don't think I understood you on that, Mr. Graham. That is very easy to explain. This estimate on Section B only covers work that was done prior to the time I came in; that is the quantities as would be found from the change of plans.

Q. But this estimate was made by your office and after you came in? A. Yes.

Q. When did you make it? A. I couldn't tell you off-hand.

Q. Could you look at the records and tell us about when you made it? A. No, I couldn't tell from the records about when it was made.

Q. Can you tell us when you turned it in to the Bureau of Public Roads? (Witness examining records.) A. It was filed on the 13th of October 24th.

Mr. Lounsbury: I think that is by the Federal Government and the 24th was by your Department. A. I think so.

Mr. Graham: Q. It was made sometime prior to that? A. Yes, but I think you ought to make this clear to the Committee, because you are asking me about Section B, which I know nothing about, and these quantities were made up two or three years ago on Section B.

Q. This estimate here? A. No, but those quantities were arrived at two or three years ago.

Q. By whom? A. I think it is confusing to the Committee, if you don't make this clear to the Committee exactly what happened there.

Q. Make it clear. A. You are trying to show on Section B that we made up that estimate during 1923 before, which isn't the fact.

Q. When did you make it up? A. I am speaking of the quantities here, arrived at before I came on the job.

Q. Then it must be a record? A. Yes, certainly.

Q. Will you show us in the record, where it is? A. You gentlemen can look through and find that, there is your original contract, it is your change of plans in the back of the book.

Q. Show us then. A. There it is right there.

Q. Go ahead and show it out, read it into the record to show there was a change. A. I think they were read in the other day it would take me half a day to read them.

Q. This is the last change that was made isn't it? A. On Section B there was no change there at all.

Q. Calling your attention to an estimate made on February 23, 1923 I will ask you to check that over with the one made by you and see if it is any different on Section B. A. The same thing.

Q. Is it the same? A. Exactly.

Mr. Halcrow: Mr. Black, isn't it a fact that prior to the time that the Arbitration findings were made up that B was not included? A. Well, not included in what?

Q. Not included in the Articles of the Arbitration? A. Oh, Section B was included in the Arbitration Agreement.

Mr. Graham: Then it is a matter of fact is it not, Mr.

Black, that there were estimates or figures of some kind made up in your office after the reports of the engineers had been submitted on the eighth day of December 1923, and prior to the twenty-fourth day of September 1924, covering both sections, A and B? A. Yes.

Q. Why did you so testify that none had been made in your office? A. Well, I think Mr. Graham, it is possibly a difference of understanding, perhaps I don't understand what you are talking about.

Q. You understood the questions that I asked you. A. I told you of the last estimates made up, but I thought you were talking about the revised estimates on Section B.

Q. And this estimate that was submitted in the fall of 1924 to the Bureau of Public Roads was made in your Department? A. Yes.

Q. And you as Chief Engineer and one of the parties to the agreement were responsible for that estimate? A. Yes, sir.

Q. And in this agreement that you yourself signed in September, you asked that the cost of the road be raised from \$89,000 to in round figures, \$119,000. A. That is correct. (684)

Q. And that is the amount which the so-called Board of Arbitration found due to Mr. Twichell, two months later not including the items of interest? A. Yes.

Q. And you saw this revised detailed estimate at the time you signed this agreement did you not? A. Yes.

Q. With the modifications? A. Well, the estimates had been made before the agreement had been signed.

Q. Well, you afterwards signed the agreement for this estimate? A. I did.

Q. And in this modification of Project Agreement you referred to a certificate of availability of county funds signed by the Chief Engineer, did you not? A. I don't recall that certificate.

Q. Will you look it over and see (handing paper to witness). A. Yes, which article are you referring to? That was the certificate of availability dated May 27th, 1921, March 19th, 1923, and September 24th, 1924.

Q. You made such certificate on September 24th, 1924? A. Yes sir, you have it right before you and—

Q. Did you make it? A. Certainly, I signed it, you can see my name on it.

Q. On what did you base that certificate that county funds were available in Richland County to pay that proposed increase? A. I don't recall at that time. (685)

Q. Have you any such information in your office? A. I don't know, I couldn't say, there may be.

Q. Will you make a note of it and produce such information? A. Yes.

Q. Is it not usual to require a certificate of the County Auditor that the county funds are available for these roads?

A. Yes, it is.

Q. Is such certificate in your office? A. I couldn't say, I don't know.

Q. Would it not be in one of these files which you have produced? A. I couldn't say as to that, not necessarily.

Q. Where would be the proper place for it? A. We have two or three files on a project.

Q. Haven't you given us all of the files in connection with 59? A. I think you have practically our whole office down here now, you have everything on 59, yes. I will be glad to look that up and report to you on that.

Q. You testified a few days ago that you had Section B of this road cross-sectioned after it was constructed, did you not? A. Yes.

Q. Did you ever personally check this recross-section to see whether the profiles showing that the extra yardage claimed by Mr. Twichell was shown? A. No.

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Q. If not, why didn't you do that before you asked the government to allow that extra yardage on Section B? A. If I did a lot of that work personally I wouldn't do anything else around the office.

Q. Do you know what this cross-section of Section B shows? A. Well, it doesn't show anything.

Q. What was the purpose of making it then? A. By the cross-section we were in hopes that we could determine something from that, but after the notes were taken we found that the facts existing as they do now do not fit the same facts as the plans were made; that was due to a faulty survey for instance, the stationing won't fit the stationing at the time the plans were made.

Q. Were you present when Mr. Roherty was on the stand yesterday? A. No, I wasn't.

Q. Did you ever take the trouble to check up the cross-section with Mr. Roherty and ascertain whether Mr. Gavin's final estimate was correct or not? A. Well, we have talked the matter over, I don't remember just what we did at this time.

Q. Mr. Roherty stated to the Committee that the extra width shown on the cross-section would run less than six inches in excess of the original 1920 plans and that using the six inches as an arbitrary figure the recross-section shows that Mr. Twichell has placed on the road 490 cubic yards per mile in excess of the plan quantities which would make 3430

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cu. yds. for the entire section, have you any reason to think that Mr. Roherty's figures are incorrect? A. No.

Mr. Graham: Are there any questions by the Committee?

Mr. Vogel: Q. You say that in case the contract exceeded 25 per cent, supplemental agreements were required? A. Well, I don't know as they're required we're doing that now, that is our practice.

Q. On Project A did the work done on Project A during your term of office exceed 25 per cent of the contract price?

A. Not during my term of office, I wouldn't say that it did, it is hard for me to tell you just where the cut-off is between 1922 and 1923.

Q. Did you ever ask Mr. Twichell to render a supplemental agreement on Project A? A. No.

Q. Why was that not done? A. For the reason that the work was practically all completed before I came into office and there only remained a small amount of clay-surfacing to be put on after I came into office.

Q. How much time did you spend in looking over project A? A. Oh, I presume at both times, two full days, I'd call it, two full days.

Q. How much time, how many times did you visit the road, after you received your engineers figures on it? A. Well, I made two trips there, and I went through there another time but not on an inspection trip.

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Q. And this estimate was made by Mr. Gavin and Mr. Thorberg? A. No, not the final estimate.

Q. Were there any other engineers who made any estimate besides Gavin and Thorberg? A. Not that I know of.

Q. They were the engineers that made the estimate outside of yourself? A. Yes.

Q. Mr. Gavin had spent some time on this road had he not, supervising the construction? A. Mr. Gavin was here during the year 1922 and during 1923 I don't think he had a great deal to do with this job.

Q. How long was Mr. Thorberg on this job? A. Two or three months.

Q. You would figure then that your two days of investigation of this road would be more correct than Mr. Gavin's and Mr. Thorberg's on that road? A. Well, I don't think Mr. Thorberg made any estimates himself, but the two days that I spent on the road I would satisfy myself as to the actual conditions.

Q. You figure that you would know more about the road than these engineers who had spent two or three months maybe six months on the job? A. I would say that I did get a more correct estimate.

Q. You never investigated Section B at all? A. No, I
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have been over it.

Q. Did you present any figures to the Board of Arbitration on the claim of Mr. Twichell? A. Yes, we submitted the revised detailed estimate of the quantities which were computed after we found what was due Mr. Twichell.

Mr. Vogel: That is all.

Mr. Graham: Any questions by the rest of the Committee?

Mr. Vogel: You say you made a recross-section of Section B? A. Yes.

Q. What was your purpose in making that? A. Well we wanted to arrive at the volume of yardage in the road, but after we had made that, it wasn't of any value to us.

Q. You presented certain figures on Project B to the Board of Arbitration? A. No.

Q. You did not? A. No.

Q. You found you couldn't arrive at any conclusion with respect to the amount of dirt put on B? A. No, there was never any question with regard to Section B, the only question on Section B was changing from crown top to a flat top.

Q. Your representative then had no information whatever with respect to Project B from your department? A. Except the original estimates on the job that were made before
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I came in.

Mr. Graham: Q. Did any of the original estimates made before you came in show the amount which was awarded by the Board of Arbitrators? A. Couldn't have.

Mr. Vogel: What was in dispute before the Board of Arbitration with respect to Project B, just the change from a crown top to a flat top? A. I think that is all.

Q. And you presented no figures to substantiate that claim? A. No.

Q. None at all? A. No.

Q. What did the Board of Arbitration, particularly your representative on that Board, have to base any conclusions on? A. Well, if there were a change from a crown top to a flat top it would be easy to figure the yardage; it just so happens that it took a cubic yard per running foot of roadway.

Q. They were forced then to take practically Mr. Twichell's word for it? A. I don't know I wouldn't say that they were.

Q. They had nothing else to go by had they? A. I don't know where the Board of Arbitration secured all their information. I think they made considerable investigation.

Mr. Graham: You were present at the meeting of the Board of Arbitration? A. Yes.

Q. Calling your attention to item 4 of Sec. B of to the (691) revised detail estimate made by you, we find that there are 31 798 cubic yards of class B Excavation. A. Yes.

Q. Now, then, calling your attention to the item of labor and materials from the period of 12-16-21 to 11-15-23, we find that the item 4 of Section B calls for 45,724 cubic yards of class B Excavation. A. That is correct.

Q. How was that change made? A. I couldn't tell you.

Q. Will you look them over and tell us, they are both made by you? A. I wouldn't bother to check that over, but if you will notice that the totals are the same.

Q. How do you account for that change? A. I don't know, I don't make these up myself.

Q. You signed it? A. Yes, I signed it.

Q. Can you check it over, or will you look it over and tell us how you account for it? A. I'm only interested in the totals, the totals are the same, the vouchers are the same as are shown in the revised detailed estimate.

Q. Can you produce somebody from your Department that can explain it to the Committee? A. Oh, yes.

Q. Who can explain it? A. I don't know, I will send somebody down tomorrow.

Mr. Lounsbury: Mr. Black, this is, I believe, the original proposal, and the contract on Section B, is it not? A. Yes. (692)

Q. And the quantities here are shown as 9052 cubic yards of Class A excavation? Yes.

Q. 26,496 cubic yards of Class B excavation, that is correct? A. Yes.

Q. And taking those two figures and adding the arbitrary amount which Mr. Roherty gives us would make 38,978, would it? A. I don't know just what his figures were, Mr. Lounsbury.

Q. Well, you're taking our word that we are giving you the correct number, 3430. A. Yes.

Q. The statement of Mr. Roherty's testimony, assuming that it is a fact, that he so testified, the total yardage on the job would be 38,978, would it not? A. I don't know, Mr. Lounsbury, that is hardly fair to ask me, when I don't really know what you are talking about.

Q. Adding the Class A excavation— A. Yes, but what is this item?

Q. This 3430, that is the figure that Mr. Roherty gave us yesterday on the stand as being the approximate additional

yardage on Section B as shown by the final cross-section. A. Well, are you certain Mr. Roherty testified to that?

Q. Yes, sir.

Mr. Lounsbury: In order that there won't be any misunderstanding between the Committee and yourself, as to that

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testimony, I would state that he made this statement that the final cross-section showed an average of less than six inches in width in excess of the original planned quantities, and he was asked to take that six inches as an arbitrary figure and figure the amount of the additional yardage to which that would entitle Mr. Twichell and he figured it as 490 cubic yards per mile, which would make a total for the seven miles of 3430 cubic yards, does that make it plain, what I'm getting at? A. I think so, but I don't see the purpose of it.

Q. Well, will you answer the question, whether that would be true? A. Well, I would have to check your items over and see whether your items are correct.

Q. Now, under the revised detailed estimates under Section B, he is allowing 8987 cubic yards of Class A excavation, is that correct? A. Yes.

Q. Which is less than the original quantities. A. Yes.

Q. And he is allowing 31,798 cubic yards of Class B excavation, which is quite a large amount in excess of the amount in the original contract. A. And to the original contract must be added the change in plans on Section B, which will become a part of the contract.

Q. Yes, I understand that, but there is quite an excess shown in the amount of the yardage. A. Oh, no, I wouldn't call that a great deal.

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Q. Well, here it is, over here on the section of labor and materials, it is given as 45,724, that is true, is it not? A. Yes.

Q. And the amount is raised from 17,806.88 in the revised detailed estimate to the sum of 25,605.44. A. As I stated a minute ago, the total is not changed.

Q. The subtotals? A. No, the total for the whole thing.

Q. You don't know how that discrepancy happens? A. No, I don't make this up.

Q. Either it is an error in the original computation or what it is? A. No, I don't.

Q. Now, taking those last figures as they are, 8987, 45274, making a total of 54,261 cubic yards of excavation, which would be 15283 cubic yards more than according to Mr. Roherty's testimony, he would be entitled to, is that correct? A. I don't know, I didn't hear Mr. Roherty testify and—

Q. And assuming that we're not lying to you about what he said— A. Well, are you trying to make me make a liar out of Mr. Roherty or myself? I want to know what you are talking about, I don't know what you want. I would think Mr. Roherty would be correct.

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Q. If it is correct, there is an unwarranted increase there, isn't there? A. I couldn't say that, I'd rather read through his testimony first and see what he said.

Mr. Graham: In making up the section of labor and materials did you include a statement of the engineering cost on this road? A. Yes.

Q. Not including the preliminary surveys? A. No.

Q. Will you tell us from this what the engineering cost was? (Handing paper to witness.) A. According to this voucher, it is about \$5,000, but that was all incurred prior, nearly all of it prior to 1923.

Q. That statement shows when it was incurred? A. Yes, you can read just as well as I can.

Q. The total of it is how much? A. I just said approximately \$5,000.

Q. Isn't it more than that? A. \$5,090.92.

Q. Then in addition to that would be the cost of the preliminary survey? A. Yes.

Q. Will you tell us what that is? A. No, it is too far back for me, I wouldn't have anything to do with it.

Q. Would such information be of record in your office? A. I presume it is.

Q. Will you find that out and let us know? A. If I can find it I will.

Q. I believe, Mr. Black, that you stated the other day that
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you would do all you possibly could of your own surveys, is that a fact? A. Yes.

Q. Did you ever have any of your engineers request that they be permitted to make the preliminary surveys, stating that they had the time and could just as well be doing that work? A. Will you ask that question again.

Q. Did you ever have any of your engineers request that they be permitted to make the preliminary surveys, stating that they had the time and could just as well be doing that work? A. You mean engineers connected with the Highway Commission?

Q. Yes. A. No, not that I know of.

Q. To be specific, did Mr. Gavin ever request that he be permitted to make up a party and do preliminary work for the Department? A. Yes, after he left the Department, he did.

Q. When was that? A. In the fall of 1924.

Q. What time did he leave the Department? A. I don't recall just exactly what time he did leave.

Q. I believe that in your former testimony that you testified that Mr. Roherty went down to Richland County in the Fall of 1923, and tried to get the plans in such shape that the work would fit the topography of the land, did you so testify? A. I think so. I am not certain what year, I wouldn't have any knowledge of that, he did go down, I know that.

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Q. You know that Mr. Roherty went down? A. Yes.

Q. What is your best recollection as to the year he went down? A. I presume it was 1921 or 1922.

Q. I wish to call your attention to the testimony of Mr. Roherty taken yesterday in which he states he "was never in Richland County in my life," and ask you whether your testimony in that one particular is correct? A. Well, he is correct. He may have been on Project 58, I wouldn't have any way of knowing, I didn't have anything to do with the work at that time.

Q. Why did you testify then, that Mr. Roherty went down to Richland County? A. Well, it was my impression that he did, he may be correct on that.

Q. In your testimony, a few days ago you stated that the purpose of the Arbitration was to determine the question of Twichell's authority for doing the work, is that so? A. Yes, it had a great deal to do with it.

Q. Will you please point out in the report of that Arbitration hearing where any authority whatever is shown for Mr. Twichell to do any work except his statement to the effect that he had oral orders for so doing? A. I couldn't recall, I don't know.

Q. And at such Arbitration Hearing, you on behalf of the State Highway Commission did not produce any of the engineers from whom Mr. Twichell claimed to have authority for doing the work? A. Yes, we had two engineers in that Department at the hearing. The arbitrators were notified to have present everybody that had anything to do with the Project, ordered to notify Richland County to be present.

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Q. But none of the engineers from whom Mr. Twichell said he had authority to do the work were summoned in by the Board of Arbitration? A. No, most of the engineers who were on the job formerly, I presume could not be reached, in fact they were nearly all out of the state.

Q. And without the evidence of these men who, Twichell said, gave the orders the Board of Arbitration decided that he had plenty of authority in spite of the fact that the final estimate of at least one of these men was in an amount very much smaller than that claimed by Twichell, and in spite of the fact that the contract provided that the work must be done

under written instructions of the engineers, and that a supplemental agreement for the same must be signed? A. What about it?

Q. I was asking you to answer the question. A. Are you repeating from the testimony given the other day? Then repeat the question.

Q. And without the evidence of these men who, Twichell said, gave the orders the Board of Arbitration decided that he had plenty of authority—

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Mr. Lounsbury: I believe that can be shown a little plainer if it is understood that that applied to Section B and that Mr. Twichell testified that the order for change came from Mr. Carroll, that is changing from a round top to a flat top.

Mr. Graham: Mr. Carroll was in the state? A. I don't know where Mr. Carroll is.

Q. Do you not know that he lives at Grand Forks? A. I don't know, I haven't seen Mr. Carroll for two or three years.

Q. Did you ever make any investigation to find out? A. No.

Q. You did not attempt to lay all of the information before the Board of Arbitration that the Department had, or to obtain—? A. Yes, I did. I asked the Board of Arbitration to have present everybody that had had anything to do with this job.

Q. Why did they not have them present, if you know? A. I couldn't answer for the Board.

Q. You were representing the Highway Commission in this Arbitration? A. Yes, sir.

Q. Was it not your duty to see that the rights of the Federal Government and the State Highway Commission were protected? A. I think they were protected.

Q. In what way were they protected? A. Well, we had three reliable good business men on the Board of Arbitration. I had no reason to mistrust those men, good, honest men.

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Q. Why did you not produce the men who had formerly worked for the Highway Department? A. I instructed our representative on the Board of Arbitration to do that, and I think he did attempt to do so.

Q. Did you ever give any written instructions to that effect? A. I think I did, I'm not certain.

Q. Can you produce such instructions? A. Well, you have all the files on the job here.

Q. Will you look through them after the meeting is over and see if you can find any such information? A. Yes, I will look it up.

Q. You also testified, did you not, that Twichell's claims were presented to the Board of Arbitration? A. Yes, I think we had everything there we could get for them.

Q. Did not Mr. Twichell testify concerning this matter? A. No.

Q. If Mr. Twichell testified that he never at any time presented a claim for any definite yardage or any definite amount, he would then be mistaken, would he? A. Well, I don't think that he ever did present any claim for any definite amount.

Q. You then fixed up the claims that were presented as being his claims? A. I have told you two or three times, you are asking me a question that I can't answer.

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Q. You testified that Mr. Twichell's claim was presented before the Board of Arbitration? A. I don't know what his claims were, had nothing to do with it.

Q. Did he present a claim? A. I couldn't say. I don't know whether he did or not.

Q. What did you testify so for then? A. I don't know—it is probable that I misunderstood the question, or else didn't have it clearly in mind.

Mr. Vogel: You were present at this Board of Arbitration? A. Yes, part of it.

Q. Just part of it? A. Yes. I was there through nearly all of it, except the time they went into executive session to arrive at their findings.

Q. Did you see any figures of Mr. Twichell's presented before that Board? A. I don't think I did.

Q. Did you or did you not? A. I don't recall seeing any figures.

Mr. Graham: Approximately five months elapsed from the time the Arbitrators were appointed until the hearing was had, did it not? A. No, no, I don't think so.

Q. How close to the time? A. I think the files will show there, that the date we selected our member, and I couldn't say when the contractor selected his member of the Board, and I can't say when these two selected the third, but I think

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after the Board was finally completed that they got into session shortly after.

Q. When was Bliss appointed? A. Well, I don't remember, not without looking up the files.

Q. Was it sometime in June or July of 1924? A. I think so.

Q. And the hearing was not had until November 10th, 1924? A. Well, Mr. Bliss did not constitute the whole Board. There were two other members of that Board. I don't know when they were selected.

Q. And during the entire time that the Arbitration Agreement was pending neither yourself, nor any member of the Highway Department made any effort to secure the presence of Mr. Gavin, Mr. Carroll, or anyone from Richland County in order that the Board of Arbitration might have all the facts?

A. Well, our member of the Board of Arbitration was notified to have all men present that had anything to do with the job.

Q. Why did he not do so then? A. I can't answer for Mr. Bliss.

Q. And when he failed to do so you did not make any effort to produce anyone? A. Well, I didn't have time.

Q. Did you ask for any adjournment so that they could be produced? A. No.

Mr. Vogel: Did you give Mr. Bliss the names of those who
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did have some knowledge of it? A. Yes, I did.

Q. What were the names you gave him? A. I gave him the names of Mr. Gavin, I remember specially, and all others who had anything to do with this.

Q. Did you ever inquire of Mr. Bliss as to why he didn't get these parties? A. No.

Mr. Graham: Did you and Mr. Poupore and Mr. Brown have a meeting of the Board in St. Paul or Minneapolis some time in the month of November or December, 1924? A. A meeting of the Board? No.

Q. What? A. No.

Q. Did you and Mr. Poupore and Mr. Brown have a meeting anywhere in which \$7500 worth of oil was ordered by you? A. No, we never ordered any oil.

Q. At any time? A. No.

Q. Did you advertise for bids when you purchased the Indian Head sign markers and standards? A. No.

Q. What was the price paid for the first amount that you bought? A. The markers, plain are 52c apiece, galvanized, about 73c as I recall it.

Q. Have you the information here with you concerning those purchases? A. Yes.

Q. Will you produce it? A. I handed it to you this morning.

Q. If you will turn to it (handing records to witness) we haven't had a chance to go through it. A. Just what was it you wanted in here?

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Q. We want the bill for them. A. Oh, I don't know as the bills are in here, this is a letter file.

Mr. Poupore: Judge, I have got those figures; you asked me to get them.

Mr. Graham: Will you get them?

Mr. Vogel: While you are getting those, I have another question or so I would like to ask on Richland County. Q. You sent Mr. Knudson down on that job as, what do you call him, Resident Engineer? A. Resident Engineer.

Q. What are his duties? A. What were his duties? Staking the work out; giving the contractor alignment, grade stakes, and seeing that the grade is built up to that elevation, the proper elevation.

Q. Do you instruct the Resident Engineer with respect to any changes in the work? A. No, as a rule the Resident Engineer submits to us any change that is about to occur.

Q. And did you instruct Mr. Knudson covering certain duties on this project? A. No, not that I recall.

Q. Clay surfacing? A. I didn't see Mr. Knudson on that job until the day he was leaving and then I met him, I think, at Milnor.

Q. Did you at any time authorize Mr. Twichell to clay surface the entire Section A? A. No, that was authorized during the term of Mr. Robinson, prior to my time.

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Q. Did you authorize Mr. Knudson with respect to any clay surfacing? A. No, I think not.

Q. Who is the contractor supposed to receive his orders from? A. Who? The Resident Engineer.

Q. The Resident Engineer? A. Yes.

Q. Mr. Knudson testified yesterday that in discussing clay surfacing with Mr. Twichell, that Mr. Twichell refused to take his suggestion, and stated that he was taking his instructions only from the Chief Engineer? A. I wouldn't say that is true, Mr. Vogel.

Q. You think that Mr. Knudson is wrong then? A. I think so, yes. I don't know of any reason why Mr. Twichell wouldn't take orders from the Resident Engineer.

Q. Well, Mr. Knudson testified that from that time on Mr. Twichell refused to take any orders from the Resident Engineer, stating that he was obeying orders only from the Chief Engineer. A. I don't know why any such statement would be made, and I don't know why Mr. Twichell wouldn't take orders from the Resident Engineer.

Q. And further Mr. Knudson testified that Mr. Twichell proceeded to do the work that Mr. Twichell thought was necessary without regard to Mr. Knudson? A. I couldn't answer that off-hand, I don't know. I wasn't there.

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Q. You can look over the testimony and find out. A. Yes.

Mr. Graham: Q. In the meantime, Mr. Black, will you look up that correspondence concerning the purchase of the metal markers? A. Oh, yes.

Q. Will you tell us how many Indian head signs you purchased and when? A. I couldn't give you the dates, but we purchased about five thousand of the markers.

Q. About five thousand signs at how much apiece? A. Some were around 52c and some were 73c.

Q. How many were 52 and how many 73? A. I couldn't answer that.

Q. Haven't you such information upon your books? A. Yes, we would have it on our books.

Q. Haven't you such information here? A. No, I brought down what you asked for, the letter file, that is all I have with me. I don't think there are any statements here.

Q. Where did the statements go? A. They would be in the office, if they are not here.

Q. Are they here? A. I don't find it in this file here. I don't think they are in this file.

Q. I asked you to produce the records showing the dates of all purchases and records. A. I thought we had everything here you requested. "Records showing all correspondents for the purchase of markers and uprights, all letters giving
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prices, dates, also purchases and records showing date" when we commenced marking the roads with Indian heads. I don't think they are here in this file.

Q. Are they here in any files which you brought? A. I see they are not in there.

Q. Can you produce such records for us? A. Yes.

Q. In a rough way how much did they amount to, in dollars and cents, if you know.

A. Well, 5,000 markers would be roughly about \$3,350, and uprights or standards, are, they are approximately 30c apiece.

Q. So that this first purchase was somewhere close to \$5,000? A. Including posts, yes.

Q. And then you purchased other signs and markers after that? A. Yes.

Q. How much did they amount to? A. I couldn't tell you off hand.

Q. Do you know how many you bought? A. No, not offhand.

Q. Can you get us that information? A. Yes.

Q. And did you advertise for bids on these articles? A. No, I don't believe that there was any necessity of advertising.

Q. Why? A. For the reason that there is only one firm in the country that makes a metal road marker.

Q. What firm is that? A. Western Display and Manufacturing Company of St. Paul, Minnesota. I wrote to one (708)

other concern that I thought might make such a sign, and they wrote back that if they had sufficient orders they might include that work in their plant, but they quoted a price of \$1.11. I believe, in fact, that this is the same firm that furnished Minnesota with road markers. They pay the same price we do, and they buy in quantities about ten times as much as we do.

Q. Anyway, you didn't advertise for bids? A. No, no necessity.

Q. You didn't advertise for bids for the steel posts, or standards? A. Couldn't do it.

Q. Why? A. We tried out every different post and we finally found that the red top post was the most satisfactory post, therefore, there wouldn't be any use in advertising for bids.

Q. Why not? A. For the reason that only one firm makes that post.

Q. You don't think they would refuse to bid? A. No, simply what would be the necessity, they are the only ones that make that post.

Q. Why would that make any difference? A. Looks to me like it would be a waste, advertising for bids on an article made by only one firm.

Q. Is there any provision in the law that you know of that gives you authority to purchase material of this kind without having advertised for bids? A. Absolutely there is.

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Q. Will you refer us to such law? A. Well, if you will look at Chapter 44 of the 1919 Special Session Laws, I believe it is Article 7, paragraph 7; also Chapter 141 of the 1919 Session Laws, you will find that we have all the authority in the world to buy the materials we see fit.

Mr. Vogel: Q. Did you not think it would be an element of protection to your department to advertise for bids? A. Shouldn't be. Why, it seems to me like that would be foolishness, having a man advertise for bids on some article that is only made by one firm.

Q. You don't think there would be any possibility of their boosting the price on that account? A. No, I don't

think so. In fact, we know we are not paying any more than other states.

Q. Why do you know it? A. I made inquiry of the Minnesota Department about those markers before I ordered them.

Mr. Graham: Q. Have you such correspondence? A. I say I did inquire down there.

Q. How many automobiles have been purchased by you during the time you have been in office? A. Oh, I don't know, I couldn't say that offhand. I presume we have purchased a dozen Fords and three Buicks, and a Dodge and a Hudson, that is roughly what there is.

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Q. Did you advertise for bids on these cars? A. No.

Q. From what places did you make purchases? A. Oh, we bought from several points, Dickinson, Mandan, Bismarck, Lidgerwood, we tried to distribute the business around as much as possible.

Q. Do you know whether or not there is a Ford Coupe in Grand Forks belonging to the Highway Department? A. That really belongs to the License Department, the License Plate.

Q. Was it purchased by the Highway Department? A. Yes.

Q. Who has the use of that car? A. I couldn't say.

Q. Did you give the use of it to somebody? No, not that I know of.

Q. Where could we get such information? A. I never heard of anybody using a Ford Coupe at Grand Forks, I don't think we have a coupe there.

Q. I thought you had. A. If it is our car it probably belongs to the License Department, I don't know.

Q. Is it a Ford coupe or a Tudor sedan? A. It is likely it is a Tudor sedan, if there is a car there I don't know whether there is one or not. Q. Did you order one for there? A. I couldn't say, Mr. Graham. We bought two cars for the Li-

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cense Department, I didn't know where that car is.

Q. Would the License Department know? A. Oh, yes.

Q. Who is in charge of that? A. John Tucker.

Q. How does your Department decide what men shall be supplied with automobiles and with what kind of automobiles? A. Well, we furnish the Resident Engineers with Fords, and the men that have to do a great deal of hard driving we furnish them with a better car.

Q. What do you mean, Resident Engineers, people residing

in Bsmarck? A. No, I mean the resident engineers on a project, the engineer immediately in charge.

Q. And who decides upon this, the members of the Highway Commission, or yourself as secretary? A. No, the engineering Department.

Q. That would mean you? A. Yes.

Q. Did you ever report to the Highway Commission in regard to these cars, the purchase of them. A. Report the purchase of them? Oh, yes.

Q. I notice that in your minutes it provides for the purchase of a seven passenger car for yourself, do you have the use of that? A. Yes.

Q. And I did not notice anything in the minutes providing for the purchase of any other cars.

A. Well, we usually confer with the Highway Commission before we buy a car, and when the voucher goes in the
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majority of the members sign that voucher on the face of the voucher.

Q. Is that done in all instances? A. Nearly all instances, I think, unless it would be a Ford or something.

Q. Then do you mean to say that the minutes of the meeting of the Board do not constitute a full, true and accurate account of what is considered by them? A. Yes, it contains everything that goes on in the meeting.

Q. Why, does it not go down then in regard to the purchase of automobiles? A. Well, very often cars are purchased between meetings, not necessary to be put in the minutes.

Q. Should it not be brought to their attention at the next meeting? A. It usually is, always is, I think.

Q. Why do you not put it down in the minutes, then? A. It isn't necessary to have it in the minutes.

Q. You don't think the minutes then should contain an account of all the proceedings of the meeting? A. Yes, they do contain an account of all the proceedings of the Board.

Q. You just told us that it wasn't necessary for them to contain the purchase of automobiles, of what was brought up at the next meeting of the Board for their approval? A. It is usually brought up to the majority of the Board as to what has been done.

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Q. And still you don't show it in the minutes? A. What do you want it in the minutes for? Surely you found it wasn't in there, that is all there is to it.

Mr. Vogel: You say the Highway Commission bought this Tudor Sedan? A. Yes.

Q. Bought it out of the Highway fund? A. Yes.

Q. The same as they bought the seven passenger Hudson for you? A. Yes.

Q. Your seven passenger Hudson is carried on the Department records, is it not? A. Yes.

Q. Belongs to the Department? A. Yes.

Q. Is this Tudor sedan carried on the Department records as belonging to the Department? A. I believe it is.

Q. No, there is no record that I can find. A. Maybe we haven't, maybe it isn't on the record.

Mr. Lounsbury: Is this the section you refer to? (Referring to Session Laws.)

Mr. Vogel: You would say, then, Mr. Black, that if you invested a thousand dollars in an automobile, it is not necessary for you to put it down in the records of the Highway Commission—minutes.

A. It doesn't need to go in the minute book of the Highway Commission.

Q. Although it must be approved by the Board? A. No, it doesn't need to be approved by the Board.

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Q. In other words, you have the full authority in that matter? A. Well, I never used the full authority. I have always consulted the Highway Commission as to the purchase.

Q. After or before you bought the car? A. Usually before.

Q. This Tudor sedan was bought from the Ford Automobile Company at Grand Forks? A. I think so.

Q. It does not show on the records of the Highway Commission as belonging to the Department at all? A. Well, I couldn't say as to the equipment records, I wouldn't remember that. In fact, that belongs to the special agents in the License Plate Department.

Q. They are a branch of the Highway Commission, are they not? A. Yes.

Q. Should not this automobile be listed as a part of the assets of the Highway Commission? A. It is probably listed by Mr. Tucker as part of his Department.

Q. You don't remember this car, now? A. No.

Q. You bought the car, however? A. Yes, it belongs to the License Plate Department, turned over to them for their use.

Q. The same as cars are turned over to the Resident Engineers? A. Yes.

Q. And still you keep a record of all cars belonging to the engineers, do you not? A. I wouldn't say that there
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was, I think there is records as to that. If they look through the records for it they'll find it.

Q. You don't know whether that record appears with the record of the other automobiles or not? A. I think it likely does, it should.

Q. You evidently signed that? (Handing paper to witness). A. I think I did.

Q. Does not the Motor Vehicle Department have a specific appropriation? A. Yes.

Q. They buy their own tags? A. Well, there is \$150,000 set aside each year from the Motor Vehicle funds.

Q. They have a specific appropriation by legislative enactment, have they not? A. Yes, they have. It is not specific, it is \$150,000, allotted to the Highway Commission.

Q. The legislature passed a specific appropriation? A. Yes.

Q. That is to include all operations of the Motor Vehicle Department, is it not? A. It is.

Q. Why should not they buy their own automobiles out of their own appropriations? A. It does not make any difference, it all comes out of the same fund.

Q. That is true enough, but they have an appropriation
(716)
given them, a definite specific fund? A. I couldn't say that, I don't know.

Q. They do. A. I don't believe it would be necessary for that Department to put in a budget, although they do do it, I think. It is not absolutely necessary under the law that they do it.

Q. What is that? A. The Highway Commission don't, we don't put one in.

Q. No. I hope some day that you will.

Mr. Lounsbury. Mr. Black, as I understand it, no orders were issued by you or anyone in your department to request this clay surfacing on Section A of 59 in 1923? A. Pardon me, Mr. Lounsbury, but I don't want to leave this marker proposition the way it is, you get about half way through with a matter and then jump to something else.

Mr. Lounsbury: It can be read into the records, you said it didn't make any difference.

Mr. Black: Well, you better do it.

Mr. Lounsbury: I will be very glad to, that is why I asked you if you wanted it done.

Mr. Vogel: Will you look this over, Mr. Black, and find that Tudor sedan on that line (handing blue print to witness).

Mr. Lounsbury: Quoting from Chapter 44 of the Special Session Laws for 1919 and from paragraph 4 on page 81: "The remaining fifty per cent shall remain in the State
(717)

Highway Fund, to be expended by the Commission in the various counties of the state in the improvement, maintenance and construction of state highways. Ten per cent of this portion of the fund shall be expended at the discretion of the Commission for the purposes specified above without regard to the amount of motor vehicle fees collected, and ninety per cent shall be spent by the Commission for the purposes as specified above in the several counties in proportion to the amounts collected therein." That is the paragraph you wished read out of that?

Mr. Black: Yes, that is correct.

Mr. Lounsbury: Quoting from Chapter 141 of the Session Laws of 1919, from Section 5 thereof, on page 191, which reads as follows: "Any portion of the State Highway Fund that may be expended at the discretion of the Highway Commission for the construction of State Highways, may be expended in such construction without supplementary county funds and with or without Federal aid as the State Highway Commission shall decide or may be expended in the purchase of machinery, tools, supplies, materials, the hire of teams or labor, or the rental of machinery, in the construction, improvement or maintenance of State Highways." That is the one that you referred to?

Mr. Black: Yes.

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Mr. Lounsbury: That is all of that law that you wish read into the record? A. That is all.

Mr. Vogel: Did you find a record of this car? A. That list you have there is just cars that have tax exempt tags.

Q. Doesn't this car bear a tax exempt license? A. The nature of its business warrants that a special number be used. I understand from Mr. McKinnon just now that that car is in storage here in Bismarck.

Q. When did it get in here? A. I don't know; it is either stored here in Bismarck or up to Grand Forks.

Q. Is this sheet here the North Dakota State Highway Equipment Department list? A. Yes.

Q. Should not that car appear on the list. A I didn't make that up.

Q. Your personal opinion would be that it should appear among the cars of the Equipment Department? A. Oh, yes, or the Motor Vehicle Registration or License Plate.

Q. Could you find out for me is they had a record of it?
A. Yes.

Mr. Lounsbury: Now, referring back to 59, Section A, I believe you testified that you gave him no orders for any additional clay surfacing in 1923? A. No, I didn't give any of the orders personally.

(719)

Q. And no orders were given at your direction? A. No.

Mr. Graham: Just a minute. Could we have quiet in the room here?

Mr. Yeater: Yes, let's have the room quiet, so we can hear, it's almost impossible for the stenographer to hear the questions.

Mr. Lounsbury: I believe you also testified that according to your understanding there was just a small amount of clay surfacing to be done in 1923? A. Yes, as far as I know, nothing more to be done.

Q. And your position is, as I understand it, Mr. Black, that it was being done under previous orders, orders given under the previous administration? A. Yes, that is my understanding.

Q. You don't know now, what amount of clay surfacing was placed on that Section during 1923? A. No, it is hard to tell.

Q. Would you consider the 9126 cubic yards of clay surfacing a small amount? A. No, I wouldn't call that a small amount.

Q. You would call that a rather large amount for that section? A. I wouldn't call it a large amount either.

Q. The 58c a cubic yard would run into quite a little money would it not? A. Yes.

Q. And if it involved— A. What is this 9100 cubic yards, you are talking about, Mr. Lounsbury?
(720)

Q. The 9126 cubic yards of clay surfacing excavation to which I refer is what Mr. Roherty says the overhaul diagram shows as being placed in 1923. A. Yes, but there is no way of telling how much was really placed in 1923.

Q. Yes, I realize that, but according to the diagram that shows an overhaul according to the figures amounting to 234,340 cubic yard stations. That would be running into quite a little money, would it not? A. Yes.

Q. You wouldn't call these two items of clay surfacing excavation and overhaul resulting from that a small expenditure of money? A. No.

Q. And if that amount was actually placed on the road in 1923, and that amount of overhaul, then it was done without

orders from you? A. I didn't give any orders, practically it was so near finished when I came in that I didn't have a great deal to do with it.

Q. Well, I don't believe that just answers the question. I say, if that amount of clay surfacing was placed and that amount of overhaul was done in 1923, it was done without your orders? A. Yes, I have stated several times here, Mr. Lounsbury, that I had nothing to do with—

Q. Yes, but I want to make it plain. A. Yes.

(721)

Q. And if the Resident Engineer testified that it was done without his orders, and in fact, contrary to his orders, should Mr. Twichell have been paid for that work? A. Well, I hardly think that is a fair question to ask anybody. If he did it without any orders from anybody, of course anybody would know that it shouldn't have been paid for.

Q. Yes, but he was paid for it, was he not? A. Yes, will be, likely.

Q. He's been paid all except, in round figures, \$8,000? A. Yes.

Q. Now, referring to Section B, I want to ask you if you ever made any check with Mr. Roherty of the recross-sections of that work? A. No, we've it over, the recross-sections, but there isn't anything to be gained from doing recross-section of that road, for the reason that where you take the stationing now, won't fit the stationing that is shown on the plans.

Q. That is due, as I understand it, to the fact that the survey was made when there was ice and snow, and for that reason— A. That is my understanding of it.

Q. You don't know what variation that would produce in the plans? A. No, you couldn't tell, nobody could tell that.

Q. In your opinion, would the variation be any greater on one section of that road than on the other? A. I couldn't

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say.

Q. I mean if the conditions as respects snow and ice were the same. A. You mean the variations should be the same on both parts of the project?

Q. Yes. A. That would be hard to say, you couldn't tell.

Q. In that connection, Mr. Twichell testified that the plans on Section B fit perfectly, but that the plans on Section A were not prepared for a sand road. Now, if the plans fit on Section B, with that survey made with ice and snow, is there any reason that you know of, why they shouldn't fit on Section A? A. I never did understand that. I have always understood that the survey on both sections was faulty. Of course, I have no way of knowing that personally, I have had nothing to do with it.

Q. All we know is what Mr. Twichell testified to yesterday, and Mr. Lucke testified there would be no reason for any greater variation in one section than on the other; that there would be a variation in both of them.

Q. You don't know whether that would be true or not?
A. I wouldn't say, I would think that the same variation would apply to both projects.

Q. Of course, it is really all one project, is it not, except it is divided into two sections? A. Yes.

Q. Was Mr. Roherty called as a witness before the Board
(723)
of Arbitration? A. I think not, no, I'm pretty sure he wasn't.

Q. He had in his possession, or rather there was in the possession of the Highway Department, the recross-section of that work and the checking of the profile, is that true?
A. Yes, that is what I was saying a minute ago, a recross-section of that road doesn't mean anything.

Q. Such as it was, it was there? A. Yes, of no benefit to anybody at all.

Q. That is your opinion, Mr. Black? A. Yes, it is of no benefit.

Q. Mr. Lucke testified that there would be no variation on the crown of the road because there was no ice there, and I believe there is no contention on the part of anyone that there was any variation there, is that true? A. Are you speaking prior to the construction or after?

Q. Yes, both. A. I don't know anything about it, Mr. Lounsbury, you know as much about Section B as I do.

Q. You never checked the thing over to see for yourself?
A. No.

Q. We asked you in regard to an arbitrary figure that was used by Mr. Roherty in computing extra yardage on that project, and you said that you would like to review his testimony on that, in that connection it is very short and I'll read it to

(724)

you. "Q. You testified that according to the final cross-section of this work on Section B, R. A. P. 59, that there isn't an increase in the plan widths of to exceed six inches—I believe you testified that it wasn't quite that amount?
A. I don't think it would exceed that. Q. That is the six inches, as an arbitrary figure, how much additional yardage would that figure per mile, I believe you figured that up?
A. A ditch from the shoulder down according to the contemplated plan was two and a half feet deep and six inches additional over that figures out about 490 cubic yards per mile. Q. And if this Project was seven miles long how much additional yardage would that make? A. 3430 cubic yards. Q. For the entire section? A. For seven miles." That was the testimony given by Mr. Roherty in that connection. Have you any reason to believe that that is not cor-

rect, Mr. Black? A. Well, I think—to get that you are assuming a theoretical increase now, aren't you?

Q. We are assuming the six inches as a theoretical increase in width, on the testimony of Mr. Roherty that it wouldn't exceed that, giving Mr. Twichell the benefit of the largest check. A. Theoretically it is correct, but practically it wouldn't fit the conditions on the ground.

Q. And as I understand it the Board of Arbitration on your testimony allowed M.r Twichell a large amount of yardage on this project on a purely theoretical measurement? A. Very small.

Q. Yes, so the same objection would apply to your testimony before the Board of Arbitration that would apply to Mr. Roherty's testimony now? A. Yes.

Q. And you have no reason for thinking that Mr. Roherty's testimony in this connection is wrong? A. Oh, no.

Q. And you have never checked over the crown widths that is the old profile and the new to see what in your judgment is the variation? A. No, as I said we recross-sectioned the road, but it is of no benefit, since Station 100 would come on the ground—now, to try to fit that old 100 on the old plans, it does not fit, there must have been an error in stationing to begin with.

Q. Was that corrected by the revised plans? A. Not the stationing, I don't think was, the fact of the matter is, I don't know just how it was caused.

Q. If Mr. Roherty is correct and his assumptions are right, Mr. Twichell would have been over paid getting an amount more than he should have, would he not? A. You are assuming a theoretical figure, now.

Q. Yes. A. If that is correct, of course, he is paid, but that isn't correct, that is just a theoretical assumption.

Q. Well, wasn't yours a theoretical assumption? A. (725)
Well, I hadn't anything to do with the construction of that road at all.

Q. I understand that, but you testified before the Board of Arbitration as to a theoretical figure? A. Certainly.

Q. And upon that figure they allowed Mr. Twichell this yardage? A. Well, that wouldn't be entirely theoretical, that would be practical, that is what it actually is, if it is changed from a crown top to a flat top, that would be the correct yardage then.

Q. And Mr. Roherty would be mistaken? A. No, Mr. Roherty's talking about something else.

Q. We are trying to get at it. I think you know that we are trying to get at— A. Yes, I think I know what you are trying to get at.

Q. —is what the actual yardage was in that. You have had the road recross sectioned at your orders, and Mr. Roherty has checked it over with the original profile and has testified before the Committee that the excess width would not exceed six inches anywhere, and based on that he has told us that the yardage would be 3430 cubic yards for the seven miles. Now, have you any reason to think that that isn't correct?

A. No, I wouldn't dispute that, I haven't read the entire amount of his testimony. I would rather review it and see just what he has in mind.

Q. That is all on that particular phase of it. A. Is
(727)
this it back here?

Q. Yes, sir. A. May I look at it?

Q. Surely. Have you anything in your records to show the amount of clay surfacing that was paid for by Richland County? A. I think we have a statement from the County Auditor as to the total—as to what they paid the owners of the pits for the clay.

Q. Is that the statement to which you refer? A. I couldn' say for sure.

Q. That appears to be made out on County—Richland County stationery? A. No, that isn't the final because I believe the O'Meara pit had eight thousand yards.

Q. Do you know whether there is another statement from the County? A. I think there is, I wouldn't say for sure.

Q. Will you try to find it? A. Yes.

Q. This is the statement that I have shown you, which shows 14,030 cubic yards? A. Yes.

Q. And adding two thousand more for the O'Meara pit would make a total of 16,000 cubic yards, would it not? A. Yes, it would, but I think that is true also of the balance of the pits, I am sure that is not the final measurements of the pits.

Q. I call your attention to the letter which is attached to that bearing date May 30th, 1924, that was long after the surfacing was completed, was it not? A. Yes.

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Q. At least six months after the surfacing was completed? A. Yes.

Q. And a statement if obtained then should have been correct? A. I couldn't say, I don't know anything about it, the County bought the pits, we had nothing to do with the pits.

Q. Yes, but you asked to have a statement submitted to you? A. Yes, but I don't think that is a correct statement of the facts.

Q. Will you look and see if you can find one before tomorrow morning? A. Yes, I will.

Q. I believe the amount allowed by your revised detailed estimate and by the Board of Arbitration was 20,682, is that right? A. I don't remember. It is pretty hard for me to tell you off hand from this estimate just what those items can be, whether they are from pits or from the ordinary excavation.

Q. Well, doesn't it say whether there was some clay surfacing put on that wasn't taken from the pits? A. Yes, but I say there are two earth items, and at that time they received a price on turn pike work and end hauling quantities.

Q. Isn't there an item here, Mr. Black, under 4-A of 20,682 cubic yards of earth excavation for clay surfacing? A. Yes.

Q. That is the item to which I refer? A. Yes.
(729)

Q. And over here under material furnished by County you also give the same yardage, 20,682 of clay surfacing material in pits? A. Yes, that must be correct then.

Q. And according to the statement that I showed you if it is correct, there was about fifty per cent more allowed Mr. Twichell than the County paid for? A. I think, Mr. Lounsbury, I believe you are attempting to get your stuff before the public to make it look bad. Now you are believing that statement, an unsigned blank statement, you don't know whether it is correct, so you don't know anything about it.

Q. I'm just asking you a question in regard to that. A. What is the question?

Q. And according to this statement if it is correct there would be an increase of somewhere near fifty per cent allowed Mr. Twichell over and above the amount paid by the County? A. According to that statement, I think that is an unfair statement, and it appears to me like you are building up such testimony for public consumption.

Mr. Lounsbury: Well, I understand why you make that statement before the newspaper men. A. Absolutely.

Q. But Mr. Myhra testified here, I'll tell you now why I asked you that question, so there won't be any misunderstanding, Mr. Myhra, the Deputy County Auditor, testified

(730)

before this Committee, that this was correct, and that this was the amount paid by Richland County for the clay surfacing in the pits. A. I think Mr. Myhra is incorrect in that statement because I'm certain it is more than that.

Q. Well, I say if you can produce another statement I will be glad to have you do that. A. Yes, I will do that.

Q. I don't want you to think I'm unfair to you, that is

why I made that statement. A. Yes, and the time to talk about this is when you have the correct statement before you.

Q. Wouldn't the statement be in the files of the road?
A. Yes.

Q. And you have testified, have you not, that all of the files are here? A. I think they are, as far as I know, that may be, I'm pretty certain they are all here, as far as I know, they are.

Mr. Vogel: Couldn't you find that in these files then?
A. If they are here, I presume so, if I had time.

Q. Referring to the voucher that appears in the file of this, I believe it is called the Gray File, we call your attention to the statement on the last page which reads as follows: "Liquidated damages for failure to complete work within the specified time were waived on all contracts." Was that a fact, Mr. Black? A. Yes.

Q. Who waived them? A. I think legally we can't collect them, the liquidated damages. (731)

Q. That really wasn't my question, who did waive them?
A. The Highway Commission, I did personally.

Q. There was no resolution of the Highway Commission?
A. No, we never do collect liquidated damages for any contract.

Q. What was that provision incorporated in your specifications for? A. As a matter of fact, that is in nearly all specifications, but I don't think it can be enforced.

Q. That is your opinion as an engineer on the legal question, is it? A. Yes.

Q. And probably would be as valuable as my opinion on an engineering question? A. Possibly is, yes.

Q. That provision is put in the contract, is it not for the protection of the contracting parties? A. Yes.

Q. And one of those contracting parties was Richland County? A. Yes.

Q. And did anyone from Richland ever authorize you to waive those liquidating damages? A. No.

Mr. Halcrow: Was there any clay taken out anywhere except out of the pits by the road, isn't it a fact that there was considerable clay taken from alongside the road within the sixty-six foot limit? A. Yes, there were pits adjacent to the road bed.

Q. I mean alongside the road borrow. A. I can't recall, (732)

Mr. Halcrow.

Q. There was more clay taken out though than would naturally show from the measurement of the pits, clay taken from along the road? A. Yes, considerable.

Mr. Vogel: Well, when you went on that job, those two days did you figure up the amount of clay that was taken from along the road? A. No, I had a party of engineers, surveying, check that up.

Q. How much did that yardage amount to? A. That was shown in the estimate, the volume of the pits was shown correctly on that blue print.

Q. Yes, but I mean did you estimate this amount separately from your pit estimates, or did you call those pits also? A. Well, there is some that are called pits, I think, along adjacent to the road, they are long narrow pits coming within the right of way, I think some of them.

Mr. Halcrow: Q. Do you think that the estimates on the cross-sections of the road as Mr. Lounsbury has been questioning you about, could be accurate in any way when Richland County put in some maintenance on that job, isn't it possible they could have drawn the dirt off the road into the ditches or out of the center, a good deal of it has resulted in maintenance if there was a flat top then in maintenance you would soon get a crown out of the road, there is a

(733)

tendency to draw the shoulders into the middle of the road.

Mr. Lounsbury: Q. It isn't in dragging the road that they shove the dirt into the ditches? A. Not necessarily.

Q. Isn't it a question of dragging it into the crown? A. All depends upon the patrol-man.

Q. Ordinarily? A. Ordinarily.

Q. Mr. Roherty testified in response to the same question that the contour of the road might be changed by maintenance but that the yardage would not be affected any, is that a correct statement? A. More nearly so.

Mr. Vogel: Q. You stated that legally you can't collect—you can't hold a contractor on the liquidated damages, whom did you get any opinion on that from, any legal opinion? A. Well, I have known that for a good many years, you can't collect a penalty without paying the contractor a premium before the completion, prior to the date set in the contract.

Q. What can be the purpose of putting that in the contract? A. Oh, I don't think it really has a great deal of purpose.

Q. But you never inquired from the Attorney-General or anyone connected with the legal department of the state whether or not you could hold them on that? A. No, I have not.

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Q. You waived all that without any legal advice on it? A. We do on all jobs.

Mr. Lounsbury: Q. Your statement, Mr. Black, you re-

ferred to penalties, isn't it true that this clause specifically states that it is liquidated damages and not penalties and isn't the reason for the change in these modern contracts from the word penalty to liquidated damages occasioned by the fact that the Supreme Courts have held as you have indicated, that liquidated damages can be collected, or do you know anything about it?

A. I wouldn't say, I don't know, the reason we don't enforce it is that we have every year so many miles of road held over that if we enforced that on the contractors it would work a hardship on most of them.

Q. You don't ordinarily have a road dragged out to the length of time that this one was, do you? A. No.

Mr. Vogel: Q. Do you know how many cars were bought by the Highway Commission? A. I don't offhand for sure.

Q. The twenty-three cars were bought during your term of office? A. Yes.

Q. Isn't it a fact that out of the twenty-four Ford cars now owned by the Department that you have bought seventeen of them? A. I don't know offhand how many we have bought.

(735)

Q. You could tell that from this? A. No, I don't think I could.

Q. You purchased just a Studebaker enclosed car for A. D. McKinnon? A. Yes.

Q. You purchased a Studebaker for J. A. Wallace? A. Yes.

Q. You purchased a Hudson touring car for yourself? A. Yes.

Q. You purchased an Overland Sedan for the Motor Vehicle Department? A. Yes.

Q. You purchased a new one-ton truck? A. No. We traded in some parts for that.

Q. You purchased a Buick six, enclosed car for J. E. O'Neil? A. Yes.

Q. You purchased a Buick six enclosed car for C. A. Myrhe? A. Yes.

Q. These large cars were all purchased during your term of office? A. That is correct.

Q. This Overland that was purchased for the Motor Vehicle Department is one of the two cars you have reference to as belonging to the Motor Vehicle Department? A. I might explain it—the necessity of purchasing cars that at the time I came in here about all they had on hand were 1916

(736)

and 1917 model Dodges and Fords; and the minute we started in they began to drop out one by one every day. The fact of the matter is we inherited just a bunch of junk.

Q. There is a 1924 sedan, Highway Commission No. 25 used by the Vehicle License Departemnt at Grand Forks, do you know whether that is the car we had reference to this morning? A. I presume it must be.

Q. Will you find that out? A. Yes.

Q. Will you look that up please? That is all.

Mr. Graham: Q. In arranging for the concrete paving on the Mandan side did you have any correspondence with the Attorney-General as to whether or not some funds then unused in the bridge fund could be used for the purpose of helping pay for the pavement on the Mandan side? A. Yes that opinion was written by Mr. Reimsted a couple, possibly two years or so ago.

Q. After you came into the office did you have a letter from any one in the Attorney-General's office concerning this same matter? A. No, I think not.

Q. Did you write a letter to the Assistant Attorney-General concerning this? A. Yes, I wrote a letter to Mr. Schaffer.

Q. And you had in your office an opinion of the Assistant Attorney-General that these funds could not be legally

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taken out of the bridge fund for the paving on the Mandan side without an appropriation? A. I don't think it stated that explicitly the Attorney-General's office gave it as their opinion.

Q. Have you their opinion? A. Yes.

Q. Will you produce them? A. I think I gave you that the other day, Mr. Graham, didn't I?

Q. I think not, you only produced one. A. I will look it up.

Q. Did you investigate that before you turned in the Certificate of the Availability of Funds to pay for the concrete paving? A. Yes, we did very thoroughly.

Q. And all of the opinions which you had from the Attorney-General's office were to the effect that you could not use funds from the bridge fund without an appropriation? A. No, it wasn't, I wouldn't say that was true.

Q. Will you please bring up such opinions then? A. The Highway Commission held a conference with Mr. Schaeffer and he admitted it was his opinion. The citizens of Mandan hired an attorney to investigate that matter and so in conference with Mr. Schaeffer, I believe it was practically decided that we could use that fund and there isn't anything

(738)

in the law that forbids it. And the law is very plain; there isn't anything in the law forbidding us from using that fund.

Q. Did the Attorney-General give you an opinion to that effect? A. No.

Q. And you act upon matters involving thirty odd thousand dollars without an written opinion from the Attorney-General? A. Oh, no.

Q. Then upon what did you act? A. Well, the present Highway Commission is tied down and obligated by the Old Highway Commission; they entered into a contract with Morton County and the United States government that they would hard surface that road within three years from a certain date and we were simply carrying out the obligations passed on to us.

Q. Was this matter finally brought up before Judge Jansonius by the Northern Construction Company on whether these funds could have been used or not? A. That was after the project was completed.

Q. Yes. A. Yes.

Q. And Judge Jansonius held that the funds could not be used without an appropriation? A. That was after the completion of the work.

Q. Did he so hold? A. Yes.

Q. Did Judge Jansonius hold that your position was not warranted? A. No, I wouldn't say he did, he admitted it was a very close question, it was just a turn of the hand

(739)

one way or the other, really; he just decided where he wouldn't have to back up any.

Q. Judge Jansonius held that the Northern Construction Company was not entitled to a warrant from this fund? A. Yes.

Q. And since that time a bill has been introduced in the Legislature to cover that amount? A. Yes.

Q. Will you bring up those opinions of the Attorney-General and will you also bring with you tomorrow morning the different computations on the overhaul which was made by Mr. Roherty to see that it corresponds with these figures on F. A. P. 59 Richland County? A. Yes.

Mr. Vogel: One question; what kind of cars did these engineers under the old administration travel in? A. All kinds; Dodges, Hudsons, Fords, Whites, I don't know, I don't remember all they did have, but I know they had those makes.

Q. Those cars when you came in were all in such shape you could not use them? A. Just a batch of junk:

Q. Just junk. So you had to buy all new cars? A. Practically.

Q. Buicks, Hudsons, and so on.

Mr. Halcrow: Before we adjourn, Mr. Chairman, I would like to call Mr. Lucke to the stand.

Mr. Yeater: All right. Are you through with Mr. Black?
(740)

Mr. Graham: Yes, for the day.

C. H. Lucke, recalled.

Mr. Halcrow: Q. You do contract surveying, do you, Mr. Lucke? A. Yes, sir.

Q. About what does it cost per mile to do that? A. Well you mean—I don't know just what you mean.

Q. The completed surveying? A. The completed survey as we have to have it before we turn it in runs up around \$50 to \$60 a mile.

Q. And I think you said yesterday that your actual field work of your men cost you \$35 to \$40? A. I think Mr. Lounsbury stated that it was just the field expense, that is what I intended. And added to that the cross sections after the field work is done, then there are the cross sections and the profile to make out.

Q. How much did you estimate that would cost, platting and cross section? A. That would probably cost \$10 to \$15. And then, of course, you understand that that would not include any office rent?

Q. Then what would be the actual cost after the extra work that you would do, with that? A. That is what I am just telling you.

(741)

Q. What would the office rent amount to? A. It is pretty hard to say, it is distributed over all of our work, you see.

Q. You wouldn't like to say how much per mile that would amount to? A. Because our work—only a small part of our work is Highway work, we have municipal work, and other work, the highway work is really the small part of our work.

Mr. Halcrow: I think that is all.

Mr. Lounsbury: I asked you, did I not, Mr. Lucke, what the reasonable charge for contract surveying was for preliminary surveys? A. Well, I think I asked you if you meant just the field work?

Q. I believe not, you asked what that included. A. Possibly; what I was getting at, was just what you wanted, there is a lot of misunderstanding as to what goes into cost, you see.

Q. You wish, now, to have the Committee understand that

the cost of the preliminary survey would be about \$40 and then the platting, field notes would be \$10 to \$15 and then your office rent in addition to that? A. Added on to that.

Q. It would then cost you about somewhere between \$55 and \$60 a mile to do the work? A. To do the work.

Q. In counting your office rent, it would be whatever the proportionate would be? A. Yes.

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Q. And you don't want to make any profit on the job, that is it, is it? A. Of course, that would include what profit we make.

Q. Well, you were asked about the cost. A. I don't—

Q. You are giving us the cost to you? And this is philanthropy on your part, if this is the cost to you, if it costs you as much as you receive, is that right?

Mr. Vogel: I think that this part figures out—

Mr. Lucke: I am figuring the profit because our profit only hangs on labor.

Mr. Vogel: His profit is figured instead of daily wages.

Mr. Graham: How much profit do you make on a preliminary survey at \$60 per mile? A. Some of them we don't make anything.

Q. How much do you? A. Some of them we do, I can't say, that is a variable quantity.

Q. What is the largest profit you have made? A. I couldn't say that, what it is that I have ever made.

Q. Have you had any loss on the survey at \$60 per mile? A. I wouldn't want to tell you, I wouldn't want to give you a statement to that, it would all depend on how we could do the work and under what conditions we would have to do it.

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Mr. Lounsbury: And you figure that the cost to the state without being obliged to charge up office rent and office overhead, as would be included in your figure, would be—
A. Well, you see the discrepancy comes in the fact that I didn't include any cross sections or profile in that \$40. I understood you to want the actual field cost.

Q. The profiles and cross sections are a part of the survey? A. It is a part of our part of it.

Q. Would it be counted as a part of the preliminary survey? A. Well, I don't know whether it would or not, I can't say, that is what we have to do for what we get paid for.

Q. I think we can shorten this up by asking you this question, would it cost the state as much to do the work as it would you? A. Well, I don't see why.

Q. It shouldn't without any office work to be charged

up, without working for any profit, would it cost them just as much as it would cost you, is that a fact? A. I don't care to express an opinion, I wouldn't have anything to base it on.

Q. Well, you testified yesterday that it would cost the state about \$35 to \$40 and that it would be worth to a private party up to \$60? A. No, now, just a minute, you asked me what we got for that work, what the private engineer got, and I told you; you asked what the field notes
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would be—

Q. I beg your pardon, I didn't ask you that question. A. That is what I understood you to want, and that is what I stated, the preliminary survey, the actual field work, I would say would cost from \$30 to \$40.

Mr. Halcrow: Q. Not including the cross section nor the platting? A. That is ordinary time in the office, you see.

Mr. Lounsbury: But what I'm getting at, it seems to me simple, Mr. Lucke, would it cost the state as much as to do that work where they don't have to include the item of office rent and profit, as it would cost you when those items go into your cost? A. There would be that difference.

Mr. Black: It is pretty hard for him to answer—

Mr. Graham: Let him answer.

Mr. Lounsbury: He is on the stand now, Mr. Black.

A. The office rent, as far as connected with the work does not amount to very much, it is distributed over a lot of other work.

Mr. Lounsbury: That is all.

Meeting adjourned.

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HOUSE INVESTIGATION COMMITTEE

February 25th, 1925

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The Committee met at 9 o'clock A. M. pursuant to adjournment, all members present; Mr. Yeater presiding.

Mr. Graham: I might make a statement: Miss Alfson gave me to understand that she wouldn't be able to take down any more of the shorthand for us so that came up unexpectedly and I was able to persuade Mr. Tillotson to help out for a day or two, providing it were agreeable to the Committee.

W. G. Black was recalled for further examination, and testified as follows:

Examination by Mr. Graham:

Q. Mr. Black, were you ever down over Project 58 in Sargent County? A. No.

Q. Never visited that at all? A. No.

Q. And do you know how long that Project 58 is approximately? A. No, I couldn't say for sure—approximately probably around twelve miles.

Q. That is for Section A and B? A. Yes.

Q. Do you know whether or not there was a Section C that was completed before you went into office? A. Yes, there was.

Q. Now Sections A and B were completed after you went into office? A. No, before I came in. The only work that

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was done on that project after I came into office would be called maintenance.

Q. And by whom was that work done, if you know? A. Sections A and B?

Q. Yes. A. Mr. Twichell.

Q. He had the contract for building all three of the sections? A. Yes.

Q. Did you make the final settlement with him for Sections A and B? A. Yes.

Q. Now, do you know who turned in the certificates of the completion of the work of Sections A and B? A. No, I don't, unless it shows in the gray file.

Q. For the purpose of refreshing your memory, was it Mr. Thorberg and Mr. Gavin? A. I couldn't say for sure.

Q. Calling your attention to the certificate of completion under date of December the 6th, 1923, of Section B, 58, I will ask you by whom that report or certificate is signed. A. It is signed by John G. Gavin, Division Engineer, and C. A. Thorberg.

Q. Then calling your attention to the certificate of final completion of Federal Aid Project, Section 58, A, Sargent County, under date of December the 6th, 1923, I will ask you by whom that report is signed. A. It is signed by John G. Gavin, Division Engineer, and C. A. Thorberg, Resident Engineer.

Q. They were engineers in your employ at that time—these were men in your employ at that time? A. Yes.

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Q. And were the men who had this work in charge? A. Yes.

Q. Now, after their reports had been submitted did Mr. Twichell make claims for additional work which he said wasn't contained in the reports of the engineers? A. I don't recall whether he did or not.

Q. Well, did he make any claims for additional money? A. I don't remember whether he did or not.

Q. Would you say that he did or did not? A. I would say that I don't know.

Q. Is it not a fact that you entered into a contract with Mr. Twichell to pay him \$8143.85 over and above the amounts that had been returned by the engineers upon Sections A and B? A. I don't remember.

Q. Well, would you say that you did or did not? A. I would say that I don't know now.

Q. Is there any way in which you could refresh your memory? A. Possibly.

Exhibit T-1 marked for identification.

Q. I will show you Exhibit T-1 and ask you if that is a copy of an agreement which you entered into with Mr. Twichell. A. It looks like it is. I myself personally didn't make up the instrument.

Q. But you did sign the original of T-1? A. I don't remember whether I ever signed anything like that or not.

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Q. Well, your name appears on it. A. With a typewriter, yes.

Q. You know that you had some correspondence with Mr. Twichell about his claims, do you not? A. I don't remember much about 58. I didn't have a good deal to do with that.

Q. But you ordered the money paid to him? A. I made out a certificate.

Q. And passed upon this T-1? A. I couldn't say without looking at the records there .

Mr. Graham: I offer in evidence T-1.

Q. Now, in this settlement with Mr. Twichell did you allow him \$2059.32 to cover extra work done in 1923? A. I don't know. Will you hand me that gray file on 58, Mr. Vogel? (After inspecting a record) I don't believe I can tell without a complete estimate, Mr. Graham.

Q. Is that the sheet there? A. I guess that is it. It is pretty hard for me to check this up off hand; it has been so long since I had anything to do with it. I don't know as I could check this up off hand.

Q. This Exhibit T-1 so indicates, does it not? A. Indicates what?

Q. That you paid him \$8143.85 more than the reports of your engineers called for. A. I don't know as it does from the report of the engineers.

Q. Well, in your books here. A. No, I don't think it does.

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Q. What does it indicate? A. This record of the engineer calls for \$44,003.00.

Q. Are the same items covered in that? Are the same items covered in the final estimate as made up by you as are shown in the report submitted by Mr. Gavin and Mr. Thorberg? A. I presume they are—they must be.

Q. Well, can you tell? A. Yes, it couldn't be anything else.

Q. Well, now, taking Section B as reported by you and as reported by the engineers, let's check through them and

see if the same items are covered. The first item under your certificate of work done is item No. 2, for \$35.00, is it not? A. Correct.

Q. And the first item under the record returned by the engineer is \$35.00? A. Correct.

Q. I will make an "O" here so as to check it. The next item 4 in your certificate is \$18,902.54? A. Yes.

Q. Whereas the item returned by the engineer is \$19,370.00? A. Yes.

Q. Perhaps I can get at this in another way and see if we can shorten that part of it up. A. If you will let this 58 go until the next time I come down I can freshen my memory on that. It has been so long since I looked at it

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that I don't remember anything about it.

Q. Calling your attention to the final report made to the State Treasurer of North Dakota, for the period from 12-22-22 to 10-15-23, I will ask you to make up and furnish for us a report showing the items included in Section A, B and C of Project 58 which are included in the item of \$85,935.25, and in that statement also show the amounts added over and above the amounts contained in the final certificates issued by the engineer in charge.

A. According to the final certificates of the engineer our estimate was less than the final certificates sent in by the engineer.

Q. Well, you make up that information and show us whether it is or not. Calling your attention further to this report, I will ask you if it does not show the settlement of engineering expense on Section 58—

Mr. Lounsbury: You mean Project.

Mr. Graham: Project 58, the engineering on Project 58 to be \$4669.67? A. Yes, but I ask that the record show that that was nearly all incurred before 1923.

(Exhibit T-2 marked for identification.)

Q. Now this Exhibit T-2 is a record from your office in connection with Project 58? A. It appears to be, yes.

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Mr. Graham: We offer in evidence Exhibit T-2.

Q. Why did Mr. Twichell make claims for additional work upon this project, if you know? A. I couldn't tell you. I didn't have anything to do with that project.

Q. You had— A. Just the settling of it, is all.

Q. You had to do with the settlement? A. That is all.

Q. It is a fact, is it not, that you gave him approximately \$8,000.00 more than the certificates of your engineers

called for? A. I couldn't say. I just told you a minute ago that I couldn't say whether I did or not.

Q. Can you not tell by referring to T-1? I don't know what papers you have there.

(Exhibit T-3 marked for identification.)

Examination by Mr. Lounsbury:

Q. These are the computations, Mr. Black, that were made up from the overhaul that have been introduced in evidence? A. Yes.

Q. It is evident that the computations that were given to the committee the other day were erroneous? A. What computations are you referring to?

Q. Roherty's. A. I wouldn't say that they are.

Q. If these totals are correct his totals would be incorrect? A. No.

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By Mr. Graham:

Q. Mr. Black, were you formerly a member of the firm of Black & Griffin? A. Yes, sir.

Q. As a member of such firm did you have anything to do with the drawing of the plans for the paving of the road west of the Mandan bridge? A. We made the original survey and the plans but the plans were not used by the Highway Department.

Q. Were you paid for the plans? A. We were paid by Morton County. I don't believe we got anything from the State for that at all. I think it was all paid for by Morton County.

Q. You and Mr. Griffin were hired to do this surveying at the request of the County Commissioners of Morton County? A. At the request of the County Commissioners and with the consent of Mr. Robinson.

Q. Did you people have anything to do with the engineering while the work was being done prior to the time you went in office? A. Yes.

Q. What projects did you oversee? A. Federal Aid Project 100, Sections B and C.

Q. And after you went into office who had charge of that work? A. Mr. Griffin.

Q. And he would make his reports to the Department? A. Yes, sir.

Q. The same as any other engineer? A. Yes.

Q. Now, who paid him for his work? A. Why he was paid by—out of Morton County state aid funds.

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Q. That is, from the state? A. Yes.

Q. Can you tell us from your records what is the amount of money he received for his services? A. Yes sir.

Q. Could you tell us from any of the records which you have produced here? A. No, it isn't in these records.

Q. Now, during the time you were in office was a contract made to the Northern Construction Company for the paving on 100 B? A. Yes.

Q. Calling your attention to the contract, I will ask you if the amount of the contract's price was \$82,619.88? A. That is correct.

Q. And that was entered into on the 29th day of July, 1924? A. Yes.

Q. And covers a distance of 2.395 miles? A. Yes.

Q. Now, is that paving completed? A. Yes, sir.

Q. And has the Northern Construction Company received payment in full for their work? A. No.

Q. How much pay have they received? A. They have received the 50 per cent Federal aid, Morton County's one-sixth and all of the state's—on the State's one-third \$15,000 has been paid to the contractor.

Q. And you wish to be understood as stating that
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the Northern Construction Company haven't received the full amount of their pay? A. Yes.

Q. Now, what was the full amount as certified to you that was coming to them? A. Well, you will find it right there in the file. I couldn't remember that.

Q. Do you have up in your office what is known as a project register? A. Project register?

Q. Yes, of the amounts paid out on the different projects.
A. We have a record of that but we don't call it a project register.

Q. Project ledger, I meant to say. A. Oh, yes.

Q. Does that accurately show the amounts of money which have been paid out on the various projects? A. Yes.

Q. Now calling your attention to the final certificate of work done upon Section 100 B for paving under date of November the 7th, 1924, I will ask you if that shows the total amount of the work of all kinds on the paving of \$83,171.50.
A. Yes.

Q. How much did you state has been paid as yet upon that, to the Northern Construction Company? A. Well, I stated that the Federal Aid amounting to 50 per cent had been paid, the county's one-sixth, and \$15,000 on the State's one-third.

Q. How does it then show under your certificate under date of November the 7th that there is still unpaid to the Northern Construction Company the sum of only \$8,741.05?
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A. Well, I don't believe, Mr. Graham, that you understand how an estimate is made up.

Q. Well, does this show the amount remaining unpaid?

A. That shows the amount remaining unpaid but that doesn't mean that he has been paid.

Q. Well, what does it mean? A. It means that he has been paid up everything—that is, he has been allowed estimates for everything except that. It doesn't mean that he has been paid.

Q. All right; calling your attention, then, to the distribution of payments, I will ask you if the net amount due on Federal Aid still unpaid on that date isn't \$4,370.53. A. Well, as I said, I don't believe you understand that. I can't explain it that way. When an estimate is made up it is a certificate of what is due him: it is—

Q. I asked if that doesn't show \$4,370.53 still unpaid.

A. No, not unpaid—still due.

Q. Unpaid and still due are the same thing? A. There may be previous estimates before that.

Q. Does it not show unpaid \$2,913.63? A. I want to get this before the Committee so they will understand it right. There are estimates made before that.

Q. No, your final estimate— A. I can't answer that.

Q. Read it off. A. I won't read it off. You are attempting to make something else out of it.
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Q. Read it off and we will have any explanation you desire to give. I wish first to show this; then you can put in your explanation. The distribution of payments, under the heading "From Federal Aid," "From State Aid," "From County," then "Amount due Contractor to Date."

From Federal Aid	\$41,585.75
From State Aid	\$27,723.83
From County	\$13,861.92

Then, Less Previous Payments:

From Federal Aid	\$37,215.22
From State Aid	\$24,810.85
From County	\$12,405.07

Net amounts due on this estimate from Federal Aid, \$4,370.53; from State Aid \$2,913.63; from County Aid \$1,456.85.

Now, have you any explanation that you desire to offer in regard to those figures.

A. If you read that over carefully you will see on the last line "Net amount due on this estimate."

Q. That is the final estimate. A. On this estimate. There may be something due on previous estimates. It doesn't mean it is paid up in full

Q. Then I can't read. A. You don't understand it, I guess. If you will let me read that line—that doesn't mean that all previous estimates have been paid. This only re-

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fers to this estimate. A. It is your final estimate covering all of the other estimates, including the total amounts theretofore paid. A. Yes, but it doesn't mean that the previous estimates have been paid.

Q. Tell us from this estimate what amount is still unpaid to the Northern Construction Company—tell us from your record. A. The fifty per cent Federal Aid has been paid.

Q. Is this from your report? A. That is shown on a separate book up here.

Q. This doesn't show any of the payments? A. No.

Q. It shows no payments whatever? A. It just shows the total amounts due

Q. All right. Who has charge of drawing warrants for the payment of these things? A. The state auditor.

Q. The State Auditor issues the warrants to the Northern Construction Company? A. Yes, sir.

Q. And that is kept in his office? A. Yes, sir.

Q. The project ledger? A. No, the project ledger isn't in the State Auditor's office.

Q. Where is that kept? A. Do you mean a voucher or warrant?

Q. I said the project ledger. A. That is kept in our office.

Q. Who has that ledger in charge? A. The chief clerk.

Mr. Graham: Now, Mr. Hardt, will you call up that chief

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clerk and ask him to bring down the project ledger for 100 showing the payments made to Northern Construction Company for this paving job, 100-B?

Q. Now, I will show you Exhibit T-4, which purports to be a copy of all payments made to the Northern Construction Company and signed by O. B. Lund, Auditor, and accountant, under date of February 21st, 1925, and calling your attention to the payments made to Northern Construction Company I will ask you if it doesn't show a payment made on October the 24th, being voucher No. 27020, for \$35,534.24? A. Yes.

Q. I will ask you if it doesn't show, under date of 9-24-24, voucher No. 26522, to the Northern Construction Company, for \$38,896.20? A. Yes.

Q. I will ask you if it doesn't show, under date of November the 24th, voucher No. 27682, a payment to the Northern Construction Company of \$8,741.61? A. Six cents.

Q. Oh, yes, and six cents, I should say. A. Yes.

Q. And I will ask you if, adding those amounts, if they don't make a total of \$83,171.50? A. Yes.

Q. That being the total amount as returned by you as being due to Northern Construction Company? A. Yes.

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Q. And this sum of \$8,741.06 being the amount, according to your statement that was unsettled for? A. No, I couldn't say as to that.

Q. Well, lets get back to your statement here, then. The net amount of this estimate from your report is \$8,741.06? A. Yes.

Q. And you desire to state that these vouchers and warrants have not been delivered over to the Northern Construction Company? A. I do. Let me clear this up before the committee because I don't think you have it very well in hand.

Q. All right. A. Mr. Lund took this list off the vouchers made up in our office. The mere fact that there is a voucher doesn't mean that it has been paid. That is, I don't have the State Treasurer's books or the State Auditor's books. The mere fact that there is a voucher issued doesn't mean that it has been paid. There has been no warrant issued and not approved by the Auditing Board.

Q. How does it happen? A. How does what happen?

Q. How does it happen that warrants have not been issued by the Auditing Board? A. The warrants aren't issued by the Auditing Board.

Q. Who does it? A. The State Auditor.

Q. How does it happen that no warrants have been issued by the State Auditor? A. There have been; he has been paid \$15,000.00 of the State's one-third; there is just the dif-

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ference between \$15,000.00 and the State's one-third due him yet.

Q. Well, what is that difference? A. I couldn't tell you. You will have to figure that up.

Q. This register that you keep shows the collections and expenditures made by your department? A. Yes.

Q. Why doesn't the State Auditor issue a warrant for the balance? A. I couldn't tell you.

Q. Is it not customary after you have given a voucher for the State Auditor then to issue warrants? A. No.

Q. What is the next proceeding? A. It must go before the Auditing Board and be approved.

Q. Now has it been before the Auditing Board. A. Yes.

Q. And has been approved? A. No.

Q. Why has it not been approved? A. I don't know. I presume due to the fact that the Attorney General has issued an opinion regarding the bridge fund.

Q. Wasn't this opinion of the Attorney General issued to you prior to the time that you let the contract for this paving? A. Yes.

Q. And still you went ahead and attempted to take the money from the bridge fund? A. Yes, sir, I believe we have a perfect right to.

Q. You didn't think that the Attorney General's opinion cut any ice? A. Yes, I did. We had a conference with the

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Attorney General—had an understanding about this.

Mr. Graham: Now I will offer in evidence Exhibit T-4.

Q. Now, you went ahead and attempted to take the money from the Bridge Fund in defiance of the Attorney General's opinion? A. It wasn't in defiance of the Attorney General's opinion.

(Exhibit T-5 marked for identification.)

Q. I show you Exhibit T-5 and will ask you if that is not a copy of an opinion rendered to you by George I. Reimstad, Assistant Attorney General, which is under date of May 21st, 1923. A. Yes sir.

Q. And that states that in the absence of a specific legislative appropriation money in that fund may not be used to pay the State's portion of the proposed undertaking? A. He drew that as his conclusion.

Mr. Graham: I will offer in evidence Exhibit T-5.

(Exhibit T-5 marked for identification.)

Q. Calling your attention to Exhibit T-6, under date of December the 2nd, 1924, and signed by John Thorpe, Assistant Attorney General, I will ask you if you received such opinion? A. Yes.

Mr. Graham: I offer in evidence Exhibit T-6.

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Q. Could you give us in round numbers the amount still unpaid to the Northern Construction Company, or Approximately? A. Oh, approximately \$12,000, as near as I remember.

Q. Now, you know whether an action was commenced by the Northern Construction Company against John Steen as State Treasurer, Robert Byrne, as Secretary of State, Gilbert

Semingsen, as State Examiner of the State of North Dakota, and D. C. Poindexter, as State Auditor of the State of North Dakota, and R. A. Nestos, as Governor of the State of North Dakota, comprising the State Auditing Board of the State of North Dakota? A. Yes.

Q. For what purpose was that action commenced if you know? A. Doesn't it state in the complaint?

Q. I say do you know for what purpose it was commenced? A. Yes.

Q. What was the purpose of it? A. To pay the contractor the money due him.

Q. From the unexpended balance in the bridge fund? A. That is correct.

Q. That action was brought before Judge Jansonius of the District Court here? A. Yes.

Q. Do you know whether or not an opinion has been rendered by Judge Jansonius? A. Yes, there has.

Q. Calling your attention to Exhibit T-7, I will ask you if that is a memorandum opinion rendered by Judge Jansonius (764)

of which you received a copy. A. I presume it is. I don't know how the original read. I presume that is.

Q. That is the one filed in the Attorney General's office? A. I presume that is correct.

Mr. Graham: I offer in evidence Exhibit T-7.

Q. And you know that an opinion was handed down by Judge Jansonius that money could not be taken by the Auditing Board from the bridge fund without a special appropriation by the Legislature? A. Yes.

Q. Do you know whether or not a bill has been introduced to take from the bridge fund the sum of \$31,000.00 to pay the State's portion of the paving? A. Approximately; I think the bill states \$30,000.00.

Q. Did you have anything to do with the introduction of that bill? A. Yes, sir.

Q. What did you have to do with it? A. What do you mean?

Q. What did you have to do with the introduction of the bill? A. I don't know what you mean. What do you mean? Did I write it, or what?

Q. Did you write it or ask somebody to introduce it? A. The Attorney General's office wrote the bill up.

Q. At your request? A. Yes, sir.

Q. From what fund did you take the money to pay ap- (765)

proximately \$18,000 to the Northern Construction Company?
From what fund?

Q. Yes. A. You mean for the State's one-third? Q. Yes.
A. They have never been paid that much out of the State's
share. It is about \$15,000.00 out of the State's share of one-
third.

Q. And the State's share was about \$30,000.00? A.
Something like that.

Q. From what fund was that \$15,000.00 paid? A. It
was paid out of our ten per cent fund.

Q. Did you pass a resolution authorizing such payment
out of the ten per cent fund at any meeting of the Board of
Commissioners of the State Highway? A. I don't recall.

Q. Is it customary to make payments out of this fund
without bringing the matter to the attention of the State
Highway Commission? A. It is not necessary.

Q. I say, is it customary? A. It depends on what the
nature of the business is—the claim. On a claim like that
the entire board is satisfied that this is a legitimate claim.

Q. Was the matter brought up before the board at a regu-
lar meeting? A. The board understands all about it.

Q. Is there anything in the minutes that shows that the
matter was brought up before the Board? A. I don't re-

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member, I just told you a while ago.

Q. Will you look through the minutes and see if there is
anything? A. A few of the Highway Commissioners are
here this morning. I presume they would probably tell
you—

Q. You are Secretary of the Board, are you not? A. Yes.
If you will wait until the gentleman gets here with the pro-
ject ledger I can find the dates.

Q. Well, we can show the dates here. There is a payment
on September 24th. A. Well, it doesn't show the voucher
out of the ten per cent fund.

Q. Do you find anything in the minutes of the proceedings
of the State Highway Commission authorizing the payment
of any money from the ten per cent fund to pay for the
State's portion of the share of paving? A. No, I don't think
there is except this: before the project was started there was
a resolution adopted that the State would pay its one-third out
of funds that are under its control. I will see if I can find
that.

Q. Do you mean by that the bridge fund? A. Any fund.

Q. Is the bridge fund under the control of the State High-
way Commission? A. No, but the ten per cent fund is.

Q. You made a certificate, did you not, to the Bureau of

Public Roads that the State's portion of the funds were available at the time that this contract was entered into? A. They were.

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Q. Well, what has since become of that? A. I will read this resolution: "Moved by Mr. Black and seconded by Mr. Poupore that the following resolution be adopted:

"Whereas, Federal Aid Project No. 100, Sec. B, paving, in Morton County, with a total estimated cost of \$90,881.87 is about to be constructed.

"And, whereas, the Board of County Commissioners of the said County has requested an allotment of State Aid for the said project,

"Now, therefore, be it resolved, that the State Highway Commission does hereby appropriate \$31,000.00 or as much thereof as may be necessary, from available funds, under its control, to be used in paving construction contract on the said project."

Q. That was under date of July 17th, 1924? A. Yes.

Q. And is found on Page 461 of the records of the State Highway Commission. Is that right? A. Yes.

Q. Then what became of the available funds for this purpose which you had on hand? A. Well, we have a ten per cent fund that is created out of the licenses received from automobiles that may be expended at our discretion.

Q. I asked you what became of the amount which you set aside for the State's one-third? What became of that amount? A. It is supposed to be still there.

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Q. You just told us that the State's share hasn't been paid in full. A. No, it hasn't because we didn't want to cripple our ten per cent fund.

Q. You have used up the amount that you expected to use for the Mandan paving for some other purpose? A. No, sir.

Q. Did you not expect to take it out of the ten per cent fund when you passed this resolution? A. No, sir.

Q. What did you expect to take it out of? A. Out of the bridge fund which belongs to our department.

Q. At that time you had an opinion of the Attorney General that it could not be taken from the bridge appropriation? You had such an opinion? A. Yes.

Q. Did the Attorney General or any member of his force at any time subsequent to May, 1923, render you any other or different opinion in writing? A. I presume so; the one you just showed me here a minute ago.

Q. After May the 21st, 1923, and prior to the time you began the construction of this bridge (paving) did the At-

torney General or any member of his force give you any opinion in writing contrary to the opinion dated May the 21st, 1923? A. Didn't you have on here just a minute ago?

Q. That is to the same effect, isn't it? A. Yes.

Q. Did they render you any opinion contrary to the one of May 21st, 1923? A. No.

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Q. Now, if I understand you correctly, there is about \$15,000.00 still due the Northern Construction Company? A. Well, it is approximately that, yes.

Q. Somewhere near that? A. Yes.

Q. Then why did you have a bill introduced in the Legislature calling for \$30,000.00? A. For the reason that we don't want to pay him out of that ten per cent fund if we can help it. It will cripple that fund for a year or two. We need that for other purposes, and it should be expended so as to spread it out over the state. It should be paid out of the bridge fund. It is a part of the bridge.

Q. You say that the paving on the east edge of Mandan is a part of the bridge? A. From the bridge to the dyke in Mandan is a part of the bridge.

Q. Who makes such a statement? A. The United States Government.

Q. That is their ruling? A. Yes, sir, and they so paid upon it.

Q. And you would like to have the same ruling adopted here? I say, you would like to adopt the same ruling in this state? A. I don't know what you mean, Mr. Graham.

Q. I say, that is your position here in this state, that it is also a part of the bridge? A. That particular stretch should be considered as being a part of the bridge because

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it is subject to overflow—subject to being washed out. It is to the advantage of the State its being called part of the bridge, because we can get 50 per cent Federal Aid if we ever had to rebuild it.

Q. On the opinion of the Attorney General and the holding of the district court here, it is not a part of the bridge without an act of the Legislature? A. Oh no, that isn't what they based their decision on.

Q. They are not willing to hold it as a part of the bridge? A. Both sides admitted that it is part of the bridge—the Attorney General's office, counsel for the Northern Construction Company and Judge Jansonius all agreed that it was part of the bridge.

Q. Will you show us anything to that effect in this memorandum opinion? A. If you will read the opinion—

Q. Will you show us anything to that effect? A. He

based his opinion on the fact that the Legislature set a precedent in appropriation heretofore out of that fund; and the Attorney General's decision is based on that fact.

Q. Why did you not show in the bill introduced in the Legislature that part of the proposed \$30,000.00 is to reimburse your 10 per cent fund? A. It was not necessary.

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Q. That is, you don't think it is necessary for either the Legislature or the taxpayers to know what is going on? A. Oh, yes, certainly.

Q. Why did you not so show it? A. Do you think it is necessary?

Q. I think all the taxpayers would be greatly interested. A. It is not affecting the taxpayers nor is it creating an appropriation. It is money on hand.

Q. These funds have been put in there by taxpayers to pay for automobile licenses, have they not? A. Oh, yes.

Q. If it is put into this fund, it is your opinion that they should know nothing of how it is expended? A. No, that isn't the impression we want to create at all, Mr. Graham.

Q. Was there any attempt made to conceal from the public the fact that a resolution had been passed by the State Highway Commission that the State would pay one-third of the proposed cost of the paving on one hundred B? A. I don't know how you could get that impression. It is in the minute book.

Q. I say, was there any effort to conceal such fact from the public? A. Absolutely not. There wouldn't be any reason for that.

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(Exhibit T8 marked for identification.)

Q. Calling your attention to T8, being a letter from the Northern Construction Company on July 24, 1924. I will ask you if you received such a letter from Thomas Berge on or about the date it bears. A. I couldn't say whether we received that letter or not. I don't remember.

Q. Well, it is addressed to you? A. It is addressed to me.

Q. It was found in your files? A. Well, it might have been. I don't remember seeing it.

Q. Well, now, did you—you say you don't remember having received it? A. I don't recall. I wouldn't say whether I did or not.

(Exhibit T9 marked for identification.)

Q. Calling your attention to T 9, I will ask you if that is a copy of a letter under date of July 29, 1924? A. Yes.

Q. And that you signed such a letter to Mr. Berge? A. Yes.

Q. Now I will ask you to read into the record, the letter under date of July 24, 1924 and give us such explanation as you can concerning its contents. A. "Dear Sir: On my last trip to Mandan I expected to talk with you more fully with reference to Federal Aid Project No. 100. In my conversation with Mr. J. H. Newton I learned that while the High-

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way Commission had passed certain resolutions concerning state funds, it was not for publication and that for certain reasons it should be kept quiet until contracts had been signed.

Under the circumstances, we of course could not make any move to prepare for this work.

My purpose in writing you at this time is to know just what you can advise, whether or not we can make any preparation or sit tight until the contract is signed up. In the event that nothing can be done, could you at this time give us any further information as to when we may expect the contract signed up.

Any information regarding this will be greatly appreciated.

Yours very truly,

Thomas Berge."

Q. Can you give us any information or explanation concerning the fact that the resolution was kept quiet. A. I said that the resolution wasn't kept quiet. I don't know of any reason why it should be kept quiet.

Q. Then Mr. Newton's information purporting to be given to Mr. Berge was incorrect? A. You know I am not responsible for any letter that Thomas Berge writes.

Q. You received the letter? A. Yes.

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Q. You don't think there was any foundation for the letter? A. Absolutely no foundation—no reason for it at all unless they wanted to keep I. P. Baker from stopping the road.

Q. You think that is the reason that Mr. Newton wanted the fact kept quiet? A. I couldn't answer for Mr. Newton or Mr. Berge. That would be a good reason.

Q. In keeping it from Mr. Baker you would also keep it from other people of the State? A. There was no reason for keeping it quiet. It was a public contract let publicly.

Q. This resolution wasn't passed publicly? A. Our meetings are all public.

Q. Was there anyone there besides the members of your board? A. I don't remember who was there.

Q. Will you turn to the minutes of the meeting and let us know if there was anything there that indicated the presence of anybody else? A. We don't always state in the minutes who was in the audience.

Q. Is there anything in the minutes, I say? A. Well, I don't know. I couldn't tell you.

Q. Well you wrote up the minutes, did you not? A. I don't see anything there that indicates the presence of anybody else.

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Q. All that the minutes show as to who was present at that time is Mr. Poupore, Mr. Brown and Mr. Black? A. Yes.

Q. Did you give out any information to the public or to the newspapers that such resolution had been made? A. I don't remember. I ordinarily don't run down to the newspapers with anything like that.

Q. You, of course, don't know whether Mr. Brown or Mr. Poupore gave out any such information? A. I don't know. I couldn't say.

I offer in evidence Exhibits T8 and T9.

By Mr. Vogel:

Q. This Mr. Newton that you spoke about is the gentleman that was on the stand for the Mandan Gravel Company, is he? A. Yes.

Q. He is the same gentleman that was represented by Judge Hanley? A. I think so. I wasn't up here when he was present.

Q. You stated in the building of that Mandan road that you felt that it should be made a part of the bridge project? A. I thought it should absolutely. That is, to the best interests of the State.

Q. And the reason was that possibly that would be washed out, that road? A. Yes, being considered as a part of the bridge, if we ever had to rebuild that road, we could get 50 per cent Federal Aid.

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Q. Why did you build a road through a section of the country that would be likely to be washed out? A. That is the only way you can get between here and Mandan.

Q. That is the only way? A. There would be no way without finding the same condition. If that were not part of the bridge, then we would only receive \$15,000 per mile.

Q. That is the only place where a road could be built between the bridge and Mandan without danger of being washed out at some time? A. No, there is no place between here and Mandan that is not subject to being washed out.

By Mr. Halcrow:

Q. Was this a part of the bridge as determined by the Commission? A. Yes, that was determined as being a part of the bridge at the time the bridge was being built by the former Highway Commission and the United States Government.

Q. Was Mr. Frayne Baker a member of the Commission at that time? A. Yes.

Q. Are there any records to show that he so held that it was a part of the bridge? A. Yes, there is certain records at that time regarding that. Mr. Baker objected to the location of that road. At that time he thought the road should go straight west.

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By Mr. Graham:

Q. Which Mr. Baker do you have reference to? A. Frayne Baker. He thought the road should go straight west, then into Mandan, which was a mile and three quarters farther and required two highway bridges and crossing the railway where there were eight tracks.

Q. The present location of that road was determined by the Commission prior to your coming into office? A. Yes.

By Mr. Vogel:

Q. The United States Government, in speaking of bridges, allow how much from the end of the bridge to the grade off the bridge at the approach? A. As a rule it is from the end of the bridge to where an approach would hit the grade of a highway.

Q. Isn't it approximately a 5 per cent grade from the bridge out? A. It is at the west end, yes.

By Mr. Graham:

Q. Your reason for desiring this paving to be considered a part of the bridge, rather than an ordinary Federal Aid project, is for this reason, is it, that if it be considered a part of the bridge, the Federal Government will pay 50 per cent of the cost price of it, regardless of the cost? A. Yes.

Q. And that being considered as a highway only, then they will pay only \$15,000 per mile of the cost? A. That is cor-

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rect. The present Highway Commission is in this position on that matter: The former Highway Commission had entered into a signed agreement with Morton County and the United States Government that they would hard-surface that road within three years after the completion of the grading job.

Q. The grading job had not been completed until 1923? A. No, it was completed in 1922.

Q. That is, the gravelling of it? A. Yes.

Q. In 1922 or 1923? A. I think it was in 1922.

Q. Who did the work on that on the gravelling? A. Well the grading contractor was W. L. Chapin & Son, the graveling contractor was Sylvester & Dailey. The grade work was done by Joe Simon, the rip-rap by Sanderson.

Q. Who did the engineering? A. The engineering was done by Black & Griffin.

Q. How much work did Mr. Griffin do for the Commission after you became chief engineer? A. He made surveys for about twelve miles of road and he had charge of the completion of projects 100 B and C.

Q. That is the Mandan road? A. Yes.

Q. He made surveys, you say, of how many miles? A. About twelve miles if I remember—it may have been a little more than that.

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Q. This is the man you said was your former partner?
A. Yes.

By Mr. Halcrow:

Q. Will you produce the records, Mr. Black, of the former meetings at which the present location of the road was determined? A. Yes.

Q. We would like to get them into the records. We would like to see that the former Commission decided that it was a part of the bridge. A. This is the resolution adopted by the Highway Commission at a meeting on May 10, 1922: "Moved by Mr. Kitchen and seconded by Mr. Robinson that the following resolution be adopted:

Whereas, There has been submitted to this Commission a resolution of the Board of County Commissioners of Morton County passed and adopted on May 9th, 1922, authorizing the execution of a contract and setting aside funds amounting approximately to one-sixth of the estimated cost of an earthen approach with gravel surface extending from the dike at the east end of Main Street of the City of Mandan to the west end of the approach to the Bismarck-Mandan Missouri River Bridge as now constructed, and

Whereas, It is desirable that Federal Aid Project Agreement No. 100 be amended and modified to provide for the construction of the said earthen approach with concrete surface
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and that the work of the construction thereof be commenced as soon as practicable, Now therefore

Be It Resolved, that the Secretary of the Commission be and he is hereby authorized and directed to prepare, execute and submit to the Bureau of Public Roads of the United States an application for the amendment and modification of Federal Aid Project No. 100 to provide for the construction of the said earthen approach with concrete surface in accordance with the resolution aforesaid and to prepare and execute a contract with the Board of County Commissioners of Morton County pursuant to such resolution and in accordance with the terms thereof and generally do all things necessary and proper to the end that the said earthen approach with concrete surface may be constructed as soon as practicable, the said approach to be constructed according to the so-called modified Black & Griffin plans, which are hereby approved and adopted.

Be It Further Resolved, that in case it is found that funds are not available at this time for the payment of the State's share of the cost of the construction of such approach, they

will be made available from the first revenues that can be used for this purpose, to the exclusion of any other project

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that may be under consideration by the state at this time, but upon which definite liabilities have not been set up.

On roll call the vote was:

Nestos (absent)
Kitchen "aye"
Baker "aye"
Hardt (absent)
Robinson "aye"

Explanation of Mr. Baker's vote: I voted in favor of the foregoing resolution in order that the completion of the bridge may be expedited, with reluctance, however, because of disapproval of the route and of the coercive methods followed by the Bureau of Public Roads in requiring the construction of the approach at this time and withholding payment of Federal Aid contrary to the original agreement covering Federal Aid Project No. 100."

By Mr. Graham:

Q. Now, this graveling project which was done by Sylvester & Dailey was not completed until 1923, was it? A. I think it was completed in 1922.

Q. I call your attention to the final certificate of work issued by you under date of September 22, 1923, and ask you if it does not cover work up to the 17th day of September, 1923? A. I am pretty sure that work was all completed in 1922.

Q. Well, but your certificate doesn't show that. Let's

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get this as to the time, your certificate doesn't show that? A. Well, the certificate doesn't show anything in that respect.

Q. What explanation have you to offer? A. I think we required them to put on some more gravel during the year 1923.

Q. To clean the work up? A. He had his original contract all completed in 1922.

Q. Then it was not completed until 1923. A. Yes, but—

Q. You required him to do some additional work in 1923? A. There were places where it was soft, and we made him put some additional gravel on which he did.

By Mr. Vogel:

Q. That would be along the same lines as Twichell? A. Not quite.

By Mr. Graham:

Q. He was paid additional money? A. I think he put in some gravel in some soft spot.

Q. Did you pay him for maintenance also? A. No.

Q. Did you ever give anyone but Twichell pay for maintenance? A. Our plan now is, with graveling contracts we pay them all for maintenance.

Q. Did you ever give anyone besides Mr. Twichell pay for maintenance of the road before it is finally accepted? A. We
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never gave Twichell anything for maintenance.

By Mr. Vogel:

Q. You say that this road was according to the resolution laid out by the former Commission? A. Yes.

Q. And it was their intention to pay for this as a part of the bridge? A. Yes.

Q. You agree in that respect that they were right? A. Absolutely.

Q. And you have no complaint of the former Commission on that point? A. No, I think it was a very good move.

Q. With respect to these automobiles that you stated were purchased yesterday, these were purchased from this 10 per cent fund? A. Yes.

Q. Have you been able to locate that two-door Ford sedan? A. Yes, it is in storage with us in the Bank of North Dakota building.

Q. When was that put in storage? A. It was put in last fall, late last fall I understand.

Q. Who would know when that was put in storage? A. Mr. Tucker, it belongs to his department.

Q. How many automobiles has the Motor Vehicle Department? A. Two.

Q. They have an Overland car? A. Yes.

Q. And this Ford sedan? A. Yes.
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Q. That is the only cars that you have purchased for them? A. That is all.

Q. Those are the two automobiles that was listed in that blue print—not this one, but the one we had in evidence yesterday showing the automobiles belonging to the departments. There are two cars listed as belonging to the Motor Vehicle Department, one Overland and a Ford Sedan? A. Yes.

Q. Those would be the two cars? A. Yes.

By Mr. Lounsbury:

Q. In order that the matter may be cleared up, I want to ask you if there are not some of the pits from which this yardage comes that lay inside of the road within the 66-foot limit? A. Not any yardage, not shown on this list.

Q. Were these all pits that were purchased? A. I presume they were. The county purchased the pits.

Q. I noticed some of the pits that seemed to lie very close to the road. A. I think you will find a list from the County Auditor showing the yardage they paid for and the pits. That yardage, I think, agrees with this blue print.

Q. The full amount was 20,682? A. I believe so.

Q. What file would that be in? A. I think it is in that envelope on 59.

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By Mr. Graham: There wasn't any such report in that envelope. A. I think the county auditor was wrong when he testified according to that list. That was correct at one time, but at that time the county had not paid for all the pits.

Q. But you haven't any record showing what you did pay for them? A. No, you see we had nothing to do with the pits.

Q. But there was supposed to have been a certified list of the pits? A. Yes, the only place I know would be in that file 59.

Q. This shows, does it not, that prior to 1923 according to the overhaul diagram 229282 cubic yard stations were allowed Mr. Twichell for overhaul? A. Yes.

Q. During the year 1923, after you were chief engineer, there were 334340 cubic yard stations of overhaul? A. I couldn't swear to that. I don't know where he cut off from 1922.

Q. I mean according to that? A. According to this blue print here.

Q. And 12022 cubic yards of excavation for clay surfaces? A. Yes.

Q. And that in the year 1923, while you were chief engineer, according to the diagram there was allowed him 8660 cubic yards? A. I wouldn't say whether it was allowed.

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We don't know when that was put in, 1921, 22 or 23.

Q. But your figures were arrived at from this diagram? A. Yes, but it doesn't make any difference which year it was done.

Q. I realize that, but it was according to these claims that the settlement was made? A. Yes, but the time had nothing to do with it.

Q. Do you know what the depth of the surfacing is on that road? A. No.

Q. You have never computed that? A. No.

Q. According to the overhaul diagram? A. No.

Q. Doesn't this show a considerable amount of clay surface? A. Yes.

Q. So that according to Mr. Twichell's claims, there was about in round figures 100,000 more cubic yard stations allowed him in 1923 than for prior to that time? A. I say, Mr. Lounsbury, I don't know when that was put in.

Q. I mean with respect to what he claims? A. I don't know, I didn't pay any attention to it.

Q. Isn't that diagram made up according to his claims? A. It is.

Q. These figures that you submitted are based on that diagram? A. Yes, but that doesn't show when it was. We don't care when it was put on.

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Q. Mr. Twichell does claim that, that is a fact? A. I don't know, he probably does.

Q. Isn't that diagram divided into two distinct sections, one prior to 1923 and the other one claimed by Twichell during the year 1923? A. Yes, but I say we don't pay any attention to this. The time didn't make any difference.

Q. Mr. Twichell claims it was done according to this plat? A. I don't know what he claims.

Q. Doesn't the diagram show that?

Mr. Lounsbury: We will offer T3 in evidence. Q. Showing you revised detail estimate on 59, the modification of project agreement, I will ask you if that is the amount upon which the Federal Aid was computed? A. It is.

Q. \$119,179.09? A. Yes.

Q. That was agreed at that time according to the best of your belief? A. I think so.

Q. And from a search of the record? A. Yes.

Q. Will you show the committee where there is any item for interest in the detail? A. Well, there isn't any. The Government doesn't pay interest on projects.

Q. Well, this is the figure upon which the Federal Government settled? A. I think it is. I didn't make up these estimates. It would be better for you to question the man

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that drew up the estimates. I don't do all the detail work in the office.

Q. But you signed the modification of project agreement? A. Yes.

Q. It sets out the same amount, does it not, as shown on that revised detail estimate? A. Yes.

Q. \$119,179.09? That is the amount upon which the final estimate signed by Mr. Wyncoop after the meeting of the Board of Arbitration was based? A. Yes.

Q. And the final estimate, including the two items of interest, one for \$2200.00 in round figures, and one for \$473.00?
A. Yes.

Q. Now, can you account for that discrepancy? A. No, as I say, I don't take care of the details in the office.

Q. Who made this revised estimate? A. Well, it was made up by Mr. Myhre and the chief clerk, Mr. Lieberman.

Q. You don't know whether there were amounts of excavation or overhaul or something else added, in order to take care of that interest item? A. I don't know, I couldn't tell you that.

Q. At least this amount is the amount allowed by the Federal Government and that allowed no interest? A. I couldn't say. I haven't had anything to do with the details of this.

Q. You say it is the practice of the Federal Government not to allow interest? A. Yes, they never do. You asked
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me yesterday about this resolution.

Q. Yes, Mr. Graham did, I believe.

By Mr. Graham: See if he has got that certificate.

By Mr. Lounsbury:

Q. Do you want to explain that now? A. Yes.

Q. This is the appropriation upon which you relied? A. Yes, they made a blanket appropriation in 1919 for \$150,000.00—that is Richland County. In the modified agreement there is one paragraph—paragraph B—which sets up that the County of Richland pursuant to certificates of availability of county funds, signed by the chief engineer and secretary of the North Dakota State Highway Commission, and dated May 27, 1921, March 19, 1923 and September 24, 1924. On May 14, 1919 the county board of the county of Richland passed a blanket resolution appropriation \$150,000.00.

By Mr. Graham:

Q. \$150,000.00? A. Yes.

Q. Where is \$150,000.00? A. Well, read it, \$50,000.00, \$50,000.00, \$50,000.00.

Q. Well, for what purpose. They have appropriated first \$50,000.00 for the county's share of roads in Richland County to be available January 1, 1920? A. Yes.

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Q. And \$50,000.00 to be available after July 20, 1920? A. Yes.

Q. And \$50,000.00 to be available after July 20, 1921? A. That is correct.

Q. And improvements to be made in the order as follows: The Hankinson east and west road, the Meridian road continuing up to the Cass County line, and then the Wahpeton-Wyndmere road. Three separate projects. A. Yes. Improve

ments on such roads shall be in the order as follows: Hankinson east and west—that is the one that was to be improved first. Then in showing the availability of funds, the Highway Commission passed this resolution, setting aside so much out of their fund.

Q. Where is the next resolution to which you refer? A. September, 1924. That is the last one.

Q. There is no certificate from the county auditor of Richland County except the one to which you have already testified? A. That is all. That is the way that modified agreement appears.

Q. Then this certificate under date of March 19, 1923 shows that \$150,000.00 had been set aside by Richland County and that \$73,200.00 had heretofore been certified available for Federal Aid Projects 71 and 59, leaving a difference of \$71,800.00 available for other Federal Aid Projects? A. Yes.

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Q. And then you further state that there is available the sum of \$11,500.00 from the other blanket appropriation for Federal Aid Project No. 59, leaving a balance of \$60,300.00 available for other Federal Aid Projects. A. That is correct.

Q. Then, under date of September 24, 1924, you state that \$103,500.00 has heretofore been certified available for Federal Aid Projects 71 and 59 leaving a difference of \$46,500.00, and that \$14,600.00 is appropriated for Federal Aid Projects leaving a balance of \$31,900.00, is that correct? A. That is correct.

By Mr. Lounsbury:

Q. Mr. Black, the blanket appropriation to which you have referred appropriates money not yet levied? A. It is specified there covering a period of two or three years.

Q. Haven't you also a resolution passed by the Board of County Commissioners in your files showing that that action was rescinded? A. I don't know, I couldn't say, I never saw it.

Q. The blanket appropriation does not certify that the funds are available, but that they will be levied for Federal Aid purposes, isn't that true? A. I don't remember the wording of it.

Q. In each of these items, the three separate appropriations, the words "to be available after a certain date" are used, are they not? A. Yes.

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Q. And there is nothing in this certificate which tends to show that the funds were on hand at that time? A. No.

Q. It is your custom, is it not, to require the county auditor to certify to the Highway Commission the fact that the funds were actually available? A. We do now. This, you understand, occurred before my time.

Q. Yes, I realize that. You do require those certificates?
A. We do require those certificates of availability of funds, yes.

Q. And have ever since you have been in office? A. I think so.

Q. Can you show me a certificate signed by the county auditor prior to the signing of the agreement? A. This resolution is all we needed so far as 59 is concerned.

Q. Wasn't it required by Mr. Robinson that the county auditor certified that the funds were available? A. This is the only resolution that I know of. There may be another resolution.

By Mr. Vogel:

Q. Who handles the sale of this war surplus? A. The Highway Commission.

Q. The Highway Commission handles the sale? A. Yes.
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Q. You don't mean that you go down there and sell the stuff? What man is in charge? A. The Superintendent of Equipment, Mr. Gettelman, and Paul Mueller, is in charge of the storeroom.

Q. All sales are supposed to go through the hands of one of these two men? A. Not necessarily. If neither one of them are around there, of course, somebody else takes care of it. I guess I have handled some of it myself.

Q. What part did you handle? A. Well, occasionally people came in here when they couldn't find anybody else, for a truck or something like that and I would give them a note and they would go down and get it.

Q. Did Mr. Mueller sell for cash? A. Yes, not necessarily for cash. We handled some charge accounts.

Q. He handles considerable cash? A. Not a great deal. There isn't much left. The stuff was pretty well looted and cleaned out before we came in.

Q. Looted, you say? A. Yes, looted and cleaned out.

Q. You want that to stand? A. Well, I don't know as I do.

Q. Mr. Gettelman handles the trucks and tractors? A. Yes.

Q. Are any of these two gentlemen under bond? A. No.
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Q. How many in this department are under bond? A. One, myself.

Q. Just yourself under bond? A. Yes.

Q. How much of a bond do you have? A. \$5,000.00.

Q. \$5000.00? Neither Mr. Gettelman nor Mr. Mueller who is handling this war surplus are under bond? A. No.

Q. Is it customary to have men in a department that are handling funds of the department unbonded? A. Well, our intention was to clean that up and get rid of it. We didn't expect to hang on to it very long. There isn't a great deal of it left.

Q. Your practice was to sell that material at cost? A. Yes.

Q. Can you explain, in the audit made as of November, 1923, why this department shows a loss of \$35,000.00? A. Yes, I expect it does. I think it showed a loss of about \$80,000.00 before I came in.

Q. You have cut that down to \$35,000.00? A. We haven't been going ahead with such elaborate expenditures.

Q. How do you account for showing a loss when you are selling at cost? A. The loss doesn't come through the equipment department. It comes through the handling of the shops.

Q. You say it is in the handling of the shops? A. Yes. Although there may be, of course there is some loss in
(795)

handling equipment, the Government has set out a lot of stuff that cost a great deal of freight which will never be sold.

Q. One of the mechanics in these shops was used to haul employees back and forth to the Capitol. A. That was during the cold weather when we couldn't leave the cars standing outside. Practically it took fifteen minutes a day.

Q. It took fifteen minutes for him to come from the shop out here and drive back again four times a day? A. Yes, but he left the shops in the morning before it was time to report for duty—No I wouldn't say that—he gets them out there before the opening hours and calls in the evening after the closing hours.

Q. After his closing hours? A. That was only a temporary arrangement. It was only done while the weather was so cold that you couldn't leave the car outside.

Q. Is it still being practiced? A. I don't think so.

Q. You don't know, though? A. I don't know as it is. I wouldn't have any objection to them doing it.

Q. You wouldn't have any objection to the Highway Commission furnishing transportation to state employees? A. I would not.

(796)

Q. Do you know of any other department that furnishes transportation for its employees? A. I don't know of any state that furnishes such poor equipment as the state of North Dakota.

Q. Do you know of any other state department at the Cap-

itol that furnishes transportation for its employees? A. Oh you mean in this state.

Q. Yes, that is furnishing transportation back and forth for its employees? A. I will say that the mill at Grand Forks furnishes transportation and I believe there are a good many institutions in the state that do that.

Q. You say that practice has been discontinued? A. I don't know that.

Q. You never took any steps to find out after this testimony was taken here?

By Mr. Graham:

Q. You say you disposed of some of this Highway equipment yourself? A. Yes, I have given people orders. I haven't handled the material. I have given them orders when they couldn't find anybody else to do business with.

Q. You mean some of your men weren't on the job when they should have been? A. Yes.

Q. Did you take any steps to remedy that situation? A. I presume I did speak to Mr. Gettelman a couple of times

(797)

about running over to Minot and out here playing golf.

Q. At the times he was absent the man in the shop was also absent? A. The man in the shop didn't have any authority to deliver tractors.

Q. I think you said that there was a Mr. Mueller out there? A. Mr. Mueller is in the bank building.

Q. Does he have authority to deliver trucks? A. No.

Q. What is his authority? A. To handle small materials such as are in store at the basement storeroom.

Q. Did you give any order or letter to deliver over to the Red Trail Oil Company a Liberty B truck? A. Yes sir.

Q. Who are they? A. Who were they?

Q. Who are the Red Trail Oil Company? A. Mr. Schmidt is the president, I believe. I don't know who the officers are.

Q. What disposition did you make of this truck to them? A. Mr. Schmidt stopped me one day in Mandan when I was going through and said he had been over there several times to see that man to get a truck and that he couldn't find him. He said he never could find anybody there and I gave him an order for it.

(798)

Q. You gave him an order for this truck to use for his own purposes? A. No, he got the truck to use for roadwork in paving this road west of the bridge.

Q. Did he pay anything for it? A. I don't know. When he got the truck he stopped at the bank building and told Paul

Mueller the arrangements under which he got the truck and told Paul Mueller to tell Mr. Gettelman.

Q. What were the arrangements? A. Well, the truck—he was doubtful about the value of the truck, whether it was serviceable or not, and he said he would take it and pay for it on a monthly basis and if the truck was satisfactory the payments were to apply on the purchase price.

Q. What was the purchase price? A. \$395.00.

Q. Has it ever been paid for? A. No.

Q. Where is it? A. The Red Trail Oil Company has it.

Q. It has never been returned? A. No.

Q. Have any payments been made? A. I don't think so. Mr. Gettelman didn't keep his books properly and never gave him a statement.

Q. You think it is because Mr. Gettelman didn't send him a statement that this truck had never been paid for? A. Absolutely.

Q. Did you tell Mr. Gettelman that this truck had been sold to the Red Trail Oil Company? A. Yes, I told him.

(799)

He said Paul Mueller called him up and told him about it.

Q. Did you so state in the letter which you sent down to Mr. Gettelman? A. What letter?

Q. Did you send down a letter of instruction to Mr. Gettelman to turn this truck over to the Red Trail Oil Company? A. You have the letter right there.

Q. Did you send a letter down? A. Yes, I gave a letter to the man that took the truck.

Q. Does that say anything there about a sale of the truck? A. I wouldn't call it a sale at that time. He was going to try it out and see if it was any good or not.

Q. He has tried it out for six months and hasn't told you yet? A. He has been unable to get a statement.

Q. He knew what he was to pay for it? A. Yes.

Q. \$395.00 and he wouldn't need any statement to pay that amount? A. Ordinarily people pay on statement.

By Mr. Vogel:

Q. You stated that he was to pay monthly installments? A. Yes, until he found out whether the truck was serviceable.

Q. He hasn't paid any installments? A. I don't believe so. I don't keep the books.

(800)

Q. You sold him the truck? A. Yes.

By Mr. Graham:

Q. If Mr. Gettleman was so inefficient and didn't attend to his business, why did you keep him? A. I presume I did make a mistake.

Q. Why did you keep him? A. That is my personal business.

Q. Would you give the committee any reason or explanation for keeping him when he was inefficient? A. No.

Q. Have you any information to give? A. That is a personal matter and I refuse to answer along that line. That is my personal business.

Q. The state is paying him money. Have you any good reason why you kept him. We would be glad to hear it. Have you any good reason? A. I am not giving you any reason.

Q. Have you any reasons that you would care to give to the investigating committee? A. No.

Q. Did you bring the correspondence concerning the Indian Head markers? A. I think I left that yesterday.

Q. You didn't leave any with me. A. I brought them down yesterday morning.

Q. Yesterday morning? A. Yes.

Q. I beg to differ with you, Mr. Black. A. Well, I certainly did.

(801)

Q. Well, in the testimony you agreed to bring us a statement showing all of that? A. Oh, you mean a statement.

Q. Yes. A. I thought you were speaking of the file. Mr. Lieberman, the chief clerk, didn't have time to get that finished yesterday. He had other work to do.

By Mr. Vogel:

Q. On this truck that you say hasn't been paid for, that would be in the same class with the three cars that Atkinson hasn't paid for? A. No, I wouldn't think so. As a matter of fact, I will state this: Any reliable concern that wants a truck, we are glad to get them to take it. We sent out a bulletin last year to the counties to try to get them to take these trucks off our hands.

Q. Didn't you make any effort to collect for that after it was sold? A. I didn't personally.

Q. Did I understand you to say, according to the testimony here, that retaining an inefficient man in your department you consider personal and you refuse to explain. A. I told you the other day that I thought possibly I might make a better man out of him than he was.

Q. You thought the State of North Dakota should pay for reforming young men, is that it? A. I don't know (802) whether you call it that.

Q. You refuse to state as to the reasons why Mr. Gettleman is being retained? A. I don't think that is any of the committee's affairs.

Q. It isn't? A. I think I explained the other day, I thought he might turn out all right.

Q. Do you retain any other men in your department in order to reform them? A. We don't have any trouble right now. They are all doing the work. (803)

EXHIBIT T-1

NORTH DAKOTA STATE HIGHWAY COMMISSION.

SUPPLEMENTAL AGREEMENT NO. 5, FOR EXTRA WORK. CONTRACT NO. 4193. 50A & 4193. 50B, FEDERAL AID PROJECT NO. 58 A & B, SARGENT COUNTY.

This Agreement, made and entered into this 24th day of December, 1923, between Sargent County and the North Dakota State Highway Commission, parties of the first part and Treadwell Twichel of Mapleton, N. Dak., (hereinafter called Contractor), party of the second part.

WITNESSETH: That, for and in consideration of the payments hereinafter mentioned to be made by the parties of the first part, the Contractor agrees to the inclusion of the items of work as listed below in the final estimate about to be rendered for the contract, such items and all other under this contract having been satisfactorily completed and performed by him and duly accepted by the State Highway Commission in behalf of the County.

(804)

Item No.	Quantity	Unit	Item	Unit Price	Amount
4	5211	Cu. Yds.	Class B. Excavation.....	.459	\$2,391.85
8	64	Cu. Yds.	Rock Excavation.....	1.50	96.00
8	686	Cu. Yds.	Rock Excavation.....	3.00	2,058.00
21	1130	Cu. Yds.	Riprap.....	3.00	3,390.00
127	64	Lin. Ft.	Fur. & Del. 30" Conc. Pipe Culv.	3.25	208.00
TOTAL					\$8,143.85

It is further understood and agreed that the foregoing items constitute all additional and extra work items claimed to be performed by the party of the second part in addition to all other items of original and additional and extra work items as shown in the statement of completion and final estimate submitted as of December 6, 1923, and that upon the inclusion of the foregoing items at the stated prices and amounts in the final estimates for the entire contract, in addition to all

other items, showing the final amount due the contractor, he will waive, and hereby does waive any and all rights and claims that he has or may have regarding further compensation for these and all other items of work, etc., required for and performed under this contract on the entire project.

It is further understood and agreed that upon rendition of and payment according to the final estimate by the parties
(805)

of the first part for work, etc. performed under the aforesaid contract and this and previous Supplemental Agreements, such estimate to include the above enumerated work and total sum in addition to all other items of work in quantities as may be determined by the parties of the first part and at the unit prices specified, in the original contract and subsequent supplemental agreements, said contract and supplemental agreements shall be considered to be and shall have been mutually discharged on the part of both parties.

In consideration of the foregoing premises, the parties of the first part agree to make payments to the Contractor, in accordance with the specifications forming a part of the principal contract, for the actual quantities of work done as determined by final measurements and at the unit prices specified in said contract and in this and all previous supplemental agreements.

In Witness Whereof, the parties of this agreement have hereunto set their hands and seals.

PARTIES OF THE FIRST PART,
North Dakota State Highway Commission.
By W. G. BLACK,
Chief Engineer and Secretary.

SARGENT COUNTY,
(806)

By Board of County Commissioners.

.....
Chairman.
.....
.....
.....

ATTEST:

.....
County Auditor.

Dated.....

(SEAL)

PARTY OF THE SECOND PART,
TREADWELL TWICHELL, Contractor.
(807)

EXHIBIT T-2

MEMORANDUM—FINAL SETTLEMENT F. A. P. NO 58
A & B SARGENT COUNTY

CLAIMS FOR ADDITIONAL AND EXTRA WORK

1. From Station 0-00 to Sta. 2-00 additional 300 cu. Yds. of Class B excavation to complete approaches on curve not previously allowed.

2. Sta. 122 to Sta. 127 an additional 400 Cu. Yds Class B excavation for raising and widening fill not previously allowed.

3 From Station 140 to station 143 an additional 44 Cu. Yds. Class B excavation to complete an open ditch not previously allowed.

4. At junction of F. A. P. No 58 and F. A. P. No. 66 approximately at Station 290-00 an additional 300 Cu. Yds. Class B. excavation to construct approaches east; also 64 lineal feet of 30" concrete pipe culverts furnished and delivered but not installed.

5. On section line west of Sta. 380-25 an additional 637 Cu. Yds. of Class B. excavation from Borrow Pit to make approaches on curve and 500 Cu Yds. additional Class B. Excavation borrowed by widening cut from Sta. 380-25 to 384-00 not previously allowed.

6. Station 385-00 to Station 390-00 an additional 290 Cu. Yds. Class B excavation to fill out beyond guard rail posts
(808)
not previously allowed.

7. Station 530 to 541 there was previously allowed 1340 Cu. Yds. Class B Excavation, whereas claim is for 2000 cu. yds. class B excavation, making an additional 660 Cu. Yds. of Class B Excavation

8. Station 690 to Station 700 an additional 600 Cu. Yds. Class B Excavation for deepening ditches and for raising and widening fills in the near vicinity not previously allowed.

9. Over entire project Sections A & B an additional 520 Cu. Yds. Rock Excavation not previously allowed.

10. Over entire project sections A & B an additional 890 Cu. Yds. of Rip Rap not previously allowed. See Detail sheets attached.

11. Entire Project Secs. A & B allow 1480 Cu. Yds. Class B Excavation; 230 Cu. Yds. Riprap & 230 Cu. Yds. Rock Excavation totaling \$2059.32 to cover extra work done in 1923 to bring surface of roadway and fills in shape for final acceptance. Total amount allowed of \$2,059.32 arrived at as follows: 50½ days work at \$40.70 per day with engine, blade grader and three men or approximately \$2,059.32.

(809)

FEDERAL AGREEMENT

Total Contracts and Force Accounts.....	\$108,206.03
10 per cent Engineering and Contingencies.....	10,820.60
	<u>\$119,026.63</u>
50 per cent	59,513.31

MEMORANDUM FINAL SETTLEMENT F A P 58 A & B.

Page 2.

SUMMARY

Total A. Div. Engineer as per final Estimate Road Grading, etc.	\$28,279.73
Total B. Div. Engineer as per final Estimate Road Grading, etc	28,381.62
Total C. Div. Engineer as per final Estimate Road Grading, etc.	19,128.00
Total A B C Concrete Culverts.....	6,913.60
Total A B C Pipe Culverts.....	316.50
Total A B C Reinforced Concrete Items.....	26,306.36
TOTAL	<u>\$109,325.81</u>
Inclusion Extras	8,143.85
Contr. Engineering to Dec. 1, 1923.....	4,949.37
TOTAL COST	<u>\$122,419.03</u>
50 per cent cost	\$ 61,209.51
Federal Aid Available	59,513.31
Overruns	<u>\$ 1,696.20</u>

(810)

EXHIBIT T-3

Pit Number	Pit Quantities	Placed Quantities	Overhaul
1	1081	956 125	18843
2	2816	1238 1528	20412
3	2435	660 1775	52042
5	968	968	7063
6	396	396	119
7	155	155	
8	2619	383 2236	43656
9	587	587	24948
10	965	965	62194
TOTAL	12022 Cu. Yds.		<u>229282</u> Cu. Yds. Sta's.

CLAY SURFACING AND OVERHAUL PLACED DURING

1923

3	5376	1302		
		630		
		3444		153048
4	205		205	13530
10	3079	2579		
		360		
		140		167768
TOTAL	8660 Cu. Yds.			334340
				Cu. Yds. Sta's.

(811)

EXHIBIT T-4

MORTON COUNTY PROJECT NO. 100 B. C.

STATEMENT OF COLLECTIONS AND EXPENDITURES

July 31, 1922 to Jan. 31, 1925

Date.	Vouch. No.	Name.	Collections Dr.	Payments Cr.
1922:				
7-31	15781	W. L. Chapin & Son, Contr.		\$2,174.49
8-22	16209	Joe Simons		1,909.95
8-22	16210	W. L. Chapin & Son, Contr.		2,761.56
9-20	16564	Joe Simons, Contr.....		1,534.65
9-21	16565	W. L. Chapin & Son, Contr.		2,208.15
9-28	16575	Carl V. Anderson		2,003.40
10- 1	16783	County Funds	\$12,500.00	
10-18	17048	W. L. Chapin & Son.....		5,957.96
10-18	17049	Sylvester & Daily.....		509.40
10-18		Federal Aid	25,571.48	
10-18	17050	Joe Simons		1,437.30
10-18	17051	Carl Anderson		2,791.80
11-20	17625	W. L. Chapin & Son.....		596.47
11-20	17606	Carl V. Anderson		1,710.08
11-20	17615	Sylvester & Daily		599.40
12-22	17994	Sylvester & Daily.....		1,198.80
12-22	17995	Carl V. Anderson.....		510.30
1923:				
1-15	18547	Sylvester & Daily		3,596.40
1-15	18548	Joe Simons		214.89
1-15	18549	Carl V. Anderson		729.00
3-17	19080	Carl V. Anderson		485.99
5-31	19767	W. L. Chapin & Son.....		1,313.75
6- 1		Federal Aid Modification.....	4,951.90	
7-23	20147	W. L. Chapin & Son.....		2,002.32
7-23	20148	Sylvester & Daily		3,996.00
7-23	20149	Thompson Yards Assignee....		1,999.04
7-23	20150	Thompson Yards Assignee....		1,091.07
9-23	21248	Joe Simons		1,023.55
9-23	21249	W. L. Chapin & Son.....		4,603.50
9-23	21250	Joe Simons		723.22

9-23	21251	Sylvester & Daily.....		3,962.03
9-23	21252	Sylvester & Daily.....		2,711.29
10-23	22136	W. L. Chapin & Son.....		2,142.49
11-23	22620	Federal Aid Modification.....	45,746.25	
1924:				
2-24	24033	Federal Aid Modification.....	12,500.00	
7-24	25664	County Funds	5,000.00	
(813)				
8-24	26043	Federal Aid Modification.....	13,397.68	
8-24	26143	Woodrich Construction Co.....		21,403.06
9-24	26522	Northern Constr. Co.....		38,896.20
10-24	26902	Federal Aid Modification.....	45,440.93	
10-24	26922	County Funds	15,500.00	
10-24	27020	Northern Constr. Co.....		35,534.24
10-24	27021	Woodrich Constr. Co., final..		3,499.64
11-24	27682	Northern Constr. Co.,.....		8,741.06
<hr/>				
		Total Income	\$180,608.24	
		Total Constr. Paym'ts.....		166,662.45
		Total Prelim. Engineering....		42.55
		Total Constr. Engineering....		6,363.98
		Unexpended Balance		7,539.26
<hr/>				
			180,608.24	180,608.24

The foregoing is a statement showing the income and expenditures of F. A. P. No. 100 B. C. Morton from July 7, 1922 to January 31, 1925 as the same appear of record on the project ledger of the State Highway Commission February 20, 1925

Bismarck, N. Dak, February 21, 1925.

O. B. LUND,
Auditor and Accountant.

(813)

EXHIBIT T-5

May 21, 1923

Hon. W. G. Black,
Chief Engineer and Secretary,
State Highway Commission,
Bismarck, North Dakota.

OPINION

Dear Sir: In your letter of May 9th you state that the Board of County Commissioners of Morton County has requested that the west approach of the Missouri River Bridge be hard surfaced this year. The portion of the roadway proposed to be so surfaced is that between the end of the west approach of the bridge and the dike in the City of Mandan, and has been termed a part of the bridge by the Bureau of Public Roads. Federal Aid is therefore available for fifty per cent of the cost of construction of such surfacing. Morton County will bear one-sixth of the cost, and the State is asked to pay one-third of the cost of such work.

There being no other funds available, you ask "Whether or not the portion to be paid by the State may be taken from the fund created for state aid in the construction of bridges, as (814) provided in Chapter 73, 1919 Session Laws."

We assume that you refer to the moneys set aside under the provisions of Subdivision (2-a) of Section 11, Chapter 44, Laws of Special Session 1919.

Said Chapter 44, Laws Special Session 1919, is the Motor Vehicle Registration Act, and Section 11 thereto provides for the apportionment and disposition of the license fees collected pursuant to that Act. Subdivision (2-a) of Section 11 reads as follows:

"A further sum not to exceed \$130,000.00 annually shall be set aside to meet the state's obligation as provided in Chapter 73, Session Laws, 1919."

At the same special session there was also passed Chapter 4, which appropriated, out of any moneys in the State Highway Fund under Paragraph (2-a) or Section 11, Chapter 44, the sum of \$225,000 for the construction of the Missouri River Bridge, and \$35,000 for a certain other bridge, or \$260,000 in all.

We thus have the legislative construction of subdivision (2-a) of Section 11, Chapter 44, Laws of Special Session 1919, to the effect that the \$130,000 annually to be set aside to meet the State's obligation to aid in the construction of certain bridges under Chapter 73, Laws 1919, was not an outright (815)

appropriation for that purpose, without further action by the Legislature. The two subsequent sessions of the Legislature have acted in harmony with this view, as will be seen by referring to the several Acts of the 1921 and 1923 Sessions, making appropriations for bridges. Such appropriations have been made out of the moneys in the fund established by said Subdivision (2-a) of Section 11, Chapter 44, Laws Special Session, 1919.

It is therefore our conclusion that, in the absence of a specific legislative appropriation, moneys in that fund may not be used to pay the State's portion of the cost of the proposed undertaking.

Yours very truly,

Geo. I. Reimestad,
Assistant Attorney General.
(816)

EXHIBIT T-6

Copy

December 2nd, 1924

Mr. W. G. Black, Secretary,
State Highway Commission,
Bismarck, North Dakota.

OPINION

Dear Sir: Under date of December 1st, you have submitted to this office the voucher of E. R. Griffin in the sum of

\$1974.12, being the total charge for engineering the supervision and inspection on the Missouri River Bridge Project, known as Federal Aid Project No. 100B, and wish to be informed if the same may now be paid.

Under Chapter 73, Session Laws 1919, it is provided that the State of North Dakota shall add to the amount of one-third of the cost of the construction of any bridge over navigable streams within the state on state highways or roads. This office has heretofore given its opinion to the effect that before such aid can be given, it is necessary that the Legislature appropriate for that purpose. We are informed that no such appropriation has been made. One-third of this voucher is undoubtedly intended to be paid out of such appropriation

(817)

when made.

It is, therefore, our opinion that as to one-third of the hereto attached voucher as above described, payment cannot now be made, but as to the balance, we see no reason why the same may not be paid, if paid out of funds belonging to the proper county or the Federal Bureau, and not out of that certain portion of the Motor Vehicle License fees set aside by Subd. 2a of Section 11, Chapter 44, Special Session Laws 1919.

Very truly yours,

John Thorpe,
Assistant Attorney General.

(818)

EXHIBIT T-7

COPY

State of North Dakota
County of Burleigh

In District Court
Fourth Judicial District

Northern Construction Company, a corporation,

Plaintiff,

vs.

John Steen, as State Treasurer of the State of North Dakota, Robert Byrne as Secretary of State of the State of North Dakota, Gilbert Semingson, as State Examiner of the State of North Dakota, David C. Poindexter, as State Auditor of the State of North Dakota, and R. A. Nestos, as Governor of the State of North Dakota, all of the foregoing as the State Auditing Board of the State of North Dakota,

Defendants.

MEMORANDUM

The Legislature, at the Regular 1919 Session, passed an Act (Chapter 73) providing for state aid in the construction of bridges across state lines or navigable streams. The act provides that before such bridges are begun the plans thereof shall be submitted to the Chief Engineer, who shall, if he approves the same, endorse his approval thereon—The Act also provides that as estimates in the construction of such

(819)

bridges are allowed, duplicates shall be submitted to the Chief Engineer, who shall certify the amount to the State Auditor, who will issue warrants for one-third.

However, no appropriation was made at this session, and there were no available funds, so this Act was inoperative.

Thereafter, at the Special Session begun November 25, 1919, two other Acts were passed. Chapter 44 was the Motor Vehicle Act. Section 2-a of Section 11 of this Act reads as follows:

"A further sum not exceeding \$130,000.00 annually shall be set aside to meet the state's obligation as provided by Chapter 73, Session Laws of 1919."

The Legislature at the same Session (Chapter 4) appropriated \$260,000.00 "out of any moneys in the State Highway Fund under Paragraph 2-a of Section 11, of Chapter 44 of the Laws of the Special Session of North Dakota for the year 1919 . . ." Of this money \$225,000 was appropriated and used to construct the Missouri River Bridge.

Chapter 44 passed the House November 10th and Chapter 4 the 11th, while both bills passed the Senate on the same day, one immediately after the other. The Governor evidently considered them together, since Chapter 44 was approved at 8:30 A. M. and Chapter 4 at 9:00 A. M. on December 12th.

The Legislature by appropriating \$260,000, in my mind
(820)

clearly indicated that they were appropriating for the biennial period the \$130,000 a year set aside by Chapter 44.

The Legislature of 1921 also took the view that an appropriation was necessary to make the money available, and again made a specific appropriation to complete the bridge.

The Legislature of 1923 also made specific appropriations for the construction of bridges in North Dakota. The Governor vetoed appropriations for three of the proposed bridges, and because of such veto there is now \$31,000 in the Bridge Fund.

The plaintiff contends that the money is now available and can be used by the Highway Commission without legislative action. Such a construction might be given to Chapter 73 of the Laws of 1919, and Paragraph 2-a of Section 11 of Chapter 44 of the Special Session, if there had been no other legislation. But the fact that the Legislature at the same time directed the expenditure of the available funds and each succeeding Legislature did the same, makes it clear that the Legislature placed a different construction on the Acts. It appears from the various Acts that the Legislature intended that the money set aside in Sub-division 2-a was to be used only when specifically directed by it.

(821)

It is my opinion that there are no funds available for the purpose of this project, and before the \$31,000 in the Bridge Fund can be used, it must be appropriated for that purpose.

An order sustaining the demurrer may be prepared.

Dated at Bismarck, N. Dak., January 12, 1925.

Fred Jansonius,
Judge.

To:

Messrs. Sullivan, Hanley & Sullivan,
Mandan, North Dakota.

Attorney General,
Bismarck, North Dakota.

Clerk of District Court,
Bismarck, North Dakota.

(822)

Exhibit T-8

"NORTHERN CONSTRUCTION CO.
(Incorporated)
General Contractors and Builders
Grand Forks, N. D.

July 24, 1924.

W. G. Black, Chief Engineer,
State Highway Commission,
Bismarck, N. D.

Dear Sir: On my last trip to Mandan, I expected to talk with you more fully with reference to Federal Aid Project No. 100. In my conversation with Mr. J. H. Newton I learned that while the Highway Commission had passed certain resolutions concerning state funds, it was not for publication and that for certain reasons it should be kept quiet until contracts had been signed.

Under the circumstances, we of course could not make any move to prepare for this work.

My purpose in writing to you at this time is to know just what you can advise, whether or not we can make any preparation or sit tight until the contract is signed up. In the event that nothing can be done, could you at this time give us any further information as to when we may expect the contract signed up.

(823)

Any information regarding this will be greatly appreciated.

Yours very truly,

(Signed) Thomas Berge."

(824)

Exhibit T-9

"July 29, 1924.

Mr. Thomas Berge,
c-o Northern Const. Co.,
Grand Forks, North Dakota.

Dear Sir: This is to inform you that authorization to commence work on Federal Aid Project No. 100BC has been re-

ceived from the District Engineer of the Bureau of Public Roads.

Contract is being mailed you and you are requested to file a bond in accordance thereto so that work at an early date may be commenced.

Yours very truly,

W. G. B.,
Chief Engineer & Secretary."
(825)

HOUSE INVESTIGATING COMMITTEE

Investigation of State Highway Commission, 9 A. M. February 26, 1925.

The committee convened on the 26th day of February, A. D., 1925, at 9 o'clock A. M., with all members present; Mr. Yeater in the Chair, and the following proceedings were had:

GEORGE F. SHAFER, having been called for examination, was first duly sworn and testified as follows:

Examination by Mr. Graham:

Q. Will you state your name, age and residence? A. My name is George F. Shafer; my age is thirty-six; residence is Bismarck, North Dakota.

Q. And you are Attorney General of the State of North Dakota? A. Yes, sir.

Q. And have been for how long? A. Since January 1st, 1923.

Q. And as such Attorney General you have charge of the defense of all actions brought against the State or any of its officers? A. Yes, sir.

Q. Now, was there an alternative writ of mandamus issued by Judge Fred Jansonius in an action commenced by the Northern Construction Company against John Steen and the other members of the State Auditing Board of the State of North Dakota? A. Yes sir.

(826)

Q. That was on or about the 31st of January, 1924? A. 1925, I believe.

Q. What? A. 1925.

Q. Yes. It appears as 1924-1925? A. Yes.

Q. The purpose of bringing this action was to have \$27,723.83 of unused money in the bridge fund to be used as—in paying the State's portion of the paving of 100 B on the Mandan side? Is that correct? A. That is what I understand from the nature of the action.

Q. Now you interposed a demurrer to this writ of mandamus? A. Yes, sir.

Q. And a decision was rendered by Judge Jansonius upon this demurrer? A. Yes, sir.

Q. And an order issued by him dismissing the writ of mandamus? A. Sustaining the demurrer and dismissing the mandamus, yes.

Q. Now, I understand that one of your assistants rendered an opinion some time in the month of May, 1923, to Mr. Black, Chief Engineer of the State Highway Commission that the unused funds in the bridge fund could not be taken out to pay the State's share of the paving unless a specific appropriation has been first made. A. I think that is correct—an appropriation by the Legislature.

Q. Yes. Now, as I understand it the contract for this paving was let some time in the month of June or July, (827)

1924. A. Well, I can't testify as to that except from hearsay. I understood it was about that time.

Q. Now, prior to that time did Mr. Black have any conversation with you concerning this project in your office? A. Yes, sir.

Q. About when was that? A. Yell, I couldn't place the date. I have no way to do that. We had two or three conversations prior to the letting of the contract relative to the matter.

Q. Could you state the substance of those conversations as you remember them? A. Well, the main portion of those conversations related to the correctness of the opinion which my office had given on the subject of the right of the Highway Commission to draw on those bridge funds without a specific legislative appropriation, and that was discussed pro and con considerably and two or three different times. Mr. Black differed from our view of the law on that subject and the principal object apparently of his discussing it with me was to find out whether I approved of the opinion rendered by my assistants on the subject, and incidental to those conversations the matter of testing it out in some way and letting a contract for this project was discussed.

(828)

Q. Well, now, did you give him any advice to go ahead without first having funds on hand and enter into this contract? A. No, I wouldn't say that I did. I did say, if my recollection serves me right, however, that I thought the Highway Department had the right to make the contract if it had funds available outside of this bridge fund which it could resort to to pay the State's portion.

Q. What you meant was the ten per cent fund? A. Well, I presume it was the ten per cent fund. I don't know what funds the department would have a right to use. When I advised him this, that if he desired to test the validity of our opinion then the Department could certify vouchers against this fund and the Auditing Board reject the vouchers on my advice and then they could bring a suit to enforce this payment, and if my opinion was not sustained by the court of

course they could resort to the fund; if it was, why they could not. That is my recollection of the substance of it. It was discussed two or three times.

DAVID LIEBERMANN, having been called for examination was first duly sworn and testified as follows:

Examination by Mr. Graham:

Q. Will you state your name, age, and residence? A. David Liebermann, 28 years old, Van Horn Hotel, Bismarck. (829)

Q. And what is your business? A. Chief Clerk of the Highway Commission.

Q. Are you a civil engineer? A. No.

Q. And as Chief Clerk what are your duties? A. Why, I handle the office work in general, the mails and books and records—files.

Q. And as one of your duties do you make up the vouchers for the payment of estimates upon the different highway projects? A. Yes.

Q. Now can you tell us what was the total estimate on the paving on project 100-B? A. The total estimate issued for the total work done as shown by the final estimate was \$83,171.50.

Q. And the first voucher issued was for— A. \$38,896.20. That was the first estimate.

Q. And the first voucher issued by your department? A. Well, the vouchers don't correspond with the estimate because the estimate is paid from three different funds.

Q. Well, then, the next estimate was for \$35,534.24? A. The next estimate, yes.

Q. And the last estimate was \$8,741.06? A. Yes.

Q. Now you say this is made—the payment is made from three different funds? A. Yes. (830)

Q. Well, now, calling your attention to the payments made from the Federal Aid Fund I will ask you if the first payment that appears on your records on September 26th is for \$19,448.10? A. Yes.

Q. And the second payment on October the 28th, 1924, is for \$17,767.12? A. Yes.

Q. And the last payment, on November 15th, of \$4,370.53? A. Yes.

Q. Then the amount to be paid by Morton County as appears from your records being \$13,861.92? A. \$13,861.92.

Q. Then the State's share of the payments on this project was \$27,723.83? A. What was that figure again, please?

Q. \$27,723.83? A. Yes.

Q. And on January the 17th, 1925, the sum of \$15,000 was paid out of the ten per cent fund? A. Yes.

Q. Leaving a balance unpaid to the Northern Construction Company of \$12,723.83? A. Yes.

Q. Now can you tell us why that sum has not been paid?
A. Why we are waiting for an appropriation from the state bridge fund by the legislature under a pending law. As soon as that law is passed we will pay it.

Q. Is it not also a fact that the ten percent fund is reduced at this time so that the balance could not be paid from that fund? A. Yes, I think the balance is quite small—\$3,000.

(831)

Q. Now there was an attempt made by the State Highway Commission to have the State's portion paid from the state bridge fund, was there not? A. Well, it was our understanding that we would pay for the State's share from the state bridge fund. We prepared the vouchers, the same as on any other project. It was sent down to the Auditing Board and as I understand it the Auditing Board refused to pass on them, or refused to give them its approval.

Q. I will now show you exhibits T-10, T-11 and T-12, and ask you if those are copies of the—what do you call them?
A. Of the vouchers.

Q. Of the vouchers turned in to the State Auditor to take this money from the bridge fund. A. Yes.

Q. They are complete copies except they are not signed by Mr. Black? A. They are not signed by Black or the Northern Construction Company.

Q. And they were prepared by you? A. I don't know as I actually typed them. I think I—

Q. And they were prepared— A. Under my—

Q. Under your direction? A. —direction, yes.

Mr. Graham: We offer in evidence Exhibits T-10, T-11 and T-12.

EXHIBIT T-10

STATE OF NORTH DAKOTA, Dr. 9-26, 1924.

To Northern Construction Company,
Address, Grand Forks, North Dakota.

To State Aid due on F. A. P. No. 100 B.
Morton County,
Contract No. 100 B.
Estimate No. 1.

\$12,965.40

CHARGE..... STATE BRIDGE.....FUND

NOTE—Chapter 244, S. L. N. D., 1915; No claim shall be

audited or paid until a full itemized statement shall have been furnished. All items of \$1.00 or more shall be covered by receipt signed by person to whom money was paid, and shall show at what place, on what date, and for what the money expended was paid.

THE STATE AUDITING BOARD

DEPARTMENT APPROVAL

Goods Received—

APPROVES \$.....

Service Performed

.....
President State Auditing Board.

.....
Sec'y.

.....192.....

.....
Official Position.

9-26 1924.

(Over)

(833)

EXHIBIT T-10

(Cont.)

Voucher No.....

Warrant No.

Dated..... 192.....

CERTIFICATE

I do hereby certify that the within bill, claim account or demand, is just and true; that the money therein charged was actually paid for the purposes therein stated; that the services therein charged were actually rendered and are of the value therein charged; that no part of such bill, claim, account or demand has been paid; and that the goods therein charged were actually delivered and were of the value charged.

Sign Here.....NORTHERN CONST. CO.

If signed for a firm or Company show authority on this line.

TAKE NOTICE

Chapter 244 of the 1915 Session Laws. “* * * Provided, that any person, firm, or company, falsely certifying or certifying to any false bill, claim, account or demand, as hereinbefore set forth, shall upon conviction forfeit his right to collect such bill, claim, account or demand, or any part thereof, and shall further be subject to the penalty prescribed for one found guilty of committing a misdemeanor.” Also requires all items of expense of \$1.00 and over to be covered by sub-vouchers.

(834)

EXHIBIT T-11

9-15, 1924.

STATE OF NORTH DAKOTA, Dr.

To Northern Construction Company,
Address, Grand Forks, North Dakota.

To State Aid Due on F. A. P. No. 100B, Morton County Con-
tract No. 100 B (paving).

Final Estimate \$2,913.68

CHARGE STATE BRIDGE FUND.

NOTE—Chapter 244, S. L. N. D., 1915: No claim shall be audited or paid until a full itemized statement shall have been furnished. All items of \$1.00 or more shall be covered by receipt signed by person to whom money was paid, and shall show at what place, on what date, and for what the money expended was paid.

THE STATE AUDITING BOARD Department Approval
Approves \$..... Goods Received—
Service Performed.

.....
.....
President State Auditing Board

.....
.....
Sec'y.

.....
.....
192.....

.....
.....
Official Position.

.....
.....
9-15-1924.

(Over)
(835)

EXHIBIT T-11

(Cont.)

Voucher No.....

Warrant No.

Dated..... 192.....

CERTIFICATE

I do hereby certify that the within bill claim, account or demand, is just and true; that the money therein charged was actually paid for the purpose therein stated; that the services therein charged were actually rendered and are of the value therein charged; that no part of such bill, claim, account or demand has been paid; and that the goods therein charged were actually delivered and were of the value charged.

Sign here. NORTHERN CONSTRUCTION CO.

.....
If signed for a firm or company show authority on
this line.

TAKE NOTICE

Chapter 244 of the 1915 Session Laws. “* * * Provided, that any person, firm, or company, falsely certifying or certifying to any false bill, claim, account, or demand, as hereinbefore set forth, shall upon conviction forfeit his right to collect such bill, claim, account or demand, or any part thereof, and shall further be subject to the penalty prescribed for one found guilty of committing a misdemeanor.” Also requires all items of expense of \$1.00 and over to be covered by subvouchers.

(836)

EXHIBIT T-12

Oct. 20, 1924.

STATE OF NORTH DAKOTA, Dr.

To Northern Construction Company,
Address, Grand Forks, North Dakota.

To State Aid Due on F A P 100 Sec. B.
Morton County.

Estimate No. 2.

Contract No. 100B.

\$11,844.75

CHARGE State Bridge

FUND.

NOTE—Chapter 244, S. L. N. D., 1915: No claim shall be audited or paid until a full itemized statement shall have been furnished. All items of \$1.00 or more shall be covered by receipt signed by person to whom money was paid, and shall show at what place, on what date, and for what the money expended was paid.

THE STATE AUDITING BOARD Department Approval
Approves \$..... Goods Received—

Service Performed

.....
President State Auditing Board

.....
Sec'y.

.....192.....

.....
Official Position.

Oct. 20, 1924.

(Over)
(837)

EXHIBIT T-12

(Cont.)

Voucher No.....

Warrant No.....

Dated.....192.....

CERTIFICATE

I do hereby certify that the within bill, claim, account or demand, is just and true; that the money therein charged

was actually paid for the purpose therein stated; that the services therein charged were actually rendered and are of the value therein charged; that no part of such bill, claim, account or demand has been paid; and that the goods therein charged were actually delivered and were of the value charged.

Sign here

NORTHERN CONSTR. CO.

.....
If signed for a firm or company show authority on this line.

TAKE NOTICE

Chapter 244 of the 1915 Session Laws. “* * * Provided, that any person, firm or company, falsely certifying or certifying to any false bill, claim, account, or demand, as hereinbefore set forth, shall upon conviction forfeit his right to collect such bill, claim, account or demand, or any part thereof, and shall further be subject to the penalty prescribed for one found guilty of committing a misdemeanor.” Also requires all items of expense of \$1.00 and over to be covered by sub-vouchers.

(838)

Q. Now can you tell us whether or not any payments have been made by the State for lighting the Mandan bridge to the Hughes Electric Company? A. There were several payments made.

Q. Can you tell us the amount of those payments? A. \$27.44 for September; \$42.49 for October; \$51.10 for November; \$32.20 for December. That is all 1924.

Q. Anything in 1925? A. No, we haven't paid anything in 1925.

Q. Was there not also—are those the only payments that have been made? A. Those are the only payments that have been made for the light. We have another bill from the Hughes Electric Company for current and so on.

Q. What other bills do you have from the Hughes Electric Company? A. Current for the blue-print machine and the drafting room, lighting of the shops; and we also paid them for current supplied in operating the elevator in the bank building since the last couple of months.

Q. Has there been any payments made for those purposes since the 1st of January? A. For what purpose?

Q. For lighting the Mandan bridge? A. No. No payments have been made.

(839)

Q. Is it not being lighted at this time? A. I don't know, I haven't been on that bridge during this year at all.

Q. How does it happen that there appear no payments since the first of January, if you know? A. They may have

submitted their bill, I don't know, but I did look it up yesterday according to your instructions, and there were no payments made for lighting after December, 1924. That is, the payments for the December bill had been made in January, but for current actually furnished in January there have been no payments made.

Q. Do you know under whose instructions those payments were made? A. Well, the bills were submitted to Mr. Black and he O. K'd. He O. K.'s all the bills.

Q. All the bills for this current were O. K'd by Mr. Black? A. Yes.

Examination by Mr. Graham.

W. G. BLACK, having been recalled for further examination, testified as follows:

Q. Did you look up the matter in regard to project 58, Sargent County? A. Yes, sir.

Q. Did you bring back the supplemental contract that you made after this work was completed? A. I think so.

(840)

Q. This sum as shown in Exhibit T-1 of \$8,143.85 is an amount in excess of the final certificates of work done as sent in by your engineer's in charge? A. No, I don't think it is in excess of the final certificates—that is, from my office. I don't know about the certificates sent in.

Q. The final estimates sent in by the engineers? A. I am speaking of our final estimates—not in excess of that.

Q. Is it in excess of the final estimates sent in by Mr. Gavin and Mr. Thorberg, sent in on Sections A and B? A. I don't know.

Q. Could you tell? A. I could.

Q. You didn't prepare the statement we asked for? A. Mr. Myhre is here to explain that on 58 and 59 after making up the details.

Q. We can cover that from Mr. Myhre? A. Yes.

Q. You don't know how much in excess it is then? A. Just what that sets out. Take the original contract and add to that the supplemental agreements and in those items you have the final estimate.

Q. Now you heard Mr. Liebermann's testimony in regard to lighting the Mandan bridge? A. Yes, sir.

Q. Was that taken from State funds? A. It was taken from our 10 per cent funds.

Q. And has it been discontinued? A. No, sir.

Q. How does it happen then that there have been no

(841)

bills presented for payment since the first of January? A. I think there has been a bill presented, but it hasn't been vouchered to the auditing board.

Q. Didn't Mr. Steen return the last bill to you and you recall it? A. Well, he just returned it for an explanation.

Q. An explanation of what? A. I don't really know what they did want. They didn't understand how it was being handled. We were lighting the bridge and we were to be paid for any payments that may have been made.

Q. Why don't the counties pay it in the first place? A. Well, it is more convenient to handle it this way.

Q. It makes your department a lot of additional book-keeping that you would be relieved of if the counties themselves each paid half of the bills as they were presented? A. I presume it would.

Q. Do you consider that these lighting bills can be taken from State funds? A. They could if we so desired.

Q. You consider it is part of the maintenance cost of the road? A. Well, in this particular case it was started at the time we were paving the road. It was necessary at that time

(842)

to have a light on account of a barricade at the end of the bridge.

Q. And you have continued it since that? A. Yes.

C. A. MYHRE, having been re-called for further examination, testified as follows:

Examination by Mr. Graham:

Q. Mr. Myhre, you have appeared before and been sworn? A. Yes.

Q. Let's see, you are assistant chief engineer? A. Yes, sir.

Q. Now, calling your attention to Exhibit T-1 and the sum of \$8,143.85, does that represent an additional amount paid to Mr. Twichell for the total sum set forth there over and above the final estimates of work sent in by Mr. Gavin and Mr. Thorberg upon projects 58 A and B in Sargent County? A. It represents additional over the first final estimate sent in by Mr. Griffin and Mr. Thorberg.

Q. In what amount? A. \$8,143.85, but the final estimate sent in by Mr. Griffin includes this. Q. Would you show it to us? A. Yes, sir. Those figures signed by Mr. Gavin, division engineer—in order to arrive at the additional, you have to add up these final estimates, you see, on the two sections.

Q. What was the reason for making this change from the first estimate sent in by Mr. Gavin and Mr. Thorberg?

(843)

A. Well, Mr. Twichell came up and made certain other claims which were investigated and Mr. Knutson was called in. He was the resident engineer on the job at the end when it was completed. And also his construction blue prints. We checked up the claims of Mr. Twichell and the quantities representing that amount for the additional we found that he was entitled to.

Q. Well, wasn't part of this figure so as to cover maintenance work that Mr. Twichell had done during the time that the road was in course of construction? A. No, sir.

Q. What? A. No, sir.

Q. Calling your attention to paragraph 11 of Exhibit T-2, to what does that have reference then? A. That has reference to construction. I imagine it means the filling out of the narrow places.

Q. Well, that was part of Mr. Twichell's duty under the original contract, was it not? A. Well, there were a lot of places where the shrinkage figured through the fills were so much greater than was figured originally that he had to go back several times and fill out on the shoulders.

Q. Well, Mr. Twichell had not completed this road in accordance with the terms of his contract? A. He was working on it at the time this extra work came up.

(844)

Q. And he had been working on it in 1920-1921-1922 and 1923? A. Yes, sir.

Q. And how much work did he do in 1923, if you know? A. That I couldn't say. I never have been in direct contact with the construction work on this job because of the fact that I never was in a position during the time he worked on it to come in contract with the construction.

Q. Did you give the instructions to make these changes in the estimates? A. Mr. Black and Mr. Twichell were considering the claims. They had another gentleman up from Forman,—

Q. I say, did you give these instructions? A. I will explain that.

Q. Answer the question now and you may explain later. A. I am answering it.

Q. Answer yes or no.

Mr. Yeater: I think you could answer that and then give the explanations of it. A. I prepared this agreement.

Q. All right, under whose instructions? A. I was called in by Mr. Black—

Q. You can answer under whose instructions you prepared it. A. Well, of course, I prepared it under Mr. Black's instructions.

Q. All right. That answers that. A. Now I want to explain that. (845)

Q. Well, we will take care of the explanations a little later. And you desire the Committee to understand that Mr. Knutson gave you to understand that the estimates as returned by Mr. Gavin and Mr. Thorberg were not correct? A. Well, I can't say as to that. We called him in with his construction blue print and checked the claims, and these are the claims, and it was checked with his blue print.

Q. Did Mr. Knutson make the final measurements as to the work done? A. He did.

Q. Does it so show upon the final estimate sent in in December, 1923? A. The certificate of completion is sent in by the division engineer and he prepares the certificate of completion.

Q. Does that certificate of completion indicate who did the measuring? A. No, sir.

Q. Then where did you get the information that Mr. Knudson did it? A. Well, he was the resident engineer there when it was completed.

Q. You don't know, as a matter of fact, whether he himself did make the measurements? A. Well, he changed it on his blue prints.

Q. You don't know, as a matter of fact, whether he himself made the measurements? A. Well, I would take his statement for it.

(846)

Q. All right, then say that he told you so. A. He told me so, certainly.

Q. Now, was there an explanation that you wished to offer in regard to this change on 58? A. As I say, I never was in contact with the actual construction work because I never occupied a position at the time he was working in which I came in contract with No. 58. At the time I was construction engineer in 1922. Mr. Twichell did not do any work on the project until late in the fall of 1922, and as Mr. Ray, the previous construction engineer, had handled the work before, he handled it at that time. Mr. Black called me up to the office when Mr. Twichell was making the claims on this particular project and he also called in Knudson who was the resident engineer during the completion in 1923. He brought in his construction blue prints and we checked the claims of Mr. Twichell and the other gentleman from Forman who was a sub-contractor under Mr. Twichell, and prepared the extra work agreement which is shown as Exhibit T-1 based on those figures.

Q. Calling your attention to Exhibit X-4, I will ask you if the initials C. A. M. are your initials? A. Yes, sir.

Q. Now, what did you mean by "Distribute 230 cu. yds. rock and 230 cu. yds. rip-rap proportionately over Sections (847)

A and B, 1480 cu. yds. Class B excavation can be included in Section A where most convenient. A. Well, those quantities—we do that a good many times—

Q. I say, what do you mean by this? A. Well, that is to distribute it over the project. Rock is a good many times not a matter taken care of.

Q. This was over and in addition to the certificate of completion of work issued by Gavin and Thorberg? A. This included some of this work here.

Q. In this increased estimate of \$8143.85? A. Yes, sir.

Q. Is it not customary for the engineers in charge of work, and their duty, to send in an estimate for 90 per cent of the work done for the particular period which they send in? A. Yes, sir.

Q. Well, then, how do you account for the fact that all of these items weren't covered by the estimates of the engineers as they were sent in? A. The only way I can account for it is that the work took four years—three years and there were so many engineers that the records were very lax on extra work prior to 1922 when we inaugurated a different system entirely.

Q. But all of the estimates as turned in by the engineers showed any extra work, did they not? A. I don't know.
(848)

As I say, the record of the extra work prior to 1922 was so lax—the engineers would make changes and not make reports.

Q. Supplemental contracts or agreements were entered into with Mr. Twichell on Sections A, B, and C for all the extra work? A. We didn't require a supplemental agreement for all the extra work.

Q. I say, they were entered into? A. I don't know.

Q. Look at the file and see. A. No supplemental agreements are required for items that are in the contract when they do not exceed 20 per cent.

Mr. Vogel: Twenty-five per cent, isn't it? A. Twenty-five per cent on the old job.

By Mr. Graham:

Q. Then it is the custom of your department to accept oral statements of the contractors that they have done additional work or extra work which does not show upon the reports of the engineers? A. No, sir.

Q. Then why did you accept Twichell's statement if it did not appear upon the reports of the engineer? A. We did not accept Twichell's statement. We substantiated it by Mr. Knudson's records. He was engineer at the time of construction.

Q. Now, how long was Mr. Knudson on 58? A. I couldn't say that off-hand, the records would show it.

By Mr. Lounsbury:

Q. Have you got the grey file on 59, Mr. Myhre? A. Yes.

Q. You made up this revised detailed estimate covering all of the items on 59 in Richland County? A. No, this was prepared by the chief clerk which is the usual duty of the chief clerk who prepares the detail estimate.

Q. Who furnished him the information? A. Why, it was taken, I believe, from that sketch of the clay haul—the clay haul diagram. I probably furnished him some of the construction engineering, probably some.

Q. Who is responsible for getting up the revised detail estimate? A. Who is responsible?

Q. Yes. A. Well, that is usually the construction engineer who prepares a rough draft of the detail estimates.

Q. And in cases where a considerably larger amount is allowed the contractor and the department does not accept the figures of the engineer who had been on the job, who is responsible then? A. Well, I don't think I get that clearly, Mr. Lounsbury. This detail estimate has nothing to do with the allowance of the contractor. It is the agreement with the government.

Q. Yes, I understand that. It is based on the cost of the
(850)

job to the State, the County and the Government. A. Well, it is also based on the anticipated cost, because when you modify a project agreement with the Government, it takes about six weeks to get that through and therefore you have to anticipate what the costs and extras will be far in advance before submitting this estimate.

Q. Is the revised estimate made up before the completion of the particular work? A. This kind is, this detail estimate is what goes to the government for modification. A revised detail estimate has to be submitted to the government for modification of a project agreement.

Q. Was this made up before the work was completed? A. Well, I don't believe it was.

Q. It accompanies the modification of Project agreement dated the 24th of September—that is, signed by your department on the 24th of September; the work at that time was completely finished, was it not, and accepted? A. I don't remember the date of that acceptance.

Q. Wasn't it accepted in the fall of 1923? A. Yes.

Q. This was approximately a year later? A. There is nothing strange about submitting this detail estimate to the government for modification. The amounts practically shown in there, in addition to the original detail estimate, are based
(851)

on the claims made by Mr. Twichell, based on the claims not on what our department understood he was entitled to but on his claims, and the reason for that was this: It was a fore-

gone conclusion that the settlement of this project would get into law, that is, I mean into a court of some sort. Therefore, the chief engineer would have to anticipate that possibly if the court held against him, the full amount of Mr. Twichell's claims would be allowed. Therefore, it would be necessary for him to have the agreement with the government modified to cover the maximum amount, which did not mean that the maximum amount would be paid, but he would be paid whatever he was allowed. That is, the total estimate is in anticipation of the maximum amount that they might have to pay if the court ruled against them.

Q. Representing the full amount? A. Yes, sir.

Q. With the understanding that the court might allow that amount? A. Yes.

Q. I believe Mr. Black stated that you had the preparation of that in charge when he was on the stand yesterday? A. Well, I don't recall but I may have made up the rough draft and the chief clerk prepared the detail estimate.

Q. This \$119,179.09 is the amount which was allowed by the board of arbitration about two months later? A. Not entirely, there is an item in Section B which is not included

(852)

in this detail estimate. At the time that it was made up that particular claim of Mr. Twichell's for a flat top on Section B was not placed in the detail estimate. However, there was sufficient with the 10 per cent engineering and contingencies that was allowed to take care—to be taken care of by the government to insure full 50 per cent Federal Aid.

Q. How much was that? A. It was around 14,000 yards of earth excavation.

Q. In other words, you mean this engineering and contingencies—you were entitled to charge a maximum of \$10,844.36? A. Yes.

Q. Or 10 per cent of the total cost of construction? A. Yes.

Q. But, as a matter of fact, your engineering had cost about \$5,092.00? A. Yes, sir.

Q. In other words, that is not the correct figure? A. Yes, engineering and contingencies.

Q. I understand, but I mean that you had paid out—
A. We haven't paid any of this yet.

Q. You have paid no amounts on this? A. Yes, I mean since the board of arbitration made the award—but to explain what you mean, you mean there was five thousand and some odd dollars construction engineering and the voucher to the government was ten thousand odd.

(853)

Q. Yes. A. That covered the flat top on Section B which the board of arbitration allowed which we considered incorrect.

Q. Why couldn't it be shown in here, Mr. Myhre? A. Well, at that time we hadn't considered that flat top on B as most of the discussion on the project was on Section A in connection with the clay hauling and clay surfacing. We know of the claim of Mr. Twichell on the flat top on B.

Q. You knew that you allowed Mr. Twichell—or the board of arbitration did—approximately \$5,000.00 for that flat top which took care of this balance of \$10844.36? A. It is rather hard to state that that is the amount.

Q. Well, in round figures. A. But I can tell probably.

Q. Well, in round figures, that is what it is? A. Yes, sir.

Q. Now, how was the interest item taken care of in here? A. You mean on the voucher to the government?

Q. Yes. A. You can't voucher interest to the government. Therefore, there was no interest vouchered to the government.

Q. This was the amount by the board of arbitration which included two items, one for \$2200.00 and one for \$473.00. How is that taken care of by this detail? A. This isn't the
(854)

amount allowed by the board of arbitration. This is the detail estimate furnished the government.

Q. I am not referring to that. Just refer to the books. A. What you want to know is—

Q. You have the ruling of the arbitrators in this book? A. Yes, I presume so.

Q. What is the total amount allowed by the arbitrators that is as the cost of road? A. As the cost of the road?

Q. Yes. A. Well, I would have to figure that out, because this award of the board of arbitrators is the net amount allowed on Section A and Section B. In order to get the total amount that was allowed, I would have to figure up the final estimate.

Q. Maybe it would shorten this if I asked this question: In making up this revised detail estimate, weren't the figures increased in order to take care of the problematical interest? A. No, sir, we had no idea as to what would be allowed at that time.

Q. Well, the same reasoning would apply on the other proposition which you explained? A. No, because we didn't allow—no interest items are ever placed—

Q. I understand they are not vouchered to the government. A. Well, they can not be placed in an agreement
(855)

estimate either.

Q. But, as a matter of fact, the total of \$119,000.00 shown in the detail estimate is the same amount as the total allowed by the board of arbitration is it not? A. No, it wasn't.

The discrepancy is this: When the board of arbitration—there was no construction engineering on the final voucher.

Q. Just repeat that. A. In the award of the board of arbitrators there was no construction engineering, because that isn't paid to Twichell. In the final voucher we have to submit in detail the construction engineering which in this case amounted to five thousand and some odd dollars which does not agree with the award of the board of arbitrators.

Q. That is also true of the concrete contract and the culverts and work of that kind? A. Yes.

Q. In other words, you have to take this amount, add your engineering and the other contracts that were separate and apart from Twichell's? A. Yes.

Q. Can't you do that and give us the result? A. Just a minute, I think I have an idea of what you are driving at. The reason that the final voucher checks with the final estimate, is that it?

Q. Yes. A. Well, now, these quantities in here check with the detail estimate back here with the exception of item 4 in Section B, which is that flat top I spoke of.

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Q. What is the discrepancy in these amounts? A. That is \$31,798—and this is \$47,724, approximately 3926.

Q. That is yardage? A. Yes, cubic yards.

Q. That is in item 4? A. Yes, in item 4 of Section B.

Q. And that would amount in dollars to how much? A. \$7798.56.

Q. Well, now, the government did not have—the way the contract is divided up—a total of 50 per cent of the amounts expended including the amounts allowed by the arbitrators. A. Well, some of the amounts allowed by the arbitrators, but not the interest.

Q. Well, will you explain that? A. Yes, I will. The total amount on which Federal Aid will participate is \$119,179.04.

Q. Just the same as the— A. Just the same as the amounts of the detail estimate. That is the amount that they participated in. That includes the final estimates as issued except the interest items and also includes the construction engineering which, of course, does not appear in the final estimate.

Q. Yes, you mean in the revised detail estimate? A. Yes, in other words, we would get no more from the government than 50 per cent of the total of \$119,179.04. So the vouchers

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—the final voucher checks exactly with the detail estimate with the exception of item 4 of Section B excavation for the flat top which is a contingent item, and it includes construction engineering.

Q. Your total engineering to which you were entitled was \$10,824.46? A. That is the engineering and contingent—not just the engineering.

Q. Yes, well now the engineering actually cost \$5093.00? A. Yes, sir.

Q. This contingent amounts to \$7798.56? A. Yes.

Q. Don't those two sums more than exceed that amount? A. They do, but all you can get is 50 per cent of the \$119,000.00, the total actual cost according to the project—the final voucher is \$122,279.04. The total of the detail estimate is \$119,179.09. That is all that you can get Federal Aid on.

Q. Because that was the amount set forth in your modification? A. The balance about \$3,000.00 is below the detail estimate.

Q. That is the interest items? A. That would be the interest items.

Q. And the Federal government only participates in the amount shown here? A. Yes, sir. Of course, that \$122,000.00 includes the \$5,000.00 engineering item. You see, this is the total cost according to this agreement.

(858)

Q. The government did allow that, of course? A. For all that, yes.

Q. In fact, under your revised detail estimate—well that includes contingencies, too, doesn't it? A. Yes.

By Mr. Graham:

Q. Then who actually did pay the interest? A. Well, it hasn't been paid yet, Mr. Graham.

Q. Well, who is to pay it? A. Well, that is not for me to say.

Q. Do you know from what fund it will be paid? A. The board of arbitration of course made this award.

Q. Yes, you mean that you people are not going to carry out the terms of the award? A. I don't know, I didn't have anything to do with the award, but it was accepted by the Highway Commission and, of course, I presume payments are made out of the same fund as made on the rest of the project.

Q. That would be out of the 10 per cent fund? A. The agreement reads 50 per cent from the county and 50 per cent from the government.

Q. Has the county agreed to pay any interest? A. I don't know.

Q. Then who will pay it? A. I can't tell you.

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Q. You know, don't you, that all that Richland County agreed to pay was \$9300.00? A. I don't know that.

Q. Did you ever look through the records? A. I didn't see it in the records.

Q. Did you ever look through their minutes? A. Of Richland County?

Q. No, the minutes of the Highway Commission? A. No, sir.

Q. You never heard anything about that? A. No, sir.

Q. This is the first you heard about it? A. Yes, sir.

Q. How do you figure this interest should be paid? A. Not having created the interest myself, I am not in position to say how it should be paid.

Q. How did it happen in making up this revised detail estimate that you didn't include Mr. Twichell's claim for making a flat top road on Section B, didn't he tell you? A. Well, there was enough in that detail estimate to cover everything that was allowed.

Q. Why didn't you include that item of making a flat top road, you knew he claimed it? A. Yes, he claimed it.

Q. Which wasn't any contingency? A. It is all contingent.

Q. He had made that claim to you? A. Yes.

Q. Why didn't you include it? A. The proposition was (860)

to get sufficient to cover what would be the maximum amount that the court might allow if his claim was substantiated and there was plenty with the 10 per cent engineering and contingencies.

Q. You could have got it just as readily if you had shown his claim? A. There was no need to increase the detail estimate to an amount you wouldn't vouch for.

Q. You could have done it the other way just as readily—shown the correct amounts? A. Sure, but there was no necessity of increasing it over that amount.

Q. I say you could have done that? A. I presume we could.

Q. Just as readily as the way you did it? A. I presume the government would allow it.

Q. Answer it yes or no? A. I presume we could.

By Mr. Vogel:

Q. Mr. Twichell had this contract in 1920? A. I think so, yes.

Q. Those contracts were supposed to be completed in 1920, were they not? A. I don't know the date of completion on the contracts.

Q. The records show December 1st and December 15th.

By Mr. Lounsbury: September 1st.

Mr. Vogel:

Q. September 1st and December 15th. There is a provision in that contract for \$25.00 a day damages in case it is not finished by the expiration of the contract date? A. Yes, sir.

Q. This road was not finished until 1923? A. No.

Q. You don't know whether the board of arbitrators' award—whether they entered any items against Mr. Twichell for failure to live up to the terms of the contract? A. I don't know, because I wasn't in there, the day they held their hearing I was called in as a witness and testified and went out.

Q. The fact is that there was no offset against Mr. Twichell? A. In talking afterwards with Mr. Bliss who was on the arbitration board, I brought up the subject of liquidated damages. He stated they had so many changes on the job and that was the reason they did not pay any attention to this counterclaim of ours.

Q. You feel that a contractor should be assessed his liquidated damages, do you not? A. Well, we never have.

Q. Why did you happen to mention it in this case? A. Well, it went a long period over the time.

Q. You felt, then, that Mr. Twichell ought to pay some liquidated damages. That is your personal opinion? A. My personal opinion was it should have been brought up before the arbitration board for consideration.

Q. What was this interest charge for? A. I didn't see the testimony on that, but according to their award, I believe they said the reason for that interest in the award—I don't recall just what it was.

Q. What is your own opinion with respect to what that item was for? A. I understand it was the interest from the time the job was completed until the time that the award of the board was made.

Q. There is no offset for the time that Richland County waited for their road to be completed? A. I didn't see any.

Q. Don't you think that is giving Mr. Twichell the advantage there? A. Well, I wouldn't want to pass on that.

Q. What is your personal opinion on that now. You maintain that there should have been some liquidated damages? A. I can't see where my personal opinion in this matter—

Q. You have a personal opinion, I suppose? A. I might have.

Q. Well, what is it? A. Well, I don't care to state that.
By Mr. Graham:

Q. Were you down to Richland County in February, 1924?
(863)

A. In February, 1924?

Q. Yes. A. That is quite a long while ago. I don't remember. I was down there some time.

Q. Were you down before the board of county commissioners? A. Yes, sir.

Q. Did you tell them at that time, in substance, that reports of the engineers showed a balance due of \$18,000.00, but Mr. Twichell claimed \$34,000.00? A. Yes, I believe I did.

Q. And that you thought settlement could be made for \$18,000.00? A. I don't recall whether I made such a statement or not.

Q. What did you say? A. It is a long time ago and it is hard to remember, but I may have told them that the engineers felt that he was entitled to about \$18,000.00 and that it would be a matter for the court.

Q. That is all that the engineers felt he was entitled to was \$18,000.00? A. That is the estimates that they rendered, yes sir.

Q. At that time Mr. Twichell had made his claim to your department for all extra and additional work claimed by him amounting to \$34,000.00? A. At that time he did, yes.

Q. How do you account for it that you afterwards made up an estimate which would allow him approximately \$47,000.00? Did he make additional claims? A. Yes, he made additional
(864)

claims before the arbitration board.

Q. Every time he came up he would keep bringing up some new item? A. He had a lot of different claims.

Q. Every time he came he had a new one and so it finally got up to \$47,000.00 in place of \$18,000.00 is that it? A. That is what the arbitration board allowed.

Q. Well, but your department prepared the claims submitted by Mr. Twichell? A. We prepared a sketch for him. I would like to explain that.

Q. You prepared a sketch under the statements made by him? A. No, we made an examination of the road itself.

Q. You didn't make any examination of the road? A. Who didn't?

Q. You. A. I went down as recorder with Mr. Black and Mr. Twichell.

Q. When did you go down? A. In the fall. Mr. Black asked me to go along. It seems that Mr. Twichell was mak-

ing a lot of claims. In going over the blue prints, it was impossible to tell from where he hauled and where he didn't haul, and he asked that Mr. Black go over the ground with him in an attempt to satisfy himself about his claim. His claims were all for amounts that could not be placed into definite quantities. Mr. Black asked me to accompany him

(865)

and Mr. Twichell over the project in attempting to get the various hauls—points of the various hauls and set forth his total claim, and we—I had prepared a profile, we call it, from the center line of the road with the pits shown on there that had previously been measured by Mr. Thorberg and checked by Mr. Wynkoop. We went over the road and we pointed out the places that he had hauled from.

Q. You mean the places where he said he had hauled from? A. That is it exactly, and I recorded the points and Mr. Black inquired from various farmers down there that had worked on the road and practically substantiated him.

Q. You say Mr. Black inquired, did you hear him inquire?
A. Yes, I heard him.

Q. That was before you went down to Richland County?
A. I don't recall, I believe it was. - I am not sure.

Q. And after coming back from that trip with Mr. Black and Mr. Twichell you were still of the opinion that the report turned in by Mr. Gavin and Mr. Thorberg was correct and not Mr. Twichell's claims? A. We never—

Q. Well, I say, were you of that opinion? A. We didn't pass any opinion.

Q. Well, but you told the board of county commissioners that the amount of the engineers' reports, \$18,000.00, was

(866)

all that Twichell was entitled to. A. That is what they had reported.

Q. You agreed with their claims? A. They had reported their claims.

Q. So that you were of the same opinion as Mr. Gavin and Mr. Thorberg in regard to Mr. Twichell's claim being excessive? A. Yes, I believe so.

Q. Now, did you change your opinion and conclude that Mr. Twichell's claims were valid claims? A. They have been validated by the arbitration board.

Q. In your opinion, they are exorbitant claims? A. Well, I don't care to pass on that.

Q. You have never changed your opinion that they were exorbitant—Mr. Twichell, in other words, never produced anything that made you change your mind from your first opinion? A. Well, I would like to answer it this way—

Q. Did he ever produce anything that made you change your opinion? A. I don't doubt that the work was done in the way he claims it was.

By Mr. Lounsbury:

Q. Your point is that while it may have been done it might not have been authorized? A. That is it.

By Mr. Vogel:

Q. Who presented the Highway figures before the arbitration board? A. Well, I don't know as to that, because (867)

the only time I was called in there I was on the witness stand and then I went right out again. Mr. Black and Mr. Brown and Mr. Poupore were there, I believe.

Q. Certain data, estimates of the Highway Commission, were presented before this arbitration board showing their side of the controversy? A. I presume so, I wasn't in there, so I can't say.

Q. You prepared those estimates that were placed before the arbitration board? A. Well, the only thing that I know of, they had the plans there and this blue print sketch of the hauls and so on, being the claims of Twichell and also all the correspondence and the certificate of completion and final estimates rendered by Mr. Gavin and Mr. Wallace.

Q. How long were you down on that road with Mr. Black and Mr. Twichell? A. We spent about a day there.

Q. How could you tell whether this clay surfacing was hauled from pits designated by Mr. Twichell? A. We couldn't tell. Mr. Twichell made the claims that they were hauled and Mr. Black asked certain farmers there who had worked with him who practically substantiated the particular hauls.

Q. You couldn't tell from the road? A. No.

Q. You heard Mr. Black's testimony that he could tell from the difference of the coloring of the clay? A. I didn't hear it. (868)

Q. You didn't notice any difference in the coloring of the clay? A. I don't remember that I did, no.

By Mr. Graham:

Q. Were you down to Valley City two or three days before the contract was let for the paving last summer? A. You are referring to 247 B Valley City?

Q. The paving within the city. Yes, 247. A. Two or three days?

Q. Yes. A. No, sir

Q. How long was it? A. I went down the morning of the letting, attended the letting and came back—that is, the opening of the bids.

Q. Did you go to any of the members of the city council and give them your ideas as to which form of paving they should accept? A. No, sir.

Q. You never talked to anyone about the bithulithic pavement? A. No, sir.

Q. Do you know who got the bids down there or whose bid was accepted? A. Haggart Construction Company, Fargo.

Q. Are you acquainted with any of the members of that firm? A. Yes, sir.

Q. Close, personal friends of yours? A. Yes, sir.

Q. And, of course, you would like to see their bid accepted? A. I wasn't particularly interested in this job.

(869)

By Mr. Lounsbury:

Q. Do you own property in Valley City? A. Yes, sir.

Q. What is it—a house and lot? A. I own a store building there and a garage building and the residence. I say I own it—it is an estate—my father's estate.

Q. Is any of that property located on that 247 B? A. No, sir.

Q. None of it whatever? A. No, sir.

Q. In your evidence this morning you spoke about, referring to this liquidated damages, that the board of arbitration paid no attention to our offset or liquidated damages. Isn't it a fact that the question was not raised before the board of arbitration? A. I say I don't know except what Mr. Bliss told me afterwards.

Q. You have never read the testimony taken on that hearing? A. No, sir.

Q. By the way, who took that testimony? A. Miss Christianson, I suppose, did you not?

Miss Christianson: Yes.

Q. How long has Miss Christianson been with the department? A. I couldn't say. She has been with them five or six years.

Q. Has she been there ever since you have been connected with it? A. I think she has been there ever since 1922.

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Q. And had been for some time prior to that? A. I believe so. I don't know.

Q. You stated that Mr. Twichell made additional claims before the board of arbitration? A. Well, I believe he did, on interest and this flat top on B.

Q. Hadn't that question of flat top been under discussion between the Commission and Mr. Twichell all summer? A. I believe they discussed it to some extent but they decided to disregard it because the main claims were on Section A.

Q. There was some discussion on that item? A. Yes.

Q. Mr. Twichell testified before the Committee that he made no claims whatever but depended upon the Commission to figure the yardage and give him what he was entitled to. Do you know whether that is true or not? A. I do not.

Q. Mr. Twichell also testified that Section B of this road was completed in the fall of 1922. Do you know whether that is a fact or not? A. Well, I remember seeing some correspondence on that and Mr. Ray and Mr. Hathaway—Mr. Ray was assistant chief engineer of the Highway Commission; Mr. Hathaway was district engineer of the Bureau of Public Roads, of St. Paul—Mr. Scharfs of the Bureau of Public Roads at Bismarck, made a trip over this Section B (871)

late in the fall of 1922, but they didn't accept it.

Q. Then it was not technically completed? A. No.

Q. His interest, if any interest was allowed, should not have dated from the fall of 1922? A. Well, I wouldn't care to pass on that.

Q. Well, wouldn't that be obvious from the facts you have stated? A. Yes.

By Mr. Graham:

Q. Do your duties take you away from Bismarck very much? A. Well, not a great deal—quite a bit.

Q. And any of the places to which you go you could go by train? A. Some times by train and some times by car.

Q. All of the places which you have to visit in the line of your duties are on the railroad? A. Not always. I make inspection trips off the railroad.

Q. Is that part of your duties to make inspection trips? A. Yes, sir.

Q. How many inspection trips have you made? A. Well, I made five or six last year.

Q. For making five or six inspection trips the Department furnishes you with an automobile? A. Well, I make other trips besides inspection trips, attend lettings, and so on.

Q. What kind of automobile did they furnish you with? A. They furnished me with a Buick.

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Q. You use that Buick in going back and forth to the Capitol and driving around town on your personal business? A. I use it going back and forth to the Capitol. I use it very little on my own private business; I might go down town for something or other occasionally.

Q. Who furnishes the gas and oil? A. The State furnishes the gas and oil.

Q. And you charge them up for the trips back and forth to the Capitol and down town? A. Yes, the gas and oil is furnished.

By Mr. Vogel:

Q. You have said you made five or six inspection trips the past year? A. Long ones, I said.

Q. You also attend to the letting of contracts? A. Yes, sir.

Q. And that letting of contracts is done at the county seats? A. Yes.

Q. On the railroad? A. Some times they are out of the way like Mercer County, Stanton, where you can go by car more easily than by railroad.

Q. Does anyone go with you on those inspection trips? A. Some times the division engineer does.

Q. Probably one or two people? Do you think it is essential to have a seven passenger Buick car to make five or six inspection trips a year? A. Well, five or six inspection

(873)

trips, and trips to county seats on lettings.

Q. That is usually one day? A. A day, some times two days.

Q. It would be more economical to go by train? A. Some times—some times not. You can't make inspection trips by train.

Q. When was this car purchased for you? A. August, I believe.

Q. Nineteen twenty— A. 1924.

Q. A new car? A. Yes.

Q. Did you request the purchase of that car for you? A. No, sir.

Q. How did you happen to get it? A. Well, I had been using my own car for a year and a half running back and forth on trips and I told Mr. Black that I was perfectly willing to wear out my car in the State's service for nothing but I believed I should have a car.

Q. In other words you asked for the car? A. I asked for a car.

Q. Were you the last one of the engineers to get a car? A. I don't know. I believe so.

Q. You thought that since the other engineers had cars and you were using your own it wasn't fair to continue that sort of a situation? A. Yes sir.

Q. Had the other engineers been using their own cars you wouldn't have made any objection? A. No sir.

(874)

Q. It was due to the fact that the other engineers had cars and you were the only engineer using your car? A.

Well, some of the other engineers used their own cars for a while too.

Q. But you were the last engineer to get a car? A. Yes, sir.

Q. You wouldn't say it was necessary to have a seven passenger Buick? A. Well, that is a matter of opinion—it isn't a seven passenger car by the way.

Q. A five passenger? A. Yes.

Q. Is it a closed car? A. It has a winter top. Q. Did you ask for that kind of a car? A. No, sir.

Q. You made no request for any kind of a car? (No answer.)

By Mr. Halcrow:

Q. In the matter of interest, Mr. Myhre, is there anything in Mr. Twichell's contract as to when he should receive payments on his contract? A. Not that I know of.

Q. Isn't it a fact that the contract reads that he should be paid every thirty days? A. Well, estimates are usually made every thirty days for work done during those thirty days. There might be such a case that there was no work done for thirty days and consequently he would be entitled to no payment.

(875)

Q. As soon as those thirty day payments were discontinued he should be entitled to interest from that date? A. Well, I don't know that he should if the project wasn't accepted. The final payment would depend on the final acceptance.

Q. Well, he is still working on the contract and if the agreement in the contract was that he should be paid every thirty days and those payments failed to come I would imagine that he would have a right to receive payments that were deferred with interest.

By Mr. Vogel:

Q. Have you read Mr. Twichell's testimony? A. I have not.

Q. You wouldn't say that Mr. Twichell made the statement on the stand that the Highway Commission had told him that due to the nature of the work it was almost impossible to render any monthly payments and that the matter would be settled at the close of the work, and that was agreeable to Mr. Twichell? A. No.

By Mr. Halcrow:

Q. Who located the pits that Mr. Twichell hauled the earth from? A. I don't know as to that because as I say I never was in contact with this job during the construction, but I presume naturally the division engineer located them.

(876)

Q. He also indicated the distance that Mr. Twichell hauled the earth? A. Yes sir.

Q. He would be justified in his estimates to charge for overhaul from the pit to the end of the division—to where he hauled the clay? A. Well, he would be entitled to whatever overhaul would occur from the pit to where he placed it.

By Mr. Lounsbury:

Q. In excess of 1000 feet? A. 1000 feet, well that is overhaul.

By Mr. Halcrow:

Q. Do you know how far he did haul the earth—how far it was indicated where he should have hauled it? A. Well, there were so many pits and so many hauls that I couldn't say.

Q. Then you don't know whether his claim was excessive or not? A. No, I don't know whether his claims were excessive or not.

By Mr. Vogel:

Q. How did you say Mr. Black figured the haulage down there the time that you were down there? How did you say that Mr. Black figured the overhaul when he was on the job down there with you, on the project in Richland County? A. Well, I had taken the points on the plan where Mr. Twichell said he hauled, made a note of it.

Q. Made a note of where Mr. Twichell said he hauled?
(877)

A. Yes.

Q. Yes. A. And brought that profile back and one of the boys in the office computed the overhaul from that diagram.

Q. Did you not say that Mr. Black took Mr. Twichell's word and then inquired of farmers along the road whether that was true? A. Yes, sir.

Q. You further testified that you could not tell from the nature of the soil? A. I didn't particularly try to tell. I was busy recording.

By Mr. Lounsbury:

Q. You don't know of your own knowledge whether or not Mr. Twichell put on an excessive amount of clay surfacing or not? You don't know whether he put on more than he was ordered to or not? A. Well, I don't know of any record of orders being given to place so much on as he was allowed by the arbitration board.

J. N. ROHERTY, having been recalled for further examination, testified as follows:

Examination by Mr. Halcrow:

Q. Would it be possible for a contractor to put as much yardage as the plans call for into a road and not have the road up to planned grade? A. Yes sir, it would be possible under certain conditions.

(878)

Q. How? Explain the conditions. A. If the cross section were taken so that some of the material that showed as earth was on top of snow or ice which later melted why when he put in the amount of yardage that the plans would call for there would still be an insufficient amount of earth equal to the amount of ice or snow that had been there when the original survey was made and the road could have an amount of earth called for and equal to the plan and still not be up to the planned grade.

Q. Did you ever find that condition to exist elsewhere? A. Yes, sir, on Federal Aid Project 58.

Q. That is in Sargent County? A. In Sargent County, yes sir.

Q. Who sent you down to Sargent County? A. Mr. Robinson.

Q. What for? A. Mr. Kunz, who had been the engineer for the Highway Commission on that project had left the department and was working for Mr. Twichell so they were short an engineer and Mr. Robinson said that he wanted someone to go down there who had had some experience along the lines of road work.

Q. What condition did you find there? A. The morning after I got there I went out on the job and Mr. Kunz was in charge and I asked him how things were going, and

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he says: "I can't make the grade work out, and I went over the project. The survey had been made at, I believe, identically the same time the survey made on Federal Aid Project 59, and there were discrepancies between the—where the plans showed the ground line to be and where it actually existed, and I started the morning after I got there, making measurements or re-cross sectioning just ahead of the grading outfit, and then from those cross sections I revised the plan to get something that would work out, and, just as an example—there was another man who can substantiate this testimony—there was one particular place where the ground is represented on the cross sections, across a pot-hole that is just west of Mr. Reed's house, where the ground was shown to be about 18 inches or two feet lower on the side of the road than the center of the road, and when we took that cross section at that particular point we found it was very much deeper—in fact when the contractor was making the fill along that place the old black horse that was on the side between the water and the grade slipped off the grade and went under over his back. You can readily see that if there was a condition like that, that the contractor could put in as much earth as the plans showed and still he wouldn't have the road up to grade.

....

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By Mr. Graham:

Q. Mr. Roherty, all of that would be visible to the contractor on reading off of his plans when he commenced to put in the work? A. Yes, sir, if he profiled his plans.

By Mr. Halcrow:

Q. Did you have any trouble with the contractor when you were down there? A. I did not. Mr. Twichell was a stranger to me. I had known him by sight but had never met him. He came on the job the day I got there and came on the job once afterwards. I can't recall that I had any conversation with him about the job. The only other time that he was on the job while I was there was, I am pretty certain, the day after Thanksgiving.

By Mr. Vogel:

Q. You were sent down there simply to cross-section the road? A. I was given no instructions. I was to use my own judgment.

Q. You would not necessarily have any talk with Mr. Twichell? A. No, sir.

Q. You wouldn't know anything about Mr. Twichell's views? A. No sir, only by hearsay.

Q. You were told to fix the survey up and that is all you did? A. Yes.

Q. You wouldn't have anything to do with Mr. Twichell at all? A. Not anything but hearsay.

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By Mr. Graham:

Q. When did you go down there? A. I think it was the 4th of October.

Q. What year? A. 1922.

Q. Mr. Twichell hadn't made any complaint about the survey on this road? A. His representative did, Mr. Kunz.

Q. You were present when Mr. Twichell testified that he had no complaint to offer to the survey in Sargent County? A. No, sir, but those plans are a matter of record.

Q. I say were you present at that time? A. No sir.

Q. A settlement had been made with Mr. Twichell for Section C of that road before you went down there? A. No, sir, Section C—they were just starting to build it. Stevens Brothers had Section C.

Q. Settlement was made in the fall of 1922 for Section C? A. Yes sir, I also had charge of C.

Q. There was no difficulty in making settlement for Section C? A. No.

Q. The amount paid for Section C was under the estimated cost of that section? A. I couldn't testify as to that, but

as I recall it the settlement on Section C was very close to the planned quantities.

Q. You don't remember which way it was—whether it was slightly over or slightly under? A. There was a slight

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increase on rock, not very much, and which way it was I couldn't say.

By Mr. Vogel:

Q. You witnessed Stevens Brothers at work on the road?

A. Yes.

Q. Did they have a very efficient outfit? A. Yes sir.

Q. Do you know of any other contractors that have had any difficulty with the Highway Commission or with the engineers of the Highway Commission to your best knowledge and belief? A. I can't recall any now that have had any serious trouble.

Q. You have never been sent out on any other job to straighten out any matters of that kind? A. No sir.

By Mr. Lounsbury:

Q. The conditions in Richland County as far as the surface of the ground is concerned were far different than they were in Sargent County? A. I never was in Richland County.

Q. You have seen the plans and profiles? A. There is some difference, yes sir.

Q. One is a flat country, practically flat, with no heavy cuts or fills, and the other has quite a few pot-holes? A. On sections in 58 there were quite a few pot-holes.

Q. But none in Richland County? A. I showed that as

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an illustration.

Q. But there is a difference in the lay of the land in the two counties? A. Yes, there is a difference.

By Mr. Vogel:

Q. About how many miles of Federal Highway is there in North Dakota, approximately? A. I couldn't say that offhand. There must be over 2000 miles completed.

Q. It is let out usually in five or ten mile stretches? A. That is up to the county commissioners. The sections are usually about six to ten miles long, possibly sometimes five, but a project sometimes includes more than one section and is let as one contract.

Q. But there has been a large number of contractors bidding on that work? A. Sometimes there is a large number of bids.

Q. A large number of contractors have completed these

various projects—it is not only one contractor or a few contractors that have done this work? A. No.

Q. Mr. Twichell is the only man you recall that had any serious difficulty with that work? A. There was a project that the Highway Commission was working on when I wasn't with them—

Q. During your time they have had small difficulty? A. Very small.

By Mr. Halcrow:

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Q. From what you know of the Richland County project there is no other project in the state equaling it in difficulty of construction? A. We have never made the mistake on surveys a second time. We have had over two hundred projects and these two are the only ones we have had the misfortune to get a rotten survey on.

Q. That is the only place where there is drift, isn't it, and dome sand? A. Oh no sir, there is trouble with the sand upon Federal Aid Project 10 in Pierce County, and there is trouble out at other points, minor points.

Q. In those points you knew what to expect and your plans were made accordingly? A. Yes, as I say, the Highway Commission never made the same mistake twice in regard to those surveys. We have had over two hundred projects. This 59 is less than the one-half of one per cent that Volstead allows.

By Mr. Vogel:

Q. This was the only project except No. 1 that Mr. Twichell had or worked on? A. I believe he had another project in Nelson or Steele County.

By Mr. Lounsbury: Cass County, No. 1, wasn't it? A. Yes, but I think he had another one when I wasn't with the Commission.

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W. H. ROBINSON, having been called for examination, was first duly sworn and testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. State your name, age and residence. A. W. H. Robinson, age 47, residence Washburn, North Dakota, at present.

Q. What is your business or profession? A. My profession, mechanical and civil engineer; business at present automobile business.

Q. Of what school are you a graduate? A. University of North Dakota, mechanical department.

Q. You were at one time connected with the State Highway Commission of the State of North Dakota? A. I was.

Q. During what period? A. October, 1918, to April, 1923.

Q. And in what capacity? A. Chief Engineer and Secretary.

Q. Now you are acquainted with Mr. Twichell? A. Yes.

Q. And you know of Projects No. 58 in Sargent County and 59 in Richland County? A. Yes.

Q. Will you state your connection with the Richland County project and as to any matters that arose over the building of that during the time you were in office? A. Well,
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of course there were matters coming up all the time there as to the engineering. I am not, of course, as chief engineer directly connected with the making of plans and so on except as they were brought to me.

Q. Do you know whether or not there was any flat surfacing on 59? A. The only thing I recall, I believe it was the road engineer who pronounced the plans pretty rotten. I think that was his words.

Q. And did you have any correspondence or talks with Mr. Twichell concerning the delay in the completing of the projects in Richland County? A. In Richland? Not very much in Richland. I might have had some in regard to Richland. I don't recall.

Q. Did Mr. Twichell ever make any trips to Bismarck to see you concerning either of these projects? A. Yes, he did, several times. The trip I remember particularly was the time we had given him ten days' notice that the contract would be annulled as provided by the specifications if he did not do certain things. This was at the request of Sargent County, to have something done on the road.

Q. The request of the Board of County Commissioners? A. Yes.

Q. On account of his delay in completing the road? A. In starting first, and later in completing.
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Q. Well, did you have any talk with him about that? A. Yes, I think it was about some time in August, 1921, after we had given him the ten days' notice; he came to the office and spent quite a while with me in the office, requesting an extension of time.

Q. Did you grant him such extension? A. Yes, we granted him an extension. I have forgotten how long now. I believe the records would show that.

Q. If I understand the matter correctly Mr. Twichell was granted an extension of time to finish both jobs in the fall of 1920? A. Yes.

Q. He was again granted extension of time to complete both jobs in the fall of 1921? A. I believe that is correct.

Q. And he was again granted an extension of time to complete the jobs in both counties in the fall of 1922? A. I believe that was the procedure if he continued on the work.

Q. None of these jobs were completed during the time you were in office except Section C of 58? A. I believe C was accepted.

Q. That was completed by Stevens Bros.? A. Stevens Bros.

Q. Now, Mr. Twichell testified, as I recall it, that there was a conspiracy between you and the engineers upon your staff to not give him what was coming to him. Is there any-

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thing to that? A. Absolutely nothing. The correspondence, I believe, you will find in the file would point the other direction. If we erred at all we erred in not making him comply with the terms of his contract.

Q. In other words, you treated him much more leniently and gave him a greater amount of time to complete his contracts than you did any other contractor? A. I believe that is true. I don't recall of any other contract that dragged along as long as those did.

By Mr. Vogel:

What reason did Mr. Twichell give you for asking the extension of time? A. Mostly his financial condition.

Q. His financial condition? A. He had assigned his contract to the bonding company. The bonding company officials had visited me also. I said "had"—they did during that season some time; it might have been after Mr. Twichell—

By Mr. Graham:

Q. By "bonding company" you mean the Northern Trust Company? A. One of the Fargo companies. I don't recall which. He promised very faithfully that he would have additional outfits on the job in the time requested.

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By Mr. Vogel:

Q. The reason this job was not completed any sooner, then, was not due in the main to the faulty plan? A. I don't see how it could be due to that, all that time.

By Mr. Halcrow:

Q. But wasn't there to blame the condition of the ground or the kind of ground he was working with? A. No, the delay—he never had men enough according to complaints in the county. Where the sand is up there, that portion undoubtedly would be more difficult than the other.

By Mr. Vogel:

Q. You would hold that he did not have sufficient equip-

ment? A. Those were all the complaints we got from there—poor equipment, that was the main complaint.

Q. Mr. Twichell's reason for not having sufficient equipment was lack of funds? A. Well, he didn't put it that way. He promised to move certain outfits in. I don't recall where they were working.

Q. Did he fulfill those promises? A. I think not.

By Mr. Graham:

Q. Up to the time you left office did you ever issue an order to Mr. Twichell to change the type of road which was called for in the plans of Section B—59, from crown top to flat top? A. I never did.

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Q. Did you ever cause such an order to be issued to Mr. Twichell? A. The Highway Commission, so far as I know, never built a flat top road. I never heard of it until I got here.

By Mr. Halcrow:

Q. That was a Federal order, wasn't it, Mr. Robinson? A. I never heard anything of that.

By Mr. Vogel:

Q. I believe one of the witnesses the other day testified that that wasn't a Federal order. Mr. Black testified that that wasn't a Federal order but an order of the State Highway Commission under your administration. Is that true or is it not true? A. Not true, as far as I know.

Q. You never gave an order to change from a crown to flat top? A. I never heard of a flat top.

By Mr. Halcrow:

Q. The Federal Government didn't care whether it was a round or flat top? A. There are certain standards of highways approved by the Federal Government. I don't see how they can approve anything outside of those. The specifications, I believe, shown on this plan are standard specifications. There was a change in the crown of the road during my administration. I think the roads when I took office had a 12-inch crown. That was reduced to nine inches.

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Q. You wouldn't say that was reduced to a flat top? A. No.

By Mr. Vogel:

Q. Did this 59 B call for a nine inch crown? A. I believe that is what the plans were. I don't know about the original plans.

Q. There had been no written orders or no oral instructions to Mr. Twichell to make any change on the top of

Federal Project B during the term of your office? A. I couldn't say about the oral. I know about the written. There was no oral instructions from myself.

By Mr. Graham:

Q. If any oral changes were given by any of the engineers it was given without your consent or approval? A. Yes. That is, there might have been a three inch reduction. That might have been done.

Q. If the road had been finished up with a nine inch crown—I understood you to say that the original contract provided for a nine inch crown. A. I don't know, except by these plans. I didn't see any revision notice on the sheet so I presume that was the original.

Q. That was the kind that was in use during your term?
A. Yes.

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Q. If any change should have been made from nine to six inches that would be taken care of by blading? A. It could be taken care of that way.

Q. What would be the proper way to make the change, to take that off the top or to build up the edges? A. That would depend; if the road were up to grade and the bureau of Public Roads should insist that that should remain the grade, then it would be necessary to build on the shoulders. Otherwise it could be bladed out.

Q. During the time you were in office, Mr. Robinson, were there any automobiles bought for the use of the engineers?
A. here were several.

Q. What kinds did you buy? A. There were two Dodges and I recall one Ford, I think.

Q. To whom were those furnished? A. The roadster—Dodge roadster was for use of the mechanics and myself, and the Dodge touring was for the road engineers, and I believe Mr. Wallace got the new one. Mr. Wallace could put me straight on that. He is here. But as I recall it Mr. Wallace got a new car in Devils Lake.

By Mr. Vogel:

Q. A Dodge, you say, touring? A. No, that was a Ford.

By Mr. Graham:

Q. Then in addition to this you had some cars sent out by the Bureau of Public Roads? A. Yes, War Department.

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Q. What kind were they? A. Fords and Dodges mostly. We had some one-ton White trucks, that is, they were converted into kind of cars used by the government. I have forgotten what they were called.

Q. Was it your custom during the time you were in office

to furnish all the engineers at the office with a car? A. I think not.

By Mr. Vogel:

Q. What was the condition of those cars when you went out of office, do you recall? A. Well, I would say that the Dodges were in very good shape. The roadster had been driven by myself less than 500 miles and I think the mechanics used it probably six or eight thousand miles. The touring car had been used, I think, by the road engineers. They call them construction engineers now. It doesn't make any difference. This car used by the construction engineers was probably used a good deal more. Most of the surplus war equipment, I would say, was pretty well worn out. In fact, a whole lot of it was worn out when we got it.

By Mr. Graham:

Q. It was second hand material when you secured it? A. Practically all of it.

By Mr. Vogel:

Q. You heard the testimony of Mr. Black yesterday that all of the cars were practically junked when he went in? A. Yes.

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Q. You wouldn't hold with that, that wouldn't be exactly true? A. Not as to these new cars.

By Mr. Graham:

Q. Have you examined the files and records in connection with the graveling job on 100 B done by Sylvester & Dailey, Mr. Robinson? A. Yes, I looked over the payment vouchers this morning.

Q. Does the record disclose that this job was finally completed in the fall of 1922? A. It does not.

Q. What do the records disclose? A. It was probably about half completed.

Q. About half done in 1922? A. It might have been more than that. I didn't balance it.

Q. Quite a large share of it was completed in 1923? A. Yes, the grading was entirely completed in 1922 on the west end.

MR. KNUTSON, having been recalled for further examination, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Mr. Knutson, you were present when Mr. Myhre was on the stand this morning? A. I heard part of the testimony, yes.

Q. Will you just give us your connection with project 58? Were you present as engineer at any time during the con-

struction of it? That is, Sargent County? A. I was down there in 1923, and the earth work was done and it was neces-

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sary to fill in several places that had been washed out and there was some riprapping to do. I believe that was all.

Q. Did you make up the measurements for the work done in 1923? A. I did on the rip-rap, grade work and culverts, I think.

Q. And the dirt, do you know who that was measured by? A. The dirt that was put in that summer wasn't measured.

Q. Then after you would make these measurements they would be turned over to Mr. Gavin and Mr. Thorberg? A. Yes.

Q. For the final estimates? A. Yes.

Q. Now, Mr. Myhre testified this morning that an increase of \$8143.85 was made over the final certificates of work turned in by the engineers in charge, and stated that part of this was done upon measurements made or directed by you after the final certificates had been turned in, as I recall it. A. Well, there were several sets of blue prints out on the job and I noted my measurements of rip-rap on my blue prints and Mr. Thorberg re-measured the rip-rap, I understand, and his measurements were considerably below mine and the reason for this was that Thorberg had missed several places that had

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been rip-rapped for at least two years and had been covered with earth and brush and so on, and there were also, I think at least two places that weren't authorized. I took the subcontractor with me when I measured them and in checking my changes in plan it was disclosed that these two places were unauthorized and I marked them so on my blue prints.

Q. Now, so far as you know, were there any new measurements made on Sections A and B which would authorize an increase in the amount due to Mr. Twichell of \$8143.85? A. The only difference between my measurements and Mr. Gavin's and Mr. Thorberg, if I remember correctly, was the rip-rap.

Q. Now after it had been decided to give Mr. Twichell an increased amount, did you make some changes in the final estimate prepared here in the office? A. I think I made the changes upon the original plans, yes.

Q. So as to make them correspond? A. Yes.

Q. This was done for the purpose of making up the final certificate for report into the Federal government, so that they would stand 50 per cent of this proposed change? A. Yes, the object was to make the plans check with the final estimates and the change in plans.

Q. If that were not done, then the Federal Government

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would not stand 50 per cent of this increase? A. I suppose not.

Q. And you made these changes under the instructions of Mr. Myhre, the chief engineer? A. Well, the plans were sent down to the drafting room and the corrections were made there. I was working under the chief draftsman, of course.

Q. And so far as you know there were never any estimates or records turned in by Mr. Gavin or Mr. Thorberg which would indicate that Mr. Twichell was entitled to this increase of \$8143.85? A. I don't know anything about that, no.

Q. None were ever brought to your attention? A. No.

Q. Did you have charge of 59 in Richland County? A. Yes.

Q. When was that? A. During the same period.

Q. Now, did you have any talk with Mr. Twichell about clay surfacing? A. I believe that was our first talk.

Q. When was that? A. Some time in July, I think about the middle of July, about the 20th or something like that.

Q. What was that talk? A. It was with reference to how much more surfacing he should do.

Mr. Yeater: What year was that? A. 1923.

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By Mr. Graham:

Q. Well, what did you tell him? A. My instructions were that Twichell was not to do any more re-surfacing, but was to fill in the places eroded by traffic and the places that had worn through due to not maintaining the road and build it up and put it in shape for final approval.

Q. What did he say? A. He said he expected to re-surface all of the surface of Section A, every foot of it, that is the way he put it.

Q. Did he say where he got his authority? A. No, he didn't say that. He said that he had been building the road for four years and he thought that he knew what it needed.

Q. Did he say that he knew more than any of the damned engineers in charge, or something to that effect? A. Yes.

Q. What else did he say about the engineers? A. There were a lot of personal things that I don't think it would be necessary to tell.

Q. Would you give us the conversation, as near as you recall it, what Mr. Twichell said? A. Well, he said that he intended to go on surfacing the entire road and also that he was not taking any instructions from me.

Q. Did he say anything about, he was going to collect for every darn thing he had done on the road during the past four

(899)

years, whether he was entitled to it or not? A. He did say something to that effect, yes, that he would get paid for every damned fool thing the engineers made him do, was the way he put it.

By Mr. Vogel:

Q. You say that in your statement on Project 58 that there were a couple of fills that were noted on your plans as being unauthorized? A. Yes.

Q. What do you mean by that? A. Well, they weren't covered by change in plan—rip-rapping was not considered necessary.

Q. In other words, Mr. Twichell had done this without any authorization? A. Yes.

Q. Do you know whether this final estimate of Eight Thousand One Hundred Forty-three Dollars and some cents covered a payment for that unauthorized work? A. Well, I expect it did. My entire measurements of rip-rap were taken including the unauthorized work.

Q. They paid for this unauthorized work, then, in this estimate? A. I think so.

By Mr. Graham:

Q. Did you ever tell Mr. Black that any of the clay used for surfacing had not been used for building up the shoulders on Section 59? A. No, I don't recall any discussion about that at all.

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Q. Did you ever tell him that any of the clay excavated from the pits had not been used for building up the shoulders? A. No, sir.

Q. Did you ever have any talk with him concerning the clay used for building up the shoulders? A. No, sir.

By Mr. Vogel:

Q. Did you report Mr. Twichell's attitude to the—what do you call the next fellow above you? A. Division engineer. Yes, I did.

Q. You reported that to the division engineer? A. Yes.

Q. Who was that? A. Mr. Gavin.

Q. Do you know whether Mr. Gavin reported that to the next fellow above him? A. Well, I think he did because I have had several of the fellows ask me about it, several of the fellows in the department asked me about it.

Q. That report would have to go through about seven or eight hands before it got to Mr. Black? A. No, I don't think so.

Q. You don't know whether Mr. Black was ever informed about Mr. Twichell's statements to you? A. No.

J. A. WALLACE, having been called for examination, was first duly sworn and testified as follows:

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Q. Will you state your name, age and residence? A. J. A. Wallace, age 25, Bismarck.

Q. And what is your profession? A. Civil Engineering, at present contracting.

Q. From what school were you a graduate and what year? A. I regret to say I am not a University graduate.

Q. Have you been connected with the State Highway Commission in North Dakota? A. Yes, sir.

Q. During what period of time. A. From the spring of 1918 until last August.

Q. And what was your position? A. Well, I held most of the different positions in the department except Assistant Chief Engineer and Chief Engineer. I started in as a resident engineer, was later division engineer at Devils Lake, then became project engineer at Bismarck and at last was construction engineer.

Q. Did you have any connection with projects 59, Richland County, and 58 in Sargent County? A. Yes, sir, some connection.

Q. During what year? A. 1923.

Q. And what was your position at that time? A. I was put in charge of the construction work in the department in the spring of 1923 and in that position was looking after all of the construction work in the state.

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Q. Who had charge under you of the work in Richland County? A. The division engineer, Mr. Gavin, at Valley City had charge of all the work in his division and he had the resident engineers under him on the various jobs.

Q. Now who was the engineer on the job in Richland County? A. Mr. Knutson was the resident engineer the early part of the summer.

Q. Who was in the latter part? A. I believe Mr. Thorberg.

Q. Now, any instructions or orders that you would have made were given to the division engineer? Is that the course you followed? A. That was the general course of the work.

Q. You might also give them to the resident engineer personally? A. I might and might give them directly to the contractor informing the division engineer and the resident engineer of them.

Q. Tell what instructions you gave to any of the engineers in charge of the Richland County Project No. 59 during the year 1923? A. About the first thing that I believe I did

in regard to this job was to serve notice—written notice on Mr. Twichell the contractor and the bonding company giving them the usual ten days' notice according to their contract instructing him to resume work on these two projects within the ten days with a sufficient force to complete them.

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Q. About when was that notice given, if you remember?

A. I couldn't say, but it was along about the early part of the summer.

Q. Probably in June or July? A. Somewhere around June or July.

Q. And did he commence work? A. He did.

Q. Well, now, did you give any instruction to your engineers as to the unfinished work or about any work? A. As soon as they informed me that Mr. Twichell was on these jobs, I drove down to Valley City. I don't remember whether I picked up Mr. Gavin at Valley City or went to Wahpeton and picked up Mr. Gavin there—and we drove from Wahpeton to Fairmount and out over 59 to Hankinson where I met—I think we met Mr. Knutson there and we also met Mr. Twichell there and we met the County Commissioner—I don't remember his name now—of Richland County.

Q. Mr. Hoefs? A. I think so. He lives on the east side of the town there. And the bunch of us Mr. Gavin, Mr. Knutson and Mr. Twichell and this county commissioner drove back to Fairmount over the job and back into Hankinson again, going over the different parts of the work. We found that Section B was practically completed. It seemed to be up to grade and the full width. The surface was somewhat rough and cut up, due to weather conditions, and we told—at

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least I told Mr. Twichell all that it was necessary to do at that time on Section B to complete it for final acceptance would be just to blade it up, smooth the surface up. Section A, we found that for a considerable part of it, it was too narrow, and we told Mr. Twichell or rather I told Mr. Twichell to widen that section to the width required by the plans and to repair the surface that had been placed on there previous to this time where it had broken through to the sand and patch this up, so that the roadway would be smooth and compact, and there was, as I recalled, about a half or three-quarters of a mile that was to be surfaced with clay, this portion not having been surfaced previous to that time. Then, on mile 1 of the first portion out of Hankinson, Mr. Gavin informed me that a portion of that mile was too low, was not up to grade, and the commissioner informed me that it would be too low in the spring and would be under water, and we instructed Mr. Twichell to bring that portion up to grade by taking more dirt out of the ditches, and if possible to go down as deep in the ditches as he could because we expected to find some clay or at least a heavier clay in the bottom part which we would like to have placed on the surface. I believe that is the sum and substance of the instructions given at that time.

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Q. Do you recall how much of Section A had been surfaced with clay? A. No, I don't really recollect. There was a north and south mile—I think the only north and south mile on the job. I don't know whether that would be mile 2 or mile 3 of the job—it was surfaced in satisfactory shape except for smoothing up of the surface, and I would judge that practically the balance of the job from this north and south mile, running east of Section B, had been surfaced with the exception of about a mile on the east end of the section and a half or three-quarters of a mile on the west end of this stretch, which was the part we ordered him to surface at this time.

Q. So that with what had been surfaced and what you ordered him to surface, it would make possibly five or six miles of clay surfacing? A. About that.

Q. Well, what did Mr. Twichell say as to that? A. Well, I don't remember exactly the conversation but when we left the job that was the—seemed to be satisfactory to everybody.

Q. You understood that Mr. Twichell would follow out your instructions? A. Yes.

Q. Now were you back there after that? A. I was, I believe, at two different times.

Q. At what times was that? A. I don't remember the
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dates, but they were later on in the season and in my general course of inspection work over the different jobs.

Q. What did you discover from those inspections as to whether your instructions had been followed or not? A. The first time after that that I went over the job—I believe I was alone on the trip—I didn't see Mr. Gavin or Mr. Knutson at the time nor did I see Mr. Twichell. I seen the foreman of the outfit that was working there and I asked him how long it was going to take him to complete those jobs so that we would get them finished up and he said he thought in a week or two he would be through, he expected to be through with his surfacing and building up the road. At that time Section B had not been completed yet. It was very rough and I told him particularly about Section B to put it in such condition so they could travel over it safely and I didn't pay particular attention to how much surfacing he had put on because he had it spread along at different places and it had not been spread out yet. I told him to smooth these piles of surfacing out and put that portion in shape so that the public could travel over that.

Q. What did you find on your next trip? A. The next trip that I made over that, it was along in the evening. I believe I was at Wahpeton on the letting of a gravel job and after the contracts had been awarded the Federal engineer, I
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believe Mr. Hawkinson and myself drove down to Fairmount and out to Hankinson to make an inspection of the job so as to see how far along it was getting. It was dark when we

arrived at the job so that we couldn't tell very much about the condition of the road. The surface was satisfactory to ride on and we found Mr. Twichell's outfit working on mile

1. There was no surfacing being done there. They were raising the grade by means of blade machinery and a tractor.

Q. That was the last time you saw the work? A. Yes, sir.

Q. Were reports afterwards made to you by the engineers in actual charge of that road? A. The final completion report was sent to me by Mr. Gavin.

Q. And you looked it over? A. Yes, sir.

Q. And then forwarded it on in? A. I was in the office. It was forwarded to me at the main office.

Q. Now, was that a true and correct report of the amount of work done upon Sections A and B, so far as you know, during the construction of the road? A. Well, that is rather a hard question to answer.

Q. Well, I will withdraw the question. This report which was submitted by Mr. Gavin and Mr. Thorberg you approved? A. No, sir, not at that time.

Q. Did you approve it at any time? A. The report was later modified by Mr. Gavin and myself.

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Q. By Mr. Gavin and yourself? A. Yes, sir.

Q. And as modified, it was then approved? A. As I recollect, it was.

Q. In what way did you make any modification, if you recall? A. Mr. Gavin came to Bismarck and we re-computed the surfacing and the hauls on it and increased them.

Q. And gave Mr. Twichell an allowance for shrinkage of the clay surfacing? A. Yes, sir.

Q. And you remember how much that increase, the amount still due to Mr. Twichell over the amount returned by Mr. Gavin and Mr. Thorberg was? A. As I recollect, it was in the neighborhood of about \$6,000.00.

Q. And the report that had been sent in to you was approximately \$18,000.00? A. No, as I remember, it was about \$12,000.00, on Section A. Section A was the section that we had the controversy over.

Q. You increased it \$6,000 on Section A. A. Yes.

Q. Did you do anything with Section B? A. No, we left that report as it was first turned in.

Q. Do you know how it happened that Mr. Gavin came up here and you and he made a re-computation of the clay surfacing? A. No, I don't recollect the exact conditions, ex-

cept that there was—Mr. Twichell had been in the office and had made claims for more than the estimate issued.

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Q. Did he make those claims to you or in your presence?

A. No, I don't believe that he did. I don't remember. There was so much conversation regarding this job at different times that it is hard to remember the details.

Q. Anyway you received instructions to make this re-computation? A. I wouldn't say that we received definite instructions for it, but there was a general understanding between Mr. Black and Mr. Myhre, Mr. Gavin and myself that we would re-compute the job.

Q. Did you ever give Mr. Twichell or any of your engineers instructions to have Section B changed from a crown top to a flat top? A. No, sir.

Q. Was any claim made by Mr. Twichell at this time that it had been so changed? A. Yes, sir.

Q. Did he say under whose instructions? A. I don't remember that he did.

Q. But you didn't refigure or make any allowance on his claim for the change from a crown top to a flat top? A. As I recollect, about the only thing we did in regard to Section B was to have the job recross-sectioned and the data forwarded to Bismarck for us for computations there.

Q. And that data that was forwarded made no material changes in the figures as turned in by Mr. Gavin and Mr. Thorberg? A. Mr. Roherty, as I remember, re-computed

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the jobs from this final cross-section. I remember we had considerable difficulty in making them conform to the plans due to a faulty survey.

Q. Was there any change made after this had been done in the figures turned in? A. I couldn't say as to what change there was.

Q. Now, was Section B, as completed under you, a flat top or a crown top road? A. It had somewhat of a crown top.

Q. Was it a crown? A. Yes, sir.

By Mr. Lounsbury:

Q. Outside of the half-mile additional surfacing, which you ordered in 1923, was there any work done by Mr. Twichell by which he would be entitled to an additional charge on Section A? A. Not that I ordered.

Q. Were you in the office in Bismarck when Mr. Gavin was requested to raise his final estimates to an amount considerable in excess of the amount submitted by him? A. The only thing that I remember was the time that I mentioned that the understanding between the four of us there was that we would re-compute the job.

Q. Do you recall the amount that Mr. Twichell was claiming at that time? A. As I remember, about \$34,000.00 on Section A.

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Q. And part of this increase which you and Mr. Gavin and the others allowed was due to allowing a shrinkage figure of 25 per cent, was it not? A. Most of it, yes.

Q. And the amount allowed in excess of that 25 per cent was in the nature of a compromise in order to get the matter adjusted? A. Yes, sir.

Q. And it was agreed at that time, was it not, between you men in the office, the men whom you have mentioned, that the \$18,000.00 finally arrived at would include everything to which Mr. Twichell was entitled under his contract? A. As soon as we could figure it out—it was about all we could figure he was entitled to.

By Mr. Vogel:

Q. You say that the increase there was in the nature of a compromise to get a settlement? A. We were hoping to get it settled for that amount.

Q. Was there any actual figures presented to show that the increase in the nature of a compromise was justified or was it simply a compromise to get the matter settled? A. We based our new computations on all that we thought that the contractor could claim as authorized work.

Q. The compromise, you say, was in the total sum of how much? A. As I remember, about \$18,000.00.

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Q. \$18,000.00, and that is all that you felt that the contractor was justified to as being authorized? A. We didn't go into the matter of Section B, flat top at all.

Q. This was on Section A? A. Yes.

By Mr. Graham:

Q. Was there any claim made by Mr. Twichell in regard to an amount in excess of what had been turned in by the engineer on Section B at any time that you heard? A. Well, Mr. Twichell made the claim for an additional excavation due to making a flat top.

Q. Did I understand you to say that the road had a crown top? A. It had. Of course the crown was not regular, there were places probably six or nine inches of crown—well, along about six inches I would say, on the average.

Q. If I understand rightly, you people didn't think there was any sufficient data to figure on for an extra allowance that Mr. Twichell claimed for changing from a flat top to a crown top? A. We had no notice that he had been instructed to make that change.

Q. He did not produce a letter from Mr. Carroll or anyone else that he was so instructed? A. Not that I know of.

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Q. Mr. Carroll never told you he had been instructed to make the change? A. I don't believe I ever talked to Mr. Carroll regarding the job.

By Mr. Vogel:

Q. Where did the instructions come from to change crown top roads to flat top roads? Did you ever hear of any such instructions during your term of office? A. My only knowledge of the changes were that when we first started this work I believe we adopted a 12-inch crown as standard, and as construction work went along we found that the crown was excessive and plans later on were revised calling for a nine-inch crown and I believe at the present time they call for about a six-inch crown for a dirt road.

Q. You know of no Federal rulings on this? A. No, I don't know of any ruling. It was the general consensus of opinion of different engineers that our crown was excessive and that we could reduce it.

By Mr. Graham:

Q. Did you know which the plans called for on this road, for a 9 or 12-inch crown? A. No, I couldn't say.

Q. You heard Mr. Roherty's statement that his recollection was, it called for a 9-inch crown? A. I think that is
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about what it would be. That was about the time we were using a 9-inch crown.

Q. In the original specifications, if it called for a 9-inch crown, then there would be no occasion for any of the engineers to order a change from that? A. Not that I know of.

By Mr. Vogel:

Q. You stated, also, on part of the Section B, that some of it was 9 inch, some 6 inch and some less than six inches? A. I based my opinion of that on the final cross-sections that were turned in on that, showing more or less crown throughout the job.

By Mr. Graham:

Q. So that, then, the engineer in charge was in fact very lenient with Mr. Twichell and accepted the road as completed when it did not have a uniform top for the whole distance? A. Well, it is almost impossible to get the exact crown with the machinery that is used. If we get anywhere around a couple of inches of our crown, we are satisfied.

Q. You also approved of a crown varying from three inches up to nine inches? A. Yes.

By Mr. Vogel:

Q. You inspected quite a few of these jobs, did you, by various contractors? A. Yes, sir.

Q. Over the state? A. Yes, sir.

Q. Did you ever know a job that took this length of time
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to complete, to your knowledge? A. I don't know of a job that took as long as that did.

Q. Do you know of any jobs where you experienced the difficulties experienced on this job in getting the contractors to abide by their contracts? A. No.

By Mr. Graham:

Q. You had the same difficulty on Project 58 over in Sargent County with the same contractor? A. There wasn't much work to be done on the Sargent County job. About all we had left to be done in 1923 was to widen several places that were narrow at the time we went over the job and to re-blade the entire roadway.

Q. That was in your jurisdiction also? A. Yes, sir.

Q. Do you know of any reason on Section 58—A and B—why an increase of almost \$8,200.00 over the estimate sent in by the engineers in charge should have been made.

Mr. Lounsbury: You refer to Sargent County?

Mr. Graham: Yes.

A. I know that Mr. Twichell made claims for some extra work on that job, but the exact claims I do not know. I had nothing to do with the settlement of the job.

Q. Of your own knowledge, you don't know of any reason why an increase should have been made over the estimates

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turned in by the engineers in charge? A. My recollection is that the controversy was over the rip-rap on the job.

Q. Did the final estimate of the Sargent County job go through your hands? A. Yes, sir.

Q. And they were O. K'd by you? A. Yes, sir.

Q. And you have never changed your O. K. upon them?
A. No, sir.

At this time the Committee adjourned until nine o'clock A. M., February 27th, 1925.

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TESTIMONY TAKEN AT THE HEARING BEFORE THE
SPECIAL HOUSE COMMITTEE ON FEBRUARY 27,
1925.

Mr. W. G. BLACK, having been called as a witness, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Mr. Black, did you bring us this morning a statement of the amount of sign markers and standards purchased? A.

Well, the clerk didn't have that ready when I left. I expect they will have it out sometime during the forenoon and I will get it down.

Q. Now, calling your attention the the paving project on the Mandan side for the concrete known as 100-B. Can you give us the specifications for the concrete? A. Yes, Have you not those here, Mr. Graham?

Q. Perhaps we can get at it in this way. It provided for a seven-inch concrete in the middle? A. Yes.

Q. And thickening to nine inches two feet from the edges? A. No, it is nine inches at the edge and goes back to seven inches two feet from the edge.

Q. And that was completed along last summer? A. Along last fall.

Q. Now, did they have any gravel sub-base or stone sub-base? A. Yes.

Q. Had a stone sub-base? A. Gravel.

Q. Did the specifications provide for a gravel sub-base?
(918)

A. No, it was already there.

Q. How was it already there? A. The road was graveled during the previous year or during the year 1922.

Q. There was nothing put except—Strike that out. There was no additional gravel put there? A. No.

Q. Calling your attention to the proposed plans for the Bismarck paving going out past the Penitentiary, were the specifications for the concrete the same as the specifications on the Mandan side? A. Exactly the same.

Q. The width of the road was twenty feet? A. Yes, sir.

Q. And the concrete slab seven inches taken at the center of the road and nine inches taken at the edge? A. Yes.

Q: Did this concrete slab call for concrete reinforcing?
A. Yes, sir.

Q. Is it necessary to reinforce with steel a seven-inch concrete slab to be used for road purposes? A. Yes, sir.

Q. Now in the plans and specifications for the bids, did they provide for steel reinforcement for the four-inch asphaltic concrete base? A. No, sir.

Q. Why is it not necessary to reinforce with steel the four-inch asphaltic concrete base? A. Well, for the reason that a concrete pavement is more rigid than an asphaltic pavement and the principal reason for reinforcing is to take
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care of temperature stresses when temperatures range from forty degrees below zero to one hundred and twenty

above, concrete paving will contract and crack. Asphaltic pavement will yield, may contract but when the temperatures have become more normal, it goes back together and seals itself up.

Q. Do the government specifications require a four-inch gravel or rolled stone base to be put under the four-inch asphaltic concrete? A. Yes, sir.

Q. Do the government specifications require a four-inch gravel or rolled stone sub-base under a straight run reinforced concrete seven-inch slab? A. Under certain conditions it would.

Q. Do they under the conditions which would—Strike it out. Do they under the conditions which would apply to the Penitentiary paving? A. Well, there is—I might say the government has no—really no plans of their own. They approve plans submitted by the States. In this case, the government approved that form of construction.

Q. Can you tell us of any other places in the State where a four-inch sub-base has been required for concrete paving? A. No, I don't know that I know of any. In this particular case, I might add that it is all new fill out there and is used as a precaution in all new fill. I am speaking of the Penitentiary out east. Of course, from the end of the paving to the Penitentiary, there is gravel there now.

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Q. This road from Bismarck to the Penitentiary has been graveled, has it not? A. Yes.

Q. Now, by providing for the four-inch sub-base, it makes a much additional cost for the straight-run concrete? A. Not any more so than it does for any kind of paving; compares with all types on same basis.

Q. Now what would be the additional cost for this four-inch sub-base of gravel? A. Oh, that would be hard to tell until the bids were submitted. As a matter of fact we have not paid a good deal of attention to this project as it has never been presented to the Highway Commission for approval.

Q. What would be the average cost per yard for this gravel sub-base? A. The cost would be ten or fifteen cents.

Q. Do you mean to say that any bidder would put in the four-inch gravel sub-base for fifteen cents per yard, four inches thick? A. I think they might.

Q. Did you ever know of any being put in for so low a cost. A. In this particular case, they might for the reason that there is surplus gravel on part of the road which may be used.

Q. Well, if there is surplus gravel upon the road, then there would be no necessity of calling for any such specification? A. I am speaking of part of the road from here to the Penitentiary, there is gravel on the road at present.

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Q. Now, who drew up the plans for this paving? A. The plans are standard plans adopted by the Highway Department on previous jobs.

Q. But you do not tell me who drew them up? A. I don't remember who did the drafting work for it. We have used the same plans ever since we have been in office.

Q. Well, who did the surveying? A. Well, I think it was Mr. Atkinson who had charge of the work for Burleigh County.

Q. Did he submit plans to your office? A. They are standard plans, I say, adopted by our office two years ago.

Q. But they are different from the standard plans in that you ask for a four-inch gravel sub-base? A. This particular portion is in the specifications.

Q. And they are different in that particular? A. That is all.

Q. Was it provided for on the Hillsboro job? A. I don't remember. I was never on the Hillsboro job. That was let shortly after I came in office. I think not.

Q. The theory upon which this is inserted in the specifications for concrete is that the gravel being of non-capillary nature, that it will help prevent heaving and settling of the pavement, is that so? A. Yes, it is true to a certain extent.

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Q. Isn't it a fact that the soil conditions have something to do with whether this grade—this sub-grade is necessary or not? A. Yes.

Q. In an extremely dry soil, it would not be necessary, would it? A. I think it is a very good precaution to use on paving in all soils. I rather think we will adopt it as a standard from now on.

Q. You didn't answer the question? A. Your question is misleading.

Q. Will you please answer the question now that you have made your explanation? A. What is your question.

Q. Isn't it a fact—strike that out. In an extremely dry soil it would not be necessary would it? A. I would not say so. I would say that it is a good precaution to use in all soils.

Q. Now answer the question. A. I did answer it. I answered it the only way I could answer it.

Q. In an extremely dry soil, it would not be necessary would it? A. A. I think it is on all soils.

Q. Is it necessary in a sandy soil? A. I think it is a good precaution to use in all soils.

Q. Isn't it a fact that the soil conditions in that respect

are much worse in Hillsboro than where the new paving is contemplated? A. I was not in Hillsboro during the construction of that job. I don't know what the conditions are.

Q. Have you ever been there? A. Yes.

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Q. You know in a general way what the soil conditions are? A. In a general way. I think if we were to lay any more paving in the Red River Valley or any place, we would require that they use this four-inch gravel sub-base in the work.

Q. Do you know of any state in the Union that requires such sub-grade treatment for this type of paving under ordinary soil conditions? A. I couldn't say. The conditions in North Dakota are not the same as in other states.

Q. I will ask you if you know of any states that do require it? A. I never looked that up.

Q. The Bureau of Public Roads makes no such requirement do they? A. They do for certain types and under certain conditions.

Q. What are those types and conditions? A. Well, I don't know that they specify any particular type. Each State makes its own plans. The plans are approved by the Bureau of Public Roads. To make it clear: The Bureau of Public Roads doesn't make any plans.

Q. What are the requirements to which you refer when you stated that under certain conditions they would require them? A. Well, I don't know what their conditions are. I am speaking of what our requirements are. We are not guided by the Bureau of Public Road entirely.

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Q. Do you know whether the Bureau of Public Roads waived the rolled stone base ordinarily required for the bituminous four-inch sub-base? A. No, I don't.

Q. Was this done for the—Strike it out. Requiring the gravel sub-grade under the reinforced concrete would mean an increased cost of about twenty-eight cents per yard, would it not? A. Not necessarily.

Q. How much would it require? A. Well, in this particular job out here, there is gravel over the majority of the road now. In fact, there will be enough surplus to take care of the base of the road.

Q. Then why did you put in your plans and specifications for a four-inch gravel sub-base?

A. I think I have answered that pretty plain, Mr. Graham. As a matter of fact, that plan has never come to our attention and possibly never will be.

Q. What is the reason that it will probably not be up for your attention? A. For the reason that they probably never will have funds to build the road.

Q. Can you tell us whether the State of Illinois requires the four-inch gravel sub-base for seven-inch reinforced concrete? A. I don't know.

Q. Is it not a fact that practically all of the States in the Union use the concrete pavement in place of the Warrenite bitulithic? A. No.

Q. Will you give us those states which do not? A. That is a hard question to answer offhand without looking up the record. I have seen in the records lately a good many States which are laying a black base entirely.

(925)

Q. Could you produce such records for us? A. I could. I think I could. I can call your attention, Mr. Graham, now to the State of Wyoming which just lately has let thirty miles of such type of road.

By Mr. Lounsbury:

Q. Mr. Black, was the fact that the road was graveled between here and the Penitentiary taken into consideration in the plans and specifications for that road? A. Yes, I think so.

Q. In other words on the road from here to the Penitentiary, the sub-grade wasn't required and from there on where it was to be filled, they required it? A. It was required all the way through between here and the Penitentiary. The road would be scarified and the gravel taken out in order to get the proper grade for the pavement.

Q. And what advantage would it be then to have the gravel on the road between here and the Penitentiary? A. Well, it is on there now.

Q. I know but what advantage would it be to have it there if it had to be taken off? A. I am trying to make it clear to you, Mr. Lounsbury, that the grade line now—

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the grade line is surveyed, it is high in spots and low in spots.

Q. Maybe I don't make myself clear. You say that the fact that the gravel was already on the road was taken into consideration in drawing the plans and specifications? A. It could have been. I don't remember whether it was or not.

Q. If the gravel has to be removed in order to bring the grade up, what advantage is it to the contractor or anyone else to have it on there now.

A. It is convenient and makes a short haul. It will be a whole lot more convenient to have it here than to have to haul it a few miles.

Q. In other words, would this gravel be taken off and used? A. It could have as there was a surplus out there.

Q. You don't know whether the plans provided that that could be done or not? A. I don't know.

By Mr. Vogel:

Q. You know of no paving then requiring a four-inch gravel base? I believe you so stated. A. Not in this state.

Q. Has the Mandan road the four-inch gravel bed? A. Yes, I think they do.

Q. You know, do you? A. I am pretty positive.

Q. You say you would be positive? A. Yes.

Q. Kindly answer direct and we will have no confusion. You don't know who drew the plans for that road. A. I

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understood the plans are standard plans adopted by this department after I came in office.

Q. Who drew the plans? A. The North Dakota Highway Commission.

Q. Their own force drew the plans? A. Yes.

Q. Who drew up the specifications? A. Standard specifications of the Highway Department.

Q. Drawn by the Highway Department? A. Yes.

Q. You never looked up the matter of concrete paving in other states then? A. Oh, yes.

Q. You know of any States requiring the four-inch gravel base? A. I never paid any attention to that feature. I think that is an improvement to our plans and specifications.

Q. You say that it is the only job in the State requiring the four-inch gravel base and yet you never looked up in other states to find out anything about the success of that? A. For the reason that it is only a new plan adopted. It wasn't in force when I came in.

Q. That cost considerable more money does it not? A. Not a great deal more. It is probably worth the difference in price.

Q. You never investigated any other prices to find out whether it was different in other states? A. We don't pay any attention to the other states as we have different climatic conditions than other states. What is good for

(928)

Florida, for instance, wouldn't be anything for North Dakota.

Q. Do you know whether Minnesota requires a four-inch gravel base? A. Our climatic conditions are different than Minnesota.

Q. Some.

By Mr. Graham:

Q. Mr. Black is it not a fact that a bid was accepted by your department for Warrenite bitulithic on a bituminous base between Mandan and the bridge in 1923? and that the Bureau of Public Roads disapproved the award? A. Yes, for the reason that no alternative was received in the bids. There wasn't any comparable type. What I mean by comparable type is there should have been specification covering what they call bitulithic concrete, asphaltic concrete and Warrenite bitulithic. In other words, there wasn't any other type on a gravel base with bituminous top, which was the only reason. It wasn't disapproved on the type of the road.

Q. The cost was much greater than the straight-run concrete? A. I wouldn't say much greater, it was some greater.

Q. Turning to the subject of engineering cost, can you tell us what is the average cost per mile of making the preliminary surveys? A. Well, I stated the other day that it has cost us around \$60.00 a mile.

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Q. Then what is the average cost per mile for the designing? A. Well, that depends entirely on the job. It runs around \$50, \$55, \$60, sometimes less.

Q. And what is the average cost for construction engineering? A. Construction engineering cost the State on an average about two per cent.

Q. But how much per mile? A. The average cost of the two per cent would be around \$60 to \$70 a mile.

Q. Then what would be the average administration cost per mile for the surveys? A. That is hard to separate out. Our administration expense is around two and one-half per cent covering everything, plan, surveys, office work, designs, all work connected with the Highway Department.

Q. Could you not figure that out on a mile basis? A. Not offhand.

Q. Well, what would you say that the average cost per mile of surveying, designing and construction would amount to? A. \$150, to \$180 a mile.

Q. Could you make up accurate figures for us on this? A. Oh, yes.

Q. Would you try and do that so we could have that tomorrow? A. If I have time. I have been pretty busy lately. This has taken a good deal of my time.

By Mr. Vogel:

Q. You think it is necessary, don't you? A. Yes.

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Q. You think this is important, don't you? A. My time is more important in the office than this is.

Q. That is a matter of personal opinion? A. Yes, sir.

By Mr. Graham:

Q. I think we will ask for the report submitted by the University on the location of the sand and scoria pits in the State. Have you such statement? A. You never asked me for that.

Mr. Poupore: I think I have it.

Q. Now, Mr. Black, I understood you to say that Mr. Gettleman is in charge of—what department is it? A. Equipment.

Q. And who has charge of the hiring and firing of the men in that department. A. Well, he has employed men and I have employed men. I—we have done all the discharging.

Q. And you have also dictated to him in many instances what men he should employ? A. Yes, I have.

(Paper handed to Mr. Graham by Mr. Poupore.)

Q. Then he is not, as a matter of fact, head of that department? A. Well, he isn't any bigger than the Highway Commission is. I should have something to say about that **Department**.

Q. Then as a matter of fact you really dictate what men shall be employed and who shall be fired? A. Not entirely, although I do do it. I think I should do it at times.

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Q. Then you keep a supervising eye over that department? A. As much as possible.

Q. I think—Strike it. The other day when you left us, you stated that you did not care to give the reasons why you did not fire Mr. Gettleman when he was incompetent. Are you still of the same opinion? A. Yes, same opinion.

Q. Then you do not care to give the reasons? A. I think I stated that I thought Mr. Gettleman would improve and be a pretty good man.

Q. You told us the other day there were some other reasons. A. No particular reasons.

Q. Well, now, if you should give those reasons, would it tend to incriminate you in any way? A. Not that I know of.

Q. Of course, if it would, we would not wish to inquire further into the matter. A. No.

Q. If it does not, we feel that we should have your reason for keeping Mr. Gettleman after you had discovered that he was incompetent. A. I think I have given you all the reasons.

Q. You have no other reasons to give? A. No.

Q. Other than that you were trying to reform him? A. I didn't say reform.

Q. Well, what was it then? A. I thought conditions
(932)

would improve in the department.

By Mr. Vogel:

Q. Do you have the same object in retaining Miss Christianson as your stenographer? A. No.

Q. You testified that she was incompetent, did you not? A. No.

Q. You didn't? A. No.

Q. Is this the young lady that took the arbitration records? A. Yes, sir.

Q. Isn't she the young lady you said was young and inexperienced? A. No, I never said she was inexperienced. I may have said young, I never said inexperienced.

Q. Your testimony will so show. A. No, I don't think it does. I think Miss Christianson is about as good a stenographer as can be found.

Q. That is contrary to your testimony with respect to the arbitration hearing. A. I don't know as it was.

Q. We will bring the testimony in after a while.

Q. Are you retaining any other men in your force that are incompetent? A. No, I think not. Not that I know of.

Q. You have a personal interest then in reforming Mr. Gettelman? A. I wasn't talking about reforming; that was your suggestion.

Q. You claimed you were going to make a better man of him? A. Yes, I wasn't talking about reforming.

Q. You said you were going to make a better man of him?
(933)

A. Yes.

Q. Have you had much success with this reformation? A. It doesn't appear so.

Q. How long have you been engaged in it? A. I couldn't say, Mr. Vogel.

Q. When did you first find out that he was incompetent? A. I couldn't say, I don't remember.

(Transcript handed to Mr. Vogel).

By Mr. Graham:

Q. Now, do you have a man on your payroll by the name of W. F. Reko? A. Yes.

Q. What are his duties? A. His work was collecting road mileage for road marking and getting the counties to stand their share of the expense at that time as we are now trying to get the counties to pay their share of marking the county road system. He was working on that and was reporting generally on the conditions of the road.

Q. He is engaged in that duty all of the time? A. Yes, he was up until late in the season.

Q. And what are his duties now? A. Well, he is not employed now.

Q. When did he sever his connections with the Highway Department? A. The latter part of the year 1924.

Q. And is not now on a salary? A. No, sir.

Q. What salary did he receive? A. \$200 per month.

(934)

Q. Did you not have Mr. Reko around looking up testimony and having the shop men up in your office since this investigation began? A. Well, Mr. Reko wasn't employed by me at that time.

Q. What work was he doing for you? A. When?

Q. Since this investigation begun? A. I don't know as he has been doing any work in particular for me.

Q. Has he at any time been up in your office since the investigation began together with employees from the shop? A. I don't recall. If you state the name of the employee, I might remember.

Q. Mr. Hubbard. A. No, he never brought Hubbard up.

Q. Who did he bring? A. I don't know as he brought any one.

Q. Did he call at your office? A. Yes.

Q. What was the purpose of his call? A. I don't remember. Just dropped in to visit, I think.

By Mr. Vogel:

Q. What is Mr. Reko's business? A. Well, he was employed by us up until the latter part of the year. Don't know what his business was.

Q. You have lived in Mandan? A. Yes.

Q. What was his business then? A. At one time he was

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Game Warden I believe. I don't know just what his business is.

Q. How long was he employed by the department? A. About a year.

Q. Could you bring us a statement of the funds received by Mr. Reko in payment from the department? A. Yes.

Q. He devoted his whole time to the Highway Commission during that time? A. I think he did.

Q. Do you know whether he did or not? A. I think he did.

Q. You answer Yes to that question—He devoted his whole time to the work of the Highway Commission? A. As far as I can tell. I can't watch the man all the time. As far as I know he did.

Q. Had he had any road experience before? A. He had a good practical knowledge of how roads ought to look.

Q. Had he been engaged in road construction prior to this time? A. His work wasn't principally on road construction, his work was almost all road marking.

Q. Did he have anything to do with gravel at all? A. I think not.

By Mr. Graham:

Q. How long have you known Mr. Reko? A. About eight years, seven or eight years.

Q. And he was at one time Fish and Game Commissioner? A. Yes I believe so. He was either Fish or Game Com-
(936)

sioner or Deputy Auditor, I don't remember which.

Q. You think his experience along that line would help in looking after the roads? A. I am speaking about his work which was principally on road marking.

Q. Do you know whether or not he took the German Ambassador over the western part of the State last fall? A. I think he did take him to St. Anthony.

Q. And to other places for several days? A. No that is the only place I know of especially. I would have done the same thing myself if I had the opportunity.

Q. Was that during the time he was drawing salary from the State? A. Don't remember what day it was. It was only hearsay, that he took him down there, with me.

Q. He received full pay for all of the time he was employed? A. Yes, he did.

Q. What was that pay? A. I stated that a few minutes ago.

Q. Will you state it again? A. \$200.00 per month.

By Mr. Vogel:

Q. Is Mr. Reko a graduate engineer? A. No.

Q. Do you know anything about his qualifications? A. He doesn't need to be a graduate engineer to take care of road marking.

Q. What is your salary per month? A. \$291.00.

(937)

Q. What is the average salary of your engineers. A. Possibly \$150 per month.

Q. \$150 per month, that is for graduate engineers? A. No, not graduates. I don't think they are graduates. As a matter of fact, being a graduate engineer doesn't mean a great deal.

Q. Men with graduate experience draw \$150? A. Speaking of the average, a good many have never had any graduate experience.

Q. Wasn't it possible for you to get a man to take care of road marking, which called for no experience of any particular merit, at less than \$200 a month. A. In this particular case, it was a good investment for the reason that he had a broad acquaintance and could do more to induce the counties to take on road marking than any fellow I could get from the University.

Q. Does it require any salesmanship ability to sell this idea to the County Commissioners?

A. It requires acquaintance to a certain extent.

Q. For that he drew \$200 a month and expenses? A. His expenses were not figured. He used his own car at his own expense.

Q. That is all.

By Mr. Graham:

Q. Now, does your department, in addition to farming out the preliminary survey, also farm out any of the designing for the roads? A. Well, a little, not a great deal.

(938)

*Q. How much? A. I don't know. I can't give you the mileage. Now Cass County and Barnes I think are the only places where we do that?

Q. Who does the surveying for that—Strike that out. Who are the parties who do the designing at Fargo and Valley City. A. For Cass County, it is Stevenson, W. B. Stevenson, Stevenson, Miller & Lucke.

Q. What price do they receive per mile for the designing? A. I think it is \$55 per mile.

By Mr. Vogel:

Q. Now, Mr. Black, this is your testimony here a few days ago with respect to the arbitration hearings: Question was asked: "That was what you testified to?" Your answer was: "Oh, what they mean is that it was accepted at that time." Question: "With the round top?" Your answer was: "Yes." Question: "With the round top?" Answer: "No, it must have been a flat top." Question: "But you say here it was

completed with a round top?" This is in respect to the arbitration hearing. Your answer: "I don't know what that stuff is," meaning testimony. Question: "But you testified to it?" Answer: "I know but we had a young lady take that work that was inexperienced." Is that your testimony? A. She never did have any experience in taking notes of a meeting like this or the arbitration board and she possibly may have made a mistake in those. In reading this transcript here

(939)

which I have gotten, there has been so many errors that I had Miss Christianson come down here so she would get it.

Q. Even though she was inexperienced? I believe you say she might have made a mistake in the arbitration hearing. A. She may have made a mistake in the arbitration hearing. She may have left out a word or two. That would be possible.

By Mr. Graham:

Q. You testified to that two or three times, Mr. Black, that she was young and inexperienced and still you bring her down here, for what you say—strike that—so as to have a correct copy of the testimony. Is that right? A. You notice she is getting it all.

Q. Just answer the question. A. What is the question?

Q. Read him the question. (Question repeated.) A. That is correct.

By Mr. Vogel:

Q. Your idea is that she is inexperienced but still very good? A. I never tried to insinuate that she was inexperienced.

Q. Haven't you so testified? A. In public meetings, Miss Christianson has never done work before and she may have left out a word or two.

Q. You are willing to take her work now? A. Yes, sir.

(940)

Q. It all depends on the nature of the work or the questions, the line of work. That is all.

By Mr. Graham:

Q. You were going to look up for us, Mr. Black, and find if any certificate had been sent up by the County Auditor of Richland County to the effect that available funds were on hand for paying the county's share of the proposed increase of \$47,000 which has been agreed to be paid to Mr. Twichell. A. I showed that to you the other day. Blanket appropriation for \$150,000.

Q. Did you find any other certificate besides the blanket appropriation. A. No, that covers all that is necessary.

Q. Just answer the question. A. Well, I did.

Q. Did you find any certificate—Strike it. Have you made up any statement as to what amount of those funds had been used at the time of the change asked for by you and the Bureau of Public Roads? A. I don't understand you.

Q. Can you tell us from any of the records in your possession what amount of this so-called blanket appropriation was ever actually in the hands of Richland County for use upon F. A. P. 59? A. I can't tell anything about their books, No.

Q. And you don't know as a matter of fact whether any money was available in their hands in September, 1924, for the purpose of paying the proposed share of the County for this project? A. No, the only thing we went by was their resolution saying they would set aside that much.

(941)

Q. You don't know whether they did or not? A. We took it for granted that they would keep their word.

Q. Just answer the question. You don't know whether they did do that or not? A. No, I presume they must have. They would fulfill their own contract I presume.

Q. They didn't fulfill it when you came down and asked them to pay \$18,000 of the contract which you had made? A. I don't know anything about the County Board. Have nothing to do with their books.

Q. You do know they refused to pay the sum of \$18,000 to Mr. Twichell? A. No, I don't know as this Board did it. Mr. Lounsbury and Mr. Swank did all the talking regarding that.

Q. The County Commissioners sent you up a certified copy of a resolution passed by them in which they did agree to pay only \$9,300? A. That was—we never—I never met with the County Commissioners. The only ones I ever met with here were Mr. Lounsbury and Mr. Swank.

By Mr. Lounsbury:

Q. Do you know, Mr. Black, whether or not after the blanket appropriation to which you have referred was passed, whether that was cancelled in part or not? A. We didn't receive as far as I know any cancellation of that.

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Q. Did you ever make any search of your records? A. And I would say that I am pretty satisfied we never have because the Chief Clerk would know whether such was received.

Q. Did you ever make any search of your records to see whether a resolution rescinding part of that blanket resolution was on file? A. No.

Q. I show you a copy of a resolution which is taken from your files and ask you if that was ever called to your attention? A. I never saw that before but I don't think they

could cancel anything they entered into. The contract was entered into in good faith.

Q. At least it would affect the availability of the funds as far as the County is concerned? A. If they had the power to cancel that. I don't know whether they would or not.

Q. I am not asking you about that. It would affect the availability of the funds they might have on hand? A. Yes, if it were possible to cancel that portion of the contract.

Q. Might it not affect the availability of the funds? A. I said it would if they had the power to cancel the contract.

Q. I ask permission to read this resolution into the record.

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Mr. Lounsbury: This is dated "Wahpeton, North Dakota, June 1st, 1920, North Dakota State Highway Commission, Bismarck, North Dakota, Gentlemen: The following is a copy of a resolution adopted by the Board of County Commissioners of Richland County, North Dakota, on the 10th day of June, 1920;

"Whereas, at the regular meeting of the Board of County Commissioners held February 11th, 1920, a resolution was passed authorizing construction of certain roads during the season of 1920; and

"Whereas it is now apparent that the cost of constructing roads in conjunction with the State Highway Commission is prohibitive, and that roads fully as good can be constructed by the County acting independently at a much less price per mile; and

"Whereas, it will be necessary to remove certain steel bridges in and about the construction of certain roads, and replace them with larger and more expensive bridges; and

"Whereas the said bridges so required to be removed are in first class condition:

"Now, Therefore, Be it Resolved that the resolution above referred to be cancelled and rescinded in so far as the said resolution pertains and refers to the construction of that part of the Meridian Road, described in said resolution as follows: Starting at the Southwest corner of Section Six (6)

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—132—47, thence north and west to the southeast corner of section 29—134—48; and that a copy of this resolution be mailed to the State Highway Commission in order that they may be advised of the action of this Board of County Commissioners herein taken. (Signed) F. A. Burton, County Auditor." And you don't know of your own knowledge, Mr. Black, whether or not there were any funds whatever on hand and available for this purpose in September, 1924? A. I couldn't say as to that.

Q. Mr. Black, how many types of concrete culverts are there? A. Concrete culverts?

Q. Yes. A. Corrugated metal pipe—

Q. No, I mean concrete culverts? A. Oh, concrete culverts, how many types—there is the square box culvert, most of our culverts are constructed that way now. At one time they used a concrete pipe, and do yet at times.

Q. Is there a bell and spigot type. A. Yes.

Q. And Staggart, is there a type known as Staggart? A. No, there is no such type, you possibly mean slip joint.

Q. There is the bell and spigot and slip joint, and what else? A. That is the only two that are of any consequence.

Q. Do you know how many manufacturers in the state manufacture the bell and spigot? A. No, I don't.

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Q. Never made any inquiries? A. Not along that line, no, there is very little concrete pipe used. We don't have a great deal to do with the concrete type. Most of our culverts are corrugated metal pipe.

Q. There are specifications, though, contract specifications under drainage, is that true? A. Yes.

Q. Do you know why the bell and spigot type are preferred in those specifications? A. They are not preferred.

Q. They have been? A. No.

Q. Never? A. In the construction work we have used more of the slip joint than we do of the bell and spigot.

Q. Have you in your file a copy of this specifications? A. No, I think you have.

Q. We have everything but the 1923, we asked for those but they haven't been brought down. A. Did you ask me for those?

Q. Yes. A. Well, I don't remember it.

Q. May we have those? A. Yes, I will send that down.

Q. How many engineers are kept by year round basis by the Department? A. Well, there are about 58 or 60 engineers, what would be called engineers connected directly with

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the Engineering Department, that includes draftsmen, some rodmen, some gravel checkers that are held over and all engineers connected with it would amount to about 58.

Q. That are employed on a full time basis? A. Yes.

Q. Why would gravel checkers be held over, Mr. Black? A. Well, we don't hold many over, possibly have two or three; they are used on designing, they are really doing drafting work.

Q. Are they experienced engineers? A. Oh, no.

Q. What are they able to do in the drafting room? A. Well, in the drafting room they check quantities, check plans and so forth.

Q. It is a matter of computations, is that it? A. Computations and checking, yes.

Q. How many rodmen do you carry over? A. Oh, two or three, I think is about all.

Q. And what do they do in the winter? A. They do the same as gravel checkers.

Q. Do you keep any chain men over? A. No.

Q. Haven't at any time since you have been connected with the Department? A. No.

Q. There is about, you would say, about 58 engineers? A. 58.

MR. HALCROW: I would like to ask Mr. Black a few questions, Mr. Chairman. I think there is some confusion, Mr. Black, in the minds of the Committee as
(947)

to Project 58 and 59, whether or not there were supplementary agreements on those projects. What are the facts in connection with that? A. Well, when I stated the other day some question was confusing as to whether they were asking about 58 or 59, but the transcript will show that some of the time I referred to 59 where that should have been 58. There is no supplemental agreements on 59, but there are on 58.

Mr. Vogel: You stated that 58 was completed before that; you had nothing to do with 58? A. Nothing at all.

Q. Supplemental agreements were made out prior to your coming into office? A. Yes.

Mr. Halcrow: What changes or directions did you give on the ground to the contractor in an endeavor to save cost in construction because clay from the pits was not good? A. Well, on 59 at the trip I made down there I had the contractor abandon one pit on account of the materials being too sandy and I told him to go down along the side of the road and cast in it from the ditch, which made a saving in cost of approximately around \$2,800.

Mr. Vogel: What trip was that on? A. That was the trip I made down during the summer time on that job.

Q. Did you testify you had only made one trip down there? A. No.

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Q. You didn't so testify? A. No.

Mr. Halcrow: The question of maintenance, Mr. Black,

No. 59 was Mr. Twichell ever allowed anything for hauling or furnishing material for maintenance? A. No, he never was.

Q. Never was? I find that on page 321, line 23 of the transcript this question was asked you with reference to the matter of surveying: "Was that in the way of maintenance or for extra work upon the project?" and your answer was, "No, some of it would have been maintenance and some would have been new work." What are the facts as to whether or not the contractor was allowed anything or paid anything for maintenance? A. Well, what I had in mind when I was asked that question was that the former engineer so I am advised, had some of this dirt used for filling around the bridge near the east end of Project 59, possibly a matter of forty or fifty yards, all that, of course, would be termed maintenance, and wasn't included in his items for surfacing.

Q. What sort of a bridge was that you have reference to? A. Well, it is a low bridge, set below the level of the grade line of the road, and it required some filling to bring it up to the level of the grade line.

Q. That wasn't in the contract with Mr. Twichell? A. No, I don't think so.

Q. On page 323, line 1, did you confuse Project 58 and 59 when you testified that the previous administration sent Mr. (949)

Roherty to project 59? A. Yes, I did at that time. We had Mr. Ackley on 59 and prior to that Roherty on 58 and I had the two turned around. In fact, Mr. Roherty's being down on those jobs is not of my own knowledge, it occurred before I had anything to do with it.

Q. How far apart are those two jobs, Mr. Black? A. I couldn't say off hand for certain.

Q. They are in the same part of the state? A. Same part of the state, yes.

Mr. Halcrow: I think that is all.

Mr. Graham: You say you ordered a new pit installed? A. No, I said I had one pit abandoned where the material they were taking out of it was as bad as the sand on the road, and I instructed Mr. Twichell to go down and cast it in out of the ditch which saved around \$2,800.

Q. When was that? A. That was during the year 1923.

Q. What month? A. I couldn't say the time and month, I think it was near August, though.

Q. What engineer was in charge at that time? A. I don't recall, but I believe Mr. Thorberg was there at that time.

Q. Was Mr. Gavin also in charge? A. Yes, but Mr. Gavin was not on the job personally; he had the entire district to get over.

Q. Did you tell Mr. Gavin what instruction you had
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given Mr. Twichell? A. No, I didn't see Mr. Gavin on the return trip, I went back by way of Wahpeton and north to Fargo.

Q. Was that some more of the oral instructions that you had been in the habit of giving, or was that done in writing?

A. Well that was instructions which saved the state real money.

Q. Kindly answer the question. A. That was oral.

Q. You did not make any notation of it in writing? A. No.

Q. Then you followed the same policy which you say Mr. Robinson had of giving oral orders for changes in the construction of the road? A. Well, as a matter of fact the job was so badly balled up that it wasn't any use starting in to straighten it.

Q. And you just kept on balling it up the same as had been done before? A. Oh, no, I tried to straighten it out.

Mr. Lounsbury: Do you know what mile that was on, Mr. Black? A. Just east of Hankinson.

Q. Just east going straight out of Hankinson or on the North and South mile? A. No, I think the mile going east and west out of Hankinson.

Q. How far did this casting cover? A. I believe about 70 stations, as I remember.

Q. Being 700 ft? A. No, 7,000 ft.

Q. How much did it cost to cast up this clay on to the
(951)

road? A. Well, it cost the same as the unit price in his bid, with the exception that there wasn't any money paid for overhaul.

Q. In other words, it would be figured on 56 or 58 cents per cu. yd. for the excavation? A. Yes, that is right.

Q. But no overhaul was allowed for that? A. No.

Q. Do you know how much that figured for those 70 stations? A. Well, I can't say off hand but as I recall it there would be a difference of about \$2,800.

Q. In favor of the casting? A. In favor of the county.

Q. I mean in favor of the casting job rather than the hauling? A. Yes.

Q. But you don't know how much it would cost to cast that in? A. No, I don't know how much it cost them to cast it in.

Q. How much did it cost the state? A. I don't remember the yardage; remember the total amount, about what it was.

Q. Do you know how much his yardage taken would figure up, how much a cu. yd? A. No, I don't off hand, the yardage taken was used and—

Q. You don't know how deep that was to be put on, that surface you ordered there? A. There was a sag and it was ordered—it was below grade this sag as I understand it occurred on account of a washout, and a settling of the filling standing in water.

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Q. Was that the sag formerly referred to in your evidence? A. No, there was another sag that didn't amount to much.

Q. You testified did you not, on two or three occasions that you gave some orders in 1923, either oral or written that would cost the state nothing? A. No, I don't think I did give any orders that would.

Q. Wouldn't this cost the state anything? A. No, this was a reduction to the state.

Q. You stated it cost the state 58 cents— A. I said that was part of the original work and agreements relative to clay surfacing.

Q. You referred to oral agreements? A. No, no, to the change in plans, there are some changes in plans on 59.

Q. Do not the change in plans on 59 show that this mile running straight east out of Hankinson was to be clay surfaced? A. I don't know as to that.

Q. If they do not so show this would be extra work? A. That wasn't considered to be clay surfacing, that is part of his original contract, I presume original contract or change in plans due to faulty plans made in the beginning.

Q. Was there such work as shown on the original plans as end hauling? A. I don't think the original plans were

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ever paid any attention to for the reason that they were so faulty that they wouldn't fit the conditions on the ground.

Q. Was this work that had been ordered by someone else? A. I couldn't say.

Q. You couldn't say whether it was new work being ordered by you or not? A. Well, you see it was work in building that fill back up which had settled due to standing in water.

Q. That would be maintenance, would it not, under a strict construction of the contract? A. No, I don't think so.

Q. Doesn't a road have to be delivered to the State High-

way Commission up to specifications widths and height as to crown? A. Yes.

Q. And the contract provides, does it not, that the maintenance shall be at the contractor's expense? A. Yes.

Q. Then wouldn't this be under this item of the contract? A. I say I don't know whether the work had ever been done on it or not, I couldn't tell; no way of me knowing.

Mr. Halcrow: Would the contractor be bound, Mr. Black, if it were shown that the original plans of the survey were faulty? A. Oh, you couldn't bind the contractor to a faulty set of plans, if he went on to the Project where the plans
(954)

show that it took a thousand yards to bring the fill up to contract elevation when they are out the yards on the ground, that through error show that you have to put on more than called for.

Q. As a matter of fact, these discrepancies that you referred to resulted from a faulty survey? A. Oh, yes, yes, entirely.

Mr. Lounsbury: In the record of the minutes of the State Highway Commission, dated January 9th, 1925, signed by you as Secretary I read the following paragraph: "Now, therefore, be it resolved that the State Highway Commission appropriate from the state aid funds now credited or that may be hereafter credited to Richland County, the sum of \$10,758.11, to be used in paying the State's share of the cost of construction of the above mentioned project in an amount not to exceed that herein appropriated." That was passed, was it? A. Yes.

Q. Can you explain to the Committee the discrepancy of \$1400 between the \$9300 contained in the resolution authorizing the transmission of those funds and the amount appearing in that paragraph? A. Well, this paragraph states—what it means is that as much of as may be necessary, you didn't read all the resolution. I will read it all: "Whereas, Federal Aid Project No. 59, Richland County with a total estimated cost of \$124,952.83, has been constructed, and Whereas, the
(955)

Board of County Commissioners of the said County has requested an allotment of State Aid for the said project, and Whereas, the balance of unappropriated State Aid to the credit of the said county amounts approximately to \$9300.00, Now, Therefore, Be It Resolved, that the State Highway Commission appropriate from the State Aid funds now credited or that may be hereafter credited to Richland County, the sum of \$10,758.11, to be used in paying the State's share of the cost of construction of the above mentioned project in an amount not to exceed that herein appropriated." I think, Mr. Lounsbury, you understand that all Richland County was asked to pay was \$9300, and the contractor signed a release discharging the County from all further claims, and that represents your final settlement. You know that as well as any-

one. That resolution does not take—as much of it as may be necessary, in this case you know it is \$9300. It doesn't make any difference to you what is in there.

Q. Why was the larger sum used? A. I don't know as that makes any particular difference, you know that only \$9300 was paid.

Q. Has that receipt ever been forwarded to Richland County? A. Yes.

Q. By whom? I think one of the office force, I think perhaps the chief clerk. If he has it you can have our copy.

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Q. You don't know when that was done? A. It was immediately after the payment of the voucher to the assignee.

Q. Where the amount agreed on was \$9300 as you have stated, why were the words used "or that may be hereafter credited," and a larger sum than that amount put in? A. Well, I can't answer that, Mr. Lounsbury, of course, you understand that this is a stock form of resolution used on all appropriations.

Q. Yes, I believe that is true, but I can't understand why this amount should be larger than the amount contained in the Richland County Commissioners resolution. A. That amount does not make any difference.

Q. Then why would it be put in there? A. It doesn't make any difference, it means that as much as may be necessary and in this case it was agreed on as \$9300.

Q. Yes. A. You know that as well as I do.

Q. But I can't understand what the idea was to give the authority to take \$1400 more than was agreed on. A. There isn't any authority, there is an agreement signed up stating that that cleans the whole works up.

Q. That is true, why wasn't that set out in the resolution properly? A. I think that is a minor item myself.

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Mr. Vogel: Where did you arrive at this \$10,758.11? A. Oh, I don't recall.

Mr. Lounsbury: What is that? That is down to the exact cent, I would like to know where you arrived at \$10,758.11. A. I can't say, I don't remember.

Q. Can you find out what that is? A. Yes, I would be glad to find out.

Q. You presented this resolution? A. Yes.

Q. Where did you get this item of \$10,758.11? A. As I say, that has been so long ago, and so many other jobs, that I can't remember, I would be glad to find out and report.

Q. Will you take up that \$10,000 and let us know? A. As a matter of fact that don't mean anything. If you want me to take it up I will. Richland County has settled in full and has got the receipt, and the contractor has signed a receipt.

Q. What was the reason then of putting in a resolution that doesn't mean anything? A. I don't remember.

Mr. Vogel: We would like to have your memory refreshed on that point. A. Well, I will find out, if I have time.

Q. Well, take the time.

Mr. Lounsbury: You say that the Attorney General drew House Bill No. 59? A. What bill is it?

Q. Introduced by the request of the Highway Committee to appropriate the sum of \$30,000 for paying the state's share (958)

of construction? A. Mr. Charley Simons drew the bill, I think.

Q. The Assistant Attorney General drew this bill, House Bill 59, which was defeated in the House, was it not? A. I don't know.

Q. The House Bill No. 59? A. Oh, yes, yes, that is the Senate Bill you have there, isn't it?

Q. This is a House Bill; then you had drawn Senate Bill No. 155, introduced by Senator Atkins, this Senate Bill No. 155 was drawn after House Bill No. 59 was defeated, was it not? A. Yes.

Q. And covers word for word the same as House Bill No. 59? A. I think so.

Q. What is Project 100? A. Project 100 is the Missouri River Bridge.

Q. That is the Missouri River Bridge. What is Project 100 B? A. The first 2.4 miles west of the bridge.

Q. Project B is the first two and a quarter miles? A. Yes, about, it is 2.4 miles.

Q. That is called B? A. Yes.

Q. What is Project 100 C? A. That is the remainder of the project.

Q. 100 is the bridge proper? A. Yes.

Q. 100 B is the approach to the bridge on the west side? A. That is right.

Q. Has Project 100 been settled for in full? A. Yes. (959)

Q. Completely paid for? A. Yes.

Q. Then why is this bill drafted in this form if 100 is a bridge? A. You asked me if 100 was paid, that is—

Q. Then why is this bill drafted in this way: "Section 1. Appropriation. There is hereby appropriated out of any moneys in the State Highway Fund under paragraph 2-A of Section 11 of Chapter 44 of the Laws of the Special Session of the Sixteenth Legislative Assembly of the State of North Dakota for the year 1919 the sum of \$30,000 or so much thereof as may be necessary for the purpose of paying one-third of the cost of construction on Federal Aid Project No. 100," that is the bridge proper? A. Well, it is all 100, of course, and the others are sections; 100, section A, B and C.

Q. Why wasn't this put in as A, you said 100 was the bridge proper? A. I don't know, in fact, that is the first it was ever called to my attention. I never noticed that.

Q. The words would not be truthful, therefore? A. Oh, I think so, the intention is there.

Q. Then it goes on and further—— A. Does it say the paving?

Q. It says further, "Federal Aid Project 100, said Project being a paving project and a part of the Missouri River Bridge to and extending from the west end of the Missouri
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River Bridge 2.4 miles in Morton County." A. I think it is covered all right.

Q. Well, that is not Project 100, is it? A. It shows the intention and it shows what it covers.

Q. It doesn't cover Federal Aid Project 100. A. Oh, yes, sure it does, it is all 100.

Q. Why didn't you put in 100 B? A. I don't know why, that is the first time it has ever been called to my attention.

Mr. Graham: That is all, Mr. Black. Just one other thing, Mr. Black, there is the Arbitration Agreement that hasn't been produced here yet, have you that agreement? A. Yes, that is attached to the estimate in 59, it is attached right to the final estimate.

Q. Not the Arbitration Agreement, that is the award of the arbitrators. A. The Arbitration Agreement, oh, I thought that was what you meant. The Agreement for the arbitrators, I think I have that in the office. I will bring it down.

Q. Could you do that this morning? A. Yes.

C. F. MUDGETT, being first duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence? A. C. F. Mudgett, 55, Valley City, North Dakota.

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Q. What is your business, Mr. Mudgett? A. I am in the banking business.

Q. Did you ever have anything to do with the building of highways? A. No, sir.

Q. Now, did you act as an arbitrator on a so-called dispute between the State Highway Commission and Treadwell Twichell of Fargo? A. Yes, sir.

Q. When was that? A. Sometime in November of last year.

Q. By whom were you appointed? A. I was appointed by the other two members of the board who had been appointed by the parties interested.

Q. You were the man agreed upon as the third member? A. Yes, sir.

Q. Did you have a meeting of the Board of Arbitration? A. Yes, sir.

Q. Where was that meeting? A. In the Highway Commission offices at the Capitol.

Q. At that meeting did it appear that there was any dispute between the State Highway Commission and Mr. Twichell as to the amount claimed to be due Mr. Twichell? A. Yes, sir.

Q. In what way was there a dispute? A. As I remember the main point of difference was the extra work which was caused by changing one of the roads from a round top, as they called it, to a flat top, and then the question of the

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clay which was put on one of the roads down there which was sandy and which they, as I remember it, the Federal engineers insisted on having clay put on before they would accept it on the part of the Government.

Q. Was there any statement presented by Mr. Twichell as to the amounts which he claimed? A. Yes, there was.

Q. Made out by Mr. Twichell? A. Well, made out by Mr. Twichell—as I remember the claim, most of those figures were submitted by his attorneys.

Q. Were not the figures claimed by Mr. Twichell submitted by the State Highway Commission? A. I don't remember; no they weren't submitted by the State Highway Commission, the Highway Commission, Mr. Black I think was examined in regard to those and Mr. Myhre was examined in regard to those figures.

Q. And did they not state that they had made up the figures, the claim by Mr. Twichell? A. No, sir, not as I remember.

Q. What did they state as you recall it? A. Well, there were figures submitted in regard—the figures were submitted before the Board of Arbitration there and were checked over by Mr. Crabbe and Mr. Bliss, the other members of the committee—of the Arbitration Board, who were both engineers.

I didn't qualify in regard to passing on those figures, as an engineer, I told them at the time I was on the Board that I

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had had no experience in regard to the figuring of the roads at all.

Q. There was only one set of figures presented? A. Well, their figures—no, Mr. Twichell, as I remember it, had a set of figures and the Highway Commission also had theirs.

Q. And these two sets of figures were similar in amounts? A. Yes, they were.

Q. So that, then as a matter of fact, there was no difference between the State Highway Commission and Mr. Twichell in regard to the amount claimed by Mr. Twichell, and the amount admitted by the State Highway Commission? A. There was in some instances there; some of the figures submitted by Mr. Twichell were not allowed by the Board.

Q. Do you recall what items, if any? A. Well, as I remember there was a question of the difference in the yardage from the measurement of the pits from which the clay was hauled. I presume this Committee has that report of the—the transcript of the testimony there, which would, of course, give it better than I can from memory.

Q. We have a report of it here, but we haven't been able to find anything in it, much. Have you the transcript?

Q. Yes, calling your attention to the testimony taken before the hearing; on page 3 appears the following question

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by Mr. Crabbe: "I notice in a statement here before us relative to this work that the total quantities and amounts computed, according to T. Twichell's claims as to Class B Excavation and overhaul on Clay Surfacing, Section A of F. A. P. No. 59, a tabulation showing a net amount unpaid of some \$36,273.80. Now, that tabulation was made by your department and checked over by yourself, I take it? Mr. Black: Yes, sir. This tabulation was introduced and marked Exhibit B." Do you recall whether or not that was a blue print? A. No, I wouldn't remember.

Q. Then further, the statement by Mr. Black: "Mr. Myhre and I went over the project on the ground and Mr. Myhre submitted a report. We made a whole diagram showing where the material was overhaul. This is according to Mr. Twichell's claim before going over the project and we found that the material has been placed where marked. This blue print was introduced and marked Exhibit A." I will ask you to examine this blue print and state, if you will, whether it was this one or one similar. A. Well, yes, it was something—I wouldn't be able to identify this particular print; is this marked?

Q. No, this one isn't marked. Calling your attention particularly to clay surfacing placed during 1923, according to the claims of T. Twichell, contractor. A. Yes.

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Q. The point I wish to bring out, Mr. Mudgett, is that if the statements of Mr. Twichell and the statements made out by the State Highway Commission agree there was, as a matter of fact, nothing for the Board of Arbitration to act upon; that is there was nothing in dispute between the two parties.

A. Except the question as to the—as to whether the change in the road and the clay surfacing additional there had been authorized by the Highway Commission, and by the engineers in their employ; and the evidence, as I remember it, showed that that work was done with the approval of the Highway Commission, and the position taken by me, of course, was that if the arbitrators which represented the two different sides agreed on a particular figure, there was nothing as far as I was concerned, to arbitrate, as long as the two parties agreed on the figures.

Q. Then as a matter of fact both parties agreed upon the figures which were submitted to the Board of Arbitration?

A. Practically yes, with the exception, as I say, of the two large matters of the changing of the road and the clay surfacing.

Q. Mr. Black and the engineers who testified before you testified that orders had been given for the work, claimed as additional by Mr. Twichell? A. Yes, must have, or else we wouldn't have allowed the work.

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Q. And there were no engineers appeared before you who had charge of the work when the change in plans and additional work was claimed to have been ordered, that is, I mean either Mr. Carroll or Mr. Wallace? A. No, neither of those men were before the Board.

Q. Do you know whether or not these men had been notified to appear before you and give their testimony? A. No, I don't.

Q. Mr. Gavin did not appear, did he? A. No, sir.

Q. Well, then, as a matter of fact, you expressed surprise, did you not, as to why a Board of Arbitration should be called when there was, in fact, no dispute between the parties? A. I wouldn't say that I said that; I did say that there was less difference to arbitrate than I had expected when I came up here.

Q. Did you ever act on a Board of Arbitration before? A. Not of this description.

Q. Well, of any kind? A. Oh, yes, I guess I have, I don't remember any.

Q. In all of the other arbitration hearings at which you had been present both parties came in and gave their contesting claims before the board of arbitration? A. Yes.

Q. And after you had heard the stories of both parties the board of arbitration would then make their decision on the points in dispute between the parties? A. Yes, sir.

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Q. But in this instance there was nothing of that kind to do? A. Well, there was the question which I have spoken of before, the question as to whether this extra work was to be allowed.

Q. Did the members of the Highway Commission that appeared before you concede that this extra work had been done, and that it should be allowed? A. Yes, the evidence was that.

Mr. Vogel: Q. Mr. Mudgett, what evidence was presented before the Board of Arbitration showing that authority had been given to do this extra work by the Highway Commission? A. Well, there was no evidence except that the Highway Commission were asked whether this work had been done under the supervision of their engineers.

Q. They answered that they did? A. That they did.

Q. Did they produce any written instructions or supplemental contracts? A. No, sir.

Q. Or change of plans? A. I don't remember that there were any of those.

Q. In other words, they had stated that they had given these instructions orally to Mr. Twichell? A. Yes, I think Mr. Twichell's testimony was to that effect; that he had done this work under the oral instructions of the engineers.

Mr. Graham: Q. Did they submit to the Board of
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Arbitration the original contracts entered into and the specifications? A. I think those were in evidence, sir.

Q. Did you people go over those provisions of the contract which provided that no pay for additional work or extra work could be collected by the contractor unless an order had been given in writing by the engineers in charge? A. I believe that is the way the contracts read.

Q. You did not pay any attention to that provision? A. No, I don't remember that we did.

Mr. Vogel: Q. Did the Highway Commission present any claims before the Board of Arbitration as an offset that Mr. Twichell had failed to complete this contract according to the terms of the contract and that there should be an offset in the form of liquidated damages? A. No, sir.

Q. The Highway Commission mentioned nothing to the Board of Arbitration about any liquidated damages? A. No, sir.

Mr. Lounsbury: Q. Mr. Mudgett, what evidence was introduced as you recall, if any, on the change in the type of road from round top to a flat top? A. My remembrance of it was that this change was made because at the time the contract was let the government were passing round top roadse, but before it was completed the government had

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changed their plans and that it was necessary to have this road changed to a flat top road before Federal aid would be **granted**?

Q. Do you remember what employee of the Highway Commission made that statement to the arbitrators? A. Well, it is hard for me to remember exactly, but my remembrance of it was that that matter was talked over with both Mr. Black and Mr. Myhre.

Q. And neither of the engineers who ordered the change appeared before the Board? A. No, I don't think so.

Q. I believe that Mr. Twichell testified, did he not, that he would be satisfied with any amount that was granted to him by the Board of Arbitration? A. Well, I presume he agreed to that when he agreed to the arbitration.

Q. Well, isn't that his testimony in the record that when asked concerning his claims didn't he reply that he'd be satisfied with whatever amount was granted? A. I remember there were two or three small amounts which Mr. Twichell said he would leave entirely to the Board as the Board thought he wasn't entitled to those.

Mr. Graham: Q. I desire to call your attention to the following paragraph appearing at the end of the testimony, Mr. Mudgett: "It was decided to include in the minutes the

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statement "That the allowance of the contractor to go ahead and do the work is an expressed waver of any time proposal." What do you mean by that? A. Well, I presume that is covering the point that Mr. Vogel brought up here, that the matter of damages were waived.

Q. The State Highway Commission didn't make any claim for damages before you? A. No, they didn't.

Q. And there was no one there representing the Richland County? A. Richland County, as I understand it really weren't represented on the Board of Arbitration; it wasn't a question of settlement—it was a question of settlement between the Highway Commission and Mr. Twichell, and Richland County didn't appear in that at all.

Q. Did Mr. Black tell you that he had requested Mr. Bliss to notify Richland County so that some of the commissioners could be present? A. Yes, I remember that.

Q. That Mr. Black stated so? A. Yes, and Mr. Bliss told me himself that he expected someone from Richland County here; we came up together at the time of the hearing.

Q. Did Mr. Bliss also tell you that he had told the Chairman of the Board of County Commissioners of Richland County that the hearing had been set for the 28th day of November, and that he had failed to notify them of the change in the date of the hearing. A. I don't know anything about that.

Q. Now there wasn't anyone present from Richland County? A. There wasn't anyone present from Richland County.
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Mr. Vogel: Q. The impression that you were under then from the testimony given you at that hearing with respect to the change from the crown top to a flat top road—the impression you had was that this was a requirement of the Federal Government, was it not? A. Yes, sir.

Q. And the testimony given to you at this Arbitration meeting led you to conclude that this was an absolute requirement of the Federal Government? A. That is the way I still think.

Q. You still think that? A. Yes, sir.

Q. When as a matter of fact, that was simply a requirement of the state Highway Commission, you haven't found that out since, have you? A. No, so far as I know that was the requirement of the Federal Government in order that they would furnish their share of the federal aid.

Q. You still have that opinion? A. Yes, sir.

Q. In view of the fact, however, that Mr. Black has since testified that the Federal Government made no such requirement? A. I didn't hear Mr. Black's testimony, I don't know anything that the testimony here, the testimony
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brought out there was that those changes were made in order to participate in federal aid.

Mr. Lounsbury: Q. Mr. Mudgett, who prepared the award, that is the written award signed by the arbitrators? A. Well, Mr. Crabbe and I think, Mr. Lawrence. We talked the thing over and Mr. Lawrence took some notes and I think Mr. Lawrence dictated the award.

Q. And Mr. Lawrence was the attorney for the assignee of Treadwell Twichell? A. I found out after I came up here that he was representing the First National Bank of Fargo; I don't know that the contract was assigned, there wasn't any shown.

Q. That wasn't brought out in the evidence? A. No.

Mr. Vogel: Q. What was the date, Mr. Mudgett, that you were notified to appear; what was the date given you to appear? A. Well, there were different dates suggested; when Mr. Crabbe called me up from Fargo and asked me if I would act on this Board the date hadn't been definitely settled and he said he would let me know; he called me up again and asked me how the latter part of the month would do, and I told him that would be all right if I could get back before the first of the month; and afterwards he called me up and said that owing to the fact that Mr. Black was going away they set that meeting earlier than they had intended.

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Q. Were Mr. Gavin's original estimates introduced in evidence? A. Well, I wouldn't say.

Q. You don't recall that they were? A. I don't remember that any documents that were—or any figures made by Mr. Gavin were submitted, as I remember.

Q. Now, were there cross sections of Section B made by Mr. Gavin introduced in evidence? A. Well, there was some of the Blue prints, of course I don't know who prepared those exhibits.

Q. You don't recall that the re-cross sections, the profiles and the re-cross-sections were introduced in evidence. A. No, I don't know if they were prepared by Mr. Gavin, I don't remember.

Q. Was Mr. Roherty, engineer Roherty, called before the Board? A. I don't know there was, I don't remember, there were two men I think, two of the Department there I know there was one man by the name of Knudson.

Q. And Thorberg? A. Thorberg, yes.

Q. And Mr. Roherty wasn't called? A. Not so far as I know.

Q. Who suggested giving Mr. Twichell interest on the contracts? A. Well, his claim was for interest on this from, if I am not mistaken, from Nov. 1922.

Q. And the Highway Commission didn't dispute the fact (974)

that he was entitled to that interest? A. Well, the Highway Commission left that up to the Board of Arbitration, I think that I was probably one of the ones who was responsible for the allowance of the one year's interest which was allowed.

Q. Did Mr. Black inform you at that time that interest would not be allowed by the Federal Government? A. No sir.

Q. And did he inform you that interest never was allowed by the Federal Government or road projects? A. No.

Q. If he had given you that information you're ruling might have been otherwise? A. No, I don't think it was. I felt that Mr. Twichell, from the evidence was entitled to interest from the time that the road was formally accepted by the engineers, which was as I remember the very early part of November, 1923, because as I remember it we allowed him a year and a few days interest.

Mr. Vogel: Did you at the same time know that the contract called for liquidated damages for failure to complete the road on contract time? A. That matter wasn't brought up as I remember at all.

Mr. Graham: Q. I would like to call your attention to the

following statement purporting to have been made by you at the investigation: "Mr. Mudgett: I would like to ask Mr.

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Black whether he can furnish to us the figures which are covered in the resolution passed by the State Highway Commission on February 25th, 1924. What I would like to know is just what these figures referred to in this resolution are, what portion of the work they cover, and what difference there is between these figures and the figures of Mr. Twichell." Did Mr. Black present those figures referred to in that matter before your body? A. Mr. Black's answer there (indicating) is the one that covers that as I remember it.

Q. But he didn't produce the figures? A. He said there were no quantities shown, his testimony was there were no quantities shown.

Q. Did they bring to the attention of the Board of Arbitration the final certificates of work reported in by Mr. Gavin and Mr. Thorberg showing a balance due Mr. Twichell on these two projects of approximately \$12,000? A. I don't remember that those figures were submitted.

Q. Did Mr. Myhre during the time that he was on the stand tell you that he had appeared before the Board of County Commissioners of Richland County and stated that they had had the engineers up who had done this work and they had raised that estimate from \$12,000 to \$18,000 and that the engineers all felt that that was all Mr. Twichell was entitled to, and that, at that time all Mr. Twichell claimed was

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\$34,000. A. I don't remember that Mr. Myhre's testimony included anything in regard to a settlement with Richland County.

Q. Did you understand at that time that Richland County would be called upon to pay one-fourth of what award you might make—one-half I should say? A. Yes, that was my understanding, less of course the Federal Aid.

Q. The Federal Aid was to pay the one-half, did it not seem rather peculiar to you that Richland County did not desire to be represented on a matter where they would be called upon to pay approximately \$23,000? A. I thought and was surprised that Richland County was not represented at the Board.

Q. And you were given to understand by somebody that they did not have anything to say about it? A. I was given to understand that they had been notified, and if they had any objection I figured they should have been there.

Q. Who told you that they had been notified? A. Well, I think it was Mr. Bliss made the statement to me that he had telephoned them and notified them in regard to the meeting.

Q. But he didn't tell you that after the date was changed

that he hadn't notified them, is that a fact? A. No, I never knew that.

Q. I understood you to say that the date of the hearing (977)

was originally arranged for the latter part of November? A. That was what Mr. Crabbe said when he called me and asked if the latter part of the month would be satisfactory to me.

Q. And then upon the request of Mr. Black it was changed to the 10th of November? A. It was changed owing to the fact that Mr. Black was going to the coast and he wanted to get this out of the way.

Mr. Lounsbury: Was that board ever requested, Mr. Mudgett, to produce witnesses, to be specific was that board ever asked to secure the attendance of either Mr. Carroll or Mr. Gavin, or Mr. Wallace? A. No, sir.

Q. Do you know that Mr. Wallace, the former construction engineer in charge of that project lives in Bismarck? A. No, I didn't know that.

Q. And you don't know why he wasn't called? A. No.

Q. Isn't it a fact that the Board of Arbitration looked to the Highway Commission to give you the facts? A. Well, we did figure that it was up to them to produce witnesses if they weren't satisfied with the figures which Mr. Twichell submitted.

Q. And your Board never was requested to produce witnesses? A. No, we were not.

Mr. Lounsbury: That is all.

Mr. Halcrow: I have in my hand a communication from Treadwell Twichell addressed to this Special House Investigating Committee, which he wishes read into the records at this time. (978)

gating Committee, which he wishes read into the records at this time.

Mr. Yeater: Perhaps we had better take that up and then it can be copied into the records if desired.

Mr. Vogel: Let us look at it first.

Mr. Yeater: If it is material to the case it can be admitted.

Mr. Halcrow: He considers it as very material. (Handing paper to committee.)

Mr. Graham: I may state, Mr. Halcrow, that there was never any agreement made by me with Mr. Twichell, Mr. Green, Mr. L. L. Twichell, or any one else, that a copy of the transcript be furnished to Treadwell Twichell, so far as any of the members of the Committee are concerned I have no information.

Mr. Halcrow: Wouldn't that be his right as a witness that he get the transcript of his testimony?

Mr. Yeater: I would think that in this case it was the Highway Commission that is being investigated and not Mr. Twichell. He simply appeared as a testifying witness and wasn't entitled to the transcript.

Mr. Halcrow: Will he have a right to appear on the stand to correct his testimony and to be questioned by the minority members of this Committee?

Mr. Yeater: We will take that up.

Mr. Vogel: I wish to say that Mr. Twichell as a witness
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has no more right to the expense or cost of the transcript than any other witness appearing before this Committee.

Mr. Halcrow: That is a matter of opinion.

Mr. Vogel: He has no prerogatives that do not apply to any other witness appearing before this Committee. I wish it to so show in the record. Mr. Twichell has had access to the copy of the transcript which you have, has he not, Mr. Halcrow?

Mr. Halcrow: Well, he hasn't had it all.

Mr. Vogel: You are not refusing him the opportunity to look it over?

Mr. Halcrow: No, nothing that he asks for.

Mr. Vogel: You have given him all the transcript that you had in your possession that he called for?

Mr. Halcrow: I am not on the witness stand at present.

Mr. Vogel: I am just asking you to get this straight, if it is accessible.

Mr. Halcrow: If he asks for it. He has not asked for it, not all of it.

JOHN GAVIN, called as a witness, being first duly sworn, testified as follows:

EXAMINATION BY MR. LOUNSBURY:

Q. Will you state your name, age, and occupation. A.
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Age, 36, civil engineer by occupation, employed by the Missouri State Highway Commission.

Q. How long have you been in the practice of your profession? A. About 15 years.

Q. And during that time by whom have you been employed? A. I was employed by the Chicago, Burlington and Quincy Railroad as assistant engineer and track elevation engineer, and engineer of maintenance, engineer of construction and valuation; and by the Chicago, Milwaukee and Puget Sound Railroad as engineer of construction; and by the Chicago, Milwaukee and St. Paul Railway as assistant engineer in construction.

Q. Yes. A. And by the Interstate Commerce Commission, bureau of valuation as engineer in charge of field and track valuation, headquarters in Chicago. And have since October, 1920, until September 1st, 1924, by the North Dakota State Highway Commission for about half the time as resident engineer of construction and the balance of the time division engineer.

Q. You were also engaged as engineer in the construction of highways in the State of Iowa, were you not? A. I was.

Q. When employed by the State Highway Commission were you ever assigned to Federal Aid Project 59 in Richland County? A. I was.

Q. As resident engineer? A. Yes.

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Q. And where did you live at that time? A. In Wahpeton.

Q. And was that work later under your supervision as District Engineer? A. It was.

Q. And your headquarters were where at that time? A. Valley City.

Q. How large a district you have supervision over? A. Twelve counties in the southeast part of the state.

Q. Do you know who was accorded the contract to construct No. 59? A. Mr. Twichell, of Mapleton, Treadwell Twichell.

Q. How long have you known Mr. Twichell? A. Oh, since about in July of 1920.

Q. Have you any malice or ill will toward Mr. Twichell? A. No, I have not.

Q. Have you had at any time? A. No, no personal grievance. We had some differences on the work and the way that he thought the work should be constructed, and the way that I thought the specifications should be followed.

Q. Do you dislike Mr. Twichell, personally? A. No.

Q. You have had some words with him, have you? A. Yes, in connection with the work.

Q. Did you ever attempt to give Mr. Twichell any less

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than he had coming because of any feeling of ill-will toward him? A. No.

Q. Do you know what type of road the plans called for on Section B? A. On Section B of Project 59, you mean?

Q. Yes. A. For a crowned road with the edge of the crown nine inches lower than the center.

Q. Were you acquainted with R. N. Carroll? A. Yes.

Q. What was his official business with the Highway Com-

mission when you were Resident Engineer at Wahpeton? A. Sometime in April, 1921, he was Division Engineer at Valley City.

Q. Having full charge of that district? A. Yes, sir.

Q. Were you with Mr. Carroll when he gave Mr. Twichell any orders concerning the crown on Section B? A. Yes, sir.

Q. What were those orders, Mr. Gavin? A. He told Mr. Twichell to blade that road a little bit flat so that when the job was finally accepted that the shoulders would attain their full shrinkage and be nine inches lower at the edge of the crown than in the center. I might add that that was in the nature of a general instruction to all contractors in that district, at least, because of the shrinkage after you grade the center of the road is always harder, has an old hard core in the center of the road and in order to attain the cross-section

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as the specifications on the plans, it is necessary generally to finish the road higher when it is green and soft, and then the edge of the crown will sink.

Q. And then it attains approximately the cross-section shown on the original plans? A. Yes.

Q. Would the order given by Mr. Carroll in that connection involve the moving of any additional yardage? A. No, there would not, there is an item of shrinkage allowed in all plans of the State Highway Commission of this state and other states; an item of shrinkage varying from 10 to 24 per cent in excavation allowed to take care of such items as this.

Q. Did you, either as Resident Engineer or as Division Engineer ever order Mr. Twichell to make a flat top road out of this Division? A. You mean that it would be left at the time of the shrinkage as a flat top road?

Q. Yes. A. No, there was no such intent, no orders issued.

Q. Did Mr. Twichell make a flat top road out of this Division? A. No.

Q. Are any flat top roads ever constructed except where they are going to gravel or pave? A. Not to my knowledge.

Q. Was that order of Mr. Carroll's to which you have referred, given during the progress of the work, or after the

(984)

road had been fully completed. A. During the progress of the work in 1922.

Q. And was the road completed as a flat top road or crown? A. It was completed as a crown.

Q. In making up your final estimate on this Section, did you find that Mr. Twichell was entitled to any additional yardage over and above the amount shown on the plan? A.

I allowed him about 3500 yards because he made a little change in places, that I didn't think there was much to. I allowed him on Section B about 3500 yards.

Q. How much wider was the crown of the road than was called for in the original plans, if you know? A. It was in places, perhaps six inches wider, and in other probably a foot or two.

Q. Did you have any idea of what that would average through the section? A. Well, it might average around— if it was consistently wider by six inches than the contract, original plans, called for, it would average perhaps 3500 yards.

Q. For the entire section? A. Yes, sir.

Q. Do you remember how much in money you allowed Mr. Twichell for that additional work? A. No, I don't. I allowed it to him at the unit price of his contract, I think on that Section it was 58c.

Q. In your judgment, would this cover all that he had coming? A. Yes, sir.

Q. Did you make a recross-section of Section B, No. 59?
A. I did.

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Q. At whose request? A. At Mr. Black's request.

Q. To whom were the field notes delivered? A. I mailed them, registered mail, to the State Highway office in Bismarck.

Q. Do you know of your own knowledge how they checked with the original profile? As to plan widths? A. No, not of my own knowledge. I never saw the cross-sections only once.

Q. Mr. Roherty testified before the Committee that the recross-sections when fitted over the original profile showed an excess of yardage which would not exceed six inches in width, and that using that six inches as an arbitrary figure the contractor would be entitled to an additional 3430 yards of excavation, in your judgment would that be about right?
A. Yes, that would be substantially correct.

Q. When was Section B completed? A. In, I think November, 1923.

Q. Did Mr. Twichell ever to your knowledge ask for a final inspection on Section B prior to that date? A. Yes.

Q. And when he asked for such inspection did you look over the road? A. I did.

Q. And what condition did you find it in? A. It wasn't built according to the plans and I would order him to do the work necessary to bring it up to the plans, grades and so on.

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Q. And in the Fall of 1923, was the first time it was

brought up to the specified widths, and so forth of the original plans? A. That was the first time it was anywhere like it.

Q. Were any supplemental agreements ever executed between the Highway Commission and Mr. Twichell for additional work on that Section? A. Not during my term of office.

Q. Do you know what occasioned the trouble between Twichell and the Highway Commission over a settlement on Section A? A. Yes.

Q. What was it? A. He claimed a considerable amount more in quantities and that, at least, in the amount of clay surfacing, and the overhaul of the clay surfacing than he was entitled to.

Q. Do you know how much of that Section was ordered clay surfaced? A. Yes.

Q. How much? A. About four and a half miles.

Q. And do you know how thick that cover was required? A. He was authorized to put on six inches, loose measure.

Q. Where was that cover taken from? A. The clay surfacing?

Q. Yes. A. From pits located alongside the road.

Q. Who located the pits? A. Mr. Carroll and I, located some of them.

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Q. Did Mr. Twichell give you any assistance in locating those pits? A. Yes, he was along with us at various times to pick out those pits and make tests to find out if the clay was suitable for that purpose.

Q. Were they well located as to economy of haul? A. They were located as advantageously as could be under the circumstances, and economically.

Q. What do you mean by that? A. Well, I mean that it was kind of hard to find any that was suitable for surfacing in that country because there was a good deal of sand and we had to pick out the pits in low depressions and places where the clay was heavier than the most of the material along the road.

Q. Do you know what proportion of Section A was surfaced up to and including the Fall of 1922? A. There was four miles, about.

Q. Do you know what orders were issued to Mr. Twichell in 1923 regarding surfacing? A. He was ordered to surface an additional half mile and to replace surfacing that had broken through, and worn out on what had been previously surfaced.

Q. Why had it worn out? A. Principally through lack of maintenance.

Q. Who was required under the contract to do that maintaining? A. The contractor.

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Q. Do you know whether Mr. Twichell attempted to haul more clay surfacing on that section of the road than he was supposed to do under the plans or orders given? A. Without authorization?

Q. Yes. A. Yes, he did.

Q. Were any orders ever given to him to stop that practice? A. Yes.

Q. By whom, if you know? A. By myself and Mr. Knudson.

Q. And did he stop, or continue? A. He continued, he said he wasn't accepting any orders from me whatever, that all of his orders must come from the Bismarck office of the State Highway Commission in regard to any of his activities on that road.

Q. Did he ever use any of the material out of the pits for building up the shoulders of the road? A. Yes.

Q. Was he entitled to an overhaul charge for that item? A. No, he wasn't. He was told in the first place, where his road was narrow, to side borrow along the road and bring it up.

Q. Yes. A. And bring the road out to the required width and cross-section up to what it should attain. And at that time he was clay surfacing other parts of the road and he said he would just as soon haul dirt from the pits and widen the shoulders, I think he said it would be just about as

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cheap for him that he would not figure the overhaul on that shoulder widening.

Q. But he did afterwards claim the overhaul on that item, did he not? A. I understand he did, he never made any final direct claims to me.

Q. Then you don't know of your own knowledge, whether he ever claimed the full amount of pit yardage as overhaul, or as surfacing, I should say. A. From reading the findings of the Board of Arbitration I infer that he did claim the full amount of pit yardage in overhaul clay surfacing.

Q. Mr. Black testified that in figuring this division in regard to this claim, that Mr. Twichell was allowed full credit for the full amount excavated from the pits amounting to, I think, 20682 cubic yards, if that were done he would be getting credit for the material that was used for building up the shoulders, would he not? A. Yes.

Q. And he would not be entitled to that as clay surfacing, and would be entitled to no overhaul charge on that item? A. No, nothing in excess of the authorized amount which

he was told to put on the road he was told to put a six inch depth of surfacing and no more.

Q. Covering approximately, you say, four and a half miles altogether? A. Yes, sir.

Q. Would that account for the discrepancy between the
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figures finally allowed and those in your final estimate? A. Yes.

Q. Were there any other discrepancies? A. There was a discrepancy in the amount he claimed in the yardage for clay surfacing. We were giving him in the neighborhood of 12,000 yards, and I think he claimed about 20,000 yards. He didn't claim it directly to me, he never made any direct claims to me or to anybody in my office.

Q. During the progress of the work did you have occasion to order Mr. Twichell to perform maintenance on this road?
A. Yes, several times.

Q. Was it done by him? Sometimes he did maintain, sometimes he didn't pay any attention.

Q. When he didn't pay any attention to the order who did it? A. The County of Richland; and I think the City of Hankinson maintained a stretch of road east from Hankinson at their own expense. I was told that they did, the officials in Hankinson.

Q. Mr. Black testified the other day that in making up your final estimates you assumed certain measurements, is that true? A. It is true in this respect, that where the pit yardage showed that he had put on in excess of six inches, a total depth of surfacing, if he had been authorized to do that, in our estimates, that is in the estimates from my office we allowed him up to and including where he had hauled the excess of that, and we didn't on account of the pit yardage if
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distributed on the road, indicating that they spread the surfacing to a depth or width greater than six inches, we didn't allow it because it wasn't authorized.

Q. Were you ever called in to Bismarck after forwarding your final estimates? A. Yes.

Q. And in round figures what was the amount of your time? A. I was told that he was claiming about \$34,000.

Q. Do you know what Mr. Twichell was claiming at that time? A. I was told that he was claiming about \$34,000.

Q. Were you asked to increase that estimate? A. Yes.

Q. By whom? A. By Mr. Black and Mr. Myhre.

Q. To what amount? A. Well, we figured over the plans and discussed the job from all angles and brought up the proposition that we didn't allow any shrinkage as is general on graveling projects, but we had, of course, no precedent

to go by on clay surfacing projects; but they advanced the argument that perhaps he should be allowed shrinkage because they said if this case goes to court, which it undoubtedly will, that that question will be brought up and it seems like a fair thing to do, allow him shrinkage, which would increase the yardage, and of course the overhaul, and I agreed

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that, perhaps that was all right. We made up the overhaul diagram. I and Mr. Myhre and indicated the limits of the haul, and allowed him six inches of the surfacing, with a 25 per cent shrinkage, and that increased the clay surfacing of the road, and also the overhaul and brought the estimate on the two jobs up to about \$18,000. At that time we agreed that that was all that he could possibly have coming, and if it was necessary to go into court, that we would and let the courts decide.

Mr. Vogel: It was agreeable to both you and Mr. Myhre that that was all that Mr. Twichell had coming; this is the same Mr. Myhre that is at present with the Highway Commission? A. Yes, sir.

Mr. Lounsbury: Q. I show you Exhibit 6 and Exhibit 7, and ask you if those are the certificates of completion made by you as Division Engineer and Mr. Thorberg as Resident Engineer on Sections A and B, No. 59? A. Yes, they are, and the certificate of completion made by my office of A—and I will examine B—yes, those are the certificates.

Q. And upon the totals shown in the certificate of completion your final estimate was based? A. They were.

Q. And you say that that was increased to approximately \$18,000 by allowing him a shrinkage factor of 25 per cent? A. Yes.

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Q. And as a compromise? A. Yes.

Q. Do you know anything about the Arbitration Board between Twichell and the Highway Commission, of your own knowledge? A. Not of my own knowledge.

Q. Were you ever requested by anyone to appear before that Board? A. No.

Q. Since the award by the Arbitrators, have you had any occasion to check over the figures shown in your certificate of completion? A. Yes.

Q. And how do you find them as compared with your originals? A. They were substantially correct. I mean my estimate, original estimate was substantially correct on what he had coming.

Q. Were any supplemental agreements ever executed between the Highway Commission and Mr. Twichell in regard to this clay surfacing? A. No.

Q. Did you ever request that such supplemental agreements be made? A. Yes.

Q. Whom did you request? A. I took the matter up with Mr. Twichell and he didn't think much of the idea. We claimed that he had a price on overhaul, and his base price for excavation should cover these items, and I didn't think so because the conditions of the project were changed. And I also recommended to Mr. Black and Mr. Robinson that at various times that supplemental agreements be entered into at a modified price for these items of work, this particular item of work.

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Q. And was that ever done? A. No.

Q. There were no unit prices paid for clay surfacing, were there? A. No.

Q. Do you know, Mr. Gavin, what the average price of excavation was in 1922 and 1923, approximately? A. About 25 cents to 30 cents.

Q. And the price of overhaul on a surfacing job such as graveling? A. The price of overhaul varied from 22 to 30 cents a mile, and about one to two cents for overhaul on strictly excavation jobs, one and two cents beyond a thousand feet free haul.

Q. Yes, and he was being allowed on this project five cents for overhaul, that is he claimed that price, did he not? A. Yes, under his original contract.

Q. And he also claimed the 56 or '58 cents for excavation? A. Yes.

Q. When the going price, was, you say, between 25 and 30 cents?

Mr. Halcrow: Q. When there were no supplemental agreements entered into he was entitled to his original price, wasn't he? A. No, I don't think so. In fact, the specifications don't so state; when the conditions of a project are changed the supplemental agreements must be entered into

Q. When there were no supplemental agreements, he was entitled to the original price in the absence of any supplemental agreement? A. Such work would be unauthorized,

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it was up to the contractor to protect himself with supplemental agreements, if he was to get his original contract price.

Q. But there were no written supplemental agreements, as I understand, on this project, then he was protected under his original contract. A. Not necessarily. Because the contract conditions on the job were changed and this was a different item of work.

Q. Well, he had a contract price on overhaul and yardage pit prices. A. For straight excavation he had a contract price. Then he had one contract price for clay surface overhaul, and clay surface excavating.

Q. And when there is no price stated for that the original price would hold? A. Not necessarily.

Mr. Vogel: Was there an original price on clay hauling in the contract? A. No.

Q. Clay surface, I mean. A. Clay surface.

Q. Was there an original contract covering clay surfacing? A. Original contract price?

Q. Yes. A. No.

Q. There was none. A. No.

Mr. Halcrow: Q. Why wasn't there? A. Because that condition, I presume, had not been anticipated when the plans were drawn.

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Mr. Lounsbury: And there was nothing in Mr. Twichell's bid, in the unit price bid, covering any clay surfacing, was there? A. No.

Q. And under the paragraph of the specifications entitled "Unauthorized Work" it is stated, is it not, that any work done by the contractor without supplemental agreements without written orders from the engineer shall be at his own risk? A. Yes.

Mr. Halcrow: Q. Mr. Gavin, if there are no original prices mentioned, how did the price of 58 cents per yard, how is that established? A. In the absence of any supplemental agreements we paid him 58 cents.

Q. Why did you pay him 58 cents a yard when you just testified that 30 cents a yard was about the right price at that time? A. Well, in the absence of any authority I paid him, that would be paying at his contract price.

Q. In the absence of any authority, why did you pay him 58 cents a yard? A. Well, I figured all along that the supplemental agreement would be had and we would make a proper cost deduction from what he had been previously paid, or later somehow.

Q. If the supplemental agreement had been had, then you would figure that 58 cents was the right price that would go in? A. No, not at the unit price.

Q. You just testified that you paid him 58 cents; and if you had a supplemental agreement you expected that supple-

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mental agreement to back you up in that particular? A. I had no other prices on which to base an estimate, and I was instructed by the office to pay him at that rate.

Mr. Lounsbury: Q. Mr. Gavin, you are now connected with the Highway Department of the State of Missouri? A. Yes, sir.

Q. How many miles of paving, if any, have been let for the year 1925? A. About—some 250 miles.

Q. What type of paving will that be? A. There is some gravel surfacing, about thirty miles, and the rest of it is concrete paving.

Q. Do they favor the construction of soft top flexible pavements in that state? A. No.

Q. You know the form of the specifications of such concrete paving? A. In Missouri?

Q. Yes. A. Yes, sir.

Q. Do they provide in any case that a gravel base be put under a reinforced seven-inch slab of concrete paving, where it is thickened at the edges to nine inches? A. No, sir.

Q. Do you know of any state that requires that subgrade treatment? A. Requires a rolled stone or gravel base—

Mr. Halcrow: Are the conditions in Missouri the same as they are here, Mr. Gavin, as to weather conditions? A. No,
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because they have a great deal more rainfall down there, and there is a great deal of overflow in that country.

Q. Then the same type of road would not apply to that state as it does in North Dakota? A. Well, the subgrade is a great deal wetter.

Q. Then any comparison between Missouri and North Dakota is not pertinent to this state. A. I wouldn't say as to that.

Mr. Lounsbury: Q. Are the subgrade conditions better or worse in Missouri than they are in North Dakota? A. Well, on an average their subgrade is softer and spongy, a great deal more so than in North Dakota.

Q. And if the reason for putting the gravel subgrade under reinforced concrete paving is to keep the moisture away from the paving by reason of the fact that it is a con-capillary material, there would be more reason for the inclusion of that subgrade in Missouri than in North Dakota, wouldn't there? A. In my opinion there would from my experience here.

Mr. Halcrow: Q. Is it not a fact that in Dakota the gravel is put under the paving in North Dakota is put under there as a cushion so that the frost will not heave and crack it? A. I couldn't say as to that because I never heard of such a procedure in all my experience.

Q. What is the gravel put under the cement for? A. I don't know why it is put there in any case.

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Q. You are an engineer, you do not know of any such specifications, it isn't necessary in this state? A. Not under cement, no.

Q. You think then that concrete pavement put flat on the ground would be just as liable to stand up as if they had a

four inch cushion of gravel? A. Yes, properly designed, properly built.

Q. It would? A. Yes, sir, I might say that in Hillsboro we put down under my immediate supervision with a seven—seven and a half inch concrete slab and we had no such specification there and there is built probably 180 blocks, or eighty of concrete paving in Wahpeton, North Dakota, and there is no gravel sub-base underneath it. Here in Bismarck you have quite a good deal of concrete, I believe there is no gravel sub-base under it, or rolled stone.

Q. Is that where the concrete is made right on the ground and placed there in slabs or— A. Here, it is mixed, roiled and tamped.

Q. What would be the object in any case of putting gravel under cement? A. I don't know why they should put gravel under cement.

Q. So far as you know it isn't general practice; in your experience as an engineer it isn't necessary anywhere to put gravel under cement? A. No, that would be my personal opinion, at least.

Mr. Leunsbury: How is the concrete pavement standing up
(1000)

in Wahpeton, Mr. Gavin? A. It is standing up very well from my observation.

Q. Do you know how long it has been in? A. Yes, some of it has been in four years.

Q. And that is not thickened at the edges, is it? A. Well, I don't recall whether it was or not, I don't think it was, but I wouldn't say for certain.

Mr. Graham: When was this Hillsboro pavement to which you have referred put in? A. It was put in in 1923 in the Fall of 1923.

Q. And the plans and specifications were furnished by Mr. Black or some member of his Department? A. Well, the plans were originally made by the Pillsbury Engineering Company of Minneapolis and they were submitted to this Department and they did considerable revision. Finally after the revisions were made, they okehed those plans.

Q. There was no change in the concrete? A. No, not to my knowledge.

Mr. Lounsbury: Q. The requirement of a sub-grade in a country such as surrounds Bismarck would not, I take it from your testimony, be necessary? A. I wouldn't think so.

Q. It would serve, however, to raise the price of the concrete up to approximately the price of soft top pavements, would it not? A. Well, it would raise it some, yes.

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Q. Are you familiar with Federal Aid Project No. 247 out in Barnes County? A. I am.

Q. Was that constructed while you were Division Engineer? A. Yes.

Q. Was that project—it is paving, is it not? A. Part is paving, and part is merely surfacing.

Q. How much paving? A. About 2600 feet.

Q. And that is 247 B, is it? A. Yes.

Mr. Halcrow: Q. Mr. Gavin, in going back to Federal Aid No. 59, you stated that Mr. Twichell did not have any instructions from you, or any other engineer to change Section B of 59 from a crown top to a flat top road? A. I stated that we told him to keep his road fairly flat, in the course of construction, that was my statement, and—with the end in view that when the Project was finished and accepted that it would have attained its proper crown and cross-section.

Q. And there is a good deal of difference between that instruction and instructions to the contractor to change the road from a crown top to a flat top, isn't there? A. Yes.

Q. If you are changing a flat top to a crown top with the end in view that it would have a flat top— A. Well, I stated—

Q. You want the Committee to believe that Mr. Twichell received no instructions to change that road from a crown

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top to a flat top? A. I don't quite understand your question.

Q. You want the Committee to believe that Mr. Twichell received no instructions from you or any other engineer to change that Section B on Federal Aid Project 59 from a crown top road to a flat top road? A. Except what I stated in my testimony.

Q. I think you so stated in your testimony. A. I stated in my testimony that we told him to keep his road fairly flat during the course of construction but it was to be finished as a flat top road, and when the job was completed, that it would in the natural course of events, through shrinkage of the shoulders it would attain a crown top road after shrinkage as shown by the plans.

Q. As far as you know he wasn't ordered to change from a crown top to a flat top? A. No, sir.

Q. Now, you stated that you allowed him 3500 yards additional surfacing on Section B, did you not?

Mr. Lounsbury: In surfacing. A. In surfacing.

Mr. Halcrow: What was it? A. Common excavation, that was additional earth that he put on Section B.

Q. If he had no instructions to change his road, why did you allow him that? A. Well, he built up one low fill, and then he built up a round turn down near Fairmount, that

wasn't included in the original plans, once or twice, we had turns, 250 foot round turns.

(1003)

Q. About that fill; where was that? A. That was down near the east end of the project.

Q. Why did you allow him on that? A. Why did I?

Q. Yes. A. Because he had raised that fill a little.

Q. Why was it necessary? A. To eliminate the chances of overflow.

Q. But wasn't it in his contract to keep the grade up to grade line? A. Yes.

Q. Why did you allow him that then? A. Because he built the grade a little bit higher than it called for.

Q. Why didn't his original contract call for it? A. Why wasn't called for in the beginning? I couldn't say as to that because I didn't design the road, or make the survey.

Q. Doesn't it show as due to a faulty survey? A. No, I don't think so.

Q. That fact that the design was perhaps a little bit high; enough in one particular place wouldn't be due necessarily to a faulty survey.

Q. Faulty somewhere along the line, if the plans on the survey— A. Probably it hadn't been working loose enough by the original surveyor, or designer.

Q. It would have been the fault of the surveyor and not Mr. Twichell that that place was low? A. Perhaps, yes.

Q. That must then have been owing to a faulty survey originally? A. I couldn't say, as to that, no.

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Q. Where was the fault? A. I don't know that there was any fault.

Q. You admit allowing Mr. Twichell extra work for raising that place? A. That is one of the things on state work, that if a defect in plans shows up in surveys of this later, that is common practice. I don't think there is one project in the state that ever was built according to the original plans.

Mr. Vogel: Did you hear Mr. Twichell's testimony that the survey on Project B, on Section B, was a good survey? A. I didn't hear Mr. Twichell's.

Q. That Mr. Twichell had no fault to find with the surveying on Section B. Did you hear Mr. Twichell's letter to the effect that he had no fault to find with the survey on Section B? A. No, I didn't. I heard very little.

Mr. Lounsbury: Q. What type was the paving on 247 B built? A. With a five inch concrete base and a two inch asphaltic top Warrenite bitulithic.

Q. Was there any gravel sub-grade required? A. No.

Q. Are you familiar with the specifications of the State Highway Commission covering the aggregate in the concrete paving, of that type of paving? A. Yes.

Q. How much shale in the gravel do such specifications permit? A. Less than four per cent.

Q. And how much shale permitted in the sand? A. The same.

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Q. Who was the engineer directly in charge of the construction on that job? A. Mr. Barnes of the Dakota Engineering & Construction Company, and Mr. Bliss; he and Mr. Bliss had charge of it.

Q. Who is Mr. Bliss? A. He is a member of the firm of Dakota Engineering & Construction Company.

Q. Was he connected with the Highway Commission? On a monthly basis? A. As I recall it an employee of the Commission.

Q. Yes. A. On a monthly basis?

Q. Yes. A. No.

Q. He simply was given charge of that project by the Highway Commission? A. Yes.

Q. What gravel did the contractor commence to use on that job, if you know? A. He commenced to use gravel from a pit located about a half mile north of Valley City out near the Highline Bridge on the Northern Pacific, just out from the Highline Bridge about four hundred feet.

Q. Did you ever send in samples of gravel to the Bureau of Public Roads for tests? A. Yes.

Q. And you recall what those tests showed? A. I sent two samples to the Bureau of Public Roads and one tested sixteen per cent shale, and the other 24 per cent shale.

Q. Did you call that to the attention of the Highway Commission? A. Yes.

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Q. And the Chief Engineer? A. Yes.

Q. And what did he say? A. He said that we couldn't condemn that pit outright, but we would have to have additional tests.

Q. Have you those tests with you that were made by the Bureau of Public Roads? A. I have.

Q. May we have them in evidence. A. I have also some tests made by the State's laboratories. Here is a test of the two tests secured from the Bureau of Public Roads with the accompanying letter.

Mr. Lounsbury: I show you Exhibit X-5 and ask you what

that is? A. That is a letter from the District Engineer, E. O. Hathaway of St. Paul, dated July 19th, 1924 in which he—

Q. Read the letter into the record. A. "To the North Dakota State Highway Commission, Bismarck, North Dakota. (Copy to Mr. Gavin) Gentlemen: We are attaching herewith reports showing results of tests on two samples of pit run gravel (Laboratory Nos. 25322 and 25323) proposed for use on North Dakota Federal Aid Project No. 247 B, Barnes County. The samples are essentially the same, the gravel fraction showing a high percentage of deleterious fragments including shale, slate, and manganiferous limonite. The sand fraction is entirely too coarsely graded for use as fine aggregate in concrete, only about 17 per cent passing the 20 mesh sieve. The materials are not recommended even though

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washed and screened. Very truly yours, E. O. Hathaway, District Engineer."

Q. May I ask you if, referring to the sand, whether the Highway Commission, after receiving this letter from Hathaway, District Engineer for the Bureau of Public Roads, ever forbade the use of that sand in that paving. A. The Highway Commission?

Q. Yes. A. I forbade the use of it, but the Highway Commission told me it was all right to use it, so we went ahead and used it.

Q. Showing you Exhibit X-7, I will ask you to state what that shows in regard to the amount of shale contained in the sample submitted? A. It doesn't state specifically the amount of shale, but it states that 24 per cent of deleterious material, including shale, slate and manganiferous limonite is contained in this sample.

Q. And as I understand it the specifications on this job permitted four per cent of shale, is that right? A. Yes, that is right.

Q. And what does the Exhibit X-6 show in that regard as to percentage? A. The sample contains approximately 16 per cent of deleterious material such as shale, slate and manganiferous limonite.

Q. The same materials? A. Same materials.

Mr. Vogel: Are those all from the Bureau of Public Roads? A. They are from the Bureau of Public Roads?

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Q. What steps, if any, did you take to get the use of that material discontinued? A. I wrote a letter to the contractor and ordered him to discontinue the use and a copy of the letter to the engineer locally in charge of the work.

Q. And as far as the sand was concerned your superiors permitted the use of that sand in constructing the entire job, is that correct? A. That is correct.

Q. How about the gravel? A. They temporarily discontinued the use of the gravel after I wrote the letters to these fellows and told them that, they discontinued the use of these materials. They shipped in sand from the Mandan pit; they did it in the gravel form, several carloads, I don't know how many from the Mandan pit and hauled it out to this old pit half a mile from the work and distributed it over the bottom of the pit, and it was mixed with the poor gravel.

Q. Where were they doing their mixing of the concrete?
A. At this old pit about half a mile or three quarters of a mile from the work.

Q. Was anything ever said to you by the Chief Engineer as to where the aggregate should be rejected? A. He told me it should be rejected at the side of the work in the sub-grade.

Q. When the materials were delivered on the sub-grade they were mixed, or were they not? A. They were wet mixed, batch mixed.

(1009)

Q. And would it be practical to make any measurements of the aggregate in the wet mix? A. No, I don't think so, in fact I know it isn't practical.

Q. Did you ever hear of that being done? A. No.

Q. What was the effect of dumping this gravel, this new gravel into the old gravel pit? A. Well, the effect was that it was scattered out over the pit and this old scattered out and distributed also, and they had a hopper with an endless chain, webb belt and they carried the aggregates from the pit into the washer and mixer, and the contractor went down with teams and trucked in this gravel with teams and fresnos into the hopper and the result may have been that they got a percentage, or would be that they got a percentage of this old gravel mixed with this good gravel that had been shipped in.

Q. The Mandan gravel itself was a good gravel, was it not? A. Yes, it was a good gravel.

Q. About as good a gravel as we have in the state? A. Yes, I think it is the only commercial pit that is suitable for Federal Aid work in the state.

Q. Referring to concrete aggregates? A. Concrete aggregates, yes, that is, it is free from shale and meets Federal specifications as to grade tests and so forth.

Q. And the paving was constructed with this mixture?

(1010)

Of good and poor gravel and rejected shale over your objections? A. Yes.

Mr. Lounsbury: That is all.

Mr. Halcrow: Q. I would like to ask you, Mr. Gavin, a

few questions. When did you begin working for the State Highway Department? A. In October, 1920.

Q. Were you ever discharged by Mr. Robinson? A. Yes, I think it was in March of 1923, yes, March, 1923.

Q. Were you taken back on the Department again? A. Yes.

Q. Were you ever discharged by Mr. Black? A. No, I resigned.

Q. Were you ever cautioned as to your high expense account? A. Me? No.

Q. Do you know a man by the name of P. K. Lewis of Wahpeton? A. Yes.

Q. Is he a particular friend of yours? A. He is a friend of mine, he isn't a particular friend.

Q. When the Valley City Council let the contract of the city pavement in that part in which the Highway Department was interested, did you not advise the interested parties not to take any type but concrete paving? A. No.

Q. Do you own any property in Valley City, that would be subject to assessment? A. No.

(1011)

Q. Mr. Lewis was in Valley City before the City Council decided as to the type of the paving used, was he not? A. He was in Valley City,—you say before the City Council—I don't know whether he appeared before the Council, he was in Valley City, before the contract was awarded. You mean on the straight city paving?

Q. Yes, why was he there, if you know? A. Why, I'm not acquainted with his business affairs, I don't know exactly, I think he was there in the interests of the Portland Cement Company, he was an employee.

Q. The Highway Department had nothing to do with that paving in Valley City? A. With their city paving? No.

Mr. Halcrow: That is all.

Mr. Vogel: You say you were employed by Mr. Robinson, originally? A. Sir?

Q. You say you were employed by Mr. Robinson originally? A. Yes.

Q. Where did you come into the state from? A. From? I was an employee of the Interstate Commerce Commission when we were in Rochester, Minnesota.

Q. You came into the state in 1920 then? A. Yes.

Q. Had you been in the state prior to that time? A. Yes.

(1012)

Q. You were re-employed by Mr. Black when he became Chief Engineer? A. Yes.

Q. Did Mr. Twichell have anything to do with this re-employment? A. No, not that I know of.

Q. You don't know whether he wrote a letter to Mr. Black? A. No, not to my knowledge.

Q. Don't know anything about that? A. Don't know anything about that, I never—I don't know.

Q. You haven't seen the letter which Mr. Twichell wrote with regard to your qualifications, for you? A. It seems that I saw a letter in some of the correspondence, here.

Q. In which Mr. Twichell highly complimented you, and asked that you be hired? A. Yes, I think he said something to that effect.

Meeting adjourned.

(1013)

HOUSE INVESTIGATING COMMITTEE INVESTIGATION
OF STATE HIGHWAY COMMISSION

February 28, 1925, 9 A. M.

MR. GAVIN, having been called for further examination, testified as follows:

EXAMINATION BY MR. LOUNSBURY:

Q. While you were employed by the Highway Commission did you ever offer to make up parties and do the preliminary surveying for the Commission? A. Yes.

Q. Where was this proposed survey to be done, if you recall? A. In my district comprising twelve counties.

Q. Did you have time to handle this properly? A. Yes, that is I could arrange my forces, take on a few extra men and make the surveys.

Q. What, in your judgment, should this work cost when done under those circumstances? A. Well, in that country it would cost about thirty-five to forty a mile, I think would be an estimated cost.

Q. Were you permitted to do that? A. No, we made about two miles altogether during my term of office of preliminary surveys with our own office—or with our own district forces.

Q. Did you again offer to do preliminary surveying after you had left the department? A. As a private individual, yes. I wasn't with the department then and it was the prac-

(1014)

tice of the department to contract the work and I thought I might as well get some of that work if they were farming it out.

Q. Do you know whether the board of county commissioners of any county ever requested Mr. Black to permit you to do that work? A. Yes, in Barnes County.

Q. Do you know what Mr. Black replied to their request?
A. He told them that I could do that work. That is, as a private individual.

Q. And did you get the work? A. No, a little later he told me that they were going to do it with their own forces in that county. He said they had some men that they had to keep busy and that they were going to do it with their own forces. Later they farmed the same work out.

Q. To other engineers? A. Yes.

Q. There was some question raised in the testimony of Mr. Twichell given before this committee as to your politics, Mr. Gavin. I can't see the materiality of it, but I would like to ask you whether you are a Nonpartisan Leaguer or not?
A. No.

Q. Have you ever been? A. No.

Q. You stated yesterday, I believe, that you were discharged by Mr. Robinson. I would like to have you tell the committee the conditions under which you were discharged.
A. Yes, I was located in Wahpeton down in that territory

(1015)

as resident engineer in those two or three counties, and it was the practice then to get the men into the district office and into the Bismarck office to do winter designing, and I had a talk with Mr. Robinson and Mr. Ray, who was then I think assistant chief, and they told me that I could remain in Wahpeton during that winter and save the expense of moving to Bismarck or to the district office and keep assistants and do road designing. They promised me that. Then, later, they ordered me to come to Bismarck or to Valley City, rather, and I refused to go and said if you insist. All they said, if you don't want to come in, go ahead and resign. So it amounted to a discharge. I presume I really resigned but it amounted to a discharge.

By Mr. Graham:

Q. Mr. Gavin, I will ask you if you have examined the plans and specifications for the Mandan job of paving known as 100 B? A. Yes, I have looked them over.

Q. And that consists of a 7-inch concrete slab, 20 feet wide and 9 inches thick at the edges, is that right? A. Yes.

Q. Do the plans and specifications provide for any four-inch sub-gravel base? A. On the west side of the river?

Q. Yes. A. No.

(1016)

Q. Have you examined the plans and specifications for the Burleigh County paving known as Federal Aid Project 244? A. Yes.

Q. Does that project call for a 4-inch gravel sub-base? A. Yes, it does.

Q. And it also provides for the concrete slab? A. You mean it provides a 4-inch sub-base under the concrete slab?

Q. Yes. A. Yes.

Q. Is there any reason, in your experience as an engineer, that there should be a 4-inch gravel sub-base under the concrete slab? A. Well, I never heard of it before. I don't see any necessity for it myself.

Q. Would that increase the cost of the concrete road? A. It would.

Q. To what extent per yard, in your judgment? A. Well, figuring on where they had to get gravel around here, I would figure it cost about 35—30 or 35 cents more per square yard.

Q. Calling your attention to Exhibit E, being the bid submitted for the Burleigh County paving, I will ask you to read off the low bid for the concrete paving. A. The items?

Q. No, just the total amount of the bids. A. \$90,917.70.

Q. That includes the gravel, 4-inch gravel sub-base? A. Yes.

(1017)

Q. And I will ask you to read off the bid of the Haggart Construction Company for 4-inch asphaltic base and a 2-inch wearing surface. A. Well, that is a combination and that would have to be added.

Q. All right, will you give us the total amount? A. Well, the combination of the 4-inch—a concrete base with 2-inch wearing surface would be \$98,873.00.

Q. Hoy many yards is there in the project? A. There is 28,411.78.

Q. Then will you figure out for us how much would be the cost of the 4-inch gravel sub-base at 35 cents per yard? A. I make it \$9,944.12.

Q. And if that item had not been included then, the cost of the concrete paving would have been that much less? A. Yes, that is, assuming that is a fair price for that 4-inch base.

Q. Well in your judgment, 35 cents per yard is a fair price for that gravel sub-base? A. Yes, I would think so.

Q. Can you tell us from any records which you have as to the amount of concrete road and asphaltic concrete road which has been installed in the United States up to the first of July, 1924? A. Well, I can only give it, of course, on the Federal Aid roads completed. That doesn't include purely State Highway roads, that is built entirely by State funds or county funds.

(1018)

Q. That does include all roads built with Federal Aid? A.

According to the Bureau of Public Roads, there was completed up to June 20, 1924, 6,428.2.

Q. And of the asphaltic concrete? A. Well, it isn't specifically named as asphaltic concrete, it is called bituminous, it is practically the same type asphaltic types, 1,029.2

Q. What other types of road does it give with a hard surface? A. Well, it gives brick and bituminous macadam, water-bound macadam and gravel, or concrete—

Q. Those are the only two types of road that are used in this state? A. Sir?

Q. The concrete and bithulithic type are the only two types in this state? A. Well, there are various types of the asphaltic concrete.

By Mr. Yeater.

Q. Those are the only two that are used in this state? A. Well, there are other types of asphaltic you see bithulithic is a patent product and it is an asphaltic composition, but there are other asphaltic compositions which are not patented and are used to some extent in this state.

By Mr. Graham:

Q. Now, were you also the division engineer in charge of the Sargent County Project 58, Sections A and B in 1923? A. I was.

(1019)

Q. Were you also in charge of that work in 1923? A. I was.

Q. Now, after the work had been completed on these sections, the reports were turned in by the engineers in charge to you for inspection? A. Yes, they were.

Q. And after they had been inspected, you signed the report? A. You mean the certificate of completion?

Q. Yes. A. Yes, and the final estimates.

Q. And they were forwarded into the Highway Commission? A. Yes, that is the procedure.

Q. Now, was it ever taken up with you by the Highway Commission as to whether or not any increased commissions should be paid to the contractor Mr. Twichell over the amount shown in the certificate of final completion? A. Well, I will explain that. I and the resident engineers made up final certificates of completion on 58 and forwarded them to the Bismarck office and sometime later, I forget how long afterwards it was, they sent back—that is, the Bismarck office returned—they didn't return my certificate of completion, but they sent back a new estimate, an additional estimate than I had made out for \$8,000.00 more approximately than I had turned in. As I recall it, it was about \$8,000.00.

Q. Now, do you know of any reason why Mr. Twichell

should have received an additional amount of something over \$8,000.00 upon sections A and B of this project?

(1020)

A. Over what we turned in?

Q. Yes. A. No.

Q. In your opinion the certificates of final completion included all that Mr. Twichell was entitled to? A. Yes, sir.

Q. Now, did Mr. Twichell ever have any conversation with you at Hankinson concerning 59 in Richland County? A. Yes, several times.

Q. And in regard to the orders which you have given him for surfacing and so forth? Yes.

Q. What was that conversation? A. Well, the last conversation I had on the job was in Hankinson and I was there in company with Mr. Black—not Mr. Black but Mr. Wallace and Mr. Knutson and he started in with quite a personal tirade on me and when I told him he would have to do some surfacing and maintaining, he told me and Mr. Knutson that he was taking his instructions from the Bismarck office alone, specifically from Mr. Black, that he didn't have to pay any attention to us fellows.

Q. Did he say anything about his sitting pretty or words to that effect? A. I don't recall that he did to me.

Q. He told you, then, that he didn't have to pay any attention to any orders that were given by the engineering force down there? A. That is what he told us.

(1021)

Q. As a matter of fact, he didn't pay much attention to any of the orders that you people gave him down there.

By Mr. Halcrow:

Q. Did you ever make the statement to anybody, Mr. Gavin, that you would break Mr. Twichell on that job 59? A. No.

By Mr. Graham:

Q. The only difficulty that you had with Mr. Twichell on the Sargent County and Richland County jobs was that he wasn't willing to obey the orders and instructions given by the engineers in charge? A. That was the main difficulty, yes sir.

Q. You have no personal grievance against Mr. Twichel? A. No.

Q. Nor never did have? A. Nothing, only in connection with the work. We used to get mad at Twichell because he didn't want to pay any attention to reasonable orders—nothing of a personal nature.

Q. There wasn't any conspiracy between any of the men

with whom you were connected not to give Mr. Twichell the full amount of all estimates that he was entitled to for the work which he had done? A. There was no such conspiracy.

Q. As a matter of fact, in the certificate of final completion of the work Mr. Twichell was allowed 58
(1022)

cents per yard for clay excavation, for the clay surfacing and 5 cents for overhaul per yard, which was almost twice what the prices were at the time that the work was actually done.
A. Yes.

Q. You gave him the benefit of the prices provided in the original contract? A. Yes.

Q. So that in that way he received almost twice as much as he would if a contract had been made at the time that the work was done? A. Yes, that is perfectly true.

By Mr. Yeater:

Q. Did you have any serious difficulties with Mr. Twichell up to the time you put in your final estimate? A. No, nothing very serious.

Q. Your main troubles come after you put in your final estimate? A. Yes, that is, I never had any serious trouble with Mr. Twichell himself after I put in my final estimate. I understood he refused to accept it. He never come to my office or made any claims to me concerning it.

Q. You stated yesterday that you were discharged under Mr. Robinson? A. Yes, I stated so in my testimony.

Q. Mr. Robinson was a Nonpartisan appointee, was he not? A. I understood he was a Nonpartisan.

Q. You were re-employed under Mr. Black? A. Yes.

Q. Mr. Black was the Nestos appointee, was he not?
(1023)

A. Yes, he was appointed by Governor Nestos.

By Mr. Halcrow:

Q. Why did you state yesterday, Mr. Gavin, that you were discharged by Mr. Robinson and this morning want to qualify that statement here. Why did you change your mind on that? A. Why, I didn't change my mind, I was asked here to explain the circumstances and I explained them.

Q. And when I asked you if you had been discharged by Mr. Black you said no, that you resigned. A. You mean discharged by Mr. Robinson?

Q. No, I asked you if you were discharged by Mr. Black and you said no. A. Yes, sir, my testimony yesterday related to my leaving the department under Mr. Robinson's regime.

Q. When I asked whether you had been discharged by Mr. Robinson you said yes, and when I asked whether you had been discharged by Mr. Black you said you resigned. Would it apply equally in both cases? A. No—well I presume it was. They offered me impossible conditions and I refused to accept it. It amounted to a discharge.

Q. Your answers weren't true yesterday? A. I think they were.

Q. You qualified them in one instance and not in the other? Why didn't you qualify them yesterday? A. I wasn't called on to explain.

(1024)

Q. Evidently it has been considered that your testimony did not contribute to your standing as an engineer and you found it necessary to qualify it this morning.

By Mr. Vogel:

Q. You wouldn't consider it any more detrimental than Mr. Twichell's stand when he found it necessary to qualify some of his statements? A. I didn't hear Mr. Twichell's testimony.

Q. You understand that Mr. Twichell has requested that he be allowed to qualify his testimony? A. Yes, I heard him so state.

Mr. Halcrow: I would like to state that Mr. Twichell isn't trying to qualify his statement. He is merely trying to correct any misstatements that may have been made here.

By Mr. Halcrow:

Q. I would like to ask Mr. Gavin a few questions about Richland County 59. You would say, Mr. Gavin, that the plans for 59 in Richland County were good plans and fitted to the ground? A. They fitted fairly well.

Q. Do you know under what conditions the original survey was made as to snow and ice on the ground? A. No, I wasn't there when it was made.

Q. You knew something of the conditions? A. No, I don't know anything specifically.

(1025)

Q. Do you know what time of the year it was made? A. I heard it was made in the fall or winter. I think it was made in 1919.

Q. You know it was made in November when there was considerable snow on the ground? A. No, I don't know that. It was never brought officially to my attention.

Q. Well, if there was snow on the ground, from your experience as an engineer, if there was snow over the top to a depth of four inches to six feet, could a proper survey be made? A. No, I wouldn't think it could under those conditions.

Q. It has been testified here that the snow was that deep.

By Mr. Vogel:

Q. This is in regard to Section A?

By Mr. Halcrow: No, the entire A and B were surveyed at the same time.

Mr. Vogel: Mr. Twichell testifies that he had no complaint to make on Section B.

Mr. Graham: The testimony is this: that there were drifts on a mile out from Hankinson from four inches to six feet deep on the north and south mile and that was the first that was surveyed.

Mr. Halcrow: Well, it covered the entire road in different places, so far as I understood.

(1026)

Mr. Graham: Not in six-foot drifts?

Mr. Halcrow: Yes, six-foot drifts in different places.

Q. With a survey made under those conditions with snow from four inches to six feet deep you wouldn't consider a final cross-section made and final quantity figured could be—that an engineer could swear to correct plans in that case would you. A. Repeat the question, please.

Q. With a survey made under those conditions, with some six feet of snow on the ground in some places, do you think that even though a final cross-section was made that final quantities figured could be obtained that an engineer could swear were correct. A. That depends on how careful the engineer was in the beginning when he made his survey. I have made surveys in the snow that were correct within the limits required under such conditions.

Q. But there was no condition of ice under the snow? A. Yes, I have made such surveys.

Q. And they were correct? A. Yes, sir.

Q. Do you know an engineer by the name of Kunz? A. Kunz, yes.

Q. Did he know of the conditions under which the survey of 59 was made? A. Did he know the conditions, did you say?

(1027)

Q. Yes, sir. A. Why, not of his personal knowledge, I don't think, because he wasn't on the party that made that survey I understood.

Q. Did he work on the project? A. He was there, perhaps a month and a half at various times, a month and a half or two months, that is, in the employ of Mr. Twichell as superintendent.

Q. Returning to the paving of 247 B, did you state that

the gravel which was shipped in from—in for the project was unloaded in the local gravel pit which was condemned?

A. I did so state.

Q. Did the city engineer have an inspector on the place?
A. During the course of construction?

Q. Yes. A. Part of the time.

Q. Not all of the time? A. No.

Q. Did Mr. Schartz, the Federal engineer, ever make an inspection of the project while it was under construction?
A. Once, I think.

Q. When was that? A. I don't remember the exact date, but as I recall it the job was about two-thirds done at the time.

Q. Is it not a fact that the Federal engineer found an inspector on the paving while the concrete was being poured at the mixing plant? A. Yes, on that day he was there, there was an inspector there.

Q. Was there an inspector on the paving? A. Yes, there was an inspector there all the time.

Q. What gravel was used in the other paving in Valley
(1028)

City? A. From the Valley City local pit.

Q. If it was good enough for Valley City, why wasn't it good enough for this project? A. They can use almost anything in local paving jobs that we wouldn't allow under State and Federal requirements. They can use anything but mud and dirt in the concrete and the contractor can get away with it.

Q. You think that the city council didn't use very good care in selecting their gravel? A. I don't know whether the city council selected the gravel or not.

Q. Well, whoever had charge of it? A. I don't think so.

Q. You think all the gravel there would return a test that might have been 27 per cent shale? A. No, sixteen—perhaps that wasn't the average. I think their tests would average from six to fourteen.

Q. Did you take a fair test from that gravel? A. I took a typical sample out of the pit. I took a sample or my men did—I didn't take all these samples myself. I took only two. We would take a sack and a small shovel and take a shovel full here and a shovel full there at several places throughout the pit so as to get an average sample.

Q. Were the samples that you obtained yourself sent to the department? A. No.

(1029)

Q. Why didn't you send those to the department? A. I had already sent ten up here and they all reacted but one.

Q. What was the test that you sent here? A. I will read them to you if you wish. The source of the first one is from Gavin, the shale ran two and a half per cent.

Q. From whom did you say? A. This is sent from me to the North Dakota Highway Commission—silt three and six-tenths per cent. Silt is dirt. Taken from washer, the Dakota Engineering and Construction Company, shale seven per cent, silt two per cent. That was after it had been washed and screened. From Dakota Engineering and Construction Company, shale 10½ per cent, silt 2 per cent. Another one from the Dakota Engineering and Construction Company, shale 12 per cent, silt 4 per cent. This last was taken from the washed gravel after it was presumed to be washed. From washer 8.2 per cent, no notation as to silt, from Dakota Engineering and Construction Company, shale 8.9 per cent. This one was taken by Mr. Hillman, shale 10.3 per cent, silt 2½ per cent. And on this one there is no information as to sender, shale 3½ per cent. This is a list that I requested the Highway Commission to send me of a test, the list of the different samples that had been submitted to the Highway Commission for tests from my own office record as division engineer.

(1030)

By Mr. Halcrow:

Q. On the strength of these samples they ordered a change of gravel? A. Yes.

Q. Where did the gravel come from? A. From Mandan.

Q. It was unloaded on the old pit? A. Yes, sir.

Q. Was that a proper place to unload it? A. I don't think so.

Q. Where else should they have unloaded it in the city? A. Well, they could have unloaded it down by the railroad tracks, you see the job parallels the railroad tracks and they could have set their cars out right alongside the job within three hundred feet and mix it there.

Q. They had all their machinery, washing machinery at the old pit? A. Yes, sir.

Q. It would save expense by not moving that? A. They didn't need to move their washer, because this gravel was shipped in, washed and screened. All they had to do was move their mixer.

Q. The city council had a petition signed by the owners of 90 per cent of the property subject to special assessment asking for a concrete base with 2-inch bitulithic paving to be used, did they not? A. I don't know whether they did or did not.

Q. I think it is a fact that they did. That 90 per cent of the property owners signed up that request. A. Perhaps so.

(1031)

Q. You think that a request of that kind should have been taken notice of, don't you? A. Yes, if they made such a request it should have been taken notice of, but I don't know, I never saw the petition.

By Mr. Vogel:

Q. There is a difference of opinion between engineers with respect to this bithulithic block surface? A. Yes, there is some difference as to the merits of that and other kinds of paving.

Q. What opinion would you expect that 90 per cent of the people would know concerning concrete paving? A. The ordinary party who is being assessed for paving doesn't know anything about the merits of paving—less than nothing.

By Mr. Graham:

Q. What did the specifications require as to the amount of shale that might be present in the gravel used for this concrete? A. You mean for the base?

Q. Yes. A. Four per cent.

Q. And this gravel was running from seven to twenty-five per cent of shale,—24 per cent? A. Yes, some of it, yes, by virtue of the fact that this gravel was dumped in the pit and scattered throughout the pit, some of that rotten gravel must have inevitably got into the mixer.

Q. What effect will that have on the pavement? A. It will have the effect of causing it to disintegrate, blow out.

(1032)

Eventually, if there is enough shale, in concrete, it will disintegrate until it crumbles into nothing. And will not wear as long as it otherwise would? A. No.

By Mr. Vogel:

Q. What per cent of the cost of that paving did the county pay? A. The county didn't pay any. They didn't pay any on Section B. All this paving that was—it was financed by the city of Valley City and the Government. The Government paid a certain prorata share. I think the percentage was half of \$20,000.00 per mile pro-rated according to the length of the job.

O. B. LUND, having been called for examination, was first duly sworn and testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence? A. O. B. Lund, thirty-three years old. I live at 723 Ninth Street, Bismarck.

Q. What is your business? A. Auditing.

Q. And how long have you been in such business? A. About five years.

Q. And you have been employed in making audits for the various state departments in North Dakota? A. Yes, sir.

Q. For how long a period? A. Well, during this time.
(1033)

Q. During the past five years? A. Yes.

Q. And you are so employed at the present time? A. Yes, sir.

Q. You made an audit of the State Highway Commission to November 20, 1923? Yes, sir.

Q. From what period did that audit commence? A. Well, on the equipment department I went through practically everything from the beginning of the buying of equipment which was somewhere in the middle of the summer in 1919, as I remember it. I didn't go over all that stuff clear back from the organization on the Highway proper.

Q. You did go over all the war equipment? A. Yes.

Q. From the time of its commencement? A. Yes.

Q. To November 20, 1923? A. Yes.

Q. Do you have a copy of the audit report which you made with you? A. No, I do not.

Q. This report which I hand you is a copy of that audit, is it? A. Yes, sir.

Q. Now, turning to page 37 I will ask if that contains a statement of the assets and liabilities of the equipment department of the State Highway Commission? A. Yes, it does as I set it up at that time, November 20, 1923.

Mr. Graham: I am going to offer in evidence page 37 of this audit.

Q. I notice the first item of the assets is cash, in petty
(1034)

cash funds, do you know of what that consists? A. Well, that is a kind of a revolving fund that they carry, there is details of all this, that is detail A, if I can turn to it. It is money that they carry on deposit in the Bank of North Dakota, that they use as a revolving fund for paying bills that have to be paid promptly like freight, drayage and express. It takes a month for the ordinary—thirty days generally for the ordinary process of putting a bill through to clear from the State and they put in their bills and reimburse this fund. This fund should stand at this at all times.

Q. Then I notice that the next item is bills receivable warrants \$5,738.83, of what did that consist? A. Well, that is warrants that were received, registered warrants that were received from counties—

Q. For the sale of war material? A. For the sale of war material, perhaps there might be some labor in there

for trucks but it is general warrants which the county registered for want of funds.

Q. The next item C is accounts receivable, \$30,675.80, of what does that consist in a general way? A. That is practically the same thing, only it is in the form of accounts and Federal warrants and then there are some individuals in that. They are all in detail in here.

(1035)

Q. Most of these accounts are against counties for part of this war equipment? A. Yes, the bigger end of the amount of the money is, yes.

Q. Do you know whether or not any of these accounts are disputed or were as to the amounts? A. Well, some of them, as I recall, were somewhat past due; well I couldn't say now, as I don't know that. I think in the report the age of the accounts is shown, some of them were perhaps of six months' or a year's standing.

Q. The next item is auto mileage account due from the United States government, \$12,996.97, what do you mean by that? A. Well, that is money that was earned from the operation of these automobiles out on the work, that is, driven by the employees of the department. The expense, as I remember it, the way they handled it at that time, they were to get, I think, ten cents a mile and half of this was charged to the government.

Q. And there was no actual money received by the department but this was just a credit which they received? A. Well, they expected to receive it, as I understand it. As a matter of fact, as I remember, a short time before this audit they had made a collection of the previous year's charge on that account—received a draft from the government for it.

(1036)

Q. Have they received any credit from the State for their share of it? A. No, they have not.

Q. And that doesn't appear on this? A. No, it does not.

Q. The next item is, due from unsettled tractor and truck sales, \$2,532.09, is that to counties or to individuals? A. I think in all cases that is counties. It is tractors and trucks that had been sent to—I will have to look it up.

By Mr. Vogel:

Q. Was there any statement made as to where these were—? A. No, I don't need to, it is fresh in my mind, I have just gone over this lately, this Holt tractor was at Bottineau County. It is still there for that matter. This 3-ton truck was at the Grand Forks fair ground and the other four trucks were at the State Training School at Mandan. They hadn't come to a settlement with them on those.

By Mr. Graham:

Q. Then, the next item under F, fire loss, insurance claims due, \$13,120.00, is that the fire loss of the shops which

occurred during the time you were making this inventory?

A. Yes, sir, the shops and I think there were some automobiles and, of course, they were burned in the shop.

Q. Under G, oil, grease and gasoline inventory, \$612.00?

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A. Yes, that was the gasoline, gasoline books and grease and oil that was on hand at that period.

Q. Under H, miscellaneous, purchased materials, inventory, \$3,147.21? A. That is tires and other miscellaneous that had been purchased and was on hand other than was equipment.

Q. The next item, furniture and fixtures of equipment department, \$500.00, that was your estimated value? A. That was an estimated value, yes, that is the office furniture and fixtures that they had.

Q. The next item, purchased cars on hand amounting to \$16,129.74? A. Well, let's see, you have that wrong I think.

Q. Oh, yes, I read that wrong. Purchased cars on hand \$7,225.00. A. Yes, that is the cars other than government equipment that was on hand at that time at the estimated value gone over by the mechanics—this value was arrived at, gone over by the mechanics.

Q. That doesn't represent the purchase price paid for them? A. No.

Q. Is there anything in your report that does show what was paid for those cars that you inventoried at \$7,225.00? A. Well, it is so long since I have gone over this—I don't think it shows the cars in detail, the purchase price of the cars in detail, in this report. On page 38 the first item under the heading of operative costs, that showed automobiles purchased that is \$10,137.61.

(1038)

Q. And this other item is after you took off the depreciation? A. Yes.

Q. Then the items E, L, M, N, and O show the government autos, motorcycles, tractors, road-rollers and government trucks of the estimated value of \$16,129.74? A. Yes, well that isn't really the estimated value on that. That is only as we could arrive at it. I think it is pretty close—with the freight and handling and cost for getting them here. They are put in at cost.

Q. Then, under the item F, miscellaneous war equipment in bank building, \$5601.10, what does that consist of in a general way? A. Well, that consists of the tools and the tents and miscellaneous war supplies that were still in the bank basement at that time.

Q. And the miscellaneous war equipment, shop and Fort? A. \$10,017.16, that is the same class of materials only per-

haps they would be some of the bigger machines in with that, some of them were outside.

Q. I notice that the total of those items is \$28,304.64? A. Yes.

Q. And this represents the freight and handling charge? A. Yes.

Q. And has nothing to do with their value? A. No.
(1039)

Q. The total of these assets was \$121,457.94? A. Yes, sir.

Q. I notice under the liability side an item of accounts payable \$15,192.81, is that for money borrowed? A. No, that is for—well I can't turn to it—a large part of it is due the department, the United States Department of Agriculture for handling charges that had not been paid on this war material and these other miscellaneous supplies that had been purchased from different places that had not been paid at that time.

Q. I notice that the salaries and wages due from November 1st to November 20th in this department was \$1,655.33? A. Yes, that is an accrued charge that had not been paid, we made a cutoff for two-thirds of the month.

Q. That being then for only two-thirds of a month? A. Yes, that is unpaid.

Q. Then I notice that the Highway Commission expended from the 10 per cent fund \$357,077.80 up to that time? A. Yes.

Q. And they had collected back from sales \$240,275.51, is that right? A. Yes.

Q. So that there was still \$116,802.29 of war material which had not yet been sold? A. Well, that would be represented by the money invested in war material and the por-
(1040)

tion of new operation of the equipment department out of the 10 per cent fund.

Q. Then in addition Highway funds used to the amount of \$21,485.43? A. Yes.

By Mr. Vogel:

Q. What Highway funds were these? A. That was the other miscellaneous Highway funds for other road purposes, I suppose, or some of it might—some of it was appropriated for the maintenance of the department. The large part of it, I think was for money that was used for operation and for the maintenance of the department generally, like, for instance, when they first started, the superintendent of equipment, as I remember it now, drew his salary out of that until they got to using this 10 per cent fund and then there were items charged to this fund from time to time. I went through and gathered all those up and charged them to this department.

By Mr. Graham:

Q. So that the total liabilities were \$155,135.86? A. Yes.

Q. So that the cost of operating the equipment department to the state over and above the amount that you have given was \$33,677.92? A. Yes, sir.

Q. Meaning a loss in the operation of the department?
(1041)

A. Yes, that is, the liabilities exceed the assets that much. It is money that is not accounted for.

Q. And it must be made out of some other source? A. Yes, I don't see how it is ever going to get back into the Highway fund.

By Mr. Vogel:

Q. Wasn't that material supposed to be sold at the actual cost to the department? A. Of course, I don't have a clear understanding of that, but that was my assumption.

Q. Still this shows a loss up to November 20, 1923 of \$33,677.92? A. Yes, sir.

By Mr. Graham:

Q. What is the status of the equipment department since that time and down to the present date so far as you have completed your audit? A. I haven't gone over all the accounts of the Highway Commission and I am not just sure that all these figures are correct, because it is like it was before I may run on to some items in the Highway department proper that should be either charged or credited to this department. I have pretty well gone over the equipment department records and have the information that I have taken off there.

Q. Have you a copy which you could supply us with? A. No, I just have my pencil copy.

Q. By going over these same items you can read into the record the amounts as they now show. A. Yes.

(1042)

Q. As far as completed? A. As far as completed, I wouldn't say that they are absolutely correct yet, although I don't think there will be a great many—any material change.

Q. There wouldn't be any variation of more than a few hundred dollars either way? A. No, I don't think so.

Q. Can you give us the net assets, amount of cash in the petty cash fund? A. There has been a part of this petty cash fund during this period that has been turned back into the 10 per cent fund, leaving a balance as it stood on the 7th day of February—that is the date that I made a cutoff on the 7th day of February, \$3,709.20.

Q. And the bills receivable warrants, if any. A. \$728.04.

Q. Now, the accounts receivable? A. \$26,124.16.

Q. And auto mileage accounts due from the United States government? A. \$35,980.63. That item includes this item on this balance sheet which hasn't been paid and then what has been earned since.

Q. Due from tractor and truck sales? A. \$825.75. I might say that all these disputed trucks that were listed in my old report had been taken over again by the department, the only thing remaining here in dispute is that Holt tractor in Bottineau County.

(1043)

By Mr. Vogel:

Q. Do you find anything in there with respect to accounts due from T. R. Atkinson? A. I think I have a detail of them, of the accounts receivable. That, of course, doesn't enter into this at all.

Mr. Graham:

Q. Now, fire loss and insurance claims, I suppose there is no item? A. They have been charged off.

Q. It has been collected? A. A part of it has been collected and a part of it has not been collected and this was charged off.

Q. Do you know what amount was collected or approximately? A. Well, it is something like \$8500.00, I have not got that detail here.

Q. That was collected? A. That was charged off; at the time of the fire, as I remember now, they had — were entering into an agreement with the Farmers Insurance Company, I believe it is, at Dickinson. It is that new Dickinson company that failed here recently, and the policy had not been delivered at that time but from court decisions and information they thought they would be able to collect it.

By Mr. Vogel:

Q. They had this insured with the Farmers Insurance Company at Dickinson? A. Yes, that is, part of it,—it was claimed that they had. There is a detail of that in that re-

(1044)

port, that is, in the other report there is a detail of that. I think it was all collected except—

Q. \$8500.00? A. Well, I wouldn't say that that is the amount. It gives it in that report the amount that was due and the balance, as I remember it, was from the State, and of course that concern has failed and that is charged off.

Q. They didn't have this insured with the State? A. Well, they had it partly I believe.

By Mr. Vogel:

Q. This oil, grease and gasoline inventories, have you any-

thing on that now? A. \$6,500.00 according to their inventory in gas books on hand at that time.

Q. Under the item H, miscellaneous purchased materials inventory? A. I would like to correct my statement back there as to the date of this. I started in on this in checking it to the 7th, but I was getting the statement or making a statement as of the first of the year for the reason that it makes it better for the department to check it with their records in closing their books at the first of the month, so this statement is as of the first of the year instead of the 7th of February. I am making the check to the 7th of February, but the statements are to the first of the year.

Q. Miscellaneous purchased materials inventory? A.
(1045)

Well, that is principally automobile tires that have been purchased.

Q. How much? A. It is \$1022.50.

Q. Under the Item I, furniture and fixtures? A. We depreciated that 10 per cent. There has been nothing purchased according to the equipment department records. That left that \$450.00.

Q. Amount of purchased cars on hand? A. Well, the estimated value of them at this time is \$13,744.09.

By Mr. Vogel:

Q. What would be the purchase price, have you got that there? A. I have a detail of those cars that I have taken off.

Q. Well, we will get that later on.

By Mr. Graham:

Q. Well, then, the item K, government autos on hand, have you anything for that? A. The present estimated value of these is \$2307.86.

Q. And government motorcycles? A. They are charged off. They were mostly junk and no good, but they figured at that time that they would have about that much value in them as we set it up, but there isn't very much left and that is charged off altogether.

Q. Government tractors, item K? A. \$592.56. There are really only three small tractors left on hand.

Q. Government road roller? A. That is the same as it was, \$269.60.

(1046)

Q. Government trucks? A. \$7,793.51.

Q. Miscellaneous war equipment in bank building? A. Well, that is one item that I have been just getting. I am not thoroughly satisfied on the value yet. I have set that up at \$15,000.00. It takes in—I have it in a lump sum of all the miscellaneous war equipment.

Q. That covers both at the fort and the bank building?
 A. Yes, and shops. I have that all down at \$15,000.00.
 That is an estimate.

Q. It would cover the items of P, Q, R, S, and T, as shown in the report? A. Well, not T, I have T separately, that is the building.

Q. What value did you have for T? A. I have that the same, \$2,000.00.

Q. Then going over to the liability side? A. I might state that I go on further here with this, there is some shop improvement here in the amount of \$304.13 that was an improvement in the shops that I set up in the balance sheet at this time.

Q. Do you have the total for those items? A. There is another item of engineering of \$620.84, that is added to the inventory.

Q. Does that include all the assets now? A. Yes, that is as I have them at the present time.

Q. Have you any total? A. \$108,442.87.

(1047)

Q. Then, turning to the liability side, the accounts payable, is there any item of that at this time? A. Yes, we have \$17,721.26.

Q. Do you make any item of salaries? A. They don't appear on the balance sheet, you see they come in the operating statement, profit and loss.

Q. Do you have any of the state funds expended from the 10 per cent fund? A. Well, I carry forward the sum that was in the previous statement, that is still a liability.

Q. What is the net amount as shown at this time? A. Well, the funds expended from the state, I haven't computed this balance sheet, I am not sure of it until I have checked the department proper.

Q. Have you any figure at all as to what you have at this time. A. Well, according to the balance sheets I have it set up here, it would make a difference of—well I don't have that figure up here on the balance sheet. I have it on the operating statement but do not have it on the balance sheet. As a matter of fact, I don't know just exactly what this amount expended from the state funds at this time is, but the amount should be the amount to balance the liabilities with the assets that has been taken out. That would be something like \$14,000.00 that has been taken out of the state funds.

(1048)

By Mr. Vogel:

Q. That is added to the \$32,000.00 they had before? A. Yes,—no, that would bring the losses up according to the operating statement which this will have to tie up to when I get it perfected. According to the operating statement,

the difference between the expenditures and income is \$19,605.14.

Q. Added to the \$35,000.00? A. Yes, as shown on this other operating statement and balance sheet.

Q. That would show a total loss to the State of operating that of \$53,283.56? A. Yes, if that is the total of the two amounts.

By Mr. Graham:

Q. I will ask you at this time if the equipment department receives any credit for the use of the automobiles used by the men in the field and the use of the automobiles in Bismarck? A. The items set up in the balance sheet here under auto mileage due, \$53,980.63 represents what has been turned in. Those are the amounts that are charged directly to projects. They get credit for that. They haven't been getting credit for the other cars that have not been reported. I just set up what is reported in.

Q. Anyway the equipment department does not receive any credit for the automobiles used here at Bismarck by the
(1049)

officials? A. No, there is no report turned in on that and there is no way of arriving at anything.

Q. Can you tell us what the expenditure was last year for oil, gas and so forth for the cars in use here in Bismarck and not shown upon the projects?

Mr. Vogel: And not shown upon the projects?

Mr. Graham: Yes.

A. The oil and grease and gasoline as carried on the books shows, used in office and shops here. The amount used is \$7,119.84. That is from November 20th to December 31st, November 20, 1923 to December 31, 1924.

By Mr. Vogel:

Q. Do I understand you to mean that gasoline and oil used by the office force and those up at the shops amounted to \$7,119.00? A. That is what their records show. Of course, I could not say that there had not been some of those cars filled up here that were going out on the work, but, as I understand it, it is the practice this season for the men in the field to buy their oil and gas in the field and charge it up to their expense account as other traveling expenses, and this item is books, gas and oil purchased here at Bismarck.

Q. And used here at Bismarck or in the proximity of Bismarck? A. That is the understanding I have of it.

(1050)

Q. That would be a little over thirteen months' time? A. Yes, November 20, 1923 to December 31, 1924.

By Mr. Graham:

Q. If I understand you correctly, the practice is for the men who are work on the projects to have gasoline books issued to them and they then report in the amount of the oil and gas as a charge against that project with their other expenses? A. I haven't gone over the expense accounts yet of the men in the field, that comes in down in the Highway Commission proper, I haven't gone over that but this being set up in this way shows on the books gas and oil, office and shops. I made the inquiry there and that is the explanation that they gave for it, that the gas and oil in the field was purchased by the men running the cars the same as they purchased meals and lodging and they charge it to their expense account and it comes in in that form instead of going through the equipment department.

By Mr. Vogel:

Q. Does this \$7,000.00 include gasoline mileage books?

A. Yes, it is gasoline mileage books, as I understand, subject to be used by officials in Bismarck and in the shops.

By Mr. Graham:

Q. In addition when your report is completed there will be another item of oil and gas used by the men in the field?

(1051)

A. Well, that would appear in the expense accounts. I hadn't thought of segregating that particularly, there will be 5 gallons here and 5 gallons there, etc., in the traveling accounts. I don't usually segregate those in the traveling accounts unless there is some particular reason for it.

Q. Now, turning over to page 38 of your report, or audit, it shows sales made of \$200,913.70. Can you tell us what additional—November 20, 1923—can you tell us what additional sales have been made since that time? A. That under the heading of sales there is government equipment and from November 20, 1923 to December 31, 1924 the sale of government equipment has been \$18,148.67. I might state in that that they had an adjustment with several of the counties that took trucks out that were—about \$11,000.00 of that is included in the \$18,000.00.

By Mr. Vogel:

Q. There would be just about \$7,000.00 of additional sales made? A. Of automotive equipment, government automotive equipment—and then the miscellaneous government equipment is the tents and shoes and saws and all other. The sale of that is \$30,505.53. That would make a total of government materials sold of \$48,654.20.

By Mr. Graham:

Q. Under the item of inventory government automotive,

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still on hand? A. Of course, this statement in that respect has nothing additional over the previous one. In the previous one I started from the beginning and, of course, for the inventory on hand they would be given full credit for it. You

see we have a different problem from them. It would be the increase or decrease, from that inventory.

Q. Which is it? A. It is a decrease.

Q. Of what figure? A. Government automotive \$2353.91. And those motorcycles which I mentioned before, they were charged off entirely that would decrease that \$257.10. Tractors decrease \$1615.99. Trucks decrease \$1239.21. Then the miscellaneous war equipment decrease \$11,304.64, or a total decrease of \$17,833.20.

Q. Can you give us the cost of the sales, cost of handling since your last report? A. Well, the cost of the sales, that would mean the equipment, and goods that have come in since and paid for since my previous audit and this decrease in inventory. Of course that is a cost of sale also. Government tractors and trucks in the amount of \$5125.19 received, and other miscellaneous government equipment \$7,671.09, or a total of \$12,796.28. Adding the cost of materials received and the decrease in inventory, or the goods sold out of inventory in there, results in a total of \$29,567.13. Deducting
(1053)

the cost from the sale of the government goods leaves a gross profit of \$19,087.07 as I now have it.

By Mr. Vogel:

Q. That is gross profit? A. Gross profit before taking out the operating expenses. That is a trading profit.

Q. They made a profit that year of \$19,087.07? A. That is a trading profit of course. That is, in other words, they received that much more than they put out for these goods. Of course, there is no expense out of that.

Q. I see, that is a gross profit? A. Yes, before there is any operating expenses taken out.

Q. That would be the operating expense of about \$38,000.00? A. Well, we have them here.

By Mr. Graham:

Q. Yes, I want to follow this down? A. On this statement I think it is very nearly the same as it is there, rentals and earnings, auto mileage charge, road project—that is that amount that was charged for use of cars for men in the field and so forth during this last period, \$22,983.66.

By Mr. Vogel:

Q. Is that \$22,983.66 listed as an asset of the department in your balance sheet? A. Yes, sir, it is an income and goes into the assets.

By Mr. Graham:

Q. Rentals of trucks, etc.? A. That is clear to you, is
(1054)

it, we charge the road projects and credit it up as an asset.

It is a charge against the counties, we are charging it to them in the first instance. Rentals received \$832.00, interest received \$260.25, total rentals and earnings \$24,073.91. That would bring a total income, including the income of trading, \$43,160.98.

Q. Coming to the operating cost, I notice in the other report that up to the 20th of November, 1923 \$10,137.61 of new automobiles have been purchased. Can you tell us what amount of automobiles have been purchased since that time?

A. \$12,575.41. That includes, however, the Indiana truck in that purchased automotive equipment.

By Mr. Vogel:

Q. That is since November 30, 1923? A. Yes, sir, that includes the trucks, automobiles and trucks purchased.

By Mr. Graham:

Q. That truck was traded for? A. Yes, but we show the cars traded and as sold and show the income in cars and trucks as purchased. It is about the only way you can handle that on the books.

Q. Do you have the inventory value of these cars at this time? A. Yes, I think I have it. I have a detail of these cars as they were purchased and the price of them, I think,

(1055)

if you want it. It is the present value of these cars that you want?

Q. Yes. A. Well, that is the same as it shows on the balance sheet, \$13,744.09.

Q. Under these items of operative cost on page 38—so as to get it in the same shape as the one we have—you have on that less inventory? A. Well, we charged in all purchases at that time and deducted the depreciation and while we arrived at that in this case by appraising it or taking the value of the cars as they are estimated by the mechanics, there was charged off \$5,031.32. That is decrease in value of purchased cars during this period.

Q. Now, can you tell us what amount of automobile and truck tires have been purchased since the date of your last report? A. In this you would want the net after taking out the sales?

Q. You can give it altogether? A. The auto and truck tires purchased, \$5,143.53, then there were sales of \$673.72, that would be a net outlay of \$4,469.81.

By Mr. Vogel:

Q. Who were those tires sold to? A. Well, they are sold to individuals, mostly the employees, and I guess, in some cases, the employees have used their own cars.

Q. The balance of this \$4,469.81 was tires used by officials

(1056)

of the department in their official work. A. Well, that was tires that went on all cars of course of the department.

By Mr. Graham:

Q. Then the item of spare and truck parts? A. That is net \$5,033.50.

Q. Were there any sales on that? A. Yes, the gross there was \$5,155.75 and the sales or refunds \$122.28. That leaves the net \$5,033.50.

Q. Then the gasoline and oil, have you the item of that at this time, or did you give that to us before? A. Well, yes, we had it up here, but it is—the purchases were \$7040.30 and the decrease in inventory which would be used out of the old stock was \$113.00 and the sale \$32.46, that would leave a net gasoline and oil expense, shop and office, \$7,119.94.

Q. Will you read what more you have in connection with the operative cost, Mr. Lund, into the record? A. Salaries and wages \$18,734.70.

Miscellaneous assessories purchased \$7,251.54. Do you want me to give these items that we have already given?

Q. What items are those? A. Those that I have read off previously.

Q. There is no need of reading them again. A. Purchases, labor, etc., the shops \$1538.13. Miscellaneous department expense \$514.29. Heat, light and power \$181.23. Stor-

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age of automobiles and trucks \$1,879.50. Auto batteries purchased \$417.30. Traveling expense \$73.65. Express purchased goods \$4.70. Freight purchased goods \$386.52. Miscellaneous refunds \$15.30. Bad debts charged off \$38.64. Insurance premiums paid \$922.58. Insurance claims charged off—this is the amount of that loss of that insurance that we were speaking about \$8,120.00. Accrued shop improvement charged off—that is items that we did not have in and I didn't get in my last audit amounting ot \$1,195.57. Depreciation furniture and fixtures \$50.00. Total operating expense \$62,766.12.

Q. That is for the operating since the date of your last report? A. To December 31, 1924. In other words, the expense exceeds the income by \$19,605.14.

(1058)

Mr. Graham: Now, there has been some controversy here in regard to three cars in the possession of Mr. Atkinson, do your records show anything in regard to that, or the records of your examination? A. I have the location of all the cars and tractors and trucks owned by the Department as they show of record; could you give me the make of these?

Q. Yes, there is a Dodge car.

Mr. Vogel: Have you got the numbers of them there, the Highway number? A. Yes, I'll find it.

Mr. Graham: And a White truck, and a Cadillac. A. I show government Dodge car, Highway Commission No. 340, chassis No. 271228, motor No. 323690, as assigned to T. R. Atkinson, Bismarck.

Mr. Vogel: Have you any—did you discover any memorandum of a sale to T. R. Atkinson of this car? A. No, I was given to understand that this was assigned the same as cars to any of the employees.

Q. The records show that this was assigned to T. R. Atkinson, the same as any of the cars were assigned to the Highway Commission? A. Yes, extended from the records.

Q. What do your records of November 20th, 1923, show with respect to this car? A. On page 49 of the Report under the caption of the "Government Cars on Hand," Dodge, I show No. 340, with the same item, chassis No. 271328, Motor No. 3236900, with T. R. Atkinson.

(1059)

Q. Assigned to T. R. Atkinson? A. Yes.

Q. There has been no change in the status then in the books of the Highway Commission with respect to this car since November 20th, 1923? A. Well, I couldn't just say whether there has been any changes on the books. It appears the same now as it appeared then. I don't have any data here showing any change, if there had been any change I wouldn't have shown the change, I would assume there has been no change.

Q. You heard Mr. Black's testimony that this car had been sold to Mr. Atkinson? A. No, I did not.

Q. You suppose the car has been assigned to T. R. Atkinson, the same as it has to the regular officials of the Highway Department? A. Yes.

Q. Have you a White truck there, also? A. Assigned to Atkinson, yes sir.

Q. Yes, have you the number of that there in your files, Mr. Gettleman?

Mr. Lund: I'll find it here.

Mr. Vogel: He'll find it all right.

Mr. Lund: I show White truck, Government White truck, it is Highway Commission No. 426, chassis 47415, motor No. 3620. Assigned to T. R. Atkinson, Bismarck.

Q. There is no record of that car—truck, ever having been sold to T. R. Atkinson? A. No, I don't think so, I don't

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have any—I have it as belonging to the Highway Commission.

Q. Have you a Cadillac car there. A. Yes, they have one Cadillac car in the Department.

Q. Who is that assigned to? A. T. R. Atkinson, Highway Commission No. 470, Motor No. A15424.

Q. Your record of January first then of this Audit Report is that those cars all belong to the Highway Commission? A. Yes, that is the way the records show; that is the way I'd take it down, the way I got this.

Q. Have you a certain truck assigned to the Red Trail Garage at Mandan? A. Well, I'd have to go through all this in order to—

Q. Will you look that up and report to us a little later? A. You don't know what make of a truck it is?

Q. Liberty B. 441. A. I have under the caption, "Government Trucks" Standard Liberty B. trucks, Highway Commission No. 441, chasis No. 10408, Motor No. 18390, assigned to Red Trail Transfer Company.

Q. That truck also appears as belonging to the State Highway Commission on January first, 1925? A. Yes, sir.

Q. All right. That is all.

Mr. Graham: Calling your attention, Mr. Lund, to page six of your report, commencing with the bottom paragraph, I notice that you state that there are many articles on hand that cannot be used in road construction, also goods that are rap-

(1061)

idly deteriorating with age that are being sold to private individuals from the supply room, and you also state that the practice in handling these transactions is for the store keeper to handle the funds, listing them and sending the list with the money collected to the bookkeeper periodically, the bookkeeper in turn issuing a receipt for the same? A. Yes, sir.

Q. And the next paragraph stating, "it is the uniform practice in collecting public funds for the official making the collection to issue receipts in duplicate numbered consecutive order, one copy delivered to the payee at the time the transaction is made, the other copy remaining as a permanent record of the Department. This has not been carried out by the equipment Department in selling goods from the store room, and in the absence of some systematic system of this kind, it is impossible to make an intelligent check of all property handled by the storekeeper in charge of the store room, and I believe that some system of this kind should be installed in this Department whereby all sales can be verified." Now, has there been any change made since the date of your last Report upon these items?

A. No, I don't think there has that would be of any value in making this check. They did get some blanks that had been used by the Home Builders I believe

(1062)

that were numbered, but they are not turned in in consecutive order, or in shape so that you can really check them to get anything out of them.

Q. And there is no method at this time by which you can check the sales made by Mr. Miller at the store room, as to whether they are true and accurate as to the report of sales and cash received? A. He turns in a list with each sale, which comes into the Department, the bookkeeper of the Equipment Department, but they are not issued strictly in their numerical order so that there is a real system to it, so that you could check it and verify it like receipts of that kind, or invoices or sales slips are usually made.

Q. That is, at the time of the sales, there is no duplicate slip made of the sale and given to the purchaser? A. Well, I couldn't say as to that because I haven't—

Q. That is from the records which have been submitted to you? A. There is a copy turned in to the bookkeeper with their sales; whether a copy of this slip has been turned over to the purchaser, or not,—of course, I haven't been there to see that, but I would assume from the appearance of it that there hadn't been.

Q. There is no indication that there has been? A. No, there isn't.

(1063)

Q. And this paragraph appears on page 7 “—the methods now used in handling the miscellaneous war supplies and equipment are such that it is impossible to trace the receipts or disposition of a large part of the miscellaneous material and equipment;” does that still hold true? A. Yes, I think so.

Q. There hasn't been any change made then from the time of your last audit in the method of their handling? A. I might say that these slips that are turned in there with the funds might be in a little better shape than they were previously. Of course, this section here (indicating paragraph on page 7 of the Audit Report) goes clear back to the beginning and there was a good deal of that at that time, you know, that we couldn't trace at all. Now, we have these slips that have been turned in, but I wouldn't say that they were of a great deal of value as long as they are not numbered consecutively and issued systematically.

Q. Then, if I understand you correctly the method of handling this was very lax commencing under the administration of Mr. Robinson, and has continued in almost the same way under the administration of Mr. Black? A. Yes.

(1064)

Q. No particular difference? A. That is, as far as the miscellaneous materials that are handled are concerned, yes.

Q. Now, do you remember whether a copy of this Audit Report was brought to the attention of Mr. Black? A. I think there was a copy filed with him; I turn them over to my Board and they in turn send one to the State Department and one to the Governor. I believe—well, as a matter of fact. I have looked over the—have referred to their copy of the Report in the Department afterwards, I think.

Q. Did Mr. Black ever have any conversation with you in respect to the changes which you have suggested in this Report? A. I think before I wrote it up, or about the time I was writing it up, I think I told him about what I thought should be done, and perhaps went into it in a little more detail, than was done here; that is my recollection, I usually do that.

Q. What did he say? A. Well, I don't remember that—just what he said, I think he left the impression with me that they would make those changes and corrections, but I couldn't say just exactly what the conversation was.

Q. But, anyway, there hasn't been any changes made with the exception of using some of these old blanks of the Home Builders Association? A. No, not that I have found.

(1065)

Mr. Vogel: Isn't it customary when a truck or tractor or automobile is sold to a county or a private individual and unpaid for that—that that is carried as either Bills Receivable, warrants, or as Accounts Receivable? A. Yes.

Q. Of the sales of trucks and tractors and automobiles actual sales, you have recorded there as Accounts Receivable, have you not? A. Well, the items that are sold for cash go into the Cash Sales as they are sold, and if cash isn't paid immediately they are charged to the county or individual, transferred when the trucks are credited, of course.

Q. And after that would be charged as Accounts Receivable? A. Yes.

Q. That was, I think, in your Report, of how much? A. Mine of November 20th.

Q. Your last Report? A. •26,124.16 of Accounts Receivable, the warrants to \$728.04, although that is old warrants, they are not issuing warrants any more in that way.

Q. None of these three cars sold, presumably sold, to Mr. Atkinson, or the car that was presumably sold to the Red Trail Garage, none of these are carried as Accounts Receivable, you have testified to that effect, they are simply carried as equipment belonging to the Department? A. Yes, they

(1066)

haven't been charged off and changed into Accounts Receivable, no.

Mr. Graham: Have you found anything in your records during your examination showing how authority is given for the purchase of automobiles? A. None is entered in the Equipment Department showing that.

Q. Or in any other Departments? A. Well, I haven't gone over the Highway Commission proper this time. I usually go over the minutes, but I haven't gone over them or seen them this audit yet.

Q. So far have you investigated the amount of fire in-

insurance carried upon this war equipment? A. No, I haven't.

Q. Do you know whether or not any insurance is carried upon the war materials stored out at Fort Lincoln? A. I don't know that, the only thing I know about that is they have an insurance charge here.

Q. Do you know whether or not this store house out at the east side of Bismarck is covered with insurance? A. I don't know, I haven't gone into that.

Mr. Graham: Any questions, Mr. Halcrow?

Mr. Halcrow: I was just wondering about the trucks that Mr. Atkinson has, do you know anything about the license tags? A. We don't, no.

Q. I was wondering if Mr. Atkinson had paid for the license that was on those cars, or whether they were still paid by the State. A. I don't know anything about that, you see

(1067)

the only thing I take on that, I take it as it appears on the records of the Department; it would be impossible for us to go out and investigate all these different items.

Q. I didn't know whether they come under your investigation or not. A. A year ago I sent out inquiries to all counties and individuals having trucks to verify their location; in most cases I got them back, although I didn't in all, but I haven't this year yet.

Q. I think the records show that Mr. Atkinson paid for licenses for those cars himself; that they were not furnished by the state. A. The license department would show that. I haven't been in the License Department this year.

Q. That would indicate ownership, would it not? A. I don't know, that would not be a point that; I wouldn't be qualified to pass on that; I don't know.

Q. Did you find any improvement in the business management that the war material under Mr. Black over as it was conducted under Mr. Robinson? A. Well, I think it is handled about the same; after they got in their bookkeeper in charge at the Equipment Department. Before they got their bookkeeper it wasn't handled as good as it was after that. Of course, there wasn't a great deal of account kept

(1068)

until they got their bookkeeper, which was, I think, about January 1st, 1921, or 1922, I wouldn't say.

Q. Do you consider that the figures and accounts you have given this morning as very material to this investigation, in that this Department was wished on to the Highway Commission, rather than really it being a part of that Commission? A. I don't know as I would be qualified to answer that. I don't know what you are driving at.

Q. As I understand it, this Committee is supposed to in-

investigate the operation of the Highway Department? A. Yes, sir.

Q. This Department of the Highway Department that you have been testifying on this morning is a part of that Department that they really didn't want; it was wished on to them by someone, either the former administration or the United States Government. A. And they inherited it with all the rest of the Highway business, I suppose.

Mr. Vogel: You would consider that any department of the Highway Commission, regardless of how it was acquired, that showed a loss of \$53,000 in operation, and a gasoline item of \$7,000 and some dollars would be worthy of investigation, wouldn't you? A. It would seem so.

Mr. Graham: It is your duty, is it not, Mr. Lund, under
(1069)

—you are accounting for the State Auditing Board in making this investigation? A. Yes, sir.

Q. And under their instructions you are to investigate the expenditures of all funds made by the State Highway Commission? A. Yes, sir.

Q. And you find expenditures under the head of war equipment? A. Yes, sir.

Mr. Halcrow: Q. Do you know if the men going out on the field, the engineers have gas books issued to them, or not? A. I don't know, I haven't (as I said before, gone over their expense accounts; the understanding that they gave me up there was that gas books were issued to the engineers and to the shops, and the engineers and employees at Bismarck, and that those in the field bought their own gasoline and charged it up to their expense account, but I couldn't verify that because I haven't gone over those vouchers yet.

Q. Don't you think it likely that the men going out in the field would fill up their cars with oil and gas before leaving here on a long trip; they might do that, and that would come under that \$7,000 that you mentioned? A. If it is permitted, that, of course, I don't know what their rule is, of course that would be both reasonable and possible.

Q. The Sign Department, too, would they fill up here before going out on a long trip? A. I presume if they have access to that gasoline, yes.

(1070)

Q. And that would also be included in the \$7,000 that you have been speaking of? A. Yes, this \$7,000 includes all gas and oil that has been—

Q. Not necessarily used in and around Bismarck then? It might have gone out for several hundred miles in the field? A. I couldn't say where it would have gone.

Q. I think the inference was that that was used in or around Bismarck, rather than going out over the road on long

trips by the engineers and Sign Department. I was just trying to get that clear to the Committee.

Mr. Graham: Now, does the operation of the war equipment show any revenues from the automobiles that are used upon the road projects except that from the Federal Government? A. It shows what they have charged up to the counties, and as I stated before, during this period that amounted to \$22,983.66, that had been charged.

Q. But they are also charged up with the expense of the automobiles purchased for the use of the officials and for the use of the men in the field? A. Yes.

Q. And they receive no credit for those in any way? A. No, they haven't.

Q. I think that is all, Mr. Lund.

O. R. VOLD, called as a witness, being first duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence? A. O. R. Vold, age 29, residing at Bismarck.

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Q. What is your business or profession? A. I have been in the banking business.

Q. What are you doing at the present time? A. I have been helping Mr. Lund on the audit up at the Highway Commission.

Q. And in making that audit do you have a statement of the sums which have been paid out by the Highway Commission for making surveys and various other charges? A. I have.

Q. What period does that cover? A. From January 1st, 1924, to February 1st, 1925, thirteen months.

Q. Have you such report with you? A. Yes.

Q. Do you find any amounts as being paid to the Dakota Engineering and Construction Company? A. I do.

Q. Will you kindly read into the record the date of the payment and any items appearing from the record. A. These payments were all made in 1924.

Q. And the project. A. In January, that is to the Dakota Engineering and Construction Company, account of Barnes County, Project No. 233, surveying 12.34 miles,

(1072)

\$790.40, again in January, Barnes County, for services rendered on Projects No. 171 and 126, \$108.50.

Mr. Graham: Get the totals. A. Paid, total, paid to Dakota Engineering and Construction Company of \$7,520.10.

Q. And you have copied this as it appears from the books of the State Highway Commission? A. I have.

Q. Do you find anything as to having been paid to T. R. Atkinson? A. I do.

Q. Will you read the total of that? A. Total paid to T. R. Atkinson for the thirteen months is \$6,573.49.

Q. E. J. Thomas. A. Total to E. J. Thomas, \$2468.00.

Q. H. H. Pike? A. H. H. Pike total \$2,732.81.

Q. To H. H. Hurning? A. A total to H H Hurning of \$1,352.50.

Q. E. R. Griffin? A. Total to E. R. Griffin of \$7004.01.

Q. To Stevenson, Miller and Lucky? A. Total to Stevenson, Miller and Lucky, \$8,378.28.

Q. Do you know if their address is Moorhead, Minn.? A. Well, I would think that they are located close to Fargo because all their work is done in Cass County with the exception of one job in Dickey County.

Q. Given to Ingram & Smith? A. Total to Ingram & Smith, \$7263.44.

(1073)

Q. Then I notice an item of trees here, \$437.00, what is that? A. Yes, noted that down at the bottom here, that is the amount paid to the Northwest Nursery Company of Valley City, for trees on the project between here and Mandan, of \$437.00.

Q. You mean from the bridge west into Mandan? A. Yes.

Q. The total of all these payments is \$43,492.63 not including the item of the trees? A. Yes, sir.

Mr. Vogel: That is for engineers, private engineers? A. Yes, sir.

Mr. Graham: Exhibit X-8 is a copy made and prepared by you from the books in the Highway Commission office? A. Yes, sir.

Q. And is true and correct in all particulars as shown by the books? A. Yes, sir.

Q. I will offer in evidence Exhibit X-8.

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EXHIBIT X-8

1924	Name	County	No. Project		
			Miles	No.	Amount
Jan.	Dakota Eng. & Con. Co.	Barnes	12.34	233	\$ 790.40
Jan.	Dakota Eng. & Con. Co.	Barnes	Services	171 &	
				126	108.50
Jan.	Dakota Eng. & Con. Co.	Dickey	19.49	211	1,169.40
Feb.	Dakota Eng. & Con. Co.	Barnes	4.71	232	332.60

Feb.	Dakota Eng. & Con. Co. Barnes	12.00	221	720.00
March	Dakota Eng. & Con. Co. Barnes	12.00	221	660.00
April	Dakota Eng. & Con. Co. Barnes Design'g		233	678.70
Aug.	Dakota Eng. & Con. Co. Barnes May & June S		221B	188.00
Oct.	Dakota Eng. & Con. Co. Barnes July S		221	145.10
Oct.	Dakota Eng. & Con. Co. Barnes Aug. S		221	139.50
1925				
Jan.	Dakota Eng. & Con. Co. Dickey	12.59	261	1,038.45
Jan.	Dakota Eng. & Con. Co. Steele	5.03	265A	301.80
Jan.	Dakota Eng. & Con. Co. Barnes	6.21	265B	372.60
Jan.	Dakota Eng. & Con. Co. Dickey	15.91	261	875.05

\$7,520.10

Jan.	T. R. Atkinson	Emmons Services	161	\$ 61.40
May	T. R. Atkinson	Emmons Services	161	170.00
June	T. R. Atkinson	Emmons Services	161	
			197	368.00
June	T. R. Atkinson	Emmons Services	161	
			197	204.20
June	T. R. Atkinson	Emmons	8.35 260A	501.54
July	T. R. Atkinson	Emmons June	161	
		Services	197	268.00
Aug.	T. R. Atkinson	Burke &	14.93 258A	
		Mountrail	258B	922.80
Sept.	T. R. Atkinson	Emmons July	139	
		Services	161	
			197	294.00
Sept.	T. R. Atkinson	Emmons July	139	
		Services	161	
			197	202.85
Sept.	T. R. Atkinson	Mountrail	10.23 258C	613.80
Oct.	T. R. Atkinson	Mountrail	6.63 248B	397.80
Oct.	T. R. Atkinson	Emmons Aug.	139	
		Services	197	238.00
Oct.	T. R. Atkinson	Emmons Aug.	139	
		Services	197	204.20
Oct.	T. R. Atkinson	Emmons	6.01 269	300.50
Dec.	T. R. Atkinson	Wells	30.44 264	1,826.40

\$6,573.49

1924				
Jan.	E. J. Thomas	Ward	8.61 227	\$ 516.60
Jan.	E. J. Thomas	Ward	9.59 328	574.80
April	E. J. Thomas	Ward	8.06 227	473.00
1925				
Jan.	E. J. Thomas	Ward	15.06 271	903.60

\$2,468.00

(1074a)

	Name	County	No. Miles	Project No.	Amount
1924					
Jan.	H. H. Pike	Rolette	7.00	242	\$ 420.00
Jan.	H. H. Pike	Williams &	11.05	250A	
		Mountrail		250B	690.00
Feb.	H. H. Pike	Ramsey	12.00	225	720.00
Feb.	H. H. Pike	Benson Services		249	902.81

\$2,732.81

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Jan. 25	H. H. Hurning	Stutsman & Foster	11.00	275	\$ 660.00
April	H. H. Hurning	Stutsman	7.50	239	412.50
Jan. 24	H. H. Hurning	Stutsman	8.00	239	480.00
Total,					\$1,552.50
1924					
Jan.	E. R. Griffin	Morton	13.04	251	\$ 804.00
March	E. R. Griffin	Morton	5.00	251	275.00
April	E. R. Griffin	Morton Design'g		251	246.03
June	E. R. Griffin	Morton Engineering & Supervision 100D			817.50
Aug.	E. R. Griffin	Morton Engineering & Supervision 100C			1,189.05
Oct.	E. R. Griffin	Morton	12.71	260	788.60
Oct.	E. R. Griffin	Morton Supervision 100B Pavement			2,160.90
Oct.	E. R. Griffin	Morton Supervision 100B Trees			40.00
Nov.	E. R. Griffin	Morton Supervision & Inspection 100B			23.56
Nov.	E. R. Griffin	Morton Supervision & Inspection 100C			63.59
Dec.	E. R. Griffin	Morton Supervision 100B			595.78
					\$7,004.01
Feb.	Stevenson, Miller & Lucky	Cass	12.70	253	\$ 698.89
Feb.	Stevenson, Miller & Lucky	Dickey			
					Services 206 47.77
Feb.	Stevenson, Miller & Lucky	Cass Services		213	107.82
Feb.	Stevenson, Miller & Lucky	Cass Services		144	32.80
March	Stevenson, Miller & Lucky	Cass Services		253	63.54
March	Stevenson, Miller & Lucky	Cass	13.02	213	716.27
May	Stevenson, Miller & Lucky	Cass Services		.....	698.89
June	Stevenson, Miller & Lucky	Cass Prelim.		202	
					213 132.40
June	Stevenson, Miller & Lucky	Cass Prelim.		202	255.10
July	Stevenson, Miller & Lucky	Cass June		202	
					Services 213 477.56
Sept.	Stevenson, Miller & Lucky	Cass July		213	
					Services 202 648.89
Oct.	Stevenson, Miller & Lucky	Cass Aug.		202	
					Services 213 408.40
Oct.	Stevenson, Miller & Lucky	Cass Sept.		202	
					Services 213 430.65
Dec.	Stevenson, Miller & Lucky	Cass	23.54	267	1,294.70
1925					
Jan.	Stevenson, Miller & Lucky	Cass	34.48	268	1,896.40
Jan.	Stevenson, Miller & Lucky	Cass Oct. & Nov. Services		202	468.20
					\$8,378.28

(1074b)

1924	Name	County	No. Miles	Project No.	Amount
March	Ingram & Smith	Grand Forks	D 13.00	217	\$ 715.00
April	Ingram & Smith	Grand Forks	14.00	217	846.39
April	Ingram & Smith	Grand Forks	17.04	230	1,044.00

May	Ingram & Smith	Grand Forks	1.16	230	99.80
May	Ingram & Smith	Grand Forks Services		230	
				217	385.65
June	Ingram & Smith	Grand Forks	39.02	215	
				262	
				230	2,181.00
Sept.	Ingram & Smith	Grand Forks	9.04	241	564.00
Nov.	Ingram & Smith	Grand Forks	10.36	246	621.60
Nov.	Ingram & Smith	Cavalier	16.01	162C	
				263B	
				107	806.00
					\$7,263.44

June Northwest Nursery Co., Valley City For Trees \$ 437.00
(1074c)

Q. Have you been making up also a list of the employees here at the Capitol, of the State Highway Commission? A. I have.

Q. Do you find among such list the name of Morrill A. Kitchen? A. I do.

Q. Do you know whether or not that is a son of J. A. Kitchen, Commissioner of Agriculture and Labor? A. Well, I don't know, I assume from the name that it is.

Q. During what periods did he draw pay from the State Highway Commission? A. From June, 1924, to September, inclusive.

Q. Making a total of how much for that period? A. A total of \$295.00.

Q. Do you find here the name of Charles Burke, as being an employee? A. I do.

Q. During what months? A. From June, 1924, to September, 1924, inclusive.

Q. Drawing payments of how much? A. A total of \$201.67.

Mr. Vogel: Is this the son of Judge Burke here in town? A. I don't know whether it is or not.

Q. Do you find here the name of Fenton Goddard? A. I do.

Q. Drawing pay for what period? A. From June to September, 1924, inclusive.

Q. Amounting to how much? A. A total of \$292.80.
(1075)

Q. Do you know whether or not he is any relation to Mr. Goddard, who is a member of the Board of Control? A. I don't know whether he is or not. I am not acquainted with the fellows.

Q. You are not acquainted with the people in Bismarck?

A. Well, I am acquainted with people here, but not in this particular case.

Q. Do you find here the name of Kenneth Crawford? A. Yes.

Q. He is drawing pay during what period? A. From June to September, 1924, inclusive.

Q. In what amount? A. A total of \$185.00.

Q. Do you find here the name of Duane Diehl? A. Yes, I do.

Q. During what period? A. Employed from May to August, 1924, inclusive.

Q. In what total? A. A total of \$239.51.

Q. And of M. Diehl? A. Yes, I do.

Q. During what period? A. From June to September, 1924, inclusive.

Q. Amounting to what total? A. \$398.33.

Q. And of Everett O'Neil? A. Yes.

Q. During what period and amounting to what amount? A. June to August, 1924, inclusive, amounting to a total of \$273.00.

Q. Do you find the name of Mildred Crawford appearing on this list? A. I do.

(1076)

Q. During what period was she employed and what amount received? A. Well, this statement started on January 1st, 1924, and she was in the employ then and continued so until the first of April, so during the months of January, February and March she received a total salary of \$360.00.

Q. Do you find here the name of Howard Myhre? A. I do.

Q. And during what period was he employed? A. The statement showed that he commenced in March, 1924, and continued so as long as—in the employ, as long as this statement is figured; that is as far as I have gone in checking up the pay roll, at the monthly salary of \$105.00 a month.

Mr. Yeater: What is the date of this, that you have checked him to? A. I am checking up to the first of Oct. 1924.

Mr. Graham: You haven't completed the balance of it? A. No.

Q. Alexander McKinnon? A. Yes.

Q. During what period? A. Commenced in May, 1924, and continued in the employ as far as this statement goes.

Mr. Vogel: At how much a month? A. \$105.00 a month.

Q. Do you know whether or not the name of H. L. Poupore is on the list? A. Yes.

(1077)

Q. And during what months, if you remember? A. I don't remember those months, but I remember two payments being made to him.

Q. Amounting to how much? A. One was \$140.00 and the other one I can't recollect just now.

Mr. Halcrow: Q. Mr. Vold, I was wondering about the items that you gave us in the first of your testimony, whether or not those items were paid by the counties or by the state. A. Well, it appeared on the journal in the Highway Commission's office that they were paid by the State Auditor's warrants.

Q. Well, out of what fund would that be? A. Out of the Highway Commission fund.

Q. That the county has to their credit in the State Department? A. It was drawn out of the regular Highway Commission fund, State Auditor's warrant, opposite each entry was a number of the voucher and shows the number of the Auditor's warrant.

Q. But you don't know whether it was paid out of the fund that the counties have to their credit or not? A. That I don't know anything about.

Q. As a matter of fact, I think it was paid out of the fund that the counties have to their credit in the State. A. That, I don't know.

Mr. Graham: Have you added up yet so that you could give us the monthly salary up there for any one month or

(1078)

any month? A. No, I haven't, but it wouldn't take long to do that.

Q. Will you do that now and we will call you on later? A. Yes.

Mr. Vogel: This Dakota Construction Company, do you know who were the members of that firm? A. No, I do not.

Q. This was in Valley City, was it not? A. Let me see the statement. I notice that the Dakota Engineering & Construction Company, their work is principally done in Barnes County.

Q. That is from Valley City, evidently? A. Yes, I would judge so.

Q. Do you know whether this Griffin, stated there, he was a former partner of Black's? A. Yes, I do.

Q. He is the former partner of W. G. Black? A. Yes.

Q. He drew how much? A. A total of \$7,004.01.

TREADWELL TWICHELL, resuming the stand.

Mr. Halcrow: Q. Will you tell us why it was necessary to make so many extensions on Project 59 in Richland County? A. Extensions of time?

Q. Extensions of time. A. Every change in the original plan necessitates added work, the contract was awarded in 1920. It was modified when we started to go over the road,

(1079)

by Mr. Distelhorst, who then left. The further orders which were sent up here to me were by John Gavin, which covered the year 1922, and in the Fall of 1922, the assistant engineer, Mr. Wray, ordered the largest amount that was added to the whole road. Each one of those things, of course, added to the work. These different additions were not only recognized by the former administration by partial payments made to me by them, but also extending every request that I made for further time until the road was completed. That is all I have to say on that.

Q. Were you charged with penalties for failure to complete the work within the time set by the contract? A. When additional work is ordered the contractor is not bound for the original contract, he is entitled clearly to a further time; every extension of the time forfeited any possible right of any penalties being enforced against me on the account of the contractor. That is all I have on that.

Q. Could you explain to us how the faulty survey on account of the depressions in the ground and the shortage of dirt caused more work to be done on the project delaying the finishing, increasing the cost forcing you to do extra work from the very start of the contract? A. Whenever a survey is made, when the top of the ground can't be seen, additional work is necessarily entailed; first, you invariably have

(1080)

less dirt than you have a right to assume; you have from the plan given you, for this reason, every obstacle or every extraneous matter, or anything that changes your plan that is touched when you can't see the covering of the ground detracts just so much in volume for the entire length as the height of the substance that is on the top of the ground. For instance, if you are reaching down through the snow and happen to strike a stump, or a tin can, then the amount of work would be computed after the lines had been run on the theory that that along up to the top of the can, or the top of any other obstacle, consisted of dirt. When it consists of water, the result is just the same, and when the water melts and there isn't dirt there it has to be built up.

Mr. Vogel: You mean ice. A. Ice, yes.

Mr. Halcrow: Q. Have you any more testimony you wish to clear up on the completion of 59 A? A. I testified that Division B, 59, was done in 1922. I also testified that I wrote a letter asking for an extension which seemed to conflict. As a matter of fact, after the letter was written a good spell of weather came about, and—it was a very very wet fall—a good

spell of weather came about after my outfit had moved home and conditions improved, so that the road was completed, the

(1081)

man in charge being Henry Nelson of Richland County, and subsequent to that time the Highway Commission was notified that the road was completed; I didn't need my extension.

Q. Have you any further testimony that you desire to give regarding the plan of these divisions? A. To remove any possible misunderstanding between the examiners, the Committee and myself, I have used the word "plan" with the ordinary meaning; as to the meaning, I think it would have been better had I said "design," what I meant when I said that the plan of Division A was wrong, I explained why. When I testified as to the plans of B, I said that they fitted the road, in that I meant a design like that was suitable to that kind of dirt; that is all I have to say.

Q. Have you any information regarding figures as part of the testimony given? A. Of the testimony given? I wish to state that from the inspection of the reports, I would be unfair, and it may not be true, but the best I have—that the only figures that I remember given by Mr. John Gavin as reported by the inspection are not correct, and that statement can be found true by an examination. The last one given me on which Mr. Gavin signed, and you have it in your record, in your testimony.

Mr. Graham: We have no such statement, Mr. Twichell.
(1082)

A. You have in your records; the estimates themselves, that are signed by Mr. Gavin.

Q. Yes. A. Which doesn't show 3,700 yards, it shows 1900, or I can't read.

Q. Have you any desire to correct your own testimony? A. Nothing to correct. I want to reaffirm it. That is all, gentlemen.

Q. You have been given a full, complete opportunity to make such statements as you desire? A. Yes, and I am very much under obligations to you, which I appreciate.

W. F. GETTLEMAN, recalled.

Examination by Mr. Graham:

Q. No, you have been Superintendent of the Equipment Department during Mr. Black's administration? A. Yes, sir.

Q. And he asked you to accept that position? A. Yes, sir.

Q. And during the time that you have been with him has he ever made any criticisms on your work or anything of that kind to you? A. Not in the matter of my administration of it; in fact, he has complimented me several times.

Q. Did he give you any information at the time you came in as to who should have the hiring and firing of the men (1083)

in your Department? A. Yes, sir, he said that I should have full charge.

Q. Did he keep that promise? A. No, sir.

Q. What did he do? A. I believe it is Mr. Black's testimony of yesterday that he hired some, that I hired some, but that he or the Highway Commission attended to the discharging of the men.

Q. Were you in that way able to get the best results from your department? A. No, sir.

Q. And many of the men were insubordinate and would refuse to obey and follow your instructions? A. Yes, sir.

Q. And you were not able to get rid of them and replace them with others who would? A. No.

Q. Thus you have been hampered in the administration of this Department during the whole term? A. Yes, sir.

Mr. Halcrow: Q. Mr. Gettleman, can you name the men that the Highway Department discharged that were in your employ? A. That they discharged?

Q. Yes. A. Mr. Alfred Burbage, Mr. Frank Burbage, Mr. Harry Potter, Mr. Lee Scroggins, Herman Sortomme; Mr. W. H. Young was let out, and afterwards taken back; numbers of other men have been discharged and re-engaged at different times.

Q. Do you know anything as to the cause of those discharges? A. Well, there was a general reduction of the pay roll after the fire.

(1084)

Q. That was the natural cause—you don't want the committee to believe that the men were incompetent? A. Well, the right men weren't discharged.

Q. What do you mean by the right men? A. Well, it would have been policy to have kept the best men on the job.

Q. Did you ever discharge any? A. Only on orders of Mr. Black.

Q. I understood that you were in full control of that, why did you wait for orders from Mr. Black? A. Because he contradicted my orders.

Mr. Yeater: Then, you didn't have full control. A. No.

Mr. Graham: Do you know whether or not Howard Myhre is the son of Mr. Myhre, Assistant Chief Engineer? A. I don't believe he has a son.

Q. Any relation? A. I understand so.

Q. What relation? A. I couldn't be certain, it might be a brother.

Q. And Alexander McKinnon, do you know whether he is any relation to Mr. McKinnon, Engineer? A. I think he is a son.

Q. Do you know whether or not Duane Diehl is any relation to the—one of the members of the Board of Control? A. I think he is a son.

Q. And M. Diehl? A. Also, I believe.

Q. A son? A. Yes, sir.

(1085)

Q. And Morrill A. Kitchen? A. I do not remember, I am not acquainted with him at all.

Q. And Everett O'Neil? A. I don't know him, but I suppose he is a son of J. E. O'Neil.

Q. And Charles Burke, do you know whether or not he is a son of Judge Burke?

Mr. Vogel: O. T. Burke.

A. I don't know him at all.

Q. Kenneth Crawford, do you know whether or not he is any relation to—— A. I am not acquainted with him at all.

Q. And Fenton Goddard, do you know whether or not he is any relation to Mr. Goddard? A. I understand he is a son.

Q. Now, do you receive any statement in your Department at this time from the automobiles used by the operating Department or the engineers in building the roads and for their automobiles? A. A mileage charge is credited to us for those cars which are used directly on Projects and can be charged right to the Projects as the men's time and their expenses are, but the cars used by the Department in general, that is the administrative heads, are used all over the state and are not used in direct connection with projects and are therefore not chargeable that way; and while we are under

(1086)

the expense of purchasing equipment and servicing them we receive no credit for them.

Q. And you receipt to cover that in the purchasing? A. Yes, sir.

Mr. Halcrow: You are in full charge out at Fort Lincoln of all the war material and everything out there, Mr. Gettleman? A. Well, not exactly.

Q. Why aren't you? A. Because others can receive orders in regard to it outside of myself.

Q. But you're in charge of the condition in which it is kept aren't you? A. No, sir, I am not.

Q. I understand that the conditions out there are—have been considered rather poor in regard to the way materials are scattered around. A. At one time we had all the buildings fixed up and were complimented by the Commender General of the Seventh Corps Area for the condition in which the Fort was kept; everything was under cover and piled together as good as could be, but only during the recent winter, when it was adjudged necessary to bring the Sign Department down in the basement of the Bank of North Dakota building, it was ordered that considerable material be taken out to Fort Lincoln and deposited there. It was deposited in the first building out there on the right hand side as you go in and scattered all over the floor.

Q. Why didn't you see that it was piled up neatly? A. I have no authority over the members of the Sign Department.
(1087)

Mr. Vogel: Under whose orders was that material taken out there? A. By Mr. Black's, I believe.

Mr. Halcrow: And yet that material is under your charge; you allowed them to throw it around the building? A. As I stated before, they went over my head in coming into the bank and taking the material out and putting it out there. It was the members of the Sign Department that trucked it out there in the trucks that they have and deposited it there.

Mr. Vogel: Q. Did I understand you to say that anybody can go out there and get material without any instructions from you? A. Why, if they get instructions from Mr. Black that supercedes any instructions needed from me.

Mr. Graham: How is the gas and oil handled for the men who work upon the roads in the fields? A. The Resident Engineer, gravel inspectors, instrument and so forth having cars under their charge during the first year I was here, in 1923, were all furnished—

Q. 1922, you mean? A. —1923, were furnished gas books, everybody was furnished gas books. This last year they pay for it directly and receive vouchers and turn that in to the Highway Commission and it is paid out with other expenses with it and charged to the project. However, the
(1088)

mileage reports are sent up to our office in order that the gas and oil can be entered against the cars so that our records as to the car operation can be completed.

Mr. Graham: Under whose orders was this change made, if you know? A. Mr. Black and I talked it over and we decided at the time that it would be easier handled by having it done in that manner. Mr. Black decided at the time that it would not be advisable to apply that to the Department items inasmuch as their travels were so extensive and would cause too much inconvenience.

Q. Were you here this morning, Mr. Gettleman, when Mr. Lund testified in regard to there being approximately \$7,000 worth of gas and oil used in Bismarck since the date of his last report up to December 31st, 1924? A. Yes, sir.

Q. Tell us what that covers. A. That covers the gasoline, oil and grease purchased by the Equipment Department and used by the officials' cars, various trucks and tractors that we have to service for use or get ready for disposition, and also all trucks used by the Sign Department in hauling the signs out for location.

Q. These cars are filled here when they leave, then after that they buy the gas while they are away? A. They

(1089)

wouldn't buy gas while they were away; they are issued gas books.

Mr. Halcrow: That item also includes gas books, that includes all gas books issued to Department heads?

Mr. Graham: Then it would include Department heads and the trucks that take out the sign materials? A. Yes, sir.

Q. And anyone else? A. There are several cars that are used by the Department belonging to private individuals, that is Department heads that have furnished their own cars, or in case of necessity where there hasn't been a car available, they have issued gas books to cover the use of it.

Q. Can you tell us from your records how many tires have been purchased by you since you have been in office? A. Yes, sir.

Mr. Graham: Can you tell what proportion of that \$7,000 of oil and gas would be used by the Sign Department, in a general way? A. There is an item of \$1,129.39 for various trucks used by the Sign Department and then there was a number of passenger cars that have been used by the Sign Department in work of the chief of the Sign Department, as a rule in carrying out and inspecting the work, there is a car regularly assigned to them.

(1090)

Mr. Vogel: You say that is W. F. Reko? A. That is R. H. Crane.

Mr. Graham: Do you have the amount of the gas books issued to him? A. I have the amount of gas used by that car; he used four or five different cars and it is impossible to tell exactly from this blue print.

Q. Give us approximately. A. Well, there was No. 330 used \$227.63 worth during 1924, and the other cars show there was approximately \$100 worth more used during that time because he had, I think five different cars.

Q. And the balance of this \$7,000 was then used by the

Department heads? A. Well, and trucks and tractors and stuff like that we were conditioning and, of course, the use in the shop for the washing of parts and stuff like that, there was quite a bit used for that.

Q. Yes, now, can you give the amount of tires purchased?

A. I go back a little bit before the first of May because the inventory was taken on the 15th of April, 1923. We purchased \$11,308.23 worth of tires and tubes and repair kits from the time that I came in.

Q. From what time? A. From April 15th, 1923.

Q. Up to what time? A. December 31st, 1924.

Q. And have you made a check up to see how it checks out? A. Yes, sir.

Q. How does it check? A. We have accounted for
(1091)

\$11,322.49, really approximately \$14.00 more than we took in, which is accounted for by the fact that the price of tires fluctuates a little, we would get in a stock of tires and charge them out at that price that might not be entirely exhausted when a new stock came in with a different price and the prices would be changed.

Q. And the oil and gas, can you tell us how much you purchased of that from the time you came in? A. The gas and oil purchased, \$21,309.02, which includes all gas and oil purchased as I mentioned, by the engineers directly in the fill and which was reported to us, and accounted for \$21,233.39, making some \$63.00 not accounted for, which of course is rather to be expected on account of the fact that gas is measured in tank pumps and possibly not always exactly measured.

Q. Can you tell us whether any of the men engaged in new surveying got tires from your Department that were charged up against you? A. No, sir, I don't believe they would.

Q. Did Mr. Atkinson get any? A. Mr. Atkinson has paid I believe for any tires that he got.

Q. Will you check up on that and let us know later? A. Yes, sir. I believe I can state positively that Mr. Atkinson has never received any tires from me under assignment since I have been in office.

(1092)

Q. And the same with tubes and gasoline books? A. Yes, sir, I believe that I stated the first time in regard to the issuance of gasoline books to Mr. Atkinson, that I did not consider it advisable inasmuch as it was just simply sending money out to him when we expected to get money back from him, and therefore that some arrangement could not be made similar to the one we have now of charging us with the mileage instead of him. And I would like to introduce at this

time, if I may, in regard to Mr. Atkinson—it was testified that I was notified that Mr. Atkinson had intended to purchase the cars, and the letter referred to me sometime in November or December, 1923, I knew that I had written Mr. Atkinson early in 1924 in regard to mileage reports on his cars, as it was my understanding that he would furnish us mileage reports as he had during the year 1924. That letter was not in the files, I couldn't find it.

Mr. Graham: Did you receive any letter from Mr. Atkinson asking for a statement of his account upon these automobiles? A. No, sir, I never received any communication from Mr. Atkinson.

Q. Now, what date did you write him a letter in regard to these cars? A. January 9th, 1924. Q. Will you read us the contents of that letter? A. This is a copy of which the original stenographic notes are present: "January 9th, 1924.

(1093)

Mr. T. R. Atkinson, Bismarck, North Dakota. Dear Sir: In order that we may clear up the accounts for the past year, would request that you report to this Department as soon as possible the mileage on the three following cars belonging to this Department, the use of which you have had during the past season; Dodge touring, license No. 340; Cadillac touring, license No. 470; White Staff Observation, three ton truck, license No. 416. Yours truly, State Highway Commission, By Superintendent of Equipment."

Q. Did Mr. Atkinson ever come in and see you in response to that letter? A. No, sir.

Q. Did he ever write you in response to that? A. No, sir.

Q. You never had any communication of any kind with him? A. No, sir.

Mr. Graham: I think that is all.

Mr. Vogel: Did you have anything to do with the insurance on that building out there? A. Yes, sir.

Q. When was the insurance placed on that Building? A. I think it was a couple of weeks—it was in the early part of November, 1923. It was impossible to get the exact rates at that time, and correspondence was entered into with the General Inspection Bureau to give us rates on the buildings out there at the old shops.

(1094)

Q. You placed this insurance on your own authority? A. Mr. Black told me that since we had been putting up quite a number of reports there that I ought to get insurance on it.

Q. Did he tell you where to get that insurance? A. No, sir.

Q. Did he say anything about insuring that with the State Fire Fund? A. No, sir, I did not know at that time that

the State carried fire insurance, I presumed that it was only hail and tornado.

Q. You did not inquire of Mr. Black with respect to that?
A. No, sir.

Q. Through whose advice was that placed with the Farmers Insurance Company of Dickinson? A. Why, not through anybody's advice in particular.

Q. You placed that insurance yourself? A. Yes, sir.

Q. Through what agent? A. A gentleman by the name of Munger.

Q. You didn't take any steps to look up the law on this at all? A. No, sir.

Q. You were unacquainted with this section of the law, Section 1, chapter 159, 1919 Session Laws: "State Fire and Tornado. On and after August 1st, 1919, no officer or agent of this state and no person or persons having charge of any public buildings or property of the state shall pay out any public moneys or funds on account of any insurance against loss by fire or tornado or shall in any manner contract for
(1095)

or incur any indebtedness the state on account of any such insurance upon any of the public buildings, furniture or fixtures or property of any kind whatever belonging to the state except in the manner hereafter provided."

Q. Do you know whether that also includes automobile or property in town? A. The State can't insure automobiles,

Q. No, property in town.

Mr. Graham: Did you secure any insurance from this insurance company at Dickinson? A. No. The Company failed. We had the papers covering the correspondence and correspondence in regard to it, and the Attorney General and the Insurance Commissioner looked into the matter. The Insurance Department said that we had covered ourselves as fully as we could and it was the failure of the company that caused them not to pay. In regard to the insurance now carried; there is full insurance carried on all the buildings out there and materials stored in them and also the equipment.

Q. Who is that carried with? A. State Fire Insurance Fund.

Q. Did you have any fire insurance at the time of the loss? A. Yes, sir.

Q. Who took that out? A. I don't know that had been in force, I guess, for some time before I came here. I didn't know that there was any insurance until Mr. Hopton of the
(1096)

Insurance Department came down. The insurance policies were deposited in the vaults at the Capitol for sale keeping.

Q. How much did you figure the loss was on that fire?

A. Well, just covered by the insurance, because the insurance adjusters went over it with me.

Mr. Vogel: Do you know whether the requirements of the law that the head of the Department shall report to the State all insurance in force, you don't know whether Mr. Black ever so reported, do you? A. No, sir, I never knew of that law.

Mr. Graham: You did not understand my question; isn't it a fact that you had a greater loss than you received insurance for? A. Yes, sir.

Q. What was the amount of your loss? A. It would be the amount of the unpaid claim, about \$8,000. That represents the value of the materials.

Mr. Graham: That is it.

O. R. Vold, recalled.

Mr. Graham: Q. Have you added up the expense account of the employees and engineers of the Highway Commission for any months? A. I have.

Q. For what month? A. For the month of June, 1924.

Q. And what does it amount to? A. A total of about \$17,785.06. That does not include the salary of Mr. Black as state engineer.

(1097)

Mr. Vogel: Q. That is the monthly pay roll? A. Yes, for the month of June, 1924.

Mr. Graham: Q. What is Mr. Black's salary? A. As I understand it, \$83.33 a month and he gets a salary as State Engineer which is not paid out of the Commission Fund.

Mr. Vogel: Mr. Black testified on the stand that his salary was \$291.00 a month.

Mr. Graham: That is the only month you have figured on for? A. Yes.

Q. That is all.

Witness excused.

Meeting adjourned.

(1098)

TESTIMONY TAKEN AT THE HEARING BEFORE THE
SPECIAL HOUSE COMMITTEE, SATURDAY EVE-
NING, FEBRUARY 28TH, 1925.

L. L. TWICHELL, called as a witness, having been first duly sworn, testified as follows:

EXAMINATION BY MR. GRAHAM:

Q. Will you state your name, age and residence. A. My name is L. L. Twichell, Fargo; my profession is attorney; I have been the attorney without pay for Treadwell Twichell.

the contractor, having the work on Project 58 and 59, for some 25 years. I am conversant with all of his business affairs and was at the time the work was being done on these contracts. At the beginning of the work Mr. Twichell consulted me with reference to certain orders that he had with respect to, particularly as to how the work was to be done. I advised him with respect to those matters. My advice to him was that he would have to carry out every order that was given; that if he didn't the chances were that his contract would be canceled, and his bondsmen stuck for the loss occasioned through getting someone else to complete the work. In the matter of the flat top put on Division B, or Section B as they call it, he consulted me with respect to whether he would have to put the flat top on. I advised him that he would, and that when the flat top was put on and the work

(1099)

was completed he would be entitled to pay for putting it on; that if they didn't want to pay him the courts would attend to that matter.

After the roads were completed and last year, as I remember it, in 1923, Mr. Twichell took up the matter of his various claims with respect to this work with the Highway Department. I was here once or twice myself, and talked over the matter with both the engineers and the men in the office and certain members of the Highway Commission. About February, 1924, the banks that held the assignment of the amount due Mr. Twichell, being then ready to bring suit against the Highway Department, a meeting of the Highway Commission was held in Bismarck. The matter of all the claims of Mr. Twichell were gone over before the Highway Commission, and as a result of that meeting the Highway Commission ordered Mr. Black to make a final estimate covering all the claims of Mr. Twichell with respect to the work on these two sections. That estimate was not made.

We returned to Fargo and the estimate didn't come, and it ran along until sometime in March; when Mr. Twichell came into my office one day with a statement from Mr. Black which had been taken by Mr. Black, or someone from his office, to Richland County, as we understood in an endeavor to get

(1100)

Richland County to sign the statement. Mr. Twichell called my attention to the fact that the figures didn't represent the amount of the work and said that they were about \$10,000 short. As a matter of fact, I thought maybe he was off on the proposition. We had a little row over it and he left the office. In the afternoon he came back and he was insistent upon his being right, and I finally told him that if he would come up that night I would figure out the overhaul, that being the main item of difference in the figures in this proposed settlement statement, and in what Mr. Twichell claimed. He came back that night, and I started in that night and I put in altogether about eight hours, figuring the overhaul, and re-figuring it, and I found that the overhaul, figuring the number of yards known taken from the pits and hauled to the places that it was deposited on the road between given sta-

tions under the orders of the engineer, as Mr. Twichell advised me was something like seven or eight thousand dollars short. The proposed statement which Mr. Black or someone from his office sent to Mr. Twichell for his signature reads as follows:

(1101)

NORTH DAKOTA
STATE HIGHWAY COMMISSION

SUPPLEMENTAL AGREEMENT NO..... CONTRACTS
NO. 3993, 40A AND 3993, 40B, FEDERAL AID PROJECT
NO. 59 SECTIONS A AND B RICHLAND COUNTY.

This agreement, made and entered into by and between the North Dakota State Highway Commission and Richland County, North Dakota, party of the second part (hereinafter called contractor) WITNESSETH:

1. That, for and in consideration of the payments hereinafter mentioned to be made by the parties of the first part, the contractor agrees that the items of work as listed below constitute all of the work claimed to be performed by the party of the second part under his original contracts numbers 3993,40A and 3993 40B dated June 4th, 1920, and all subsequent supplemental agreements thereto on file in the office of the State Highway Commission at Bismarck, North Dakota, for the improvement of a certain portion of the Public Highways known as Federal Aid Project Number 59, Section "A" and Section "B," Road Grading and other items,—

Except the quantity shown as Item No. 4 under contract No. 3993.40B, Section B Federal Aid Project No. 59, which the contractor claims should be 45,724.00 cubic yards and \$25,605.44 amount, instead of 31,798.00 cubic yards and \$17,806.88 amount as shown below, making a difference in agreement on this item of 13,926.00 cubic yards and \$7,798.56

(1102)

amount in excess of that first above mentioned, and it is mutually understood and agreed that the difference in excess above mentioned is to be left for future consideration and settlement and is not in any way to be construed as affecting the provisions of this agreement with reference to all other items, stated prices and amounts being set forth as constituting a settlement in full as hereinafter provided.

Contract No. 3993.40A, Section A, F. A. P. No. 59.

Item No.	Quantity:	Unit:	Item:	Unit Price	Amount
3	13,829 cu. yds.	Class A earth excavat...		\$0.58	\$ 8,020.82
4	23,707 cu. yds.	Class B earth excavat...		0.58	13,750.06
6	5,000 cu. yd.	stas. overhaul .....		.05	250.00
148	144 lin. ft.	haul and install 15" corr. met. pipe culverts .....		.65	93.60
150	48 lin. ft.	haul and install 24" corr. met. pipe culverts		1.10	52.80
4A	20,120 cu. yds.	clay surfacing excavat.		.58	11,669.60
6A	425,789 cu. yd.	stas. overhaul clay surfacing .....		.05	21,289.45
Totals					<u>\$55,126.33</u>

HIGHWAY INVESTIGATION REPORT

595

Less total previous payments.....\$28,983.48

Net amount unpaid\$26,142.85

Contract No. 3993. 40B Section "B" F. A. P. No. 59.
(1103)

Item No.	Quantity:	Unit:	Item:	Unit Price	Amount
3	8,987 cu. yds.		Class A earth excavat.	\$0.56	\$ 5,032.72
4	31,798 cu. yds.		Class B earth excavat.	.56	7,806.88
6	24,698 cu. yd.		stas. overhaul.....	.07	1,728.86
148	192 lin. ft.		haul and install 15" corr. met. pipe culverts .....	.65	124.80
149	48 lin. ft.		haul and install 24" met. pipe culverts	1.00	48.00

Totals\$24,741.26

Less previous payments 24,030.70

Net amount unpaid\$ 710.56

It is further understood and agreed that the foregoing items, with the exception previously mentioned as constituting all of the work items claimed to be performed by the party of the second part at the stated prices and amounts less all previous payments made by the parties of the first part to the contractor prior to the date of this agreement shall be incorporated into final estimates to be rendered in favor of the contractor in strict conformity with the provisions of the original contract and subsequent supplemental agreements hereinbefore mentioned. That the final estimates above described shall show the final amount to be paid the contractor as a settlement in full with the exception previously mentioned and that he will waive and he hereby does waive
(1104)

any and all rights and claims that he has or may have regarding further compensation for these and all other items of work (with the exception previously mentioned) required and performed under this agreement on the entire project.

In consideration of the foregoing premises the parties of the first part agree to make payment to the contractor, in accordance with the specifications forming a part of the original contract, for the quantities of work at the stated prices and amounts hereinbefore mentioned less all previous payments made to contractor.

In witness whereof, the parties to this agreement have hereunto set their hands and seals, this.....day of, 1924.

Party of the First Part:
North Dakota State Highway Commission.
By.....

Attest: Chief Engineer and Secretary.
..... Richland County.

County Auditor.

By Board of County Commissioners,

Dated:.....1924. Chairman.

(Seal)

Party of the Second Part:

Contractor.

After we had figured up this contract I wrote to Mr. Black on the 16th day of March, 1924, the following letter:

(1105)

March 16, 1924.

W. G. Black, Esq., State Engineer, Bismarck, N. Dak.

Dear Sir: Mr. Treadwell Twichell has submitted to the consignees of moneys due him upon the Richland County Road contracts, the statement sent from your office for his signature, apparently to be then approved by you if the Richland County commissioners are satisfied that this is an amount that they would like to pay.

My understanding of this matter, after taking the same up with the Highway Commission and yourself at Bismarck, was that he was to receive from your department, at once, an estimate made out in regular form and duly executed by the proper parties in the Highway Department, covering all the work done by him on this project, irrespective of what the Richland County Commissioners felt that they would like to pay; that the matter was then settled, that the contractor was entitled to an estimate covering all work actually done by him under the contract and that the willingness of Richland County to pay, how payment should be made, had nothing whatever to do with the contractor's right to this estimate.

It seems, however, that you have seen fit to pay absolutely no attention to the resolution passed by the Highway Commission covering this matter; absolutely nothing has been done to further this settlement, and apparently we are further

(1106)

away from receiving any proper or reasonable estimate than we were at the time Mr. Twichell and myself were in Bismarck.

Mr. Twichell has handed me the proposed settlement which you suggest that he sign and which I take it to be not an estimate such as ordered by the Highway Commission resolution, or more than an agreement which if signed by him your department would act upon if the figures prove acceptable to the Commissioners of Richland County. I would like to know if I am mistaken as to this being the purport of this suggested settlement.

I have put in an eight hour stretch figuring and re-figuring the overhaul on this job. While not an engineer, I believe I am fully competent to figure overhaul at a stipulated price, from located pits from which yardage hauled is known. The dirt either cover between given stations at a given depth of cover or the yardage between given stations known. From any figures I can make, your statement and figures heretofore prepared in your office, are a number of thousands of dollars less than the actual overhaul amounts to under the terms of the contract. This is a matter that it would seem to me there can be no reason for any such discrepancy in; the matter can be figured out accurately; it cannot be figured out by guessing or averaging a depth over the road.

(1107)

Your proposed settlement when we examined it, discloses

that the item of \$1,109.92 appearing in all previous figures; those furnished me personally and those given Mr. Lawrence and the bank representatives, and those considered before the Highway Commission; is entirely omitted. This item appears in your handwriting in the figures you gave me, as follows: "Add. yardage station 8 plus 0 to 52 plus 0—\$1,109.92. The figures contained in the suggested settlement are just that figure short of the figures given by you here in Fargo and at Bismarck. Why? This work was ordered by you, done under your engineers and when Mr. Twichell and you made your figures in Bismarck you figured this item at \$1550.00. It not only covered these stations but went over into the seventies. In addition the proposed settlement figures the contract price \$126.61 less than the amount of original contract; it omits extra work at station 79 (east) settled on at \$435.00; extra work done west of station 131 which was figured by your office at \$348.00 and extra work east and west of station 341 figured at \$174.00; those are the amounts the work done figure.

I am unable to understand under what theory these items are not included in any estimate or proposed settlement; of course it is possible that some of your assistants prepared these figures and overlooked these items with respect to

(1108)

which I understand there is nor can be no dispute; it is however difficult to understand how an engineering force could do so.

I want to say frankly that it begins to look to all concerned with the matter that the attitude of your office indicates a purpose to force Mr. Twichell to settle at a figure most favorable to Richland County without regard to what is actually due him under the contract. This I myself have been slow to believe possible; no department out to trim the contractor can get very far, his rights are fixed in his contract. In this particular case, the only reason I have heard for not settling with Mr. Twichell for everything he has claimed under his contract, is that Richland County does not want to pay for all the work he did, though all work ordered and finished; and though it is fully recognized that the reluctance of Richland officials to pay is occasioned by the failure of the League Highway Department official to have the Federal officials approve changes and additions and thus bind them to payment of share of cost.

The assignees of moneys due Mr. Twichell under this contract are to meet with their lawyer Mr. Lawrence and myself Monday to determine action to be taken in this matter; naturally neither they or Mr. Twichell can be expected to look with

(1109)

favor on any proposed settlement which omits admitted items amounting in the thousands of dollars; which are justly due under the contract.

If the Highway Department is not as much interested in giving the contractor Mr. Twichell the worst of it, as was their League predecessors, who openly stated their purpose;

they are getting the same result. Had the League continued in power and the Highway department taken the same attitude, he would have brought action last fall when the work was completed and by this time would have had both a judgment and his money. As it is he had been repeatedly assured that the matter of final estimate covering the work done would be prepared and furnished, even by the Highway Commission itself directing and ordering this thing to be done. He gets nothing but promises which no attempt is made to fulfill, and figures which are upon their face inaccurate and unfair.

No one is asking for any more than is justly due under this contract; but it begins to look to me that instead of as state engineer making the estimate which you are required to, you are trying to make a good fellow of yourself with the Richland County Board, at the expense of the contractor, and on a matter in which you were in no way involved, for which the

(1110)

League administration of your department was entirely to blame.

It has taken me some time to realize that your attitude was apparently one of forcing a settlement at the lowest possible figure, paying no particular attention to the amount actually earned on this contract; I would like to feel that this is not so, but all the results secured in this matter indicate this.

As soon as I am through with this campaign I want to come to Bismarck with Mr. Treadwell Twichell and go over with you or your men who made these figures sent Mr. Twichell, such figures, if such figures are right will show for themselves; if not I presume the proper figures will be made.

Let me hear from you at once as to whether you will be in Bismarck the middle of the week that we may take up this matter; personally I hope that the attitude of your department in this matter isn't as my connection with it is leading me to conclude. I will be only too glad to see the situation otherwise.

Most sincerely,

(1111)

After I wrote this letter, Mr. Twichell and I came to Bismarck and talked with Mr. Myhre and Mr. Black, and there were several items that are included in here that Mr. Black was not entirely satisfied with as to the work being done. I suggested to Mr. Black that he or someone in his Department go down with Mr. Twichell and go over the road with the object of finding out whether this extra dirt was actually put in there. Subsequently Mr. Black, Mr. Myhre and Mr. Twichell went over the road and checked up on these various items.

Mr. Graham: You are testifying now as to your personal knowledge? A. I'm testifying now to what Mr. Twichell and Mr. Black gave me.

Mr. Graham: Both Mr. Twichell and Mr. Black have already testified to that same business.

Mr. Twichell: Subsequent to this and going over the road

Mr. Black set down some new figures and in reply to those figures I wrote him another letter on April 29th as follows:

(1112)

April 29, 1924.

W. G. Black, Esq., Chief Engineer, Highway Dept.,
Bismarck, North Dakota.

My Dear Black:

Yours of April 24th received together with your new figures covering sections A and B, F.A.P. No. 59. I take it that these figures are figures prepared by your department since yourself, Mr. Myhre and Mr. Twichell went over these projects with a view to ascertain the fact as to extra work, excavation, overhaul, etc.

I note in comparing the figures on Section A now furnished us, with those of your last previous compilation, a difference of \$1363.00 in the item class B, earth excavation. This figure is an increase of that amount over previous estimates; also that the item, clay surface excavation, has been increased from \$11669.60 to \$11995.56 or an increase of \$325.96; and that the item of clay surfacing overhaul has been increased from \$21289.45 to \$28969.60 an increase of \$7680.15, bringing this last item of overhaul on clay surfacing up to approximately the amount claimed by Mr. Twichell, as per our figures based on the amount taken from pits and the distribution of such surfacing upon the road.

Your yardage of clay surfacing excavation has been increased 562 yards, which accounts for the \$325.96 increase

(1113)

in that item. The pits as now given show this amount as 20682 yards.

I take it that one reason for sending these figures and the plat to me, was that the figures as furnished might be compared with the claims of Mr. Twichell and with the work as actually ordered and finally completed.

On section A there are a number of matters which either are not yet included in your figures or which I am unable to find, and I will take them up in as short a statement as possible, that you may ascertain whether they have now been included, or advise us why they are left out:

Item No. 1.

All of the earth excavation from pit No. 1, except 125 yards, the balance being 956 yards, went on the road as surfacing either west of station 8 and from there to station 1 or to cover about 200 feet of road extending west from the end of the project, 200 feet extending north and 200 feet extending south, this work being ordered by the engineers to provide suitable approaches to the end of the Federal project. The balance of 125 yards was spread along the north side of the road which was low, and covered about seven stations west from the end of the pit. This manner of distribution of this

1081 yards taken from pit No. 1 would seem to make a difference in the overhaul, over figures shown on the plat sent me.

Item No. 2.

On the order of yourself, this road from station 8 east to station 70 was covered six inches deep with clay, by casting in from the ditch with elevating grader, this work was so ordered to save the exorbitant cost of hauling from located pits. When you and Mr. Twichell first considered this matter, his figures, which he brought back from Bismarck, showed that this work was put in by you at \$1550.00, this being on a basis of days work, machines and men. Your figures on this still show that the road is only covered from stations 8 to 52 though when recently going over the road with Mr. Twichell, with that object in view, you were shown that the road was actually covered as Mr. Twichell claimed, to station 70; otherwise there would be eighteen stations with no clay covering, and this is not the fact. The dirt that was cast in on this road amounted to approximately 2800 yards and at 58c per yard would amount to \$1624.00, but on the days work basis was to be allowed at \$1550.00. This item in the first statement which we considered at our meeting at the First National Bank, appeared as \$1109.02, but as you will recollect in the statement furnished in March, was entirely left out and

(1115)

is now left out apparently, either as \$1550.00 or \$1109.92, unless it is included in the \$1363.00 now added to the item class B, earth excavation. In this item now in and if so at what amount and under what classification is it included?

From this casting in above referred to and from pit No. 1, the entire road between stations 1 and 70 and the three 200 feet strips at the west end of the road were covered and this is the only cover put on this part of the road. Your Mr. Ackley was in charge of the matter of this casting in and was on the grader all the time seeing that it was properly done.

Item No. 3.

In 1921 the dirt at corner, station 79, was was entirely washed out, field flooded, caused by no drainage to the north or east. Mr. Twichell was ordered to borrow from the north side of the road between 400 and 500 yards of dirt to bring the washed out portion and intersection up to the grade. For this, he is, of course, to be paid and I understand your attention was called to this extra work when you were going over the road. Is this item of extra work included in your figures and if so at what amount and where?

Item No. 4.

(1116)

In 1922 Mr. Twichell was ordered to dig a drain east from station 79, about 1600 feet long, to drain the road at that corner. Your blue prints in your office show, as I recollect, 750

yards moved on this job. Your attention was called to this extra work when you went over the road and I take it it is an extra which should be allowed and paid for. The work, at the yardage given by your records, amounts to \$435.00.

Item No. 5.

In building up the radius turn at station 131, the dirt to make the turn was ordered taken out of the triangle in the fork of the two roads, dirt being taken out to a depth of about five feet, this order was from Mr. Distelhorst. Afterward Mr. Carrol ordered Mr. Twichell to borrow dirt from the ditches on the road extending west to entirely fill up such triangle pit so as to make the outside of the turn of the road higher than the road and sloping three ways. As I recollect it this extra work is shown on the blue print in your office. The work amounts to \$348.00 being 600 yards as there shown. Your attention was also called to this extra work when you went over the road and I understand there is no question as to its having been done. Is this item included in the figures sent me and if so, where and at what amount?

Item No. 6.

(1117)

Pit No. 3 at station 176 shows upon the blue print as sent me: dirt excavation 660—1775 and 5375 yards, a total of 7811 yards. The blue-print in your office and the figures formerly given me was 8424 yards removed from this pit and this is the amount paid Mr. O'Meara for dirt taken from pit No. 3; pit No. 4, the small 205 yard pit, adjoining is not included in this yardage, nor is it included in the yardage for which Mr. O'Meara has been paid. You will recollect that he is still waiting for his pay for the dirt taken from this small pit.

Item No. 7.

The dirt out of pit 5 was moved prior to that out of pit 3 and the road from pit 5 to section line between sections 5 and 6 was covered from this pit, afterwards when the dirt from pit 3 was moved, the 1775 yards used for cover on the road east from pit No. 3 went to cover not only the road as far east as the section line between sections 5 and 6, but 900 feet east of such line. The 900 feet east of the section line being so again covered by reason of the fact that the dirt ordered put on this strip in the first place from pit No. 5, was not good and would not stand up as cover.

(1118)

Item No. 8.

In the spring of 1921 on account of there being no drainage north on section line, the grade was washed out for about 300 feet east of the corners of sections 7 and 8, later in 1921 a drain was built by the township. Mr. Twichell was ordered by Mr. Distelhorst to cut away sand blow pile in from the school house and place this dirt in this washout and to get the balance needed and from south and east of the intersection of 7 and 8 from sand drift along the power line. Under this order 300 yards of dirt was moved as extra work amounting to \$174.00. Your attention was called to this mat-

ter when you went over the road with Mr. Twichell and others and there is no question but what the work was done. Is this item included in the new figures given and if so, will you advise me where I will find it?

Item No. 9.

Your plat shows all of the dirt which was moved from pit No. 10 to have been moved in 1923; this is in error as 965 yards of this dirt was moved in 1922. This is not important but is a correction which should be made as the work figured should be upon a proper basis and where statements are made the facts should be right. It would appear that the total

(1119)

amount of dirt moved from this pit as given by Mr. Gavin has not been changed notwithstanding the fact that Mr. Gavin paid for some 4600 yards, instead of the 4044 yards which Mr. Twichell is credited with having taken from this pit.

Mahlers figures on the amount paid him by the county, I understand, were shown you, showing this larger amount to be the actual dirt as taken and moved.

Item No. 10.

The extreme haul to the west from pit 10 was to about station 241; the road was covered with this dirt the entire distance from this pit to that point. This the road will itself show, and I think that fact was gone over when you and Mr. Twichell went over the road. There were no stations not covered with clay surface, as shown by the plat sent me.

Item No. 11.

The dirt hauled from pit 3 in 1923, covered all of the road from station 130 to about station 264 east of the pit. This cover was light between stations 161 and 182, three inches or less, but at the west end the cover was eight inches.

Item No. 12.

The double cover shown on your plat of 1923, between stations 242 and 264, was the dirt from pit No. 4, 205 yards, so

(1120)

placed. This was ordered by yourself and was the very last work done on the job.

DIVISION "B"

Item No. 1.

There is nothing in your letter or figures with respect to the item of 13926 yards of clay moved by Mr. Twichell in making section B a flat top road rather than a crowned road as provided for in the original plans and as originally completed. This item, amounting to \$7798.56 is, as I understand it, an item to be left for future adjustment, as you do not desire to take it up now figuring that it would possibly interfere with a settlement for the work on Section A. It is, however,

of course, a claim which Mr. Twichell has with respect to work actually ordered to be done and done by him on Section B, and for which it is, of course, contended that he should be fully paid.

Item No. 2.

In your figures on Division B, on culvert installed by contractor is not included. Originally eight 24 ft. culverts were included in the contract, afterwards an additional culvert was ordered by Mr. Gavin from Wahpeton and this was installed by the contractor at the contract price of 65c a foot, making extra work on this particular job amounting to \$15.60.

Item No. 3.

Mr. Twichell was ordered by the engineers, to haul extra
(1121)

dirt amounting to 300 yards to fill in at the intersection of sections A and B; this being ordered as extra work on Section B. This was done but comparing the original contract and the estimate furnished by your office, I do not find that it is included in the figures given.

It would appear that there are certain items enumerated above which should now be fully acknowledged as due to Mr. Twichell for work done on Section A, on which items we have the amount of the work done and the prices to be paid therefor under the contract; these items are referred to above. First: there is the work referred to above as item 2 on which the credit given in one of your statements was \$1109.19 as covering 44 stations but which in reality covered 62 stations and which Mr. Twichell says was originally figured by you on such basis of 62 stations, at \$1550.00; second, there is the work referred to above as Item 3 Section A which amounts to \$435.00; third, there is the item referred to in Item 4 which amounts to \$348.00 and fourth, there is the work referred to in Item 8 which amounts to \$174.00.

On these particular items there can be little if any dispute with reference thereto, the work was done, it was extra work, and in your viewing the road with Mr. Twichell I understand you were satisfied that such was the fact. These four items
(1122)

I am unable to find in your last estimate except as they may be included in the \$1363.00 increase shown in estimate, class B, earth excavation.

There should be little difficulty from your records in determining whether these items are included and at what figure, and in determining whether the item of moving the 300 extra yards of dirt and putting in additional culvert on Section B, are included in the figures with respect to that work. We only want an estimate for the work actually done by the contractor but it must appear to you as it does to both Mr. Twichell and the bank, that any extra work done under these contracts should and must eventually be paid for; neither Mr. Twichell or the bank should be expected to give anything to Richland County or to the Federal Government, any more

than the county or the Government should be required to pay for any work not done.

I hope, Mr. Black, that you will at once go over your figures and see if these items above referred to are included and if not, that the work so done be included in new figures to be furnished us at the earliest possible moment.

The data given you with respect to where the dirt was placed from some of these pits will possibly require a refiguring to determine the actual overhaul on these particular

(1123)

jobs. I would like to see it figured right whether the figures as finally given are in favor of or against the contractor as it is neither my disposition nor the disposition of Mr. Twichell to try to collect for or to make any claim with respect to any work not actually ordered done and done by him.

A few hours working by some one in your office who understands such matters, with your assistance and advice, as to whether the work is actually known by you to have been done as claimed, should result in new figures which I believe will be entirely satisfactory to Mr. Twichell and which will be correct and just.

Mr. Twichell, Mr. Lawrence and myself will be glad to go with you to Richland County and take up the matter with the commissioners once such figures are prepared by your office and furnished us. The figures to be furnished to the commissioners should be figures showing the estimate of your office with respect to work actually done on these projects, and which your office stands behind.

It is, of course, understood that the \$7798.56 item for reconstruction of road top, Section B, is not to be included in the figures if it is your desire that that matter be taken up subsequent to the final attempt to have the matter of the amount due on Section A fully adjusted.

(1124)

You will readily see that neither Mr. Twichell, the attorney for the bank, or myself would care to go down and take up the matter with the county commissioners unless the figures submitted were those furnished by your office and were figures which your office found to be correct as covering the work actually done and the balance due Mr. Twichell on Section A. There has been great delay in this matter Mr. Black and I hope that these figures can be prepared at once and sent me together with a statement as to whether the items listed by me are included in such revised figures and if so, what amount they are included at and what other item or items, if any, go to make up the total figure on that particular class of work. Let us get these figures at once. The delay in this matter as we have all told you before, is a vital matter with Mr. Twichell; it would seem that he is entitled to be paid for the work he has done and that every effort should be made by your office and all concerned to see that he is paid as speedily as possible, though speed is hardly the word to use in this instance. Cannot you get the figures of your office with the

information asked, to myself and the bank within the next two or three days. If this can be done we can arrange to go to Richland County immediately after the 7th. This getting nowhere in this matter is raising Hell with Mr. Twichell.

LLT.K

Most sincerely yours,

(1125)

Now, I will say that after that letter was sent down here, figures were sent up that were approximately the figures that were finally allowed by the arbitrators. They were sent up in connection with the statement that was sent to the Federal Department. I have the statement and the proposed settlement was submitted to Richland County, and submitted to Mr. Twichell, and he wouldn't sign it. The matter came up as though Richland County would have to pay. I took the position with the bank that they couldn't expect the Richland County Commissioners to pay for the part of the road that the Federal Highway Department should have paid for. And I insisted that further effort be made to get the Federal Government to come through with this. I ascertained in the meantime that Mr. James, who is the second man in the Department at Washington was in Bismarck. The matter was taken up with him, and he stated according to Mr. Black's statement that if this matter was either arbitrated, or a judgment, that there would be little question but what the Federal Government would pay its half. I then took it up with Mr. Hathaway, who is the District Engineer for these three, four or five northwestern states, representing the Federal Bureau, the matter of a conference with him at St. Paul. Mr. Lawrence, attorney for the banks, Mr. Treadwell Twichell, and

(1126)

myself went to St. Paul. We met with Mr. Hathaway, Mr. Sharts, who is the Chief Engineer in North Dakota, and another gentleman, who was, I think, at the head of the St. Paul office. We went into the matter fully. I told them that it was an outrage to expect Richland County to pay for this job; that there were hundreds of thousands of dollars available for use in North Dakota. That they were then out seeking other counties to build roads similar to this one; that they admitted that this road was as good as any road of this class built in North Dakota, and that it seemed to me that if they had any such regulation in their Department that here was a place that it should be waived. That the excess cost of the road had been occasioned entirely through the fact that the road was built at a place where they had no proper road material, and that the plans were defective. They admitted that. Mr. Hathaway advised us that he was going to Washington the next week, and that he would take up the matter and do his best to get the Federal Government to give this extended aid. He then had from Mr. Black an estimate of the entire work which showed in practically the amount of the final estimate allowed; except there was not included in it the figures for interest.

Subsequently we were advised by Mr. Hathaway that the Federal Government had agreed to this extended aid to take care of their half of the job. Mr. Black then suggested that

(1127)

the arbitration be made I don't know, personally, I don't know from whom the first suggestion as to the arbitration came, whether from Mr Lawrence, the bank's attorney, or from Mr Black. However, the bank's attorney advised me that they were going to arbitrate and suggested that Mr Twichell needed an arbitrator. The arbitration was agreed on. We came to Bismarck at the time it was held. Testimony was taken there in the various matters which were in dispute, of which there were not many, and we came to an actual settling basis. After the arbitration, in which arbitration Mr. Twichell waived one matter of five or six hundred yards of dirt that was taken from one pit, and on which there was a considerable overhaul, I learned that Mr. Black was going to Wahpeton. I called up the Auditor of Richland County and asked him if Mr. Black was going to be there the next day. He said he understood he was. Mr. Lawrence and I went to Wahpeton on the early train. Mr. Black was not on the train; when we got there he wasn't in Wahpeton. Mr. Lawrence was considerably disgusted. He saw Mr. Lounsbury while he was there and he took the next train home. I took a chance on Black's coming in with an automobile and stayed over. Meantime I went up and saw the County Auditor and tried to find out from him what figures Mr. Black

(1128)

had given them, if any. He told me that they didn't have any actual figures, and I couldn't learn what the figures were. Mr. Swank, one of the Commissioners was there at the time they talked about the exorbitant cost of the road, and in that I entirely agreed with them, and in talking over the matter I told them that I thought the Highway Department of the Highway Fund, should in some way help Richland County pay for their share of the road. The amount Richland County was asked under the final settlement was some \$17,000, the Government paying \$29,000. I then went in and saw Mr. Lounsbury and in my talk with him I suggested the same thing. That I thought that the thing could be handled so that the Highway Department would come through with a part of the cost of the road. I recognized that Richland County was getting a rotten deal and I had done everything I could to protect them in getting the Federal Government to come through with their share and subsequently in getting the Highway Department to make a contribution.

Mr. Black came in about eleven o'clock on the Milwaukee. He and I met Mr. Lounsbury and Mr. Swank in Mr. Lounsbury's office shortly after dinner. We told them what we were there for, and the question immediately came up as to the excessive cost of the road. A statement was made, I

(1129)

think by Mr. Lounsbury that the overhaul was some five hundred and some yards, which was true—5,000 and some yards. Mr. Lounsbury stated that they had had the overhaul figured and as I recollect it, it amounted to something like seventy-five or eighty thousand yards. I asked how they had had it figured, if they had had it figured from the pits from which it was taken to the place on the road where it was ordered put, or whether they had figured it from the pits to

the nearest point on the road. Whether they had covered the same depth all over the road or different depths at different points. Mr. Lounsbury stated that they had figured it to the nearest point on the road. I then asked Mr. Black if he had with him a plat showing the overhaul. He said that he had, he took it out and spread it on the desk and I said "It isn't hard to demonstrate that your figures are without result." I said, "There are ten pits here. Here is one pit, pit No. 10, that can be very easily figured." It happens to be at the end of the road, and is only overhaul one way. I said—I can figure it in five minutes and I think any of you gentlemen can figure it in ten—"There is the plan and there are the engineer's figures. The engineer figures over the overhaul from that one pit 116,217 yards." I said, "Now, that one pit shows an overhaul of within ten thousand yards, what is your claim that the overhaul amounts? There are ten pits,

(1130)

that is one of them." Mr. Lounsbury then said "We are advised, or we hear that considerable of this dirt that was taken out of the pits was in reality used to widen the road." I said to Mr. Black, "You have heard that, Mr. Black, haven't you?" He said, "Yes." I said "That information came to you?" He said, "It did." I said, "When you went over the road with Mr. Twichell, did you make an effort to find out if that was so?" He said, "I did. I talked to the men that worked on the road." I said, "What did they say?" He said, "There wasn't a yard of that went to to make any except the clay cover." I said, "Did you hear from the men that the clay was bought from?" and he said, "Yes." They then came to the question of how much Richland County was going to pay. Mr. Lounsbury suggested to Mr. Black, "Well," he said, "Mr. Black, how much are you going to help us out on this?" And Black studied a little while and he said "Why, I think we could let you have that \$9300." Mr. Swank or Mr. Lounsbury said "You mean the \$9300.00 that belongs to us, that we have got up there?" And Black didn't say anything. And they said "Well, that is what we expect to pay for the road with ourselves, that money belongs to us. How much can you help us out with? That amount we can put in." I think that it was said that that was all the money they had; that I

(1131)

wouldn't be positive of. Black didn't know what he could do. I finally suggested, "Black," I said, "Haven't you some funds where you could help out on this road?" Mr. Lounsbury said, made the statement to Mr. Black, he said, "You must admit, Mr. Black, that the excessive cost of this road is occasioned largely through the fact that the road was built where it was, and the fact that the plans were poor plans." He said, "I'm not saying that it was under your administration, but somebody has made a lot of expense to Richland county." I said to Mr. Black I said, "Black, couldn't you get that out of the ten per cent fund." I think he said then that they didn't have any money. Isn't that what he said?

Mr. Lounsbury: I don't recall.

Mr. Twichell: Or it was that he would have to determine later what fund, if any, it could be taken out of. Finally,

Mr. Swank and Mr. Lounsbury made the definite proposition that they would take care of \$9300.00 part if Black or the Highway Department on the statement that the Highway Department had occasioned this excessive cost, and would take care of the balance, which was approximately \$8300.00. Mr. Black and I returned to Fargo and when I got in Fargo—I didn't ask him anything about it on the way, in fact I wanted him to talk when Mr. Lawrence was there, I telephoned Mr.

(1132)

Lawrence and he was at a party, and I asked Mr. Black, "Are you going to be able to take care of that \$8300?" He said, "I think it is a good plan, if we can raise the money." I said, "Haven't you that money in the ten per cent, which you can use any place you see fit?" He says, "We haven't it now, but it will be there shortly." "Well," I said, "if you can make this kind of a settlement we could wait, if we could get the \$29,000 and the \$9300, we could wait better for the \$8300 than we could wait for the \$4700." The matter was subsequently taken up with the Highway Commission, a copy of the resolution adopted by the Richland County Board of Commissioners approving this settlement, as I understand it, that resolution was sent to Bismarck.

Mr. Graham: That is all in the evidence.

Mr. Twichell: And settlement was made in that matter except that we haven't got the \$8300 yet.

Mr. Graham: Are you any relation to Treadwell Twichell?

A. Only a brother, younger brother.

Q. And you don't know anything about the actual measurements upon these roads, except what has been told to you? A. Not except what he has said, and statements I have heard from him and Mr. Black in the various considerations of these different items. I never have been on the road except once or twice, just to travel over it, I wouldn't know it now, if I saw it.

(1133)

Mr. Graham: Any questions any of the Committee would like to ask?

Mr. Thatcher: Was this trip that you made to Wahpeton, Mr. Twichell, before or after the Arbitration? A. It was after. We went to Wahpeton with the final figures that were accepted.

Mr. Graham: And those, so far as you know are the only figures that Mr. Twichell in any way ever agreed to? A. They are the only figures that were made that included all of the claims, that he made, and which were subsequently allowed. Some of the claims he made he didn't get. When he appeared before the Arbitrators, there was an item of about six hundred yards.

Q. Did you have any measurements made up by anyone outside of the members of the Highway Department? A. Why, he had a grip full of statements, I don't know where he got them.

Q. So far as you know, did he ever have any measurements? A. Not except as he measured the work at the time it was done; as I understand it, I heard that in his figures with the Highway Department, they made the statement that every claim that Twichell had made, he had had, they had substantiated were in their final figures, they discovered that his statement wherever he had made a claim was correct, was either right, or less than the actual figures.

(1134)

Q. Who made those statements. A. Mr. Black made them in the presence of Mr. Myhre.

Q. He was the only one? A. He was the only one that we talked with except Mr. Myhre and some of the members of the Highway Commission, and they didn't know as to the figures.

Mr. Lounsbury: Did you have a set of the plans in the office when you figured that overhaul? A. Yes, I had some kind of plan that Mr. Twichell had made.

Q. It wasn't a set of the blue prints that were supplied by the Highway Commission? A. No. I will say, Mr. Lounsbury, we had a plan, he had drawn a plan in pencil showing the position of the fills—pits with respect to the fills, stations and the like to the road, and approximately the distance from the road and stations between which the dirt was placed, and the distance covered.

Q. Who indicated to you the location of the pits? A. Mr. Treadwell Twichell.

Q. You didn't attempt to furnish that of your own knowledge? A. No, sir, but I notice on this as I notice on my figures here, that the total overhaul that he figured was 568,000 yards. I think they allowed 563,000. They are the figures that I made and we went over them very carefully and checked them.

Q. Do you know how many cubic yards you figured to
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a station? A. I didn't figure it that way; depended entirely on the depth of cover; I know Mr. Gavin figured it that way, and you can't figure it that way.

Q. Do you know of your own personal knowledge anything about the orders that were given to Mr. Twichell? A. I know Mr. Twichell didn't have written orders because he called my attention to that early in the game.

Q. Your only information regarding the thickness of the cover was his statement? A. There was this check up on it; that when he got the dirt hauled from a pit, according to the figures that he gave me as to the stations it went between and the depth of cover, that almost invariably his figures just exhausted the dirt in the pit, and that was a check back, so that I could see that he was practically right in his statements, except, possibly the possibility that there might have

been a station that he was hauling a little further than a mile from.

Q. Do you know how thick the cover was ordered originally? A. It was ordered in different depths in different places at different times, some places it was covered three times.

Q. And the only evidence that you had as to the authorization was Mr. Twichell's statement of what the engineers
(1136)

had told him? A. Yes, and the fact that Mr. Black in checking it over found the dirt there, and I took it from here, that the way the stations were that Mr. Twichell wasn't moving anything unless he was ordered to. I have known him quite a long while and I never knew him to do anything of that kind.

Q. Did you get an answer to that first letter that you wrote Mr. Black? A. I think Black was down here and gave us some figures, evidently from that second letter Mr. Black furnished some other figures. I don't know whether I got a letter from him or not. If I did I haven't the letter. I may have given it to Mr. Lawrence. The bank wanted the most of the records in this matter.

Q. Did you get an answer to the second letter in which you set out specifically the items, enumerating them, that you were claiming? A. I don't think we got anything on that. Black wasn't a very good letter writer, he didn't write that kind of letters.

Q. Didn't someone in the Department answer that and take up the claims that you had made by number and make some answers to each of your questions? A. Now, they did in the first or second letter, I have forgotten which, one of those letters they did; there was a letter of that kind came.

Q. It is a fact, isn't it, that some of those things
(1137)

you were right on and some you were wrong on? A. They did show that some of these items were included in the totals. Well, the letter was what I was checking. Yes, these items were included in the estimates and if they were included here they appeared, and my recollection is that I did get a letter, and that showed that some of these items had been included in the records that I had and that other of the items weren't in, and those other items that weren't in here, the items, as I recollect that were put in on the arbitration were put in or left out at the Arbitration; it was a constant drive between Mr. Twichell and myself to get in the items that we knew should be in that estimate.

Q. To be specific, Mr. Twichell, the claim that you set out in your second letter in regard to a culvert that was shown? A. It wasn't, we didn't get it, but it wasn't shown.

Q. Wasn't it a fact that the Committee and the State

Highway Commission, Federal Government had only paid for the number of culverts that were shown on the plans? A. Well, it is a fact that the Highway Commission claimed there was no other culverts went in there but Mr. Twichell had given me the details and he was right, and told where he got the culvert and where he hauled it to. We didn't get that money. We couldn't convince them that we did, but I am

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satisfied that it was put in there, but it wasn't anything to fight over, \$15.60.

Q. That was a matter that could be readily proved, by driving over the road? A. Yes, it could if you checked the road up.

Q. I notice in one paragraph of your letter you speak of reluctance of Richland county to pay, what were you basing your statement on, Mr. Twichell? A. Because I got the statement from Black right along that Richland County wouldn't pay the bill, and I don't blame them any as long as the Federal Government wasn't going to pay their half.

Q. Don't you know, as a matter of fact, that no statement containing any figures was ever presented to Richland County until after the Arbitration? A. I know, as a matter of fact, that there was no statement ever presented to Richland County for T. Twichell, ever signed, or he had ever O. K.ed or he had ever seen before that that one right here.

Q. You don't know whether that was presented Richland County or not? A. I understand it was presented to Richland County before T. Twichell ever saw it.

Q. You don't know of it of your own knowledge? A. I know it because Mr. Black, or some of the men in the Highway Department told me it was down there and it was taken down without Mr. Twichell's knowing anything about

((1139))

ing anything about that until afterwards. While that was traveling to Richland County we were waiting for their final estimates.

Q. But, what I was getting at, where did you have any information upon which to base the statement that there was reluctance on the part of Richland County to meet any contractual obligations that they might have? A. Oh, I just got it from the general attitude of everybody that Richland county had refused and did refuse to pay the full amount, and it was very easy to understand why the Richland County Commissioners wouldn't pay the Federal Government's half.

Q. Did you hear Mr. Myhre's testimony, the Assistant Chief Engineer? A. No, I didn't, I didn't hear anybody's testimony.

Q. You didn't hear Mr. Myhre state to the Committee that he had been to Richland County and said that their estimates

as amended in the Highway Department office amounted to \$18,000? A. No.

Q. And that Mr. Twichell was claiming about \$34,000? A. No, I never heard that, so far as Mr. Twichell's figures, Mr. Lounsbury, are concerned, the figures that Mr. Twichell was standing on were based on an original contract, the extra work that was done and what the overhead would figure. Now, we knew where the dirt came from; we knew where it

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went to; but we hadn't figured the overhead, and as I say, those are the first figures he got on the supposed to be completed overhaul, and he came in and raised the devil because he said they were short pretty nearly \$10,000.

Q. Your contention is, then, that Mr. Myhre's statement to the Board was unauthorized as far as T. Twichell was concerned? A. Oh, yes, I know T. Twichell. And I was handling the end at the bank and Mr. Twichell couldn't have consented.

Mr. Graham: You don't know what Mr. Black told Mr. Myhre before he went down to Richland County? A. No, I don't know.

Mr. Lounsbury: You made the statement, the oral statement that Richland County was asked to pay about \$17,000 of the final estimate, or award of the Board of Arbitration, and the Federal Government about \$29,000? A. Yes.

Q. Did you read the letter which accompanied that final estimate in which Mr. Black stated that the reason that Richland County was asked to pay about only \$17,000, was the fact that they had not had full credit for all of the Federal aid? A. Oh, I know that, yes. I didn't have to read the letter, that would make Richland County pay more than half. I will say this, that if Richland County had paid the \$17,000 they would have paid pretty nearly half.

(1141)

Mr. Lounsbury: Would have paid one-half. A. No, they wouldn't.

Q. Well, close to it. A. Less than one-half.

Q. But you know that final estimate as submitted by Mr. Black to Richland County was based on the fifty per cent basis? A. Yes, I know that it what it was; as a matter of fact, it wouldn't figure out that way. As I understand it, they put in all the engineering that they could on the Federal Government and whatever they got out of the Federal Government helped Richland County out.

Q. And it helped on the interest? A. I don't know what it helped on. We weren't concerned about the interest. You and I have disagreed on the legal proposition, but we have been entirely satisfied that we could have collected the whole amount from Richland County. We didn't want to.

Q. Have you read the transcript of T. Twichell's evidence?
A. I have not, I haven't looked at it.

Q. And you weren't present at all during the time that he was first testifying? A. I was here part of the first morning.

Q. Did you hear him testify that the plans as far as Section B of the road were all right? A. Practically, yes, I was here them.

Q. Then the plans weren't faulty only in respect to Section A, that they were not designed for a sand road, is that a fact? A. Yes, that is originally. I might say on that that the plans on Section B—there was only \$2,400 extra work on that job; that in itself would show that the plans were not very faulty.

Q. Was that not about \$7,000? A. No, sir, the \$7,000 item came through the new top; that had nothing to do with the original plans. It was additional work not contemplated in any manner when the contract was taken.

Q. You don't mean cover, Mr. Twichell, you mean the shoulder? A. I don't understand that that is covering, there is covering. I don't understand that that is what they call shouldering.

Q. It was to bring, as you claim, the road from a round top to a flat top, wasn't it? A. Yes, I don't understand that they call it shouldering; I think they call it shouldering when they put it up with a machine.

Q. I believe that is all.

Mr. Graham: I think that is all.

Mr. Twichell: Thank you, gentlemen, for the courteous treatment. And if you will let me have those papers back, we might have to sue for this \$8,300.

Mr. Graham: You have made all the statement you care to?

Mr. Twichell: That is all, thank you very much.

C. E. LOUNSBURY, recalled, testified as follows:
Examination by Mr. Graham:

Q. Did Mr. Twichell suggest to you that some of the state funds might be procured in order to make settlement? A. No, sir, he did. He made that suggestion to Mr. Black about the time that he—almost at the end of our conference.

Q. Did you make any figures in regard to overhaul, or try to check any? A. No, sir, I haven't the slightest idea in the world how to go at it.

Q. Did you ask Black "How can you help us out?" A. No, sir, I did not. I told him that we would go as far as the \$9,300 of State aid that was credited to Richland County, but no further.

Q. Did you tell Black that a lot of the high cost was due to faulty plans? A. No, sir, I did not, because I never heard that the plans were faulty until I got here. After I got here is the first I ever heard about it in my life.

Mr. Graham: That is all.

Witness excused.

Mr. Graham: Mr. Brown, you know this afternoon that I asked you concerning certain statements which we had demanded from Mr. Black, and you said that you see him concerning the same and have them produced.

Mr. Brown: He said he would be glad to furnish you any information that he had at hand.

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Mr. Graham: And I might state that I also made demand in person myself upon Mr. Black, and also gave him a written list on the 25th of February, asking him to submit the cost of preliminary surveys made by the Department of 1924, records covering contract surveys in 1923 and 1924, showing names of engineers making the surveys, mileage, surveying and cost per mile; and that up to the present time no such statements have been furnished. Also that while on the stand yesterday, Mr. Black was asked to make up a statement showing the cost of preliminary surveys per mile; the cost of making the plans and administration cost; that he was also asked to produce statements showing the cost of the engineering in the construction of the roads, and the cost of the engineers in over-seeing the roads; but that up to the present time no such information has been furnished. We would ask Mr. Brown that such information be produced for us Monday.

Mr. Brown: Have you got the list there?

Mr. Graham: They have the list up there at the office.

Meeting adjourned.

(1145)

TESTIMONY TAKEN BEFORE THE SPECIAL HOUSE COMMITTEE, ON MARCH 2nd, 1925.

DAN R. JONES, recalled at the request of Mr. Halcrow, testified as follows:

Mr. Halcrow: Q. During the time you were testifying at the first hearing, Mr. Jones, you testified that the State Highway Commission compelled the contractor to take his gravel from another pit. Do you know who gave the orders for that? A. I was told by Mr. John Gavin, Division Engineer, that he caused the change to be made after he examined the gravel that was being delivered on the job, and he considered it below the standard required by the contract.

Mr. Lounsbury: Q. Mr. Jones, on page 9 of the testimony given by you at the first hearing before the Committee you made the statement that the gravel was changed due to "po-

litical pull," making the statement as follows: "I think it was political pull entirely that did it." I wish to ask you whether you meant it was due to that influence that would be exerted by a member of the same political party over another member of the same party, is that what you meant? A. No, sir.

Q. Do you mean that it was simply on account of the fact that some persons were kicking about the quality of the gravel that was used? A. Yes, sir.

(1146)

Q. Did you mean, Mr. Jones, by the statement, "political pull" that by reason of the fact that the Chief Engineer was a member of the I. V. A.'s, if that is a fact, and that the person, or persons, who desired this change made were I. V. A.'s, that it was made for that reason? A. No, what I meant was that the influence upon the Highway Commission was entirely by reason of a large number of complaints or kicks sent in from Wahpeton.

Q. As a matter of fact, do you know of your own knowledge that any complaints were ever made to the Highway Commission at all about the gravel, the main office in Bismarck? A. No, I do not, but I do know that there were kicks made to the engineer in charge.

Mr. Halcrow: You didn't consider it "political pull" directly with the Highway Commission that caused the change? A. Not a bit, I didn't intend to charge any man of being influenced because of friendship, or politics, or anything of that kind, but just that it was caused in my mind solely from complaints made by fellows who were interested in getting the job.

Q. Do you own, or have any interest in the gravel pit situated at White Rock, South Dakota?

A. I am not and never have been. It was owned by John J. Hull and Harris. John J. Hull died in December, 1923, and I was employed to probate the estate, and as attorney for his estate took charge of the collection of the amount due from the contractors for gravel delivered from the White Rock pit.

MFr. Yeater: You didn't have any interest in the one in Minnesota? A. No.

Meeting adjourned.

State of North Dakota,)
)ss.
County of Burleigh.)

B. F. Tillotson, being first duly sworn, deposes and says that he is one of the duly appointed, qualified and acting official reporters for the Special House Committee of the House of Representatives of the Nineteenth Legislative Assembly of the State of North Dakota; that of the attached transcripts containing 1148 pages, pages 746 to 917, and 1014 to 1058, inclusive, are a true and complete copy of my shorthand minutes taken at the hearing before the said Com-

mittee, and a full, true, correct and complete record of the testimony and other proceedings which it purports to contain.

B. F. TILLOTSON.

Subscribed and sworn to before me this 3rd day of March, A. D. 1925.

(Seal)

JOHN F. FORT,

Notary Public, Burleigh Co., North Dakota.

My Commission expires Dec. 12, 1928.

(1149)

State of North Dakota,)
)ss.
County of Burleigh.)

Sigrid Alfson, being first duly sworn, deposes and says that she is one of the duly appointed, qualified and acting official reporters for the Special House Committee of the House of Representatives of the Nineteenth Legislative Assembly of the State of North Dakota; that of the attached transcript containing 1148 pages, pages 1 to 127; 234 to 255; 305 to 343; 378 to 398; 447 to 487; 524 to 551; 918 to 943, inclusive, are a true and complete copy of my shorthand minutes taken at the hearing before the said Committee, and a full, true, correct and complete record of the testimony and other proceedings which it purports to contain.

SIGRID ALFSON.

Subscribed and sworn to before me this 3rd day of March, A. D. 1925.

(Seal)

E. M. WALLA,

Notary Public, Burleigh County, North Dakota.

My Commission expires January 12th, 1927.

(1150)

State of North Dakota,)
)ss.
County of Burleigh.)

Irma B. Shepard, being first duly sworn, deposes and says that she is one of the duly appointed qualified and acting official reporters for the Special House Committee of the House of Representatives of the Nineteenth Legislative Assembly of the State of North Dakota; that of the attached transcript containing 1148 pages, pages 128 to 233; 256 to 304; 344 to 377; 399 to 446; 438 to 523; 552 to 745; 944 to 1013; 1059 to 1148, inclusive, are a true and complete copy of my shorthand minutes taken at the hearing before the said Committee, and a full, true, correct and complete record of the testimony and other proceedings which it purports to contain.

IRMA H. SHEPARD.

Subscribed and sworn to before me this 3rd day of March, A. D. 1925.

(Seal)

E. M. WALLA,

Notary Public, Burleigh County, North Dakota.

My Commission expires January 12th, 1927.

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Introduction, first and second reading, 80.
Reference, 80.
Reported back, 83, 332.
Lost, 83, 333.
Other action, 94.

House Bill No. 15.—(Committee on Appropriations)

House Bill No. 15. A Bill for an Act Making an Appropriation of \$6,000.00 to the Missouri Slope Agricultural and Fair Association at Mandan for the Fairs to be Held in the Years 1925 and 1926, as Authorized by Sections 1860 to 1866, Both Inclusive, of the Compiled Laws of 1913 for North Dakota.

Introduction, first and second reading, 80.
Reference, 80.
Reported back, 536.
Third reading, 594.
Lost, 595.
Other action, 418, 588.

House Bill No. 16.—(Cart)

House Bill No. 16. A Bill for an Act to Repeal Chapter No. 116 of the Session Laws of 1921.

Introduction, first and second reading, 81.
Reference, 81.
Reported back, 132.
Third reading, 151.
Passed, 152.
Forwarded, 172.
Returned, 557.
Other action, 587, 766.
Signed by Speaker, 621.
Forwarded to Governor, 694.

House Bill No. 17.—(Committee on Appropriations)

House Bill No. 17. A Bill for an Act to Repeal Section 2862 of the Compiled Laws of North Dakota for the Year 1913. Relating to Enforcement, Dairy Products Act.

Introduction, first and second reading, 81.

Reference, 81.

Reported back, 97.

Third reading, 107.

Passed, 108.

Forwarded, 109.

Returned, 443.

Other action, 466, 628.

Signed by Speaker, 467.

Forwarded to Governor, 477 (see correction).

House Bill No. 18.—(Committee on Appropriations)

House Bill No. 18. A Bill for an Act to Repeal Section 1454 of the Compiled Laws of North Dakota for 1913, Relating to Educational Library.

Introduction, first and second reading, 81.

Reference, 81.

Reported back, 102.

Third reading, 114.

Passed, 115.

Forwarded, 126.

Returned, 700.

Other action, 728, 896.

Signed by Speaker, 759.

Forwarded to Governor, 794.

House Bill No. 19.—(Committee on Appropriations)

House Bill No. 19. A Bill for an Act to Repeal Section 1626B of the Compiled Laws of North Dakota for the Year 1913. Relating to Milling Experiments.

Introduction, first and second reading, 81.

Reference, 81.

Reported back, 124.

Third reading, 144.

Passed, 145.

Forwarded, 172.

Returned, 1051.

Other action, 1097, 1287.

Signed by Speaker, 1116.

Forwarded to Governor, 1178.

House Bill No. 20.—(Committee on Appropriations)

House Bill No. 20. A Bill for an Act to Repeal Section 2442 of the Compiled Laws of North Dakota for the Year 1913, Relating to National Guard.

Introduction, first and second reading, 81.

Reference, 81.

Reported back, 102, 176.

Amended, 176.

Third reading, 197.

Passed, 198.

Forwarded—(See correction of page 227).

Returned, 557.

Other action, 192, 587, 766.

Signed by Speaker, 621.

Forwarded to Governor, 694.

House Bill No. 21.—(Committee on Appropriations)

House Bill No. 21. A Bill for an Act to Repeal Section 1538 of the Compiled Laws of North Dakota for 1913, Relating to Library Commission.

Introduction, first and second reading, 81.

Reference, 81.

Reported back, 102.

Third reading, 115.

Passed, 116.

Forwarded, 126.

Returned, 700.

Other action, 728, 896.

Signed by Speaker, 759.

Forwarded to Governor, 794.

House Bill No. 22.—(Starke)

House Bill No. 22. A Bill for an Act to Amend and Re-enact Section 1189, Compiled Laws of North Dakota, 1913, Relating to the Power of the District Board to Fix School Terms, the Time During Which Schools Shall Remain Open, and the Discontinuance of Same.

Introduction, first and second reading, 86.

Reference, 86.

Reported back, 102.

Amended, 103, 116.

Third reading, 127.

Lost, 128.

House Bill No. 23.—(Starke)

House Bill No. 23. A Bill for an Act to Amend and Re-enact Section 1382, Compiled Laws of North Dakota, 1913, Relating to the School Year, the School Week, the School Day and School Holidays.

Introduction, first and second reading, 86.

Reference, 86.

Reported back, 103.

Amended, 103, 117, 624.

Third reading, 128.

Lost, 128.

House Bill No. 24.—(Committee on Appropriations)

House Bill No. 24. A Bill for an Act Making an Appropriation of \$28,000.00 to Provide for the Payment of an Existing Deficit in the General Maintenance Fund of the State Training School at Mandan, North Dakota.

Introduction, first and second reading, 86.

Reference, 86.

Reported back, 330.

Third reading, 362.

Passed, 363.

Forwarded, 382.

Returned, 1051.

Other action, 359, 1097, 1286.

Signed by Speaker, 1116.

Forwarded to Governor, 1178.

House Bill No. 25.—(Committee on Appropriations)

House Bill No. 25. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses, Improvements and Repairs and Equipment for the State Normal School at Dickinson.

- Introduction, first and second reading, 86.
- Reference, 87.
- Reported back, 138.
- Amended, 138, 163.
- Third reading, 185.
- Passed, 186.
- Forwarded, 200.
- Returned, 557.
- Other action, 587, 766.
- Signed by Speaker, 621.
- Forwarded to Governor, 694.

House Bill No. 26.—(Committee on Appropriations)

House Bill No. 26. A Bill for an Act Making an Appropriation of \$30,000.00 to Provide for the Payment of an Existing Deficit in the Wolf Bounty Fund.

- Introduction, first and second reading, 87.
- Reference, 87.
- Reported back, 123, 335.
- Third reading, 363.
- Passed, 364.
- Forwarded, 382.
- Returned, 557.
- Other action, 263, 359, 587, 767.
- Signed by Speaker, 621.
- Forwarded to Governor, 693.

House Bill No. 27.—(Committee on Appropriations)

House Bill No. 27. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School at Minot and for Making Permanent Improvements and Repairs Thereto.

- Introduction, first and second reading, 87.
- Reference, 87.
- Reported back, 678.
- Amended, 678, 761.
- Third reading, 820, 1436.
- Passed, 821, 1437.
- Forwarded, 845.
- Returned, 1264.
- Other action, 418, 664, 813, 1296, 1310, 1311, 1351, 1383, 1386, 1393, 1394, 1426, 1427, 1429, 1431, 1434, 1435, 1445.
- Signed by Speaker, 1448.
- Forwarded to Governor, 1447.

House Bill No. 28.—(Committee on Appropriations)

House Bill No. 28. •An Act Making an Appropriation for the Current and Contingent Expenses of the State Normal and Industrial School at Ellendale, and for Improvements and Repairs Thereto.

Introduction, first and second reading, 87.

Reference, 87.

Reported back, 181.

Amended, 181, 201, 224.

Third reading, 224.

Passed, 225.

Forwarded, 317.

Returned, 557.

Other action, 205, 587, 766.

Signed by Speaker, 621.

Forwarded to Governor, 693.

House Bill No. 29.—(Committee on Appropriations)

House Bill No. 29. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State Normal School, Mayville, and for Equipment and Improvements and Repairs.

Introduction, first and second reading, 87.

Reference, 87.

Reported back, 140.

Amended, 171.

Third reading, 187, 1197.

Passed, 188, 1198.

Forwarded, 200.

Returned, 1052.

Other action, 1053, 1083, 1144, 1181, 1182, 1264, 1290.

Signed by Speaker, 1318.

Forwarded to Governor, 1395.

House Bill No. 30.—(Committee on Appropriations)

House Bill No. 30. A Bill for an Act making an Appropriation for the Current and Contingent Expenses of the State Normal School at Valley City, North Dakota, and Making Permanent Improvements and Repairs Thereto.

Introduction, first and second reading, 87.

Reference, 87.

Reported back, 215.

Amended, 216, 256.

Third reading, 295, 1441.

Passed, 296, 1442.

Forwarded, 316.

Returned, 1264.

Other action, 290, 1295, 1310, 1317, 1388, 1394, 1400, 1405, 1406, 1407, 1416, 1417, 1422, 1423, 1426, 1428, 1435, 1437, 1440, 1445.

Signed by Speaker, 1448.

Forwarded to Governor, 1448.

House Bill No. 31.—(Committee on Appropriations)

House Bill No. 31. A Bill for an Act Making an Appropriation of \$130,000.00 for Maintenance, Improvements and Repairs, Equipment and Miscellaneous for the Tuberculosis Sanatorium at San Haven.

- Introduction, first and second reading, 87.
- Reference, 87.
- Reported back, 166.
- Amended, 166.
- Third reading, 199, 1390.
- Passed, 200, 1391.
- Forwarded, 227.
- Returned, 1193.
- Other action, 192, 1200, 1201, 1305, 1351, 1382, 1386, 1388, 1389, 1414, 1415.
- Signed by Speaker, 1416.
- Forwarded to Governor, 1447.

House Bill No. 32.—(Committee on Appropriations)

House Bill No. 32. A Bill for an Act Making an Appropriation for the State Hospital for the Insane at Jamestown for the Payment of Salaries and Wages, Improvements and Repairs, New Building, Equipment and Miscellaneous Items.

- Introduction, first and second reading, 87.
- Reference, 87.
- Reported back, 193.
- Amended, 193, 226.
- Third reading, 239.
- Passed, 239.
- Forwarded, 260.
- Returned, 1051.
- Other action, 1097, 1286.
- Signed by Speaker, 1116.
- Forwarded to Governor, 1178.

House Bill No. 33.—(Committee on Appropriations)

House Bill No. 33. A Bill for an Act Making an Appropriation of \$265,540.00 for the Current and Contingent Expenses of the State Penitentiary and for Making Permanent Improvements and Repairs Thereto.

- Introduction, first and second reading, 88.
- Reference, 88.
- Reported back, 193, 235.
- Amended, 193, 235, 281.
- Third reading, 296.
- Passed, 297.
- Forwarded, 316.
- Returned, 1051.
- Other action, 291, 1097, 1286.
- Signed by Speaker, 1116.
- Forwarded to Governor, 1178.

House Bill No. 34.—(Committee on Appropriations)

House Bill No. 34. A Bill for an Act Making an Appropriation to Pay the Current and Contingent Expenses of the School for the Deaf at Devils Lake, Together With Improvements and Repairs, Equipment and Miscellaneous Items.

Introduction, first and second reading, 88.

Reference, 88.

Reported back, 236.

Amended, 236, 280.

Third reading, 297.

Passed, 298.

Forwarded, 316.

Returned, 1143.

Other action, 291, 1179.

Signed by Speaker, 1211.

Forwarded to Governor, 1420.

House Bill No. 35.—(Committee on Appropriations)

House Bill No. 35. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State School of Science at Wahpeton, Together with Improvements and Repairs and New Equipment.

Introduction, first and second reading, 88.

Reference, 88.

Reported back, 181.

Amended, 181, 202, 225, 576.

Third reading, 225, 751.

Passed, 226, 752.

Forwarded, 317, 591.

Returned, 556, 730.

Other action, 206, 745, 765, 815, 936.

Signed by Speaker, 817.

Forwarded to Governor, 870.

House Bill No. 36.—(Committee on Appropriations)

House Bill No. 36. A Bill for an Act Making an Appropriation for Maintenance, Improvements and Repairs, New Building, Equipment and Miscellaneous Items for the Institution of the Feeble Minded at Grafton.

Introduction, first and second reading, 88.

Reference, 88.

Reported back, 180.

Third reading, 198.

Passed, 199.

Forwarded, 227.

Returned, 1051.

Other action, 192, 1097, 1286.

Signed by Speaker, 1117.

Forwarded to Governor, 1178.

House Bill No. 37.—(Committee on Appropriations)

House Bill No. 37. A Bill for an Act to Amend and Re-enact Section 1648 of Chapter 13 of the Compiled Laws of North Dakota for the Year 1913, Relating to the Location of the Mining Experiment Sub-Station at Hebron, Morton County.

- Introduction, first and second reading, 88.
- Reference, 88.
- Reported back, 401.
- Indefinitely postponed, 401.
- Other action, 227, 370, 402, 418.

House Bill No. 38.—(Committee on Appropriations)

House Bill No. 38. A Bill for an Act Making an Appropriation for Salaries, Clerkhire and Miscellaneous Expenses of the Game and Fish Board.

- Introduction, first and second reading, 88.
- Reference, 88.
- Reported back, 459.
- Third reading, 483, 1167.
- Passed, 484, 1168.
- Forwarded, 508.
- Returned, 1144.
- Other action, 477, 1167, 1179, 1187.
- Signed by Speaker, 1211.
- Forwarded to Governor, 1420.

House Bill No. 39.—(Committee on Appropriations)

House Bill No. 39. A Bill for an Act Making an Appropriation to Pay the Salary, Travel Expenses and Miscellaneous Items of the State Transportation Officer.

- Introduction, first and second reading, 88.
- Reference, 88.
- Reported back, 139.
- Amended, 139, 171.
- Third reading, 186.
- Passed, 187.
- Forwarded, 200.
- Returned, 557.
- Other action, 587, 767.
- Signed by Speaker, 621.
- Forwarded to Governor, 694.

House Bill No. 40.—(Committee on Appropriations)

House Bill No. 40. A Bill for an Act Making an Appropriation to Pay Salary, Stenographer and General Expenses of the Commissioner of Immigration.

- Introduction, first and second reading, 88.
- Reference, 88.
- Reported back, 289.
- Amended, 290, 325.
- Third reading, 338.
- Passed, 338.
- Forwarded, 361.
- Returned, 1143.
- Other action, 335, 1179.
- Signed by Speaker, 1211.
- Forwarded to Governor, 1420.

House Bill No. 41.—(Rasmussen)

House Bill No. 41. A Concurrent Resolution for an Amendment to the Constitution of the State of North Dakota Providing for the Establishment of a State Highway Commission, for the Establishment of a System of State Highways and for the Establishment of a State Highway Fund.

Introduction, first and second reading, 88.

Reference, 89.

Reported back, 458, 856.

Indefinitely postponed, 856.

Other action, 448, 459, 665.

House Bill No. 42.—(Rabe)

House Bill No. 42. A Bill for an Act Making an Appropriation of \$16,200.00 to Provide for the Payment of a Loan Made to the State Normal School at Dickinson, North Dakota.

Introduction, first and second reading, 89.

Reference, 89.

Reported back, 124.

Third reading, 150.

Passed, 151.

Forwarded, 172.

Returned, 387.

Other action, 425, 535.

Signed by Speaker, 447.

Forwarded to Governor, 477 (see corrections).

House Bill No. 43.—(Shurr, Thatcher, Svingen and Streich)

House Bill No. 43. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the State School of Forestry at Bottineau and Making Permanent Improvements and Additions Thereto.

Introduction, first and second reading, 89.

Reference, 89.

Reported back, 373.

Amended, 373, 415.

Third reading, 432.

Passed, 433.

Forwarded, 453.

Returned, 1031.

Other action, 423, 1097, 1286.

Signed by Speaker, 1117.

Forwarded to Governor, 1178.

House Bill No. 44.—(Burkhart)

House Bill No. 44. A Bill for an Act to appropriate an Additional \$5,000.00 to the North West Agricultural Live Stock Fair Association of Minot, for the Fairs to be Held in the Years 1925 and 1926, as Authorized by Section 6 of Chapter 217 of the Compiled Laws of 1923.

Introduction, first and second reading, 94.

Reference, 94.

Reported back, 535.

Third reading, 592.

Lost, 593.

Other action, 536, 589.

House Bill No. 45.—(Peters, by request)

House Bill No. 45. A Bill for an Act to Amend Chapter 130 of the Session Laws of 1917.

- Introduction, first and second reading, 94.
- Reference, 94.
- Reported back, 140, 176.
- Amended, 140, 176.
- Indefinitely postponed, 202.
- Other action, 171, 229.

House Bill No. 46.—(Committee on Appropriations)

House Bill No. 46. A Bill for an Act Making an Appropriation of \$262,380.00 to the State Training School, Mandan, North Dakota, for the Current and Contingent Expenses, Maintenance, New Buildings, Equipment and Miscellaneous Items, for the Biennium Beginning July 1st, 1925, and Ending June 30th, 1927.

- Introduction, first and second reading, 94.
- Reference, 94.
- Reported back, 138.
- Amended, 138, 162.
- Third reading, 184.
- Passed, 185.
- Forwarded, 200.
- Returned, 1143.
- Other action, 1179.
- Signed by Speaker, 1211.
- Forwarded to Governor, 1420.

House Bill No. 47.—(Boyd)

House Bill No. 47. A Bill for an Act to appropriate the Sum of \$75,000.00 from Any Moneys in the State Highway Fund, for the Purpose of Aiding in the Construction of a Bridge Across the Red River of the North, Between the City of Fargo, Cass County, North Dakota, and the City of Moorhead, Clay County, Minnesota Under the Provisions of Chapter 73 of the Laws of North Dakota for the Year 1919.

- Introduction, first and second reading, 98.
- Reference, 98.
- Reported back, 320.
- Amended, 320.
- Third reading, 369.
- Passed, 370.
- Forwarded, 382.
- Returned, 1428.
- Other action, 173, 351, 380, 1446.
- Signed by Speaker, 1440.
- Forwarded to Governor, 1447.

House Bill No. 48.—(Carl Johnson)

House Bill No. 48. A Bill for an Act Providing for the Filing of Reports of School Districts and Township Treasurers in Place of Publication Thereof, Designating Where the Same Shall Be Filed; and Repealing All Acts, and Parts of Acts, in Conflict Herewith.

Introduction, first and second reading, 98.
Reference, 98.
Reported back, 217.
Third reading, 245.
Passed, 246.
Forwarded, 260.
Returned, 557.
Indefinitely postponed, 557.
Other action, 173.

House Bill No. 49.—(Frank J. Hardy)

House Bill No. 49. A Bill for an Act to Amend and Re-enact Section 5, Chapter 224, Session Laws of the State of North Dakota for the Year 1923, Being an Act Prohibiting the Use of Dogs for Hunting.

Introduction, first and second reading, 98.
Reference, 98.
Reported back, 289.
Indefinitely postponed, 289.
Other action, 188.

House Bill No. 50.—(J. M. Thompson)

House Bill No. 50. A Bill for an Act to Repeal Chapter 146, of the Laws of North Dakota for the Year 1919 and Chapter 176 for the Year 1923 Relating to Immigration.

Introduction, first and second reading, 98.
Reference, 98.
Reported back, 354.
Indefinitely postponed, 354.
Other action, 173.

House Bill No. 51.—(Burkhart)

House Bill No. 51. A Concurrent Resolution by Mr. Burkhart.

Introduction, first and second reading, 105.
Third reading, 105.
Passed, 106.
Forwarded, 109.
Returned, 509.

House Bill No. 52.—(Vogel)

House Bill No. 52. A Concurrent Resolution introduced by Mr. Vogel.

Introduction, first and second reading, 104.
Third reading, 104.
Passed, 104.

House Bill No. 53.—(Brown)

House Bill No. 53. A Bill for an Act to Amend and Re-enact Section 292 of the Compiled Laws of North Dakota for the Year 1913, Relating to the Foreclosure of Mortgages Held by the Board of University and School Lands, Assignments Thereof, and Conveyance of Interests in Lands Acquired Thereunder.

- Introduction, first and second reading, 112.
- Reference, 113.
- Reported back, 217.
- Amended, 217, 257.
- Third reading, 299, 749.
- Passed, 300, 750.
- Forwarded, 316.
- Returned, 701.
- Other action, 202, 290, 701, 745, 765, 814, 936.
- Signed by Speaker, 818.
- Forwarded to Governor, 870.

House Bill No. 54.—(Jodock)

House Bill No. 54. A Bill for an Act to Amend and Re-enact Chapter 61 of the Session Laws of North Dakota for the Year 1921.

- Introduction, first and second reading, 113.
- Reference, 113.
- Reported back, 170.
- Third reading, 196.
- Indefinitely postponed, 197.
- Other action, 192.

House Bill No. 55.—(Eckert)

House Bill No. 55. A Bill for an Act to appropriate the Sum of \$200,000.00 from any Moneys in the State Highway Fund for the Purpose of Aiding in the Construction of a Bridge Across the Missouri River Between Williams County and McKenzie County, North Dakota, Under the Provisions of Chapter 73 of the Laws of North Dakota for the Year 1919.

- Introduction, first and second reading, 113.
- Reference, 113.
- Reported back, 229.
- Third reading, 265.
- Passed, 266.
- Forwarded, 292.
- Returned, 1431.
- Other action, 202, 262, 310, 1446.
- Signed by Speaker, 1440.
- Forwarded to Governor, 1447.

House Bill No. 56.—(Burkhart, Butt, Sanderson and Worner)

House Bill No. 56. A Bill for an Act to Permit of Religious Instruction of Children in the First Eight Grades of Public Schools.

Introduction, first and second reading, 113.

Reference, 113.

Reported back, 131.

Indefinitely postponed, 132.

House Bill No. 57.—(Doyle)

House Bill No. 57. A Bill for an Act to Appropriate the Sum of \$100,000 from any moneys in the State Highway Bridge Fund, for the Purpose of Aiding in the Construction of a Bridge Across the Missouri River, at a Point Near the Town of Sanish, Between McKenzie County, North Dakota and Mountrail County, North Dakota, Under the Provisions of Chapter 73 of the Laws of North Dakota for the Year 1919.

Introduction, first and second reading, 113.

Reference, 113.

Reported back, 319.

Third reading, 339.

Passed, 340.

Forwarded, 361.

Returned, 1431.

Other action, 202, 335, 1446.

Signed by Speaker, 1440.

Forwarded to Governor, 1447.

House Bill No. 58.—(Cart)

House Bill No. 58. A Bill for an Act to Appropriate the Sum of Twenty-five Thousand (\$25,000.00) Dollars for the Purpose of Aiding in the Construction of a Bridge and Approaches Across the Des Lacs Lake on the County Line Between Burke and Ward Counties in the State of North Dakota Under the Provisions of Chapter 73 of the Session Laws of North Dakota for the Year 1919, and that Such Appropriation Be Made from the State Highway Fund.

Introduction, first and second reading, 113.

Reference, 114.

Reported back, 319.

Amended, 319.

Third reading, 367.

Passed, 368.

Forwarded, 382.

Returned, 1428.

Other action, 202, 351, 380, 1446.

Signed by Speaker, 1440.

Forwarded to Governor, 1448.

House Bill No. 59.—(Highway Committee by request)

House Bill No. 59. A Bill for an Act to appropriate the Sum of \$30,000.00 for the Purpose of Paying State's Share for the Construction of Pavement on Federal Aid Project No. 100 Under the Provisions of Chapter 73 of the Laws Passed at the Sixteenth Session of the Legislative Assembly of North Dakota, said Project Being Part of Missouri River Bridge Project, and that Such Appropriation be made from the State Highway Fund.

Introduction, first and second reading, 114.

Reference, 114.

Reported back, 319.

Indefinitely postponed, 319.

Other action, 202.

House Bill No. 60.—(MacDowall, by request)

House Bill No. 60. A Bill for an Act to Provide for the Proper Rotation of Small Grains, to Provide Against the Present Method of Robbing the Soil by the Planting of Some Kind of Crop Which Requires Cultivation, Seeding to Some of the Various Kinds of Grasses and Summerfallow, Providing Penalties for the Violation of the Provisions of this Act, and Providing for its Enforcement, and Making an Appropriation for same.

Introduction, first and second reading, 114.

Reference, 114.

Reported back, 131.

Indefinitely postponed, 131.

House Bill No. 61.—(Martin)

House Bill No. 61. A Bill for an Act Relating to Redemption from Real Estate Tax Sales.

Introduction, first and second reading, 126.

Reference, 126.

Reported back, 175.

Amended, 175, 200, 221, 991.

Third reading, 221, 992.

Passed, 222, 993.

Forwarded, 479.

Returned, 991.

Other action, 206, 1014, 1018, 1177.

Signed by Speaker, 1030.

Forwarded to Governor, 1113.

House Bill No. 62.—(Freeman, by request)

House Bill No. 62. A Bill for an Act to Amend and Re-enact Section 4926, Compiled Laws of North Dakota for 1913 Relating to Resident and Non-resident Insurance Agents.

Introduction, first and second reading, 133.

Reference, 133.

Reported back, 399.

Third reading, 437, 747.

Passed, 437, 748.

Forwarded, 454.

Returned, 701.

Other action, 263, 424, 454, 701, 745, 765, 814.

Signed by Speaker, 818.

Forwarded to Governor, 870.

Veto, 938.

House Bill No. 63.—(O. C. Anderson)

House Bill No. 63. A Bill for an Act to Repeal Section 2348 of the Compiled Laws of North Dakota for the Year 1913 as Amended by Chapter 187 of the Laws of 1915, and to Repeal Section 2349 of the Compiled Laws of North Dakota for the Year 1913 Relating to Assessors Duties in Connection with Military Enrollment

Introduction, first and second reading, 133.
Reference, 133.
Reported back, 218.
Third reading, 249.
Passed, 250.
Forwarded, 260.
Returned, 509.
Other action, 644, 824.
Signed by Speaker, 677.
Forwarded to Governor, 777.

House Bill No. 64.—(Carr)

House Bill No. 64. A Bill for an Act to Amend and Re-enact Section 4559 of the Compiled Laws of the State of North Dakota for the Year 1913 Relating to the Issuance of Bonds by Corporations, and Declaring an Emergency.

Introduction, first and second reading, 133.
Reference, 133.
Reported back, 355.
Indefinitely postponed, 355.
Other action, 263.

House Bill No. 65.—(Carr)

House Bill No. 65. A Bill for an Act to Amend and Re-enact Section 4543 of the Compiled Laws of North Dakota for the Year 1913 and Section 4557 of the Compiled Laws of North Dakota for the Year 1913 as Amended and Re-enacted by Chapter 46 of the Session Laws of North Dakota for the Year 1921 Relating to the Declaration of Dividends and the Creation of Indebtedness by Directors of Corporations, and Increasing or Diminishing of the Capital Stock of Corporations and the Issuing of Bonds by Corporations and Declaring an Emergency.

Introduction, first and second reading, 133.
Reference, 133.
Reported back, 218.
Amended, 248.
Third reading, 248, 746.
Passed, 249, 747.
Forwarded, 260, 321.
Returned, 701.
Other action, 282, 298, 321, 701, 745, 765, 814, 937.
Signed by Speaker, 817.
Forwarded to Governor, 870.

House Bill No. 66.—(Carr)

House Bill No. 66. A Bill for an Act to Amend and Re-enact Section 29761 of the Compiled Laws of the State of North Dakota for the Year 1913, Relating to Speed and Other Road Regulations of Motor Vehicles.

- Introduction, first and second reading, 133.
- Reference, 134.
- Reported back, 286.
- Indefinitely postponed, 286.

House Bill No. 67.—(Carr)

House Bill No. 67. A Bill for an Act to Amend and Re-enact Section 2 of Chapter 266 of the Session Laws of 1923 Relating to the Possession of Pistols and Revolvers and Declaring an Emergency.

- Introduction, first and second reading, 133.
- Reference, 134.
- Reported back, 209.
- Third reading, 250, 748.
- Passed, 251, 749.
- Forwarded, 261.
- Returned, 701.
- Other action, 701, 745, 765, 815, 936.
- Signed by Speaker, 817.
- Forwarded to Governor, 870.

House Bill No. 68.—(Sagen)

House Bill No. 68. A Bill for an Act to Provide for the Registration of all Marriages with the State Registrar of Vital Statistics, and to Provide Fees for the Same.

- Introduction, first and second reading, 134.
- Reference, 134.
- Reported back, 176.
- Amended, 176, 201, 991.
- Third reading, 222.
- Passed, 223.
- Forwarded, 317.
- Returned, 991.
- Other action, 205, 992, 1018, 1145, 1158, 1179.
- Signed by Speaker, 1211.
- Forwarded to Governor, 1420.

House Bill No. 69.—(Elken and Carr)

House Bill No. 69. A Bill for an Act to Amend and Re-enact Section 8076 of the Compiled Laws of North Dakota for the Year 1913, as Amended and Re-enacted by Chapter 250 of the Session Laws of North Dakota for the Year 1923 Relating to Foreclosure of Mortgages by Agent or Attorney, and Legalizing and Validating Sales Heretofore Made Where the Power of Attorney has been Filed for Record at or Prior to the Time Fixed for the Making of the Same.

Introduction, first and second reading, 134.

Reference, 134.

Reported back, 231.

Third reading, 267, 750.

Passed, 268, 751.

Forwarded, 292.

Returned, 730.

Other action, 262, 263, 745, 765, 815, 937.

Signed by Speaker, 817.

Forwarded to Governor, 870.

House Bill No. 70.—(Johnson of Foster, by request)

House Bill No. 70. A Bill for an Act Imposing a Tax of One Dollar Per Ton Upon Each Ton of Coal Containing More than 8500 British Thermal Heat Units Sold or Delivered Within the State of North Dakota; Providing for the Assessment and Collection of Such Tax, and for the Disposition of the Revenue Derived Therefrom, and Providing Penalties for the Violation of this Act.

Introduction, first and second reading, 134.

Reference, 134.

Reported back, 356.

Indefinitely postponed, 356.

Other action, 254.

House Bill No. 71.—(Rasmussen)

House Bill No. 71. A Bill for an Act to Amend and Re-enact Sections 2 and 13, and to Add Sections 17 and 18 to Chapter 311, Session Laws of the State of North Dakota for 1923, Being an Act Relating to the Imposition of a Tax on the Gasoline Stored, Shipped, Distributed or Held for Sale Within This State, for the Purpose of Raising Revenue for Defraying the Expenses of the State Government, State Highway Commission, and the Appropriation Thereof, and Providing for the Administration of the Same.

Introduction, first and second reading, 134.

Reference, 135.

Reported back, 177, 720.

Amended, 177, 201, 720, 826, 879.

Third reading, 854, 903.

Indefinitely postponed, 855, 904.

Other action, 205, 350, 386, 471, 581, 664, 839, 871, 899, 941.

House Bill No. 72.—(Fine and McCay)

House Bill No. 72. A House Resolution Calling for an Investigation of the State Highway Commission, the Appointment of a Special House Committee Consisting of Five Members to Make a Thorough Investigation of the Said State Highway Commission With All the Necessary Powers of Procuring Legal Assistance, Accounting Experts, Stenographers, and Any Other Aid and Assistance Needed, and With the Power to Summon Witnesses and Take their Testimony Under Oath and Require the Production of All Records of Every Nature and Description, and to Make a Report of Their Findings and a Transcript of All Testimony and Records So Taken, and to Have Printed Thereof Such Number of Copies as They May Deem Necessary for the Use of the Legislative Members

- Introduction, first and second reading, 135.
- Reference, 135.
- Reported back, 206.
- Third reading, 251.
- Passed, 253.
- Other action, 172, 252.

House Bill No. 73.—(Tuneberg)

House Bill No. 73. A Bill for an Act to Amend and Re-enact Section 2464 of the Compiled Laws of North Dakota for the Year 1913, as Amended by Chapter 58 of the Session Laws of 1921, and Amending and Re-enacting Section 2468 of the Compiled Laws of North Dakota for the Year 1913, Relating to the Establishment of Drains and the Assessment of Benefits Subject to Review.

- Introduction, first and second reading, 135.
- Reference, 135.
- Reported back, 218.
- Third reading, 247.
- Passed, 247.
- Forwarded, 260.
- Returned, 1099.
- Other action, 1138.
- Signed by Speaker, 1210.
- Forwarded to Governor, 1419.

House Bill No. 74.—(E. O. Ellingson)

House Bill No. 74. A Bill for an Act to Amend and Re-enact Chapter 70 of the Laws Passed by the Special Session of the Sixteenth Legislative Assembly in the Year 1919, Relating to the Destruction of Weeds and Grasses Along the Public Highways, Specifying Method of Procedure in Case of Failure to Do So and to Provide for Assessment and Collections of the Cost Thereof.

- Introduction, first and second reading, 143.
- Reference, 144.
- Reported back, 209.
- Indefinitely postponed, 209.

House Bill No. 75.—(Quam)

House Bill No. 75. A Bill for an Act to Repeal Sections 2637, 2638, 2639 and 2640 of the Compiled Laws of North Dakota for the Year 1913, Relating to CountyW ofl of Bounty.

Introduction, first and second reading, 144.
 Reference, 144.
 Reported back, 231, 287.
 Indefinitely postponed, 287.
 Other action, 263.

House Bill No. 76.—(Burkhart)

House Bill No. 76. A Bill for an Act to Appropriate the Sum of Three Hundred (\$300.00) Dollars for the Purpose of Paying Attorneys Fees, Incurred by the Special Investigating Committee Appointed by the House of Representatives of the Special Session of the Sixteenth Legislative Assembly of the Sixteenth Legislative Assembly of the State of North Dakota, in Conducting a Hearing as to the Charges Preferred Against the Library and Those in Charge of Same and Specifically the Charge that Had eBen Made that Certain Books Specified Were in the Circulating Library, as Authorized and Directed by Said House of Representatives.

Introduction, first and second reading, 152.
 Reference, 152.
 Reported back, 636.
 Indefinitely postponed, 636.
 Other action, 530.

House Bill No. 77.—(Boyd and Twichell)

A Concurrent Resolution.
 Introduction, first and second reading, 159.
 Third reading, 159.
 Passed, 159.
 Forwarded, 172.
 Returned, 167.
 Other action, 183.
 Signed by Speaker, 188.

House Bill No. 78.—(Levin)

House Bill No. 78. A Bill for an Act to Amend and Re-enact Section 8822 of the Compiled Laws of North Dakota for the Year 1913, Relating to Commissions Allowed Administrators and Executors when there is no Provision in the Will for Compensation.

Introduction, first and second reading, 167.
 Reference, 167.
 Reported back, 217.
 Indefinitely postponed, 217.

House Bill No. 79.—(Arduser)

House Bill No. 79. A Bill for an Act Relating to the Termination of Contracts for Storage of Grain in Public Warehouses Defined by Section 3107, Compiled Laws of 1913; and for the Renewal of Such Contracts.

- Introduction, first and second reading, 167.
- Reference, 167.
- Reported back, 398.
- Indefinitely postponed, 398.
- Other action, 263, 1201.

House Bill No. 80.—(A. C. Miller)

House Bill No. 80. A Bill for an Act to Repeal Section 12, Chapter 232, Session Laws of 1923, Being an Act Providing for the Withdrawal of Land from State Hail Insurance.

- Introduction, first and second reading, 177.
- Reference, 177.
- Reported back, 261.
- Indefinitely postponed, 261.

House Bill No. 81.—(A. C. Miller)

House Bill No. 81. A Bill for an Act Amending and Re-enacting Section 7, Chapter 77, Session Laws of 1921, Being an Act Providing for the Levy of Hail Tax.

- Introduction, first and second reading, 177.
- Reference, 177.
- Reported back, 261.
- Indefinitely postponed, 261.

House Bill No. 82.—(Johnson of Ransom)

House Bill No. 82. A Bill for an Act to Regulate and Better Safeguard the Bonds of Public Officials and Public Depositories.

- Introduction, first and second reading, 178.
- Reference, 178.
- Reported back, 215.
- Amended, 215.
- Third reading, 294.
- Passed, 295.
- Forwarded, 316.
- Returned, 1051.
- Other action, 290, 1096, 1286.
- Signed by Speaker, 1117.
- Forwarded to Governor, 1178.

House Bill No. 83.—(Johnson of Ransom)

House Bill No. 83. A Bill for an Act Defining Peddlers and Licensing and Regulating Peddlers and the Peddling of Any Goods, Wares or Merchandise and Providing the Penalty for Violation Thereof.

- Introduction, first and second reading, 178.
- Reference, 178.
- Reported back, 288.
- Indefinitely postponed, 288.

House Bill No. 84.—(Fine, by request)

House Bill No. 84. A Bill for an Act Empowering the Board of Railroad Commissioners to Order, Authorize and Permit Common Carriers to Publish and Charge Special Freight Rates, Classifications, Rules and Regulations, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Introduction, first and second reading, 178.
Reference, 178.
Reported back, 286, 416.
Amended, 286, 324, 417.
Third reading, 341, 364, 441.
Passed, 442.
Returned, 1194.
Other action, 335, 341, 364, 424, 454, 1290.
Signed by Speaker, 1318.
Forwarded to Governor, 1396.

House Bill No. 85.—(Craig)

House Bill No. 85. A Bill for an Act to Amend and Re-enact Section 11, Chapter 200, Session Laws of 1923, Being an Act to Regulate the Rate of Interest to Be Paid on Deposits by Banks.

Introduction, first and second reading, 178.
Reference, 178.
Reported back, 796.
Indefinitely postponed, 797.
Other action, 381, 664.

House Bill No. 86.—(Hoople, Brown and Martin)

House Bill No. 86. A Bill for an Act to Amend and Re-enact Sections 6, 7, 13, 26 and 27 of Chapter 160 of the Session Laws of 1919 as Amended by Chapter 38 of the Special Session Laws of the Sixteenth Legislative Assembly of the State of North Dakota, as Amended and Re-enacted by Chapter 77 of the Session Laws of North Dakota for the Year 1921, as Amended and Re-enacted by Chapter 232 of the Session Laws of North Dakota for the Year 1923, Relating to State Hail Insurance.

Introduction, first and second reading, 178.
Reference, 178, 654.
Reported back, 550.
Third reading, 705, 1261.
Passed, 706, 1262.
Forwarded, 731.
Returned, 1193.
Other action, 263, 418, 551, 654, 703, 729, 1200, 1276, 1290.
Signed by Speaker, 1317.
Forwarded to Governor, 1395.

House Bill No. 87.—(Hoople)

House Bill No. 87. A Bill for an Act Protecting Insurance Agents Authorized to Do Business Within This State from Discrimination by Any Insurance Company Authorized to Do Business Within This State and Providing Penalty for Such Discrimination.

- Introduction, first and second reading, 178.
- Reference, 179.
- Reported back, 379.
- Amended, 409.
- Third reading, 409.
- Passed, 410.
- Returned, 778.
- Other action, 263, 403, 424, 453, 816, 937.
- Signed by Speaker, 817.
- Forwarded to Governor, 871.

House Bill No. 88.—(Rulon)

House Bill No. 88. A Bill for an Act to Amend and Re-enact Section 225 of the Compiled Laws of North Dakota for the Year 1913, as Amended by Chapter 127 of the Session Laws of North Dakota for the Year 1919, Relating to the Duties of the State Examiner.

- Introduction, first and second reading, 179.
- Reference, 179.
- Reported back, 230.
- Amended, 230, 281.
- Third reading, 300, 752.
- Passed, 301, 753.
- Forwarded, 316.
- Returned, 730.
- Other action, 291, 745, 765, 815, 937.
- Signed by Speaker, 817.
- Forwarded to Governor, 871.

House Bill No. 89.—(Arduser)

House Bill No. 89. A Bill for an Act to Amend and Re-enact Chapter 86 of the Session Laws for the Year 1921, as Amended by Chapter 146, Session Laws 1923, Relating to Application of the Tuberculin Test and Eradication of Bovine Tuberculosis in Townships in Counties in North Dakota Under the Direction of the State Live Stock Sanitary Board by Petitions of a Majority of Resident Freeholders or Live Stock Owners in Such Townships.

- Introduction, first and second reading, 179.
- Reference, 179.
- Reported back, 232.
- Third reading, 268.
- Passed, 269.
- Forwarded, 292.
- Returned, 991.
- Other action, 262, 1014, 1177.
- Signed by Speaker, 1030.
- Forwarded to Governor, 1113.

House Bill No. 90.—(Committee on Appropriations)

House Bill No. 90. A Bill for an Act Making an Appropriation of \$40,000.00 for the Purchase of Land and the Installing of a Waterworks System at the Hospital for the Insane at James town.

- Introduction, first and second reading, 194.
- Reference, 194.
- Reported back, 216.
- Third reading, 302.
- Passed, 303.
- Forwarded, 316.
- Returned, 387.
- Other action, 240, 281, 282, 298, 425, 535.
- Signed by Speaker, 447.
- Forwarded to Governor, 477 (see correction).

House Bill No. 91.—(Loudenbeck)

House Bill No. 91. A Bill for an Act to Amend and Re-enact Section 1, Chapter 204, Session Laws of 1915, Being an Act to Compel Railroad Companies to Maintain Suitable Stock Yards.

- Introduction, first and second reading, 194.
- Reference, 194.
- Reported back, 286.
- Third reading, 321.
- Passed, 323.
- Forwarded, 361.
- Returned, 1143.
- Other action, 321, 1179.
- Signed by Speaker, 1211.
- Forwarded to Governor, 1420.

House Bill No. 92.—(Root)

House Bill No. 92. A Bill for an Act to Repeal Sections 1733, 1734, 1735 and 1736 of the Compiled Laws of North Dakota for 1913, Relating to Military Instruction in the State Normal and Industrial School at Ellendale, N. D.

- Introduction, first and second reading, 195.
- Reference, 195.
- Reported back, 810.
- Third reading, 850.
- Passed, 851.
- Forwarded, 902.
- Returned, 1143.
- Other action, 448, 664, 841, 1179.
- Signed by Speaker, 1211.
- Forwarded to Governor, 1420.

House Bill No. 93.—(Borman and Martin)

House Bill No. 93. A Bill for an Act to Amend and Re-enact Section 3 of Chapter 187 of the Session Laws of North Dakota for the Year of 1919 as Amended by Chapter 211 of the Session Laws of North Dakota for 1923, Relating to the Qualifications of Official and Legal Newspapers and Providing for the election of such newspapers.

- Introduction, first and second reading, 195.
- Reference, 195.
- Reported back, 262.
- Amended, 262, 311.
- Third reading, 340, 1320, 1421.
- Indefinitely postponed, 1321.
- Passed, 341, 1422.
- Forwarded, 361.
- Returned, 1052.
- Other action, 335, 1053, 1083, 1191, 1320, 1413, 1415, 1417, 1425, 1446.
- Signed by Speaker, 1448.
- Forwarded to Governor, 1447.

House Bill No. 94.—(Hoople and Thatcher)

House Bill No. 94. A Bill for an Act Re-establishing the North Dakota Mill and Elevator Association, Defining Its Powers and Duties, Providing for the Control, Management, and Operation of State Owned Grain Warehouses, Elevators and Flour Mills and the Conduct of All Business Relating Thereto, Especially as Relates to the State Owned Mill and Elevator at Grand Forks, North Dakota, and Repealing Chapter 295, Laws of North Dakota of 1923.

- Introduction, first and second reading, 195.
- Reference, 195.
- Reported back, 230.
- Amended, 230, 279.
- Third reading, 301, 782.
- Passed, 302, 783.
- Forwarded, 316.
- Returned, 744.
- Other action, 291, 744, 745, 760, 781, 816, 937.
- Signed by Speaker, 817.
- Forwarded to Governor, 871.

House Bill No. 95.—(A. C. Miller)

House Bill No. 95. A Concurrent Resolution to the Congress of the United States on the Recognition of Soviet Russia.

- Introduction, first and second reading, 219.
- Reference, 219.
- Reported back, 288.
- Indefinitely postponed, 288.

House Bill No. 96.—(Morton)

House Bill No. 96 as amended. A Bill for an Act Relating to Abstracting, Providing for the Licensing and Bonding of Such Abstracters, and the Examination and Registration Thereof, and to Repeal Sections 3090, 3091, 3092, 3093, 3094, 3095, 3097 and 3098, Compiled Laws of 1913, and All Acts and Parts of Acts in Conflict Herewith.

Introduction, first and second reading, 219.
Reference, 219.
Reported back, 287.
Amended, 287, 324.
Third reading, 342.
Passed, 343.
Forwarded, 361.
Returned, 509.
Other action, 335, 644, 825.
Signed by Speaker, 677.
Forwarded to Governor, 776.

House Bill No. 97.—(Bubel)

House Bill No. 97. A Bill for an Act to Prohibit Hunting with ARutomatic Shot Guns.

Introduction, first and second reading, 219.
Reference, 219.
Reported back, 289.
Indefinitely postponed, 289.

House Bill No. 98.—(Johnson of Foster and Jodok)

House Bill No. 98. A Bill for an Act to Repeal Section 2263 Compiled Laws of the State of North Dakota for the Year 1913, as Amended and Re-enacted in Chapter 1 of the Session Laws for the Year 1917, as Amended by Chapter 191 of the Session Laws for the Year 1923, Relating to County Agents.

Introduction, first and second reading, 219.
Reference, 219.
Reported back, 460.
Third reading, 484.
Passed, 485.
Forwarded, 509.
Returned, 1195.
Indefinitely postponed, 1195.
Other action, 382, 477.

House Bill No. 99.—(Carr and Burkhart)

House Bill No. 99. A Bill for an Act Providing for the Collection of tax Assessed and Levied Against Real Estate, Providing When the Same Shall Become Delinquent, and for Penalty and Interest Thereon, and for the Sale of Real Estate for Delinquent Taxes, and for the Enforcement of the Payment of the Tax Due Thereon, the Issuance of Certificates of Indebtedness to Provide Funds for the State, Counties and Subdivisions Thereof, and Repealing Sections 2306 to 2346, Inclusive, of the Compiled Laws of the State of North Dakota for the Year 1913.

Introduction, first and second reading, 219.

Reference, 220.

Reported back, 773.

Indefinitely postponed, 773.

Other action, 370, 664.

House Bill No. 100.—(Hempel)

House Bill No. 100. A Bill for an Act to Amend and Re-enact Section 1385 of the Compiled Laws of North Dakota for the Year 1913, Relating to Teachers' Institutes and Teachers' Training Schools. Notice.

Introduction, first and second reading, 220.

Reference, 220.

Reported back, 358, 773.

Amended, 358, 774, 831.

Third reading, 916.

Indefinitely postponed, 917.

Other action, 396, 664, 938.

House Bill No. 101.—(Cart, by request)

House Bill No. 101. A Bill for an Act to Provide for the Correction of Errors in the Assessment of Property; for the Placing of Omitted Property or Property Which Has Escaped Taxation upon the Tax Lists; for the Re-assessment of Property Which Has Been Undervalued and to Repeal Sections 2137, 2216, 2217, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304 of the Compiled Laws of the State of North Dakota for the Year 1913.

Introduction, first and second reading, 220.

Reference, 220.

Reported back, 519.

Amended, 520, 583, 648.

Third reading, 648, 1307.

Passed, 649, 1308.

Forwarded, 660.

Returned, 1281.

Other action, 418, 644, 658, 1343, 1365.

Signed by Speaker, 1355.

Forwarded to Governor, 1410.

House Bill No. 102.—(Starke)

House Bill No. 102. A Bill for an Act Providing for the Regulation and Control of Motor Vehicle Traffic, Including Cities and Villages, Creating the Office of Vehicle Commissioner and Defining His Powers and Duties, Providing for the Transfer of Title of Motor Vehicles and the Registration and Licensing Thereof. Providing for Safety Equipment and Devices for Motor Vehicles, Road Rules and for the Issuance and Revocation of Operator's License and Providing Penalties for the Violation of the Provisions Hereof and Repeal of All Acts in Conflict Herewith.

Introduction, first and second reading, 220.

Reference, 220.

Reported back, 423.

Indefinitely postponed, 423.

Other action, 418.

House Bill No. 103.—(Starke)

House Bill No. 103. A Bill for an Act to Amend and Re-enact Subdivision 24 of Section 3599, Compiled Laws of 1913.

Introduction, first and second reading, 220.

Reference, 220.

Reported back, 491.

Indefinitely postponed, 491.

Other action, 350.

House Bill No. 104.—(Starke)

House Bill No. 104. A Bill for an Act to Amend and Re-enact Sub-division 11 of Section 3861 of the Compiled Laws of North Dakota for the Year 1913.

Introduction, first and second reading, 221.

Reference, 221.

Reported back, 491.

Indefinitely postponed, 491.

Other action, 350.

House Bill No. 105.—(A. C. Miller)

House Bill No. 105. A Resolution Introduced by Mr. A. C. Miller.

Introduction, first and second reading, 233.

Reference, 233.

Reported back, 462, 718.

Indefinitely postponed, 718.

Other action, 418, 664.

House Bill No. 106.—(A. C. Miller)

House Bill No. 106. A Bill for an Act to Amend and Re-enact Section 3, Chapter 199, Session Laws of 1923, Being an Act Designating Depositories of Public Funds.

Introduction, first and second reading, 233.

Reference, 233.

Reported back, 719.

Indefinitely postponed, 719.

Other action, 448, 664.

House Bill No. 107.—(Fine, by request)

House Bill No. 107. A Bill for an Act to Amend and Re-enact Section 44 of Chapter 192 of the Session Laws of North Dakota for the Year 1919, Relating to the Authority of the Board of Railroad Commissioners to Order Public Utilities to Pay Reparation, and Repealing All Acts and Parts of in Conflict Therewith.

Introduction, first and second reading, 233.
Reference, 233.
Withdrawn, 381.

House Bill No. 108.—(Rabe)

House Bill No. 108. A Bill for an Act to Amend and Re-enact Section Two (2) of Chapter 188 of the Session Laws of 1923 of the State of North Dakota, Relating to the Collection of Seed Grain and Feed Accounts Owing to Counties.

Introduction, first and second reading, 233.
Reference, 233.
Reported back, 374, 416.
Amended, 374, 416, 1358.
Third reading, 443, 1358.
Passed, 444, 1359.
Forwarded, 454.
Returned, 1281.
Other action, 423, 1308, 1343, 1351, 1370, 1373, 1397.
Signed by Speaker, 1401.
Forwarded to Governor, 1416.

House Bill No. 109.—(Twichell)

House Bill No. 109. A Bill for an Act to Amend and Re-enact Section 4541, Compiled Laws of North Dakota for the Year 1913, Relating to Number and Power of Directors of Corporations.

Introduction, first and second reading, 233.
Reference, 233.
Reported back, 355.
Third reading, 392.
Passed, 393.
Forwarded, 405.
Returned, 730.
Other action, 380, 745, 815, 937.
Signed by Speaker, 817.
Forwarded to Governor, 871.

House Bill No. 110.—(Twichell)

House Bill No. 110. A Bill for an Act to Amend and Re-enact Section 2214 of the Compiled Laws of North Dakota for 1913. Relating to Irregularities of Land to Be Platted Into Lots if Required.

Introduction, first and second reading, 233.
Reference, 234.
Reported back, 491.
Third reading, 562.
Passed, 563.
Forwarded, 590.
Returned, 1194.
Other action, 448, 555, 1289.
Signed by Speaker, 1317.
Forwarded to Governor, 1397.

House Bill No. 111.—(Carr)

House Bill No. 111. A Bill for an Act to Amend and Re-enact Section 8964 of the Compiled Laws of North Dakota for 1913, Providing for Preliminary Examination by Judge of the County Court Having Increased Jurisdiction, Preliminary Examinations and Change of Venue.

Introduction, first and second reading, 234.

Reference, 234.

Reported back, 355.

Third reading, 393.

Passed, 394.

Forwarded, 406.

Returned, 991.

Other action, 380, 1014, 1177.

Signed by Speaker, 1030.

Forwarded to Governor, 1113.

House Bill No. 112.—(Hoople)

House Bill No. 112. A Bill for an Act to Provide an Appropriation in the Sum of One Thousand Dollars for the Inspection and Eradication of Bee Diseases, Under the Provisions of Chapter 140, Session Laws of North Dakota for the Year 1923.

Introduction, first and second reading, 234.

Reference, 234.

Reported back, 373, 417.

Amended, 417.

Third reading, 433.

Indefinitely postponed, 1195.

Passed, 434.

Forwarded, 453, 1267.

Returned, 1195, 1281.

Other action, 373, 423, 1203, 1207, 1363.

Signed by Speaker, 1356.

Forwarded to Governor, 1408.

House Bill No. 113.—(Committee on Judiciary)

House Bill No. 113. A Bill for an Act to Amend and Re-enact Section 1 of Chapter 146 of the Session Laws of 1919 as Amended and Re-enacted and as Purported to be Amended and Re-enacted by Chapter 176 of the Session Laws of 1923; Creating the Office of Commissioner of Immigration, Appointment by the Governor, Term of Office, and Prescribing Salary and Bond.

Introduction, first and second reading, 234.

Reference, 234.

Reported back, 353.

Amended, 1099.

Third reading, 391, 1104.

Passed, 392, 1105.

Forwarded, 406.

Returned, 1099.

Other action, 380, 1139, 1140.

Signed by Speaker, 1210.

Forwarded to Governor, 1419.

House Bill No. 114.—(Hempel)

House Bill No. 114. A Bill for an Act to Amend and Re-enact Section 988, of the Compiled Laws of North Dakota for the Year 1913, as Amended by Chapter 201, of the Session Laws of 1923, Relating to Assisting Electors in Marking Their Ballots.

Introduction, first and second reading, 234.

Reference, 234.

Reported back, 517.

Indefinitely postponed, 517, 894.

Other action, 382, 557, 558, 664.

House Bill No. 115.—(Jacobson)

House Bill No. 115. A Bill for an Act to Amend and Re-enact Section 3081, Compiled Laws of North Dakota for 1913, Being an Act to License Operation of Coal Mines.

Introduction, first and second reading, 263.

Reference, 263.

Reported back, 463.

Third reading, 488, 528.

Indefinitely postponed, 489, 1098.

Passed, 529.

Forwarded, 590.

Returned, 1098.

Other action, 418, 477, 527.

House Bill No. 116.—(Fox, by request)

House Bill No. 116. A Bill for an Act to Amend and Re-enact Sections 9682, 9683 and 9684 of the Compiled Laws of North Dakota for the Year 1913, Providing for the Seizure of Money, or Negotiable Paper, Being Used in Gambling, and the Seizure of Other Articles or Apparatus Suitable to be Used for Gambling Purposes, and for the Destruction or Disposition of the Property Seized.

Introduction, first and second reading, 264.

Reference, 264.

Withdrawn, 336.

House Bill No. 117.—(Paul Johnson)

House Bill No. 117. A Bill for an Act Authorizing the Renewal of the Period of Corporate Existence of Certain Corporations whose Period of Duration has Expired Without the Renewal Thereof, and Legalizing Acts and Contracts of Such Corporations Made or Done and Performed Subsequent to the Expiration of the Original Period of Existence of Such Corporations, and Providing That This Act Shall Take Effect Immediately Upon its Passage and Approval.

Introduction, first and second reading, 292.

Reference, 292.

Reported back, 402.

Amended, 402, 450.

Third reading, 481.

Passed, 482.

Forwarded, 508.

Returned, 779.

Indefinitely postponed, 779.

Other action, 476.

House Bill No. 118.—(Skogland)

House Bill No. 118. A Bill for an Act to Amend and Re-enact Section 780 of the Compiled Laws of the State of North Dakota for the Year 1913, as Amended by Chapter 54 of the Session Laws of the State of North Dakota for the Year 1921, Relating to Compensation of Court Stenographers, and Providing for the Payment of Expenses.

Introduction, first and second reading, 292.

Reference, 293.

Reported back, 375.

Indefinitely postponed, 375.

House Bill No. 119.—(Halcrow)

House Bill No. 119. A Bill for an Act to Appropriate the Sum of Eight Thousand Five Hundred Dollars (\$8,500.00) for the Retirement of Part of the Bonds Issued Against the Present Bridge Across the Red River of the North From a Point in the County of Pembina, State of North Dakota, at the Town of Drayton, to a Point in the County of Kittson in the State of Minnesota, Out of the State Highway Funds.

Introduction, first and second reading, 293.

Reference, 293.

Reported back 356.

Indefinitely postponed, 356.

Other action, 327, 665.

House Bill No. 120.—(Streich)

House Bill No. 120. A Bill for an Act to Require All State Officers and the Heads of All State Institutions, Boards, Bureaus and Commissions to Furnish to the Governor and to Each Member of the Legislature a Verified Itemized Statement of All Receipts and Disbursements Received or Disbursed by Them.

Introduction, first and second reading, 293.

Reference, 293.

Reported back, 721.

Indefinitely postponed, 721.

Other action, 448, 581, 664.

House Bill No. 121.—(Hoople and Thatcher)

House Bill No. 121. A Bill for an Act Creating the Office of State Efficiency Expert, Providing for the Appointment of Such Officer, Prescribing His Powers and Duties, Fixing His Salary, and Making an Appropriation for Payment of Same.

Introduction, first and second reading, 293.

Reference, 293.

Reported back, 835.

Amended, 835.

Third reading, 926.

Passed, 927.

Forwarded, 946.

Returned, 1280, 1382.

Indefinitely postponed, 1280, 1382.

Other action, 418, 476, 664, 939, 1350, 1351, 1357.

House Bill No. 122.—(Oberg)

House Bill No. 122. A Bill for an Act to Repeal All Sections and Parts of Sections, Establishing, Regulating and Providing for the Maintenance of State Fairs at the Cities of Grand Forks, Fargo, Minot and Mandan.

Introduction, first and second reading, 293.
Reference, 293.
Reported back, 802.
Third reading, 906.
Passed, 907.
Forwarded, 948.
Returned, 1098.
Indefinitely postponed, 1098.
Other action, 500, 664, 841.

House Bill No. 123.—(Freeman)

House Bill No. 123. A Bill for an Act to Amend and Re-enact Section 1100, of the Compiled Laws of North Dakota for the Year 1913, Relating to the Compensation of Members of Board of Registry.

Introduction, first and second reading, 293.
Reference, 293.
Third reading, 408.
Passed, 408.
Forwarded, 405.
Returned, 701.
Other action, 403, 777, 937.
Signed by Speaker, 785.
Forwarded to Governor, 870.

House Bill No. 124.—(Martin, by request)

House Bill No. 124. A Bill for an Act to Amend and Re-enact Section 811 of the Compiled Laws of North Dakota for the Year 1913, As Amended by Chapter 69 of the Session Laws of the Year 1919 and Also as Amended by Chapter 134 of the Session Laws of the Year 1923, Relating to the State Bar Board and Particularly as to Whom May Practice Law and the Issuance of Licenses to Practice.

Introduction, first and second reading, 294.
Reference, 294.
Reported back, 355.
Indefinitely postponed. 356.

House Bill No. 125.—(Committee on Appropriations)

House Bill No. 125. A Bill for an Act to Amend and Re-enact Sections 2005, 2906, 2910 Compiled Laws of the State of North Dakota for 1913, Relating to the Analysis and Testing of Seeds by the Agricultural College Experiment Station, and the Certification Thereof, and Repealing Section 2910 and All Acts in Conflict Herewith.

Introduction, first and second reading, 294.

Reference, 294.

Reported back, 514.

Amended, 514, 579.

Third reading, 610.

Passed, 611.

Forwarded, 640.

Returned, 991.

Other action, 448, 588, 1014, 1177.

Signed by Speaker, 1030.

Forwarded to Governor, 1113.

House Bill No. 126.—(Burkhart)

House Bill No. 126. A Bill for an Act for the Creation of a Fund to Investigate the Possibilities of Finding Oil and Gas in Commercial Quantities in the State of North Dakota, and Making an Appropriation Therefor.

Introduction, first and second reading, 294.

Reference 294.

Reported back, 398.

Indefinitely postponed, 398.

Other action, 426.

House Bill No. 127.—(Hempel)

House Bill No. 127. A Bill for an Act Extending the Rights of Eminent Domain as to State Institutions.

Introduction, first and second reading, 310.

Reference, 310.

Reported back, 320.

Third reading, 325.

Passed, 326.

Forwarded, 361.

Returned, 1052.

Other action, 336, 1097, 1286.

Signed by Speaker, 1117.

Forwarded to Governor 1178.

House Bill No. 128.—(Zimmerman)

House Bill No. 128. A Bill for an Act to Amend and Re-enact Section 8133 of the Compiled Laws of North Dakota for 1913, Relating to Chattel Mortgage Sales.

Introduction, first and second reading, 314.

Reference, 314.

Reported back, 399.

Amended, 399, 449.

Third reading, 480.

Passed, 481.

Forwarded, 508.

Returned, 1052.

Indefinitely postponed, 1052.

Other action, 476.

House Bill No. 129.—(Mrs. Craig)

House Bill No. 129. A Bill for an Act Making an Appropriation for the Construction of a State Owned Radio Broadcasting Station at Bismarck, and Providing for the Construction of the Same and its Management.

Introduction, first and second reading, 314.
 Reference, 314.
 Reported back, 857.
 Indefinitely postponed, 857.
 Other action, 448, 664.

House Bill No. 130.—(Committee on Judiciary)

House Bill No. 130. A Bill for an Act Appropriating \$10,000.00 Out of the State Bar Fund and Transferring the Same to the General Fund of the State.

Introduction, first and second reading, 313.
 Reference, 313.
 Reported back, 400.
 Thirdreading 434.
 Passed, 435.
 Returned, 1099.
 Other action, 425, 453, 1138.
 Signed by Speaker, 1211.
 Forwarded to Governor, 1420.

House Bill No. 131.—(Committee on Judiciary)

House Bill No. 131. A Bill for an Act to Provide for the Compilation of a Supplement to the Compiled Laws of 1913, to Comprise the Statutes Enacted by the Regular Sessions of 1915, 1917, 1919, 1921, 1923, 1925 and Two Special Sessions Since 1913, and Authorizing the Secretary of State to Contract with the Lawyers Co-operative Publishing Company of Rochester, New York, to Prepare, Annotate, and Publish Such a Supplement; and Making an Appropriation for the Purchase of Copies for the Use of the State.

Introduction, first and second reading, 313.
 Reference, 313.
 Reported back, 401.
 Amended, 991.
 Third reading 436, 994.
 Passed, 436, 995.
 Returned, 991.
 Other action, 425,.... 454, 993, 1014, 1018, 1177.
 Signed by Speaker, 1030.
 Forwarded to Governor, 1113.

House Bill No. 132.—(Sanford)

House Bill No. 132. A Bill for an Act to appropriate the Sum of \$5,000.00 for the Purpose of Carrying Out the Provisions of Sections 711, 712 and 713 of the Compiled Laws of North Dakota for the Year 1913, Relating to the Employment of Accountants and Establishing a System of Accounting in County Offices.

Introduction, first and second reading, 313.
 Reference, 313.
 Reported back, 459.
 Amended, 460.
 Indefinitely postponed, 495.

House Bill No. 133.—(Zimmerman, by request)

House Bill No. 133. A Bill for an Act to Amend and Re-enact Section 2138, Compiled Laws of 1913, Relating to the Powers and Duties of County Boards of Review and Equalization; and Section 2140, Compiled Laws of 1913, Relating to Duties of County Auditors; and to Repeal all Acts and Parts of Acts in Conflict Herewith.

Introduction, first and second reading, 314.

Reference, 314.

Reported back, 477, 686.

Indefinitely postponed, 686.

Other action, 471, 478, 664.

House Bill No. 134.—(Sanford)

House Bill No. 134. A Concurrent Resolution for an Amendment to Section 173 of Article 10 of the Constitution of the State of North Dakota, Providing for the Election of County Officers and Regulating the Terms Thereof.

Introduction, first and second reading, 314.

Reference, 314.

Reported back, 353, 416.

Amended, 416.

Third reading, 444.

Lost, 445.

Other action, 380, 381, 424.

House Bill No. 135.—(Sanford)

House Bill No. 135. A Concurrent Resolution for an Amendment to the Constitution of the State of North Dakota, Providing for the Election of State Officers and Prescribing the Terms of Office and Qualifications Therefor.

Introduction, first and second reading, 314.

Reference, 314.

Reported back, 354, 417.

Indefinitely postponed, 417.

Other action, 380, 381.

House Bill No. 136.—(Morton and Veitch)

House Bill No. 136. A Bill for an Act to Amend and Re-enact Section 1190 of the Compiled Laws of North Dakota for the Year 1913, as Amended by Chapter 199 of the Laws of North Dakota for the Year 1919, as Amended by Chapter 53 of the Laws of North Dakota, Special Session of the Year 1919, as Amended by Chapter 113, Session Laws of 1921, Relating to the Consolidation of Schools and Contracting for the Transportation of Pupils to and From Said Schools; and Providing for a Board of Arbitration.

Introduction, first and second reading, 314.

Reference, 315.

Reported back, 400.

Amended, 400.

Third reading, 439.

Lost 440.

Other action, 425.

House Bill No. 137.—(Veitch and Morton)

House Bill No. 137. A Bill for an Act Amending and Re-enacting Section 1342 of the Compiled Laws of the State of North Dakota for 1913, as Amended by Chapter 141, of the Session Laws of the State of North Dakota for 1915, as Amended by Chapter 206 of the Session Laws of North Dakota for 1917, Relating to Compulsory Attendance, School Age and the Transportation of Pupils.

Introduction, first and second reading, 321.

Reference, 322.

Reported back, 399.

Third reading, 438.

Lost, 438.

Other action, 425.

House Bill No. 138.—(Elken)

House Bill No. 138. A Bill for an Act to Amend and Re-enact Section 8774 of the Compiled Laws of North Dakota for the Year 1913, Providing for the Sale of Real Estate by the County Court and for the Advertising of the Same and How Made.

Introduction, first and second reading, 322.

Reference, 322.

Reported back, 522.

Third reading, 568.

Passed 569.

Forwarded, 590.

Returned, 1302.

Indefinitely postponed, 1302.

Other action, 471, 555.

House Bill No. 139.—(Jacobson)

House Bill No. 139. A Bill for an Act to Amend and Re-enact Section 3082, Compiled Laws of North Dakota for 1913, Being an Act to Provide for Set Statistics to be Kept by the Mine Operators for Public Inspection.

Introduction, first and second reading, 323.

Reference, 323.

Reported back, 462.

Amended, 487.

Third reading, 487.

Passed, 488.

Forwarded, 590.

Returned, 1098.

Indefinitely postponed, 1098.

Other action, 477.

House Bill No. 140.—(Morton)

House Bill No. 140. A Bill for an Act Providing that the Salary of Officials and Employees of a City, County, or the State Government or any Department or Institution Thereof May Be and Is Subject to Garnishment Issued on Judgments Ex Contracts, Founded Upon Debts, Demands or Claims Which Originated Subsequent to the Date of Approval of this Act; Providing Upon Whom Garnishment Papers May Be Served and by Whom Answered.

Introduction, first and second reading, 325.

Reference, 325.

Reported back, 459.

Indefinitely postponed, 459.

House Bill No. 141.—(Jacobson)

House Bill No. 141. A Bill for an Act to Amend and Re-enact Section 83, Chapter 168, Session Laws of 1919, Being an Act, to Provide for Safety of Employees of Miners and for the Examination of Miners and to Create a Board of Miner

Introduction, first and second reading, 336.

Reference, 336.

Reported back, 513.

Indefinitely postponed, 533.

Other action, 514, 534, 555.

House Bill No. 142.—(Johnson of Trail)

House Bill No. 142. A Bill for an Act to Repeal Sections 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289 and 2290 of the Compiled Laws of North Dakota for the Year 1913 Relating to Bond Issues Authorized by the Legislative Assembly of the State of North Dakota Which Have Been Retired.

Introduction, first and second reading, 336)

Reference, 336.

Reported back, 422.

Third reading, 467.

Passed, 468.

Forwarded(479.

Returned, 1099.

Other action, 466. 1138.

Signed by Speaker, 1211.

Forwarded to Governor, 1420.

House Bill No. 143.—(Plath and Tuneberg)

House Bill No. 143. A Bill for an Act Prescribing the Penalty for Larceny in the Night Time of Poultry and Live Stock.

Introduction, first and second reading, 336.

Reference, 336.

Reported back, 633.

Amended, 633, 683.

Third reading, 733, 1166.

Passed, 734, 1166.

Forwarded, 764.

Returned, 1144.

Other action, 471, 729, 1165, 1179, 1187.

Signed by Speaker, 1211.

Forwarded to Governor, 1420.

House Bill No. 144.—(Oberg)

House Bill No. 144. A Bill for an Act Providing for the Manner of Constructing Crossings, and for the Construction and Maintenance of Certain Signs at the Crossings of Railroads, Streets and Public Highways, and Regulating the Use of Such Crossings by the Public, and for the Establishment, Vacation and Re-location of Such Crossings and for the Protection of Dangerous Railroad Grade Crossings.

Introduction, first and second reading, 348.

Reference, 348.

Reported back, 856.

Amended, 933.

Third reading, 934.

Passed, 935.

Forwarded. 957.

Returned, 1194.

Other action, 530, 665, 908, 939, 959, 1289.

Signed by Speaker, 1318.

Forwarded to Governor, 1396.

House Bill No. 145.—(Starke)

House Bill No. 145. A Bill for an Act to Amend and Re-enact Section 4503 of the Compiled Laws of North Dakota for the Year 1913; Limiting the Value of Property to Be Held by Religious and Charitable Corporations and Associations.

Introduction, first and second reading, 359.

Reference, 359.

Reported back, 521.

Third reading, 567.

Passed, 568.

Forwarded, 590.

Returned, 1051.

Other action, 555, 1097, 1286.

Signed by Speaker, 1117.

Forwarded to Governor, 1178.

House Bill No. 146.—(Tuneberg and Jodock)

House Bill No. 146. A Bill for an Act to Amend and Re-enact Section 1043 of the Compiled Laws of North Dakota for the Year 1913, as Amended by Chapter 148, Session Laws of 1915, and Chapter 61, Session Laws of 1921, Relating to the Compensation of Election Officers.

Introduction, first and second reading, 359.

Reference, 359.

Reported back, 518.

Third reading, 565.

Indefinitely postponed, 565.

Other action, 555.

House Bill No. 147.—(Cart)

House Bill No. 147. A Bill for an Act to Amend and Re-enact Section 2190 of the Compiled Laws of 1913 Relating to Penalty and Interest on Delinquent Taxes and The Disposition Thereof.

Introduction, first and second reading, 359.

Reference, 360.

Reported back, 517.

Indefinitely postponed, 517.

House Bill No. 148.—(Butt)

House Bill No. 148. A Bill for an Act to Amend and Re-enact Section 3116 of the Compiled Laws of 1913, as Amended by Chapter 342, Session Laws of 1923, Relating to Storage Charges and Insurance on Grain and Prohibiting the Transferring or Assigning of Insurance on Grain and Giving Ticket Holders the First Lien on Proceeds of Insurance and also Amending and Re-enacting Section 3114, Compiled Laws of 1913, Giving the Owners of Storage Tickets a Prior Lien on All Grain on Hand in Case of Insolvency.

Introduction, first and second reading, 360.
Reference, 360.
Reported back, 628.
Amended, 628, 680.
Third reading, 711.
Passed, 712.
Forwarded, 732.
Returned, 1281.
Other action, 500, 692.
Signed by Speaker, 1355, 1364.
Forwarded to Governor, 1408.

House Bill No. 149.—(Freeman)

House Bill No. 149. A Bill for an Act to Create a State Board of Accountancy and Prescribing Its Duties and Powers; to Provide for the Examinations of and Issuance of Certificates to Qualified Accountants, with the Designation of Certified Public Accountants; to Provide the Penalty for Violations of the Provisions Thereof; and to Repeal Sections 549, 550, 551, 552, 553, 554, 555, 556 and 557 of the Compiled Laws of North Dakota for the Year 1913 and All Other Acts or Parts of Acts in Conflict Therewith.

Introduction, first and second reading, 360.
Reference, 360.
Reported back, 522.
Amended, 623, 1098.
Third reading, 666, 1105, 1366.
Passed, 667, 1106, 1367.
Forwarded, 696.
Returned, 1098.
Other action, 658, 1129, 1139, 1140, 1291, 1305, 1343, 1365, 1366, 1370, 1373, 1397.
Signed by Speaker, 1401.
Forwarded to Governor, 1416.

House Bill No. 150.—(Thatcher)

House Bill No. 150. A Bill for an Act to Repeal Chapter 42 of the Political Code of North Dakota for the Year 1913.

Introduction, first and second reading, 370.
Reference, 370.
Reported back, 422.
Indefinitely postponed, 423.

House Bill No. 151.—(McCay)

House Bill No. 151. A Bill for an Act to Amend and Re-enact Section 3239 of the Compiled Laws of North Dakota for 1913, as Amended by Chapter 117 of the Session Laws of North Dakota for 1915 as Amended by Chapter 102 of the Session Laws of 1917, Relating to the Frequency of Holding an Election for the Removal of County Seats Not Located on the Railroad and Providing a Primary Election Thereon and Prescribing the Number of Votes Required for Such Removal.

- Introduction, first and second reading, 370.
- Reference, 370.
- Reported back, 402.
- Third reading, 440.
- Indefinitely postponed, 779.
- Passed, 441.
- Forwarded, 454.
- Returned, 779.
- Other action, 424.

House Bill No. 152.—(Jacobson)

House Bill No. 152. A Bill for an Act to Enact and Re-enact Chapter 170 of the Session Laws of North Dakota for the Year 1919, as Amended by Chapter 346 of the Session Laws of North Dakota for the Year 1923, Being an Act Regulating and Fixing the Hours of Labor of Females and Providing Penalties for the Violation Thereof.

- Introduction, first and second reading, 382.
- Reference, 383.
- Reported back, 689.
- Amended, 827.
- Third reading, 737, 922.
- Indefinitely postponed, 739.
- Passed, 923.
- Forwarded, 947.
- Returned, 1194.
- Other action, 530, 729, 752, 840, 1289.
- Signed by Speaker, 1317.
- Forwarded to Governor, 1397.

House Bill No. 153.—(Quam and Freeman)

House Bill No. 153. A Bill for an Act to Amend and Re-enact Chapter 44 of the Session Laws of 1921 Relating to the Organization of Co-operative Associations, to Promote, Foster and Encourage the Proper Marketing of Agricultural Products and By-products, Prescribing Their Powers and Duties, Providing for the Filing of Contracts of Such Associations with Members, Notice to the Public from Such Filing of Contracts, Providing Remedies and Penalties for Violations of the Provisions of the Laws Relating to Such Associations, Providing for the Repeal of Laws in Conflict Herewith, and Declaring an Emergency.

- Introduction, first and second reading, 383.
- Reference, 383.
- Reported back, 806.
- Indefinitely postponed, 861.
- Other action, 530.

House Bill No. 154.—(Roberts)

House Bill No. 154. A Bill for an Act Providing for the Taxation of Real Estate.

Introduction, first and second reading, 383.

Reference, 383.

Reported back, 516.

Indefinitely postponed, 516.

Other action, 517.

House Bill No. 155.—(Hardy of Slope)

House Bill No. 155. A Bill for an Act to Amend and Re-enact Chapter 136, Laws of North Dakota for the Year 1923, Providing for the Supervision and Regulation of the Transportation of Persons and Property for Compensation Over Any Public Highway by Motor Propelled Vehicles; Defining Transportation Companies; Providing for Supervision and Regulation Thereof by the Board of Railroad Commissioners of the State of North Dakota; Providing for the Enforcement of the Provisions of This Act and for the Punishment of the Violation Thereof.

Introduction, first and second reading, 383.

Reference, 383.

Reported back, 856.

Third reading, 907.

Passed, 908.

Forwarded, 947.

Returned, 1194.

Other action, 530, 665, 940, 1290.

Signed by Speaker, 1318.

Forwarded to Governor, 1395.

House Bill No. 156.—(Palms, by request)

House Bill No. 156. A Bill for an Act to Amend and Re-enact Section 2 of Chapter 167, Session Laws of 1913 and to Provide for Greater Dispatch of Business in Burleigh County.

Introduction, first and second reading, 383.

Reference, 383.

Reported back, 552.

Amended, 552, 679.

Third reading, 708.

Passed, 709.

Forwarded, 732.

Returned, 1100.

Other action, 530, 693, 1138.

Signed by Speaker, 1211.

Forwarded to Governor, 1419.

House Bill No. 157.—(Carft)

House Bill No. 157. A Bill for an Act to Amend and Re-enact Section 40, Article 12, Chapter 312, Session Laws of 1913, Relating to the Assessment, Levy and Collection of a Tax Upon Incomes.

- Introduction, first and second reading, 406.
- Reference, 406.
- Reported back, 552.
- Amended, 552, 679.
- Third reading, 709.
- Passed, 710.
- Forwarded, 732.
- Returned, 1053.
- Indefinitely postponed, 1053.
- Other action, 693.

House Bill No. 158.—(Cart)

House Bill No. 158. A Bill for an Act to Amend and Re-enact Section 2180 of the Compiled Laws of 1913.

- Introduction, first and second reading, 406.
- Reference, 406.
- Reported back, 475.
- Third reading, 560.
- Passed, 561.
- Forwarded, 590.
- Returned, 1053.
- Indefinitely postponed; 1053.
- Other action, 555.

House Bill No. 159.—(Currie)

House Bill No. 159. A Bill for an Act to Amend and Re-enact Section 2664 of the Compiled Laws of North Dakota for the Year 1913, Having to Do With Estrays and the Sale Thereof.

- Introduction, first and second reading, 406.
- Reference, 407.
- Reported back, 575.
- Amended, 1098.
- Third reading, 609, 1103.
- Passed, 610, 1103.
- Forwarded, 640.
- Returned, 1098.
- Other action, 588, 1102, 1138, 1140.
- Signed by Speaker, 1210.
- Forwarded to Governor, 1419.

House Bill No. 160.—(Committee on State Affairs)

House Bill No. 160. A Bill for an Act to Prescribe Who Shall Be Qualified Electors in Certain Bond Elections in this State.

- Introduction, first and second reading, 406.
- Reference, 407.
- Reported back, 477.
- Third reading, 561.
- Indefinitely postponed, 562.
- Other action, 555.

House Bill No. 161.—(Jacobson)

House Bill No. 161. A Bill for an Act to Amend and Re-enact Section 3663 of the Compiled Laws of North Dakota for 1913 Providing for the Appointment of City Engineers and Fixing Their Compensation.

Introduction, first and second reading, 407.

Reference, 407.

Reported back, 490.

Indefinitely postponed, 490.

House Bill No. 162.—(Hardy of Slope)

House Bill No. 162. A Bill for an Act to Re-enact Section 4863 of the Compiled Laws of North Dakota for the Year 1913, as Amended by Chapter One Hundred and Sixty-Three (163) of the Session Laws for the Year 1919, Relating to Capital Stock Required by Domestic and Other Stock Insurance Companies.

Introduction, first and second reading, 407.

Reference, 407.

Reported back, 521.

Indefinitely postponed, 521.

House Bill No. 163.—(Loudenbeck)

House Bill No. 163. A Bill for an Act to Amend and Re-enact Section 185 of the Session Laws of North Dakota for 1915, as Amended and Re-enacted by Chapter 156 of the Session Laws of North Dakota of 1923; Relating to the Support of Needy Women who are the Mothers of and Who are Compelled to Support One or More Children.

Introduction, first and second reading, 407.

Reference, 407.

Reported back, 575.

Third reading, 608.

Passed, 609.

Forwarded, 640.

Returned, 1052.

Other action, 588, 1097, 1286.

Signed by Speaker, 1117.

Forwarded to Governor, 1178.

House Bill No. 164.—(McGavren)

House Bill No. 164. A Bill for an Act to Repeal Section 1990p of the Compiled Laws of North Dakota for the Year 1913, as Amended by Chapter 168 of the Session Laws of North Dakota for the Year 1915; Relating to Highway Taxes.

Introduction, first and second reading, 407.

Reference, 407.

Reported back, 548.

Third reading, 605.

Indefinitely postponed, 606.

Other action, 589, 645.

House Bill No. 165.—(Joint Committee on Agriculture)

House Bill No. 165. A Concurrent Resolution Introduced by the Joint Committee on Agriculture.

Introduction, first and second reading, 407.

Reference, 407.

Reported back, 690.

Third reading, 741.

Passed, 742.

Forwarded, 764.

Returned, 1194.

Other action, 664, 1290.

Signed by Speaker, 1318.

Forwarded to Governor, 1395.

House Bill No. 166.—(Vogel)

House Bill No. 166. A Bill for an Act Defining and Establishing the State Mill and Elevator, Located at or Near the City of Grand Forks, North Dakota, as a Public Terminal Grain Elevator.

Introduction, first and second reading, 407.

Reference, 407.

Reported back, 475.

Third reading, 529.

Passed, 530.

Forwarded, 590.

Returned, 1051, 1194.

Other action, 555, 1097, 1286.

Signed by Speaker, 1117.

Forwarded to Governor, 1178.

House Bill No. 167.—(Tschida)

House Bill No. 167. A Bill for an Act to Amend and Re-enact Section 3716 of the Compiled Laws of 1913 as Amended by Chapter 174 of the Special Session Laws of 1923. Relating to Payment of Deficiency in Special Assessments.

Introduction, first and second reading, 428.

Reference, 428.

Reported back, 637.

Indefinitely postponed, 637.

House Bill No. 168.—(Morton)

House Bill No. 168. A Bill for an Act Entitled Act to Make the State and All Boards and Commissions Created by Law and Counties and Other Governmental Sub-divisions Liable for Negligence in the Doing of Public Work to the Same Extent as Municipal Corporations.

Introduction, first and second reading, 428.

Reference, 428, 721.

Reported back, 721, 771.

Indefinitely postponed, 771.

Other action, 664.

House Bill No. 169.—(Carr and Starke)

House Bill No. 169. A Bill for an Act to Amend and Re-enact Section 10766 of the Compiled Laws of North Dakota for the Year 1913, Providing the Procedure Where Joint Affidavit is Filed in Criminal Cases, Alleging Prejudice Against the Judge and Also Asking for a Change in Place of Trial.

Introduction, first and second reading, 428.

Reference, 428.

Reported back, 552.

Third reading, 604.

Passed, 605.

Indefinitely postponed, 653.

Other action, 489, 653.

House Bill No. 170.—(Carr and Starke)

House Bill No. 170. A Bill for an Act to Amend and Re-enact Section 10914 of the Compiled Laws of North Dakota for the Year 1913, Relating to the Statement of the Case in Criminal Proceedings.

Introduction, first and second reading, 428.

Reference, 428.

Reported back, 575.

Amended, 575, 680.

Third reading, 710.

Passed, 711.

Forwarded, 732.

Returned, 1100.

Other action, 1138.

Signed by Speaker, 1210.

Forwarded to Governor, 1419.

House Bill No. 171.—Carr and Starke)

House Bill No. 171. A Bill for an Act to Amend and Re-enact Section 9917 of the Compiled Laws of North Dakota for the Year 1913, Relating to Punishment of Grand Larceny.

Introduction, first and second reading, 429.

Reference, 429.

Reported back, 553.

Third reading, 603.

Passed, 604.

Forwarded, 641.

Returned, 1194.

Other action, 588, 1290.

Signed by Speaker, 1318.

Forwarded to Governor, 1396.

House Bill No. 172.—(Carr and Starke)

House Bill No. 172. A Bill for an Act to Amend and Re-enact Section 10605 of the Compiled Laws of North Dakota for the Year 1913, Relating to Examination of Witnesses in Preliminary Examinations.

Introduction, first and second reading, 429.

Reference, 429.

Reported back, 553.

Indefinitely postponed, 553.

House Bill No. 173.—(Carr and Starke)

House Bill No. 173. A Bill for an Act to Amend and Re-enact Section 10141 of the Compiled Laws of North Dakota for the Year 1913, Relating to Being Intoxicated in a Public Place.

Introduction, first and second reading, 429.
 Reference, 429.
 Reported back, 553.
 Third reading, 601.
 Passed, 602.
 Forwarded, 641.
 Returned, 1194.
 Other action, 588, 1289.
 Signed by Speaker, 1317.
 Forwarded to Governor, 1397.

House Bill No. 174.—(Carr and Starke)

House Bill No. 174. A Bill for an Act Providing for Investigations of Violations of Laws, Providing Regulations Governing Same, and Prescribing Penalties for Violations Thereof.

Introduction, first and second reading, 429.
 Reference, 429.
 Reported back, 574.
 Indefinitely postponed, 574.

House Bill No. 175.—(Carr and Starke)

House Bill No. 175. A Bill for an Act to Amend and Re-enact Sections 10804 and 10805 of the Compiled Laws of North Dakota for the Year 1913, Relating to Challenges to Jurors in Criminal Cases.

Introduction, first and second reading, 429.
 Reference, 429.
 Reported back, 574.
 Indefinitely postponed, 574.

House Bill No. 176.—(Carr and Starke)

House Bill No. 176. A Bill for an Act to Amend and Re-enact Section 9441 of the Compiled Laws of North Dakota for the Year 1913, Defining Criminal Conspiracies.

Introduction, first and second reading, 429.
 Reference, 429.
 Reported back, 574.
 Indefinitely postponed, 574.

House Bill No. 177.—(Carr and Starke)

House Bill No. 177. A Bill for an Act to Amend and Re-enact Section 10523 of the Compiled Laws of North Dakota for the Year 1913, Relating to the time of Commencing Criminal Actions, and Providing Exceptions Therefor.

Introduction, first and second reading, 429.
 Reference, 430.
 Reported back, 553.
 Third reading, 599.
 Passed, 600.
 Forwarded, 641.
 Returned, 1194.
 Other action, 589, 1289.
 Signed by Speaker, 1317.
 Forwarded to Governor, 1396.

House Bill No. 178.—(Carr and Starke)

House Bill No. 178. A Bill for an Act to Amend and Re-enact Sections 11113, and 11114 and 11115 of the Compiled Laws of North Dakota for the Year 1913, Relating to Bail.

Introduction, first and second reading, 430.
Reference, 430.
Reported back, 574.
Third reading, 607.
Passed, 608.
Forwarded, 641.
Returned, 1194.
Other action, 588, 1290.
Signed by Speaker, 1318.
Forwarded to Governor, 1396.

House Bill No. 179.—(Carr and Starke)

House Bill No. 179. A Bill for an Act to Amend and Re-enact Section 10994 of the Compiled Laws of North Dakota for the Year 1913, Relating to the Time for Appeal to the Supreme Court in Criminal Cases.

Introduction, first and second reading, 430.
Reference, 430.
Reported back, 554.
Third reading, 598.
Passed, 599.
Forwarded, 641.
Returned, 1194.
Other action, 589, 1290.
Signed by Speaker, 1318.
Forwarded to Governor, 1396.

House Bill No. 180.—(Carr and Starke)

House Bill No. 180. A Bill for an Act to Amend and Re-enact Section 1, of Chapter 97 of the Session Laws of 1921, as Amended and Re-enacted by Section 1, of Chapter 268 of the Session Laws of 1923, Defining Intoxicating Liquors.

Introduction, first and second reading, 430.
Reference, 430.
Reported back, 769.
Third reading, 821.
Passed, 822.
Forwarded, 845.
Returned, 1144, 1310.
Other action, 621, 664, 814, 1165, 1174, 1175, 1365.
Signed by Speaker, 1356.
Forwarded to Governor, 1410.

House Bill No. 181.—(Quade)

House Bill No. 181. A Bill for an Act to Amend and Re-enact Section 21 of Chapter 231 of the Session Laws of 1917, as Amended and Re-enacted by Section 21 of Chapter 225 of the Session Laws of 1919 Relating to the Taxation of Transfers of Property by Will, Gift or by Intestate Law.

Introduction, first and second reading, 430.
Reference, 430.
Reported back, 521.
Third reading, 736.
Passed, 737.
Forwarded, 765.
Returned, 1099 .
Other action, 664, 729, 1138.
Signed by Speaker, 1210.
Forwarded to Governor, 1419.

House Bill No. 182.—(Johnson of Ransom)

House Bill No. 182. A Bill for an Act to Regulate and Restrict Advertising Signs and Devices on Public Highways and on Private Property Where They Obstruct the View of Grade Highway Railroad Crossings.

Introduction, first and second reading, 430.
Reference, 430.
Reported back, 549.
Third reading, 606.
Passed, 607.
Forwarded, 641.
Returned, 991.
Other action, 589, 1014, 1177.
Signed by Speaker, 1030.
Forwarded to Governor, 1113.

House Bill No. 183.—(Morton)

House Bill No. 183. A Bill for an Act to Amend and Re-enact Section 10248 of the Compiled Laws of North Dakota for the Year 1913, Forbidding the Injury, Destruction or Removal of Encumbered Chattel Property from the State, and Prescribing Penalties Therefor.

Introduction, first and second reading, 430.
Reference, 430.
Reported back, 554.
Third reading, 597.
Passed, 598.
Forwarded, 641.
Returned, 1099.
Other action, 589, 1137.
Signed by Speaker, 1210.
Forwarded to Governor, 1419.

House Bill No. 184.—(Olafson and Morton)

House Bill No. 184. A Bill for an Act to Amend and Re-enact Section 69 of the Compiled Laws of North Dakota for 1913, Relating to the Printing of the Popular Edition of the Session Laws; Fixing the Specifications for the Unauthenticated Edition of the Session Laws of the State of North Dakota, and Repealing All Acts and Parts of Acts in Conflict Therewith.

- Introduction, first and second reading, 431.
- Reference, 431.
- Reported back, 795.
- Amended, 852.
- Indefinitely postponed, 795.
- Third reading, 852.
- Passed, 853.
- Forwarded, 902.
- Returned, 1303.
- Other action, 664, 804, 824, 840, 941, 1365.
- Signed by Speaker, 1355.
- Forwarded to Governor, 1409.

House Bill No. 185.—(Palms and Thompson of Burleigh)

House Bill No. 185. A Bill for an Act to Amend and Re-enact Section 9 of Chapter 292 of the Session Laws of 1923, Relating to the Issue of Bonds on the State of North Dakota in a Sum Not Exceeding Twenty-five Million Dollars to Be Known as "Bonds of North Dakota, Real Estate Series;" Prescribing the Terms and Stating the Purpose Thereof; Providing for a Tax and Making Other Provisions for the Payment of Interest and Principal on State Bonds, and to Carry Into Effect the Provisions of Said Act.

- Introduction, first and second reading, 463.
- Reference, 463.
- Reported back, 770.
- Indefinitely postponed, 770.
- Other action, 621, 664.

House Bill No. 186.—(Vogel)

House Bill No. 186. A Bill for an Act to Amend and Re-enact Section 5167 of the Compiled Laws of 1913 Requiring Regular and Special Reports to the State Examiner by Banking Associations, Savings Banks and Trust Companies, and Providing Penalties for Failure to Make the Same.

- Introduction, first and second reading, 464.
- Reference, 464.
- Reported back, 720.
- Amended, 720, 826.
- Third reading, 853.
- Passed, 854.
- Forwarded, 902.
- Returned, 1303.
- Other action, 664, 839, 1363.
- Signed by Speaker, 1354.
- Forwarded to Governor, 1409.

House Bill No. 187.—(Dougherty)

House Bill No. 187. A Bill for an Act Defining the Offense of Robbery by Force and Prescribing Penalties Therefor.

Introduction, first and second reading, 464.

Reference, 464.

Reported back, 638.

Amended, 638, 789.

Third reading, 841.

Indefinitely postponed, 842.

Other action, 840.

House Bill No. 188.—(Morton)

House Bill No. 188. A Concurrent Resolution Introduced in the House of Representatives of the State of North Dakota by G. W. Morton.

Introduction, first and second reading, 464.

Reference, 464.

Reported back, 516.

Indefinitely postponed, 516.

Third reading, 672.

Passed, 673.

Forwarded, 697.

Returned, 991.

Other action, 646, 659, 693, 1015, 1177.

Signed by Speaker, 1030.

Forwarded to Governor, 1114.

House Bill No. 189.—(Veitch, by request)

House Bill No. 189. A Bill for an Act Relating to the Giving to Consular Representatives of Foreign Countries Notice of Application for Administration Upon Estates of Their Deceased Nationals in Certain Cases.

Introduction, first and second reading, 464.

Reference, 464.

Reported back, 642.

Indefinitely postponed, 642.

House Bill No. 190.—(Committee on Railroads)

House Bill No. 190. A Concurrent Resolution Directing the Board of Railroad Commissioners to Acquire Such Information as Will Make Possible the Fixing of Just and Reasonable Transportation Rates for Lignite.

Introduction, first and second reading, 464.

Reference, 464.

Reported back, 516.

Indefinitely postponed, 673.

Other action, 646, 659.

House Bill No. 191.—(Anderson of Divide, by request)

House Bill No. 191. A Bill for an Act Repealing Sections 1192, 1193 and 1194 of the Compiled Laws of North Dakota for the Year 1913, Relating to District High Schools.

Introduction, first and second reading, 464.

Reported back, 634.

Third reading, 669.

Passed, 670.

Forwarded, 697.

Returned, 898, 1280.

Indefinitely postponed, 898, 1280.

Other action, 569, 1145, 1146, 1147.

House Bill No. 192.—(A. C. Miller)

House Bill No. 192. A Bill for an Act to Amend and Re-enact Section 2166, Compiled Laws of 1913, Relating to Delinquent Personal Taxes and Providing for the Collection of the Same.

- Introduction, first and second reading, 464.
- Reference, 464.
- Reported back, 519.
- Third reading, 566.
- Passed, 566.
- Forwarded, 590.
- Returned, 1303.
- Indefinitely postponed, 1303.
- Other action, 554.

House Bill No. 193.—(Burkhart and Butt, by request)

House Bill No. 193. A Bill for an Act to Amend and Re-enact Section 5, of Chapter 223 of the Session Laws of North Dakota for the Year 1923, Relating to Specifications for Gasoline and Kerosene.

- Introduction, first and second reading, 465.
- Reference 465.
- Reported back, 721.
- Third reading, 784.
- Indefinitely postponed, 785.
- Other action, 664, 777, 1295.

House Bill No. 194.—(Swett)

House Bill No. 194. A Bill for an Act Providing for the Painting of a Sign in a Conspicuous Place on Each Side of All Motor Vehicles Owned and Operated on the Public Highways by State Departments, Institutions or Industries, Showing the Name of the Department, Institution or Industry, and Providing Penalty for Violation.

- Introduction, first and second reading, 465.
- Reference, 465.
- Reported back, 549.
- Amended, 549, 654, 702.
- Third reading, 702, 1384.
- Passed, 703, 1385.
- Forwarded, 732.
- Returned, 1193.
- Other action, 693, 728, 1200, 1201, 1383, 1386, 1397.
- Signed by Speaker, 1401.
- Forwarded to Governor, 1416.

House Bill No. 195.—(Swett, by request)

House Bill No. 195. A Bill for an Act to Regulate the Practice of Pharmacy in the State of North Dakota and to Control and Regulate the Manufacture, Sale and Distribution of Drugs, Chemicals, Poisons and Potent Drugs.

- Introduction, first and second reading, 465.
- Reference, 465.
- Reported back, 772.
- Indefinitely postponed, 772.
- Other action, 664.

House Bill No. 196.—(Borman)

House Bill No. 196. A Bill for An Act Establishing a Department of Horticulture and Providing for the Publication of The Reports of The State Horticultural Society.

- Introduction, first and second reading, 479.
- Reference, 479.
- Reported back, 727.
- Third reading, 780.
- Indefinitely postponed, 781
- Other action, 664, 777.

House Bill No. 197.—(E. J. Johnson)

House Bill No. 197. A Bill for an Act to Amend and Re-enact Section 1252, Compiled Laws of 1913, as Amended by Chapter 136, Session Laws of 1915, Relating to Supervision of Schools in Special School Districts, and Providing That the Electors of Special School Districts Shall Not Vote for Any Candidate for the Office of County Superintendent of Schools.

- Introduction, first and second reading, 479.
- Reference, 479.
- Reported back, 635.
- Indefinitely postponed, 635.

House Bill No. 198.—(Dougherty)

House Bill No. 198. A Bill for an Act Declaring it a Felony to Enter Into or Aid and Assist in the Entry of a Dwelling or Place of Business with Intent to Steal While Armed or Being in Possession of Explosives or Apparatus Commonly Used in Breaking Safes and Vaults, or in the Burning or Melting of Metal, or Assisting Any One so Entering, or in Escaping From the Vicinity Thereof.

- Introduction, first and second reading, 479.
- Reference, 479.
- Reported back, 642.
- Amended, 642, 790.
- Indefinitely postponed, 843.

House Bill No. 199.—(Jodock)

House Bill No. 199. A Bill for an Act to Amend and Re-enact Sections 6, 7, 13, 26 and 27 of Chapter 160 of the Session Laws of 1919 as Amended by Chapter 38 of the Special Session Laws of the Sixteenth Legislative Assembly of the state of North Dakota; as Amended and Re-enacted by Chapter 77 of the Session Laws of North Dakota for the Year 1921, as Amended and Re-enacted by Chapter 232 of the Session Laws of North Dakota for the Year 1923, Relating to State Hail Insurance; Providing for the Payment of the Unpaid Portion of the Losses of 1923 and Making an Appropriation for that Purpose.

- Introduction, first and second reading, 480.
- Reference, 480.
- Reported back, 867.
- Indefinitely postponed, 867.
- Other action, 664.

House Bill No. 200.—(Hempel)

House Bill No. 200. A Bill for an Act to Amend and Re-enact Section 6707 of the Compiled Laws of North Dakota for the Year 1913, Relating to Liens Upon Crops.

Introduction, first and second reading, 480.

Reference, 480.

Reported back 630.

Indefinitely postponed, 631.

House Bill No. 201.—(Vogel)

House Bill No. 201. A Bill for an Act to Amend and Re-enact Section 5121 of the Compiled Laws of North Dakota for the Year 1913 as Amended and Re-enacted by Chapter 148, Session Laws of 1923; and Sections 5122, 5123, 5130, 5136 of the Compiled Laws for the Year 1913, Relating to Building and Loan Associations.

Introduction, first and second reading, 480.

Reference, 480.

Reported back, 727.

Indefinitely postponed, 728.

Other action, 664.

House Bill No. 202.—(Committee on Agriculture).

House Bill No. 202. A Bill for an Act to Amend and Re-enact Section 2263 of the Compiled Laws of North Dakota for the Year 1913, as Amended and Re-enacted in Chapter 1 of the Session Laws for the Year 1917, as Amended and Re-enacted by Chapter 191 of the Session Laws of 1923, Relating to the Levy of a Tax by County Commissioners to Be Used in Carrying on Cooperative Agricultural Extension Work as Defined by this Act, and Providing for Petition for the Institution of Such Work, Referendum by Ballot, Audit of Funds and Disposition of Accumulated Funds.

Introduction, first and second reading, 480.

Reference, 480.

Reported back, 895.

Third reading, 942.

Lost, 942.

Other action, 664. 938.

House Bill No. 203.—(Watt)

House Bill No. 203. A Bill for an Act to Amend and Re-enact Chapter 145 of the Session Laws of North Dakota for the Year 1923, Relating to State Bounty on Wolves and Coyotes.

Introduction, first and second reading, 480.

Reference, 480.

Reported back, 636.

Indefinitely postponed, 636.

Other action, 663.

House Bill No. 204.—(O. E. Erickson and Thompson)

House Bill No. 204. A Bill for an Act Relating to Hospitals and Providing for the Taxation of the Same When any Licensed Physician, Surgeon, Doctor of Chiropractor is Refused Permission to Practice His Profession Therein.

Introduction, first and second reading, 497.

Reference, 497.

Reported back, 772.

Indefinitely postponed, 772.

Other action, 664.

House Bill No. 205.—(O. E. Erickson, by request)

House Bill No. 207. A Bill for an Act Prescribing the Qualifications of Persons Practicing Kaliptic Treatment for Rheumatism and Nervous Diseases, and Defining Same.

Introduction, first and second reading, 497.

Reference, 497.

Reported back, 691.

Third reading, 742.

Passed, 743.

Forwarded, 765.

Returned, 1195.

Indefinitely postponed, 1195.

Other action 664, 729.

House Bill No. 206.—(Muus)

House Bill No. 206. A Bill for an Act to Harmonize Appointments, Salaries, and Expenses of Appointees of the Different State Departments.

Introduction, first and second reading, 497.

Reference, 497.

Reported back, 629.

Third reading, 668.

Passed, 669.

Forwarded, 697.

Returned, 1195.

Indefinitely postponed, 1195.

Other action, 659.

House Bill No. 208.—(Yeater)

House Bill No. 208. A Concurrent Resolution.

Introduction, first and second reading, 497.

Reference, 497.

Reported back, 690.

Amended, 1305.

Third reading, 739, 1312.

Indefinitely postponed, 1108.

Passed, 740, 1312.

Forwarded, 765, 1276.

Returned, 1108, 1305.

Other action, 664, 1272, 1312, 1343, 1365.

Signed by Speaker, 1356.

Forwarded to Governor, 1410.

House Bill No. 209.—(Traynor, Ellingson of Ramsey, Ferris, Helbling, Peters and Hildre.)

House Bill No. 209. A Bill for an Act to Amend and Re-enact Sections 5, 9, and 13 of Chapter 160 of the Session Laws of the Sixteenth Legislative Assembly of the State of North Dakota, as Amended and Re-enacted by Chapter 77 of the Session Laws of North Dakota for the Year 1921, as Amended and Re-enacted by Chapter 232 of the Session Laws of North Dakota for the Year 1923; Also Section 11 of Chapter 160 of the Session Laws of 1919 as Amended by Chapter 38 of the Special Session Laws of the Sixteenth Legislative Assembly of the State of North Dakota, as Amended and Re-enacted by Chapter 77 of the Session Laws of North Dakota for the Year 1921, Relating to State Hail Insurance.

Introduction, first and second reading, 497.
Reference, 498.
Reported back, 723.
Indefinitely postponed, 725.
Other action, 664.

House Bill No. 210.—(Cart)

House Bill No. 210. A Bill for an Act to Amend and Re-enact Section 6815 of the Compiled Laws of the State of North Dakota for 1913, and Section 1 of Chapter 209 of the Laws of North Dakota for 1913, Relating to the Notice Required to be Filed by Claimnants of a Mechanic's Lien for Material and Fixing Priorities Thereof.

Introduction, first and second reading, 498.
Reference, 498.
Reported back, 802.
Amended, 861.
Third reading, 923.
Passed, 924.
Forwarded, 947.
Returned, 1280.
Indefinitely postponed, 1280.
Other action, 664, 939.

House Bill No. 211.—(Committee on Game and Fish)

House Bill No. 211. A Bill for an Act Relating to Fur Bearing Animals; Regulating the Taking Thereof and, Fixing Penalties.

Introduction, first and second reading, 498.
Reference, 498.
Reported back, 798.
Amended, 798, 882.
Indefinitely postponed, 859
Third reading, 942.
Lost, 943.
Other action, 652, 664, 872, 883, 958.

House Bill No. 212.—(Committee on Game and Fish)

House Bill No. 212. A Bill for an Act Relating to Frogs, Establishing Closed Season, Regulating the Manner of Taking; Licensing Dealers and Providing Penalties for Violations.

Introduction, first and second reading, 498.
 Reference, 498.
 Reported back, 797.
 Third reading, 847, 1300.
 Passed, 848, 1301.
 Forwarded, 902.
 Returned, 1282.
 Other action, 652, 664, 841, 1343, 1362.
 Signed by Speaker, 1356.
 Forwarded to Governor, 1410.

House Bill No. 213.—(Committee on Game and Fish)

House Bill No. 213. A Bill for an Act to Amend and Re-enact Section 14, Chapter 161, Session Laws of 1915, Relating to Game and Fish; Right of Search and Seizure, and to Repeal Section 15, Chapter 161, Session Laws of 1915.

Introduction, first and second reading, 498.
 Reference, 498.
 Reported back, 797.
 Amended, 882.
 Third reading, 847.
 Lost, 847, 943.
 Other action, 652, 664, 841, 872, 883, 959.

House Bill No. 214.—(Tschida)

House Bill No. 214. A Bill for an Act to Promote General Safety in the Use of Motion Picture Film by Regulating the Manufacture, Purchase, Lease, Use, Sale or Similar Disposition of Motion Picture Film of a Nitro-Cellulose or Similarly Hazardous Base and by Removing Existing Restrictions on the Manufacture, Purchase, Lease, Sale or Similar Disposition of Motion Picture Film of an Acetate or Cellulose or Similarly Non-Hazardous Base.

Introduction, first and second reading, 498.
 Reference, 498.
 Reported back, 725.
 Amended, 725.
 Indefinitely postponed, 827.
 Other action 664.

House Bill No. 215.—(Committee on State Affairs)

House Bill No. 215. A Bill for an Act to Amend and Re-enact Section 10, Chapter 199, of the Session Laws of 1923.

Introduction, first and second reading, 498.
 Reference, 499.
 Reported back, 629.
 Indefinitely postponed, 629.

House Bill No. 216.—(Committee on State Affairs.)

House Bill No. 216. A Bill for an Act Amending Sections 4, 9 and 12, Chapter 292, Session Laws of 1923, Relating to the Bonds of North Dakota, Real Estate Series.

Introduction, first and second reading, 499.
Reference, 499.
Reported back, 586.
Third reading, 649.
Passed, 650.
Forwarded, 660.
Returned, 1100.
Other action, 644, 1138.
Signed by Speaker, 1210.
Forwarded to Governor, 1419.

House Bill No. 217.—(Oberg)

House Bill No. 217. A Bill for an Act to Amend Chapter 106 of the Session Laws of North Dakota for 1915 and Providing for the Levy of a Tax, the Same to be Expended for the Destruction of Rodent Pests in a County, or in Organized and Unorganized Townships in Such County and Repealing All

Introduction, first and second reading, 499.
Reference, 499.
Reported back, 772.
Amended, 773, 831.
Third reading, 915.
Indefinitely postponed, 1053.
Passed, 916.
Returned, 1053.
Other action, 664, 939.

House Bill No. 218.—(committee on Appropriations)

House Bill No. 218. A Bill for an Act to Repeal Sections 1804, 1805, 1806 Compiled Laws of North Dakota for 1913.

Introduction, first and second reading, 499.
Reference, 499.
Reported back, 643.
Amended, 643, 790, 843.
Third reading, 843.
Passed, 844.
Forwarded, 902.
Returned, 1098.
Indefinitely postponed, 1098.
Other action, 840, 940.

House Bill No. 219.—(Mrs. Craig)

House Bill No. 219. A Concurrent Resolution for an Amendment to the Constitution of the State of North Dakota, Providing for the Introduction and Reading of Bills and the Length of a Legislative Day.

Introduction, first and second reading, 499.
Reference, 499.
Reported back, 692.
Third reading, 743.
Passed, 744.
Forwarded, 765.
Returned, 1047.
Indefinitely postponed, 1047.
Other action, 664, 729.

House Bill No. 220.—(Morton)

House Bill No. 220. A Bill for an Act to Amend Section 6762 of the Compiled Laws of North Dakota, 1913, Relating to Renewals of Chattel Mortgages.

Introduction, first and second reading, 499.
 Reference, 499.
 Reported back, 687.
 Indefinitely postponed, 687.
 Other action, 664, 1140.

House Bill No. 221.—(Hardy of Mountrail, by request)

House Bill No. 221. A Bill for an Act to Amend and Re-enact Section 3532, Article 13, Chapter 43 of the Compiled Laws of 1913, Relating to the Fees of County Surveyors.

Introduction, first and second reading, 499.
 Reference, 499.
 Reported back, 586.
 Amended, 1098.
 Third reading, 651, 1106.
 Passed, 652, 1107.
 Forwarded, 660.
 Returned, 1098.
 Other action, 644, 1137.
 Signed by Speaker, 1210.
 Forwarded to Governor, 1419.

House Bill No. 222.—(A. C. Miller)

House Bill No. 222. A Bill for an Act Relating to State Printing, Providing for the Establishment of a State Printing Plant and Appropriating Money Therefor.

Introduction, first and second reading, 500.
 Reference, 500.
 Reported back, 770.
 Indefinitely postponed, 770.
 Other action, 621, 664.

House Bill No. 223.—(Traynor)

House Bill No. 223. A Bill for an Act to Amend and Re-enact Section 1342 of the Compiled Laws of the State of North Dakota for 1913, As Amended by Chapter 141 of the Session Laws of the State of North Dakota for 1915, as Amended by Chapter 206 of the Session Laws of North Dakota for 1917, Relating to Compulsory Attendance, School Age and the Transportation of Pupils.

Introduction, first and second reading, 500.
 Reference, 500.
 Reported back, 657.
 Amended, 657, 790.
 Third reading, 846.
 Lost, 847.
 Other action, 840, 847.

House Bill No. 224.—(Fine)

House Bill No. 224. A Bill for an Act to Amend and Re-enact Section 8134 of the Compiled Laws for the Year 1913, Being an Act to Redeem Property from a Chattel Mortgage Foreclosure Sale.

- Introduction, first and second reading, 501.
- Reference, 501.
- Reported back, 637.
- Amended, 637, 787.
- Third reading, 818.
- Passed, 819.
- Forwarded, 845.
- Returned, 1053.
- Indefinitely postponed, 1053.
- Other action, 814.

House Bill No. 225.—(Fine)

House Bill No. 225. A Bill for an Act Requiring School Districts to Install and Maintain Telephones in All Rural Public Schools Located Within One Mile of an Established Telephone Line, and Providing for the Repair and Maintenance Thereof.

- Introduction, first and second reading, 501.
- Reference, 501.
- Reported back, 634.
- Amended, 634.
- Indefinitely postponed, 787.

House Bill No. 226.—(O'Neil)

House Bill No. 226. A Bill for an Act Providing for the Recall of County Commissioners.

- Introduction, first and second reading, 502.
- Reference, 502.
- Reported back, 586.
- Indefinitely postponed, 586.

House Bill No. 227.—(Brant, by request)

House Bill No. 227. A Bill for an Act to Amend and Re-enact Section 4188, of the Compiled Laws for the Year 1913, Defining the Powers and Duties of Township Supervisors.

- Introduction, first and second reading, 502.
- Reference, 502.
- Reported back, 687.
- Indefinitely postponed, 687.
- Other action, 664.

House Bill No. 228.—(Burns)

House Bill No. 228. A Bill for an Act to Encourage Home Building and for that Purpose to Exempt From General Taxation for a Period of Five Years all Homes Owned and Occupied by Bonafide Owners Who Reside in and Continue to Reside in Their Newly Constructed Residences.

- Introduction, first and second reading, 502.
- Reference, 502.
- Reported back, 632.
- Indefinitely postponed, 632.

House Bill No. 229.—(Cart and Johnson of Foster)

House Bill No. 229. A Bill for an Act to Amend and Re-enact Chapter 59 of the Session Laws of 1917, as Amended and Re-enacted by Chapter 220 of the Session Laws of 1919, as Amended and Re-enacted by Chapter 298 of the Session Laws of 1923.

Introduction, first and second reading, 502.

Reference, 502.

Reported back, 633.

Amended, 633, 681.

Third reading, 712.

Indefinitely postponed, 1053.

Passed, 714.

Forwarded, 732.

Returned, 1053.

Other action, 692.

House Bill No. 230.—(O. F. Anderson)

House Bill No. 230. A Bill for an Act to Amend Section 1443 of the Compiled Laws of North Dakota for the Year 1913 Pertaining to State Aid to Graded Consolidated and Rural Schools; to Repeal Section 1444 of the Compiled Laws of North Dakota for the Year 1913 Pertaining to State School Inspection and to Repeal All Acts and Parts of Acts in Conflict with this Act.

Introduction, first and second reading, 502.

Reference, 502.

Reported back, 635.

Indefinitely postponed, 636.

House Bill No. 231.—(Starke and Carr)

House Bill No. 231. A Bill for an Act to Amend and Re-enact Sub-division 3 of Section 1342 of the Compiled Laws of North Dakota for the Year 1913, as Amended by Chapter 141 of the Session Laws of North Dakota for the Year 1915, as Amended by Chapter 206 of the Session Laws of North Dakota for the Year 1917, Relating to Compulsory School Attendance.

Introduction, first and second reading, 502.

Reference, 502.

Reported back, 657.

Indefinitely postponed, 657.

House Bill No. 232.—(O. C. Martin)

House Bill No. 232. A Bill for an Act Requiring All Railroad Companies Operating Trains in the State of North Dakota to Install Brakeman Cabs on the Tender of Their Locomotives.

Introduction, first and second reading, 503.

Reference, 503.

Reported back, 866.

Indefinitely postponed, 866.

Other action, 665.

House Bill No. 233.—(Roberts)

House Bill No. 233. A Bill for an Act to Provide Funds to Pay the Depositors in Closed and Insolvent Banks, Whose Deposits Were Guaranteed by Law.

Introduction, first and second reading, 503.

Reference, 503.

Reported back, 796.

Indefinitely postponed, 796.

Third reading, 846.

Lost, 847.

Other action, 664.

House Bill No. 234.—(Roberts)

House Bill No. 234. A Bill for an Act to Amend and Re-enact Sections 7, 9 and 10 of Chapter 147 of the Laws of the State of North Dakota for the Year 1919, as Amended, Relating to the Deposit of Funds in the Bank of North Dakota, and Relating to Interest Paid Thereon.

Introduction, first and second reading, 503.

Reference, 503.

Reported back, 798.

Indefinitely postponed, 802.

Other action, 664.

House Bill No. 235.—(Peters)

House Bill No. 235. A Bill for an Act to Amend and Re-enact Section 992 of the Compiled Laws for the Year 1913.

Introduction, first and second reading, 503.

Reference, 503.

Reported back, 768.

Amended, 768.

Indefinitely postponed, 827.

Other action, 664.

House Bill No. 236.—(Erickson of Kidder)

House Bill No. 236. A Bill for an Act Regulating the Sale of School and School District Bonds.

Introduction, first and second reading, 503.

Reference, 503.

Reported back, 645.

Indefinitely postponed, 645.

House Bill No. 237.—(Erickson of Kidder)

House Bill No. 237. A Bill for an Act Relating to and Regulating the Election of Directors in School Districts, Embracing an Incorporated Village, Town or City.

Introduction, first and second reading, 503.

Reference, 503, 708.

Reported back, 657, 809.

Amended, 707, 809, 861.

Third reading, 707, 925.

Passed, 926.

Forwarded, 946.

Returned, 1018.

Indefinitely postponed, 1018.

Other action, 693, 939.

House Bill No. 238.—(Roberts)

House Bill No. 238. A Bill for an Act Declaring Crop and Chattel Mortgages to be Against Public Policy.

Introduction, first and second reading, 503.

Reference, 503.

Reported back, 637.

Indefinitely postponed, 637.

House Bill No. 239.—(Watt and Burkhardt)

House Bill No. 239. A Bill for an Act Defining Public Dancing Places, Public Dances, Providing for the Issuing of Permits to Operate the Same, Regulating Public Dances and Public Dancing Places, Providing for the Policing of Public Dances, providing for Penalties for the Violation of This Act, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Introduction, first and second reading, 503.

Reference, 504.

Reported back, 769.

Amended, 769, 830.

Third reading, 911.

Passed, 912.

Forwarded, 947.

Returned, 1280.

Other action, 664, 939, 1364.

Signed by Speaker, 1355.

Forwarded to Governor, 1408.

House Bill No. 240.—(Erickson of Kidder)

House Bill No. 240. A Bill for an Act Limiting General Tax Levies on Real Estate to one and a half per cent of its Fair Market Value.

Introduction, first and second reading, 504.

Reference, 504.

Reported back, 632.

Indefinitely postponed, 632.

House Bill No. 241.—(Watt)

House Bill No. 241. A Bill for an Act to Amend and Re-enact Section 3 of Chapter 61 of the 1915 Session Laws, Relating to the Filing of Itemized Statements Required by the State Budget Board.

Introduction, first and second reading, 504.

Reference, 504.

Reported back, 645.

Third reading, 270.

Passed, 271.

Forwarded, 697.

Returned, 1100.

Other action, 659, 1137.

Signed by Speaker, 1210.

Forwarded to Governor, 1419.

House Bill No. 242.—(Committee on Taxes and Tax Laws, by request)

House Bill No. 242. A Bill for an Act Providing that District Courts Shall Have Jurisdiction in the Foreclosure of Tax Liens in Cases of Irregular Tax Sales, Prescribing the Procedure in Such Cases; and Providing that Such Remedy Shall Be Cumulative.

Introduction, first and second reading, 504.

Reference, 504.

Reported back, 685.

Third reading, 734.

Passed, 735.

Forwarded, 765.

Returned, 1195.

Other action, 664, 729, 1289.

Signed by Speaker, 1317.

Forwarded to Governor, 1396.

House Bill No. 243.—(Tschida)

House Bill No. 243. A Bill for an Act to Amend Section 465 of the Compiled Laws of North Dakota 1913 Relating to Manner of Determining Qualifications of Persons Desiring to Practice Medicine or Surgery.

Introduction, first and second reading, 504.

Reference, 504.

Reported back, 658.

Indefinitely postponed, 658.

Other action, 664.

House Bill No. 244.—(Erickson of Kidder)

House Bill No. 244. A Bill for an Act to Make Uniform the Law and Bills of Lading.

Introduction, first and second reading, 504.

Reference, 504.

Reported back, 772.

Indefinitely postponed, 772.

Other action, 664.

House Bill No. 245.—(Starke and Erickson of Kidder)

House Bill No. 245. A Bill for an Act to Make Uniform the Law of Transfer of Shares of Stock in Corporations.

Introduction, first and second reading, 504.

Reference, 505.

Reported back, 687.

Indefinitely postponed, 687.

Other action, 664.

House Bill No. 246.—(Burkhart and Watt)

House Bill No. 246. A Bill for an Act Amending and Re-enacting Chapter 297 of the Session Laws of North Dakota for 1923, Being an Act to Prohibit the Keeping Open, Running or Permitting the Running of Any Place for Public Dance from the First Day of the Week, Commonly Called the Sabbath, and Prohibiting the Same Prior to Sunrise on Monday Morning and Providing a Penalty Therefor.

- Introduction, first and second reading, 505.
- Reference, 505.
- Reported back, 768.
- Amended, 768, 829.
- Third reading, 910.
- Passed, 911.
- Forwarded, 947.
- Returned, 1281.
- Other action, 664, 939, 1364.
- Signed by Speaker, 1356.
- Forwarded to Governor, 1407.

House Bill No. 247.—(Rabe)

House Bill Number 247. A Bill for an Act Entitled "An Act to Provide for the Investment in North Dakota Securities by Life Insurance Companies Transacting Business in this State of a Sum Equal to at Least 75 per cent of the Aggregate Amount of Legal Reserve Required by the Laws of the State of its domicile."

- Introduction, first and second reading, 505.
- Reference, 505.
- Reported back, 656.
- Indefinitely postponed, 656.
- Other action, 664.

House Bill No. 248.—(Erickson of Kidder)

House Bill No. 248. A Bill for an Act Limiting General Levies on Personal Property to Two Per Cent of Its Fair Market Value.

- Introduction, first and second reading, 505.
- Reference, 505.
- Reported back, 678.
- Indefinitely postponed, 678.

House Bill No. 249.—(Erickson of Kidder)

House Bill No. 249. A Bill for an Act Defining the Words "Actual Farmers" as Used in Section 1 of Initiated Measure Approved November 2, 1920, Relating to Real Estate Mortgage Loans by the Bank of North Dakota.

- Introduction, first and second reading, 505.
- Reference, 505.
- Reported back, 723.
- Indefinitely postponed, 723.
- Other action, 664.

House Bill No. 250.—(Erickson of Kidder)

House Bill No. 250. A Bill for an Act Providing for the Appointment of Coroner in Organized Counties by the County Commissioners, Prescribing Qualifications of Coroner and Term of Office, and Declaring This Act to Be an Emergency Measure.

Introduction, first and second reading, 505.
Reference, 505, 688.
Reported back, 688.
Indefinitely postponed, 761.
Other action, 664.

House Bill No. 251.—(Erickson of Kidder)

House Bill No. 251. A Bill for an Act Prohibiting Discrimination on the Part of Insurance Companies and Bonding Companies in the Rate of Premium Charged for Insuring or Bonding Old Line or Line Elevators and Independent, Co-operative or Farmers Elevators.

Introduction, first and second reading, 505.
Reference, 506.
Reported back, 775.
Passed, 823.
Forwarded, 845.
Returned, 1302.
Indefinitely postponed, 1302.
Other action, 665, 814.

House Bill No. 252.—(Erickson of Kidder)

House Bill No. 252. A Bill for an Act Amending and Re-enacting Section 1185, Compiled Laws of North Dakota, 1913, Relating to Elections for the Location, Purchase, Removal or Sale of School Houses.

Introduction, first and second reading, 506.
Reference, 506.
Reported back, 768.
Indefinitely postponed, 768.
Other action, 664.

House Bill No. 253.—(Shepard)

House Bill No. 253. A Joint Resolution for an Act to Amend and Re-enact Sec. 173 of Article 10 of the Constitution of the State of North Dakota as Amended by Senate Bill No. 347 of the Session Laws of 1923, Providing for the Letting by Contract, the Work and Duties of Said County Offices.

Introduction, first and second reading, 506.
Reference, 506.
Reported back, 691.
Indefinitely postponed, 691.
Other action, 664.

House Bill No. 254.—(Shepard)

House Bill No. 254. A Bill for an Act to Provide for Indemnity to Owners of Sheep When Same Have Been Killed by Wolves, Coyotes or Dogs.

Introduction, first and second reading, 506.

Reference, 506.

Reported back, 837.

Indefinitely postponed, 837.

Other action, 665.

House Bill No. 255.—(Hempel)

House Bill No. 255. A Bill for an Act to Amend and Re-enact Chapter 108 of the Session Laws of 1917.

Introduction, first and second reading, 506.

Reference, 506.

Reported back, 722.

Indefinitely postponed, 722.

Other action, 664.

House Bill No. 256.—(O. E. Erickson)

House Bill No. 256. A Bill for an Act Relating to Physicians, Surgeons, Chiropractors or Doctors Refusing to Aid Women at Childbirth, or a Child in Bodily Distress, and Providing Penalty.

Introduction, first and second reading, 506.

Reference, 506.

Reported back, 867.

Indefinitely postponed, 867.

Other action, 664.

House Bill No. 257.—(Oberg)

House Bill No. 257. A Bill for an Act Providing for Liens Against the Interest of Heirs-at-law or Beneficiaries Under Wills of Deceased Persons.

Introduction, first and second reading, 506.

Reference, 506.

Reported back, 686.

Indefinitely postponed, 686.

Other action, 664.

House Bill No. 258.—(Roberts)

House Bill No. 258. A Bill for an Act Relating to Bonds Issued by Counties, Cities, Villages, School Districts, Park Districts, and Other Subdivisions Within the States; and Repealing All Acts and Parts of Acts in Conflict Therewith.

Introduction, first and second reading, 507.

Reference, 507.

Reported back, 770.

Amended, 771, 830.

Third reading, 913.

Passed, 914.

Forwarded, 947.

Returned, 1100.

Other action, 664, 939, 1137.

Signed by Speaker, 1210.

Forwarded to Governor, 1419.

House Bill No. 259.—(Root)

House Bill No. 259. A Joint Resolution.
Introduction, first and second reading, 507.
Reference, 507.
Reported back, 690.
Amended, 740.
Third reading, 740.
Passed, 741.
Forwarded, 765.
Returned, 1303.
Other action, 664, 729, 777, 1364.
Signed by Speaker, 1355.
Forwarded to Governor, 1409.

House Bill No. 260.—(O. F. Anderson)

House Bill No. 260. A Bill for an Act Providing that All Bond Issues Shall Be Authorized by a Vote of the Qualified Electors, and Repealing All Acts and Parts of Acts in Conflict with the Provisions of This Act.

Introduction, first and second reading, 507.
Reference, 507.
Reported back, 774.
Amended, 774.
Third reading, 908.
Passed, 909.
Forwarded, 947.
Returned, 1100.
Other action, 664, 858, 940.
Signed by Speaker, 1210.
Forwarded to Governor, 1419.

House Bill No. 261.—(Crocker)

House Bill No. 261. A Bill for an Act to Amend and Re-enact Section 1369 of the Compiled School Laws of North Dakota for the Year 1919, Relating to Teacher's Certificates Issued on High School Diplomas.

Introduction, first and second reading, 507.
Reference, 507.
Reported back, 808.
Amended, 809, 862.
Third reading, 924.
Passed, 925.
Forwarded, 946.
Returned, 1018.
Indefinitely postponed, 1018.
Other action, 664, 941.

House Bill No. 262.—(Shepard)

House Bill No. 262. A Bill for an Act to Amend and Re-enact Section 1190 of the Compiled Laws of North Dakota for the Year 1913, as Amended by Chapter 127 of the Session Laws of 1915, as Further Amended by Chapter 199 of the Session Laws of 1919, Relating to the Consolidation of Schools.

Introduction, first and second reading, 507.
Reference, 507.
Reported back, 810.
Indefinitely postponed, 810.
Other action, 664.

House Bill No. 263.—(Cart)

House Bill No. 263. A Bill for an Act Providing that Real Estate Which Has Been Sold at Tax Sale Which Sale Is Invalid or of Doubtful Validity Because Not Conducted in Accordance with Section 3733 of the Compiled Laws of 1913, or for Other Reasons, May Again Be Sold at Future Tax Sales for the Taxes of the Years Included in Such Irregular Tax Sales.

Introduction, first and second reading, 507.

Reference, 507.

Reported back, 685.

Third reading, 735, 1296.

Passed, 736, 1297.

Forwarded, 765.

Returned, 1264.

Other action, 664, 729, 1343, 1362.

Signed by Speaker, 1356.

Forwarded to Governor, 1409.

House Bill No. 264.—(Arduser)

House Bill No. 264. A Bill for an Act to Declare Storage Charges Upon Grain Stored in a Public Warehouse to be Due and Payable on a Specified Date Once Each Year and Providing for Notices to be Sent Owners of Storage Tickets and a Provision for the Collection of Same if Payment Is in Default.

Introduction, first and second reading, 507.

Reference, 508.

Reported back, 775.

Indefinitely postponed, 775.

Other action, 665.

House Bill No. 265.—(Thatcher, by request)

House Bill No. 265. A Bill for an Act to Amend and Re-enact Section 3 of Chapter 161, Session Laws of 1915 as Amended by Chapter 134, Session Laws of 1918, as Amended by Chapter 224, Session Laws 1923, Relating to Game and Fish.

Introduction, first and second reading, 508.

Reference, 508.

Reported back, 798.

Indefinitely postponed, 798.

Other action, 652, 664.

House Bill No. 266.—(Committee on Delayed Bills)

House Bill No. 266. A Bill for an Act to Amend and Re-enact Section 31, Chapter 168, Session Laws of 1919, Relating to the Survey of Mines.

Introduction, first and second reading, 648.

Reference, 648.

Reported back, 689.

Amended, 689, 786.

Third reading, 823.

Passed, 824.

Forwarded, 845.

Returned, 1303.

Other action, 814, 1364.

Signed by Speaker, 1355.

Forwarded to Governor, 1409.

House Bill No. 267.—(Erickson of Kidder)

House Bill No. 267. A Bill for an Act Providing for the Cancellation and Destruction of Unsold Bonds of Counties, Cities, Villages and School Districts, on the Expiration of Five Years from the Date of Their Authorization.

Introduction, first and second reading, 699.
Reference, 699.
Reported back, 805.
Amended, 849.
Third reading, 849.
Passed, 850.
Forwarded, 902.
Returned, 1280.
Other action, 840, 939, 1363.
Signed by Speaker, 1354.
Forwarded to Governor, 1407.

House Bill No. 268.—(Committee on Delayed Bills)

House Bill No. 268. A Bill for an Act to Amend and Re-enact Section 453 of the Compiled Laws of North Dakota for the Year 1913 Relating to the Fees of Local Registrars to Read as Follows.

Introduction, first and second reading, 699.
Reference, 699.
Reported back, 867.
Third reading, 931.
Passed, 932.
Forwarded, 946.
Returned, 1280.
Other action, 941, 1363.
Signed by Speaker, 1354.
Forwarded to Governor, 1408.

House Bill No. 269.—(Committee on Delayed Bills)

House Bill No. 269. A Bill for an Act to Amend and Re-enact Section 3523, Compiled Laws of 1913, Relating to the Appointment and Fixing the Salary of Deputy Sheriffs.

Introduction, first and second reading, 699.
Reference, 699.
Reported back, 805.
Third reading, 848, 1306.
Passed, 849, 1306.
Forwarded, 902.
Returned, 1281.
Other action, 841, 1343, 1363.
Signed by Speaker, 1355.
Forwarded to Governor, 1409.

House Bill No. 271.—(Sanford)

House Bill No. 271. A Bill for an Act Requiring All Public Terminal Grain Elevators to Issue Warehouse Receipts for Grain or Other Produce Received, and Prescribing What Such Warehouse Receipts Shall Contain.

Introduction, first and second reading, 699.
Reference, 699.
Reported back, 805.
Amended, 860.
Third reading, 921.
Passed, 922.
Forwarded, 947.
Returned, 1280.
Other action, 841, 850, 941, 1364.
Signed by Speaker, 1355.
Forwarded to Governor, 1408.

House Bill No. 272.—(Cart and Svingen)

House Bill No. 272. A Bill for an Act Defining the Crime of Robbery by Receiving Deposits in Insolvent Banks.

Introduction, first and second reading, 699.
Reference, 699.
Reported back, 795.
Amended, 795.
Indefinitely postponed, 859.

House Bill No. 273.—(A. E. Erickson)

House Bill No. 273. A Bill for an Act to Amend and Re-enact Chapter 173 of the Session Laws of North Dakota for the Year 1917, Relating to Transportation of Prisoners and Patients to State Institutions.

Introduction, first and second reading, 733.
Reference, 733.
Reported back, 804.
Indefinitely postponed, 804.

House Bill No. 274.—(Hoople)

House Bill No. 274. A Bill for an Act to Amend and Re-enact Section 287, Compiled Laws of the State of North Dakota for the Year 1913, as Amended by Chapter 241, Session Laws of 1915, as Amended by Chapter 204, Session Laws of 1917, as Amended by Chapter 198, Session Laws of 1919, as Amended by Chapter 108, Session Laws of 1921, Relating to the Investment of University and School Land Funds.

Introduction, first and second reading, 780.
Reference, 780.
Reported back, 865.
Third reading, 927.
Indefinitely postponed, 928.
Other action, 940.

House Bill No. 275.—(Committee on Delayed Bills)

House Bill No. 275. A Bill for an Act Making an Appropriation for the Purpose of Paying a Bounty on Wolves and Coyotes as Provided for Under Chapter 145 of the Session Laws of 1923, and Magpie Bounty Allowed in Chapter 144 of Session Laws, 1923.

Introduction, first and second reading, 791.

Reference, 791.

Reported back, 835.

Third reading, 917.

Passed, 918.

Forwarded, 948.

Returned, 1143.

Other action, 940, 1179.

Signed by Speaker, 1211.

Forwarded to Governor, 1420.

House Bill No. 276.—(Sanford, Doyle, Jodock, Miller and Eckert)

House Bill No. 276. A Bill for an Act to Amend and Re-enact Section 44 of the Compiled Laws of North Dakota for the Year 1913, as Amended by Chapter 4 of the Session Laws of North Dakota for the year 1915, as Amended by Chapter 2 of the Session Laws of North Dakota for the Year 1917, Relating to Legislative Apportionment.

Introduction, first and second reading, 791.

Reference, 791.

Reported back, 893.

Indefinitely postponed, 894.

House Bill No. 277.—(Roberts)

House Bill No. 277. A Bill for an Act to Exempt from Taxation Rural Co-Operative Telephone Lines.

Introduction, first and second reading, 792.

Reference, 792.

Reported back, 837.

Indefinitely postponed, 837.

House Bill No. 278.—(Roberts)

House Bill No. 278. A Bill for an Act to Amend and Re-enact Section 44 of the Compiled Laws of North Dakota for the Year 1913, as Amended by Chapter 4 of the Session Laws of North Dakota for the Year 1915, and as Amended by Chapter 2 of the Session Laws of North Dakota for the Year 1917, Relating to Legislative Apportionment.

Introduction, first and second reading, 792.

Reference, 792.

Reported back, 866.

Amended, 866, 883.

Third reading, 904.

Passed, 905.

Forwarded, 946.

Returned, 1310.

Indefinitely postponed, 1310.

Other action, 883, 884, 899, 958, 1264.

House Bill No. 279.—(Swett and Thatcher)

House Bill No. 279. A Bill for an Act to Amend and Re-enact Section 8, Chapter 137, Session Laws of 1923, Relating to the Administration of Insolvent Banks.

Introduction, first and second reading, 792.

Reference, 792.

Reported back, 891.

Third reading, 953.

Passed, 954.

Forwarded, 956.

Returned, 968.

Indefinitely postponed, 968.

Other action, 938.

House Bill No. 280.—(Butt)

House Bill No. 280. A Bill for an Act to Amend and Re-enact Section 33, Chapter 161, Session Laws of 1915, as Amended by Chapter 122, Session Laws of 1917, as Amended by Section 4, Chapter 134, Session Laws of 1919, Relating to Game Birds and Fixing the Open Season for Killing Same.

Introduction, first and second reading, 792.

Reference, 792.

Reported back, 836.

Amended, 836, 881.

Third reading, 944, 1297.

Passed, 945, 1298.

Forwarded, 957.

Returned, 1282.

Other action, 883, 958, 1137, 1343, 1363.

Signed by Speaker, 1354.

Forwarded to Governor, 1410.

House Bill No. 281.—(Committee on Game and Fish)

House Bill No. 281. A Bill for an Act to Amend and Re-enact Section 27 of Chapter 161, Session Laws of 1919, as Amended by Chapter 224, Session Laws of 1923, Relating to Hunting with Dogs.

Introduction, first and second reading, 792.

Reference, 792.

Reported back, 836.

Third reading, 918.

Passed, 919.

Forwarded, 947.

Returned, 1281.

Other action, 940, 1364.

Signed by Speaker, 1355.

Forwarded to Governor, 1408.

House Bill No. 282.—(C. E. Erickson)

House Bill No. 282. A Bill for an Act to Amend and Re-enact Sections 799 and 810, Compiled Laws of North Dakota for the Year 1913, as Amended by Chapter 69 of the Session Laws for the Year 1919, and as Amended by Chapter 134 of the Session Laws for the Year 1923, Relating to Power of Courts to Disbar Attorneys and Regulating the Proceure Governing Same.

Introduction, first and second reading, 792.

Reference, 792.

Reported back, 893.

Indefinitely postponed, 893.

House Bill No. 283.—(C. E. Erickson)

House Bill No. 283. A Bill for an Act to appropriate the Sum of \$26,500.00 for the Encouragement and Advancement of Boys and Girls Club Work.

Introduction, first and second reading, 793.

Reference, 793.

Reported back, 868.

Indefinitely postponed, 869.

House Bill No. 284.—(Watt)

House Bill No. 284. A Bill for an Act to Amend and Re-enact Section 5144 of the Compiled Laws of North Dakota for the Year 1913 Relating to Right of Way for Telephone Lines and Electric Light Systems.

Introduction, first and second reading, 793.

Reference, 793.

Reported back, 839.

Third reading, 920.

Passed, 920.

Forwarded, 947.

Returned, 1280.

Other action, 940.

Signed by Speaker, 1355, 1363.

Forwarded to Governor, 1407.

House Bill No. 285.—(Arduser and Sagen)

House Bill No. 285. A Bill for an Act to Amend and Re-enact Section 6855 of the Compiled Laws of North Dakota for the Year 1913 Providing How Lien of Thresher Shall be Obtained and Where Filed.

Introduction, first and second reading, 818.

Reference, 818.

Reported back, 869.

Third reading, 929.

Lost, 929.

Other action, 940.

House Bill No. 286.—(Burns)

House Bill No. 286. A Bill for an Act Directing the State Emergency Commission to Provide Funds for Opposing Any Increase in Lignite Freight Rates and Making an Appropriation Therefor.

Introduction, first and second reading, 855.

Reference, 855.

Reported back, 872.

Third reading, 832, 1299.

Passed, 933, 1300.

Forwarded, 946.

Returned, 1282.

Other action, 941, 1343, 1365.

Signed by Speaker, 1356.

Forwarded to Governor, 1410.

House Bill No. 287.—(Committee on Delayed Bills)

House Bill No. 287. A Bill for an Act to Amend and Re-enact Section 4, Chapter 140, Session Laws of 1921, Relating to Sow Thistles.

Introduction, first and second reading, 855.
 Reference, 855.
 Reported back, 866.
 Third reading, 930, 1309.
 Passed, 931, 1309.
 Forwarded, 946.
 Returned, 1281.
 Other action, 940, 1308, 1343, 1363.
 Signed by Speaker, 1354.
 Forwarded to Governor, 1409.

House Bill No. 288.—(Cart)

House Bill No. 288. A Bill for an Act to Repeal Section 6816 of the Compiled Laws of North Dakota for the Year 1913, Relating to Notice and Consent of the Owner in Order to Protect a Mechanics' Lien.

Introduction, first and second reading, 875.
 Reference, 875, 876.
 Reported back, 882.
 Indefinitely postponed, 882, 1079.
 Other action, 876, 883, 1078.

House Bill No. 289.—(Erickson of Kidder)

House Bill No. 289. A Bill for an Act Providing for the Moving of Schoolhouses to Other Places Within School Districts Under Certain Conditions.

Introduction, first and second reading, 875.
 Reference, 876.
 Reported back, 882.
 Third reading, 943, 1168.
 Passed, 944, 1169.
 Forwarded, 946.
 Returned, 1144.
 Other action, 876, 882, 883, 959, 1179, 1187.
 Signed by Speaker, 1211.
 Forwarded to Governor, 1420.

House Bill No. 290.—(Swett)

House Bill No. 290. A Concurrent Resolution introduced by Mr. Swett.

Introduction, first and second reading, 1002.
 Amended, 1034.
 Third reading, 1072.
 Passed, 1073.
 Forwarded, 1080.
 Returned, 1281.
 Other action, 1364.
 Signed by Speaker, 1355.
 Forwarded to Governor, 1408.

House Bill No. 291.—(Twichell)

House Bill No. 291. A Concurrent Resolution to Provide for the Payment of Expenses of the Special Committee Named by the Governor at the Instance of the House and Senate State Affairs Committee, for the Purpose of Investigating Conditions at the State Hospital at Jamestown, North Dakota.

Introduction, first and second reading, 1045.

Third reading, 1046.

Passed, 1047.

Forwarded, 1141.

Returned, 1304.

Other action, 1096, 1363.

Signed by Speaker, 1355.

Forwarded to Governor, 1409.

House Bill No. 292.—(Fine, Jones and Arduser)

House Bill No. 292. A Concurrent Resolution.

Introduction, first and second reading, 1163.

Reference, 1163.

Reported back, 1322.

Third reading, 1322.

Passed, 1322.

Forwarded, 1341.

Returned, 1399.

Other action, 1201, 1322, 1407.

Signed by Speaker, 1411.

Forwarded to Governor, 1447 (see correction).

House Bill No. 293.—(Martin)

House Bill No. 293. A Concurrent Resolution.

Introduction, first and second reading, 1187.

Third reading, 1187.

Passed, 1188.

Forwarded, 1191.

Returned, 1304.

Other action, 1363.

Signed by Speaker, 1356.

Forwarded to Governor, 1409.

House Bill No. 294.—(Yeater)

House Bill No. 294. A Concurrent Resolution to Provide Money to Pay the Expenses Incurred by the Special House Committee in Its Investigation of the State Highway Commission as Authorized by the House Resolution Known as House Bill No. 72.

Introduction, first and second reading, 1189.

Reference, 1190.

Reported back, 1273.

Third reading, 1277.

Passed, 1278.

Forwarded, 1279.

Returned, 1431.

Other action, 1446.

Signed by Speaker, 1440.

Forwarded to Governor, 1448.

House Bill No. 295.—(Martin)

A Concurrent Resolution.

Introduction, first and second reading, 1294.

Third reading, 1294.

Passed, 1295.

SENATE BILLS

Senate Bill No. 1.—(Rusch)

Senate Bill No. 1. A Bill for an Act to Amend and Re-enact Chapter 320, Laws of 1923, also Sections 2191, 2192, 2197, 2202, 2203, 3733, 3735 and 3736 of the Compiled Laws of North Dakota for the Year 1913, Providing for Penalties on Delinquent Real Estate Taxes and Special Assessments; for the Sale of Land for Taxes and Special Assessments; Issuance of Certificates of Sale and Assignments Thereof; for Redemption of Land Sold at Tax Sale; for the Issuance of Tax Deeds on Land Not Redeemed from Sale for Taxes and for the Disposition or Conveyance of Land Bid in by the County and Not Redeemed or Purchased; and to Repeal All Acts in Anywise Contravening the Provisions of This Act.

Received from Senate, 510.

First and second reading, 570.

Reference, 570.

Reported back, 1089.

Amended, 1089, 1171.

Third reading, 1334.

Passed, 1335.

Returned, 1343.

Other action, 1003.

Signed by Speaker, 1411.

Senate Bill No. 2.—(Miklethun)

Senate Bill No. 2. A Bill for an Act to Amend Sections 6072 and 6073 of the Compiled Laws of North Dakota for the Year 1913, as Amended by Chapter 176 of the Session Laws of 1915, Prescribing Lawful Rates of Interest for Any Legal Indebtedness, and Defining Usury.

Received from Senate, 299.

First and second reading, 309.

Reference, 309.

Reported back, 812.

Amended, 812.

Third reading, 973.

Passed, 973.

Returned, 1016.

Other action, 448, 664.

Signed by Speaker, 1115.

Senate Bill No. 7.—(Committee on Appropriations)

Senate Bill No. 7. A Bill for an Act Making an Appropriation of \$1,525.48 to Pay an Existing Deficit in the Mine Inspection Department.

Received from Senate, 179, 898.

First and second reading, 181.

Reference, 181.

Reported back, 237, 376.

Amended, 984.

Indefinitely postponed, 376.

Third reading, 1023.

Passed, 1023.

Returned, 405, 1048.

Other action, 269, 871, 875, 1060.

Signed by Speaker, 1116.

Senate Bill No. 8.—(Committee on Appropriations)

Senate Bill No. 8. A Bill for an Act Making an Appropriation to Provide for the Payment of an Existing Deficit in the Fund for the Payment of Stenographic Help of the Supreme Court.

- Received from Senate, 264.
- First and second reading, 275.
- Reference, 275.
- Reported back, 329.
- Third reading, 364.
- Passed, 365.
- Returned, 382.
- Other action, 365.
- Signed by Speaker, 418.

Senate Bill No. 9.—(Committee on Appropriations)

Senate Bill No. 9. A Bill for an Act Making an Appropriation of \$19,450.00 to Reimburse the Depositors Guaranty Fund for Monies Withdrawn Therefrom Under Authority of Section 34 of Chapter 200 of the Session Laws of 1923.

- Received from Senate, 700.
- First and second reading, 833.
- Reference, 833.
- Reported back, 1037.
- Third reading, 1108.
- Passed, 1109.
- Returned, 1142.
- Signed by Speaker, 1318.

Senate Bill No. 10.—(Committee on Appropriations)

Senate Bill No. 10. A Bill for an Act Making an Appropriation of \$4,027.76 to Pay an Existing Deficit in the Amount Appropriated for the Eighteenth Legislative Assembly Per Diem and Expenses.

- Received from Senate, 106.
- First and second reading, 108.
- Reference, 108.
- Reported back, 122.
- Third reading, 147.
- Passed, 148.
- Returned, 172.
- Signed by Speaker, 188.

Senate Bill No. 11.—(Committee on Appropriations)

Senate Bill No. 11. A Bill for an Act to appropriate \$1,000.00 to Provide Funds for the Payment of the Per Diem and Necessary Expenses of the Members of the State Board of Pardons.

- Received from Senate, 106.
- First and second reading, 108.
- Reference, 109.
- Reported back, 123.
- Third reading, 149.
- Passed, 150.
- Returned, 172.
- Signed by Speaker, 188.

Senate Bill No. 12.—(Committee on Appropriations)

Senate Bill No. 12. A Bill for an Act Making an Appropriation for the Purpose of Paying a Bounty on Wolves and Coyotes as Provided for Under Chapter 145 of the Session Laws of 1923.

Received from Senate, 106.
 First and second reading, 109.
 Reference, 109.
 Reported back, 123, 329.
 Amended, 123, 160, 329, 366, 387.
 Third reading, 387.
 Passed, 388.
 Returned, 405.
 Other action, 203, 452, 733, 766, 778.
 Signed by Speaker, 565.

Senate Bill No. 13.—(Committee on Appropriations)

Senate Bill No. 13. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses with Improvements and Repairs, Equipment and Miscellaneous Items for the State School for the Blind at Bathgate.

Received from Senate, 148.
 First and second reading, 157.
 Reference, 157.
 Reported back, 237.
 Amended, 237, 281.
 Third reading, 307.
 Passed, 308.
 Returned, 317.
 Other action, 290, 336, 386, 404, 452.
 Signed by Speaker, 565.

Senate Bill No. 14.—(Committee on Appropriations)

Senate Bill No. 14. A Bill for an Act Making an Appropriation of \$27,150.00 for the Purpose of Carrying Out the Provisions of Chapter 203 of the Session Laws of 1919 and Chapter 115 of the Session Laws of 1921 Relating to Vocational Education and Vocational Rehabilitation.

Received from Senate, 264.
 First and second reading, 275.
 Reference, 275.
 Reported back, 422.
 Amended, 422, 472.
 Third reading, 489.
 Passed, 490.
 Returned, 509.
 Other action, 556.
 Signed by Speaker, 677.

Senate Bill No. 15.—(Committee on Appropriations)

Senate Bill No. 15. As amended. A Bill for an Act Making an Appropriation of \$104,500.00 for the Maintenance of the State Capitol and for Improvements, Rents, Repairs, Insurance and Upkeep of Grounds.

Received from Senate, 179.
First and second reading, 182.
Reference, 182.
Reported back, 278.
Amended, 278, 312, 492.
Third reading, 345, 495.
Passed, 346, 494.
Returned, 360.
Other action, 385, 395, 492.
Signed by Speaker, 677.

Senate Bill No. 16.—(Committee on Appropriations)

Senate Bill No. 16. A Bill for an Act Making an Appropriation of \$885.00 to Pay the Expenses of the State Board of Veterinary Medical Examiners as Authorized Under Section 2711 to 2720, Inclusive, of the Compiled Laws of 1913 for North Dakota.

Received from Senate, 148.
First and second reading, 157.
Reference, 157.
Reported back, 213.
Third reading, 240.
Passed, 241.
Returned, 259.
Signed by Speaker, 308.

Senate Bill No. 17.—(Committee on Appropriations)

Senate Bill No. 17. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the Department of Public Health for the Biennium, Beginning on July 1st, 1925, and Ending on June 30th, 1927, in the Sum of \$40,150.00.

Received from Senate, 337.
First and second reading, 349.
Reference, 349.
Reported back, 421.
Third reading, 470.
Passed, 471.
Returned, 478.
Signed by Speaker, 565.

Senate Bill No. 19.—(Committee on Appropriations)

Senate Bill No. 19. A Bill for an Act Making an Appropriation of \$21,350.00 for the Purpose of Paying Salary, Clerkhire and General Expenses of the State Historical Society.

Received from Senate, 179, 264.
First and second reading, 182, 275.
Reference, 182, 275.
Reported back, 421.
Third reading, 469.
Passed, 470.
Returned, 200, 478.
Other action, 195.
Signed by Speaker, 565.

Senate Bill No. 20.—(Committee on Appropriations)

Senate Bill No. 20. A Bill for an Act Making an Appropriation for the Use and Benefit of the North Dakota Firemen's Association for the Purpose of Promoting the Efficiency and Growth of Its Different Departments, and the Holding of an Annual Tournament, According to the Rules and Regulations of Such Association.

Received from Senate, 145.
First and second reading, 157.
Reference, 157.
Reported back, 213.
Amended, 213, 257, 305.
Third reading, 305, 646, 979.
Passed, 306, 647, 980.
Returned, 317.
Other action, 291, 336, 386, 404, 443, 447, 453, 646, 659, 674, 697, 698, 877, 948.
Signed by Speaker, 1115.

Senate Bill No. 22.—(Committee on Appropriations)

Senate Bill No. 22. A Bill for an Act Making an Appropriation to Provide for Compensation and Expenses of the Board of Trustees of the State Live Stock Sanitary Board.

Received from Senate, 148.
First and second reading, 159.
Reference, 160.
Reported back, 214.
Indefinitely postponed, 214.
Returned, 405.
Other action, 263.

Senate Bill No. 23.—(Committee on Appropriations)

Senate Bill No. 23. A Bill for an Act Making an Appropriation of \$10,200.00 for the Purpose of Paying the General Expenses of Carrying Out the Provisions of Chapter 168 of the Session Laws of 1919, Relating to Mine Inspection.

Received from Senate, 179.

First and second reading, 182.

Reference, 182.

Reported back, 235.

Third reading, 269.

Passed, 270.

Returned, 292.

Signed by Speaker, 347.

Senate Bill No. 25.—(Committee on Appropriations)

Senate Bill No. 25. A Bill for an Act to appropriate the Sum of \$15,000 to the Board of Auditors as Provided for in Section 369 of the Compiled Laws of North Dakota for the Year 1913, as Amended and Re-enacted by the Initiated Law Approved November 2, 1920.

Received from Senate, 145.

First and second reading, 157.

Reference, 157.

Amended, 513, 533.

Third reading, 613, 1199, 1288.

Passed, 614, 1200, 1289.

Returned, 639.

Other action, 263, 744, 824, 1182, 1183, 1201.

Signed by Speaker, 1402.

Senate Bill No. 26.—(Committee on Appropriations)

Senate Bill No. 26. A Bill for an Act Making an Appropriation of \$12,000.00 for the Use of the Board of Administration in Administering Child Welfare Laws.

Received from Senate, 179.

First and second reading, 182.

Reference, 182.

Reported back, 277.

Amended, 278.

Third reading, 346, 1282.

Passed, 347, 1283.

Returned, 360.

Other action, 385, 395, 443, 473, 478, 760, 766, 777, 1019, 1102, 1139, 1186, 1276, 1292, 1302.

Signed by Speaker, 1402.

Senate Bill No. 28.—(Committee on Appropriations)

Senate Bill No. 28. A Bill for an Act to Repeal Section 10960 of the Compiled Laws of North Dakota for the Year 1913, Relating to Society for the Friendless.

Received from Senate, 145.

First and second reading, 157.

Reference, 157.

Reported back, 689.

Third reading, 755.

Passed, 756.

Returned, 764.

Other action, 263, 418, 530, 664.

Signed by Speaker, 825.

Senate Bill No. 29.—(Committee on Appropriations)

Senate Bill No. 29. A Bill for an Act to Repeal Sections 2670 and 2671 of the Compiled Laws of North Dakota for the Year 1913 and Chapter 72 of the Session Laws of 1923, Relating to Cruelty to Animals.

Received from Senate, 145.

First and second reading, 157.

Reference, 157.

Reported back, 232.

Third reading, 271.

Passed, 272.

Returned, 292.

Signed by Speaker, 347.

Senate Bill No. 31.—(Committee on Appropriations)

Senate Bill No. 31. A Bill for an Act to Repeal Section 335, of Chapter 1 of the Compiled Laws of 1913 for North Dakota, Relating to the Expenses of Publishing Notices of Sale of University and All Other Public Lands.

Received from Senate, 145.

First and second reading, 158.

Reference, 158.

Reported back, 231.

Third reading, 272.

Passed, 273.

Returned, 292.

Signed by Speaker, 347.

Senate Bill No. 32.—(Committee on Appropriations)

Senate Bill No. 32. A Bill for an Act to Repeal Section 362 of Chapter 1 of the Compiled Laws of 1913 for North Dakota, Relating to the Expenses of Advertising the Common School Lands for Lease.

Received from Senate, 146.

First and second reading, 158.

Reference, 158.

Reported back, 232.

Third reading, 273.

Passed, 274.

Returned, 292.

Signed by Speaker, 347.

Senate Bill No. 34.—(Committee on Appropriations)

Senate Bill No. 34. A Bill for an Act Making an Appropriation for the Reward and Apprehension of Criminals According to Chapter 200 of the Session Laws of 1917.

Received from Senate, 146.

First and second reading, 158.

Reference, 158.

Reported back, 213.

Third reading, 241.

Passed, 242.

Returned, 260.

Signed by Speaker, 308.

Senate Bill No. 35.—(Committee on Appropriations)

Senate Bill No. 35. A Bill for an Act Making an Appropriation of \$10,000.00 for the Florence Crittenden Home at Fargo, North Dakota.

Received from Senate, 146.
 First and second reading, 158.
 Reference, 158.
 Reported back, 214.
 Third reading, 242.
 Passed, 243.
 Returned, 259.
 Signed by Speaker, 308.

Senate Bill No. 36.—(Committee on Appropriations)

Senate Bill No. 36. A Bill for an Act to appropriate \$60,000.00 to Provide Funds for the Maintenance of the North Dakota National Guard, or State Militia, as Provided for Under Chapter 35 of the Political Code of the Compiled Laws of North Dakota for the Year 1913, and to Meet the Other Requirements Prescribed by the Federal Statutes.

Received from Senate, 146.
 First and second reading, 158.
 Reference, 158.
 Reported back, 276.
 Amended, 277, 312.
 Third reading, 344.
 Passed, 345.
 Returned, 360.
 Other action, 385.
 Signed by Speaker, 418.

Senate Bill No. 37.—(Marshall)

Senate Bill No. 37. A Bill for an Act to appropriate the Sum of \$38,208.34, or So Much Thereof as May Be Needed, for the Purpose of Paying Certain Revenue Warrants Issued by the Board of Trustees of the State Industrial School and School for Manual Training at Ellendale for the Repayment of \$35,000.00 Borrowed and Used for the Erection of a Building at Such School; and Providing the Manner of Repayment of Same with Unpaid Interest.

Received from Senate, 180.
 First and second reading, 182.
 Reference, 182.
 Reported back, 692.
 Third reading, 757.
 Passed, 758.
 Returned, 764.
 Other action, 418, 664.
 Signed by Speaker, 825.

Senate Bill No. 38.—(Committee on Appropriations)

Senate Bill No. 38. A Bill for an Act Making an Appropriation of \$70,000.00 for the Care of Insane Patients Whose Residence Can Not Be Determined and Whose Care Must Be Borne by the State.

Received from Senate, 148.
 First and second reading, 160.
 Reference, 160.
 Reported back, 212.
 Amended, 212, 255.
 Third reading, 304.
 Passed, 305.
 Returned, 317.
 Other action, 291, 336, 386, 404, 452.
 Signed by Speaker, 565.

Senate Bill No. 39.—(Committee on Appropriations)

Senate Bill No. 39. A Bill for an Act to appropriate the Sum of \$90,000.00 for the Purpose of Paying Insurance Tax to the Various Fire Departments of the State.

Received from Senate, 146.
 First and second reading, 158.
 Reference, 158.
 Reported back, 237.
 Third reading, 270.
 Passed, 271.
 Returned, 292.
 Signed by Speaker, 348.

Senate Bill No. 40.—(Committee on Appropriations)

Senate Bill No. 40. A Bill for an Act Making an Appropriation of \$1,239,255.00 for the Purpose of Paying the General Maintenance, Improvements and Repairs, New Equipment, Etc., of the State University at Grand Forks, North Dakota.

Received from Senate, 511, 663.
 First and second reading, 571.
 Reference, 571, 676.
 Reported back, 1203.
 Amended, 1203, 1348.
 Third reading, 1374, 1443.
 Passed, 1375, 1444.
 Returned, 1377.
 Other action, 639, 641, 1003, 1394, 1395, 1402, 1405, 1406, 1418, 1423, 1427, 1429, 1430, 1435, 1438, 1439, 1442, 1445.
 Signed by Speaker, 1448.

Senate Bill No. 41.—(Committee on Appropriations)

Senate Bill No. 41. A Bill for an Act Making an Appropriation for the Per Diem and General Expenses of the State Live Stock Sanitary Board and for the Glanders & Dourine and Bovine Tuberculosis Funds.

Received from Senate, 148.
First and second reading, 160.
Reference, 160.
Reported back, 236.
Amended, 237.
Third reading, 306.
Passed, 307.
Returned, 317.
Other action, 290, 336, 386, 404, 452.
Signed by Speaker, 565.

Senate Bill No. 42.—(Committee on Appropriations)

Senate Bill No. 42. A Bill for an Act Making an Appropriation for the General Expenses of the Department of Motor Vehicle Registration.

Received from Senate, 264.
First and second reading, 275.
Reference, 275.
Reported back, 420.
Third reading, 468.
Passed, 469.
Returned, 478.
Other action, 418.
Signed by Speaker, 565.

Senate Bill No. 43.—(Committee on Appropriations)

Senate Bill No. 43. A Bill for an Act Making an Appropriation for the Current and Contingent Expenses of the Minimum Wage, Health and Morals of Women Workers, for Salary, Postage, Office Supplies, Printing, Traveling Expenses, Hearings, Conferences, Witness Fees, Legal Fees and Office Rent.

Received from Senate, 148.
First and second reading, 160.
Reference, 160.
Reported back, 276.
Amended, 276, 313.
Third reading, 343, 661.
Passed, 344, 662.
Returned, 360.
Other action, 385, 394, 463, 472, 478, 661.
Signed by Speaker, 786.

Senate Bill No. 46.—(Bond)

Senate Bill No. 46. A Bill for an Act to Repeal Sections 917, 918 and 919, Compiled Laws of 1913, Relating to Party Registration.

Received from Senate, 299.
First and second reading, 309.
Reference, 309.
Reported back, 517.
Indefinitely postponed, 517.
Returned, 592.
Other action, 448.

Senate Bill No. 48.—(Lynch and Hamilton)

Senate Bill No. 48. A Bill for an Act to appropriate the Sum of Six Hundred Dollars to Pay Miss Leila Diesem, La-Moure, North Dakota, for Services Rendered in Connection with the Compilation of the Blue Book for North Dakota for the Year 1919, Under the Direction of the Secretary of State.

Received from Senate, 180.
 First and second reading, 182.
 Reference, 182.
 Reported back, 334.
 Indefinitely postponed, 367.
 Third reading, 1208.
 Passed, 1209.
 Returned, 427, 1266.
 Other action, 1129, 1139, 1155, 1207.
 Signed by Speaker, 1402.

Senate Bill No. 49.—(Committee on Appropriations)

Senate Bill No. 49. A Bill for an Act Making an Appropriation of \$10,000.00 for the Maintenance of the Pure Seed Laboratory and Pure Seed Law Enforcement at the Agricultural College, Fargo, N. D.

Received from Senate, 146.
 First and second reading, 158.
 Reference, 158.
 Reported back, 277.
 Amended, 277, 350.
 Third reading, 383.
 Passed, 385.
 Returned, 405.
 Other action, 384, 443, 448, 453, 1183, 1201, 1264.
 Signed by Speaker, 1401.

Senate Bill No. 50.—(Committee on Appropriations)

Senate Bill No. 50. A Bill for an Act Making an Appropriation of \$266,900.00 to Pay the Maintenance, Improvements and Repairs, New Buildings and Miscellaneous for the Experiment Station at the Agricultural College, Fargo, North Dakota.

Received from Senate, 556.
 First and second reading, 573.
 Reference, 573.
 Reported back, 1274.
 Amended, 1274, 1348.
 Third reading, 1371.
 Passed, 1372.
 Returned, 1377.
 Other action, 664, 1394, 1398, 1411, 1413, 1414, 1423, 1426, 1429.
 Signed by Speaker, 1444.

Senate Bill No. 51.—(Committee on Appropriations)

Senate Bill No. 51. A Bill for an Act Making an Appropriation of \$100,000.00 as an Offset for Federal Aid in Extension Division Work of the Agricultural College, Fargo, N. Dak.

- Received from Senate, 818.
- First and second reading, 832.
- Reference, 832.
- Reported back, 1274.
- Amended, 1274, 1348.
- Third reading, 1370.
- Passed, 1371.
- Returned, 1378.
- Other action, 1394, 1395, 1398, 1411, 1413, 1415, 1423, 1426, 1429, 1430.
- Signed by Speaker, 1445.

Senate Bill No. 52.—(Committee on Appropriations)

Senate Bill No. 52. A Bill for an Act to appropriate Money for the Expenses of the Executive, Legislative and Judicial Departments of the State Government, and for Public Schools, Specifying the Amount and Time for Which Such Appropriations Shall Be Available, and Repealing All Acts or Parts of Acts, Insofar as the Same Shall Relate to Appropriations Conflicting Herewith, or to Appropriations for the Same Matters or Purposes Provided for Herein.

- Received from Senate, 897.
- First and second reading, 960.
- Reference, 960.
- Reported back, 1204.
- Amended, 1204, 1268.
- Third reading, 1336, 1379.
- Passed, 1337, 1380.
- Returned, 1343.
- Other action, 1336, 1337, correction of page 1354, 1357, 1370, 1378, 1382.
- Signed by Speaker, 1411.

Senate Bill No. 53.—(Committee on Appropriations)

Senate Bill No. 53. A Bill for an Act Making an Appropriation of \$565,600.00 to Pay the General Maintenance, Improvements and Repairs, Equipment, Miscellaneous and Public Service of the Agricultural College, Fargo, North Dakota.

- Received from Senate, 556.
- First and second reading, 573.
- Reference, 573.
- Reported back, 1275.
- Amended, 1275, 1349.
- Third reading, 1373, 1424.
- Passed, 1374, 1425.
- Returned, 1378.
- Other action, 664, 1003, 1394, 1395, 1398, 1413, 1414, 1415, 1424, 1426, 1428.
- Signed by Speaker, 1444.

Senate Bill No. 54.—(Committee on Appropriations)

Senate Bill No. 54. A Bill for an Act to Authorize the State Treasurer to Transfer the Sum of \$10,181.24 Credited to the Hotel Inspection Fund to the General Fund of the State of North Dakota.

Received from Senate, 146.

First and second reading, 158.

Reference, 158.

Reported back, 214.

Third reading, 243.

Passed, 244.

Returned, 259.

Signed by Speaker, 308.

Senate Bill No. 55.—(Committee on Appropriations)

Senate Bill No. 55. A Bill for an Act to Authorize the State Treasurer to Transfer the Sum of \$40,981.56 Credited to the Oil Inspection Special Fund to the General Fund of the State of North Dakota.

Received from Senate, 146.

First and second reading, 159.

Reference, 159.

Reported back, 215.

Third reading, 244.

Passed, 245.

Returned, 259.

Signed by Speaker, 309.

Senate Bill No. 57.—(Schlosser)

Senate Bill No. 57. A Bill for an Act Providing for the Appointment of Representatives on Behalf of the State of North Dakota to Negotiate a Compact and Agreement Between the States of North Dakota, South Dakota and Minnesota, and Between Said States and the United States of America, Respecting the Use, Control, Utilization and Disposition of the Waters of the Red River of the North and the Rights of Said States and the United States Thereto.

Received from Senate, 337.

First and second reading, 349.

Reference, 349.

Reported back, 376.

Third reading, 411.

Passed, 412.

Returned, 404.

Signed by Speaker, 447.

Senate Bill No. 58.—(Rusch)

Senate Bill No. 58. A Bill for an Act to Amend and Re-enact Sections 8 and 12 of Chapter 326 of the Session Laws of North Dakota for the Year 1923, Relating to Placing Taxing Districts Upon a Cash Basis, and Classing Park Districts Having Population Over Four Thousand with Cities and School Districts of Like Size.

Received from Senate, 731.

First and second reading, 833.

Reference, 833.

Reported back, 1007.

Third reading, 1056.

Passed, 1057.

Returned, 1082.

Signed by Speaker, 1212.

Senate Bill No. 60.—(Whitman)

Senate Bill No. 60. A Bill for an Act Permitting Municipal Corporations to Dam that Portion of the Red River of the North that Forms the Boundary Common of the State of North Dakota, and the State of Minnesota, Subject to Conditions Therein Expressed.

Received from Senate, 264.

First and second reading, 275.

Reference, 275.

Reported back, 358.

Third reading, 390.

Passed, 391.

Returned, 404.

Signed by Speaker, 447.

Senate Bill No. 61.—(Hamilton)

Senate Bill No. 61. A Bill for an Act to Amend and Re-enact Sections 10184 and 10185 of the Compiled Laws of North Dakota for the Year 1913, as Amended and Re-enacted by Chapter 126 of the 1921 Session Laws, Regulating the Sale, Manufacturing, Bartering or Giving Away of Any Cigarettes, Cigarette Papers or Wrappers, to Minors, and Prohibiting the Smoking of Cigarettes by Minors, or Permitting the Smoking of Cigarettes by Minors, and Providing Penalties.

Received from Senate, 241.

First and second reading, 274.

Reference, 274.

Reported back, 378.

Amended, 378, 450.

Third reading, 522, 695.

Passed, 523, 696.

Returned, 591.

Other action, 377, 463, 558, 559, 601, 651, 659, 694, 698.

Signed by Speaker, 786.

Senate Bill No. 62.—(Hamilton)

Senate Bill No. 62. A Bill for an Act Entitled, An Act Relating to the Sale of Cigarettes, and Cigarette Papers and Wrappers and Papers Used and Prepared for the Making of Cigarettes; Providing for Issuing Licenses for the Purpose of Making Sales Thereof and Furnishing of Bond; Providing for the Levy, Assessment, Collection and Payment of a Tax Thereon; Providing for the Regulation of the Sales Thereof, and Penalty for Violation of This Act; and Defining the Duties of the Attorney General, State Auditor and State Treasurer Imposed Under the Provisions of This Act; and Providing that Any Person Violating This Act May Be Enjoined, and that Any Building or Premises Made Use of for Purposes in Violation of This Act Shall be Deemed a Nuisance and Abated by Injunction.

Received from Senate, 241.

First and second reading, 274.

Reference, 274.

Reported back, 376.

Amended, 451.

Third reading, 526.

Passed, 527.

Returned, 591.

Other action, 463, 601.

Signed by Speaker, 677.

Senate Bill No. 63.—(Carey)

Senate Bill No. 63. A Bill for an Act to Amend and Re-enact Sections 1 and 4 of Chapter 17 of the Session Laws of North Dakota for the Year 1921, Relating to the Control of Artesian Wells.

Received from Senate, 264.
 First and second reading, 275.
 Reference, 275.
 Reported back, 357.
 Amended, 357, 396.
 Third reading, 414.
 Passed, 414.
 Returned, 428.
 Other action, 452.
 Signed by Speaker, 565.

Senate Bill No. 64.—(Carey)

Senate Bill No. 64. A Bill for an Act to Amend and Re-enact Section 1172 of the Compiled Laws of 1913, Relating to the Salary of School Treasurer in Common School Districts.

Received from Senate, 299.
 First and second reading, 309.
 Reference, 309.
 Reported back, 358.
 Indefinitely postponed, 358.
 Returned, 405.

Senate Bill No. 65.—(Obert Olson)

Senate Bill No. 65. A Bill for an Act to Establish the North Dakota State Corn Show and Making an Appropriation Therefor.

Received from Senate, 385.
 First and second reading, 395.
 Reference, 395.
 Reported back, 541.
 Indefinitely postponed, 543.
 Third reading, 1433.
 Passed, 1434.
 Returned, 592, 1434.
 Other action, 1293, 1422, 1431, 1432.
 Signed by Speaker, 1448.

Senate Bill No. 69.—(Carey)

Senate Bill No. 69. A Bill for an Act to Amend and Re-enact Section 4206 of the Compiled Laws of 1913, Relating to the Duties and Compensation of Township Treasurer.

Received from Senate, 299.
 First and second reading, 309.
 Reference, 309.
 Reported back, 401.
 Indefinitely postponed, 401.
 Returned, 427.

Senate Bill No. 70.—(Rusch)

Senate Bill No. 70. A Joint Resolution Relating to Interstate Bridges Across Rivers Forming Boundary Lines Between North Dakota, Minnesota, Wisconsin and South Dakota.

Received from Senate, 264.
 First and second reading, 275.
 Reference, 275.
 Reported back, 375.
 Third reading, 412.
 Passed, 413.
 Returned, 404.
 Signed by Speaker, 447.

Senate Bill No. 72.—(Martin)

Senate Bill No. 72. A Bill for an Act to Amend and Re-enact Chapter 6, Session Laws of 1919, as Amended by Special Session Laws of 1919, as Amended by Chapter 84, Session Laws of 1921, Chapter 239 of the Session Laws 1923, Relating to the Licensing, Regulating and Supervising the Licensing and Inspection of Pool and Billiard Rooms, Ball and Pin Alleys, Dance Halls, Theaters, Moving Picture Shows, Taxicab or Auto Liveries, Places Where Soft Drinks Are Retailled or Where Cigars and Tobacco Are Sold, or Public Halls, Owned Privately and Used for Public Purposes; Providing Fees Therefor, Inspectors, Defining Powers and Duties and Repealing All Acts and Parts of Acts Inconsistent Therewith.

Received from Senate, 601.
 Reference, 675.
 Reported back, 1039.
 Indefinitely postponed, 1039.
 Returned, 1080.
 Other action, 1003.

Senate Bill No. 76.—(Rusch)

Senate Bill No. 76. A Bill for an Act Providing for a Reduced Rate of Interest Upon Redemption of Real Estate Sold to the County for the Taxes of 1925 or Any Prior Year and Still Held by the County, Provided Such Redemption Is Made On or Before November 1, 1925.

Received from Senate, 426.
 First and second reading, 431.
 Reference, 431.
 Returned by request, 780.
 Other action, 664, 779, 1003.

Senate Bill No. 77.—(Ward)

Senate Bill No. 77. A Bill for an Act to Amend and Re-enact Section 988, of the Compiled Laws of the State of North Dakota for the Year 1913, as Amended and Re-enacted by Section 201 of the Session Laws of 1923, Relating to the Disability of Electors in Marking Their Ballots.

Received from Senate, 427.
First and second reading, 432.
Reference, 432, 673.
Reported back, 518, 810.
Amended, 518, 582, 811, 984.
Third reading, 673, 1026.
Passed, 1027.
Returned, 1048.
Other action, 1100.
Signed by Speaker, 1212.

Senate Bill No. 78.—(Whitmer)

Senate Bill No. 78. A Bill for an Act Levying a Tax on Dogs; Providing for the Collection of the Same and Creating a Fund for the Purpose of Reimbursing the Owners of Live Stock or Fowls for Damage and Injury by Dogs; and for the Destruction of Dogs.

Received from Senate, 913.
First and second reading, 982.
Reference, 982, 1035.
Reported back, 1008, 1096.
Amended, 1008, 1096.
Indefinitely postponed, 1129.
Returned, 1356.

Senate Bill No. 79.—(Storstad)

Senate Bill No. 79. A Bill for an Act to Amend and Re-enact Section 2093 of the Compiled Laws of North Dakota for the Year 1913 as Amended and Re-enacted by Chapter 228, Laws of 1917, Relating to the Matter of Listing Property for Taxation Purposes.

Received from Senate, 731.
First and second reading, 833.
Reference, 833.
Reported back, 990.
Third reading, 1027.
Passed, 1028.
Returned, 1048.
Signed by Speaker, 1116.

Senate Bill No. 80.—(Storstad)

Senate Bill No. 80. A Bill for an Act Relating to School District Finances; Providing for the Time of Beginning and Ending of the Fiscal Year for School Districts; Providing that School Boards and Boards of Education Shall Annually Prepare a Budget; Providing for the Publicity of Such Budget; Providing for a Public Hearing in Regard to Proposed Expenditures; Providing for Tax Levies and Providing that All Expenditures Must Conform to the Budget as Adopted.

Received from Senate, 845.
First and second reading, 877.
Reference, 877.
Reported back, 1092.
Amended, 1155.
Third reading, 1155.
Indefinitely postponed, 1155.
Returned, 1186.
Other action, 1184.

Senate Bill No. 83.—(C. J. Olson)

Senate Bill No. 83. A Bill for an Act to Amend and Re-enact Sections 869 and 983 of the Compiled Laws of the State of North Dakota for the Year 1913 as Amended and Re-enacted by Chapter 119, Session Laws of 1919, as Amended and Re-enacted by Chapter 212, Session Laws of 1923, Relating to the Conduct of Primary and General Elections.

Received from Senate, 426.
First and second reading, 431.
Reference, 431, 985.
Reported back, 518, 812, 1044.
Amended, 519, 812, 1044, 1074, 1146.
Third reading, 1146.
Passed, 1147.
Returned, 1184.
Other action, 533, 985, 1265.
Signed by Speaker, 1439.

Senate Bill No. 84.—(Bond)

Senate Bill No. 84. A Bill for an Act to Amend and Re-enact Section 319 of the Compiled Laws of North Dakota for 1913, Relating to Redemption of State and School Lands, on Which the Contracts Have Been Cancelled.

Received from Senate, 337.
First and second reading, 348.
Reference, 348.
Reported back, 379.
Third reading, 410.
Passed, 411.
Returned, 404.
Signed by Speaker, 447.

Senate Bill No. 85.—(Kaldor)

Senate Bill No. 85. A Bill for an Act to Amend Chapter 312, Laws of 1923, Relating to the State Income Tax Imposed on Incomes of Individuals, Fiduciaries, Corporations, Joint Stock Companies or Associations and Insurance Companies in the State of North Dakota.

Received from Senate, 427.
First and second reading, 431.
Reference, 431, 968.
Reported back, 551, 1008.
Amended, 551, 864.
Third reading, 966, 1060.
Indefinitely postponed, 967.
Passed, 1061.
Returned, 1082.
Other action, 968.
Signed by Speaker, 1213.

Senate Bill No. 86.—(Kaldor)

Senate Bill No. 86. A Bill for an Act to Amend and Re-enact Section 2094 and Section 2122 of the Compiled Laws of 1913, Relating to the Manner of Listing and Assessing Personal Property; to Repeal Sections 2102 and 2103, Compiled Laws 1913, and Chapter 232, Session Laws of 1915; to Amend and Re-enact Chapter 68, Special Session Laws of 1919 Relating to the Situs of Property for Taxation; to Amend and Re-enact Section 2101, Compiled Laws of 1913, Relating to Time and Place of Listing Taxable Property; and to Repeal All Acts and Parts of Acts in Conflict Therewith.

Received from Senate, 487.
First and second reading, 573.
Reference, 573.
Reported back, 776.
Third reading, 996.
Passed, 997.
Returned, 1016.
Signed by Speaker, 1115.

Senate Bill No. 89.—(Carey)

Senate Bill No. 89. A Bill for an Act to Amend and Re-enact Section 1165 of the Compiled Laws of North Dakota for the Year 1913, Relating to Bond of Treasurer of Common School District and Approval Thereof, Bond of Treasurer in Case of Failure to Elect a Successor, Vacancies, Duties of County Treasurer in Case a Vacancy Exists and Compensation of County Treasurer When Performing Duties of School District Treasurer.

Received from Senate, 299.
First and second reading, 309.
Reference, 309.
Reported back, 400.
Indefinitely postponed, 400.
Returned, 427.

Senate Bill No. 90.—(Committee on Appropriations)

Senate Bill No. 90. A Bill for an Act Making an Appropriation of \$14,990.00 for the Completion and Furnishing of the Liberty Memorial Building.

Received from Senate, 337.
First and second reading, 348.
Reference, 348.
Reported back, 421.
Indefinitely postponed, 422.
Returned, 508.

Senate Bill No. 91.—(Ingerson)

Senate Bill No. 91. A Bill for an Act to Prohibit the Borrowing of Money from State Banks by Its Officers or Directors and Declaring Such Borrowing to Be a Larceny.

Received from Senate, 663.
First and second reading, 676.
Reference, 676.
Returned by request, 765.
Other action, 733.

Senate Bill No. 92.—(Van Camp)

Senate Bill No. 92. A Bill for an Act to Amend and Re-enact Section 2486 of the Compiled Laws of the State of North Dakota for the Year 1913, Relating to Drain Kept Open and in Repair. Cost of.

Received from Senate, 264.
First and second reading, 275.
Reference, 275.
Reported back, 357.
Third reading, 389.
Passed, 390.
Returned, 404.
Signed by Speaker, 447.

Senate Bill No. 93.—(Patten)

Senate Bill No. 93. A Bill for an Act Making an Appropriation for the Purpose of Carrying Out and Maintaining General Supervision and Regulation of Grain Grading, Elevator Accounting, Bonding, Licensing, and Inspection of Elevators, Warehouses and Flour Mills, in the Handling of All Agricultural Products.

Received from Senate, 385.
First and second reading, 395.
Reference, 395.
Reported back, 544.
Amended, 545.
Third reading, 964.
Passed, 965.
Returned, 1015.
Other action, 1060, 1153, 1304.
Signed by Speaker, 1115.

Senate Bill No. 94.—(Patten)

Senate Bill No. 94. A Bill for an Act to Amend and Re-enact Section 6854, Compiled Laws of 1915, Being an Act Relating to Threshers Liens.

Received from Senate, 663.

First and second reading, 676.

Reference, 676.

Reported back, 767.

Indefinitely postponed, 768.

Returned, 816.

Senate Bill No. 95.—(Lynch)

Senate Bill No. 95. A Bill for an Act to Amend and Re-enact Chapter 91 of the Session Laws of 1921 of the State of North Dakota Relating to the Taking of Promissory Notes in Renewal of Notes Already Held by Banks, Other Corporations or Individuals and Affecting Their Legality.

Received from Senate, 897.

First and second reading, 960.

Reference, 960.

Reported back, 1093.

Third reading, 1151.

Passed, 1152.

Returned, 1185.

Signed by Speaker, 1319.

Senate Bill No. 96.—(Magnuson)

Senate Bill No. 96. A Bill for an Act to Amend and Re-enact Section 4884 of the Compiled Laws of the State of North Dakota for the Year 1913, Relating to the Contingency Reserves of Life Insurance Companies.

Received from Senate, 337.

First and second reading, 348.

Reference, 348.

Reported back, 577.

Third reading, 619, 714.

Indefinitely postponed, 620.

Passed, 715.

Returned, 732.

Other action, 530, 645.

Signed by Speaker, 786.

Senate Bill No. 97.—(Magnuson)

Senate Bill No. 97. A Bill for an Act to Amend and Re-enact Section 6624, Compiled Laws of 1913, Relating to Liability of Fire Insurance Companies.

Received from Senate, 662.

First and second reading, 676.

Reference, 676.

Reported back, 838.

Indefinitely postponed, 838.

Returned, 874.

Other action, 837.

Senate Bill No. 98.—(Benson)

Senate Bill No. 98. A Bill for an Act Fixing the Maximum Rate that Railroad Companies May Charge for the Transportation of Lignite Within the State of North Dakota.

Received from Senate, 265.
 First and second reading, 276.
 Reference, 276.
 Reported back, 357, 491.
 Third reading, 563.
 Passed, 564.
 Returned, 591.
 Other action, 381, 472.
 Signed by Speaker, 677.

Senate Bill No. 99.—(Magnuson)

Senate Bill No. 99. A Bill for an Act to Amend and Re-enact Sub-section 3 of Section 6635c of the Compiled Laws of North Dakota for the Year 1913, Relating to the Incontestable Clause to Be Included in the Required Provisions of Life Policies.

Received from Senate, 337.
 First and second reading, 348.
 Reference, 348.
 Reported back, 577, 726.
 Third reading, 619.
 Lost, 977.
 Returned, 1017.
 Other action, 500, 619.

Senate Bill No. 102.—(Bakken)

Senate Bill No. 102. A Bill for an Act to Confirm Title to Real Estate Sold by Decedents in Their Lifetime Under Contract, Conveyed Pursuant to Article 8 of Chapter 6 of the Probate Code of North Dakota, in Estates Now Closed, and Not Approved by the County Judge.

Received from Senate, 486.
 First and second reading, 572.
 Reference, 572.
 Reported back, 687.
 Third reading, 754.
 Passed, 755.
 Returned, 764.
 Signed by Speaker, 825.

Senate Bill No. 103.—(Ward)

Senate Bill No. 103. A Bill for an Act Relating to the Power of Stockholders and Management of Co-operative Corporations and Associations.

Received from Senate, 337.
 First and second reading, 348.
 Reference, 348.
 Reported back, 403.
 Third reading, 445.
 Passed, 446.
 Returned, 454.
 Signed by Speaker, 565.

Senate Bill No. 104.—(Ettestad)

Senate Bill No. 104. A Joint Resolution to Amend and Re-enact Section 82 of Article 3 of the Constitution of the State of North Dakota, Providing for the Election of State Officials.

Received from Senate, 427.
First and second reading, 431.
Reference, 431.
Reported back, 514.
Third reading, 611.
Passed, 612.
Returned, 640.
Signed by Speaker, 698.

Senate Bill No. 105.—(Miklethum)

Senate Bill No. 105. A Bill for an Act to Amend and Re-enact Section 5605 of the Compiled Laws of 1913, as Amended by Chapter 229 of the Session Laws of North Dakota for the Year 1923.

Received from Senate, 663.
First and second reading, 675.
Reference, 675.
Reported back, 838.
Third reading, 999.
Passed, 1000.
Returned, 1017.
Signed by Speaker, 1114.

Senate Bill No. 112.—(Schlosser and Olson of Burleigh)

Senate Bill No. 112. A Bill for an Act to Amend and Re-enact Sections 2, 5, and 13 of Chapter 159, Session Laws of 1919, Relating to Insurance on Public Buildings, Providing for the Classification of All Public Property, Limiting the Amount of Insurance to Be Carried by the State Fire and Tornado Fund, Providing for the Re-insurance of Certain Risks, and the Collection of the Premium Therefor.

Received from Senate, 452.
First and second reading, 465.
Reference, 465.
Reported back, 989.
Third reading, 1024.
Passed, 1025.
Returned, 1048.
Other action, 621 , 788, 1025.
Signed by Speaker, 1116.

Senate Bill No. 113.—(Murphy)

Senate Bill No. 113. A Bill for an Act to Amend and Re-enact Sub-division 3 of Section 6637, Compiled Laws of 1913, Relating to Form and Provisions Required in Insurance Policies.

Received from Senate, 386.
First and second reading, 395.
Reference, 395.
Reported back, 549.
Third reading, 618.
Lost, 619.
Returned, 660.
Other action, 645.

Senate Bill No. 114.—(Kaldor)

Senate Bill No. 114. A Bill for an Act to Amend and Re-enact Section 2212 of the Compiled Laws of North Dakota for the Year 1913, as Amended by Chapter 252 of the Session Laws of 1915, Relating to the Duty of the County Auditor and the Requirements of the Transfer of Real Property as to Taxes, Deeds and Other Instruments of Conveyance.

Received from Senate, 486.
First and second reading, 573.
Reference, 573.
Reported back, 687.
Amended, 687, 864.
Third reading, 967, 1169.
Passed, 968, 1170.
Returned, 1015.
Other action, 1052, 1053, 1083, 1157, 1187.
Signed by Speaker, 1319.

Senate Bill No. 115.—(Page and Fleckten)

Senate Bill No. 115. A Bill for an Act Relating to the Collection of Checks, Drafts, Notes or Other Negotiable Instruments by Banks or Trust Companies.

Received from Senate, 700.
First and second reading, 833.
Reference, 833.
Reported back, 1093.
Third reading, 1125.
Passed, 1126.
Returned, 1142.
Signed by Speaker, 1318.

Senate Bill No. 116.—(Storstad)

Senate Bill No. 116. A Bill for an Act Relating to the Finances of Cities, Towns and Villages; Providing for the Time of Beginning and Ending of the Fiscal Year; Providing that the Council, Commission, Board or Manager of All Cities, Towns and Villages Shall Annually Prepare a Budget; Providing for Publicity of Such Budget; Providing for Public Hearings in Regard to Proposed Expenditures; Providing for Tax Levies; and Providing that All Expenditures Must Conform to the Budget as Adopted.

Received from Senate, 872.
First and second reading, 876.
Reference, 876.
Reported back, 1008.
Third reading, 1057.
Passed, 1058.
Returned, 1082.
Signed by Speaker, 1212.

Senate Bill No. 117.—(Rusch)

Senate Bill No. 117. A Bill for an Act Relative to Payment of Deposits in Two Names.

Received from Senate, 913.
First and second reading, 982.
Reference, 982.
Reported back, 1093.
Third reading, 1126.
Passed, 1127.
Returned, 1142.
Signed by Speaker, 1319.

Senate Bill No. 118.—(Benson and Schlosser)

Senate Bill No. 118. A Bill for an Act to Provide an Appropriation for the Eradication of the Barberry Bushes.

Received from Senate, 510.
First and second reading, 570.
Reference, 570.
Reported back, 858.
Indefinitely postponed, 858.
Returned, 874.
Other action, 871.

Senate Bill No. 120.—(Committee on Insurance)

Senate Bill No. 120. A Bill for an Act to Amend and Re-enact Section 4 of Chapter 162 of the Laws of North Dakota for the Year 1919, as Amended by Chapter 145 of the Session Laws of 1921.

Received from Senate, 510.
First and second reading, 571.
Reference, 571.
Reported back, 811.
Amended, 811.
Third reading, 1021.
Passed, 1022.
Returned, 1048.
Other action, 716, 985.
Signed by Speaker, 1116.

Senate Bill No. 121.—(Committee on Insurance)

Senate Bill No. 121. A Bill for an Act Requiring Bonds of Contractors Doing Contract Work for the State or Any Political Subdivision Thereof to Carry a Provision Guaranteeing that the Employees of Such Contractor or Any of His Sub-contractors Are Fully Covered Under the Provisions of the Workmen's Compensation Law, Being Chapter 162 of the Session Laws of North Dakota for the Year 1919, and Acts Amendatory Thereof.

Received from Senate, 486.
 First and second reading, 572.
 Reference, 572.
 Reported back, 806.
 Third reading, 974.
 Passed, 975.
 Returned, 1016.
 Other action, 716.
 Signed by Speaker, 1114.

Senate Bill No. 122.—(Committee on Insurance)

Senate Bill No. 122. A Bill for an Act to Amend and Re-enact Section 3 of Chapter 162 of the Session Laws of North Dakota for the Year 1919, Known as the Workmen's Compensation Law, as Amended by Chapter 141 of the Session Laws of North Dakota for the Year 1921.

Received from Senate, 486.
 First and second reading, 573.
 Reference, 573.
 Reported back, 806.
 Third reading, 970.
 Passed, 970.
 Returned, 1016.
 Other action, 716.
 Signed by Speaker, 1115.

Senate Bill No. 123.—(Committee on Insurance)

Senate Bill No. 123. A Bill for an Act to Amend and Re-enact Section 7 of Chapter 162 of the Session Laws of North Dakota for the Year 1919, Known as the Workmen's Compensation Law, as Amended by the Session Laws of North Dakota for the Years 1921 and 1923.

Received from Senate, 486.
 First and second reading, 572.
 Reference, 572.
 Reported back, 807.
 Third reading, 971.
 Passed, 971.
 Returned, 1016.
 Other action, 716.
 Signed by Speaker, 1115.

Senate Bill No. 124.—(Committee on Insurance)

Senate Bill No. 124. A Bill for an Act to Amend and Re-enact Section 8 of Chapter 162 of the Session Laws of North Dakota for the Year 1919, Known as the Workmen's Compensation Law, as Amended by Chapter 144 of the Session Laws of North Dakota for the Year 1921, and as Further Amended by the Session Laws of North Dakota for the Year 1923.

Received from Senate, 510.
First and second reading, 571.
Reference, 571.
Reported back, 839.
Amended, 999, 1031.
Third reading, 1071.
Passed, 1072.
Returned, 1081.
Other action, 716, 999, 1032, 1100.
Signed by Speaker, 1212.

Senate Bill No. 126.—(Committee on Insurance)

Senate Bill No. 126. A Bill for an Act to Repeal Section 27 of Chapter 162 of the Session Laws of North Dakota for the Year 1919, Known as the Workmen's Compensation Law.

Received from Senate, 510.
First and second reading, 571.
Reference, 571.
Reported back, 838.
Third reading, 997.
Passed, 998.
Returned, 1016.
Other action, 716.
Signed by Speaker, 1114.

Senate Bill No. 127.—(Committee on Insurance)

Senate Bill No. 127. A Bill for an Act to Amend and Re-enact Chapter 353 of the Session Laws of North Dakota for the Year 1923, Requiring Reporting of Names of School District Clerks to the Workmen's Compensation Bureau.

Received from Senate, 510.
First and second reading, 571.
Reference, 571.
Reported back, 725.
Third reading, 978.
Passed, 977.
Returned, 1017.
Other action, 716.
Signed by Speaker, 1115.

Senate Bill No. 132.—(Committee on Insurance)

Senate Bill No. 132. A Bill for an Act to Amend and Re-enact Section 11 of Chapter 162 of the Session Laws of North Dakota for the Year 1919, Known as the Workmen's Compensation Law, as Amended by the Session Laws of North Dakota for the Years 1921 and 1923.

Received from Senate, 511.
First and second reading, 571.
Reference, 571.
Reported back, 838.
Third reading, 998.
Passed, 999.
Returned, 1016.
Other action, 716.
Signed by Speaker, 1115.

Senate Bill No. 133.—(Fleckten)

Senate Bill No. 133. A Bill for an Act to Amend and Re-enact Section 2 of Chapter 162 of the Laws of North Dakota for the Year 1919 as Amended by Chapter 142 of the Session Laws of 1921, Defining Certain Words and Phrases Contained in Said Chapter.

Received from Senate, 510.
First and second reading, 572.
Reference, 572.
Reported back, 726.
Amended, 977.
Third reading, 977.
Passed, 979.
Returned, 1015.
Other action, 716, 1060.
Signed by Speaker, 1116.

Senate Bill No. 134.—(Hamilton)

Senate Bill No. 134. A Bill for an Act to Amend and Re-enact Section 2846 of the Compiled Laws of North Dakota for the Year 1913 as Amended by Chapter 104 of the Session Laws of North Dakota for the Year 1917.

Received from Senate, 486.
First and second reading, 572.
Reference, 572.
Reported back, 726.
Third reading, 995.
Passed, 996.
Returned, 1016.
Signed by Speaker, 1115.

Senate Bill No. 136.—(Schlosser)

Senate Bill No. 136. A Bill for an Act to Amend Section 8719 of the Compiled Laws of 1913, Relating to the Exemption of the Avails of Life Insurance Payable to the Personal Representatives of a Deceased, His Heirs or Estate.

Received from Senate, 945.
First and second reading, 962.
Reference, 962.
Reported back, 1011.
Amended, 1066.
Third reading, 1066.
Indefinitely postponed, 1067.
Returned, 1142.
Other action, 1012, 1100.

Senate Bill No. 137.—(Kaldor)

Senate Bill No. 137. A Bill for an Act Relating to the Deposits of Money by Executors, Administrators and Guardians in Solvent Banks or Trust Companies.

Received from Senate, 486.
First and second reading, 572.
Reference, 572.
Reported back, 722.
Third reading, 976.
Lost, 978.
Returned, 1017.

Senate Bill No. 139.—(Obert Olson)

Senate Bill No. 139. A Bill for an Act Requiring the Publication of Official Proceedings of City Councils or Commissions in Cities Having a Population of One Thousand or More Inhabitants.

Received from Senate, 639.
First and second reading, 676.
Reference, 676.
Reported back, 795.
Indefinitely postponed, 864.
Returned, 874.

Senate Bill No. 142.—(Rusch)

Senate Bill No. 142. A Bill for an Act Making an Appropriation of Ten Thousand Dollars for the Biennium to the State Fair at Fargo for the Year 1925 as Provided Under Sections 1847 to 1859 of the Compiled Laws of North Dakota for the Year 1913.

Received from Senate, 897.
First and second reading, 960.
Reference, 960.
Reported back, 1322.
Indefinitely postponed, 1324.
Returned, 1341.

Senate Bill No. 143.—(Whitman)

Senate Bill No. 143. A Bill for an Act Making an Appropriation of Ten Thousand Dollars to the State Fair at Grand Forks for the Year 1925, as Provided for Under Sections 1847 to 1859 of the Compiled Laws of North Dakota for the Year 1913.

Received from Senate, 897.
 First and second reading, 960.
 Reference, 960.
 Reported back, 1325.
 Indefinitely postponed, 1327.
 Returned, 1341.

Senate Bill No. 144.—(Bond)

Senate Bill No. 144. A Bill for an Act to appropriate \$5000.00 to the Northwest Agricultural Livestock and Fair Association of Minot, for the Fairs to be Held in the Years 1925 and 1926, as Authorized by Section 6 of Chapter 217.

Received from Senate, 897.
 First and second reading, 960.
 Reference, 960.
 Reported back, 1325.
 Indefinitely postponed, 1329.
 Returned, 1342.
 Other action, 1145, 1146, 1329.

Senate Bill No. 145.—(Martin)

Senate Bill No. 145. A Bill for an Act Making an Appropriation of \$6,000.00 to the Missouri Slope Agricultural and Fair Associations at Mandan for the Fairs to be Held in the Years 1925 and 1926, as Authorized by Sections 1860 to 1866, Both Inclusive, of the Compiled Laws for North Dakota for 1913.

Received from Senate, 897.
 First and second reading, 960.
 Reference, 960.
 Reported back, 1329.
 Indefinitely postponed, 1331.
 Returned, 1342.
 Other action, 1331.

Senate Bill No. 148.—(Hamilton)

Senate Bill No. 148. A Bill for an Act to appropriate \$3,000.00 for the Purpose of Removing the Roosevelt Cabin to a Place Near the Liberty Memorial Building on the Capitol Grounds, and for the Protection and Decoration of the Same.

Received from Senate, 453.
 First and second reading, 466.
 Reference, 466.
 Reported back, 776.
 Indefinitely postponed, 776.
 Returned, 816.

Senate Bill No. 150.—(Tofsrud)

Senate Bill No. 150. A Bill for an Act to Repeal Sections 2147, 2245, 2252 of the Compiled Laws of the State of North Dakota for the Year 1913 Relating to Taxation of Public Utility Property in Unorganized Counties.

Received from Senate, 663.

First and second reading, 676.

Reference, 676.

Reported back, 807.

Third reading, 972.

Passed, 972.

Returned, 1016.

Signed by Speaker, 1114.

Senate Bill No. 151.—(Tofsrud)

Senate Bill No. 151. A Bill for an Act to Amend and Re-enact Section 2166 of the Compiled Laws of North Dakota for the Year 1913 Relating to Delinquent Personal Property Taxes.

Received from Senate, 663.

First and second reading, 676.

Reference, 676.

Reported back, 1007.

Amended, 1007.

Third reading, 1159.

Passed, 1160.

Returned, 1184.

Other action, 1265.

Signed by Speaker, 1319.

Senate Bill No. 152.—(Rusch)

Senate Bill No. 152. A Bill for an Act Making an Appropriation to Provide for the Payment of Income Tax Refunds in Connection with Taxes Assessed and Paid Under the 1919 Income Tax Law for the Years 1919, 1920, 1921 and 1922.

Received from Senate, 872.

First and second reading, 876.

Reference, 876.

Reported back, 1038.

Third reading, 1109.

Passed, 1110.

Returned, 1142.

Other action, 1003, 1386.

Signed by Speaker, 1318.

Senate Bill No. 155.—(Atkins)

Senate Bill No. 155. A Bill for an Act to Appropriate the Sum of \$30,000.00 for the Purpose of Paying State's Share for the Construction of Pavement on Federal Aid Project No. 100 Under the Provisions of Chapter 73 of the Laws Passed at the Sixteenth Session of the Legislative Assembly of North Dakota, Said Project Being Part of Missouri River Bridge Project, and that Such Appropriation Be Made from the State Highway Fund.

Received from Senate, 912.

First and second reading, 981.

Reference, 981.

Reported back, 1331.

Indefinitely postponed, 1332.

Returned, 1342.

Senate Bill No. 156.—(Committee on Insurance)

Senate Bill No. 156. A Bill for an Act to Repeal Section 6624 of the Compiled Laws of North Dakota for the Year 1913, Relating to the Face of Policy to be Paid in Case of Loss.

Received from Senate, 427.

First and second reading, 431.

Reference, 431.

Reported back, 577.

Indefinitely postponed, 577.

Returned, 660.

Senate Bill No. 157.—(Wog)

Senate Bill No. 157. A Bill for an Act to Repeal Sections 2228, 2229, 2230 and 2231 of the Compiled Laws of the State of North Dakota for the Year 1913 Legalizing Irregularities in Assessments and Levies of 1895, 1896 and 1897, 1898, 1899 and 1900; and Repealing Section 2232, 2233, 2234, 2235, 2236 and 2237 of the Compiled Laws of the State of North Dakota for the Year 1913 Validating All Assessments Made Since 1889.

Received from Senate, 873.

First and second reading, 876.

Reference, 876.

Reported back, 894.

Indefinitely postponed, 894.

Returned, 948.

Senate Bill No. 158.—(Porter, Patterson and Fredrickson)

Senate Bill No. 158. A Senate Resolution Replying to the Resolution of the Legislature of the State of Florida, Touching on the Death of Martin Tabert.

Received from Senate, 337.

First and second reading, 349.

Reference, 349.

Reported back, 354.

Third reading, 388.

Passed, 389.

Returned, 404.

Signed by Speaker, 447.

Senate Bill No. 160.—(Ward)

Senate Bill No. 160. A Bill for an Act Authorizing the Renewal of the Period of Corporate Existence of Certain Corporations Whose Period of Duration Has Expired Without the Renewal Thereof and Legalizing Acts and Contracts of Such Corporation Made or Done and Performed Subsequent to the Expiration of the Original Period of Existence of Such Corporation.

Received from Senate, 510.

First and second reading, 571.

Reference, 571.

Reported back, 808.

Amended, 808, 865.

Third reading, 968.

Passed, 969.

Returned, 1015.

Other action, 1060.

Signed by Speaker, 1116.

Senate Bill No. 162.—(Bakken)

Senate Bill No. 162. A Bill for an Act Authorizing the Conveyance of Certain Lands.

Received from Senate, 945.
 First and second reading, 962.
 Reference, 962.
 Reported back, 1093.
 Amended, 1152.
 Third reading, 1152.
 Passed, 1153.
 Returned, 1184.
 Other action, 1265.
 Signed by Speaker, 1319.

Senate Bill No. 165.—(Stevens and Rusch)

Senate Bill No. 165. A Bill for an Act Making an Annual Appropriation of \$1,000.00 for the Purpose of Aiding the Department of North Dakota of the Grand Army of the Republic, in Maintaining the Expenses of Its Organization, and to Aid in Defraying the Expenses of Its Annual Encampment.

Received from Senate, 510.
 First and second reading, 570.
 Reference, 571.
 Reported back, 643.
 Third reading, 673.
 Passed, 674.
 Returned, 697.
 Signed by Speaker, 786.

Senate Bil No. 167.—(Committee on Judiciary)

Senate Bill No. 167. A Bill for an Act Providing General Rules of Procedure in County Courts Relating to Giving Notice to and Obtaining Jurisdiction of All Persons Interested in Estates of Deceased Persons, or of Minors, or Incompetents; and for Giving Notice to Creditors of and Presentation and Investigation and Allowance or Rejection of Claims Against Estates of Deceased Persons; and Sales of Real Estate by Executors, Administrators, and Guardians; and to Repeal Sections 8549, 8550, 8551, 8552, 8553, 8554, 8555, 8556, 8557, 8558, 8559, 8565, 8734, 8736, 8737, 8740, 8741, 8742, 8743, 8744, 8747, 8748, 8752, 8754, 8771, 8772, 8774, 8775, 8776, 8777, 8780, 8790, 8791, 8909, 8911, 8767, 8769, 8770 of the Compiled Laws of North Dakota, 1913, and All Acts and Parts of Acts in Conflict Herewith."

Received from Senate, 945.
 First and second reading, 962.
 Reference, 962.
 Reported back, 1041.
 Amended, 1042, 1158.
 Third reading, 1158.
 Passed, 1159.
 Returned, 1184.
 Other action, 1304.
 Signed by Speaker, 1401.

Senate Bill No. 171.—(Olson of Barnes)

Senate Bill No. 171. A Bill for an Act to Empower Cities and Villages to Levy and Collect a Tax for Purpose of Furnishing Musical Concerts to the Public.

Received from Senate, 731.
First and second reading, 833.
Reference, 833.
Reported back, 1088.
Third reading, 1127.
Indefinitely postponed, 1128.
Returned, 1141.

Senate Bill No. 172.—(Committee on Appropriations)

Senate Bill No. 172. A Bill for an Act to Appropriate the Sum of \$2,000.00 for the Purpose of Paying Premiums on Bonds of State Officials as Provided for by Chapter 175 of the Laws of North Dakota for the Year 1917.

Received from Senate, 453.
First and second reading, 465.
Reference, 465.
Reported back, 545.
Third reading, 614.
Passed, 615.
Returned, 640.
Signed by Speaker, 698.

Senate Bill No. 173.—(Committee on Appropriations)

Senate Bill No. 173. A Bill for an Act Making an Appropriation of \$5,000.00 for the Biennium to Pay the Expenses and Per Diem of Agents in the Arrest and Return of Fugitives from Justice as Prescribed by Section 11162 of the Compiled Laws of 1913 for North Dakota.

Received from Senate, 452.
First and second reading, 465.
Reference, 465.
Reported back, 540.
Third reading, 615.
Passed, 616.
Returned, 640.
Signed by Speaker, 698.

Senate Bill No. 174.—(Committee on Appropriations)

Senate Bill No. 174. A Bill for an Act to Appropriate the Sum of \$2,000.00 for the Purpose of Paying the Per Diem and Expenses of the State Budget Board as Prescribed by Chapter 61 of the Session Laws of North Dakota for the Year 1915.

Received from Senate, 452.
First and second reading, 466.
Reference, 466.
Reported back, 544.
Third reading, 616.
Passed, 617.
Returned, 640.
Signed by Speaker, 698.

Senate Bill No. 175.—(Committee on Appropriations)

Senate Bill No. 175. A Bill for an Act to Appropriate \$40,000.00 to Provide a State Contingency Fund to be Placed at the Disposal of the State Emergency Commission to be Used as Provided by Chapters 26 and 152 of the Session Laws of North Dakota for the Year 1915.

Received from Senate, 452.
 First and second reading, 466.
 Reference, 466.
 Reported back, 543.
 Third reading, 617.
 Passed, 618.
 Returned, 640.
 Signed by Speaker, 698.

Senate Bill No. 176.—(Hjelmstad)

Senate Bill No. 176. A Bill for an Act to Amend and Re-enact Section 336, Compiled Laws of 1913, Relating to the Leasing and Sale of School and Other Public Lands of the State.

Received from Senate, 873.
 First and second reading, 876.
 Reference, 877.
 Reported back, 1009.
 Amended, 1058.
 Third reading, 1058.
 Passed, 1059.
 Returned, 1081.
 Other action, 1100.
 Signed by Speaker, 1212.

Senate Bill No. 177.—(Van Camp)

Senate Bill No. 177. A Bill for an Act to Amend and Re-enact Section 4799 of the Compiled Laws of the State of North Dakota for 1913, Relating to Free Passes, Franks and Special Privileges, Prohibited and Exceptions.

Received from Senate, 913.
 First and second reading, 981.
 Reference, 982, 1075, 1134.
 Reported back, 1037, 1134.
 Amended, 1037.
 Indefinitely postponed, 1171.
 Returned, 1266.

Senate Bill No. 179.—(Committee on Women's and Children's Welfare)

Senate Bill No. 179. A Bill for an Act to Safeguard the Distribution and Sale of Certain Dangerous Caustic of Corrosive Acids, Alkalis and Other Substances in the State of North Dakota.

Received from Senate, 662.
 First and second reading, 675.
 Reference, 675.
 Reported back, 1085.
 Indefinitely postponed, 1085.
 Returned, 1141.
 Other action, 1003.

Senate Bill No. 180.—(Rusch)

Senate Bill No. 180. A Bill for an Act Regulating the Expenditure of Money for Travel Expenses of Members, Officers and Employees of the Board of Administration and the Institutions Under Its Control, and Certain Departments of the State, and Requiring the Approval of the Board and Governor Therefor.

Received from Senate, 662.
 First and second reading, 675.
 Reference, 675.
 Reported back, 1005.
 Amended, 1006.
 Third reading, 1160, 1381.
 Passed, 1161, 1381.
 Returned, 1184.
 Other action, 875, 1264, 1265, 1293, 1312, 1319, 1343, 1373, 1380, 1386.
 Signed by Speaker, 1411.

Senate Bill No. 182.—(Ployhar)

Senate Bill No. 182. A Bill for an Act to Amend and Re-enact Section 3523 of the Compiled Laws of North Dakota for 1913, Relating to Deputies.

Received from Senate, 700.
 First and second reading, 832.
 Reference, 832.
 Reported back, 895.
 Indefinitely postponed, 895.
 Returned, 948.

Senate Bill No. 183.—(Stevens)

Senate Bill No. 183. A Bill for an Act to Amend and Re-enact Section 9 of Chapter 236 of the Session Laws of North Dakota for the Year 1915, Relating to the Examination, Registration and Regulation of Graduated Nurses.

Received from Senate, 662.
 First and second reading, 676.
 Reference, 676.
 Reported back, 1085.
 Indefinitely postponed, 1123.
 Returned, 1142.
 Other action, 1003.

Senate Bill No. 184.—(Ettestad)

Senate Bill No. 184. A Bill for an Act to Repeal Section 3455 of the Compiled Laws of North Dakota for the Year 1913 Relating to Commissions Allowed County Treasurers Upon Bond Issues.

Received from Senate, 700.
 First and second reading, 832.
 Reference, 832.
 Reported back, 942.
 Third reading, 1001.
 Passed, 1001.
 Returned, 1017.
 Signed by Speaker, 1114.

Senate Bill No. 185.—(Ployhar)

Senate Bill No. 185. A Bill for an Act Making it Unlawful to Sell or Offer for Sale in This State Motor Fuel Which Has Been Mixed or Compounded, Unless the Compound Shall Be Colored to Distinguish the Same from Ordinary Motor Fuel; Making Such Prohibited Sale a Misdemeanor and Providing the Penalty Therefor.

Received from Senate, 898.
First and second reading, 960.
Reference, 960.
Reported back, 1006.
Third reading, 1055.
Passed, 1056.
Returned, 1082.
Signed by Speaker, 1212.

Senate Bill No. 189.—(Flechten)

Senate Bill No. 189. A Bill for an Act Authorizing the State Engineer to Cooperate with the Director of the United States Geological Survey in Making Topographic Surveys and Maps to be Used in the Development of Flood Protection, Domestic Water Supply, Restoration of Water Areas, Irrigation and Drainage Projects in the State of North Dakota, and Making an Appropriation Therefor.

Received from Senate, 912.
First and second reading, 981.
Reference, 981.
Reported back, 1181.
Third reading, 1368.
Passed, 1369.
Returned, 1378.
Other action, 1347.
Signed by Speaker, 1439.

Senate Bill No. 190.—(Bond)

Senate Bill No. 190. A Bill for an Act to Amend Chapter 62 of the Compiled Laws of North Dakota for the Year 1915 and Chapter 158 of the Compiled Laws of North Dakota for the Year 1919 by Extending the Time Within Which Claims May Be Filed Against the State Bonding Fund from Sixty Days to One Year, and Providing Ninety Days After Entry of Judgment for Filing Claims in Certain Cases.

Received from Senate, 954.
Reference, 964.
Reported back, 1011.
Indefinitely postponed, 1011.
Returned, 1047.

Senate Bill No. 192.—(Lynch)

Senate Bill No. 192. A Bill for an Act to Amend and Re-enact Sections 11275, 11276, 11278, 11279, 11280, 11281, 11288, 11289 and 11291 of the Compiled Laws of 1913, and Acts Amendatory Thereof, Relating to the Officers and Employees of the State Training School, Their Duties and Salary, Those Who May Be Committed to Said School and for What Time, Regulating the Conditions Under Which the Students in Said School May Be Paroled, and Fixing Penalty for Violation of Parole or Assisting Escapes from Said School.

Received from Senate, 954.
 First and second reading,, 964.
 Reference, 964.
 Reported back, 1092.
 Third reading, 1124.
 Passed, 1125.
 Returned, 1142.
 Signed by Speaker, 1318.

Senate Bill No. 196.—(O. H. Olson and Magnuson)

Senate Bill No. 196. A Joint Resolution Requesting Congress to Enact Suitable Legislation to Protect the Farmers' Market and Reduce His Marketing Cost.

Received from Senate, 556.
 First and second reading, 573.
 Reference, 573.
 Reported back, 691, 727.
 Third reading, 756.
 Passed, 757.
 Returned, 764.
 Signed by Speaker, 825.

Senate Bill No. 197.—(O. H. Olson and Ployhar)

Senate Bill No. 197. A Bill for an Act to Amend and Re-enact Section 4922 of the Compiled Laws of the State of North Dakota for the Year 1913, as Amended and Re-enacted by Chapter 165, Session Laws of 1919, Relating to the Revocation of the Certificates of Authority of Insurance and Surety Companies and Providing Against Discrimination.

Received from Senate, 898.
 First and second reading, 961.
 Reference, 961.
 Reported back, 1043, 1117.
 Amended, 1043, 1118.
 Third reading, 1155.
 Passed, 1156.
 Returned, 1184.
 Other action, 1265.
 Signed by Speaker, 1319.

Senate Bill No. 199.—(Peck)

Senate Bill No. 199. A Concurrent Resolution Providing for the Amendment of Section 45, Article 2, of the Constitution of the State of North Dakota, Relating to the Compensation and Mileage Allowed Legislative Members.

Received from Senate, 873.

First and second reading, 877.

Reference, 877.

Reported back, 1005.

Third reading, 1049.

Passed, 1049.

Returned, 1082.

Signed by Speaker, 1213.

Senate Bill No. 200.—(Schlosser)

Senate Bill No. 200. A Bill for an Act to Regulate the Practice of the Professions of Engineering and Land Surveying in the State of North Dakota.

Received from Senate, 873.

First and second reading, 877.

Reference, 877.

Reported back, 1134.

Amended, 1134.

Indefinitely postponed, 1171.

Returned, 1266.

Other action, 1291.

Senate Bill No. 206.—(Kaldor and Ettetstad)

Senate Bill No. 206. A Bill for an Act to Impose a Flat Tax of Five Mills on Money and Credits, Providing for the Distribution of the Proceeds of Such Tax and Repealing Chapter 307, Laws of 1923, Relating to the Exemption of Moneys and Credits, and Repealing Chapter 305, Laws of 1923 Relating to the Taxation of Corporate Excess and All Other Acts and Parts of Acts in Conflict with the Provisions of This Act.

Received from Senate, 912.

First and second reading, 981.

Reference, 981.

Reported back, 1038.

Amended, 1038.

Indefinitely postponed, 1075.

Returned, 1141.

Senate Bill No. 207.—(Eastgate)

Senate Bill No. 207. A Bill for an Act Relating to Primary Elections; Prescribing the Minimum Number of Votes for Nomination.

Received from Senate, 945.

First and second reading, 962.

Reference, 962.

Reported back, 1088.

Third reading, 1150.

Passed, 1151.

Returned, 1185.

Signed by Speaker, 1319.

Senate Bill No. 209.—(O. H. Olson)

Senate Bill No. 209. A Bill for an Act Designating the Commissioner of Insurance as Receiver of Insolvent Domestic Insurance Companies, Outlining the Procedure in Dissolution of Such Companies, and Defining the Commissioner's Powers and Duties as Such Receiver.

Received from Senate, 899.
First and second reading, 961.
Reference, 961.
Reported back, 1135.
Third reading, 1196.
Passed, 1197.
Returned, 1267.
Signed by Speaker, 1402.

Senate Bill No. 210.—(Ingerson and Page)

Senate Bill No. 210. A Bill for an Act Defining State Associations and Regulating and Limiting the Power of Such Associations to Re-discount, to Borrow Money, to Pledge Assets, Forbidding Contracts to Re-purchase Assets, Providing Procedure for the Foreclosure of Pledges with Redemption Therefrom, Declaring Void Pledge Contracts in Violation of the Provisions of the Act, Providing a Penalty for Borrowing Money and Pledging Assets in Violation of the Act and Repealing Laws in Conflict.

Received from Senate, 913.
First and second reading, 981.
Reference, 981.
Reported back, 1094.
Third reading, 1162.
Passed, 1162.
Returned, 1185.
Signed by Speaker, 1319.

Senate Bill No. 213.—(Benson)

Senate Bill No. 213. A Bill for an Act to Empower and Authorize the Board of Administration to Furnish Current from Its Lighting Plant at the State Tuberculosis Sanitarium at Dunseith, North Dakota, to the City of Dunseith, North Dakota, and the Inhabitants Thereof.

Received from Senate, 663.
First and second reading, 675.
Reference, 675.
Reported back, 722.
Third reading, 975.
Passed, 976.
Returned, 1017.
Signed by Speaker, 1114.

Senate Bill No. 215.—(Bond)

Senate Bill No. 215. A Bill for an Act Providing for the Discontinuance of the Depositors Guaranty Fund and Limiting the Time Up to Which Deposits Are Guaranteed by Said Fund and the Laws Relating Thereto.

Received from Senate, 955.
First and second reading, 964.
Reference, 964.
Reported back, 1134.
Indefinitely postponed, 1134.
Returned, 1186.

Senate Bill No. 216.—(Committee on Appropriations)

Senate Bill No. 216. A Bill for an Act to Transfer the Sum of \$400.00 from the Fund Appropriated to the War History Commission for Membership in National Association of War History Organizations to Said Commission's Fund for Clerk Hire.

Received from Senate, 700.
First and second reading, 832.
Reference, 832.
Reported back, 1038.
Third reading, 1111.
Passed, 1111.
Returned, 1142.
Signed by Speaker, 1318.

Senate Bill No. 219.—(Schlosser)

Senate Bill No. 219. A Bill for an Act to Amend and Re-enact Section 3275 of the Compiled Laws of North Dakota for the Year 1913, Relating to the Powers of County Commissioners.

Received from Senate, 700.
First and second reading, 832.
Reference, 832.
Reported back, 990.
Amended, 990.
Indefinitely postponed, 1031.
Returned, 1047.
Other action, 1032.

Senate Bill No. 221.—(Porter)

Senate Bill No. 221. A Bill for an Act Entitled an Act to Require all Public School Buildings, Seminaries and College Buildings, More than One Story in Height to Be Provided With Chemical Fire Extinguishers, and Providing for a Penalty for the Violation Thereof.

Received from Senate, 663.
First and second reading, 675.
Reference, 675.
Reported back, 988.
Amended, 988.
Indefinitely postponed, 1031.
Returned, 1047.
Other action, 1032.

Senate Bill No. 229.—(Van Camp)

Senate Bill No. 229. A Bill for an Act to Prohibit the Adulteration of Milk and Dairy Products by the Introducing Therein of Any Fat or Oil Other than Milk Fat; and to Prohibit the Sale of Any Substitute for Dairy Products or the Exposing for Sale of Such Products Through the Use of Any Advertisement or Other Means, Suggesting the Words: "Butter," "Creamery," or "Dairy," or Suggesting the Name of Any Breed of Cattle; and Prescribing Penalties for Violation.

Received from Senate, 898.
 First and second reading, 960.
 Reference, 960.
 Reported back, 1013.
 Third reading, 1068.
 Passed, 1069.
 Returned, 1081.
 Signed by Speaker, 1213.

Senate Bill No. 230.—(Schlosser)

Senate Bill No. 230. A Bill for an Act to Amend and Re-enact Section 1400 of Article 22 of the Laws of the State of North Dakota, Relating to Consolidated, Graded, and Rural Schools May Receive State Aid.

Received from Senate, 913.
 First and second reading, 981.
 Reference, 981.
 Reported back, 1094.
 Indefinitely postponed, 1094.
 Amended, 1129, 1130.
 Third reading, 1192.
 Passed, 1193.
 Returned, 1267.
 Other action, 1107, 1305.
 Signed by Speaker, 1402.

Senate Bill No. 232.—(Magnuson)

Senate Bill No. 232. A Bill for an Act Authorizing the Board of Trustees of the Teachers' Insurance and Retirement Fund to Employ an Actuary and Clerical Assistance and Making an Appropriation Therefor.

Received from Senate, 955.
 First and second reading, 963.
 Reference, 964.
 Reported back, 1010.
 Third reading, 1064.
 Passed, 1064.
 Returned, 1082.
 Signed by Speaker, 1213.

Senate Bill No. 233.—(McLachlin)

Senate Bill No. 233. A Bill for an Act Making an Appropriation of Six Hundred Dollars (\$600.00) to the North Dakota Poultry Association.

Received from Senate, 872.
 First and second reading, 876.
 Reference, 876.
 Reported back, 1011.
 Indefinitely postponed, 1011.
 Returned, 1047.

Senate Bill No. 235.—(Carey)

Senate Bill No. 235. A Bill for an Act to Amend and Re-enact Section 959, Compiled Laws of 1913, as Amended by Chapter 203, Session Laws of 1923, Relating to Election Bal-

Received from Senate, 898.

First and second reading, 961.

Reference, 961.

Reported back, 1180.

Amended, 1180, 1268.

Third reading, 1338, 1404.

Passed, 1339, 1404.

Returned, 1344.

Other action, 1338, 1354, 1357, 1370, 1403, 1405.

Signed by Speaker, 1439.

Senate Bill No. 236.—(McLachlin)

Senate Bill No. 236. A Bill for an Act to Prescribe the Legal Reserve Fund of all Banking Associations and Corporations, on and After July 1, 1926.

Received from Senate, 955.

First and second reading, 964.

Reference, 964.

Reported back, 1094.

Amended, 1153.

Third reading, 1153.

Passed, 1154.

Returned, 1185.

Other action, 1304.

Signed by Speaker, 1402.

Senate Bill No. 239.—(Ingerson)

Senate Bill No. 239. A Bill for an Act Providing that the Bank Examiner Notify the Guaranty Fund Commission of Violations of Sections 5172, 5175, 5189, and 5192 of the Compiled Laws of North Dakota for the Year 1913, and Providing that a Failure to do so Shall Be Deemed a Misdemeanor.

Received from Senate, 956.

First and second reading, 963.

Reference, 963.

Reported back, 1095.

Indefinitely postponed, 1095.

Returned, 1141.

Senate Bill No. 240.—(Bond)

Senate Bill No. 240. A Bill for an Act to Repeal Sections 910 to 916, both inclusive, Compiled Laws of 1913, Relating to the Presidential Primary Election.

Received from Senate, 956.

First and second reading, 963.

Reference, 963.

Reported back, 1086.

Indefinitely postponed, 1086.

Returned, 1141.

Senate Bill No. 241.—(Carey)

Senate Bill No. 241. A Bill for an Act to Permit the Use of Guide Cards in Elections, to Assist in Enabling Elector to Vote for the Candidate of His or Her Choice.

Received from Senate, 873.
First and second reading, 877.
Reference, 877.
Reported back, 1089.
Indefinitely postponed, 1130.
Returned, 1186.

Senate Bill No. 242.—(Carey)

Senate Bill No. 242. A Bill for an Act to Safeguard the Initiative, Referendum and Recall Provisions of the Constitution by Prohibiting Illegal and Fraudulent Signatures to Petitions, Prescribing Form and Manner of Signing and Penalties for Violations.

Received from Senate, 956.
First and second reading, 963.
Reference, 963.
Reported back, 1088.
Amended, 1088, 1171.
Third reading, 1333.
Passed, 1334.
Returned, 1344.
Other action, 1354.
Signed by Speaker, 1439.

Senate Bill No. 244.—(C. J. Olson)

Senate Bill No. 244. A Bill for an Act Relating to the Attachment of Isolated Land to an Adjoining School District and Providing the Manner of Such Attachment.

Received from Senate, 778.
First and second reading, 833.
Reference, 833.
Reported back, 989.
Indefinitely postponed, 989.
Returned, 1017.

Senate Bill No. 251.—(Stevens)

Senate Bill No. 251. A Bill for an Act to Amend and Re-enact Section 1 of Chapter 145, Session Laws of North Dakota for the Year 1923, Relating to State Bounty on Wolves and Coyotes.

Received from Senate, 946.
First and second reading, 962.
Reference, 962.
Reported back, 1013.
Amended, 1013, 1035.
Third reading, 1108.
Lost, 1108.
Returned, 1142.

Senate Bill No. 253.—(Fredrickson)

Senate Bill No. 253. A Bill for an Act to Amend and Re-enact Section 994, Compiled Laws of 1913, as Amended by Chapter 32, Special Session Laws of 1919, Relating to Absent Voters' Ballots.

Received from Senate, 899.
First and second reading, 960.
Reference, 960.
Reported back, 1086.
Indefinitely postponed, 1145.
Returned, 1186.
Other action, 1087.

Senate Bill No. 255.—(Van Camp)

Senate Bill No. 255. A Bill for an Act Amending Section 1 and Section 5 of Chapter 326 of the Session Laws of 1923 Pertaining to Certified Indebtedness.

Received from Senate, 899.
First and second reading, 961.
Reference, 961.
Reported back, 1010.
Third reading, 1063.
Passed, 1063.
Returned, 1082.
Signed by Speaker, 1213.

Senate Bill No. 257.—(Kaldor)

Senate Bill No. 257. A Bill for an Act to Amend Chapter 131 of the Session Laws of 1919 as Amended by Chapter 66 of the Session Laws of 1921, Pertaining to the Giving of Notices of Intention to Foreclose Real Estate Mortgages.

Received from Senate, 700.
First and second reading, 832.
Reference, 832.
Reported back, 942.
Amended, 983.
Third reading, 1020.
Passed, 1021.
Returned, 1048.
Other action, 1102, 1139, 1287, 1292, 1302.
Signed by Speaker, 1402.

Senate Bill No. 258.—(Ettestad and Storstad)

Senate Bill No. 258. A Bill for an Act to Provide for the Conveyance of Pupils in Consolidated School Districts and in School Districts Where Consolidated Schools Have Not Been Established, and Providing for Compensation Thereof, and Repealing Acts and All Parts of Acts in Conflict Herewith.

Received from Senate, 731.
First and second reading, 833.
Reference, 833.
Reported back, 989.
Indefinitely postponed, 1031.
Returned, 1047.
Other action, 1032, 1033.

Senate Bill No. 263.—(Bond)

Senate Bill No. 263. A Bill for an Act to Provide a System of Registering Titles to Motor Vehicles for the Protection of Owners of Motor Vehicles and to Facilitate the Recovery of Motor Vehicles Stolen or Unlawfully Taken, to Regulate the Certification of Such Titles, the Purchase, Sale and Transfer of Motor Vehicles and Their Registration; to Provide for the Collection of Fees for the Certification of Titles; and for Disposition Thereof; to Forbid the Destruction, Removal, Alteration, Covering or Defacement of Any Engine, Manufacturer's or Other Distinguishing Number or Identification Mark on Motor Vehicles; and to Provide for the Assignment of Special Numbers in Certain Cases; to Impose Duties on Sheriffs, Constables, Police Officers, and Other Peace Officers; and Providing Penalties.

Received from Senate, 955.

First and second reading, 962.

Reference, 962.

Reported back, 1036.

Indefinitely postponed, 1036.

Returned, 1080.

Senate Bill No. 264.—(Committee on Elections)

Senate Bill No. 264. A Bill for an Act Relating to Elections; Providing for a Recount in Case of a Tie Vote.

Received from Senate, 897.

First and second reading, 959.

Reference, 959.

Reported back, 1085.

Third reading, 1149.

Passed, 1150.

Returned, 1185.

Senate Bill No. 265.—(Page)

Senate Bill No. 265. A Bill for an Act to Amend and Re-enact Sections 6854, 6855 and 6856, Compiled Laws of 1913, Relating to Threshing Lien.

Received from Senate, 897.

First and second reading, 959.

Reference, 959.

Reported back, 1043.

Amended, 1043, 1075.

Third reading, 1148.

Passed, 1149.

Returned, 1185.

Other action, 1265.

Signed by Speaker, 1319.

Senate Bill No. 268.—(Eastgate)

Senate Bill No. 268. A Bill for an Act Making an Appropriation of Two Thousand (\$2000.00) Dollars to the North Dakota Live Stock Association and the North Dakota Dairy-men's Association, Jointly.

Received from Senate, 872.

First and second reading, 876.

Reference, 876.

Reported back, 1010.

Indefinitely postponed, 1010.

Returned, 1047.

Other action, 1003.

Senate Bill No. 269.—(Storstad)

Senate Bill No. 269. A Bill for an Act to Amend and Re-enact Section 3704 of the Compiled Laws of North Dakota for 1913 Providing for a Resolution Declaring Improvement Work to be Done by Special Assessment Necessary and Permitting Protests Against Said Improvements to be Filed by Property Owners.

Received from Senate, 913.
First and second reading, 982.
Reference, 982.
Reported back, 1006.
Third reading, 1054.
Passed, 1055.
Returned, 1082.
Signed by Speaker, 1212.

Senate Bill No. 270.—(McLachlin)

Senate Bill No. 270. A Bill for an Act to Amend and Re-enact Section 1369 of the Compiled School Laws of North Dakota for the Year 1919, Relating to Teachers' Certificates Issued on High School Diplomas.

Received from Senate, 778.
First and second reading, 834.
Reference, 834.
Reported back, 1045.
Amended, 1045.
Third reading, 1150, 1156.
Passed, 1151, 1157.
Returned, 1185.
Other action, 1003, 1305.
Signed by Speaker, 1402.

Senate Bill No. 274.—(Benson)

Senate Bill No. 274. A Bill for an Act Providing for the Auditing of Expenditures of Funds for County Agent Work by County Boards of Commissioners; the Supervision of the Work and the Employment and Dismissal of the Agent.

Received from Senate, 899.
First and second reading, 961.
Reference, 961.
Reported back, 1012.
Third reading, 1067.
Passed, 1068.
Returned, 1081.
Signed by Speaker, 1213.

Senate Bill No. 275.—(Benson)

Senate Bill No. 275. A Bill for an Act to Amend and Re-enact Section 2263, Compiled Laws of the State of North Dakota for the Year 1913, as Amended and Re-enacted in Chapter 1 of the Session Laws for 1917, as Amended by Chapter 191 of the Session Laws for the Year 1923.

Received from Senate, 899.
First and second reading, 961.
Reference, 961.
Reported back, 1013.
Amended, 1070.
Third reading, 1069.
Passed, 1071.
Returned, 1081.
Other action, 1145.
Signed by Speaker, 1213.

Senate Bill No. 276.—(Storstad)

Senate Bill No. 276. A Bill for an Act to Amend Chapter 327 of the Session Laws of 1923, Relating to Advertising for Bids for Bonds or for Certificates of Indebtedness, and Providing that It Shall Be Unlawful for Certain Public Officials to Accept Commissions from Bidders Upon Sales of Bonds or Certificates of Indebtedness.

Received from Senate, 913.
First and second reading, 982.
Reference, 982.
Reported back, 1009.
Third reading, 1062.
Passed, 1062.
Returned, 1082.
Signed by Speaker, 1212.

Senate Bill No. 277.—(Marshall)

Senate Bill No. 277. A Bill for an Act to Amend and Re-enact Section 1725 of the Compiled Laws of North Dakota for the Year 1913, Relative to the Industrial School at Ellendale, North Dakota.

Received from Senate, 730.
First and second reading, 833.
Reference, 833.
Reported back, 988.
Amended, 1028.
Third reading, 1028, 1198.
Passed, 1029, 1199.
Returned, 1048.
Other action, 1060, 1102, 1139, 1182.
Signed by Speaker, 1439.

Senate Bill No. 279.—(Ettestad)

Senate Bill No. 279. A Bill for an Act to Amend and Re-enact Section 2 of Chapter 139, Session Laws of 1923, Relating to Deposits in Banks and Trust Companies and Providing a Penalty for Making an Unlawful Charge Against Deposits Without the Consent of the Depositor.

Received from Senate, 955.
First and second reading, 962.
Reference, 962.
Reported back, 1095.
Indefinitely postponed, 1095.
Returned, 1141.

Senate Bill No. 284.—(Van Camp)

Senate Bill No. 284. A Bill for an Act to Amend Section 25 of Chapter 77 of the Session Laws of 1921 Relating to the Abatement of Hail Insurance Taxes.

Received from Senate, 778.
First and second reading, 833.
Reference, 834.
Reported back, 1011.
Third reading, 1065.
Passed, 1065.
Returned, 1081.
Other action, 1003.
Signed by Speaker, 1212.

Senate Bill No. 286.—(Stevens)

Senate Bill No. 286. A Bill for an Act to Repeal Chapter 6 of the Session Laws of North Dakota for the Year 1916, Relating to Aid to the Grand Army of the Republic from the Soldiers Home of North Dakota.

Received from Senate, 897.
First and second reading, 959.
Reference, 959.
Reported back, 1264.
Third reading, 1337.
Passed, 1338.
Returned, 1342.
Other action, 1337.
Signed by Speaker, 1439.

Senate Bill No. 287.—(Committee on Delayed Bills)

Senate Bill No. 287. A Bill for an Act to Amend and Re-enact Section 2980 Compiled Laws 1913, Relating to the Construction of Hotels.

Received from Senate, 955.
First and second reading, 963.
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Senate Bill No. 288.—(Committee on Delayed Bills)

Senate Bill No. 288. A Bill for an Act Authorizing the Industrial Commission to Make an Investigation for Oil and Gas in North Dakota, and Providing for an Appropriation Therefor.

Received from Senate, 956.
 First and second reading, 963.
 Reference, 963, 1037.
 Reported back, 1037.
 Indefinitely postponed, 1075.
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Senate Bill No. 289.—(Committee on Delayed Bills)

Senate Bill No. 289. A Bill for an Act Entitled: An Act to Authorize the District Courts of the State, Under Certain Conditions, to Order Sale or Other Disposition, or Mortgage or Lease of Property, Real or Personal, Held in Trust Created by Written Instrument, Upon Application to the Court by the Trustee or Any Beneficiary, and Providing Procedure Therefor, and for the Repeal of All Laws Inconsistent Herewith.

Received from Senate, 955.
 First and second reading, 963.
 Reference, 963.
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Senate Bill No. 290.—(Ingerson)

Senate Bill No. 290. A Bill for an Act to Amend and Re-enact Section 5163 of the Compiled Laws of North Dakota for the Year 1913 Relating to Dividends and Surplus of Banking Corporations.

Received from Senate, 955.
 First and second reading, 964.
 Reference, 964.
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Senate Bill No. 291.—(Whieman and Schlosser)

Senate Bill No. 291. A Bill for an Act to Amend and Re-enact Section 1829 C. L. 1913.

Received from Senate, 956.
 First and second reading, 963.
 Reference, 963.
 Reported back, 1005.
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Senate Bill No. 292.—(Hamilton)

Senate Bill No. 292. A Concurrent Resolution Memorializing the Congress of the United States to Take Steps Toward the Establishment of a National Park in Billings County, North Dakota, Embracing the Wonderful Petrified Forest There Located to be Called Roosevelt Park.

Received from Senate, 956.
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Senate Bill No. 294.—(Whitmer)

A Concurrent Resolution.

Received from Senate, 1272.
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Senate Bill No. 295.—(Ployhar)

A Concurrent Resolution.

Received from Senate, 1108.
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Reported back, 1273.
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Senate Bill No. 296.—(Stevens)

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