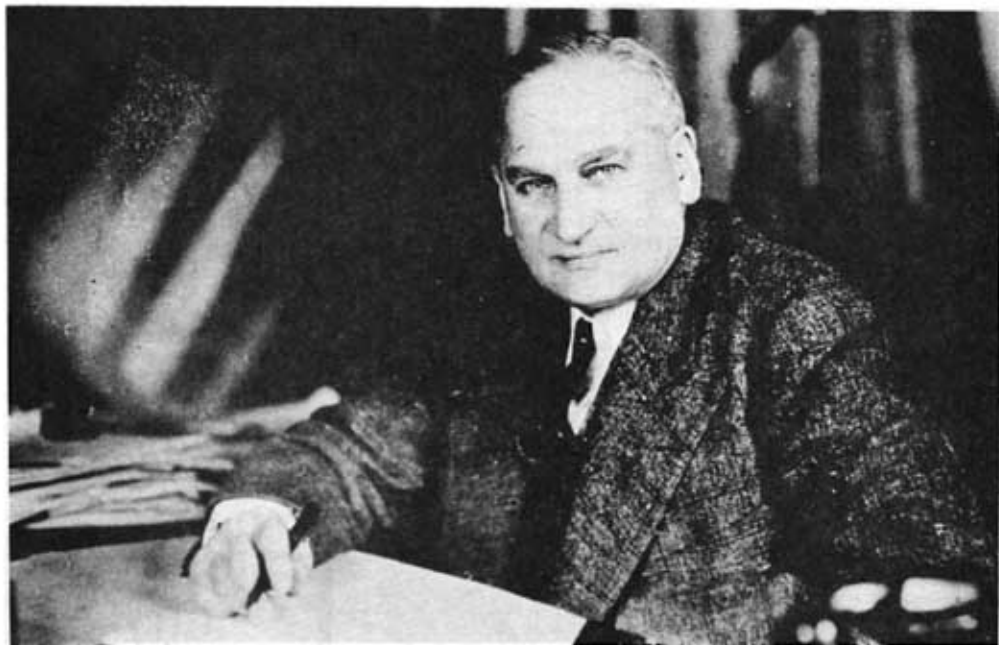


# Backgrounds



William Langer as governor of North Dakota. Portrait at his desk.

# Langer and the Dirty Thirties

## Part 2: The Trial

By Eddie Kramer

It was unprecedented! A governor of North Dakota brought to trial! In last month's installment, Langer faced felony charges connected to subscription solicitations for *The Leader*, official newspaper of the Non-Partisan League. Langer's political problems mounted . . . and the power of his enemies was ominous.

The unexpected endorsement of Langer by the League convention placed the accusers in an awkward position. If they withdrew their charges, the people of the state would know that it had been a political scheme. If they preferred to press formal charges, they must seek evidence that would hold up in court. They chose the latter.

Langer had publicly demanded that a grand jury hearing be held and refute the charges levied against him. He was well aware of the fact that federal investigators were in the state of North Dakota for the sole purpose of gathering information with which to build a case.

Langer charged that Secretary of Interior Ickes had sent federal detectives to North Dakota to investigate him. He stated that he also knew that his telephone had been tapped. To check this he called his friend, Frank Vogel, manager of the Bank of North Dakota, and used a prearranged tele-

phone conversation concerning contributions received from relief clients at Lakota, North Dakota. A few days later, every relief client in Lakota was questioned by the federal investigators.

The Washington bureau of the Minneapolis Tribune reported the case was shrouded in mystery. "The department of interior insists the report of Investigator Lewis R. Glavis on the case, recommending that it be referred for grand jury action, has been forwarded to the department of justice. Attorney General Cummings was equally insistent the report had not been received. In the interval, nothing in the way of formal charges had been filed." 1

A federal grand jury was summoned to hear the formal charges against Langer. They convened at Fargo, North Dakota, on March 8, 1934, for the purpose of hearing evidence to determine whether or not there was a

basis for an indictment. No evidence was presented and the jury was dismissed. Obviously the prosecution did not have sufficient evidence; therefore, they elected to withhold any evidence that they had been successful in obtaining.

Another grand jury was called to meet on April 10, 1934. The same accusations were to be presented, but this time the prosecution was prepared. League supporters immediately made open charges that the first jury was dismissed to make way for a loaded jury, packed with political supporters of the opposition.

**T**wo days later, the special grand jury indicted Governor Langer and eight associates for violation of federal statutes.

Persons included in the indictment were as follows: Governor Langer;

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Oscar J. Chaput, business manager of The Leader; Oscar E. Erickson, publisher of The Leader; Harold McDonald, subscription manager of The Leader; Frank Vogel, official of the Bank of North Dakota; R.A. Kinzer, office manager of the State Emergency Relief Office; his son, Joseph A. Kinzer, a solicitor; and Paul J. Yeater and G.A. Hample, solicitors.

## Conspiracy Charges Brought Forth

The defendants were charged with conspiracy to violate that law which forbids solicitation of political funds in a federal building, conspiracy to interfere with the orderly operation of an act of Congress, and individual charges of solicitation of funds from federal employees for political purposes. The indictment listed 83 overt acts by the defendants. One hundred fifty subpoenas were issued by the chief prosecutor, P.W. Lanier. Most of the witnesses called by the government were state of North Dakota employees.

Attorneys Francis J. Murphy and E.R. Sinkler, representing the defendants, filed demurrers to the charges before Federal Judge Andrew Miller, the same Andrew Miller who had been thoroughly defeated in the tax suits brought against the railroads by Bill Langer. Miller sustained one of the demurrers to a conspiracy charge but overruled the others, and the case automatically moved toward a trial date.

Despite the charges hanging over his head, Langer opened his primary campaign on May 16. The primary election date was scheduled for June 27. Judge Miller had notified the defendants that their trial would begin on May 22, 1934. Langer's attorneys tried to delay the opening of the trial until after the primary election, but to no avail.

Defense counsel asked the indictment be quashed on the grounds that they were illegally and unfairly drawn. They pointed out that 22 of the 23 grand jurors who voted the charges were personally opposed to the League. They also indicated that 20 of the

jurors were residents of a city or town and that most of the people in the state were rural people. They implied that the jury had been hand-picked, but all the motions were overruled by Judge Miller.

Governor Langer and seven defendants entered pleas of not guilty. The other defendant, Oscar E. Erickson, was in the hospital with no prospect of immediate recovery; therefore, counsel for both parties agreed to proceed the trial without him.

District Attorney Lanier, opening for the prosecution, sought to prove that relief funds coming into North Dakota were federal funds, that such funds were made available to the state under provisions of the Federal Emergency Relief Act of 1933 and the National Recovery Act.

The government further indicated that Langer, as governor of the state, was directly responsible for all federal funds issued to the state in the form of loans or outright grants. They contended that the Governor was an officer of the United States, by operation of the Act of Congress known as the Emergency Relief and Construction Finance Act of 1932, making the Governor Administrator of federal funds. Even though Langer may have delegated his power of administration of relief monies to a committee of five, he was still responsible for the federal funds.

**T**he prosecution called a score of state employees to testify that they had purchased subscriptions to The Leader. Efforts were extended to show that such purchases had occurred and that some solicitations were received from employees of the State Relief Office. Solicitations from the State Relief Office would constitute a crime because part of the salary received by the employees was being paid by the

federal government.

The government attempted to show that the defendants had used The Leader and the monies received from subscriptions for their own purposes which included paying the liabilities owed by the Non-partisan League of which Bill Langer was the leader.

To obtain money for the purchase and promotion of a political newspaper to support the administration of William Langer . . . and the political philosophies, policies, and interests of the defendants; . . . to obtain money for the support and maintenance of said political newspaper, The Leader, and to circulate the said political newspaper . . . to obtain money to pay off a deficit in the Non-partisan League campaign fund. <sup>2</sup>

The district attorney tried to show that state employees had been forced into purchasing or pledging to purchase subscriptions only after coercion and threats of losing their jobs. No evidence was produced to substantiate these claims.

All witnesses called by the government that worked in the State Emergency Relief Office testified that R.A. Kinzer, office manager, had assured them that no pressure would be applied to force them to respond to this type of solicitation.

The prosecution did produce evidence that the State Emergency Relief Office had been solicited and that six of the 30 employees pledged to buy subscriptions amounting to five percent of their annual salary. The amount involved was less than \$200.

Then the prosecutor switched his tactics. He called numerous state employees to testify that they had purchased subscriptions to The Leader and that they had pledged five percent of their annual wage for this purpose. The defense objected to the introduction of this material, claiming that it was in no way a violation of federal law to solicit state employees with no connection with the federal govern-



Langer signing theatre bill with several theatre operators looking on. The first two men (from left to right) are unidentified. Next are Frank E. Wentzstine of Mandan, John Kennelly of Mandan, and Milton Bradford of Bismarck.

## The climax of the trial came when Bill Langer himself sat in the witness chair and began the dramatic struggle for his political life!

ment. Judge Miller ruled against the defense and the evidence was admitted to the court record.

Lanier was also permitted to introduce records of Governor Langer's personal affairs over the objection of the defense counsel. Proof was submitted in the form of deposit slips and a cancelled check that Langer had

received \$12,000 in Leader funds and this money was deposited into Langer's personal account. A connection of Leader funds to Langer's personal account would involve solicitations which had been received from State Relief employees.

The prosecution completed its presentation of the case after 16 days,

having called 60 witnesses. Counsel for the defense moved for a directed verdict of not guilty, claiming no crime or conspiracy had been proven. Judge Miller denied the plea, but did allow dismissal of charges levied against Joseph Kinzer, Paul Yeater, and G.A. Hample. Their solicitations had involved only state employees with no

Langer with state dignitaries showing first license plate manufactured at North Dakota state penitentiary in 1934. Only a few of the people in the photograph can be identified. The second person (left to right) is Berta Baker. The fifth person (by Gov. Langer) is Arthur E. Thompson, superintendent of public instruction. Next, G. Patterson, warden. Next, R. Rishwerth, member of the board of administration.



connection of federal funds.

First witness called by the defense was Harold McDonald, the solicitor and co-defendant. Mr. McDonald said he was on his rounds of the state office buildings selling subscriptions when he came to a door marked 'State Emergency Relief Office.' He assumed, he said, it was another state office, and entered unknowing it had a technical connection with the federal government. He explained the subscription plan, he said, and six of the 30 clerks purchased subscriptions. 3

**T**he next witness for the defense was R.A. Kinzer who testified that he had permitted solicitation in the relief office because relief funds were state funds, borrowed from the Reconstruction Finance Corporation and were not federal funds.

Oscar J. Chaput, business manager of The Leader, testified and explained the subscription plan and office procedure concerning the subscriptions. He stated that there was no attempt to keep the solicitations a secret and that a sample pledge-form was published in The Leader with a full explanation of the plan.

Several other minor witnesses were called, but the climax of the trial occurred on June 11, 1934, when Bill Langer sat in the witness chair and began his dramatic struggle for his political life.

Langer briefly outlined his term in office and his negotiations with the federal government in obtaining loans from the Reconstruction Finance Corporation. He stated that he did not participate in administering relief funds after he had appointed a five-man commission to perform this duty in March, 1933. The solicitations of the relief office had occurred after



After receiving final advice from the judge, the jury adjourned behind locked doors. Eight hours later, it announced the verdict . . . .

this date according to the evidence which had been presented by the prosecution.

Langer claimed sole responsibility for financing the League newspaper with subscriptions purchased by state employees. He made no effort to sidestep the issue. He said solicitations in the state relief office had been entirely without his sanction or knowledge, and no evidence was ever introduced to show that the governor knew of the solicitation. He said that when he learned of the solicitation, he sent for two members of the relief committee and ordered it stopped for himself. At no time, he said, did the subscription plan contemplate solicitation of employees even remotely connected with the government.

Langer further testified that the \$12,000 transfer was made openly and was advised by League attorneys to prevent attachment of the money by the League executive committee who were planning to bolt the party. Langer also emphasized the fact that the transfer was legitimate because the League owed him \$2,000 even after the transfer. He offered documentary evidence to prove this point and volunteered to produce witnesses who had authorized the repayment of the debt. The prosecution objected to this introduction of evidence and the objection was sustained by the judge.

Judge A.M. Christianson, a member of the State Emergency Relief Committee and the appointee selected by Harry Hopkins to succeed Langer as North Dakota Relief Administrator, testified that Langer had nothing to do with relief administration for the past year.

The governor's appearance on the witness stand had virtually concluded the trial. The denial of his offer to produce proof that the debt owed him was legal had been a serious

setback for the defense. After final arguments the case was turned over to the jury at 12:53 p.m. on June 13.

The jury deliberated until 3:15 p.m. on June 16, when several jurors requested additional instructions from the judge. Two jurors submitted written questions to the jurist. These questions were:

I understand from the testimony given that Governor Langer planned the newspaper and told Erickson about it. Erickson employed Chaput and Chaput employed McDonald, who, either by intent or mistake, solicited federal employees. Are the other defendants responsible for the misdeeds named in the indictment?

Can alleged conspirators be held responsible for the acts of hired agents when such agents do some acts contrary to the orders of their superiors and which acts the superior never got knowledge of?

To this the judge replied:

The two questions submitted are substantially the same. This court now tells you what the law is. It is not necessary or essential to the existence of a conspiracy that each conspirator shall have knowledge of all the details of the conspiracy.

Where a party of men conspire to do an unlawful thing, and in performance of that which one party goes a step beyond and does an act which the rest do not perform, all are responsible for that act. In pursuit of a conspiracy, each is responsible for the acts of the others.

After receiving this final advice from Judge Andrew Miller, the jury returned to the locked doors. Eight hours later the jury announced that it had reached a decision. The defendants were declared to be guilty as charged.

To be continued in the March issue of PRAIRIES Magazine.

## Appendix

1 John M. Holzworth, *The Fighting Governor, the Story of William Langer and the State of North Dakota* (Chicago: The Pointer Press, 1938), p.64.

2 Ibid., p. 4.

3 Ibid., p. 71.

4 Ibid., p. 71.

5 Ibid., p. 73.

6 Ibid.