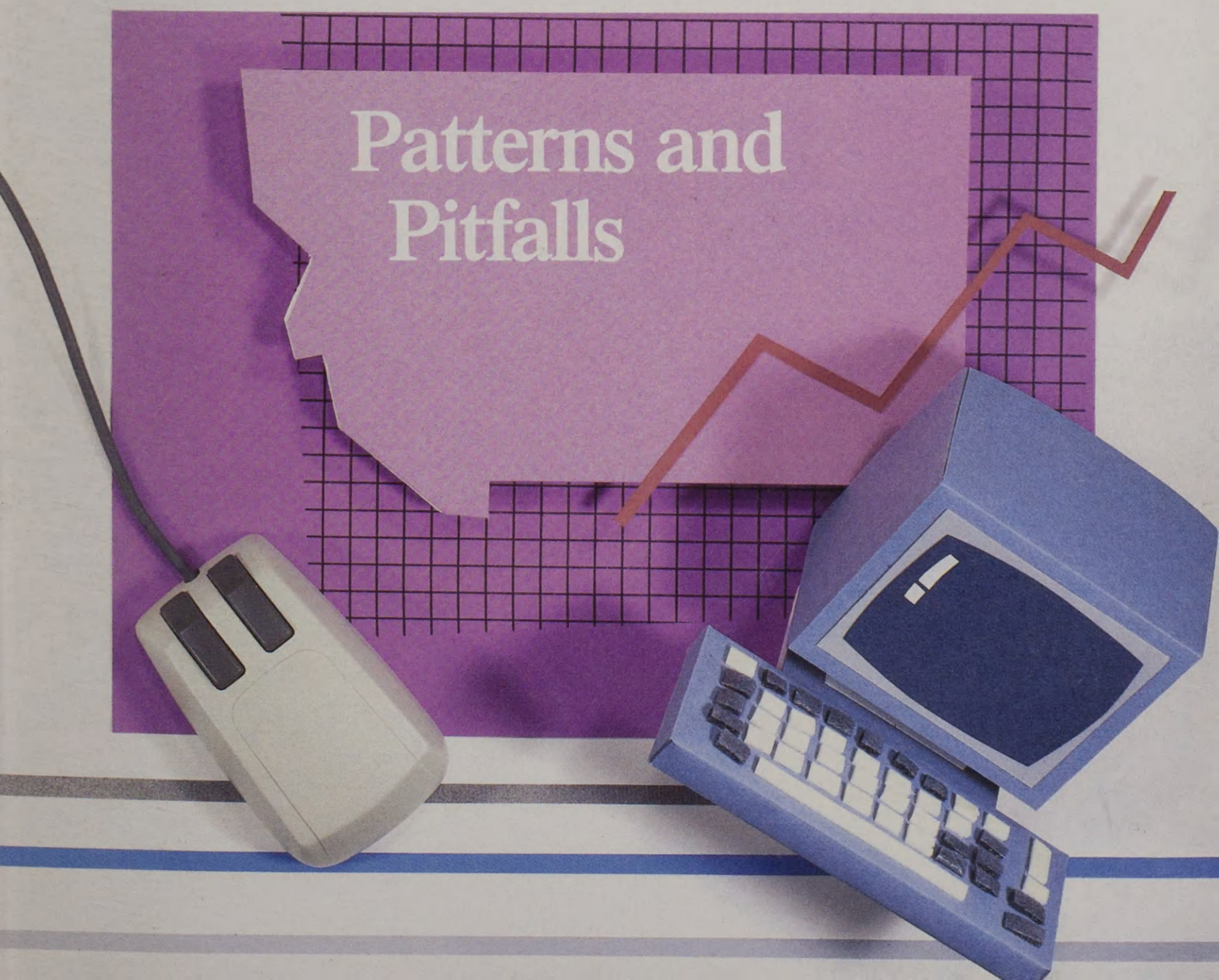
MONTANA BUSINESS QUARTERLY

Volume 29, Number 3 Autumn 1991

Computerizing Small Business:



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Computerizing Small Business

Patterns & Pitfalls

By
Gerald Evans
Marlene Nesary

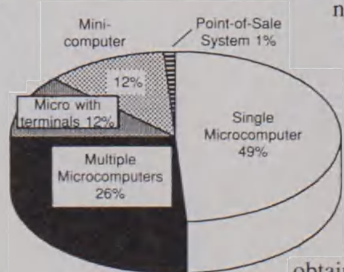
Many Montana small businesses have taken the plunge into computers. Others are poised on the brink, contemplating their first, perhaps second, or even third "generation" information processing system. By now the technology is pervasive, and for the most part, it has proven a useful adjunct to business operations. However, computer systems are still highly complex and represent a substantial investment for most small businesses.

What little is written on systems development and success in small business uses the Small Business Administration's (SBA) definition of a small business: Fewer than 250 employees and less than $5 million in gross annual sales. Firms at the high end of that group, however, are very large relative to most start-up or entrepreneurial endeavors. Relative to Montana, firms that size qualify as "big business."

Small business in Montana means very small: Retail specialty stores; legal, medical and dental offices; insurance agencies; personal care salons; and a plethora of private contractors and specialty manufacturers. Typically, such firms employ fewer than fifty people and take in less than $1 million in gross annual sales -- a fifth of the SBA's upper limit. In firms this small, profit margins tend to be small also, and the risk associated with investment in technology tends to be high.

How can Montana small businesses make sure their technology investment is wise and workable? What are the pitfalls and the costs, both explicit and hidden, of computerizing a small business? What are typical system development patterns and how successful are they?

Figure 1
Type of Hardware Installed



Study Sample

To get at these and related issues, the authors selected a sample of sixty-eight very small (fewer than fifty employees and less than $1 million in gross annual sales) businesses from Montana, Idaho, and Wyoming. Criteria for inclusion in the study included the size restriction noted above, implementation of a new computer information system within the past year, and willingness to participate in the study.

Although this sample does not correspond to Standard Industry Classification (SIC) codes and is not the usual simple random sample, the results are nevertheless important for Montana small businesses. Our survey of sixty-eight small businesses had an average of 8.3 employees per firm. In Montana the average employees per firm are as follows: for all manufacturing firms, 16.1; for all transportation firms, 11.2; for all retail sales firms, 8.4; for all service firms, 8.0; for all financial, insurance, and real estate firms, 6.8; and for all contract construction firms, 4.2. Our judgement sample targeted very small business and Montana is dominated by very small businesses. Consequently, the results of this study can be very meaningful for Montana businesses.

A personal interview was conducted with the owner or manager of each firm. During the interview, answers to 100 open-ended questions were obtained. The survey elicited information about hardware, software, costs, uses, and purpose of the computer system. It also posed and attempted to correlate the answers for three basic research questions:

1. Who is involved in the needs assessment, design, implementation, training, and evaluation of the system?
2. How successful is the information system relative to goals and expectations laid out prior to its development?
3. How is the system's success -- or lack of it -- determined?

Results of the study are summarized below.

System Configuration, Purpose, and Costs

As figure 1 shows, microcomputers are the most popular hardware choice in the sample group. Almost 87 percent of all computers installed were micros. In addition to its lower cost, the micro more nearly matched small business computing needs. Larger machines were simply overkill.

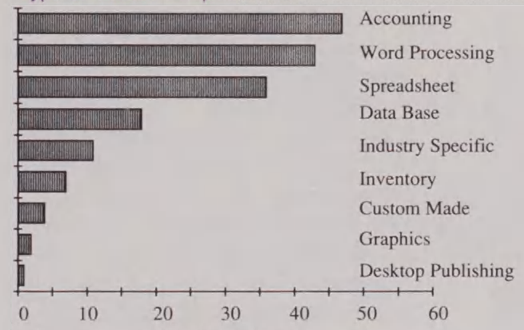
As with many small businesses reported elsewhere in the literature, our sample firms purchased accounting, word processing, and spreadsheet software significantly more often than any other type. Database programs were a distant fourth (see figure 2). Figure 3 summarizes the purpose of the computer installation, with accounting problems and data processing time as major concerns.

Not surprisingly, small business firms sought to contain overall operating costs via the technology, and to recover costs associated with manual processing of payables and receivables (figure 4). Finally, figure 5 reflects the most common uses of data generated by the computer.

Over half the sample firms were implementing their first computer system. Another third were upgrading (expanding or replacing) a single micro computer. Most of these very small businesses then, are at the stage larger firms were twenty years ago: automating transactions and data to achieve faster, more efficient operations.

A word of caution: Small businesses don't often purchase more advanced computer applications such as decision support or expert systems, or statistical modeling tools -- and there's a good reason why not. Even for large firms with enviable profit margins, the payoff from such expensive, managerial-oriented information systems is not well-established. So small businesses should stick with transaction-oriented systems which are less expensive, generally bug-free, and have a good

Figure 2
Type of Software Implemented



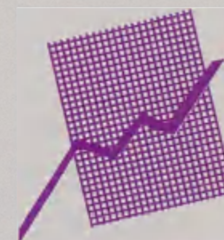


Figure 3
Purpose of the System:
Problems that Needed Solving

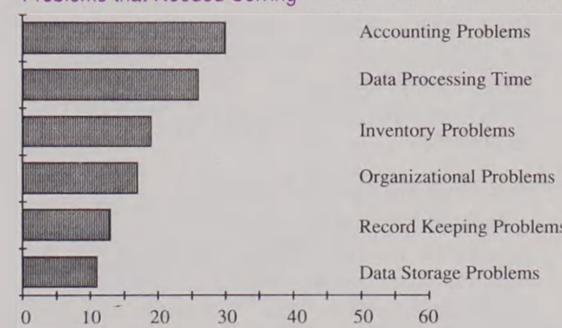
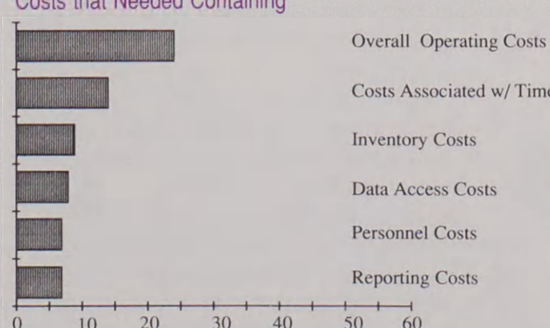


Figure 4
Purpose of the System:
Costs that Needed Containing



Note: The total number of firms in these categories is greater than 68 since some firms had more than one response.

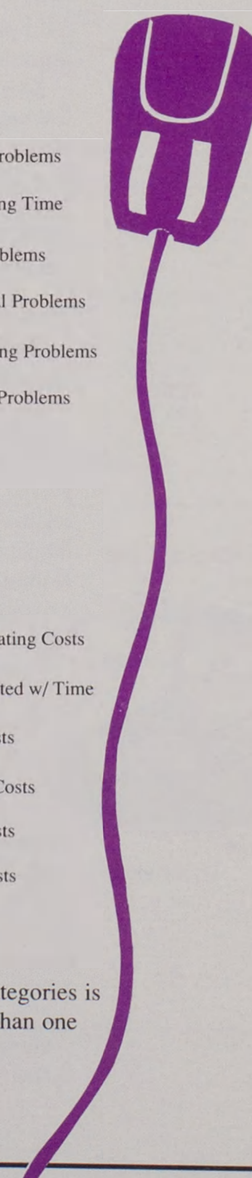
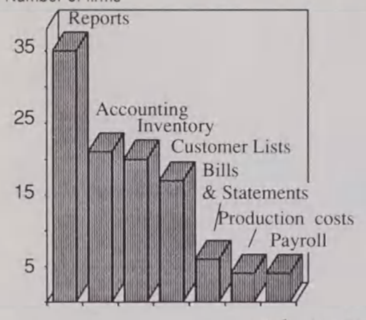


Figure 5
How are Data Used from the System?



track record. Resist a vendor's or consultant's hard sell. And if you want technology support for managerial decision-making, explore the data analysis and modeling available in a spreadsheet program.

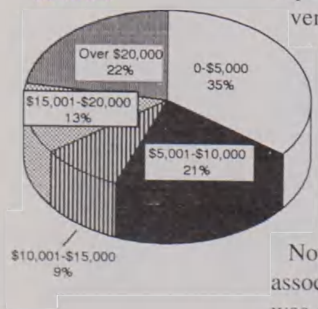
Figure 6 illustrates direct costs for the system and includes only the hardware, software, and installation fees. Direct costs amounted to less than $10,000 for over half the firms. And nearly all of these lower-cost systems represented the firms' initial stab at computerizing. Interestingly, almost 25 percent of the firms spent over $20,000; for the most part, this group was installing a second or third "generation" system.

Obviously, a small business should examine estimated costs carefully. But direct costs, as cited above, don't necessarily cover everything. You may find yourself saddled with fees for consultants, maintenance contracts, user training, and special environments to control dust and extremes of temperature.

Who Develops the System?

Table 1 shows the key players in a typical small business computer installation: management, users, vendors, and consultants. Management and vendors were the two largest contributors to system development in the sample; users and consultants played a secondary role. Table 2 presents the relative involvement of each group in installing and implementing the system. Implementation, again, is primarily a partnership of management and vendors. Users have a relatively larger role than consultants in the implementation phase, but it is still secondary.

Figure 6
Cost of Hardware and Software



The high degree of input from vendors raises an important question: Does dependence on vendors produce an overselling of computer products? To test this idea, we ran correlations on three key sets of variables. Not surprisingly, more vendor involvement was associated with more expensive systems. Yet there was no relationship between vendor involvement and system success. High vendor involvement was not associated with more successful systems and low vendor involvement was not associated with less successful systems. Similarly, more expensive systems were not necessarily more successful systems, and less expensive systems were not necessarily less successful.

The obvious conclusion here is that small businesses considering computerization should not rely too heavily on vendors for system development and implementation. The end result of such reliance could be merely more expensive -- rather than more successful -- systems.

How Successful Was the System?

Table 3 summarizes respondents' expectations for their new computer system. Most expected efficiency. The largest response category was an explicit desire for improved efficiency, and the second largest category -- "time savings" -- is also directly related to the idea. So too is "faster reports." Together, these eighty efficiency responses are almost double the forty-two responses in other categories (which might be grouped as an expectation for increased effectiveness).

Tables 4 and 5 describe the degree of satisfaction and success respondents felt. For table 4 data, respondents focused on how smoothly the system conversion went, how well employees took to the system, and whether or not the process included unexpected problems; overall, respondents felt their expectations for a smooth efficient implementation were well satisfied. Respondents also felt the system was highly successful in terms of its stated purpose (table 5).

What Does Success Mean, Exactly, and for Whom?

This substantial feeling of success and satisfaction seemed to have no basis in objective fact. Few firms undertook any formal measure of their system's performance. One owner/manager in our survey, however, knew exactly what his new computerized point-of-sale system bought. By checking invoices for several months before and after installation, he discovered that the system was recovering several hundred dollars a day in pricing errors. Additionally, the interval from a billing cycle's end to mailed statements dropped from six days to one.

Evaluation like that described above takes a little time and effort but is a good investment. If you purchase one computer, chances are you'll eventually go after another one. Yet it is very difficult to estimate how effective a new technology will be if you inadequately understand the old one's effect. Small business managers today must be scientists, and understand what is happening in their firms, and why.

Once you understand the "what" and "why, you can intelligently develop solutions and spot opportunities. A system evaluation will help you understand the "what" and "why" of computerized operations.

Owner/managers aren't the only ones who determine the success (subjective or objective) of a new computer system. End users also have to live with the new machine, and make it work.

Our survey attempted to measure only the satisfaction of owner/managers. But smart management can heighten user satisfaction and consequently make computerization more effective. Three specific management practices can enhance user satisfaction.

1. Involve end users in the process. They're knowledgeable about your business and can make valuable suggestions. Seek their advice and input about what areas of the business should be automated, and about hardware and software capabilities. When individuals are involved in a decision-making process, they tend to "own" the decision more, and be invested in its success.

2. Provide adequate end user training. Nothing is more discouraging than feeling pressure to make something work and not having a clue how to proceed. At one business in our survey, several end users were questioned periodically for several months after implementation. They did not like the system because they did not clearly understand how to use it. Their poor attitude was reflected in customer service. Computerizing your business takes more than just placing a new machine on an employee's desk.

3. Offer to retrain displaced employees. Technology does eliminate jobs; in fact, reduction of labor costs is exactly the goal of automation. But since employees tend to sympathize with each other, one worker replaced by machine can bring down everyone's morale. One company in the survey retrained an employee to help run the computer system, thus bypassing the need for a layoff. Employee morale was much better in that company than in firms using layoffs.

Table 1
Who Does System Development?

Group	Major involvement	Minor involvement	No involvement
Management	58	5	4
Users	24	12	24
Vendors	36	16	10
Consultants	18	14	28

Note: Rows may not add to 68 due to lack of responses on some data.

Table 2
Who Implements the System?

Group	Major involvement	Minor involvement	No involvement
Management	47	8	8
Users	28	5	28
Vendors	35	9	20
Consultants	15	8	39

Note: Rows may not add to 68 due to lack of responses on some data.

Table 3
Expectations for the New System

Expectation	Respondents
Improvements in efficiency	44 firms
Time savings	31 firms
More usable information	25 firms
Better managment of the firm	17 firms
Faster reports	5 firms

Note: The total number of respondents is greater than 68 since some had more than one response.

Table 4
The Degree to Which Expectations Were Met

Reponse Category	Responses
Very well met expectations	3
Well met expectations	55
Poorly met expectations	9
Very poorly met expectations	0

Table 5
System Success Relative to System Purpose

Reponse Category	Respondents
Extremely successful	7
Very successful	46
Moderately successful	10
Unsuccessful	4
Extremely unsuccessful	0

General Warnings and Guidelines

In addition to the suggestions noted above, our survey yielded a number of general guidelines.

1. Don't spend thousands of dollars on a solution for a nickel problem. One respondent in the survey wanted some assistance with a software acquisition decision. He owned a small personal care salon and was concerned with inventory control. He'd located a consultant to develop an inventory control system for about $3,000. Yet the respondent carried only about a dozen categories, or 150 total items of inventory. Instead of $3,000 in custom software, we suggested a simple "two-box" inventory system: When the box on the shelf sells out, open the second box and reorder.

"Don't spend thousands of dollars on a solution for a nickel problem."

2. Spread development costs around. One small business in the survey contracted with a programmer on an hourly basis. The programmer gave a good faith estimate of the number of hours it would take him to deliver a finished database management system. He was several months late and three times over estimate. The moral here is never pay for the cost of development by yourself. Spread it around among many users by buying software that is already developed and successfully operating in a number of locations.

3. A corollary is: Go with the proven system for the proven cost. For most types of small business (medical, legal, retail, etc.) off-the-shelf software is available from a reliable vendor. At first, the cost may seem higher than the estimate from your sister-in-law's brother's friend. But such estimates, as noted above, are often low.

4. A word about mail order computers and software. A number of our respondents purchased their hardware and software at very competitive prices through advertisements in *BYTE Magazine*, *PC World*, and *PC Magazine*. None reported bad experiences with mail order. However, it's wise to check back issues of the magazine and make sure the company you want to purchase from has been around for a few years -- one indication of reliability. Also check the company's return policy and guarantees; most good firms will warranty their products for a year or longer and will pay return postage within a certain time limit. Some also provide on-site service as part of the purchase price. Don't be afraid to ask for references in your local area; if the mail order firm is reluctant to give you customer names, go to another firm! And finally, mail order is not for the novice. Buying a system with no assistance in setup or training means you're on your own.

5. Computerization will not solve poor management practices such as poor marketing or poor capital management. Nor do computers necessarily streamline cumbersome workflow patterns or correct incomplete records. It might be worthwhile to call in a business consultant before you call in a computer consultant or vendor, just to make sure your manual business systems are ready for the run through silicon. ■

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BAD FAITH

A New Era for Montana?

by Jerry L. Furniss
Jack K. Morton

Ater a decade or more of expanding and uniquely broad business liability rulings, the Montana Supreme Court has apparently retreated. In 1990, with Story v. City of Bozeman, *it adopted a more conservative interpretation of bad faith liability. The dust hasn't settled yet and many things remain unclear. But perhaps this case signals a new trend. One that will provide relief for Montana employers and businesses who have been subject to millions of dollars in bad faith damages, while at the same time still allow aggrieved parties appropriate and reasonable redress through the Montana courts.*

Montana's Legal Anomaly

The authors discussed Montana's bad faith precedents in some detail for an earlier article (see the *Montana Business Quarterly*, Summer 1988). The following summary, however, should provide a context for understanding the court's most recent rulings, and suggest some implications for the future.

From a legal point of view, all other states but Montana clearly distinguish between breach of contract lawsuits and those involving tort issues. Other state courts have assumed a party has the right to breach a contract if the breaching party compensates the other party for actual losses. This "right to breach a contract" arises from principles of freedom of contract and rational decision making. The courts recognize that damages designed to compensate individuals for their actual losses (compensatory damages) are sufficient to discourage breach of contract. Normally, in breach of contract cases, the jury is not allowed to assess punitive damages against the breaching party.

In the view of other state courts, however, punitive damages play a quite different role if the lawsuit involves tort issues. There, a jury is allowed to assess punitive damages as well as compensatory damages against an individual who intentionally commits a grievous act such as assault, battery, liable, slander or fraud. This "right to punitive damages" is based on the notion that one who intentionally causes grave harm to others must be punished and serve as an example to deter others.

Unlike other state courts, Montana has eroded the distinction between breach of contract and tort cases by allowing tort-like punitive damages in ordinary breach of contract cases. This has elevated simple breach of contract cases and caused tremendous uncertainty among Montana businesses. Free to decide damages, juries have virtually no restriction when determining tort-like punitive awards. Awards need not bear any relation to actual losses suffered by the breached party. Instead, damages are based on what the jury deems sufficient punishment for the wrongdoer.

Many contract cases that might have been marginal and trivial instead became worth -- potentially -- millions of dollars. Thus, almost every breach of contract case in Montana alleged bad faith and requested that the jury award punitive as well as compensatory damages to the plaintiff. Montana's legal approach was considered so drastic that precedent-watchers like the *Wall Street Journal* routinely published articles wondering what the state's legal system might do next.

The Growth of Bad Faith in Montana

Montana's bad faith doctrine originated in insurance cases. The state's Supreme Court felt that for breach of insurance contracts, compensatory damages alone were insufficient to encourage timely and fair settlement of claims. If the insurance company failed to settle in a timely fashion, the claimant could, at most, receive only what was owed to begin with. In such a case, the court reasoned, the claimant had no leverage against the insurance company. Hoping to inspire insurance companies to settle claims properly and thereby live up to the insurance contract's implied covenant of good faith, Montana's court began to consider punitive damages in breach of insurance contracts cases.

This doctrine was extended to another industry in 1984 with First National Bank in Libby v. Twombly. Montana's Supreme Court held that First National's improper recovery on promissory obligations amounted to the tort of bad faith and therefore the bank should be forced to pay punitive damages.

Approximately at the same time, Montana courts applied this radical legal theory to employment cases. A covenant (promise) of good faith and fair dealing existed in almost every employment context, the court reasoned. And so it treated a breach of this implied promise as a tort justifying punitive damages.

Another 1984 case, Adair v. Petroleum Marketing Company, established when the implied covenant of good faith and fair dealing would arise in employment cases. The court held that the promise of good faith existed whenever there were "objective manifestations by the employer giving rise to the employee's reasonable belief that he or she had job security and would be treated fairly." If an employer dismissed an employee and destroyed the employee's expectations of continued employment, then a bad faith dismissal could result. This finding threatened employers with the possibility of six-figure punitive damage awards.

In 1987, the Montana Legislature attempted to limit punitive damage awards for employment disputes. (Montana voters did not specifically vote on this legislation.) Punitive damages should not be awarded, it said, except where an employee's dismissal violated public policy. For example, if an employee were dismissed because of religious beliefs, punitive damages still could be considered because a specific statute prohibiting religious discrimination in the workplace would have been

"Alone among State Supreme Courts, Montana has extended the tort doctrine of bad faith to virtually every breach of contract case, including arms-length commercial transactions."

"Montana businesses should feel some relief....But there's still plenty of uncertainty."

violated. Despite these efforts at tort reform, however, Montana's wrongful discharge statute has been upheld by the Montana Supreme Court as constitutional and it remains the law today.

The Extent of Bad Faith in Montana

Only a few states besides Montana have been willing to apply the tort doctrine of bad faith to insurance, employment, and banking cases. And no other court has so broadly applied the tort of bad faith to arms-length commercial transactions. Alone among State Supreme Courts, Montana has extended the tort doctrine of bad faith to virtually every breach of contract case, including arms-length commercial transactions.

In the 1985 case of Nicholson v. United Pacific Insurance, the Montana Supreme Court stated that each party to a contract has a justifiable expectation that the other party will act in a reasonable manner concerning the performance of a contract. If one party arbitrarily, capriciously, or unreasonably deprives the other party of the benefit of a contract, or if the injured party's expectations are violated, the injured party should be entitled to tort damages, according to the court.

This case extended the tort remedy of punitive damages to commercial contracts. Moreover, it confirmed that the standard of misconduct required to show bad faith is merely unreasonable behavior.

After the Nicholson case, Montana applied this same standard to contracts involving franchises and the sale of a business. Such cases left Montana alone in the field of bad faith. Even California (second only to Montana in the liberality of its interpretations) limited tort actions in commercial contracts to those cases where special relationships of trust and confidence existed.

Is Montana Retreating?

Last year, in Story v. City of Bozeman, the Montana Supreme Court rejected its previously liberal use of the tort of bad faith, at least in arms-length contract transactions. The Court held that "the tort of bad faith may still apply in exceptional circumstances," and adopted standards set by the California case of Wallace v. Kroehler Manufacturing Co. In effect, punitive damages will be appropriate only if contracting parties have a unique and special relationship that gives rise to expectations beyond those normally found in arms-length transactions.

What now defines the "special relationship" entitling an aggrieved party to punitive damages? The Wallace standard sets forth the somewhat ambiguous prerequisites for finding a "special relationship" (see sidebar).

While it adopted a new standard last year, the Montana Supreme Court also re-emphasized some tenants of the old standard. "Every contract, regardless of type, contains an implied covenant of good faith and fair dealing," said the court. "A breach of this covenant is a breach of the contract."

However, "in the great majority of ordinary contracts," said the court, "the breach of the covenant is only a breach of the contract and only contract damages are due." By adopting this language, the court ruled out punitive damages for ordinary breach of contract cases. It restricted such damages to breach of contract cases where the parties are in some "special relationship" as defined by the Wallace standard.

The Wallace s

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Implications for the Future

Three days after it decided the Story case, the Montana Supreme Court rendered an opinion in Lachenmaier v. First Bank Systems, Inc. The Lachenmaier opinion may suggest Montana's future approach to bad faith litigation, so we will analyze it in some detail.

The Lachenmaiers had problems paying off an operating loan issued by First State Bank of Forsyth, a part of First Bank Systems. First Bank Systems transferred the problem loan to Credit Services, Inc., a wholly-owned subsidiary of First Bank Systems. First Bank Systems' General Office and its Credit Services subsidiary were making plans to liquidate the Lachenmaier's assets and foreclose on the debts. At the same time, First Bank's local branch office in Forsyth continued to loan the Lachenmaiers money and even encouraged them to borrow more.

The situation deteriorated and a lawsuit followed. The Lachenmaiers claimed tort damages for breach of the implied covenant of good faith and fair dealing. The court held that the "relationship between a bank and its customers is generally described as that of a debtor and a creditor . . . and as such does not give rise to fiduciary [held or founded in trust or confidence] responsibility."

The court also noted that tort damages were available only in breach of implied covenant cases involving "special relationships." The Lachenmaiers' relationship to First Bank Systems was not "special" in the sense of the Wallace standard, said the court. Therefore, the Lachenmaiers were not entitled to punitive damages. A year earlier this case would likely have been decided much differently.

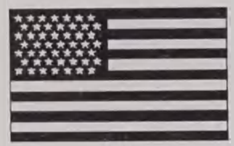
What will the Wallace standard -- made in California -- mean to Montana's Supreme Court? California has applied the Wallace bad faith doctrine to both insurance and employment cases but not to other arms-length commercial transactions. If Montana follows the California approach in interpreting Wallace, it would still apply the tort of bad faith in insurance cases, but would restrict the use of tort-like punitive damages in arms-length commercial transactions such as franchises, the sale of a business, and banking transactions. As previously mentioned, Montana's 1987 legislation governing employment decisions specifically restricts punitive damage awards to those dismissals involving public policy violations.

Montana businesses should feel some relief based on the Supreme Court's new direction. But there's still plenty of uncertainty. Only time will tell if the Wallace standard will be interpreted in Montana as it has been in California. At the least Montana's Supreme Court recognized that its bad faith decisions had become the most extreme in the country. Business interests will eagerly watch to see whether the reversal continues. ■

Jerry Furniss is an associate professor and Jack Morton is a professor in The University of Montana's Department of Management. They are both attorneys.

The Gulf Crisis, International Law, and American Foreign Policy

Members of the U.N.



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U.K

When Iraq invaded Kuwait on August 2, 1990, the world community -- led by the United States in the United Nations -- swiftly and with surprising unanimity condemned Iraq's action. Several factors combined to make possible this near-global accord. Communist regimes had collapsed in Eastern Europe. The Cold War had faded. And relations between the Superpowers had improved across a broad spectrum of diplomatic and military areas.

Relative agreement over the course of action, however, didn't mean lack of debate. In this country, political debate was vigorous and pervasive. Montanans certainly contributed their opinion. And their share: An estimated 4,000 Montanans served in the Persian Gulf, two of whom were killed.

But the Gulf War's big surprise is neither the failure of international law to prevent invasion in the first place, nor the subsequent political debate. The surprise is that international legal mechanisms were so effectively relied on to confront the crisis. Indeed, the use of such mechanisms was historic.

The U.N. Charter Violations

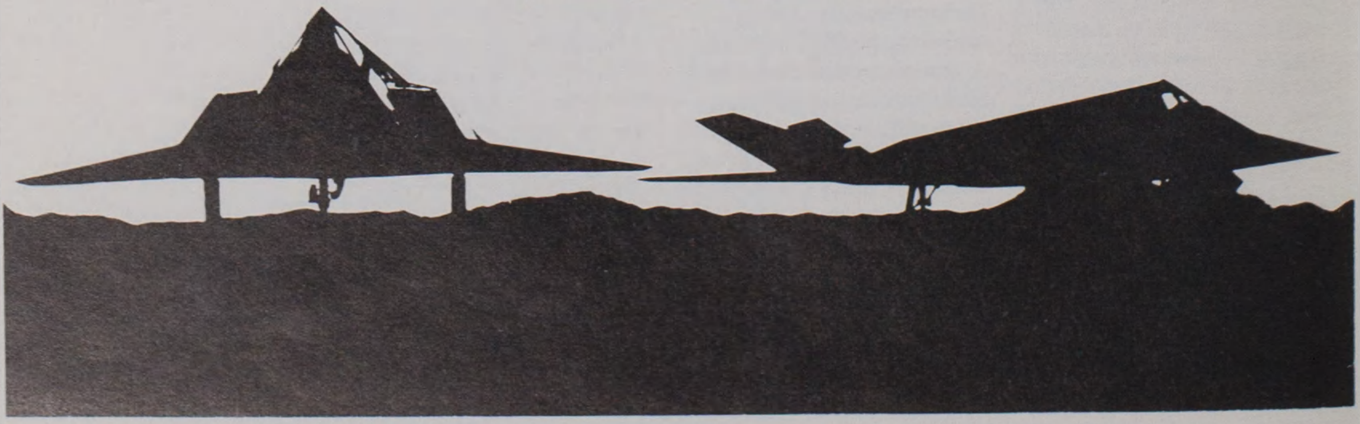
Increased Superpower cooperation was certainly evident in the U.N. Security Council's response to the Iraqi invasion. The council consists of five permanent members: United States, United Kingdom, France, Soviet Union, China. During the crisis, the council's ten non-permanent rotating members included Canada, Finland, Romania, Colombia, Zaire, Ethiopia, Ivory Coast, Malaysia, Cuba, and Yemen. In the past, the council frequently has been deadlocked by permanent-member vetos -- a maneuver often linked to Cold War tensions.

Iraq's motives for invading and attempting to annex Kuwait remain a matter of dispute. Some suggest unsettled territorial claims were at the root of Iraq's actions. Others point to disagreements over oil-pricing policies, Iraqi greed for Kuwait's rich oil fields, or the megalomania of Saddam Hussein. Perhaps Iraq, a client state of the Soviet Union, had anticipated another Security Council deadlock when it moved against Kuwait.

Specifically, how did Saddam violate the U.N. Charter? Article 2, section 4 of the U.N. Charter calls upon members to "refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state . . ."

Chapter VII of the Charter provides for Security Council action "with respect to threats to the peace, breaches of the peace, and acts of aggression." It also allows the council to call for economic and other sanctions short of armed force.

By Forest L. Grieves



U.N. members bind themselves under Article 25 of the Charter to "accept and carry out the decisions of the Security Council . . ."

Accordingly, on August 2, 1990, the day Saddam's troops crossed into Kuwait, the Security Council voted to condemn the invasion as a "breach of the peace," and to demand Iraq's immediate withdrawal. Yemen abstained, but Resolution 660 passed by a vote of 14-to-0. Iraqi failure to comply with Resolution 660 provoked another Security Council vote on August 6 to impose sanctions against Iraq (13-to-0, Cuba and Yemen abstaining). Further, a unanimous Security Council resolution (15-to-0) on August 9 proclaimed that Iraq's annexation of Kuwait had "no legal validity" and was "declared null and void" under international law.

Violations of the Vienna and Geneva Conventions

While Security Council resolutions expanded, the Iraqi regime undertook more ominous actions: It demanded that all foreign embassies in Kuwait be closed; that all diplomatic personnel be transferred to Baghdad; that those who did not comply be stripped of diplomatic immunity; that foreign nationals be detained; and finally, that foreign detainees (called "guests" by Iraq and "hostages" by others) be relocated to potential bomb targets, and thereby provide a shield against attack.

Iraq intended to make Baghdad the new capital of Kuwait, which was subsequently designated a new "19th province" of Iraq. Many countries, mindful of the Security Council resolutions, refused to close their embassies in Kuwait, lest they be seen as legitimizing Iraq's claim to Kuwait.

International law is quite clear -- in the 1961 Vienna Convention on Diplomatic Relations, for example, to which Iraq is a signatory -- regarding the inviolability of embassies and the protection of diplomatic personnel even in time of war. In peacetime, civilian aliens traveling or residing in a foreign state have no privileged status such as that accorded diplomatic personnel. But the norms of international law require treatment for aliens that is fair and equal to that accorded local nationals.

The Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Iraq is a signatory) provides extensive guidelines concerning the protection of civilians caught in a war zone. Initially signed in Geneva on August 12, 1949, the document went into force October 21, 1950. It covers such matters as facilitated departure, hostage taking, propagandizing, religious freedom, forced labor, and detention in an area particularly exposed to the dangers of war.

In Resolution 674 of October 29, 1990, the Security Council demanded that Iraqi authorities comply with the Vienna and Geneva conventions and "immediately cease and desist from taking third-state nationals hostage, and mistreating and oppressing Kuwaiti and third-state nationals." The Resolution invited states to "collate substantiated information" concerning Iraqi violations and reminded Iraq "that under international law it is liable for any loss, damage or injury in regard to Kuwait and third states, and their nationals and corporations, as a result of the invasion and illegal occupation of Kuwait by Iraq."

Further, the Geneva Convention Relative to the Treatment of Prisoners of War (1949), to which Iraq is also a signatory, requires humane treatment of prisoners of war, who "may not be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment of any kind."

The Threat of War Crime Trials

While violations of the laws of war are numerous enough, victorious powers in any conflict may demand an accounting. Even early on in the Gulf War (also known as Operation Desert Storm) there were calls for a Nuremberg-style trial of Iraqi leaders. Such calls were likely one reason Iraq stopped parading captured U.N. coalition pilots before television cameras. No doubt the worldwide impact of modern television provoked a negative reaction against Iraq. With the United Nations standing against it, Iraq would seem ill-positioned for a defense of any war crimes against Kuwait.

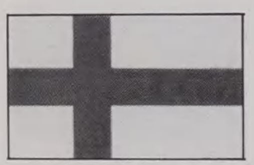
Iraq could be held accountable not only for war crimes against persons and states, but also for war crimes against nature. Some have called for trials based on the ecological disaster caused by Saddam's dumping oil into the Gulf and setting fire to Kuwaiti oil fields. More likely, the Iraqi government will simply be presented with international claims for damage.

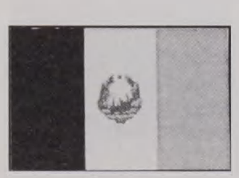
France

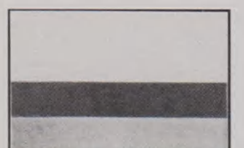
U.S.S.R.

China


Canada


Finland


Romania


Colombia


Zaire

On the Record: The Case for U.N. Military Action

As noted above, the U.N. Security Council began passing a series of resolutions even before Operation Desert Storm arrived in the Gulf. The resolutions had several purposes: To dissuade Iraq from further adventurism; to encourage a retreat from previous policies; and to make official the world's sense of current legal norms.

On August 18, 1990, the U.N. Security Council voted 15-to-0 (Resolution 664) to demand that Iraq free all detained foreigners. Thousands of foreigners from many nations were in Iraq and Kuwait at the time of the invasion. Resolution 664 also implicitly warned of military action should foreigners not be released.

The U.N. Charter provides for such an eventuality. According to Article 42 of the Charter:

> Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

Further, Article 43(1) of the Charter provides:

> All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

Resolution 665 passed the Security Council on August 25, 1990 (13-to-0, Cuba and Yemen abstaining). It gave U.N. members the right to enforce the embargo against Iraq with naval power. By September 25, 1990, sanctions were widened to include all means of transport, including air traffic in and out of Iraq (Resolution 670). Two months later in Resolution 678, the Security Council gave Iraq until January 15, 1991, to comply with the terms of its original Resolution 660 or it would authorize U.N. members to "use all necessary means" to implement Resolution 660.

Iraq did not comply, and Operation Desert Storm unfolded. Following the U.N. deadline, a wide coalition of U.N. forces pounded Iraq into humiliating compliance with the U.N. mandates. Of broader significance for Americans than the so-called "100-hours war," however, are the implications for U.S. foreign policy and the lessons of international law.

U.S. Foreign Policy Implications

Basically, U.S. foreign policy faced two issues in the Persian Gulf Crisis: 1) domestic U.S. law, especially as it relates to "war powers"; and 2) the quagmire of political problems the United States marched into when it decided to become involved in Mideast affairs.

Interestingly, the legal issues confronting the United States were domestic and not international. The United Nations authorized the use of force against Iraq unless it withdrew from Kuwait by January 15, 1991. The Bush administration supported, and indeed was a key molder of that U.N. stance. So U.S. policy was in tune with international law. The U.S. Congress, however, was "not necessarily" in support of the president's policy.

At the heart of the matter was an enduring U.S. constitutional dispute over which branch of government -- Congress or the president -- has the power to involve the nation's armed forces in a conflict. One side argues that Article I of the U.S. Constitution gives the "war power" to Congress. Successive U.S. presidents, on the other hand, have pointed to Article II, which makes the president "commander-in-chief" of the armed forces; they argue against "tying the president's hands" in the rapidly-moving arena of international relations.

This particular constitutional squabble may go on indefinitely, but it was neatly sidestepped during the Gulf Crisis. Perhaps convinced by the argument that a united front was, in the words of Republican Senator Robert Dole, the last "best chance for peace," the 102nd Congress moved, after spirited debate, to support the president. The House voted 250-to-183, and the Senate 52-to-47, to adopt resolutions authorizing the president to use military force against Iraq after January 15, 1991.

The political quagmire of Mideast politics involves a debate among observers of U.S. foreign policy and specialists in Mid-eastern affairs that, like the U.S. constitutional debate over war powers, may go on indefinitely. The central issue probably concerns U.S. intervention: Can the United States be a positive force in the Gulf, helping to support international law? Or is the United States stumbling into a hotbed of ancient quarrels with little understanding of the explosive forces at work there, more likely to de-stabilize the few agents of order that do exist than to "make things right?"


Saddam

Optimists suggest U.S. intervention could yield a number of positive outcomes. These include reining-in "neighborhood bullies" such as Saddam Hussein; renewed hopes for a Mideast peace process involving Israel and its Arab neighbors; new diplomatic ties between the United States and Syria and Iran, perhaps leading to the release of U.S. hostages held in Lebanon; new Big Power cooperation, perhaps including military disarmament, economic cooperation and a revived U.N.; and the chance that democratic values might take root (e.g., in a liberated Kuwait).

The list of negative possibilities is compelling too: exacerbation of Arab-Israeli tensions; a fresh wave of religious, ethnic, and national hatreds; de-stabilization of cultures and governments (ranging from "uppity" women demanding the right to drive automobiles, to royal families and citizens fighting over "monarchy v. democracy"); and increased competition for influence in the area.

One thing about quagmires -- once you're in, it's difficult to get out. The United States seems to have a reputation for effectively prosecuting wars, then stumbling during the peace process that follows. Iraq's army is out of Kuwait, but Saddam Hussein still governs the Iraqi people. Moreover, Iraq's large Kurdish minority -- in a problem apparently unanticipated -- continues to be displaced and threatened.

But Is It A Precedent?

It's probably premature to draw conclusions about the Gulf War's effect on international law and American foreign policy. But at least two observations suggest themselves, one concerning international politics and the other national policy.

The U.N. Security Council plays a very special role in the maintenance of international peace and security. In many important respects, this role continues a pattern established during the century between the Congress of Vienna (1814-1815) and the beginning of World War I (1914).

This so-called Concert of Europe period began with the defeat of Napoleon. The victorious Big Powers of the day agreed that they had a special responsibility (as Big Powers) to "police the neighborhood" and act "in concert" to regulate the flow of international relations and to keep the peace. The Concert of Europe period involved international conferences at irregular intervals wherein the Big Powers would attempt to cooperatively manage international affairs.

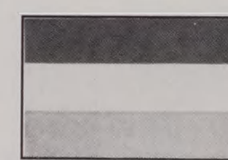
The system was logical in that the Big Powers could run the show anyway, thus it was wise to let them do so. But it also had some logic flaws. For instance, what if the Big Powers are irresponsible law-breakers? And what if they fight among themselves? For much of its history the U.N. Security Council (representing "responsible" Big Powers) has not been able to function as intended by those who drafted the Charter -- largely because of Big Power disagreement.

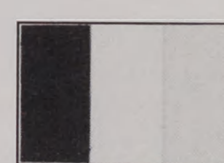
Whatever its political merits, the Persian Gulf Crisis has provided an intriguing hint of Security Council prospects for managing international relations. Perhaps the Big Powers can agree on means for "policing the neighborhood."

The use of force in international relations -- as with the Gulf Crisis -- shows that diplomacy has failed. But the credible, demonstrable prospect of a world community mobilizing force to keep the peace might act as a powerful incentive to engage in more serious diplomacy.

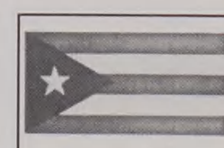
The Persian Gulf Crisis also delivered a clear message about national foreign policy. In a charged political atmosphere where U.S. motives for involvement in the Gulf Crisis were questioned (e.g., is the fight really about upholding international law or about securing U.S. oil supplies?), foreign policy positions seemed to fare best when supported by the international community.

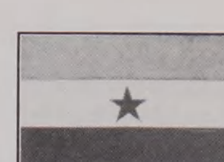
As the world grows closer together and more interdependent, increased international consultation and cooperation appear as tidy vehicles for managing international relations peacefully.


Ethopia


Ivory Coast


Malaysia


Cuba


Yemen

Forest Grieves is chair of the political science department at The University of Montana.

Summary of United Nations Resolutions Concerning Iraq and the Persian Gulf Crisis

Resolution 660 (August 2, 1990)

The Security Council: Alarmed by the invasion of Kuwait on August 2, 1990 by Iraq; Determining that there exists a breach of international peace and security regarding the Iraqi invasion of Kuwait; Acting under Articles 39 and 40 of the U.N. Charter;

1. Condemns the Iraqi invasion of Kuwait.
2. Demands that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on August 1, 1990.
3. Calls upon Iraq and Kuwait to begin immediately intensive negotiations for the resolution of their differences and supports all efforts in this regard, and especially those of the Arab League.
4. Decides to meet again as necessary to consider further steps to ensure compliance with this resolution.

Resolution 661 (August 6, 1990)

Imposed mandatory sanctions against Iraq for not complying with Resolution 660. Created a Security Council committee to report on the sanctions.

Resolution 662 (August 9, 1990)

Declared the annexation of Kuwait invalid.

Resolution 664 (August 18, 1990)

Demanded the safe passage from Kuwait and Iraq of third-country nationals and demanded that Iraq rescind orders to close diplomatic and consular missions in Kuwait.

Resolution 665 (August 25, 1990)

Called for a naval embargo to support the sanctions.

Resolution 666 (September 13, 1990)

Called for assessing the supply of food in Iraq and Kuwait for humanitarian purposes and noted that Resolution 661 does not relate to medical supplies.

Resolution 667 (September 16, 1990)

Condemned action taken by Iraq against diplomatic missions and personnel in Kuwait.

Resolution 669 (September 24, 1990)

Called on the committee established under Resolution 661 to examine requests for assistance by states under Article 50 of the U.N. Charter.

Resolution 670 (September 25, 1990)

Noted that sanctions imposed against Iraq include all means of transport, including aircraft.

Resolution 674 (October 29, 1990)

Demanded that Iraq stop taking third-country nationals hostage, that it no longer mistreat Kuwaitis, and that it protect diplomatic and consular missions in Kuwait. Also requested that the Secretary General use his offices to achieve those aims.

Resolution 677 (November 28, 1990)

Condemned attempts by Iraq to change the demographic composition of Kuwait and to destroy its civil records and asks the Secretary General to keep a copy of the population registration as of August 1, 1990.

Resolution 678 (November 29, 1990)

Granted a pause of goodwill to allow Iraq a final opportunity to withdraw from Kuwait, while authorizing members states to "use all necessary means" to implement resolution 660 if Iraq has not complied by January 15, 1991.

Resolution 686 (March 2, 1991)

Demanded that Baghdad, as a condition for a cease-fire in the Gulf War, return all prisoners of war, abducted Kuwaiti citizens and plundered property; accept liability for war damages and losses to Kuwait, other nations and corporations; rescind its annexation of Kuwait; and disclose the location of mine fields and booby traps.

Resolution 687 (April 3, 1991)

Demanded Iraq formally accept the current borders of Kuwait; surrender all material that can be used to make nuclear and other dangerous weapons; agree to put a portion of its future oil profits toward Kuwaiti reparation payments; renounce terrorism; and accept a ban on imports of weapons as conditions for an end to the Gulf War.

Resolution 688 (April 5, 1991)

Condemned Iraq's oppression of its Kurdish population and other segments of the civilian population and asked the Secretary General to investigate their plight. ■

Recession Not as Bad in Montana as in rest of United States

UM economist predicts the recession is nearing an end and the nation is beginning to recover

The recession has been less severe in Montana than in other parts of the nation and a University of Montana economist expects this pattern will continue.

Paul Polzin, director of UM's Bureau of Business and Economic Research made this forecast as part of the Economics Montana program, cosponsored by the bureau, the Office of the Governor, and the Montana State Legislature.

Since the recession began last summer, the U.S. economy has slowed noticeably, Polzin says. U.S. non-farm labor income was stable during 1990, while the corresponding figures for Montana showed growth of 0.7 percent, he says.

"In 1991, we expect Montana's economy to continue to grow modestly, while the U.S. non-farm labor income is expected to decline," Polzin says.

During most previous recessions, Polzin says, Montana has been impacted less than other states because of its dependence on industries such as agriculture, which has ups and downs that do not usually correspond to the national business cycle.

These forecasts are part of Economics Montana, a program cosponsored by the UM Bureau of Business and Economic Research, the Office of the Governor, and the Montana State Legislature.

Western Montana is being hit harder by the recession than other parts of the state because the forest products industry is concentrated there, Polzin says. Unlike agriculture, national business cycles do impact this industry, he says.

Last winter's six-week closures by the state's two largest Champion operations are examples of recession-related impacts, he says.

Polzin says that the recession may be nearing an end and that the nation is beginning to recover. This means that conditions in Montana should improve during the last half of 1991, he says.

"After the recession we will return to the more normal situation where economic growth in Montana will be less than the U.S. average," Polzin says. "In 1992, we forecast that Montana will increase 2.5 percent, as compared to a national average of 4.3 percent."

Personal income, one of the major determinants of retail sales, will increase slightly less than 2 percent per year in 1992 and 1993, Polzin says.

This growth will average about 1.5 percentage points less than the national average, he says.

Montana's job market will improve slightly after the recession ends, Polzin says. After little or no growth in the recession year 1991, Montana non-farm wage and salary jobs should increase by about 5,000 per year in 1992 and 1993, he says. ■

Table 1
Economic Trends for the U.S. Economy, 1987 - 1993
Actual and Projected as of May 1991

	Actual				Projected		
	1987	1988	1989	1990	1991	1992	1993
Real GNP percent change	3.4	4.5	2.5	1.0	0.0	3.6	3.1
Inflation (CPI - U) percent change	3.7	4.1	4.8	5.4	4.3	3.9	5.0
Interest rate, percent							
90-day T-Bills	5.8	6.7	8.1	7.5	5.7	6.2	6.9
Mortgage rate	9.3	9.3	10.1	10.0	9.6	10.0	10.3
Housing starts, millions	1.6	1.5	1.4	1.2	1.0	1.4	1.4
Unemployment rate, percent	6.2	5.5	5.3	5.5	6.7	6.2	6.0

Source: Wharton Econometric Forecasting Associates (May 1991).

Table 2
Employment, Montana, 1987 - 1993
Actual and Projected as of May 1991

	Thousands of Jobs						
	Actual				Projected		
	1987	1988	1989	1990	1991	1992	1993
Nonfarm wage & salary jobs	275.0	283.2	291.1	297.3	298.8	304.0	310.0
Mining	4.8	6.2	6.2	6.3	6.1	6.2	6.3
Construction	8.6	9.0	9.8	10.4	10.1	10.3	10.5
Manufacturing	21.0	21.5	22.3	22.4	22.3	22.4	22.6
Wood & paper products	9.2	9.0	9.3	9.0	8.6	8.4	8.3
Other manufacturing	11.8	12.5	13.0	13.4	13.7	14.0	14.3
Transportation & utilities	19.6	19.5	20.0	20.1	19.6	19.3	19.1
Railroads	3.4	3.3	3.6	3.6	3.5	3.3	3.3
Nonrailroads	8.0	8.3	8.5	8.8	8.6	8.7	8.7
Public Utilities	8.2	7.9	7.9	7.7	7.5	7.3	7.1
Trade	72.7	74.7	77.1	78.4	79.1	80.7	82.5
Wholesale trade	14.8	15.1	15.7	15.8	15.1	14.7	14.4
Retail trade	57.9	59.6	61.4	62.6	64.0	66.0	68.1
Finance, ins. & real estate	13.3	13.5	13.2	13.3	13.5	13.8	14.2
Services	65.0	68.0	72.2	75.6	77.9	81.2	84.7
Health	23.1	23.8	24.8	26.0	26.6	28.2	29.8
Nonhealth	41.9	44.2	47.4	49.6	51.3	53.0	54.9
Government	70.0	70.8	70.3	70.8	70.2	70.1	70.1
Federal (civilian)	13.2	13.8	13.8	13.9	13.6	13.6	13.6
State & local	56.8	57.0	56.5	56.9	56.6	56.5	56.5

Sources: Montana Department of Labor and Industry, Research and Analysis Division; and The University of Montana, Bureau of Business and Economic Research, Economics Montana.

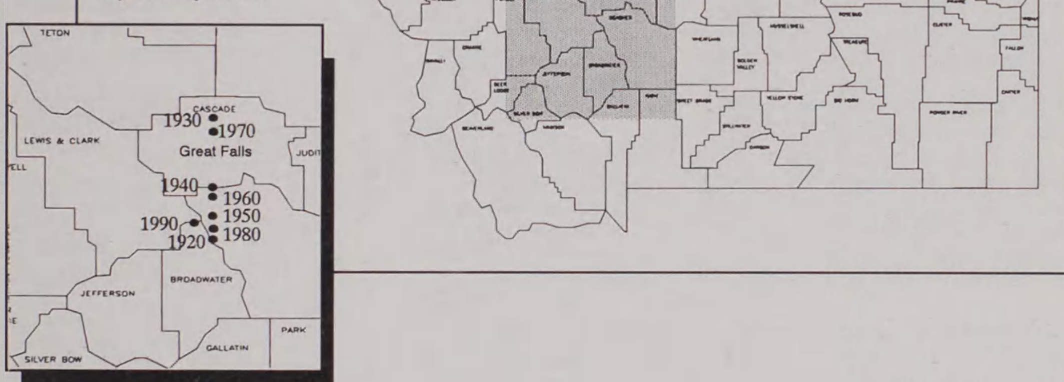
Table 3
Personal Income by Major Component, Montana, 1986 - 1992
Actual and Projected as of May 1991

	Millions of Dollars							Millions of 1989 Dollars						
	Actual				Projected			Actual				Projected		
	1987	1988	1989	1990	1991	1992	1993	1987	1988	1989	1990	1991	1992	1993
Total personal income	9,986	10,427	11,392	12,074	12,660	13,251	14,092	10,838	10,897	11,392	11,490	11,598	11,782	12,035
Farm labor income	437	296	474	473	550	475	480	474	309	474	450	504	422	410
Nonfarm labor income	6,165	6,547	6,892	7,293	7,652	8,088	8,586	6,691	6,842	6,892	6,940	7,010	7,191	7,333
Agr. & forestry services	52	51	53	56	52	52	53	57	54	53	53	48	46	45
Mining	203	236	248	254	255	271	292	220	246	248	242	234	241	249
Coal mining	55	55	56	55	60	62	65	59	57	56	52	55	56	55
Oil & gas extraction	62	67	63	70	75	80	87	68	70	63	67	68	71	75
Metal mining	57	82	101	101	96	102	112	62	85	101	96	88	91	95
Nonmetal mining	29	32	28	28	25	26	28	32	34	28	27	23	23	24
Construction	360	386	405	431	468	513	548	391	404	405	410	429	456	468
Manufacturing	557	576	619	645	671	702	736	604	602	619	614	615	624	628
Wood & paper products	262	262	280	286	287	293	300	284	274	280	272	263	260	256
Other manufacturing	295	313	340	359	384	409	436	321	327	340	342	352	364	372
Transportation & utilities	692	713	720	753	758	778	807	751	745	720	717	694	691	689
Railroads	134	129	127	132	133	131	138	146	135	127	126	122	117	117
Trucking	214	219	226	233	240	247	255	232	229	226	222	219	219	218
Communications	121	124	125	122	122	123	124	131	130	125	116	112	110	106
Nonrailroads	169	179	180	189	197	206	216	183	187	180	180	181	184	185
	55	61	62	77	66	69	74	59	64	62	74	60	62	63
Trade	1,079	1,150	1,236	1,290	1,327	1,386	1,456	1,171	1,202	1,236	1,228	1,216	1,232	1,243
Wholesale trade	349	355	387	406	410	419	434	378	371	387	386	375	372	370
Retail trade	730	795	850	884	917	967	1,022	793	831	850	841	840	860	873
Finance, Ins. & real estate	333	333	314	331	372	403	432	361	348	314	315	341	358	369
Services	1,491	1,635	1,778	1,939	2,092	2,257	2,462	1,619	1,708	1,778	1,845	1,916	2,007	2,103
Health	580	633	682	736	796	874	969	630	662	682	700	729	777	827
Nonhealth	911	1,001	1,097	1,203	1,295	1,384	1,494	989	1,046	1,097	1,145	1,187	1,230	1,276
Government	1,397	1,467	1,519	1,594	1,657	1,728	1,802	1,517	1,533	1,519	1,517	1,518	1,536	1,539
Federal	345	382	394	411	428	447	468	375	399	394	391	392	397	400
Civilian	111	119	133	135	140	146	152	121	124	133	128	129	130	130
State & local	941	967	991	1,048	1,089	1,135	1,182	1,021	1,010	991	997	997	1,009	1,010
Less Social security contributions	452	497	549	590	600	632	670	490	519	549	561	550	561	572
Residence adjustment	11	13	14	15	15	15	15	12	14	14	14	14	13	13
Dividends, interest & rent	1,935	2,071	2,433	2,576	2,603	2,721	2,942	2,100	2,165	2,433	2,451	2,384	2,419	2,513
Transfer payments	1,889	1,998	2,128	2,307	2,440	2,583	2,739	2,050	2,088	2,128	2,195	2,235	2,297	2,339

Sources: U.S. Department of Commerce, Bureau of Economic Analysis; and The University of Montana, Bureau of Business and Economic Research, Economics Montana.

Montana's Center of Population, 1920 - 1990

by Jim Sylvester



You've probably heard that Montana's population has been shifting steadily westward. And certainly some eastern counties have lost population while some western counties have gained population. But what about overall population dispersal throughout the state?

Using county population figures from the U.S. Census, we calculated median lines for Montana's north-south dispersal and its east-west dispersal. Where these lines cross is the theoretical center of the state's population: half resides to the east, half to the west; half to the north, half to the south.

This simple measure suggests what Great Falls residents have known all along — they're close to the heart of Montana.

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The Bureau of Business and Economic Research is the research and public service branch of The University of Montana's School of Business Administration.

The Bureau is regularly involved in a wide variety of activities, including economic analysis and forecasting, forest products industry research, and survey research.

The Bureau's Economics Montana forecasting system is an effort to provide public and private decision makers with reliable forecasts and analysis. It is made possible by a generous grant from US West. These state and local area forecasts are the focus of the annual series of Economic Outlook Seminars, cosponsored by the Bureau and respective Chambers of Commerce in Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, and Missoula.

The Bureau also has available county data packages for all Montana counties. These packages provide up-to-date economic and demographic information developed by the Bureau and not available elsewhere.

The Montana Poll, a quarterly public opinion poll, questions Montanans about their views on a variety of economic and social issues. It is cosponsored by the Bureau and the *Great Falls Tribune*. In addition, the Bureau conducts contract survey research and offers a random digit dialing program for survey organizations in need of random telephone samples.

The Forest Industries Data Collection System, a census of forest industry firms conducted approximately every five years, provides a large amount of information about raw materials sources and uses in Montana, Idaho, and Wyoming. It is funded by the U.S. Forest Service. The Montana Forest Industries Information System collects quarterly information on the employment and earnings of production workers in the Montana industry. It is cosponsored by the Montana Wood Products Association.

The Bureau's Natural Resource Industry Research Program enables the Bureau to continuously monitor Montana's natural resource industries and improve the public's knowledge of them and their roles in the state and local economies. This program provides easily accessible information about all the natural resource industries. Sponsors are the Montana Mining Association, Plum Creek Timber Company, Montana Petroleum Association, Montana Wood Products Association, and American Forest Resource Alliance.

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